IMPLEMENTATION OF WELFARE REFORM AND CHILD SUPPORT ENFORCEMENT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

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IMPLEMENTATION OF WELFARE REFORM AND CHILD SUPPORT ENFORCEMENT

TUESDAY, SEPTEMBER 17, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:04 p.m., in room B–318, Rayburn House Office Building, Hon E. Clay Shaw, Jr., (Chairman of the Subcommittee) presiding.

[The advisories announcing the hearings follow:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE
September 10, 1996
No. HR-15

CONTACT: (202) 225-1025

Shaw Announces Two-Day Hearing on Implementation of Welfare Reform and Child Support Enforcement

Congressman E. Clay Shaw, Jr., (R-FL), Chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a two-day hearing on implementation of the recently-enacted welfare reform law. **The first hearing day will take place on Tuesday, September 17, 1996, beginning at 12:00 noon, and the second on Thursday, September 19, 1996, beginning at 10:00 a.m., in room B-318 of the Rayburn House Office Building.**

In view of the limited time available to hear witnesses, oral testimony on both days will be heard from invited witnesses only. Witnesses will include welfare program administrators, representatives of national organizations representing States and localities, and advocates. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearings.

BACKGROUND:

The new welfare reform law, the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," P.L. 104-193, is a major revision of the nation's welfare system. Many programs under the jurisdiction of the Committee on Ways and Means were substantially modified by the legislation, including the Aid to Families with Dependent Children program, several child care programs, and the child support enforcement program. One of the most important changes made by the new law is the dramatic increase in State responsibility for planning and conducting welfare programs. The major purpose of this hearing is to provide a forum for States to describe their new programs and for States and other witnesses to discuss issues that are likely to arise during implementation.

In announcing the hearing, Chairman Shaw stated: "Like all Americans, Members of the Subcommittee are extremely interested in how the States and localities plan to implement the new law. We have placed a great deal of trust in the ability of State and local governments to help people get off welfare and into jobs and to reduce the rate of nonmarital births. Many States have already redesigned their welfare programs to achieve these goals, and others are poised to follow suit. We want to conduct a hearing at this early date both to signal our interest and to show the progress States are already making."

FOCUS OF THE HEARING:

The Subcommittee will focus on the new Temporary Assistance for Needy Families (TANF) block grant program on September 17 and on the child support enforcement program on September 19. The Subcommittee also will focus on State and local government progress in preparing State plans and on issues States expect to confront during implementation of the

welfare reform law. Regarding the TANF block grant, it is expected that the issues addressed will include the conduct of work programs, program financing, the design of programs addressed to reducing nonmarital births, and State use of waivers. Regarding child support enforcement, issues will include the new national data systems, interstate enforcement, and financing. The hearing will include panels of witnesses from States that will describe successful new programs and practices.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement, with their address and date of hearing noted, by the close of business, Thursday, October 3, 1996, to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public on either hearing day, they may deliver 200 additional copies for this purpose to the Subcommittee on Human Resources office, room B-317 Rayburn House Office Building, at least two hours before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are now available on the World Wide Web at 'HTTP://WWW.HOUSE.GOV/WAYS_MEANS/' or over the Internet at 'GOPHER.HOUSE.GOV' under 'HOUSE COMMITTEE INFORMATION'.

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NOTICE -- CHANGE IN TIME

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE
September 12, 1996
No. HR-15-Revised

CONTACT: (202) 225-1025

Time Change for Subcommittee Hearing on Tuesday, September 17, 1996, on Implementation of Welfare Reform and Child Support Enforcement

Congressman E. Clay Shaw, Jr., (R-FL), Chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee hearing on Implementation of Welfare Reform and Child Support Enforcement previously scheduled for Tuesday, September 17, 1996, at 12:00 noon, in room B-318 of the Rayburn House Office Building, **will be held instead at 2:00 p.m.**

All other details for the hearing remain the same. (See Subcommittee press release No. HR-15, dated September 10, 1996.)

*****

Chairman SHAW. We will go ahead and proceed this afternoon. I apologize for the size of the room and for those of you who are standing, but I am delighted to see the interest in the subject matter that is before us.

The welfare reform bill passed by Congress on a bipartisan basis, and signed into law by President Clinton on August 22, marks a dramatic change in American social policy. We no longer say to poor Americans that we know you cannot support yourselves, so just give up and Uncle Sam will provide you with money, food stamps, medical care, housing, and other benefits. True compassion requires government, on behalf of American workers and taxpayers, to help people to help themselves.

Now American social policy for the poor is moving forward with three major principles. First, no matter how poor you are, the government expects you to do everything possible to support yourself. Second, government support is temporary and it is conditional. Third, the level of government primarily responsible for rescuing the poor from the clutches of welfare dependency and for promoting responsible behavior is State and local government: the level closest to families on welfare and the taxpayers who support them.

This new law is a signal achievement for this Subcommittee, for this Congress, and for the American Nation. But much more remains to be done. We have called this hearing to begin the long and difficult task of overseeing the implementation of this vital legislation. I would estimate that good legislation is about 10 percent of what is required to achieve true welfare reform. The other 90 percent is implementation, and this is going to take a lot of cooperation between Democrats and Republicans in this Congress.

Our goal in Congress is to be bipartisan, and to be a bipartisan helping hand. The law is the law. We must now join together to make it work. As I have said to the President, now we are in this together. Today and Thursday we are providing a forum for the Department of Health and Human Services to provide a progress report on what they are doing to initiate implementation, and to let the Congress know about any problems they anticipate, including needed legislative fixes. In this regard, I expect we will introduce a technical corrections bill sometime in the early part of next year, perhaps in January, and move it quickly through the next Congress.

We have also invited witnesses outside the administration, especially from State government, to give us a progress report as the States prepare for implementation. In inviting these witnesses, I am encouraging them to identify provisions of the law they expect States to have difficulty implementing, and to address recommendations to the States, HHS, the Department of Health and Human Services, or to the Congress about how to deal with these difficult provisions.

Let me try to dispense with one issue that has concerned me and has already received attention in the media. My concern is that States could use the provision in the law allowing for continuation of waivers to weaken the work requirement or the 5-year time limit that is in the law passed by this Congress.

I am pleased to say we have worked closely with HHS to develop an initial strategy on the waiver issue. More specifically, the Sec-

retary is going to require States to explain whether, and if so, how they plan to use their waivers to modify requirements of the new law. Our staff will then work with HHS and the Congressional Research Service to compile a list of these changes. Then, depending on how many waivers will modify the new law and how extensive these modifications are, Congress may need to reexamine the waiver provision itself.

I cannot leave the waiver issue without mentioning the waiver given to the District of Columbia allowing them to ignore the 5-year time limit for 10 years. If the District of Columbia actually intends to use its waiver to exempt more than 20 percent of the caseload from the time limit, I will personally introduce legislation to repeal that waiver. This law will not work unless everyone understands the 5-year time limitation is real.

I might also add here that the District of Columbia, if they do not require work, they are going to run out of money and will also fall short on the other provisions which will actually require HHS to fine them in the future for not meeting those standards.

One more issue, there has been lots of discussion in the media about the charitable choice provision of the new law. There is little question the private sector, especially voluntary organizations, including both sectarian and nonsectarian groups, should play a major role in helping families escaping welfare dependency. Given the legal issues raised by this provision, we are happy to make available legal memorandum about the provisions written for Senator Ashcroft, the original author of the charitable choice option.

Without objection, I would like to make these copies available to those in attendance on the table in the back.

[The information follows:]

School of Law
University of Missouri-Columbia

Columbia, MO 65211

MEMORANDUM

To: **Center for Public Justice**, 1835 H Forest Drive, Annapolis, MD 21401, tele. (410) 263-5909 (Stanley W. Carlson-Thies) - *and* - **Center for Law and Religious Freedom**, 4208 Evergreen Lane Suite 222, Annandale, VA 22003, tele. (703) 642-1070 (Steven T. McFarland)

From: Carl H. Esbeck,* University of Missouri** School of Law, tele. (573) 882-3035

Date: September 9, 1996

RE: **The "Charitable Choice" Provisions in § 104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [PRWOR], H.R. 3734, 104th Cong., 2d Sess., P.L. 104-193, was signed into law by President Clinton on August 22, 1996. As PRWOR worked its way through the legislative process of the U.S. Congress, § 104 of that Act was commonly referred to as "Charitable Choice."

It was the suggestion of your respective organizations that I compile a memorandum with a line-by-line analysis concerning the meaning of § 104's eleven subsections denominated (a) through (k). I concur that a memorandum is a good idea while matters are still fresh so as to faithfully set down the meaning of § 104, and because the entire Act is now moving into its initial implementation stage by state officials. Because I worked closely with the staff of Senator John Ashcroft (R-MO), the sponsor of § 104, beginning February of 1995 when Charitable Choice was just an idea, I am pleased to be of assistance in this way.

** Isabelle Wade & Paul C. Lyda* Professor of Law, University of Missouri-Columbia. J.D., Cornell University, 1974.

**The university where I hold a faculty appointment is listed for identification purposes only. The opinions expressed in this memorandum are my own and do not necessarily reflect those of the university.

RESPONDING TO A NEED

At the outset it is well to recall the felt need which originally gave rise to § 104 of the Act. As one part of the overall effort to reform welfare, it was thought imperative to increase the involvement of the independent sector in the delivery of government-supported social services. A significant part of the voluntary sector presently engaged in social work consists of faith-based nonprofit organizations. Indeed, these religious charities are some of the most efficient social-service providers, as well as among the most successful measured in terms of permanently reformed lives.[1] Although some faith-based providers have been willing to participate in government-assisted programs, many are wary about involvement with the government because they rightly fear the loss of religious character and independence.[2] Consequently, § 104 both invites the increased participation of religious organizations as social-service providers while safeguarding their religious identity which is the very source of their genius and success.

GENERAL PRINCIPLES BEHIND SECTION 104

When those concerned first sat down to draft the Charitable Choice provisions, there were three assumptions which influenced its terms:

1. The work of "government" does not monopolize the "public." Rather, civil society is comprised of many intermediate institutions and communities which also serve public purposes, including the independent sector of nonprofit social-service providers. And at present--as well as historically--faith-based charities comprise a large number of the available voluntary-sector social-service providers, and they operate many of the most efficient and successful programs. So long as the government's welfare program furthers the public purpose of society's betterment--that is, help for the poor and needy--it is neutral as to religion if the program involves faith-based providers along

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[1]*See* Henry G. Cisneros, HIGHER GROUND: FAITH COMMUNITIES AND COMMUNITY BUILDING 3-12 (Dept. of HUD, Feb. 1996)(citing studies on faith-based community development activities); Nat'l Inst. on Drug Abuse Services Research Report, *An Evaluation of the Teen Challenge Treatment Program* (Public Health Service (HEW) Publication No. ADM 7-425, 1977)(showing a materially higher success rate for faith-based over secular drug treatment programs for youth).

[2]*See* Stephen V. Monsma, WHEN SACRED AND SECULAR MIX: RELIGIOUS NONPROFIT ORGANIZATIONS AND PUBLIC MONEY (Rowman & Littlefield 1996); Carl H. Esbeck, *The Regulation of Religious Organizations As Recipients of Governmental Assistance* (Center for Public Justice 1996).

with all others.

2. The independent-sector providers of social services who elect to participate in a government's welfare program are not in any primary sense "beneficiaries of" the government's assistance. Rather, it is those who are the ultimate object of the provider's services--the homeless, the alcoholic, the battered spouse, etc.--who are the beneficiaries of taxpayer funds. As they deliver services to those in need with such remarkable efficiency and effectiveness, faith-based providers, along with others in the voluntary sector, give far more in value measured in societal betterment than they ever possibly receive as an incident of their expanded responsibilities.

3. As a general rule the establishment clause neither requires that faith-based providers censor their religious expression nor give up their religious identity as a condition of participation in a governmental program. Rather, so long as the welfare program has as its object the public purpose of society's betterment, and so long as the program is equally open to all providers, religious and nonreligious, then the requirement that the law be neutral as to religion is fully satisfied.

THE RULES OF SECTION 104

In order to meet the felt need described above, and with the foregoing principles in mind, § 104 lays down three general rules of law:

1. If a state elects to involve independent-sector providers in the delivery of social services, then it may not discriminate against providers because of their religious character.

2. If a faith-based organization is selected as a provider of social services, its religious expression and identity are not to be censored or otherwise diminished on account of its participation in the government-assisted program.

3. If a beneficiary has a religious objection to receiving social services from a faith-based provider, then he or she has a right to obtain services from a different provider.

LINE-BY-LINE ANALYSIS OF SECTION 104

Set forth in the Appendix is the Charitable Choice provisions of § 104. In the analysis that follows, the eleven subsections to

§ 104, denominated (a) through (k), will be arranged under eight subject-matter headings.

I. Programs Covered.

Subsection (a) designates the governmental programs covered by § 104.

The principal program is Temporary Assistance for Needy Families [TANF], codified in Title I of the Act.[3] TANF is funded by block grants to the states. TANF involves more than just handing out checks. Rather, the program is suited to the involvement of the independent sector. For example, many TANF beneficiaries will be required to work. In administering the work requirements, states may want to involve the voluntary sector in the provision of subsidized jobs, on-the-job training, job search and job readiness assistance, community service positions, vocational educational training, job skill training, and G.E.D. programs. For unmarried minor mothers and expectant minors who cannot remain with their parents, states may want to place these minors in voluntary-sector maternity homes, adult-supervised residential care, second-chance homes, or other suitable living quarters.

Subsection (a) states that § 104 also applies to "[a]ny other program established or modified under title I" that permits either purchase-of-service contracts with the voluntary sector or allows the use of certificates or vouchers. Title I makes modifications to the food stamp,[4] job opportunities,[5] and medicaid[6] programs. Thus, in limited circumstances Charitable Choice does apply to these three programs. However, while states currently have a larger role in administering the food stamp, job opportunities, and medicaid programs, states have limited authorization to make contracts and issue certificates or vouchers.

Subsection (a) references the Supplementary Security Income [SSI] program, amended by Title II of the Act.[7] Under the final version of the Act states were not authorized to administer SSI,

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[3] 42 U.S.C. § _____ *et seq.* TANF replaces Aid to Families with Dependent Children, which was codified at 42 U.S.C. § 601 *et seq.* AFDC is repealed by § 103(a) of PRWOR.

[4] *See* § 109 of Title I of PRWOR.

[5] *See* § 112 of Title I of PRWOR.

[6] *See* § 114 of Title I of PRWOR.

[7] 42 U.S.C. § _____ *et seq.*

hence Charitable Choice does not at present affect this program. However, if in the future SSI monies are block granted to the states then § 104 will be applicable.

2. *Permitted Forms of Assistance.*

Subsection (a) contemplates two types of permitted forms of governmental assistance. One is purchase-of-service contracts entered into between the government and the independent-sector provider. Such contracts may be properly characterized as a form of assistance to beneficiaries by way of the government dealing "directly" with the providers. The other form of assistance is through certificates, vouchers, and other forms of disbursement which are redeemable with voluntary-sector providers. Certificates, vouchers, and the like are properly characterized as a form of assistance to beneficiaries whereby government deals with providers only "indirectly."

Concerning TANF, subsection (a) authorizes states to use both direct and indirect forms of assistance.

Concerning SSI, food stamp, job opportunities, and medicaid programs, subsection (a) references the underlying program to determine whether states are authorized to use direct, indirect, or both forms of assistance.

3. *Nondiscrimination.*

Subsection (a) makes it optional with each state whether it wants to administer a program entirely through its own governmental agencies or whether the state wants to involve the independent-sector providers of social services.

If a state elects to involve independent-sector providers, then in the selection of providers subsection (c) requires that the state not discriminate on account of a provider's religious character.

4. *Rights of Religious Providers.*

The rights of faith-based providers are found in subsections (b), (d), and (f).

Subsection (b) sets forth the primary purpose of § 104. The purpose of Charitable Choice is to permit states to involve faith-based providers of social services "on the same basis as any other nongovernmental provider," and in doing so a state may neither require that such providers censor their religious expression nor

may it adopt eligibility criteria that deprecates their religious character. The dual principles are preventing discrimination and safeguarding religious autonomy.

Subsection (d)(1) elaborates on the principle of religious autonomy. It states that a faith-based provider "shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs."

Subsection (d)(2) is a specific example of religious autonomy. It states that faith-based providers, in order to be eligible, may not be required to alter their form of internal governance. Religious organizations often have forms of ecclesiastical polity dictated by religious doctrine. That choice as to polity is here protected.[8] The subsection also safeguards matters of control. For example, should a state require that the governing boards of providers reflect the ethnic and cultural diversity of the local community, such a compelled diversity criteria is here prohibited.

Subsection (d)(2) further specifies that faith-based providers, in order to be eligible, may not be required to remove from their property religious art, icons, scripture, and similar symbols. Such symbols are forms of expression and are here protected.

Concerning the matter of employees, subsection (f) also elaborates on the general principle of religious autonomy. By reference to the exemption for religious organizations in Title VII of the Civil Rights Act of 1964, this subsection ensures that faith-based providers may discriminate on a religious basis in the terms and conditions they establish for their employees. Involvement as a provider of social-services does not act as a waiver of the provider's Title VII exemption.[9]

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[8]Faith-based providers may want to form separate 501(c)(3) nonprofit corporations to administer purchase-of-service contracts. Doing so would ease the keeping of separate accounts, an option permitted by § 104(h)(2), and avoid the coverage of certain civil-rights laws, *see* note 11. Although the formation of a separate 501(c)(3) corporation will incur some legal and administrative costs, it can have the laudable effect of reducing church/state entanglement.

[9]Subsection (f) puts Congress at odds with the result in the strange case of *Dodge v. Salvation Army*, 48 Emply. Prac. Dec. (CCH) para. 38619 (S.D. Miss. 1989). In *Dodge*, a Christian social-service ministry dismissed an employee when it was discovered she was a member of the Wiccan religion and was making unauthorized use of the office photocopy machine to reproduce cultic materials. When the employee sued for religious discrimination, the Salvation Army invoked the "religious organization" exemption in Title VII, 42 U.S.C. § 2000e-1 (1988). The employee countered that the Title VII exemption should not apply because her salary was substantially funded by a federal grant. The trial court agreed with the employee, holding that the Title VII exemption for religious discrimination by a religious organization was unconstitutional when applied to these facts. Subsection (f) provides that the § 2000e-1 exemption, found to be constitutional in *Corporation of the Presiding Bishop v. Amos*, 483 U.S. 327 (1987), is not waived by participation as a provider of government-assisted welfare. Contrary to *Dodge*,

Subsection (f) does not relieve faith-based providers of any nondiscrimination responsibilities that exist apart from the Act. Thus, for example, as a general rule state and local human-rights laws are unaffected by § 104,[10] as are federal civil-rights laws that are triggered by the receipt of federal financial assistance.[11]

5. *Duties of Religious Providers.*

Subsections (h) and (j) set out certain duties of faith-based providers.

Subsection (h) makes it clear that faith-based providers are subject to the same fiscal audits as are all other providers. However, faith-based providers may establish separate accounts such that monies received under these federal programs are segregated from monies received from other sources, especially nongovernmental sources. In the latter event, only accounts that receive or disburse federal monies are subject to audit.

Subsection (j) prohibits monies received under these federal programs from being "expended for sectarian worship, instruction, or proselytization." As a result of subsection (j), faith-based providers must exercise care so as not to use federal program monies to conduct a worship service, teach a Bible class, or sponsor an evangelistic meeting where the audience will be asked to convert to a particular religion. Monies received from other sources, such as private donations or nongovernmental grants, are not so restricted. Thus, it is prudent to not commingle private monies with contract monies received under this Act. Subsection (j) serves as an added incentive to establishing the separate accounts permitted by subsection (h)(2), thereby ensuring that only noncontract funds are used in support of inherently religious activities.

Congress believes that waiver of civil-rights immunity is not a penalty required by the establishment clause.

[10]State and local laws cannot, of course, be inconsistent with the general principle of religious autonomy set out in subsections (b) and (d). Supremacy Clause, U.S. CONST. art. VI cl. 2.

[11]The four statutes are Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the bases of race, color, and national origin; the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against otherwise qualified handicapped individuals, including individuals with a contagious disease or infection such as HIV; and finally, Title IX of the Educational Amendments of 1972, which prohibits discrimination on the bases of sex and visual impairment in educational institutions.

Separate incorporation as a 501(c)(3) nonprofit can have the effect of taking the parent religious organization out from under coverage by these four civil-rights laws that are triggered by federal funding. *See* Carl H. Esbeck, *The Regulation of Religious Organizations As Recipients of Governmental Assistance* 41-49 (Center for Public Justice 1996).

Subsection (j) pertains to direct assistance only, *i.e.*, purchase-of-service contracts. It does not pertain to indirect assistance, *i.e.*, certificates, vouchers, or other forms of disbursement provided to beneficiaries. The distinction is well established in constitutional law.[12] In the case of indirect assistance the aid goes directly to the ultimate beneficiary in the form of a voucher or certificate. When the form of the aid is directed to beneficiaries who in turn have free choice in selecting the provider of the social service--including choosing a religious provider--the establishment clause is not a concern. The Supreme Court has consistently held that government may confer a benefit on individuals, who exercise personal choice in the use of their benefit at similarly situated institutions, whether public, private nonsectarian, or religious, even if the benefit should indirectly advance religion.

6. *Rights of Beneficiaries.*

Subsections (e) and (g) provide rights to the ultimate beneficiaries. These two subsections pertain only to assistance paid directly to providers, *i.e.*, purchase-of-service contracts. The rights do not obtain in the case of certificates, vouchers, or other forms of disbursement provided to beneficiaries.

Subsection (e) provides that if a beneficiary has a religious objection to receiving social services from a faith-based provider,

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[12]Zobrest v. Catalina Foothills Sch. Dist., 113 S. Ct. 2462 (1993) (providing special education services to a student attending Catholic high school not prohibited by establishment clause); Mueller v. Allen, 463 U.S. 388, 399-400 (1983) (upholding a state income tax deduction for parents paying school tuition); Witters v. Washington Dep't of Servs. for the Blind, 474 U.S. 481 (1986)(upholding a state vocational rehabilitation grant to disabled student choosing to use grant for training as cleric); Everson v. Board of Educ., 330 U.S. 1 (1947)(upholding state law providing reimbursement to parents for expense of transporting children by bus to school, including parochial schools). *Cf.* Durham v. McLeod, 192 S.E.2d 202 (S.C. 1972), dismissed for want of a substantial federal question, 413 U.S. 902 (1973), on the same day in which the Court decided Committee for Pub. Educ. v. Nyquist, 413 U.S. 756 (1973)(striking down program that aided only private schools). In *Durham*, the state court upheld a student loan program wherein students could attend the college of their choice, religious or secular. Similarly, the Court in *Nyquist* implied that educational assistance provisions such as the G.I. Bill do not violate the establishment clause even when some students choose to attend church-affiliated colleges. 413 U.S. at 782 n.38.

The rationale for the rule stated in the text is twofold. First, the constitutionally salient cause of any potential indirect benefit to religion is the self-determination of numerous individuals, not that of the government. Merely enabling private religious choice--where individuals may freely choose or not choose religion--logically cannot be a governmental establishment of religion. The government is largely passive as to the relevant choice. Second, the indirect nature of the aid reduces church/state interaction and oversight. This enhances the institutional separation that is desirable from the perspective of the establishment clause.

There are numerous programs of unquestioned constitutionality that illustrate the rule stated in the text: individual income tax deductions for contributions to charitable organizations, including those that are religious; federal aid to students attending their college of choice; the G.I. Bill; federal child-care certificates for low-income parents enrolling their child in preschool.

he or she has a right to obtain services from a different provider. The state is to provide alternative assistance of equal value, within a reasonable time, and from a provider accessible to the beneficiary.

Subject to other principles such as religious autonomy,[13] subsection (g) requires that faith-based providers not discriminate against beneficiaries "on the basis of religion, a religious belief, or refusal to actively participate in a religious practice." Thus, a provider cannot admit to its program only beneficiaries that are of the same denomination or church. A provider cannot require a beneficiary to adopt a particular religious creed or tenet of faith. A provider cannot require a beneficiary to actively participate in worship, a prayer service, or a Bible study. However, these events and activities may be offered to beneficiaries. For beneficiaries not wanting to participate, providers can expect passivity while other beneficiaries engage in these practices. Beneficiaries may not, of course, disrupt the religious activities offered by providers. Nothing in subsection (g) prevents providers from dismissing a beneficiary that actively disrupts an essential element of the provider's program.

7. *Private Right of Action.*

Subsection (i) affords a private civil cause of action for injunctive relief to providers and beneficiaries who believe their rights under this Act are being violated. State courts are granted exclusive jurisdiction.[14] The action would be brought against the federal, state, or local official thought to be violating rights granted by the Act.

Although the matter is not free of doubt, it appears that Congress intended subsection (i) to be the exclusive civil-court remedy for the violation of rights granted by § 104. However, rights granted elsewhere, such as those found in the First Amendment, could be pursued by providers and beneficiaries under 42 U.S.C. § 1983 or other laws.

8. *Preemption of State Law.*

Subsection (k) follows the rule that rights granted in

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[13]The first clause of subsection (g) states that it is subject to other provisions of law. For example, subsection (g) by its terms is subordinate to a provider's rights of religious autonomy found in subsections (b), (d), and (f).

[14]If a federal official or agency is sued, presumably the case is removable to federal district court.

congressional legislation are federal rights and under the Supremacy Clause preempt all state and local laws to the contrary. Thus, all federal block-grant monies are to be administered in accord with the principles of § 104. If a state commingles federal block-grant monies with state funds, then all of the monies will have to be administered in accord with § 104.

Congress recognized that some states have constitutional provisions that restrict the expenditure of state funds where religious organizations are involved.[15] Thus, subsection (k) gives state authorities the option of segregating federal block-grant monies under these programs from state funds, in which event the federal monies are to be administered in accord with § 104 but the state may administer state-generated revenues in accord with its own more restrictive laws.

Congress intended to discourage segregation of funds.[16] Thus, as far as § 104 goes the segregation of funds is an option, not a requirement. Some state officials may determine that state law requires that they segregate funds. In the latter event, subsection (k) permits state officials to segregate as required by their state's constitution.

RESPONSES TO ANTICIPATED CONSTITUTIONAL OBJECTIONS

1. The U.S. Supreme Court has held that there is no free exercise clause right to object when revenues raised by general taxation are used to assist beneficiaries by the nondiscriminatory involvement of faith-based providers. It makes no difference that a federal taxpayer claims that he or she is "coerced" or otherwise "offended" when general tax revenues are used in a manner involving faith-

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[15] *See* Note, *Beyond The Establishment Clause: Enforcing Separation Of Church And State Through State Constitutional Provisions*, 71 VA. L. REV. 625 (1985).

[16] Conf. Rept. 430, accompanying H.R. 4, 104th Cong., 1st Sess. (Dec. 20, 1995), provides the following explanation for subsection (k):

> It is the intent of Congress . . . to encourage States to involve religious organizations in the delivery of welfare services to the greatest extent possible. The conferees do not intend that this language be construed to require that funds provided by the Federal government referred to in subsection (a) be segregated and expended under rules different than funds provided by the State for the same purposes; however, States may revise such laws, or segregate State and Federal funds, as necessary to allow full participation in these programs by religious organizations.

Id. at 361.

based social-service providers.[17]

2. The Charitable Choice provisions do not violate the principle of no-establishment in the First Amendment. The case of *Bowen v. Kendrick*, 487 U.S. 589 (1988), is the leading case on the question of public-purpose funding of faith-based social service outlets. *Bowen v. Kendrick* makes the case that § 104 is facially constitutional, as well as constitutional "as applied" in its proper implementation.

The Adolescent Family Life Act [AFLA] provided funds to public and private agencies counseling teenagers on matters of premarital sexual relations and pregnancy. The act expressly provided that religious nonprofits were to be considered as eligible grantees. In *Bowen v. Kendrick*, the ACLU brought a claim alleging a violation of the establishment clause. The Court held that AFLA did not, on its face, violate the establishment clause. The Court went on say that in certain applications AFLA might be violative of the First Amendment, but that was a matter for the trial court on remand to take up on a case-by-case basis.

Chief Justice Rehnquist, writing for the Court, said that cases involving governmental grants for independent-sector organizations, including religious organizations, are to be reviewed both "facially" and "as applied to particular grantees" to determine whether congressional action squares with the establishment clause. 487 U.S. at 600-02. The Chief Justice found that the purposes of AFLA were legitimate public concerns, such as the inclusion of broad support from families, communities, and religious organizations in addressing the problem of teenage pregnancy. *Id.* at 602-04. There was no evidence that the congressional purpose for the Act was the endorsement of religion *qua* religion. *Id.* at 604. Mere overlap between the purposes of AFLA and the beliefs of some religions does not point to a violation of the establishment clause. *Id.* at 604 n.8. Congress' explicit requirement that religious organizations be included with all others in the private sector as having something to contribute to the solution of this problem was not itself unconstitutional. *Id.* at 604, 605-07. The social services provided by grantees under AFLA were neither "inherently religious," *id.* at 604-05, nor "specifically religious," *id.* at 613.

Addressing the broader requirements of the establishment clause, the Court in *Bowen v. Kendrick* held that equal eligibility for voluntary-sector organizations, including religious groups, was

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[17] *See* Tilton v. Richardson, 403 U.S. 672, 689 (1971)(rejecting claim by taxpayer where revenues went in payment of a program to assist institutions of higher education, including church-affiliated colleges); United States v. Lee, 455 U.S. 252, 257 (1982)(requiring Amish employer to pay Social Security tax in violation of his religious beliefs).

neutral as to religion. *Id.* at 608. When it comes to temporal needs such as food, shelter, and health care, the Court observed that in all of its history the Court had never found a social-welfare program unconstitutional because of participation by religious organizations. *Id.* at 609.[18] The Court observed that nothing on the factual record before it warranted ACLU's presumption that religious grantees are not capable of carrying out their functions in a secular manner. *Id.* at 612. AFLA had no provision similar to § 104(j), prohibiting use of funds for sectarian worship or training. Nonetheless, while acknowledging such a provision would be useful, the Court held that the absence of such a section was not fatal. *Id.* at 614-15.

As to ACLU's claim that administrative entanglement would lead to a loss of religious autonomy, the Court was unwilling to find AFLA excessive in its oversight of religious grantees. *Id.* at 615-17. Excessive administrative entanglement is far less of a problem in Charitable Choice than it was in AFLA because of the explicit provisions in § 104(b), (d) and (f), for the safeguarding of religious character and autonomy.

In a short concurring opinion, Justice O'Connor made a distinction which is helpful. She said that the object of congressional funding under AFLA, namely teenage sexuality, was "inevitably more difficult than in other projects, such as ministering to the poor and the sick." *Id.* at 623. Far easier cases, in her mind, would be governmental funding of a soup kitchen or a hospital. *Id.* Accordingly, like the Chief Justice, where the object of the governmental aid is not inherently religious (*e.g.*, food, shelter, and health care), clearly a welfare program that includes religious nonprofits as grantees is constitutional on its face. And, as Justice Kennedy added in his concurrence, ultimately the key to these cases is not the religious character of the grantee, but how the grantee spends the government's money. If the money is spent to further a public purpose such as meeting temporal needs, the establishment clause is not violated. *Id.* at 624.

The essential rule of law which emerges from the Court's cases is that the establishment clause does not prohibit government from conferring directly on a religious organization a public-purpose benefit, so long as the same benefit is available to similarly situated nonreligious organizations and that a primary effect of the benefit is not the transmission of inherently religious beliefs

[18] All of the Court's establishment clause holdings disallowing direct aid involve primary and secondary parochial schools. None of the Court's cases has ever struck down aid to faith-based health or social-service providers.

or practices.[19] When these requirements are followed the legislation is neutral as to religion.[20] As enacted, Charitable Choice thus satisfies the principle of neutrality.

xc: John Mashburn, Legislative Director, and Annie Billings, Legislative Assistant, to the Honorable John Ashcroft, United States Senate

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[19]Bowen v. Kendrick, 487 U.S. 589 (1988), is of course a leading case. *See also* Roemer v. Maryland Pub. Works Bd., 426 U.S. 736 (1976)(church-affiliated college); Hunt v. McNair, 413 U.S. 734 (1973)(same); Tilton v. Richardson, 403 U.S. 672 (1971)(same); Bradfield v. Roberts, 175 U.S. 291 (1899)(church-affiliated hospital).

The rationale for the principle stated in the text is that the social-service initiatives of the modern welfare state may want to treat religious organizations in a nondiscriminatory manner so as to avoid redirecting the religious choices of individuals by way of governmental financial incentives. For example, if an individual wants to obtain drug rehabilitation counseling at his or her church, rather than a secular agency, he or she ought to have that choice. If that is to be made possible, then faith-based programs have to be eligible for governmental funding.

[20]*See* Rosenberger v. Rector and Visitors of Univ. of Virginia, 115 S. Ct. 2510 (1995)(upholding aid in the form of equal access to government funding for printing of religious newspaper); Capitol Sq. Review & Advisory Bd. v. Pinette, 115 S. Ct. 2440 (1995)(upholding aid in the form of equal access to public property for purpose of religious expression).

Chairman SHAW. Finally, I would like to express my regret that Mary Jo Bane is leaving the administration. I know from experience that she is honest and reliable. Further, I know from both her reputation and her performance at HHS that she is a first-rate administrator. Her experience and skills would have been put to good use helping States implement this historic legislation. I know I speak for everyone on this Subcommittee when I say we will all greatly miss her.

But life does go on. And because it does, our first witness is Dr. Bane's acting replacement at HHS, Dr. Olivia Golden. Dr. Golden, we welcome you. Without objection, we will have your written statement made a part of the record of this hearing, and I encourage you to summarize your testimony in 5 minutes and give us plenty of time in which to ask you questions and become further acquainted.

Dr. Golden.

Ms. GOLDEN. Thank you.

Mr. FORD. Mr. Chairman, do you mind if I——

Chairman SHAW. Excuse me. Excuse me, Dr. Golden. I am being rude to my Ranking Member and I certainly do not mean to.

Mr. FORD. I apologize too, Dr. Golden.

Chairman SHAW. Mr. Ford.

Mr. FORD. Thank you very much, Mr. Chairman. Let me begin, Mr. Chairman, by thanking you for convening this Subcommittee for oversight purposes. I hope it is the first of many we will conduct as implementation of the new welfare law goes forward.

All of us, whether we voted for or against this bill, understand the magnitude of the change that is being made and being attempted under the new law. Our job does not end with the final vote on the conference report. Now it is even more important than anything else that the oversight function begins, where we learn how the bill is being implemented, what problems States and localities are encountering, and how families are affected. Sessions like this are very important for the first step.

Before we move to our first witness, Mr. Chairman, I would like to make a few comments about the State waiver process. I noticed that you mentioned it in your opening statement. I understand that some of our colleagues are dismayed the District of Columbia was granted a waiver shortly after we passed the Personal Responsibility Act. Critics have charged the waiver lasts too long, was granted too quickly, and amounts to a sweetheart deal for the District of Columbia. I would like to try to set the record straight.

The District of Columbia waiver was granted under the fast track approval process established by the President for all States. Three other States have made use of this process. One State, Idaho, applied for the waiver 2 days after the District of Columbia and was approved at the same time. Approval of State waivers has taken longer because they have involved more complicated issues than the simple policies eligible for fast track approval.

The District of Columbia's waiver is for 10 years. Massachusetts, Michigan, and Washington all have 10-year waivers. Tennessee and Wisconsin have 11-year waivers. There is no sweetheart deal. The District of Columbia time limit waiver is similar to those of eight other States in this Nation, including Florida, your own

State, Mr. Chairman. I would like to join with you to look at this process, and certainly avoid singling out the District of Columbia when there are other States that have used this similar process on this fast track, and it is not just singling out the District of Columbia with the approval that has been granted by the administration and Health and Human Services.

But once again, I would like to join with you, Mr. Chairman, and applaud you for swiftly moving this Subcommittee in an oversight status to look at the new welfare policies we have implemented and granting those policies to the States throughout this Nation. I would also like to thank Dr. Golden and other witnesses who will be testifying before the Subcommittee today.

Again, thank you, Mr. Chairman, for calling this session.

Chairman SHAW. Thank you, Mr. Ford. I can assure you any States that have similar waivers, we certainly will be looking closely at them, and to see how they compare, and which direction they are going. I know my own State of Florida has a 4-year work requirement rather than a 5-year work requirement. Whether they have gotten a waiver that gets them out of the 10-year requirement, I am not sure how that would fit. But perhaps we will learn more about that together.

Dr. Golden.

STATEMENT OF OLIVIA GOLDEN, COMMISSIONER, ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. GOLDEN. Thank you, Mr. Chairman. Good afternoon, Mr. Chairman, and Members of the Subcommittee. I am Olivia Golden, and I will soon be the Acting Assistant Secretary for Children and Families in the Department of Health and Human Services.

It is a pleasure to appear before you today to provide an overview of our implementation of the new welfare reform legislation, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Since we have not had the opportunity to meet in this forum before, I thought I would provide a very brief statement about my background and then move to the welfare reform issues of concern to this Subcommittee.

Since November 1993, I have been serving as the Commissioner of Children, Youth and Families in the Administration for Children and Families. In this position, I have been overseeing the administration of the Head Start Program, of the new Child Care Bureau, of child welfare, foster care, adoption assistance, child abuse and neglect, and youth services.

Prior to this Federal service, my career included extensive experience in policy development, research, teaching, public management, and budget development and execution. This experience has spanned a broad range of venues, including academia, Federal, State, and local government service, and community activities. It has also covered a broad range of child and family issues, including welfare, and employment and training. I accept my new responsibilities with tremendous enthusiasm and appreciate the opportunity you have given me to appear before this Subcommittee today.

In my testimony today I will be focusing on implementation of the Temporary Assistance for Needy Families, the TANF Program, as the Subcommittee has requested. My written testimony also addresses the child care program, and I would be happy to answer questions in that arena. I will defer discussion of the child support enforcement provisions until Thursday when you will be devoting an entire hearing to that topic.

In the few weeks since enactment, we have had numerous conversations with our State partners. These conversations have made it clear there is much work to be done by all of us to ensure that implementation of this new law results in welfare reform that encourages work, promotes parental responsibility, and protects children.

At the State level, States have been given a tremendous amount of flexibility under this welfare reform legislation to design a program which assists needy families and helps them to find jobs and become self-sufficient as quickly as possible. Most States are currently sorting through the legislation and the variety of options and opportunities available to them. Many States are anxious to implement the TANF provisions as soon as possible because most States will benefit financially from accelerated implementation.

In this environment, States are doubly challenged to make sure their programs are thoughtfully planned. So we are, therefore, advising States they may adjust their programs and submit plan amendments as they move further along in the implementation process.

At the Federal level, we are working very hard, both in Washington and in our regional offices, to help the States and the tribes achieve a smooth and effective transition to their new programs. We are at the center of a major transformation in the nature of the Federal-State partnership. States now assume primary responsibility for ensuring the welfare system works, and States have the authority and the flexibility to design programs which meet their individual needs.

In return for this new authority and flexibility, the legislation includes a variety of provisions on penalties, on performance-based funding, on data collection and reporting, and research and evaluation that are designed both to ensure accountability and promote performance.

So at the Federal level we will be monitoring State performance and program implementation. We will assume major new responsibilities for compiling and disseminating information. As their options expand, States will need more and better information about the implications of their choices, and we look forward to sharing what we learn in order to support those choices.

Finally, at the Federal level, we will have a much expanded role in working with tribes who can now decide to implement their own cash assistance programs. Over the past several weeks we have entered into numerous discussions with State and tribal officials and their representatives to learn about their major concerns and questions. Through participation in forums, program instructions, and other vehicles, we are working to address their most critical questions and concerns.

In conclusion, HHS is committed to the successful implementation of this legislation. We are also committed to working with our State and tribal partners, and to ensuring the information we gather will serve our partners' needs and help promote the goals of the legislation.

We will consult with our partners extensively as we work to develop data collection and information requirements, performance measures, and research and evaluation strategies. Through this process, we will strive to ensure the legislation, indeed, accomplishes its goals and the results are positive and work for the good of children, families, and communities.

I will be happy to answer your questions at this time.

[The prepared statement follows:]

STATEMENT OF OLIVIA GOLDEN, COMMISSIONER
ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Good morning Mr. Chairman and members of the Committee. As the Commissioner of the Administration on Children, Youth and Families in the Department of Health and Human Services, I am pleased to appear before you today to provide an overview of the Department's implementation of the new welfare reform legislation--the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

The Administration for Children and Families is responsible for administering several of the programs most affected by this historic legislation, including: the new temporary assistance program for needy families; the child care programs for families on welfare and other low-income working families; and the child support enforcement program.

In my testimony today, I will spend much of my time addressing implementation of the Temporary Assistance for Needy Families (TANF) program, as requested by the Committee. I would like to also briefly discuss the new child care provisions and will defer discussion of the child support enforcement provisions until Thursday when you will be devoting an entire hearing to that topic. Since the legislation was signed by the President only 26 days ago, I want to focus most on the process we have undertaken to facilitate implementation. Because of the bill's early effective dates and the extraordinary interest throughout the country in moving forward on welfare reform, officials at all levels of government are very busy. At the federal level, officials from the numerous departments affected by this legislation are working together to ensure coordinated assistance to the states.

In the few weeks since enactment, we have had numerous conversations with many of our State partners. These conversations have made it clear that there is much work to be done by all of us to ensure that implementation of this new law results in welfare reform that indeed encourages work, promotes parental responsibility, and protects children.

State Implementation Activities

States have been given a tremendous amount of flexibility under this welfare reform legislation to design a program which provides assistance to needy families and helps them to find jobs and become self-sufficient as quickly as possible. Because State plans can be filed at any time prior to July 1, 1997, most States are currently sorting through the complexities of the bill and the variety of options and opportunities available to them. In some cases, they are struggling to determine the statutory expectations. In addition, many states are anxious to implement the Temporary Assistance for Needy Families provisions as soon as possible because most states will benefit financially from an accelerated implementation.

In the midst of tremendous time pressures, states are doubly challenged to make sure that their programs are thoughtfully planned. The legislation presents the opportunity for them to explore new administrative arrangements and to develop new linkages with other service delivery systems. It also presents them with the opportunity to develop a more integrated and individualized approach to serving needy families. We are advising states that they may adjust their programs and submit plan amendments as they move further along in the implementation process.

The Changing National Perspective and the New Federal Role

While much of the action has indeed shifted to the states, we are working hard both in Washington and in our regional offices to

help the states and tribes achieve a smooth and effective transition to these new programs.

The legislation provides us with a great opportunity to make welfare a transitional system, rather than a way of life. We can reward states for their success in moving people from welfare to work, not merely for how well they get the checks out. Many more parents can participate in work opportunities and obtain the safe and healthy child care they need to protect their children while they go to work.

We are at the center of a major transformation in the nature of the federal-state partnership. States now assume primary responsibility for ensuring that the welfare system works. States have the authority and the flexibility to design programs which meet their individual needs. The legislation gives them much more opportunity to respond creatively and individually to the highly diverse needs of their children and families.

In return for this new authority and flexibility, the legislation holds states more accountable for program performance. It includes a variety of provisions -- on penalties, performance-based funding, data collection and reporting, and research and evaluation -- designed both to ensure accountability and promote performance.

At the federal level, we will be monitoring state performance and program implementation. Among our first responsibilities will be to review the new TANF plans to ensure that they are complete -- that they include the necessary certifications and descriptions of how the state will serve needy families, help them move into work, and provide for fair and equitable treatment. These plans are a critical tool-- both in terms of ensuring that states are focusing on the issues that need to be decided as they design their new programs, and as a mechanism for informing the citizens of each state about how, and to whom, services will be provided under these new programs.

Later, as required by the new statute, we will be ranking states according to their performance, identifying and studying the high performers and low performers, providing an overall assessment of the legislation's impact on children and families, and tracking child poverty. We will work to ensure that the new programs help families get quickly through the hard times back into the mainstream of society. We will also monitor what is happening so we can identify any potential harmful effects.

One of our other major roles will be to administer the financial reduction provisions found in the new section 409 of the Social Security Act. Under these provisions, we will be focusing on state compliance with a number of key statutory requirements, including child support enforcement, data reporting, participation rates, and maintenance of effort. Here, we will be working, in consultation with our State partners, to clarify the expectations on the states, and the availability of good cause exceptions, etc. In this way, we will be able to ensure that any financial reductions are applied consistently.

We will also assume major new responsibilities for compiling and disseminating information. As the number of program options available to states grows exponentially, states will need more and better information about the implications of their choices. The new law gives us tools we need to develop such information. We look forward to working with the states in employing these tools and sharing what we learn with our partners.

Finally, we will have a much expanded role in working with tribes, who can now decide to implement their own cash assistance programs. While the legislation seems to present tribes with tremendous new opportunities to exercise their sovereignty and serve their own people, tribal representatives have expressed a

number of concerns about the potential impact of this legislation. Many tribes have indicated that they may not wish to make a final decision about applying to participate in TANF until states reveal their TANF plans. Thus, it may be some time before we know the extent of tribal participation in this program.

Our Earliest Activities

Over the past several weeks, we have been working very hard to ensure that we are in a position to meet our responsibilities under the legislation and to facilitate implementation of the bill at the state and community level. One of our first priorities has been to disseminate information on the amounts of TANF and child care funds that states and tribes can receive and how they can access that money. Thus, we prepared and distributed allocation tables for both child care and TANF, and have sent out instructions on how to apply for the FY 1997 "mandatory" child care funds. In addition, we distributed for comment a draft guide which states could use to develop their TANF plans.

Because the new child care provisions have an effective date of October 1, we have made it a priority to provide guidance immediately. Within one week of enactment of the bill, letters were sent to all state welfare commissioners and state Child Care and Development Block Grant lead agencies outlining a simplified process under which states can begin receiving funding in order to be able to operate a more unified child care system.

The Personal Responsibility and Work Opportunity Reconciliation Act also created a new, integrated child care program under the Child Care and Development Block Grant. This program unites three child care funding streams in a way that validates the early effort of many states to construct a unified, seamless child care system out of multiple programs that often had conflicting rules. This program offers an unparalleled opportunity to serve children and their parents for whom child care is a critical element in family growth, stability and self-sufficiency.

At the same time, we have entered into numerous discussions with state and tribal officials, and their representatives, to learn about their major concerns and questions. With my regional office staff, I have participated in conference calls with officials from every state; several key members of my staff and I participated in the national APWA/NGA/NCSL meetings last week in Washington; we will be participating in all the upcoming regional APWA technical assistance meetings. In addition, we sponsored our own meetings with state child care administrators last week; and we will be sponsoring a major meeting with tribal leaders later this month.

Through forums, program instructions, and other vehicles, we are working to address the most critical questions and concerns. Because of the bill's complexity and the hundreds of questions which it has evoked, we are focusing on the questions which affect state implementation decisions and deferring response on some of the others. And we are identifying operational and technical issues which might be addressed through legislative proposals, program guidance or other avenues.

As we deal with some of the most pressing issues, we are also working to refine our implementation plans and schedules. These activities help us ensure that other important provisions of the bill are not neglected, and they help us cope with our shifting workloads and responsibilities.

Conclusion

HHS is committed to the successful implementation of this

legislation. We will provide the leadership necessary to ensure that the legislation gets the attention it is due as states work on the myriad details of program design and implementation.

We are also committed to working with our state and tribal partners to ensure that the information we gather will serve their needs and help promote the goals of the legislation. We will consult with them extensively as we work to develop data collection and information requirements and regulations, performance measures, and research and evaluation strategies. Through this process, we will strive to ensure that the changes that result from this legislation are positive and work for the good of children, families, and communities.

I will be happy to answer your questions at this time.

Chairman SHAW. Mr. Ford.

Mr. FORD. Thank you, Mr. Chairman. Let me also, Dr. Golden, join with the Chairman in welcoming you as the new spokesperson in this area.

Ms. GOLDEN. Thank you.

Mr. FORD. I said earlier in my opening statement, we certainly welcome this opportunity for oversight purposes. Just give us some thoughts. Over the past weekend, I had an opportunity to host a brain trust workshop on welfare reform and talk about the implementation of the new welfare policies that now rest with the States. I know that you have been with the Department of Health and Human Services and are familiar with the issues that the new law creates. What information or feedback have you received as it relates to a State like my own that received a waiver from Health and Human Services for Tennessee's Family First. I am not sure you would be familiar with that particular waiver. But we have had an opportunity now to begin implementation. How do you assess State waivers?

Do you see the States making a faithful effort in trying to put in place those components that are going to be needed to move women from the welfare rolls to work, without damaging their children? Are States providing or requiring child care, with basic necessities that will be needed in order to protect and provide for the children?

Ms. GOLDEN. Congressman Ford, let me give you an overview of the waivers and the process, both what we see as our lessons and what we see as the process from here. As you suggest, I am not yet familiar with all the specifics of Tennessee. Overall, I think we are very proud of the waivers and how they already have facilitated welfare reform in many States around the country.

In terms of the process for next steps, as Chairman Shaw outlined, we have been looking at a process by which States can look at their waivers and look at the new legislation and we can learn what is the best way to move forward. The overview, as you know, is that the new legislation provides States with enormous flexibility to design the program that they think best meets the needs of their children and families.

So the first piece of advice we are giving States that currently operate waivers, such as Tennessee, is to look at what they want to do and what policies they would like to put in place. In many cases, they are finding much of what they want to do they can do under the new legislation.

Where States have provisions under their waivers that are not consistent with the new legislation, the administration staff have been consulting with congressional staff. As Chairman Shaw suggested, the statute gives States that have waivers the ability to continue provisions that, in the words of the statute, are inconsistent with the statute. But as I understand it, there is some ambiguity about exactly what that means.

So, we are asking States to list the provisions they see as inconsistent so we can thoughtfully consult with the States and Congress and try to carry out the statute in a way that also meets the needs of children. That approach is one Chairmen Archer and Roth

have identified, and we think it is a sensible way to address those specific, difficult issues.

Mr. FORD. Under section 113 the new law requires Health and Human Services to submit technical and conforming amendments that are necessary to bring the law into conformity with the policy embodied in the new law. These amendments are due to us within 90 days of enactment. Do you plan to submit such legislation, and what process will you use to identify these amendments, Dr. Golden?

Ms. GOLDEN. We are working very hard right now to consult with our partners, with States and tribes, and with others to identify the technical corrections. We intend to compile those and to provide advice based on that work.

Mr. FORD. So, you will decide after talking with the States and the different directors what is to be recommended to Congress?

Ms. GOLDEN. Yes, I bring experience from directly overseeing the implementation of the child care portion of the bill. I am just in the process of learning the others more specifically. One of the things we are finding is that in the initial stages sometimes it takes a little while to figure out whether a problem requires legislation to address it or whether it can be resolved under the statute through our guidance or through State choices. So that is the process we are in right now, identifying the issues and trying to sort out the best way to solve them.

Mr. FORD. Have all of the States been notified to assist and make recommendations in these areas, so Health and Human Services will be able to report back within that 90-day time period?

Ms. GOLDEN. We intend to collect that information. Since the enactment of the legislation, we have spoken with all 50 States and with tribes in a variety of settings, conference calls, briefings, and other conversations. So I think everyone is trying to work very hard, both to put plans in place and to identify those areas where either further guidance or further legislation would be needed.

Mr. FORD. There are not many Federal standards in the new welfare law and many responsibilities have now shifted to the States. I know it is early on, but do you anticipate full participation and cooperation from these States?

Ms. GOLDEN. I have certainly had terrific experiences so far in terms of State involvement. Last week I had the chance to speak with the State child care administrators. I think there is, among the States, an enormous sense both of opportunity and of responsibility.

I share the Chairman's view that having a law work is 10 percent legislation and 90 percent implementation. I think that sense of responsibility is one that weighs heavily not only on me, but also on the States. I anticipate a lot of commitment.

Mr. FORD. My time has expired, but have you found any problems with the new law, Dr. Golden?

Ms. GOLDEN. The President identified originally two areas where he anticipated seeking changes: One in the area of the legal immigrant provisions and the other in the area of the food stamp cuts. So those are certainly issues that the President identified from the beginning.

Mr. FORD. But have you found any problems?

Ms. GOLDEN. I think we are still working to sort things out. I think the most important thing is we need to be committed. I am committed to working with the States to implement the legislation effectively.

Mr. FORD. Do you know of any problems the States have found with the law that they have submitted right away and saying that they see problems and have flashed it to HHS? Not recommendations for changes, but problems they have seen with the new law.

Ms. GOLDEN. I think the most important arena for the States now is that there are so many new choices. They are at the point of sorting through these choices and how to make them. There are a number of areas where we are getting a lot of questions: technical areas about financing, maintenance-of-effort provisions, questions about waivers. So there are a number of areas still being worked out.

But I would say at this point the major issue for the States is making those choices about the best way to enable families to move to work and to provide temporary assistance. That is really where the core of our efforts are right now.

Mr. FORD. Thank you, Dr. Golden.

Mr. Chairman, I yield back the balance of my time.

Chairman SHAW. Dr. Golden, I would like to follow up on Mr. Ford's questioning with regard to areas that are problems. Perhaps this is an unfair question to ask you, and if you do not feel comfortable answering it you can simply tell me so. But Secretary Shalala was quoted in the Houston Chronicle on August 29 in referring to the welfare bill and said, "Every piece of the bill that is vicious we will invoke the bureaucracy and take our time."

Do you know what portions of the law she was referring to as being vicious, and what agencies constitute the bureaucracy that would be invoked to take your time?

Ms. GOLDEN. I was not there when she——

Chairman SHAW. That is an unfair question for you your first day before this Subcommittee I understand.

Ms. GOLDEN. It is completely fair. Chairman Shaw, as I was telling you earlier, I ran for office so whatever anyone asks me is fair at any moment.

I was not there to hear the Secretary's remarks. I understand she may have been referring to the portions of the law pertaining to immigration, on which we are moving fast in collaboration with the Justice Department. But there are a variety of complex issues. She called me to assure me personally that she is committed to implementation of the law, and she has been clear in her direction that our job is to implement the legislation as Congress passed it and the President signed it, and that that is what she expects from me.

Chairman SHAW. She said that to me on August 22 when I was at the bill signing at the White House. She assured me it was her intention to do exactly as you said and to implement the intention of Congress. That is why I was somewhat surprised to be shown the article in which she was quoted as referring to some of it as being vicious and referring to the invocation of the bureaucracy which concerns me because we are in this together.

Regardless of the fact that there are different levels of enthusiasm certainly in the Congress, and I think of the recent resignations down at HHS which indicate that there is a difference of opinion in the administration, we do have to work together. I would like to say that I always feel, and as with your predecessor, I feel that differences of opinion are healthy, and if we listen to each other we can do better. All of us want the same thing at the end, and that is to promote self-independence and to give people a life other than a life on welfare.

I think we need to move quickly to get people into the job market. But it is going to take complete rethinking on the side of the bureaucrats. I am speaking of the bureaucrats that are right down there at the grassroots level. Their main objective has to be to keep people off of welfare, or if they are on it, to get them off as quick as they possibly can.

This is going to be a retraining because it changes from when a client comes in and they say you are poor, you qualify, here is what you get—and if you violate the rules or go to work or get income, you are going to lose these particular benefits. Thank goodness, we finally changed that. But in doing it, we know that for many of the people on welfare this is going to be a very difficult transition, and for many of the bureaucrats it is going to be a difficult transition. But it is the law now and we are going to have to go forward together and see to it that it does work.

What has HHS done in helping the States to implement the change? Specifically, what have you been doing so far and what is your plan for the coming year?

Ms. GOLDEN. Let me answer that question about what we are doing at HHS and then perhaps, Chairman Shaw, I could tell you a little bit about my own commitment to that agenda as you just described it.

First, in terms of HHS implementation, our early work has been very much in terms of talking with the States, getting to know the questions and issues, answering those issues, and ensuring we can get the money out quickly.

To take one example in child care, which is the arena where I have had direct administrative responsibility, we were able to brief all 50 States the day the President signed the legislation and to get a letter out to them within 1 week because the child care provisions of the new law go into effect October 1. So we need to be able to get States their new resources on October 1, and we have done an interim plan process that will get us there.

In the broader TANF arena, we have been able to have conference calls and conversations with all the States and to participate in briefings with NGA, NCSL, and APWA. Actually, I was just hearing about a regional conference, the second of five that APWA is planning where we are participating. We are feeding the questions to staff in order to be able to answer them and provide guidance.

So the early work is focused very much on providing clear information, hearing the questions from our partners, and getting the money out.

As we move forward there are some additional key arenas. These include the area of accountability, data collection and research that

the Subcommittee and the Congress highlighted as a Federal responsibility, as well as technical assistance to States, and our additional broader responsibilities with the tribes. So all of those are key on the upcoming agenda.

Chairman SHAW. In going back just briefly to the question of the waivers, and Mr. Ford is correct, where we have singled out the District of Columbia, there are some States that are going in the wrong direction and we need to take a close look at them. When the States get a waiver, this does not, in my interpretation, waive the maintenance of effort provision. In other words, a certain percentage of their caseload has to be going into the workplace.

Ms. GOLDEN. The participation rate requirements.

Chairman SHAW. Participation requirements, not maintenance.

Ms. GOLDEN. So far as I know you are correct that no waivers that we have given have waived participation rate.

Chairman SHAW. One of the things that concerns me is if they do not meet the participation requirements, they are going to be fined down the line and I do not see how, whether we are talking about the District of Columbia or the States, how they can meet the participation requirements unless they are really dead serious about meeting the work requirements and the 5-year limitation. Would you care to comment on that?

Ms. GOLDEN. I would underline your point that being serious about work is important for States and for families because we all share the belief that, in fact, effectively moving families to work is essential. So I would underline your statement that States need to be serious about that.

In terms of the specific application of waiver provisions, I would again just underline what you said earlier about the process that Chairmen Roth and Archer have outlined and that we all have agreed to. States will look at the overall policies they want to implement under the law, and then they will make a list of any areas where they believe they need to continue waiver provisions. That is a process that should give us the information we need to make good choices from here on. So I think that is the appropriate way to move forward.

Chairman SHAW. We will want to be working together with you and taking a close look at these next year to see if further legislation is necessary.

Ms. GOLDEN. Terrific.

Chairman SHAW. Mr. Levin.

Mr. LEVIN. Thank you very much, Mr. Chairman. I have been listening with some real interest. I think all of us have to proceed with some caution. The implementation of a bill this major is going to by definition be somewhat complex itself and I am glad, Mr. Chairman, that this process has been set up to look at the interplay between the waivers that have been granted and the new bill and its grandfathering provision.

I hope everybody will be careful before they condemn anybody whether it is the State or the District of Columbia, because I do not think anyone is quite sure of the meaning of the grandfathering provision and I think especially its authors should be careful before they criticize any State. I think it can work out well but we will have to see, and you are going to compile this list.

I think it might be useful, Mr. Chairman, as we exercise oversight, no matter who is operating this Subcommittee and the Full Committee, to look at other provisions of the law.

For example, how the States are implementing the work provisions; what the record is in terms of people leaving welfare to go into productive work; and how participation rates begin to be met, whether they begin to be met by people going to work or simply through the exercise of time limits. We did not provide additional moneys for the States to move people from welfare to work. That was one of the issues that we discussed. It was one of the areas mentioned by the President as a potential defect in this bill and I think you, with your interest in it, Mr. Chairman, would want to make sure that this Subcommittee looks at that issue also.

I am going to try to follow my own cautionary note and be cautious about what I say here. But let me ask one question about the research aspect. As I understand it, Mr. Chairman, we put into this bill some money for research to make sure we follow the progress of this bill. It is my understanding the Senate has changed, the Senate Appropriations Committee has altered the intent and perhaps the language of the bill that was put together to some extent in this Subcommittee and that some of us here voted for.

So tell me, if you would, what your feeling is about this research provision and whether the information I have is correct or not. I am not sure what is going on.

Ms. GOLDEN. The administration is strongly committed to the role of research and evaluation, and we are concerned with the action of the Senate Appropriations Committee. The Congress, in the welfare reform legislation, and I know this Subcommittee has felt strongly, understood that as States have flexibility to design new programs, having good information available about what is working and what is effective is more important than ever.

My own experience, both as an academic and at the State as well as the Federal level, tells me if you are going to enter into change of this magnitude, you have to be able to understand not only how it is working overall, but where there are practices that are excellent or that you want to share. So we believe that is very important.

The Senate Appropriations Committee has effectively reduced the resources available to research from $21 million to $9 million, and that hampers our ability to implement the research component, which is critical to welfare reform. That concern will be reflected in OMB's letter to the Senate Appropriations Committee.

Mr. LEVIN. Mr. Chairman, let me finish. I would hope that we together on a bipartisan basis will take a look at this because, for example, when it comes to participation rates one thing that has become clear is that many States do not really have very accurate records as to who is on welfare and where they have gone when they have left. The bill sets up certain requirements and there may or may not be some interaction between those requirements and the grandfathering provision. We will have to see.

But if these participation requirements are going to be meaningful, the States are going to have to know and we are going to have to know what is going on within the States. So this idea before we

have even started along this new path to reduce the amount of resources to find out what is going on, I find somewhat disturbing.

Chairman SHAW. I would say to the gentleman that you are absolutely correct and you have put your finger on an area where there is bipartisan concern. As you recall, the welfare reform bill went through the process of reconciliation. That was a vehicle in which it passed the Congress. This means that the budgeteers were very much in charge of the table. We scraped and we looked at every aspect of spending under the welfare reform bill and we fought to hold on to those dollars.

I do not intend to let an Appropriations Committee who has doubtful jurisdiction, if any, over these funds to come in and raid these funds particularly when we, I think, already did a masterful job in saving every dollar we could without actually cutting into the bone. I think these dollars are very important. I agree with you, Mr. Levin. I agree with the administration, the comments of Dr. Golden with regard to these funds. They are important.

What we are doing is actually leading the world and not only the question of the American people looking at what we are doing to see if it works, but also other countries. Now there are parliaments looking at what we are doing and for us to walk away and say these research dollars are not necessary just does not make any sense. So I can assure you I will be very much on your side and we will be working together to hold on to these dollars.

Mr. LEVIN. Let me just say, there is, as you know and it has been mentioned here in answer to Mr. Ford's question, some controversy over some of the major provisions that raised money—the legal immigrant provisions and some of the food stamp provisions. We will talk about those some other day.

But this hearing is focusing on the replacement for AFDC. This money was earmarked for TANF, this research money, for what was to be the heart of welfare reform moving people from welfare to work. I think we need to fight to make sure the funds we put in there to assess what was happening with the replacement for AFDC, that those resources need to be maintained.

Chairman SHAW. Absolutely.

Mr. LEVIN. And what has come out since we passed the bill, I think, only reinforces that need. The States themselves are saying to us they do not have the data upon which to proceed. We have to be sure that information and knowledge—information is available and knowledge as to what is happening. So I hope we can nip that effort in the bud.

Chairman SHAW. I am confident we can.

Ms. GOLDEN. Thank you.

Chairman SHAW. Mr. Camp.

Mr. CAMP. Thank you, Mr. Chairman and thank you, Dr. Golden. I have had an opportunity to review your testimony and I guess I would like to take my time and say that I would like to compliment the Department for the letter that I know the Michigan Director of the Department of Social Services received 5 days after the signing of the bill.

Ms. GOLDEN. Thank you.

Mr. CAMP. Giving the State allocation for the State Family Assistance Grant and for the State guidance brochure for the temporary assistance for needy families, I think it is something that is very clear. It is understandable. It has the statutory text attached to it to help the States understand what it is they need to do with regard to this particular program, and without objection, I would like to place this guide in the record.

Chairman SHAW. Without objection.

[The information follows:]

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAM
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

AUG 27 1996

Mr. Gerald H. Miller
Director
Michigan Department of Social Services
P.O. Box 30037
Lansing, Michigan 48909

Dear ~~Mr. Miller~~ Gerry:

I have appreciated the opportunity in the last two weeks to begin a discussion with you and other welfare commissioners about implementation of the new federal welfare reform legislation. As you know, on August 22, President Clinton signed this bill into law.

The enactment of this law is an opportunity to continue the work we have begun to change the culture of welfare in this country so that it focuses on work, provides the supports necessary to ensure a successful transition to work, demands greater responsibility from those participating in the system, and protects children.

As a first step in the implementation of this new law, we have prepared the enclosed tables of state allocations for both the Temporary Assistance for Needy Families Block Grant (TANF) and child care funding. This is information I know you need to begin developing your state's plan.

We are also working on a number of immediate follow-up activities that, I believe, will be useful to you.

First, we are preparing a guide on the submission of TANF state plans. I know that many states hope to submit state plans and begin drawing down block grant funding quite quickly. The guide should provide a basis for our working together to ensure that your plans are complete under the requirements of the law. We will forward that to you soon.

Second, the state's Child Care and Development Block Grant (CCDBG) lead agency will soon be receiving a letter outlining a simplified process under which your state can begin operating a more unified child care system. I am enclosing a copy of that letter.

Third, you or your state's IV-D director and staff will soon receive an invitation to a series of conferences, aimed at helping us work together on implementing the significant child support enforcement provisions of the new law.

Fourth, we will be participating in some of the working sessions at the American Public Welfare Association/National Governors' Association/National Conference of State Legislators' welfare reform implementation conference here in Washington on September 9-10. We will look forward to talking with you and your staff further at that time.

The implementation of the new welfare reform law is an extraordinarily challenging opportunity, and we look forward to working on it in partnership with you. Our combined expertise and experience will help us achieve our shared vision of a welfare system that truly serves our nation's children and families.

The Administration for Children and Families Regional Administrator for your state, Marion Steffy, will be in contact with you to discuss further how we can work together. Please feel free to call me if I can be of additional assistance.

Sincerely,

Mary Jo

Mary Jo Bane
Assistant Secretary
for Children and Families

Enclosures

ESTIMATED FY 1997 STATE FAMILY ASSISTANCE GRANTS UNDER P.L. 104-193

State	State Family Assistance Grant 1/
Alabama	$ 93,006,115
Alaska	63,609,072
Arizona	222,419,988
Arkansas	56,732,858
California	3,733,817,784
Colorado	135,553,187
Connecticut	266,788,107
Delaware	32,290,981
District of Columbia	92,609,815
Florida	560,955,558
Georgia	330,741,739
Hawaii	98,904,788
Idaho	31,851,236
Illinois	585,056,960
Indiana	206,799,109
Iowa	130,088,040
Kansas	101,931,061
Kentucky	181,287,669
Louisiana	163,971,985
Maine	78,120,889
Maryland	229,098,032
Massachusetts	459,371,116
Michigan	775,352,858
Minnesota	266,397,597
Mississippi	86,767,578
Missouri	214,581,689
Montana	45,534,006
Nebraska	58,028,579
Nevada	43,976,750
New Hampshire	38,521,261
New Jersey	404,034,823
New Mexico	126,103,156
New York	2,359,975,147
North Carolina	302,239,599
North Dakota	25,888,452
Ohio	727,968,260
Oklahoma	148,013,558
Oregon	167,924,513
Pennsylvania	719,499,305
Rhode Island	95,021,587
South Carolina	99,967,824
South Dakota	21,893,519
Tennessee	189,787,994
Texas	486,256,752
Utah	74,952,014
Vermont	47,353,181
Virginia	158,285,172
Washington	399,636,861
West Virginia	110,176,310
Wisconsin	318,188,410
Wyoming	21,781,446
State Total	$ 16,389,114,288

ESTIMATED FY 1997 STATE FAMILY ASSISTANCE GRANTS UNDER P.L. 104-193

State	State Family Assistance Grant 1/
American Samoa	1,000,000
Guam	4,686,000
Puerto Rico	107,225,000
Virgin Islands	3,554,000
Total for Territories 2/	$ 110,779,000

1/ Grants are based on the Federal share of expenditures for FY94, FY95 or the average of FY92-94, whichever is greatest. Grants incorporate an adjustment for States that had an Emergency Assistance plan amendment approved during FY94 or FY95. State amounts may be reduced for Tribal Family Assistance Grants.

2/ Amounts shown for Territories represent the revised ceiling amounts under Section 1108 of the Social Security Act. SFAG and matching fund allocations will be estimated separately.

23-Aug-96

ESTIMATED FY 1997 STATE ALLOCATIONS FOR THE CHILD CARE AND DEVELOPMENT FUND

State	Mandatory Funds 1/	State Share Requirement (MOE) 2	Matching Funds 3/	State Share of Matching Funds 4/	Discretionary Funds 5/
Alabama	$ 16,441,707	$ 6,896,415	$ 11,097,223	$ 4,654,690	$ 20,236,065
Alaska	3,544,811	3,544,811	2,028,753	2,028,753	1,906,673
Arizona	19,890,997	10,065,324	12,763,447	6,458,612	18,512,030
Arkansas	5,300,283	1,886,541	6,627,908	2,359,086	11,896,059
California	92,945,658	92,945,659	96,164,172	96,164,172	120,466,746
Colorado	10,173,800	8,985,899	10,285,029	9,084,141	11,059,692
Connecticut	18,738,357	18,738,357	8,559,338	8,559,338	7,224,585
Delaware	5,179,351	5,179,351	1,900,182	1,900,182	2,111,607
District of Columbia	4,720,514	4,720,514	1,286,615	1,286,615	1,979,409
Florida	43,026,524	33,424,300	35,964,991	27,938,689	50,046,337
Georgia	36,622,787	22,167,213	20,202,308	12,261,629	32,157,871
Hawaii	5,220,634	5,220,634	3,323,894	3,323,894	3,662,385
Idaho	2,867,578	1,175,819	3,492,470	1,486,814	5,133,856
Illinois	59,609,473	59,609,473	33,025,568	33,025,568	37,705,575
Indiana	26,181,999	15,356,949	15,294,176	8,970,739	18,065,411
Iowa	8,877,745	5,299,427	7,298,922	4,356,974	9,229,278
Kansas	9,811,668	6,672,989	7,151,279	4,890,112	8,898,861
Kentucky	16,701,803	7,274,356	9,863,568	4,312,299	17,942,749
Louisiana	13,864,552	5,219,484	12,714,858	4,786,667	26,680,153
Maine	3,137,105	1,928,151	3,116,236	1,806,728	3,873,126
Maryland	23,301,407	23,301,407	13,667,019	13,667,019	13,203,338
Massachusetts	44,973,373	44,973,373	15,376,582	15,376,582	14,395,116
Michigan	32,081,922	24,360,587	26,216,778	19,907,040	29,217,891
Minnesota	23,367,543	19,690,395	12,853,121	10,838,963	13,483,420
Mississippi	6,293,116	1,715,431	7,756,796	2,114,413	17,359,322
Missouri	24,668,568	16,548,755	14,257,605	9,564,625	18,227,212
Montana	3,190,691	1,315,298	2,371,213	977,485	3,212,536
Nebraska	11,338,103	6,955,059	4,639,602	2,976,295	5,536,815
Nevada	2,580,422	2,580,422	4,298,070	4,298,070	4,133,817
New Hampshire	5,051,606	5,051,606	3,102,286	3,102,286	2,566,956
New Jersey	31,662,653	31,662,653	20,975,405	20,975,405	18,639,612
New Mexico	8,702,694	3,034,328	5,213,342	1,898,024	9,446,628
New York	104,893,534	104,893,534	48,586,869	48,586,869	57,492,936
North Carolina	69,639,228	37,978,186	18,951,153	10,335,129	28,149,318
North Dakota	2,506,022	1,017,135	1,720,613	782,825	2,344,978
Ohio	70,444,793	45,628,354	29,558,734	19,145,722	35,119,219
Oklahoma	24,909,979	10,650,305	8,994,937	3,845,801	15,232,903
Oregon	19,408,790	11,714,991	8,189,250	4,942,966	9,972,899
Pennsylvania	55,336,804	46,628,930	30,311,476	25,541,621	32,711,417
Puerto Rico	-	-	-	-	24,955,835
Rhode Island	6,633,774	5,321,126	2,525,420	2,025,706	2,720,600
South Carolina	9,867,439	4,087,361	9,805,962	4,061,896	18,120,663
South Dakota	1,710,869	802,897	2,095,014	983,173	3,155,183
Tennessee	37,702,046	18,975,714	13,556,698	6,823,185	20,848,597
Texas	59,844,129	34,681,426	57,033,621	33,062,654	92,920,868
Utah	12,591,564	4,474,925	6,836,604	2,467,430	9,395,745
Vermont	4,148,060	2,804,331	1,518,524	978,227	1,714,663
Virginia	21,328,766	21,328,766	17,051,693	17,051,693	19,258,060
Washington	41,948,341	38,768,113	14,818,125	13,694,719	15,904,935
West Virginia	8,840,727	2,971,393	4,132,279	1,406,969	7,719,175
Wisconsin	24,511,351	15,470,677	13,858,837	9,312,601	14,923,937
Wyoming	2,815,041	1,553,781	1,347,236	795,656	1,626,938
State Total	$ 1,199,050,700	$ 908,252,925	$ 723,691,800	$ 551,286,747	$ 972,500,000

NOTE: Mandatory, Matching and Discretionary funds have been reduced by one quarter of one percent for technical assistance, pursuant to 45 CFR 98.60(a)(1). Mandatory and Matching funds have been reduced by the tribal set-aside. Discretionary funds have been reduced by the tribal and territorial set-aside. Territories are not eligible for Mandatory or Matching funds.

1/ Mandatory Funds are allocated based on the Federal share of expenditures for IV-A child care in FY 1994, FY 1995, or the average of FY 1992-1994, whichever is greatest. Allocations are based on expenditure data as of Feb. 28 and April 28, 1995.

2/ Preliminary calculation based on available aggregate data; may need to be adjusted. In order to be eligible for Matching Funds, States are required to maintain the greater of FY 1994 or FY 1995 expenditures for IV-A child care.

3/ Matching Funds are allocated according to the proportion of children under age 13 using Census data as of July, 1995 (in accordance with the At-Risk Child Care program allocation formula). Each State's maximum allocation is shown; unused funds will be redistributed among States.

4/ State expenditures above the MOE level are matched based on the FY 1995 FMAP rate.

5/ Discretionary allocation is preliminary and based on the $1 billion in authorized funds. Final State allocations may change. For Discretionary Funds, Puerto Rico is included in the State allocation formula

23-Aug-96

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAI
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W
Washington, D.C. 20447

Dear CCDBG Lead Agency Administrator:

As you know, the President has just signed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). Title VI of the statute creates a new, integrated child care program under the Child Care and Development Block Grant. We are very excited that the program unites three child care funding streams in a way that validates the early effort of many States to construct a unified, seamless child care system out of multiple programs that often had conflicting rules. Attachment A summarizes the key provisions of this new Title. For administrative ease, we will refer to the combined three funding streams as the Child Care and Development Fund.

Title VI has an effective date of October 1, 1996. On that same date Title I of PRWORA discontinues the former title IV-A child care funding streams related to Aid to Families with Dependent Children (AFDC child care, and Transitional and At-Risk child care). The funding for those three programs has been reconfigured as a single appropriation with a Mandatory Fund and a Matching Fund component. The Mandatory Fund is approximately equal to the amount of Federal funds States previously received for their AFDC child care, and Transitional and At-Risk child care programs. No State match is required for use of the mandatory funds. A State may only use Matching Funds, however, if it meets the following three requirements: obligating all Mandatory Funds by the end of the fiscal year, expending from the State's own funds an amount that is no less than the maintenance of effort (MOE) amount on the table found at Attachment B of this letter, and providing the State's share of the Matching Funds.

The statute provides that "notwithstanding any other provisions of law, [these] amounts . . . shall be transferred to the lead agency under the Child Care and Development Block Grant Act of 1990, integrated by the State into the programs established by the State under such Act, and be subject to the requirements and limitations of such Act."

I am writing to you, therefore, to describe the process we have developed so that your State can start receiving the new child care funds as quickly as possible. This letter also provides some initial information about the process for continuing to access those funds.

- First, we are asking that you submit to us, no later than September 20, 1996, a simple interim application that will serve as the planning document to enable us to provide you with the initial installment of the Mandatory and Matching Funds for FY 1997 that become available to you on October 1. The details of this application are spelled out in Attachment C. In the near future, we will provide you with additional guidance on the child care funding process under the revised statute. We cannot begin issuing grants until we receive this application.

- Second, as required by the statute, grantees should begin engaging in a comprehensive planning process, including a public hearing, that will culminate in a final, comprehensive child care plan and application due to us by July 1, 1997. The provisions of the plan will take effect on September 30, 1997, with the FY 1997 discretionary funds released on September 30, 1997, and will cover your integrated child care program for the following two years. Since the experience of so many States suggests that the quality and comprehensiveness of this planning process is extremely important to optimizing child care in your State and leveraging local resources, we will be consulting with you and your child care administrators regarding the nature and timing of the planning process and the kind of assistance we can provide.

Again, we at the Administration for Children and Families are extremely excited by the integrated child care program envisioned by the new statute. We believe that this program offers a heretofore unparalleled opportunity to serve children and their parents for whom child care is a critical element in family growth and stability.

Sincerely,

Mary Jo Bane

Mary Jo Bane
Assistant Secretary
for Children and Families

Attachments:

A - Key provisions of the Child Care and Development Block Grant Amendments of 1996
B - Preliminary allocation tables
C - Interim application process
D - ACF regional administrators

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"...our nation's answer to this great social challenge will no longer be a never-ending cycle of welfare, it will be the dignity, the power and the ethic of work. Today, we are taking an historic chance to make welfare what it was meant to be: a second chance, not a way of life." *President William J. Clinton*

STATE GUIDANCE FOR THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM

Department of Health and Human Services
Administration for Children and Families
370 L'Enfant Promenade, S.W., Washington, D.C. 20447
September 1996

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A New Beginning...

The Temporary Assistance for Needy Families (TANF) Program

On August 22, President Clinton signed into law the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," a comprehensive bipartisan welfare reform bill that establishes the Temporary Assistance for Needy Families (TANF) program. This legislation will dramatically change the nation's welfare system into one that requires work in exchange for time-limited assistance. It contains strong work requirements, a performance bonus to reward States for moving welfare recipients into jobs, State maintenance of effort requirements, comprehensive child support enforcement, and supports for families moving from welfare to work.

In signing the bill, President Clinton said, "This is not the end of welfare reform, this is the beginning." He went on to say:

> Today, we are ending welfare as we know it. But I hope this day will be remembered not for what it ended, but for what it began -- a new day that offers hope, honors responsibility, rewards work, and changes the terms of the debate....

The new legislation gives States the opportunity to create a new system that promotes work and responsibility, and strengthens families. It challenges us all to remedy what is wrong with the old system, and to provide opportunities that will help needy families under a framework of new expectations.

Starting the Program

The new TANF program replaces the AFDC, JOBS and EA programs with a new block grant program. A State is eligible to participate in the new program no earlier than the submittal of its State TANF plan. A State will receive its block grant funds once the Secretary has found the State's plan to be complete.

States must submit their TANF plans no later than July 1, 1997, but can submit them earlier if they choose. States should consider several factors in deciding whether to implement the TANF program prior to July 1, 1997. In States with reduced caseloads, funding for the AFDC, EA and JOBS programs may be less than the amounts the States would receive under the new block grant. Thus, it may be financially advantageous for some States to accelerate their effective date.

In addition to the financial implications, States should also weigh other considerations in determining when to implement the new program. Given the complexity of the new legislation and the tremendous range of options available, designing and implementing a new program will require a significant effort on the part of States. They must consult and coordinate with numerous parties, undertake staff training and modify computer systems.

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Inadequate attention to these activities could undermine the long-term effectiveness of the State's program. Further, once States submit their plans, the work requirements and the 5-year time limit begin. Penalty and data collection requirements begin July 1, 1997, or 6 months after the plan has been submitted, whichever is later.

Suggested State Plan Outline

The statute requires States to outline how they intend to conduct a program that provides assistance to needy families with children and provide parents with job preparation, work and support services to enable them to leave the program and become self-sufficient.

We recommend that States use the State plan process to consider and address a set of important questions, and to outline to the citizens of the State, other interested parties, and the Federal government how those questions will be addressed in the operation of the State's program. Toward that end, we suggest that a State plan include discussion of the issues outlined below as well as addressing all other requirements specified in the law. Attachment A provides a copy of the statutory text.

A possible format is a 15-20 page document that describes the State's program goals, approach, and program features. Some States may emphasize some areas more than others depending on the circumstances in the State. States must submit plans every two years. They may submit amendments to keep the plan current whenever they wish to make changes in the administration or operation of the program. A State plan will be considered complete as long as it includes the information required by the Act.

GOALS, RESULTS AND PUBLIC INVOLVEMENT

What are the overarching goals for your program? How were local governments and private sector organizations involved in designing the TANF plan? How has the public been involved in program design and has the public had the opportunity to provide input? How will you judge and measure progress toward goals? What results will be measured and how will accountability be ensured?

NEEDY FAMILIES

Who will be assisted under this program? How will "needy families" be defined? Will all families in the State have access to the same program or will it vary? Will the same services be offered to families who have moved from another State? How will eligible non-citizens be treated within the program? How will the privacy of families be protected? What rights will applicants and beneficiaries have to challenge decisions?

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WORK AND SELF-SUFFICIENCY

What are your overall goals for work and self-sufficiency? How will the program move families to work and ultimately to self-sufficiency? What services will be available to move clients to work? How will you identify and provide additional, targeted support to victims of domestic violence and others who may have particular difficulty successfully making the transition from welfare to work? How will current workers be protected from displacement? How will various community, education, business, religious, local governments, and non-profit organizations be involved in the effort to provide work for clients? How will the delivery of services vary across the State?

BENEFITS

What benefits will be given to needy families? Will benefits be delivered through cash, in-kind, vouchers, or electronic benefits transfer (EBT)? How will time limits and sanctions be incorporated into the program? What supportive services will be available to clients? How will child care be provided to allow parents to go to work?

CULTURE CHANGE

8 grants

What measures will be taken to change the culture of the welfare office to support work and self-sufficiency? What kind of training will take place for staff who will be involved in administering the program?

PARENTAL RESPONSIBILITY

How will parental responsibility be encouraged? How will child support enforcement interact with the TANF program? Will non-custodial parent be involved in any work programs? What efforts will be made to reduce the incidence of out-of-wedlock births? How will problems of domestic violence and statutory rape be addressed?

TRIBES

How will you ensure equitable access to your program for members of Indian tribes who are not eligible for assistance under a tribal family assistance plan? How will you assist tribes in implementing their programs? What kind of assistance will be available to tribes in implementing their programs?

ADMINISTRATION

What is the structure of the agency administering the program? What will be the role of public or private contractors in the delivery of services? How will elements of the program be phased-in? Will the implementation date differ from the plan submittal date?

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WAIVERS

Do you intend to continue one or more individual waivers as provided under section 415? If so, please identify each waiver provision and each provision of new law that you believe are inconsistent, and provide the basis for your assessment of inconsistency. (You may wish to consult with the chief law officer of your State in making this assessment.) What is the name of the 1115 demonstration which contains the waiver? What are the beginning and ending dates of the demonstration? Is the waiver incorporated into your TANF plan applicable statewide? If not, how will TANF operate in those areas of the State not covered by the continuing waivers? Note: Future legislative or regulatory action may limit which provisions of the TANF may be considered inconsistent with waivers for purposes of determining penalties. If this happens, States will have an opportunity to submit a new plan in order to come into compliance with the requirements.

Description of Attachments

In additions to this guidance, we are providing three attachments that State policy makers may wish to use in developing their State TANF plans. Attachment A is a copy of the statutory requirements regarding the state plan. Attachment B contains suggested formats for the required certifications that must be submitted with a state plan. Attachment C provides technical information for financial officers of the program regarding funding and a mechanism for States to request TANF funds.

Paperwork Reduction Act

The information in the State TANF plan is collected in accordance with section 402 of the Social Security Act, as amended. Information received in the State plans sets forth how the TANF program will be administered and operated in the States.

The response burden for this collection of information is estimated to be 60 hours per response, including the time for reviewing the statute, this guidance gathering and preparing the information, and reviewing the information.

The information collected is mandatory in accordance with the above-mentioned citations.

This information is not considered confidential; therefore, no additional safeguards are considered necessary beyond that customarily applied to routine government information.

Inquiries

Inquiries should be addressed to the appropriate Regional Administrator, Administration for Children and Families. Information about all State plans will be posted on the ACF home page.

ATTACHMENT A

♦ Statutory Text Relating to State Plans ♦

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the State that, during the fiscal year, the State will provide each member of an Indian tribe, who is domiciled in the State and is not eligible for assistance under a tribal family assistance plan approved under section 412, with equitable access to assistance under the State program funded under this part attributable to funds provided by the Federal Government.

(6) CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE AGAINST PROGRAM FRAUD AND ABUSE.-A certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage.

(7) OPTIONAL CERTIFICATION OF STANDARDS AND PROCEDURES TO ENSURE THAT THE STATE WILL SCREEN FOR AND IDENTIFY DOMESTIC VIOLENCE.-

(A) In General.-At the option of the State, a certification by the chief executive officer of the State that the State has established and is enforcing standards and procedures to-

(i) screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;

(ii) refer such individuals to counseling and supportive services; and

(iii) waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

(b) PUBLIC AVAILABILITY OF STATE PLAN SUMMARY.-The State shall make available to the public a summary of any plan submitted by the State under this section.

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STATUTORY TEXT

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) was signed by the President August 22. The following is the statutory language relative to the State TANF plan.

SECTION 402 -- STATE PLAN REQUIREMENTS

(a)(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.-

(A) General Provisions.-A written document that outlines how the State intends to:

(i) Conduct a program, designed to serve all political subdivisions in the State (not necessarily in a uniform manner), that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

(ii) Require a parent or caretaker receiving assistance under the program to engage in work once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months, whichever is earlier.

(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407.

(iv) Take steps to restrict the use and disclosure of information about individuals and families receiving assistance.

(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy ratio of the State for calendar years 1996 through 2005.

(vi) Conduct a program that provides education and training on the problem of statutory rape so that teenage pregnancy prevention programs may be expanded in scope to include men.

(B) Special Provisions.-

(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

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(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

(iii) The document shall set forth objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment, including an explanation of how the State will provide opportunities for recipients who have been adversely affected to be heard in a State administrative or appeal process.

(iv) Not later than 1 year after the date of enactment of this Act, unless the chief executive officer of the State opts out of this provision by notifying the Secretary, a State shall, consistent with the exception provided in section 407(e)(2), require a parent or caretaker receiving assistance under the program who, after receiving such assistance for 2 months is not exempt from work requirements and is not engaged in work, as determined under section 407(c), to participate in community service employment, with minimum hours per week and tasks to be determined by the State.

(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.-A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

(3) CERTIFICATION THAT THE STATE WILL OPERATE A FOSTER CARE AND ADOPTION ASSISTANCE PROGRAM.-A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a foster care and adoption assistance program under the State plan approved under part E, and that the State will take such actions as are necessary to ensure that children receiving assistance under such part are eligible for medical assistance under the State plan under title XIX.

(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.-A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations-

(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

(B) have had at least 45 days to submit comments on the plan and the design of such services.

(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.-A certification by the chief executive officer of

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ATTACHMENT B

♦ State Plan Certifications ♦

This has been designed to enable the Chief Executive Officer of a State to certify that the State will operate its Temporary Assistance to Needy Families (TANF) program in accordance with the statutory requirements in section 402(a)(2) through (7).

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CERTIFICATIONS

The State will operate a program to provide Temporary Assistance to Needy Families (TANF) so that the children may be cared for in their own homes or in the homes of relatives; to end dependence of needy parents on government benefits by promoting job preparation, work, and marriage; to prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and encourage the formation and maintenance of two-parent families.

This program is known as _____

Executive Officer of the State (Name)_____

In administering and operating a program which provides Temporary Assistance for Needy Families with minor children under title IV-A of the Social Security Act, the State will:

1. Specify which State agency or agencies will administer and supervise the program under part A in all political subdivisions of the State:

   _____ is (are) the agency(ies) responsible for administering the program;

   _____ is (are) the agency(ies) responsible for supervising the program;

2. Assure that local governments and private sector organizations:

   (a) Have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

   (b) Have had at least 45 days to submit comments on the plan and the design of such services.

3. Operate a Child Support Enforcement program under the State plan approved under part D;

4. Operate a Foster Care and Adoption Assistance program in accordance with part E, and certify that the State will take all necessary actions to ensure that children receiving assistance are eligible for medical assistance;

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5. Provide each member of an Indian tribe, who is domiciled in the State and is not eligible for assistance under a Tribal Family Assistance plan approved under Section 412, with equitable access to assistance under the State program funded under this part attributable to funds provided by the Federal Government.

6. Establish and enforce standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage.

7. Make available to the public a summary of the State plan; and

OPTIONAL CERTIFICATION

[ ] The State has established and is enforcing standards and procedures to:

(1) Screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals;

(2) Refer such individuals to counseling and supportive services; and

(3) Waive, pursuant to a determination of good cause, other program requirements such as time limits (for as long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in case where compliance with such requirements would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

CERTIFIED BY THE CHIEF EXECUTIVE OFFICER OF THE STATE:

_____ _____

Date Signature and Title

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ATTACHMENT C

◆ Funding ◆

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FUNDING

Section 403(a)(1)(A) provides that each eligible State shall be entitled to receive for each of the fiscal years 1996 through 2002, a grant in an amount equal to the State family assistance grant as defined in section 403(a)(1)(B).

I. Payments to Agency Administering the TANF Program

- Payments for the TANF program will be made to the organization managing the AFDC/JOBS programs as of August 22, 1996, unless the State indicates that the TANF administering agency is changed. If a change is made, describe the name, address and EIN number of the new organization.

II. State Payments for TANF Program

- Section 405 requires that grants be paid to States in quarterly installments, based on State estimates. The State's estimate for each quarter of the fiscal year by percentage is:

For FY 1998 and Future Years-

1st quarter	2nd quarter	3rd quarter	4th quarter
_____	_____	_____	_____

- For FY 1997, States should indicate below the percentage of TANF funds requested for only those quarters in which they plan to operate the program.

For FY 1997

1st quarter	2nd quarter	3rd quarter	4th quarter
_____	_____	_____	_____

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Funding

III. Changes and Inquiries

- If a State determines that these estimates require changes, a letter indicating the change in percentages should be sent to your ACF Regional Office and to ACF's Central Office. The Central Office address is:

  The Administration for Children and Families
  The Office of Program Support
  The Division of Grants Management
  6th Floor, Aerospace Building
  370 L'Enfant Promenade
  Washington, D.C. 20447

Ms. GOLDEN. Thank you. I will be sure to take the compliments back to the people who get the credit for writing it clearly.

Mr. FORD. Dr. Golden, I have just two other questions. If we could go back to the waiver for just 1 minute. Certain States today have approved waivers. States will not be required to comply with the provisions of the act that are inconsistent with the wavier until the expiration of the waiver. Who will determine what is inconsistent? Will it be HHS, the Governors, or the courts?

Ms. GOLDEN. Congressman Ford, you have hit a question that has been coming in from many States. Working with the Congress, we have come up with a process rather than a single answer.

The first thing we have been saying to States that have waivers is that some of the things they now are doing under their waivers, they may not need a waiver to do because the new legislation provides them with so much flexibility. So we are asking them to start by thinking about what it is that they want to do. Then, as you know, they may identify some areas where they believe the State waiver is inconsistent with the legislation. As you point out, it can be complex and ambiguous.

Staff have worked out the process, and I think the administration and the Congress now agree that we will ask States to give us their best judgment about those provisions. With that information, we will be able to consult with the States and with the Congress to make some determinations about the best way to interpret the statute. I think you are exactly right that there are some complexities and some ambiguities in just how to interpret it best.

Mr. FORD. One final question, Dr. Golden. What are the requirements for a State to opt out of an approved waiver without financial loss or penalties?

Ms. GOLDEN. I am not sure I know if there is such a specific situation. Perhaps the best thing for us to do would be to provide you with more detailed information on it. Overall, many States are finding right now they do not need the continuation with the waivers.

Mr. FORD. I am not referring to any particular State. I am from Tennessee. We have a waiver, so I am not referring to my State or any other State. I am just wondering what would be the penalties or what would be the financial loss?

Ms. GOLDEN. I am not familiar with a situation where there would be a loss, but if there is a specific situation, I would be happy to find out more about it and get back to you on that.

Mr. FORD. Thank you, Dr. Golden.

Thank you, Mr. Chairman.

Chairman SHAW. Staff says that the States are held harmless in that situation, but I do not know. We could look further into it.

If there are no further questions, Dr. Golden, thank you so much for being with us. You have made a very nice impression on this Subcommittee.

Ms. GOLDEN. Thank you.

Chairman SHAW. We look forward to working with you.

Ms. GOLDEN. Thank you very much. I appreciate the opportunity.

Chairman SHAW. Next, we have a panel. We have Sid Johnson, the executive director, American Public Welfare Association in Washington, DC; Sheri Steisel, senior committee director of the

Human Services Committee of the National Conference of State Legislatures in Washington, DC; Susan Golonka, senior policy analyst, National Governors' Association, Washington, DC; and Mark Greenberg, senior staff attorney, the Center for Law and Social Policy of Washington, DC.

We should have each of your prepared statements as a part of the record, and we would invite each of you to summarize.

Mr. Johnson.

STATEMENT OF A. SIDNEY JOHNSON, EXECUTIVE DIRECTOR, AMERICAN PUBLIC WELFARE ASSOCIATION

Mr. JOHNSON. Thank you, Mr. Chairman, for the opportunity to testify today. We have moved, as you said, from enactment to implementation where I think the real heavy lifting begins. A friend of mine in law enforcement has said that what actually happens is policy and it is not policy in law enforcement until the cop writes the ticket. We do not think it is policy in welfare reform until welfare recipients get jobs and retain those jobs in the State, local organizations.

Chairman SHAW. I am not sure I like the comparison.

Mr. JOHNSON. I understand your point. Let me clarify this comparison. Unlike receiving a speeding ticket, we think there is a very positive side to the welfare to work policy we are trying to implement. I want to thank the Subcommittee for its work on this legislation and say we are committed to help you in implementing it.

As you know, APWA, NGA, and NCSL had a joint conference with 600 participants just last week to explain the new law. APWA is running five regional 2-day sessions and seminars as we speak in Newark, Minneapolis, Nashville, Portland, and Los Angeles. Our effort is designed to give human service administrators as much information as they can to address the issues and opportunities they face.

I want to tell you that APWA is using, from its own modest reserves, funds to match foundation money. These additional resources will be used to provide States with information about what other States are doing, what the successful practices are, and to provide them with more technical assistance and training as they start their efforts.

I would like to address a couple of areas at this point. Together, APWA, NGA, and NCSL have identified five or six items we would like to present and I will highlight the first two. The first issue has to do with the need to repeal the maintenance of effort requirement for State supplement to the SSI Program. You know that States voluntarily chose to supplement this program and are now frozen into continuing that supplement by this legislation.

We consider this a continuing Federal mandate in an era when Congress has decided not to have unfunded mandates. I raise this issue as a technical correction because, as you know, the House did not require this, but it was dropped in conference as a result of the Senate procedural rules, the Byrd rules.

Another key element for us is the lookback provisions with respect to both foster care/title IV adoption and Medicaid. States are now confronted with two different eligibility standards for vulner-

able kids, often the same children. For foster care and adoption eligibility, States are required to determine a child's eligibility for these services based on the AFDC standard as of June 1, 1995. So they have to look retrospectively whether they would have been eligible under another standard which no longer exists in States.

The law also requires in determining a child's eligibility for Medicaid, the State must maintain the same Medicaid eligibility standards as were in existence July 16, 1996. So there are two separate dates for two lookbacks in two different parts of the program which often affect the same population. This is a confusing and difficult issue for States. At the very least, we would like to work with the Subcommittee and the administration to adopt a single lookback mechanism, a single date, and if possible, to come up with a better approach than using a lookback date.

The other concerns which NGA and NCSL will touch on, and APWA supports as well, have to do with the child support passthrough, the limits on transferability of TANF funds to the child care or Social Services block grant, the treatment of two-parent disabled families, and the use of State maintenance of effort funds for legal alien populations.

We consider these to be minor but important changes and in line with what the Congress and the administration wanted. I want to repeat that this new welfare law is a challenge to the States, an opportunity for them, and a responsibility, but it is one we are eager to take on. APWA and the State and local human service departments we represent will do all we can to implement this law as effectively as possible to promote work, independence, and self-sufficiency and to revisit with the Congress or the administration any provisions that prove unworkable.

Thank you.

[The prepared statement follows:]

A. SIDNEY JOHNSON
AMERICAN PUBLIC WELFARE ASSOCIATION
SUBCOMMITTEE ON HUMAN RESOURCES
WAYS AND MEANS COMMITTEE
SEPTEMBER 17, 1996

Mr. Chairman and members of the Committee, on behalf of the American Public Welfare Association I want to express our appreciation for the opportunity to come before this committee today to talk, once again, about welfare reform. I am pleased that today's hearings have moved to a different phase. That phase being how do we now implement this sweeping new reform. I concur with the President that on August 22, 1996 we did not end the welfare reform process, we have just started it.

Before I proceed with my comments I want to take this opportunity to thank you, Chairman Shaw, on your dedicated and hard work on this issue. I know that the hours that you and the members of this Committee have dedicated to the passage and enactment of H.R. 3734 represents some of the toughest and most challenging work in the 104th Congress. I also want to express my same thanks and appreciation to your staff. Their close consultation and openness were, and are, critical to welfare reform.

APWA is working hard to help states implement their new state plans. I am pleased that APWA was able to join with the National Governors Association and the National Conference of State Legislatures last Monday and Tuesday, September 9th and 10th to host a conference. That conference brought together approximately 600 state officials from across the country to learn about this new legislation.

In addition to that effort, APWA is convening five regional seminars during the month of September. These five seminars in Newark, Minneapolis, Nashville, Portland and Los Angles are designed to give local and state human service administrators the opportunity to address the most pressing program and

management issues they face. We are pleased to be leading these efforts. We are equally pleased to be a part of welfare reform.

The states and our membership want the opportunity that welfare reform presents them. I hope these hearings will become a regular practice. I think continued interest and oversight can help build what needs to be a cooperative partnership between all of the states and the federal government. As we continue to implement this new law and new assistance programs throughout the country we will come across new issues, technical problems and the need for clarification on Congressional and federal intent. I want to use my time today to raise some points on what the APWA considers to be areas in need of technical correction.

The first issue I want to raise is the need to repeal the current maintenance of effort requirement for the state supplement to the Supplemental Security Income or SSI program. This provision requires that the states that voluntarily chose to supplement the federal SSI payment with a state payment are frozen into continuing this supplement. This has become a continuing federal mandate in an era when we have decided to not have unfunded mandates. This maintenance of effort requirement also results in limiting a states ability to streamline its administration of the program. I raise this issue as a technical correction because the House did include this repeal in H.R. 3734 but it was dropped in the Conference as a result of Senate procedural rules.

A second concern is the result of conflicting effective dates in regard to the fifty dollar pass-through and disregard of child support payments. As the Chairman and Committee members know, the AFDC program required the first fifty dollars in child support to be passed on to AFDC families. The federal government would share in this expense. Under the new TANF block grant states have the option of suspending this pass-through. As part of this, the federal government will no longer pay a share of the pass-through. The technical problem in this area is the fact that some states may not eliminate the pass-through until their new state plan is approved -- possibly as late as next July. The way the new law was drafted, states are cut-off from the federal reimbursement as of October 1,

even if a state has not had the chance to file their state plan or change the necessary state laws, regulations, and computer systems.

The third technical correction has to do with the states ability to transfer funds from the TANF block grant to the child care block grant or the Title XX Social Services block grant. The statute allows states to transfer up to 30% of the TANF block grant to these other two funds. The way the law was drafted and interpreted now seems to require a state to transfer two dollars to the child care block grant in order to transfer one dollar to Title XX. I believe the intent was to allow states to transfer to one or the other block grants or both if that was their decision.

A fourth area of concern has to do with the treatment of two-parent families. As required by the new TANF law these families must meet higher participation and work rates. No one is taking issue with these higher requirements. The problem is in those two parent family cases where one or both parents are disabled or seriously incapacitated. In many of these cases that parent or parents will be unable to participate or work. This is a small part of the population but a serious issue when it does occur.

A fifth area has to do with the states use of their maintenance of effort dollars for the TANF block grant. States are required to maintain spending at a level of 80% of the current expenditures on AFDC related services. The new law gives states a great deal of discretion in how they spend these state dollars to meet this test. It is my understanding that Congress did intend to give states the authority to spend some of these maintenance of effort dollars on legal immigrants if a state chose to do so. The way the new law has been drafted does not give states this authority.

Finally, the sixth issue I want to raise has to do with the "look back" requirements for children who may be eligible for federal foster care and adoption assistance, or Medicaid. States are now confronted with two different eligibility standards when it comes to vulnerable kids. Foster care and adoption assistance (Title IV-E) eligibility has been based on a child's AFDC eligibility. With the repeal of AFDC, states are required to determine a child's eligibility for IV-E funding based on the AFDC standards that

existed on June 1, 1995. The law also requires that in determining a child's eligibility for Medicaid, the state must maintain the same Medicaid eligibility standards that were in existence on July 16, 1996. Under federal law, any child eligible for IV-E foster care is automatically eligible for Medicaid. However, if a child is eligible for state foster care or is simply poor, then states will have to look back to determine if that child qualifies under the Medicaid eligibility rules that existed on July 16, 1996. If this sounds confusing -- it is.

While a "look back" requirement in and of itself is problematic because of the administrative complexities, two different "look back" dates further complicates effective administration of these critical programs. At the very least, states would like to see some standardization of these two different eligibility processes so we can better address the real task at hand: serving vulnerable children.

APWA feels that these changes are minor, in-line with what the Congress and the President wanted in welfare reform and consistent with the goal of this new legislation. Let me close by once again stating that this is a challenge for the states and the administrators we represent. But this is a challenge we are eager to take on. If we all keep our eye on the goal we all believe in -- moving people from welfare to opportunity, to hope, to work -- we can look back on this time as one of the great accomplishments of the 1990s. I thank the Chairman and the members for their attention to these issues.

Chairman SHAW. Thank you, Mr. Johnson. Your organization has been very helpful in the drafting of the legislation which we are now working on.

Ms. Steisel.

STATEMENT OF SHERI E. STEISEL, SENIOR COMMITTEE DIRECTOR, HUMAN SERVICES COMMITTEE, NATIONAL CONFERENCE OF STATE LEGISLATURES

Ms. STEISEL. Thank you, Mr. Chairman and Members of this Subcommittee. My name is Sheri Steisel and I am here representing the National Conference of State Legislatures and our 7,541 State legislators across the country who meet bipartisanly to cooperate on issues such as welfare reform.

On behalf of NCSL, I would like to say how pleased we are to have worked so cooperatively with NGA and APWA. Successful implementation of the welfare reform law was best accomplished through such collaboration. In fact, it is the model we hope to pursue through a long-term partnership between us and our Federal Government partners, both the Congress and the administration. We are working together to ensure as smooth a transition as possible. Our organizations together produced a 32-page summary of the legislation within a week after the legislation was passed by the Congress and we used this as a starting off point, a similar point, even though we have divergent responsibilities.

Our welfare reform briefing, as Sid Johnson discussed, was incredibly well attended with representatives from every State in the Nation. The thirst for information on this law and what other States are doing, as well, has been unquenchable. In fact, we have been responding to numerous information requests. We have been doing onsite technical assistance. In fact, in the next 2 weeks NCSL staff will visit nine different States to testify before the legislature regarding the welfare reform legislation. We have also created an electronic forum for legislators to share good ideas and best practices, as well as technical problems with the legislation.

Determining what must be done in 1997 regular State legislative sessions is essential. Legislatures must look at appropriating block grant funds, when to convert to the block grant, what to do with existing waivers, sorting out what needs legislative or regulatory action, all the many child support enforcement statutory changes, and what bureaucratic modifications will best serve the new block grants. Some States may even need special sessions after their regular sessions that begin mostly in January to accomplish many of the legislative changes.

Two topics that particularly created a number of questions at our briefing were waivers in State plans. States want guidance on what a complete State plan is, because we have some concerns about what constitutes completeness, and we would like to pursue a conflict resolution process for waivers. After the process between the administration and the Congress in determining what is appropriate in terms of a waiver procedure for the States, we would like to see a conflict resolution procedure between the States, the administration, and the Congress.

There are two issues I would like to highlight among the seven technical corrections we have put before you today. The two I am

going to mention have incredible impact on the States in terms of our State financing, especially very quickly, which is why if at all possible we would prefer to see this accomplished before you adjourn this year.

The first regards the $50 child support disregard or the passthrough to families of the first $50 of their child support enforcement moneys that does not count against their eligibility for welfare programs. Unfortunately, in title I of the bill, while eliminating this passthrough, in title IV of the bill, you immediately eliminate the Federal financing, the Federal match of the Medicaid matching rate, or the child support enforcement $50 disregard.

What this means is that until States have the opportunity to make statutory changes or amend their State plans, they will have to keep paying 100 percent of that $50 disregard. In many cases, it is in State law and States will have to work on that State law once they get into session. So this is what we believe is an inadvertent writing of the legislation and we would like to see, if at all possible, because of the fiscal impact on the States, $50 per month per family, we would like to see if that could be changed, preferably before the end of the session.

Second, the maintenance of effort. In the report language for the welfare reform bill, there is a reference to including expenditures that States make on legal immigrants and other populations that may be made ineligible for the law that State expenditures could count for these populations toward the maintenance of effort. We feel strongly that this needs to be cleared up within the language of the bill. Unfortunately, there is a drafting error that references a different part of the legislation, not the part that deals with ineligible populations, such as legal immigrants. This is a minor technical correction, but could have a major impact on State financing.

Finally, I would like to conclude by elaborating on what I see as a long-term collaborative partnership between the Federal Government and the States. Clearly, this includes the oversight hearing by this Subcommittee and further Subcommittees, but also we would like to see our long-term collaboration include ongoing consultations with the administration as have begun already since the enactment of the bill.

I would be happy to answer any questions you may have.

[The prepared statement follows:]

STATEMENT OF SHERI E. STEISEL
SENIOR COMMITTEE DIRECTOR, HUMAN SERVICES COMMITTEE
NATIONAL CONFERENCE OF STATE LEGISLATURES

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, I AM SHERI STEISEL, SENIOR COMMITTEE DIRECTOR FOR THE HUMAN SERVICES COMMITTEE OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES (NCSL). I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO DISCUSS STEPS STATE LEGISLATURES AND NCSL ARE INITIALLY TAKING TO IMPLEMENT THE NEW FEDERAL WELFARE REFORM LAW, P.L. 104-193. I ALSO COME BEFORE YOU TO POINT OUT SOME OF OUR INITIAL CONCERNS WITH THE LEGISLATION THAT WE BELIEVE WARRANT IMMEDIATE TECHNICAL CORRECTION.

THE NATIONAL CONFERENCE OF STATE LEGISLATURES (NCSL) IS THE BIPARTISAN ORGANIZATION THAT REPRESENTS THE NATION'S 7,541 STATE LEGISLATORS. WE ASSESS FEDERAL LEGISLATION TO ENSURE THAT STATE AND FEDERAL RESPONSIBILITIES ARE APPROPRIATELY SORTED OUT. WE FURTHER WORK TO REMOVE IMPEDIMENTS TO SUCCESSFUL IMPLEMENTATION OF FEDERAL LAW IN LEGISLATION AND REGULATION. ALSO, NCSL SERVES AS THE KEY RESOURCE FOR STATE LAWMAKERS ON WELFARE REFORM AND OTHER ISSUES, FOR INFORMATION AND ANALYSIS OF FEDERAL LEGISLATION AND REGULATORY INITIATIVES.

ON BEHALF OF NCSL I WOULD LIKE TO SAY HOW PLEASED WE ARE TO HAVE WORKED SO COOPERATIVELY WITH OUR PARTNERS AT NGA AND APWA. SUCCESSFUL IMPLEMENTATION OF THE NEW FEDERAL WELFARE REFORM LAW IS BEST ACCOMPLISHED THROUGH COOPERATION BETWEEN STATE LEGISLATORS, GOVERNORS AND WELFARE PROGRAM ADMINISTRATORS. I THINK OUR COMBINED EFFORTS TOGETHER OVER THE LAST 3-4 YEARS HAVE SET A VALUABLE PRECEDENT AS WE ALL MOVE TOWARD IMPLEMENTING THE NEW LAW. IN THE PAST, STATES HAVE RELIED UPON FEDERAL GUIDANCE FOR WELFARE POLICY AND PROGRAM ADMINISTRATION; IN THIS NEW ENVIRONMENT STATES WILL LOOK TO THEMSELVES AND TO OTHER STATES FOR SUCCESSFUL MODELS AND INNOVATIVE IDEAS.

I WILL DISCUSS WITH YOU TODAY FIVE GENERAL TOPICS: (I) OUR ANALYSIS OF P.L. 104-193; (2) THE MEANS NCSL IS USING TO INFORM STATES ABOUT IMPLEMENTATION REQUIREMENTS; (3) STATE PREPARATION FOR, AND IMPLEMENTATION OF, WELFARE REFORM; (4) TECHNICAL CORRECTIONS NEEDS; AND (5) ADDITIONAL RECOMMENDATIONS.

(I) ANALYSIS

NCSL, THE NATIONAL GOVERNORS' ASSOCIATION AND THE AMERICAN PUBLIC WELFARE ADMINISTRATION COMPLETED IN EARLY AUGUST AND CONTINUE TO UPDATE A COMPREHENSIVE SUMMARY OF P.L. 104-193. THIS SUMMARY TODAY SERVES AS THE MAJOR TOOL FOR NCSL TO ACCOMPLISH THREE SPECIFIC

OBJECTIVES. FIRST, IT SUMMARIZES ALL TITLES OF THE LEGISLATION. SECOND, WE ARE USING THIS PUBLICATION AND OTHERS TO ENHANCE UNDERSTANDING OF HOW THE NEW BLOCK GRANTS AND OTHER LEGISLATIVE CHANGES DIFFER FROM CURRENT LAW. THIRD, THE SUMMARY REINFORCES THE FACT THAT P.L. 104-193 IS NOT LIMITED TO WELFARE REFORM, BUT ALSO CONTAINS TITLES THAT MAKE FAR-REACHING CHANGES TO THE LANDSCAPE OF OTHER PROGRAMS, NOTABLY IMMIGRATION, FOOD STAMPS AND CHILD SUPPORT ENFORCEMENT. WE HAVE MAILED MORE THAN 3,000 COPIES OF THIS SUMMARY TO LEGISLATORS AND LEGISLATIVE STAFF AND HAVE POSTED IT ON NCSL'S INTERNET WEB SITE.

NCSL BELIEVES IT IS CRITICAL FOR THE THREE ORGANIZATIONS TO CONTINUE TO UTILIZE THIS VEHICLE AS A PRIMARY REFERENCE. IT PROVIDES LEGISLATORS, GOVERNORS AND STATE ADMINISTRATORS WITH THE SAME INFORMATION FROM WHICH TO ACCOMPLISH DIVERGENT RESPONSIBILITIES IN IMPLEMENTING FEDERAL WELFARE REFORM.

(II) DISSEMINATING INFORMATION

MR. CHAIRMAN, THE THIRST FOR INFORMATION ON P.L. 104-193 AND WHAT OTHER STATES ARE DOING IS UNQUENCHABLE. REQUESTS FOR WELFARE-RELATED INFORMATION HAVE BEEN VOLUMINOUS THROUGHOUT THE 104TH CONGRESS. WE EXPECT UNPRECEDENTED LEVELS OF REQUESTS AT LEAST THROUGH THE JULY I, 1997 IMPLEMENTATION DATE FOR THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT AND OTHER PROVISIONS. TO MAKE INFORMATION AVAILABLE, NCSL IS DEPLOYING SOME OF ITS REGULAR DATA EXCHANGE TECHNIQUES AND USING THE LATEST TECHNOLOGY TO CREATE NEW RESOURCES.

ON SEPTEMBER 9-10, 1996, NCSL, THE NATIONAL GOVERNORS' ASSOCIATION AND AMERICAN PUBLIC WELFARE ASSOCIATION CONDUCTED A BRIEFING ON P.L. 104-193. THE MEETING WAS DESIGNED TO PROVIDE A FORUM FOR STATE LAWMAKERS, ADMINISTRATORS AND POLICY ADVISORS TO DISCUSS IMMEDIATE AND LONG-TERM CONCERNS AND STRATEGIES. OUR ORGANIZATIONS PUT THIS BRIEFING TOGETHER IN A LITTLE MORE THAN 3 WEEKS AFTER THE LEGISLATION WAS SIGNED. ATTENDANCE WAS EXCEPTIONAL WITH MORE THAN 550 PARTICIPANTS REPRESENTING EVERY STATE IN THE UNION.

AT THE MEETING, STAFF OF THE THREE ORGANIZATIONS PRESENTED A THREE HOUR OVERVIEW OF THE NEW LAW'S PROVISIONS. MEETING PARTICIPANTS ALSO HEARD FROM REPRESENTATIVES OF THE CLINTON ADMINISTRATION AND THE CONGRESS. WE CONVENED SPECIAL BREAKOUT SESSIONS AT THE MEETING ON SPECIFIC PORTIONS OF THE NEW LAW, SUCH AS THE WORK REQUIREMENTS, FISCAL ISSUES, CHANGING THE MESSAGE AND MISSION OF WELFARE PROGRAMS,

THE CHILD SUPPORT REQUIREMENTS AND OTHER ITEMS. QUESTIONS AT THESE SESSIONS WERE VARIED AND SPECIFIC.

FOR THE REMAINDER OF 1996, NCSL STAFF WILL (I) PROVIDE IN-STATE TECHNICAL ASSISTANCE TO STATE LEGISLATORS ON IMPLEMENTATION, (2) DISTRIBUTE 50-STATE SUMMARIES ON SELECT ASPECTS OF WELFARE REFORM, (3) POST WELFARE REFORM CONFERENCE MATERIALS ON NCSL'S WEB SITE, AND (4) CONDUCT YET ANOTHER COMPREHENSIVE BRIEFING ON P.L. 104-193 AT OUR DECEMBER, 1996 MEETING OF OUR POLICYMAKING APPARATUS, THE ASSEMBLY ON FEDERAL ISSUES.

WE ARE ALSO IN THE PROCESS OF ESTABLISHING AN INTERNAL COMPUTERIZED 'LISTSERVE' OF STATE LEGISLATORS AND STAFF. THIS INTERNAL MECHANISM WILL PERMIT ALL FIFTY STATES TO READILY COMMUNICATE WITH EACH OTHER ON IMPLEMENTATION STRATEGIES, IDENTIFY PROBLEMS, SUMMARIZE EXERCISE OF STATE OPTIONS AND REVIEW FISCAL ANALYSES. WE PLAN TO INSTITUTE THIS TECHNOLOGICAL LINK BY THE END OF THIS MONTH. IF SUCCESSFUL, I EXPECT THAT ONE OF ITS USES WILL BE TO GATHER SPECIFIC DATA TO BE SHARED WITH YOU AND OTHER FEDERAL POLICYMAKERS ON ANY DIFFICULTIES THAT PROVISIONS OF P.L. 104-193 ARE CREATING FOR STATE LEGISLATORS, OTHER STATE AND LOCAL OFFICIALS AND PROGRAM BENEFICIARIES

FINALLY, OUR CONSTITUENTS RELY ON US TO IDENTIFY FEDERAL DOCUMENTS THAT PERTAIN TO WELFARE REFORM. ON THIS TOPIC, I SUGGEST THAT THIS SUBCOMMITTEE AND OTHERS INFORM STATE LEGISLATORS, EITHER DIRECTLY OR THROUGH NCSL, OF THE PLANS FOR, AND AVAILABILITY OF, CONGRESSIONAL AND ADMINISTRATION PUBLICATIONS RELATED TO P.L. 104-193 AND ITS IMPLEMENTATION.

(III) STATE PREPARATION AND IMPLEMENTATION

TWO TOPICS THAT GENERATED AN ABUNDANCE OF QUESTIONS AT THE RECENT NCSL, NGA AND APWA WELFARE BRIEFING WERE WAIVERS AND STATE PLANS. THESE WERE HARDLY THE ONLY TOPICS ON WHICH PARTICIPANTS HAD QUESTIONS. HOWEVER, THEY REPRESENT TWO OF THE MORE IMMEDIATE CONCERNS FOR STATES. BEFORE I BRIEFLY DISCUSS WHAT STATES HAVE DONE TO PREPARE FOR IMPLEMENTING P.L. 104-193, I WOULD LIKE TO PRESENT TWO RECOMMENDATIONS TO THE SUBCOMMITTEE.

(A) THOROUGH GUIDANCE ON WHAT IS A "COMPLETE" STATE PLAN IS IMPERATIVE. A FEW STATES HAVE ALREADY SUBMITTED STATE PLANS. MANY OTHERS ARE CONTEMPLATING DOING SO PRESENTLY. SO THAT TIME AND EFFORT ARE NOT WASTED, WE MUST BE ASSURED THAT THERE WILL BE

FLEXIBILITY IN DETERMINING "COMPLETENESS". FROM OUR INFORMAL DISCUSSIONS WITH HHS, THERE APPEARS TO BE FLEXIBILITY.

(B) STATES ARE CURRENTLY DETERMINING WHETHER IT IS IN THEIR BEST INTEREST TO CONTINUE OR TERMINATE ALL OR PART OF THE WAIVERS THEY HAVE BEEN GRANTED. OF PARTICULAR CONCERN ARE THE IMPOSITION OF PENALTIES AFTER CONVERSION TO THE BLOCK GRANT. BECAUSE WE NEED TO MOVE EXPEDITIOUSLY, WE SUGGEST THE ESTABLISHMENT OF AN ONGOING CONFLICT RESOLUTION PROCESS TO CLARIFY WHAT WILL OR WILL NOT BE PERMITTED WITHIN APPROVED WAIVERS.

ONE COULD SPECULATE OR ARGUE ENDLESSLY AS TO HOW PREPARED STATES ARE TO ADDRESS THE NEW TERMS OF FEDERAL WELFARE LEGISLATION. GRANTED, STATES HAVE NEVER OPERATED A BLOCK GRANT ENCOMPASSING WHAT WERE FORMER ENTITLEMENT PROGRAMS. HOWEVER, 43 STATES WITH WAIVERS HAVE LEGISLATED AND ARE MANAGING REVISED WELFARE PROGRAMS. A FEW STATES, SUCH AS MICHIGAN AND FLORIDA, ANTICIPATED ENACTMENT OF P.L. 104-193 AND PASSED STATE LAWS CONDITIONED ON FEDERAL LEGISLATION. OTHERS HAVE STUDY COMMISSIONS AND TASK FORCES THAT ARE REVIEWING STATE OPTIONS AND IMPLEMENTATION NEEDS. AND, AGAIN, SOME STATES HAVE ALREADY SUBMITTED STATE PLANS UNDER THE NEW BLOCK GRANT. NCSL STAFF ALONE HAVE TRAVELED TO MORE THAN HALF THE STATES IN THE PAST YEAR PROVIDING TECHNICAL ASSISTANCE ON BLOCK GRANTS AND WELFARE REFORM AND WE HAVE HAD NUMEROUS SESSIONS AT NCSL MEETINGS, INCLUDING OUR ANNUAL MEETING. IN THE NEXT TWO WEEKS, NCSL STAFF WILL BE TESTIFYING IN MONTANA, MARYLAND, VIRGINIA, PENNSYLVANIA, NEW YORK, INDIANA, ARKANSAS, TENNESSEE, AND WASHINGTON.

THERE ARE MANY QUESTIONS THAT STATES MUST ANSWER FOR THEMSELVES SO THAT THEY CAN IMPLEMENT THE NEW BLOCK GRANTS AND LEGISLATIVE CHANGES THOUGHTFULLY. IN ANSWERING THESE QUESTIONS, ANY CLARIFICATION THAT CONGRESSIONAL AND ADMINISTRATION PERSONNEL CAN PROVIDE WILL BE HELPFUL AND WELCOME. FOR LEGISLATORS IN PARTICULAR, DETERMINING WHAT MUST BE DONE IN 1997 REGULAR LEGISLATIVE SESSIONS IS ESSENTIAL. IT IS POSSIBLE THAT SOME STATES WILL REQUIRE SPECIAL SESSIONS GIVEN THE BREADTH OF LEGISLATIVE ACTION THAT IS REQUIRED UNDER P.L. 104-193. REVIEWING FISCAL CONDITIONS AND APPROPRIATIONS NEEDS, BOTH SHORT- AND LONG-TERM, IS CRITICAL. DETERMINING WHEN TO CONVERT TO THE BLOCK GRANT AND WHETHER TO CONTINUE WAIVERS OR NOT ARE ALSO CRUCIAL IMPLEMENTATION QUESTIONS. FINALLY, SORTING OUT WHAT NEEDS LEGISLATIVE OR REGULATORY ACTION AND WHAT BUREAUCRATIC MODIFICATIONS WILL BEST SERVE THE TERMS OF THE NEW BLOCK GRANTS ARE

ADDITIONAL CONCERNS FOR LEGISLATORS, GOVERNORS AND STATE ADMINISTRATORS. THERE ARE NUMEROUS POLICY OPTIONS THAT CAN BE PURSUED. IMPLEMENTING THE NEW FEDERAL CHILD SUPPORT REQUIREMENTS ALONE WILL REQUIRE MORE THAN 30 STATUTORY CHANGES PER STATE. OTHER REQUIREMENTS IN THE LAW, SUCH AS THE TIME LIMIT PROVISION, ASSUME THE EXISTENCE OF INFORMATION SYSTEMS THAT ARE NOT IN PLACE OR FUNDED UNDER THE LAW. STATES WILL HAVE TO GRAPPLE WITH HOW TO HANDLE THESE KINDS OF POLICY DILEMMAS. I EXPECT THAT LEGISLATIVE CALENDARS WILL BE FULL OF PROPOSALS TO TAKE STATES DOWN ANY NUMBER OF COURSES SO THAT BENEFICIARY POPULATIONS, PARTICULARLY CHILDREN, CONTINUE TO HAVE SAFETY NET PROTECTION AND THAT REAL WORK OPPORTUNITIES ARE PRESENTED TO THEIR PARENTS

(IV) TECHNICAL CORRECTIONS

IT IS EVIDENT FROM COMPLETION OF THE NCSL-NGA-APWA ANALYSIS AND FROM OUR RECENTLY COMPLETED WELFARE REFORM CONFERENCE THAT SEVERAL TECHNICAL CORRECTIONS TO P.L. 104-193 ARE NEEDED. PREFERABLY, THESE WOULD BE ACCOMPLISHED BEFORE YOU ADJOURN THIS YEAR. STATES NEED AS MUCH CLARITY AS POSSIBLE IN ORDER TO MAKE FISCAL AND SUBSTANTIVE DECISIONS. WE NEED TO ASSURE THAT STATES HAVE MAXIMUM FLEXIBILITY UNDER THE BLOCK GRANT AND THAT COST SHIFTS AND UNFUNDED MANDATES ARE AVOIDED. TO THIS END, NCSL AND OUR PARTNERS AT NGA AND APWA PROPOSE SEVEN TECHNICAL CORRECTIONS FOR YOUR CONSIDERATION. I WOULD LIKE TO BRIEFLY DISCUSS TWO OF THESE WITH YOU .

(A) RESTORE THE FEDERAL MATCH FOR THE $50 CHILD SUPPORT INCOME DISREGARD. IN TITLE ONE OF P.L. 104-193, THE $50 INCOME DISREGARD FROM CHILD SUPPORT FOR DETERMINING AFDC ELIGIBILITY FOR INDIVIDUALS IS REPEALED EFFECTIVE JANUARY I, 1997. IN TITLE FOUR, THE FEDERAL MATCH TO STATES FOR THIS DISREGARD IS ALSO ELIMINATED. MOST STATES, HOWEVER, HAVE STATE STATUTES THAT MIRROR THE FEDERAL DISREGARD. THEREFORE, ELIGIBLE INDIVIDUALS WILL RETAIN THIS MONTHLY DISREGARD AND STATES WILL NOT HAVE FEDERAL MATCH MONEY FOR IT. THIS WILL BE COSTLY FOR ALL STATES, AND PARTICULARLY THOSE WITH HIGH MEDICAID MATCH RATES.

IT APPEARS THAT CONGRESSIONAL ACTION ON THIS ISSUE WAS INADVERTENT AND UNINTENDED. THEREFORE, WE URGE YOU TO RETAIN THE FEDERAL MATCH PROVISIONS FOR ALL STATES THAT MUST MAKE STATE STATUTORY CHANGES UNTIL THEY CAN MAKE THESE CHANGES. AS FOR THOSE STATES THAT DO NOT

NEED TO MAKE STATUTORY CHANGES, THE FEDERAL MATCH SHOULD CONTINUE UNTIL THEY CONVERT FROM THE AFDC PROGRAM TO THE TANF BLOCK GRANT.

(B) ENSURE THAT STATE EXPENDITURES FOR LEGAL IMMIGRANTS AND REFUGEES, INELIGIBLE TO RECEIVE FEDERAL ASSISTANCE, ARE COUNTED AS PART OF EACH STATE'S REQUIRED MAINTENANCE OF EFFORT. THERE IS A DRAFTING ERROR IN P.L. 104-193 THAT MAKES IT UNCLEAR WHETHER STATE ASSISTANCE TO LEGAL IMMIGRANTS OTHERWISE INELIGIBLE FOR FEDERAL ASSISTANCE IS AN "EXPENDITURE" FOR REASONS OF MEETING FEDERAL MAINTENANCE OF EFFORT REQUIREMENTS. THE LANGUAGE DEFINING QUALIFYING STATE EXPENDITURES UNDER THE MAINTENANCE OF EFFORT PROVISION REFERS TO THE WRONG SECTION CONTRARY TO CONGRESSIONAL INTENT AND REPORT LANGUAGE. BECAUSE STATES HAVE THE OPTION TO PROVIDE LEGAL IMMIGRANTS CERTAIN TYPES OF ASSISTANCE, WE BELIEVE IT IS A QUALIFYING STATE EXPENDITURE. REGARDLESS OF FEDERAL LAW, WE EXPECT MOST STATES WILL ASSIST LEGAL IMMIGRANTS IN NEED. WE STRONGLY BELIEVE THESE ARE MAINTENANCE OF EFFORT EXPENDITURES, AS DID CONGRESS IN ITS REPORT LANGUAGE, HOWEVER CLARIFICATION IS REQUIRED.

NCSL ALSO SUPPORTS THE FOLLOWING FOUR TECHNICAL CORRECTIONS:

(C) GIVE STATES RELIEF FROM MAINTENANCE OF EFFORT REQUIREMENTS ON STATE SSI SUPPLEMENTS. AS THE FEDERAL GOVERNMENT DROPS LEGAL IMMIGRANTS FROM SSI, STATES WITH DECREASING SSI CASELOADS MUST MAINTAIN THE SAME SPENDING LEVEL, BUT ON FEWER RECIPIENTS. WE BELIEVE THIS RELIEF WAS MISTAKENLY NOT INCLUDED IN THE CONFERENCE AGREEMENT.

(D) ALLOW STATES TO TRANSFER UP TO TEN PERCENT OF TANF FUNDS TO THE TITLE XX SOCIAL SERVICES BLOCK GRANT (SSBG) DIRECTLY. IT APPEARS THAT CURRENT LANGUAGE REQUIRES STATES TO TRANSFER FUNDS FROM TANF TO THE CHILD CARE DEVELOPMENT BLOCK GRANT (CCDBG) AND THEN ONE-THIRD OF THESE FUNDS TO THE SSBG. IF STATES CHOOSE NOT TO TRANSFER TANF FUNDS TO CDBG, THEY WOULD BE PREVENTED FROM TRANSFERRING ANY FUNDS TO SSBG.

(E) PERMIT STATES TO COUNT TWO-PARENT TANF CASES WHERE ONE OF THE PARENTS IS INCAPACITATED AS A ONE PARENT CASE FOR PURPOSES OF DETERMINING THE WORK PARTICIPATION RATE.

(F) CONFORM ELIGIBILITY DETERMINATION DATES FOR IV-E AND IV-E MEDICAID ASSISTANCE. CURRENT LANGUAGE REQUIRES STATES TO DETERMINE IV-E ELIGIBILITY BASED ON AFDC CRITERIA AS OF JUNE I, 1995. IV-E

RECIPIENTS QUALIFY FOR MEDICAID BASED ON MEDICAID CRITERIA AS OF JULY 16, 1996. THIS NEEDLESSLY COMPLICATES ELIGIBILITY DETERMINATIONS.

(G) MODIFY RECONCILIATION AND MAINTENANCE OF EFFORT PROVISIONS OF THE CONTINGENCY FUND SO THAT NEEDY STATES CAN HAVE GREATER ACCESS TO THE CONTINGENCY FUND.

(V) OTHER RECOMMENDATIONS

IT IS ESSENTIAL THAT FEDERAL, STATE AND LOCAL POLICYMAKERS AND ADMINISTRATORS COOPERATE EXTENSIVELY AS WE PROCEED WITH IMPLEMENTATION OF P.L. 104-193. WE ARE GENERALLY PLEASED WITH EARLY STEPS TAKEN--BUT A LONG-TERM, COLLABORATIVE PARTNERSHIP IS CRITICAL. TO THIS END, WE RECOMMEND THAT:

(A) THE HOUSE WAYS AND MEANS HUMAN RESOURCES SUBCOMMITTEE AND ITS STAFF CONTINUE TO PROVIDE GUIDANCE ON WHAT IT CONSIDERS TO BE LEGISLATIVE INTENT REGARDING THE PROVISIONS OF P.L. 104-193;

(B) THE WHITE HOUSE INTERAGENCY TASK FORCE CONSULTATIONS WITH NCSL, NGA AND APWA BE CONTINUED:

(C) FEDERAL AGENCY GUIDANCE AND REGULATIONS BE PROVIDED AS EXPEDITIOUSLY AS POSSIBLE:

(D) STATE IMPLEMENTATION EFFORTS BE REVIEWED PERIODICALLY, IN CONCERT WITH NCSL, NGA AND APWA, BY THE APPROPRIATE COMMITTEES AND SUBCOMMITTEES OF THE CONGRESS;

(E) THIS SUBCOMMITTEE REMAIN OPEN TO CONSIDERATION OF TECHNICAL AND SUBSTANTIVE CHANGES TO H. R. 3734; AND

(F) WE URGE YOU TO CLOSELY MONITOR ANY LITIGATION THAT MAY ARISE AND COST SHIFTS THAT STATES MAY INCUR AS STATES IMPLEMENT THE NEW FEDERAL WELFARE REFORM LAW.

(G) THIS SUBCOMMITTEE WORK CLOSELY WITH NCSL REGARDING IMMIGRATION AND WORK REQUIREMENTS PARTICULARLY, TWO ISSUES THAT WE HAVE CONSISTENTLY NOTED AS PRIORITY CONCERNS AND WHICH WE HAVE CONSISTENTLY QUESTIONED THROUGHOUT THE I 04TH CONGRESS.

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, I AGAIN THANK YOU FOR THIS OPPORTUNITY TO PRESENT THE VIEWS OF THE NATIONAL CONFERENCE OF

STATE LEGISLATURES TO YOU. I PARTICULARLY REITERATE THE NEED FOR THE CONGRESS TO MOVE FORWARD WITH THE TECHNICAL CORRECTIONS RECOMMENDED BY NCSL, NGA AND APWA. I WILL GLADLY RESPOND TO ANY QUESTIONS YOU MAY HAVE.

Chairman SHAW. Ms. Golonka.

SUSAN GOLONKA, SENIOR POLICY ANALYST, NATIONAL GOVERNORS' ASSOCIATION

Ms. GOLONKA. Good afternoon, Mr. Chairman, and Members of the Subcommittee. My name is Susan Golonka and I am a senior policy analyst for NGA, the National Governors' Association. On behalf of the Nation's Governors, I would like to thank you for your commitment to ensuring that the goals of the legislation are realized as States turn to the challenges of implementation. The Nation's Governors look forward to continuing to work with the Subcommittee in this next phase of welfare reform.

As my colleagues have already mentioned, last week, just 2½ weeks after the President signed the bill into law, over 500 State officials from all 50 States gathered here in Washington. They came with a sense of commitment and a sense of urgency. State officials at this meeting were optimistic about the opportunities and unprecedented flexibility in the act. But the breadth of the change, the speed at which changes must be made, and the complexity of the changes did not escape them.

Governors are supportive of the expanded role for States and welfare and the more limited role for the Federal Government. For purposes of planning and decisionmaking, however, State officials do need some clarification from the Federal Government. For example, they need to know the areas that HHS will regulate and those that the States will be able to define and determine. Where HHS does have regulatory authority such as in the area of penalties, HHS has already agreed to work with us in a consultative process, and we will urge them to move quickly to address these areas.

Several States have already submitted State plans and are waiting for a certification of completeness from the Secretary. Again, a prompt response is critical so a State can begin to receive the funds and implement the block grant. Additionally, if a State's plan is found incomplete, it is not clear how this finding impacts the effective date for the flow of block grant funds and the requirements for time limits and penalties. We would like some clarification on this.

Another area that State officials expressed some concerns about is in the area of the data collection systems that States will need to implement in order to comply with the bill. The new reporting, tracking, and monitoring required under the bill pose a tremendous challenge for States in terms of technical capacity, resources, and timeframe. To help States create effective, integrated systems, Federal agencies should also coordinate their efforts, and we urge them to provide some technical assistance to States and permit cost sharing across programs.

I would like to focus now on three technical changes among the seven that NGA, APWA, and NCSL have listed. We hope these corrections can be made as soon as possible because they have a direct impact on State policy decisions and most have considerable fiscal impact as well.

First, we believe there should be greater transferability of the TANF Block Grant funds directly into SSBG, the Social Services Block Grant Program. Title I allows States the flexibility to transfer up to 30 percent of TANF funds into the child care block grant

and the Social Services block grant. But the statutory language only allows a transfer into the SSBG if the State also transfers funds into the child care block grant.

In other words, in order for a State to transfer $1 into the SSBG, it must also transfer $2 into the child care block grant. We recommend that this language be amended to allow for the 10-percent transfer into the SSBG, independent of transfers into the child care block grant.

The NGA welfare reform resolution recommends that States have the flexibility to also transfer funds into child welfare and that no restrictions be placed on transfers into child care, SSBG, and child welfare beyond a 30-percent total limit. Increased flexibility to transfer funds enables States to provide short-term, preventive, noncash services to at-risk families without triggering the 60-month lifetime limit. Alternatively, to enhance flexibility within the TANF Program, Congress may wish to exempt certain preventive in-kind services from the 5-year limit.

Second, for purposes of the work requirement, we would ask that you allow States to count as single-parent families those two-parent families that include an incapacitated spouse who cannot work. This parallels the treatment of the incapacitated spouse in the JOBS Program and acknowledges the inability of the two-parent spouse to work without exempting the caretaker spouse. Without this change, these families would be included in a two-parent work participation rate calculation which requires the able-bodied parent to participate and work for 35 hours a week. This is a higher hourly requirement than for a single parent who does not have the additional burden of caring for a disabled spouse.

Finally, we urge you to consider several modifications to the contingency fund. As you may recall, the inclusion of a contingency fund is an essential component of the NGA welfare reform policy. NGA is concerned, however, that restrictions contained in the final bill diminish the value of the fund and will result in States drawing down fewer dollars from the fund. These restrictions include limiting the amount a State may access in any month and imposing a very narrow definition of what counts toward meeting the 90-percent maintenance of effort.

Mr. Chairman, I would be happy to answer questions on these and other issues. Thank you again for the opportunity to appear today.

[The prepared statement follows:]

STATEMENT OF SUSAN GOLONKA, SENIOR POLICY ANALYST NATIONAL GOVERNORS' ASSOCIATION

My name is Susan Golonka and I am a Senior Policy Analyst with the National Governors' Association (NGA). It is an honor to be here today on behalf of NGA to briefly review for you some of the issues and concerns facing states as they begin to implement the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193). On behalf of the nation's Governors, I want to thank you for your commitment to ensuring that the goals of the legislation are realized as states turn to the challenges of implementation. The nation's Governors look forward to continuing to work with the subcommittee in this next phase of welfare reform.

Last week—just two and one-half weeks after the President signed the bill into law—more than 500 state officials from Governors' offices, state legislatures, and state agencies gathered together in Washington, D.C., to learn more about the welfare bill and discuss strategies for implementing this comprehensive legislation. Those participating in the briefing came with a sense of commitment and a sense of urgency. Every state in the nation sent representatives to this meeting, which was jointly sponsored by NGA, the National Conference of State Legislatures (NCSL), and the American Public Welfare Association (APWA). State officials at this briefing were optimistic about the opportunities that this law provides, but were also realistic about the challenges that lie ahead. They recognized and appreciated the unprecedented flexibility given to each state, under the cash assistance and child care block grants, to design programs that address the unique needs of their state. At the same time, the breadth of the change, the speed at which the changes must be made, and the complexity of these changes did not escape the participants.

Our three organizations jointly sponsored the meeting because we know that welfare reform is squarely in the states' hands and it will take a partnership among the executive, legislative and administrative branches of state government to achieve successful welfare reform. State and federal roles have been redefined, and states will be looking to one another, rather than to the federal government, for answers to many questions. Governors support this more limited role for the federal government and the trust in the states that it implies.

Federal Regulations and Penalties. The federal role is particularly restricted in issuing regulations under the Temporary Assistance for Needy Families (TANF) block grant. For purposes of planning and decisionmaking, however, state officials need to know the areas that the U.S. Department of Health and Human Service (HHS) will regulate and the areas that states will be able to define and determine.

Where HHS does have regulatory authority—such as in the area of penalties—HHS has agreed to work with us in a consultative process. We urge HHS to move quickly to address these issues. Timing is of great concern to states that are implementing the block grant early, as they may be at risk of incurring penalties for actions made prior to the promulgation of regulations. We will ask the secretary of HHS to adopt a policy of not penalizing states for actions or decisions made before regulations or other guidance is issued.

Where HHS does not have regulatory authority, or where it chooses not to regulate, a state's own interpretation still could result in a penalty if the secretary believes a state went beyond the limits of the statute or used a definition she considers to be unreasonable. For example, a state may have a different view of what constitutes administrative costs under the TANF grant and could be penalized for exceeding the 15 percent limitation. Or a state may have a different view of which provisions of its waiver are "inconsistent" with the act and therefore permissible. We hope that in these instances, HHS will work with us to develop a process to alert the appropriate Governor of any concerns and work toward an early resolution, rather than waiting and penalizing a state at the end of the year.

State Plans. Several states have already submitted their state plans and are waiting for a response from the secretary. We hope the secretary will respond with the utmost urgency to these submissions. It is critical for the secretary to certify completeness promptly so a state can begin to receive funding and implement the block grant.

Information Systems. State officials at our briefing also repeatedly expressed concerns about the information and data collection systems that states will need to implement in order to comply with the bill. The new reporting, tracking, and monitoring required under TANF, the child care block grant, the new food stamp work requirement, and the child support enforcement program pose a tremendous challenge for states in terms of technical capacity, increased costs, and the compressed implementation schedule. States want to create effective, integrated systems that are coordinated across programs and states, but this requires time to plan and a significant investment of resources. Federal agencies must coordinate and provide technical assistance to

states to ensure that one system may meet multiple requirements and to permit cost sharing across programs. Additionally, any flexibility around timeframes would be helpful.

Recommendations for Technical Changes. There are several technical issues that we would also like to bring to the subcommittee's attention. We hope that these corrections or clarifications can be made as soon as possible—either through legislation or HHS guidance. They have a direct impact on state policy decisions and most also have considerable fiscal implications. I will briefly list the major issues we have identified to date and then focus on the first three in more detail. My colleagues at NCSL and APWA will provide greater detail on the others.

- Permit transfer of TANF block grant funds directly into the Social Services Block Grant (SSBG).
- Allow states the option to count as single-parent families those two-parent families in which one spouse is incapacitated for purposes of meeting the work requirement.
- Modify the reconciliation and maintenance-of-effort provisions of the contingency fund so needy states will have greater access to the fund.
- Reconcile the effective dates for eliminating the $50 child support pass-through so the federal contribution continues at least until a state submits its TANF plan or the necessary legislative changes have been made, whichever is later.
- Clarify that state spending on immigrant families that become ineligible for TANF will count as qualified spending for purpose of meeting the TANF maintenance-of-effort provision.
- Permit adjustments in the maintenance-of-effort requirements for state Supplemental Security Income (SSI) supplements when caseloads decline.
- Reconcile the "look back" dates to state Aid to Families with Dependent Children (AFDC) programs for child welfare and Medicaid eligibility.

Transferability. Title I allows states the flexibility to transfer up to 30 percent of TANF funds into the child care block grant and SSBG but only one third of the amount transferred may be transferred into SSBG. The manager's explanation suggests that the language is intended to allow states to transfer up to 10 percent of their TANF allocation into SSBG, regardless of whether they transfer funds into the child care block grant. The statutory language, however, appears to only allow transfers into SSBG if the state ***also*** transfers funds into the child care block grant. In other words, in order for a state to transfer $1.00 into SSBG, it must also transfer $2.00 into the child care block grant. We recommend that this language be amended to allow the full 10 percent transfer into SSBG, independent of transfers into the child care block grant.

The NGA resolution on welfare reform adopted this past summer recommended that states have the flexibility to transfer TANF funds into the child care block grant, SSBG, ***and*** foster care and child welfare programs with no restrictions beyond a 30 percent total limit. Increased flexibility to transfer funds enables states to provide short-term, preventive services without triggering the lifetime limit under the TANF block grant. In the past, many states used AFDC-emergency assistance funds for in-kind, noncash family preservation services to prevent family breakup and out-of-home placement of children. States have expressed concern that although these activities will be permissible under the new TANF block grant, the period during which families receive these services will count against the federal sixty-month lifetime limit on benefits. With greater flexibility to transfer into SSBG and child welfare, a state can provide noncash services to at-risk families to prevent welfare dependency without exceeding the time limit. Alternatively, to allow this flexibility within the TANF program, Congress may wish to consider exempting certain preventive, in-kind services from the five-year limit.

Incapacitated Adults and the Work Requirement. Under the Job Opportunities and Basic Skills (JOBS) Training program, two-parent families that include an incapacitated spouse who cannot work because of the incapacity or disability are considered single-parent families for purposes of participation requirements. In the work requirement under TANF, however, no allowance or distinction is made for two-parent families with an incapacitated spouse. This family will be included in the two-parent work participation rate calculation and the able-bodied parent must participate in work for thirty-five hours a week—a higher hourly requirement than a single parent who does not have the additional burden of caring for an ailing or disabled spouse. We urge Congress to adopt a technical correction that would allow states to count two-parent families with an incapacitated spouse as single-parent families for purposes of meeting the work requirement. This would acknowledge the inability of the incapacitated adult to participate in the workforce without exempting the caretaker spouse.

Contingency Fund. As you may recall, the inclusion of a contingency fund that would provide additional federal matching dollars to a state experiencing an economic downturn was a central component of NGA's welfare reform policy. Congress adopted NGA's recommendation of providing $2 billion in that fund for fiscal 1997 through fiscal 2001. NGA is concerned, however, that restrictions contained in the final bill diminish the value of the fund and will result in states drawing down fewer dollars from the fund. These restrictions include limiting the amount a state may access in any month to 1/12th of 20 percent of its TANF grant, imposing a very narrow definition of what counts toward meeting the 100 percent maintenance-of-effort requirement, and new language in the reconciliation provision that effectively reduces the federal match rate unless a state accesses the fund in every month of the fiscal year. We hope Congress will consider some modifications in these areas.

Work Requirements. States are expanding their job development and placement efforts, community service, and other work programs to meet the work requirements in the law. We appreciate that Congress will be monitoring states' progress in meeting the work requirements of the bill. We look forward to working with you if it is determined that adjustments to the work requirements or other provisions are needed.

Waivers. The Governors have consistently supported states' ability to continue existing waivers. As you know, many states have initiated comprehensive statewide welfare reform through waivers. Indeed, the innovations in these waivers provided the building blocks for many provisions in the new law including tough work requirements as a condition of receiving assistance. We hope that HHS, Congress, and the Governors can work together to ensure that interested states can continue to pursue the vision and options outlined in their waivers. We hope that any differences of interpretation can be resolved through consultation and discussion.

Funding for the Child Care Development Block Grant and SSBG. Although appropriations for the Child Care Development Block Grant and SSBG are not within the subcommittee's jurisdiction, we hope you will work with us to ensure that these block grants are funded at their authorized levels. Adequate funding for child care and support services are critical to the success of welfare reform. Any erosion of funding for these programs, just as states are beginning to implement the new legislation, threatens the future success of welfare reform efforts and sets a troubling precedent for future appropriations.

Mr. Chairman, I would be happy to answer questions on these and other issues. Thank you again for the opportunity to appear before you today.

Testimony before the Human Resources Subcommittee of the House Ways and Means Committe

Testimony by: Susan Golonka
National Governors' Association
444 North Capitol, Suite 267
Washington, DC 20001-1572
(202) 624-5967

The nation's Governors thank you for your commitment to ensuring that the goals of the legislation are realized as states begin the challenge of implementation, and look forward to continuing to work with the subcommittee in this next phase of welfare reform.

Areas of concern expressed by officials at the recent Welfare Reform Briefing

1. **Federal Regulations and Penalties:** Governors support the more limited federal role and the increased responsibility of states. Where HHS does have regulatory authority, NGA urges the Secretary to move quickly to write the regulations, and adopt a policy of not penalizing states for actions or decisions made prior to regulations or guidance from HHS. Where HHS does not have regulatory authority but a state's own interpretation of the legislation could result in a penalty, NGA hopes to work with HHS to develop a process to alert Governors to any concerns and work toward a resolution prior to imposing a penalty.

2. **State Plans:** It is critical for the Secretary to certify completeness of state plans promptly so states can begin receiving the block grant and implementing the TANF requirements.

3. **Information Systems:** States must create effective, integrated systems to comply with the bill, but this is a complex undertaking. Federal agency coordination and technical assistance will be important in designing the systems necessary to meet multiple requirements and permit cost-sharing across programs.

Technical Changes:
The testimony contains a list of proposed changes, with a focus on these three.

1. Amend the current language to allow the full 10% **transfer of TANF funds into the SSBG**, independent of transfers into the child care block grant. Greater flexibility to transfer funds into the SSBG will allow states to provide preventative, non-cash assistance to at-risk families without triggering the time-limit clock.

2. Allow states to count **two-parent families with an incapacitated spouse** as single-parent families for purposes of meeting the work requirement. This parallels the treatment of an incapacitated spouse in the JOBS program, and acknowledges the inability of the incapacitated adult to participate in the workforce without exempting the caretaker spouse.

3. Reconsider the restrictions on the **Contingency Fund** that diminish the value of the fund by liminting the dollars states can draw down. These restrictions include limiting the accessible funds to 1/12th of 20% of the state's TANF grant in any given month, and imposing a very narrow definition of what counts toward meeting the maintenance-of-effort requirement.

Chairman SHAW. Thank you. Mr. Greenberg.

STATEMENT OF MARK GREENBERG, SENIOR STAFF ATTORNEY, CENTER FOR LAW AND SOCIAL POLICY

Mr. GREENBERG. Mr. Chairman and Members of the Subcommittee, my name is Mark Greenberg. I am a senior staff attorney at the Center for Law and Social Policy. We greatly appreciate your holding this hearing today and signaling your interest in focusing on the issues that will be arising as States implement the Temporary Assistance for Needy Families Block Grant.

I particularly appreciate having been invited to testify as someone who did not support the decision to move to the block grant structure. I greatly appreciate your giving me an opportunity to speak with you about some of the issues that States now face as they move forward in this new structure. In my testimony, I would like to focus on three issues.

First, the need to have basic, accurate information about the choices States make as they implement their block grant programs.

Second, the importance of ensuring that States have sufficient flexibility to test an array of new approaches, hopefully in the effort to find more effective ways of reducing poverty among families with children.

Third, the importance of having effective ways of measuring the success of States in the new structure.

The first issue is that of having basic information on the choices States make. The issue that is now arising concerns the State plans under the new structure. The legislation sets forth a broad framework for information to be provided by States in their State plans, but there is considerable question about what level of detail will be sufficient for a State plan to be considered complete. It is, in our view, important that State plans provide information to Congress, to the public, and to residents of States about the basic choices that States make in their block grant programs.

In addition, as the statute is drafted, there is no express language that says if a State changes what it is doing over a 2-year period, the State should amend its State plan. In many instances, a State may submit a State plan quite quickly in order to draw down new funds under the legislation. Then there will be a legislative session and there may be substantial changes in the State's approach. There would be a real value in ensuring that States amend their State plans as appropriate to reflect changes in their policy so that the policy on file with the Federal Government reflects what the State is actually doing in its program and that States comply with those State plans.

The second issue I want to focus on is the need to ensure that States have flexibility to test alternative approaches. There are two key concerns here.

One is perhaps an unintended relationship between the use of block grant funds and assistance to working poor families.

Under the legislation, the 60-month limit applies to any month in which an individual receives any form of assistance funded under TANF. However, in State welfare reform efforts, a State may wish to extend assistance to working poor families as an income supplement when they are in low-wage jobs. Or, a State may seek

to use its TANF funds for different ways to assist low-wage working families. However, any month in which a working poor family receives any assistance funded with TANF dollars counts against the 60-month limit.

An appropriate change could be to say that States, at their option, should not be required to count a month against the 60-month limit if a family is working in unsubsidized employment above some threshold level of activity. That would ensure that States did not have to fear their policies under TANF were working at cross purposes with each other.

A related concern is that a whole set of the TANF requirements apply essentially to any month in which a family receives assistance funded under TANF—the work participation rate requirements apply, the time limits apply, the child support assignment provisions apply. States may be using their block grant funds for cash assistance, but may also want to use TANF funds for a very broad range of services and activities.

But as the law is drafted, it appears that even if a State is using its funds for a family preservation activity or a teen-parent program, taken literally, the participation rates, the time limits, and child support assignment provisions apply.

So one possible change here would be to modify the provisions to ensure that these basic requirements apply to cash assistance provided under the block grant or things very close to cash assistance, but not to other kinds of services and activities.

The final point I wish to highlight is the need to develop effective definitions of States success under the block grant structure. Perhaps the biggest issue here is that up until now States have very often viewed caseload reduction as a solid measure of success.

However, under the block grant structure, States can accomplish caseload reduction either by running very effective welfare reform efforts or by simply narrowing the circumstances in which families qualify for assistance. There will be some States, I assume, that will restrict aid to immigrants; others may not. There will be some States that opt for a 5-year time limit; others that opt for a 2-year time limit. Under the structure, caseload reduction may simply reflect the fact that a State has chosen to restrict the availability of assistance or families in need.

So as HHS, in consultation with the States and this Subcommittee, now begins the process of establishing a methodology to identify high-performance States, the ultimate focus needs to be not simply on caseload reduction, but on much broader measures of the well-being of families and children.

Thank you, and I look forward to discussing these and related issues further.

[The prepared statement follows:]

Summary of the Testimony of Mark Greenberg
Senior Staff Attorney, Center for Law and Social Policy
1616 P St., NW, Suite 150, Washington, DC 20036, (202) 328-5140

Between now and July 1, 1997, all States will begin to implement their programs under the Temporary Assistance for Needy Families Block Grant (TANF). As States develop their policies and programs under TANF, the following are among the issues for Congress to consider:

1. **State Plans:** State plans should provide adequate and accurate information about the choices States make in their programs under TANF. The new Act establishes a framework for State plans, but does not explicitly require States to identify how they resolve some of the key questions about their program design. The Act requires a new plan submission every two years, but does not explicitly provide that a State should amend its State plan when the State modifies its policies. Congress should ensure that State plans contain the information needed to determine how the State has exercised its basic policy choices; that States have a responsibility to file plan amendments as needed to ensure that their State plans accurately describe their current program designs; and that a State should have a responsibility to comply with its State plan until such time as the Plan is amended.

2. **Working Poor Families:** One of the principal directions taken by States in welfare reform has been to expand assistance to working poor families. Many States are likely to wish to continue this direction under TANF, but TANF rules relating to time limits could have the unintended effect of making it more difficult to do so, because any month in which a working family receives any assistance under TANF counts against the 60-month limit. This problem could be addressed if the Act were modified to permit States to adopt policies in which a month in which an individual worked in unsubsidized employment above some threshold level did not count as a month of assistance for purposes of the sixty-month limit.

3. **Non-Cash Assistance:** States may spend TANF funds on cash assistance, but also may elect to spend TANF funds on a broad array of other forms of assistance and service, e.g., child care, counseling, teen parent programming, activities to discourage out-of-wedlock pregnancies, family preservation activities. However, the 60-month time limit, participation and work requirements, and child support assignment requirements all apply to any month in which a family receives "assistance" under the State program funded under TANF. One possible solution could be to provide that TANF time limit, work, and child support assignment requirements only apply to receipt of "cash assistance" rather than any assistance under TANF.

4. **Waivers:** While a number of States used the waiver process to implement a time limit or strengthen their program's focus on work, the specific details of State approaches are often different from specific requirements of the Act. Given these State directions, the issue that needs resolution is whether States should be allowed to or precluded from pursuing their alternative approaches in the new structure. The waiver provision of the new Act allows States to continue waivers in effect as of the date of enactment if they are "inconsistent" with the new Act. This is basically a "grandfather clause." Any grandfather clause is inherently somewhat arbitrary in extending its benefits to some States while denying them to others. One possible resolution would be to give all States the same set of options by providing for additional flexibility for all States in the areas where there is greatest divergence between federal requirements and State waiver approaches.

5. **Measuring Success:** For many people, the strongest argument for the block grant approach was that States should be allowed substantially more flexibility and then held accountable for results. Toward that end, the hope would be that in the TANF structure, the federal government would shift its focus from measuring process to measuring outcomes. As the federal government seeks to do so, it is important to appreciate that caseload decline should not, in itself, be considered a measure of success under TANF because States can now generate a caseload decline simply by reducing the circumstances in which needy families receive assistance. Instead, measures of success ought to focus more broadly on the effectiveness of States in such areas as increasing workforce participation, reducing poverty, and improving the well-being of children.

Members of the Subcommittee:

My name is Mark Greenberg. I am a Senior Staff Attorney at the Center for Law and Social Policy. CLASP is a non-profit organization engaged in research, analysis, technical assistance and advocacy on issues affecting low income families. I have been involved for many years in the issues arising in federal and state welfare reform efforts.

In my testimony today, I will focus on some of the new challenges for States and the federal government in implementation of the Temporary Assistance for Needy Families Block Grant under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. As the Subcommittee appreciates, the new legislation includes some very controversial features, including the decision to repeal the AFDC Program and shift to a block grant structure. The Center for Law and Social Policy had, and continues to have, serious concerns about the possible adverse effects of the block grant approach. However, in my testimony today, I do not think it would be appropriate or productive to reargue the broad policy decisions that are reflected in the new legislation. Instead, I want to focus on a set of areas which generally received less attention during the legislative debates, but for which key questions are now arising as States begin the process of implementing the new law.

Before turning to specific details, I want to express my appreciation to the Subcommittee for holding this hearing, and for signaling to the States and concerned individuals your interest in following the developments that occur as States implement the TANF legislation. The legislation allows States to take a broad range of approaches to assisting poor families, and continuing oversight will be essential to the process of understanding the nature and consequences of the choices States now exercise. We greatly appreciate your willingness to include in this hearing the views of those who did not support the decision to shift to the block grant structure. I also want to express our appreciation for the role that has been played during this Congress by the staff of the Human Resources Subcommittee. While we have often had serious disagreements over issues of policy direction, the Subcommittee staff has always been willing to listen to and consider concerns that have been raised and to evaluate those concerns on their merits.

In my testimony this afternoon, I will highlight five areas:

- the need to ensure that State plans provide adequate and accurate information about the choices States make in their programs under TANF;
- the need to ensure that time-limit policies under TANF do not have the unintended effect of restricting States' abilities to assist working poor families;
- the need to consider whether TANF policies being applied to the cash assistance program (e.g., work requirements, time limits, child support assignment) should also apply to alternative uses of TANF funds for other services and activities;
- the need to resolve the degree of flexibility that States should have to pursue the policy options they have elected under their waiver programs; and
- the need to develop means of identifying "successful states" under TANF that look at the overall effectiveness of State performance in improving the well-being of poor families with children.

In discussing these issues, I want to make one principal point: TANF is not simply the AFDC Program with work requirements and time limits. Rather, the legislation provides States with a block grant and with extensive discretion to determine who will receive assistance, in what form that assistance will occur, and under what conditions. In light of this basic direction, it is essential that Congress and concerned persons have adequate information about the choices states make, and about the consequences of those choices. At the same time, if Congress' overall goal is to provide States with flexibility and then hold States accountable for results, it is appropriate to ensure that the legislation provides States with the flexibility to both reform their AFDC Programs, and to test new and different alternatives in the hope of developing more effective approaches to address poverty among families with children.

State Plans

As States begin to enter the TANF structure, an initial set of questions are arising around the nature and significance of TANF State plans. Given the array of new State options and choices under the legislation, it becomes particularly important to ensure that the federal government, residents of States, and other interested persons have access to information about the choices elected by States. A key issue now arising as States prepare their plans concerns whether the plans will provide adequate and updated information about the choices States make in implementing their programs under TANF.

Under the Act, each State must submit a State plan providing the information required by law in order to begin receiving its TANF funding. A State's TANF funding for the remainder of FY 96 or for FY 97 will be based on the date of submission of a State plan containing the required information. Thereafter, to be an eligible State, a State must have submitted a State plan within the past two years.

Most (though not all) States will have a fiscal advantage in entering the TANF structure as rapidly as possible. This is because a State's TANF allocation is based on the State's federal funding from an earlier year or years (generally, the higher of FY 94 federal funding, FY 95 federal funding, or the FY 92-94 average), and most States have had declining caseloads in recent years. While States generally have an interest in submitting State plans soon, the Act also envisions that TANF funds will be subject to appropriation by State legislatures, which in many cases will not begin their next sessions until January. Thus, in a number of instances, a State may submit its State plan prior to thorough legislative review of the new choices. However, there is no explicit statutory requirement that the State file amendments to its Plan to reflect the policy choices made between submission of the first State plan and submission of the next plan two years later. This concern is compounded because there is no explicit statutory requirement that a State operate its program in conformity with its State plan. As a result, there is a risk that the plans submitted by some States may not provide a current and accurate picture of the policy choices elected by States under the new structure.

In addition, the Act does not explicitly request information on some of the basic policy choices that States may make. Among the areas of concern are:

- **Basic Eligibility Rules:** The Act does not explicitly require that a State's plan describe its rules concerning which categories of families will be eligible for assistance, the conditions under which a family qualifies for assistance, or the amount of assistance that an eligible family will qualify to receive.

- **Statewide Variation:** Under the Act, a State plan must be designed to serve all political subdivisions in the State, though not necessarily in a uniform manner. However, there is no explicit requirement that the State describe the nature of variation within the State.

- **Time Limits:** Under TANF, a State may operate with a 60-month limit on assistance funded with TANF dollars (subject to limited exceptions), or a State may elect a shorter time limit. However, if a State elects a shorter time limit, there is no explicit requirement that the shorter limit be noted in the State plan.

- **Transfer of Funds:** Under the Act, a State may transfer up to 30% of its TANF funds to certain designated purposes. If every State elected to do so, this could involve nearly $5 billion in federal funds annually. However, there is no explicit requirement that a State indicate in its State plan whether it intends to do so.

Taken together, the overall effect of the State plan provisions is that initial State plans may not contain important information about State policy choices, and even if that information is initially provided, it may cease to be current quite quickly if States alter their policies without updating its plan to reflect the modifications.

To address these concerns, Congress might consider the following:

- Either explicitly expand the statutory requirements for information to be contained in State plans, or expressly authorize HHS to seek such information in State plans as is reasonably necessary to inform the federal government of the basic policy choices made by States;

- Provide that States have a responsibility to file plan amendments during the two-year period between State plans to ensure that their State plans accurately describe their current program designs; and

- Provide that a State has a responsibility to comply with its State plan until such time as the Plan is amended.

TANF and Working Poor Families

In recent years, one of the principal directions taken by States in welfare reform has been to expand assistance to working poor families. Many States are likely to wish to continue this direction under TANF, but TANF rules relating to time limits could have the unintended effect of making it more difficult to do so. The problem occurs because any month of any type of TANF assistance - even to a working poor family - counts against the 60-month limit. A modification to the time-limit rules to address the circumstances of working poor families could ensure that these policies do not operate at cross-purposes with each other.

In their welfare reform efforts through the waiver process, States have sought to increase requirements to participate in work and work-related activities, and to increase the penalties for families in which a parent fails to do so without good cause. At the same time, States have sought to increase support provided to families in which a parent enters a low-wage job. In particular, in the AFDC waiver process, some of the most common waiver requests have been to:

- alter rules concerning treatment of earnings to allow families with earnings to continue to receive assistance;

- eliminate barriers against receipt of assistance by two-parent families in which one parent is working;

- modify program asset rules so that working and other families who are able to save part of their income are not penalized for doing so; and

- expand the availability of transitional assistance when a family leaves AFDC due to employment.

On the one hand, TANF rules allow States the flexibility to implement all these policies and others to support working poor families. Under TANF rules, a State is free to provide for more generous earnings disregards, to eliminate barriers to two-parent eligibility, to remove or reduce program asset rules, and to expand transitional assistance. In addition, States are able to consider using TANF funds for new and different ways to assist the working poor. The legislation expressly authorizes States to make use of Individual Development Accounts to promote savings for specified purposes by families with earnings. In addition, States can expend their TANF funds for child care, transportation assistance, reemployment and retention assistance, bonuses to individuals who retain employment, education assistance to working families, and many other possibilities.

The problem, however, is that <u>any</u> month in which a working poor family receives any type or amount of assistance funded with a TANF dollar counts against the 60-month limit.[1] While States may wish to time-limit cash assistance for families in which a parent is able to work and

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[1] A State could, of course, expend State funds on working poor families, in the recognition that a month of State-funded assistance would not count against the federal 60-month limit. However, this may be administratively complex (as individuals move back and forth between being employed and unemployed), and States will vary substantially in the level of State funding in their programs and the other potential claims for using such funds.

does not do so, the issue of imposing time-limits on assistance to the working poor presents different concerns.

For example, in recent years, a number of States have developed "Work First" philosophies, in which individuals are encouraged to take the first available job, even if the job does not pay enough to meet a family's basic needs. The State often seeks to emphasize that cash aid is available as an income supplement during the period when a parent is working in a very low-wage job. However, if each month of assistance counts against the 60-month limit, it may be against the family's interest to receive the wage subsidy being offered by the State.

The problem becomes more complicated because one of the other policy goals of States has been to eliminate "cliffs", i.e., those times in which receipt of a single additional dollar of earnings results in total loss of assistance. To eliminate cliffs, States have often sought to have aid phase out gradually as earnings increase. However, under the TANF structure, a month in which a working poor family receives a $50 income supplement will count as a month of assistance just as does the month where a non-working family receives a $400 assistance payment.

This problem could readily be addressed if the Act were modified to permit States to adopt policies in which a month in which an individual worked in unsubsidized employment above some threshold level did not count as a month of assistance for purposes of the sixty-month limit. With this modification, States could more readily pursue policies of helping working poor families without needing to be fearful that a month of assistance now would preclude the State's ability to provide a month of assistance at a later point.

The Status of Non-Cash Assistance Under TANF

As States develop their programs, they are also facing the question of how to strike the balance between cash assistance and non-cash assistance to low income families in expending TANF funds. Necessarily, there are always a set of difficult policy trade-offs about how to strike the balance. However, the issue becomes further complicated because any time TANF funds are used to provide "assistance", a set of requirements are attached that may be considered appropriate for an AFDC-type program, but may not be appropriate for other forms of assistance.

Under the Act, States may elect to use their TANF funds to provide cash assistance to poor families, but a State may also elect to expend TANF funds for a broad array of other forms of assistance and services. For example, the State may elect to spend TANF funds on job training, education programs, child care assistance, counseling, teen parent programming, activities to discourage out-of-wedlock pregnancies, and the array of activities for which States previously expended Emergency Assistance funding, to name just a few of the possibilities. While people sometimes refer to TANF as a program, it is really a funding stream that may eventually be used for many different programs.

The difficulty now arising is that many of the rules relating to use of TANF funds were primarily written with the AFDC Program in mind, and these rules may be less appropriate or inappropriate in the context of other services and activities. For example, the 60-month time limit,[2] participation and work requirements,[3] and child support assignment requirements[4] all

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[2] The Act provides that a State may not expend federal TANF funds to provide "assistance" to a family with an adult that has received assisted funded with federal TANF dollars for 60 months, subject to exceptions permitted for up to 20% of a State's caseload.

[3] All families with an adult or a minor parent head of household who are receiving assistance under the State program funded under TANF are subject to program participation rates. Similarly, the State plan must provide that a parent or caretaker receiving assistance under the program must engage in work (as defined by State) after a period not later than 24 months. In addition, unless the State opts out, the State plan must provide that parents or caretakers receiving assistance under the program are subject to community service requirements after two months unless exempt from work requirements or engaged in work.

[4] A family receiving assistance under State program funded under TANF must assign its support rights, cooperate in establishing paternity, enforcing child support. State must pay federal government the federal share of support collected for any family receiving assistance under the State program funded under TANF.

apply to a family that receives "assistance" under the State program funded under TANF. Read literally, any month in which a family receives family preservation services, family counseling, or family planning services funded with TANF funds counts as a month for purposes of time limits, participation in work activities, and required assignment of child support. The issues will become more complex because private agencies may be using TANF as only one source of funding for services, and it may be difficult or arbitrary to determine who receives a service funded with a TANF dollar versus a dollar from another funding source.

One possible solution is to provide that TANF time limit, work, and child support assignment requirements only apply to receipt of "cash assistance" rather than any assistance under TANF. It may be possible to draft the requirement so that it would also extend to vendor payments or other near-cash assistance, insofar as it would not be desirable to create a structure in which States had an incentive to structure assistance in non-cash forms simply to avoid federal requirements that applied to cash assistance. The key point here, however, is that TANF is not the AFDC Program; it is a block grant, and if the hoped-for flexibility and creativity is to emerge, it is important for States to have the ability to use TANF funding for an array of services and activities without being burdened by requirements that are inappropriate to such services and activities.

Waivers

As the Subcommittee appreciates, there has been considerable controversy in recent weeks about the relationship between the requirements of the new Act and State waivers that were in effect or pending on the date of enactment of the Act. This is an area where I do not think there is an easy answer, but it may be helpful to clarify the problem. The principal issue here is that while many States have used the waiver process to strengthen their emphasis on work, the specific policies they have initiated are sometimes quite different from those reflected in the Act's requirements.

Generally, the new Section 415 divides States into three categories: those with waivers in effect on the date of enactment; those with waivers pending on the date of enactment and which are approved on or before July 1, 1997; and those who did not have waivers approved or pending on the date of enactment. Those without approved or pending waivers are fully subject to the requirements of the Act, but almost all States fall into the first two categories.

As to the first group, the Act says that if a State had a waiver in effect on the date of enactment, then the State may elect to continue the waiver, and if the State so elects, the amendments made by the new legislation "shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the waiver."

As to the second group, the Act says that if a State had a waiver pending before the date of enactment, and the waiver is approved on or before July 1, 1997, and HHS makes a determination that the waiver would be cost-neutral, then like the first group, the amendments made by the new law shall not apply to the State before expiration of the waiver to the extent they are inconsistent with the waiver; the only difference is that the granting of the waiver "shall not affect the applicability of section 407 [i.e., the Act's participation rate requirements] to the State."

The meaning of these provisions depends, of course, on when amendments made by the Act are considered "inconsistent" with a State's waiver. That turns out to be a difficult question. Before enactment of the Act, most States were moving in the direction of imposing time limits, but States differed in what should happen after the time limit (terminate aid to the family, terminate aid to the parent, require participation in a work program), States often wished to exempt a number of categories of families from the time limit and States typically wished to retain the flexibility to decide on a case-by-case basis whether it was appropriate to terminate aid. Similarly, before enactment of the Act, most States were moving in the direction of a stronger work-based focus, but often with an emphasis on job search or on maximizing participation but

allowing a highly individualized determination of what counted as an appropriate activity; States also allowed more access to education and training programs than will count toward the participation rates under the Act.

Given these State directions, the issue that needs resolution is whether States should be allowed to or precluded from pursuing these alternative approaches in the new structure. The waiver provision of Section 415 is basically a grandfather clause, and any grandfather clause is inherently arbitrary in extending its benefits to some States while denying them to others. One possible resolution would be to give all States the same set of options, by providing for additional flexibility for all States in the areas where there is greatest divergence between federal requirements and State waiver approaches. Another possibility might be to allow all States to formally opt out of policies they consider inconsistent with their welfare reform approach. For example, the Act provides that a State must require participation in community service after two months unless the State opts out, and the Act provides that a State must deny assistance to individuals convicted of drug-related felonies unless the State opts out. In both these cases, a Congressional policy preference is declared, while still leaving the ultimate decision to the States. Congress could take a similar approach in other areas.

If Congress elects to retain the approach reflected in Section 415, and is not inclined to allow for increased flexibility for all States, then it becomes an inevitable consequence that States will be treated differently based on whether they happened to have an application pending or approved on a particular date.

Measuring State Success Under TANF

For many people, the strongest argument for the block grant approach was that States should be allowed substantially more flexibility and then held accountable for results. Toward that end, the hope would be that in the TANF structure, the federal government would shift its focus from measuring process to measuring outcomes. Two features of TANF -- the bonus for high-performance States, and the bonus for States with reduced out-of-wedlock births -- are expressly designed to reward outcomes, and the work participation rate penalties are also designed to measure a combination of engagement in work and caseload reduction rather than simply measure the number of people "active" in an activity.

There is probably broad agreement that an ideal system would identify a set of desired goals and then seek to measure the progress of States in moving toward them. However, the process of measuring outcomes and determining the degree of State responsibility for them is often difficult, and the process will become more difficult under TANF because of the elimination of federal eligibility requirements and of State responsibilities to assist eligible families. In particular, a traditional measure of state effectiveness -- caseload decline -- ceases to be an informative measure of State effectiveness in the new structure, since a State can now generate caseload decline simply by reducing the circumstances in which needy families receive assistance.

As in the AFDC Program, a State's caseload under TANF may decline because of the strength of the State's economy or the effectiveness of its welfare reform strategy. However, under TANF, a State's caseload may also decline simply because the State has adopted new rules restricting eligibility. For example, consider two States, one of which adopts a five-year-limit on assistance while the other adopts a two-year limit. All else being equal, the State with the two-year limit will have a sharper caseload decline, but this will tell us little or nothing about the State's degree of success. Further, some States may have caseload declines under TANF because they exercise federal options to deny aid to legal immigrants, they restrict assistance to new State entrants, or because they restrict aid for other categories that qualify for assistance under current law. Moreover, since there is not a federal requirement to provide aid to eligible families, it is possible that even a State that has not formally restricted its eligibility rules may develop administrative practices under which eligible families do not actually receive assistance. The overall effect of this array of new options is that a report of caseload decline will not in itself be a meaningful indicator of the effectiveness of a State's efforts.

The problem of interpreting caseload declines may be compounded if States conclude that they have a fiscal incentive to reduce their caseloads as a less expensive way of satisfying federal work participation rates. Under the Act, States are subject to steadily escalating participation rate requirements, which can generally only be satisfied through engagement in employment or work (with limited exceptions). It is anticipated that States will face considerable pressure as the participation rates escalate, insofar as TANF family assistance grants remains constant for most States through FY 2002. However, under the Act, a State's participation rate is to be adjusted downward if the State has had a caseload decline since FY 95; the only restrictions are that a State is not to be credited with caseload reductions resulting from federal requirements or in circumstances where HHS can prove that the caseload reduction was the direct result of a change in State eligibility rules. As a practical matter, it may turn out to be difficult or impossible for HHS to determine what portion of a State's caseload decline is directly attributable to changes in eligibility rules. Accordingly, it is possible that some States may respond to the pressures of participation rates by identifying strategies to generate caseload declines, even if those strategies do not further the purposes of the Act.

The new opportunities and potential fiscal incentives to reduce caseloads make it especially important that caseload decline not be assumed to be a measure of success if the decline only reflects a State's reduction in the availability of assistance for poor families.

Another common measure of success, the percentage of families receiving assistance who enter employment, will also be less informative under TANF. The percentage of families who enter employment will depend in part on the strength of a local economy, in part on the effectiveness of the State's welfare reform effort, and in part on the characteristics of the families receiving assistance. While job placements have always reflected the combination of these factors, there may be very dramatic changes in the characteristics of families receiving assistance in some states under TANF. For example, if State A implements a two-year limit on assistance with an exception for the incapacitated and disabled, and State B implements a two-year limit with no such exception, one might anticipate that the job placement rate in State A will be lower, because a higher share of its caseload may be unable to enter employment.

The difficulties in measuring success by caseload declines or employment entry rates strongly suggest that there is a need for broader measures of success relating to a State's effectiveness in such areas as increasing workforce participation, reducing poverty, and improving the well-being of children. There is, of course, considerable difficulty in determining whether a reduction in poverty can be attributed to State performance, just as there will be a comparable difficulty in determining whether a reduction in out-of-wedlock birth can be attributed to State activity. However, if the broad goal of this legislation is to allow States flexibility and then hold them accountable for results, it is essential to ensure that the results that are measured directly reflect the well-being of poor children and their families, and the goal of reducing poverty among families with children.

One more factor that will impair the ability to make ready comparisons between State programs under TANF is that States begin their TANF efforts with very different levels of available resources. Federal TANF block grants essentially lock in place the level of federal funding that States were receiving in a prior year or years, and there have been substantial variations in the levels of federal funding drawn down by States. As a result, some States will begin their TANF efforts with federal funding equal or greater to $2000 per poor child per year, while others will begin with funding at or below $400 per poor child per year. The legislation does allow for annual 2.5% adjustments for some States for a four-year period, but the issue of substantial variations in available resources will be important to keep in mind in any effort to identify high-performance States. It will be particularly important to seek to determine whether those States with additional resources are able to generate higher levels of performance than those with very limited resources.

Conclusion

During the debate in this Congress, representatives of the States have often suggested that if given the flexibility of a block grant, they could develop more effective approaches to addressing the needs of their States and the poor families within their States. Now that the legislation has been enacted, it is appropriate that the States have the flexibility needed to design effective programs, but it will be essential for Congress and interested persons to be able to learn about the choices made by States, to measure the effectiveness of these choices in improving the well-being of our Nation's families with children, and to make necessary adjustments based on initial experience. We welcome the opportunity to work with the Subcommittee toward advancing these goals.

Chairman SHAW. Thank you, Mr. Greenberg.

Mr. Camp.

Mr. CAMP. Thank you, Mr. Chairman.

Mr. Johnson, I will ask you one question, but I know several people raised this point and that was the conflicting effective dates regarding the $50 passthrough. I think in your statement you say, and I am quoting from your statement, your written statement, "States are cutoff from the Federal reimbursement as of October 1, even if a State has not had the chance to file their State plan or change the necessary State laws, regulations, and computer systems."

I know there are two sections in the bill, section 395(b) which allows a grace period for State law changes until the close of the first regular session of the legislature or in States where it is a 2-year cycle, the grace period is 1 complete year. Then section 395(c) which has a 5-year grace period for States that need to have a constitutional amendment.

Given those grace periods contained in the legislation, I am a little bit confused as to what else can be done at the Federal level to clear up this situation.

Mr. JOHNSON. I would like to believe the sections you are quoting would be sufficient to resolve this problem. Our concern is on this $50 passthrough, it is very clear the Federal match stops October 1. The passthrough needs to continue until States make a decision in their State plan, whenever they may submit a plan. We are not sure the general references you make reference to protect States against that financial difficulty.

Mr. CAMP. So it is your view that the grace period specifically provided in the statute is not enough?

Mr. JOHNSON. We are concerned it is not sufficient to cover the added cost the States might assume under the provision that stops the Federal matching on October 1.

Mr. CAMP. So what else would you like done at the Federal level to clear it up, to make it clearer? If the specific grace period in the statute is not enough, what is it specifically that should be done?

Mr. JOHNSON. I will defer to Sheri Steisel who raised this in her testimony and addressed it more clearly. But it seems to me one remedy would be to provide for continued Federal assistance until such time as the State plan was submitted.

Mr. CAMP. Ms. Steisel, would you like to comment?

Ms. STEISEL. Yes, I would, Congressman. Thank you. I think the concern we have is, as Sid Johnson laid out, the loss of Federal matching dollars, especially since this is at the Medicaid match rate. So we are talking about a substantial share of the $50 that now would have to be assumed by State funds.

Perhaps it could be easily remedied with another statement of congressional intent, perhaps in consultation with the administration, that the grace period for legislation also applies to an extension of the Federal funds. Our concern is there is nothing in the legislation that ties those two concepts together, the grace period for statutory change and an extension of Federal funding.

Mr. CAMP. Thank you. Thank you, Mr. Chairman.

Chairman SHAW. Thank you.

Mr. Ford.

Mr. FORD. Thank you, Mr. Chairman and to the panelists. Mr. Johnson, the lookback provisions are designed to assure that children do not lose Medicaid or foster care eligibility as a result of this law. If you have ideas for assuring Medicaid and foster care eligibility in a way that is less burdensome, but equally effective, then I would like to hear from you, Mr. Johnson.

Mr. JOHNSON. I wish I had them, Mr. Ford. I am still hopeful that someone here is going to be smart enough to solve that problem. I think many of us have been looking at this issue for over 1 year and have come to the conclusion that lookback, while it is burdensome, appears to be the only way to assure that coverage. We are supportive of that coverage. I was just addressing as a short-term solution at least having those dates be the same dates, so that we would not have two separate systems of lookback. The larger question, I hope someone can address.

Mr. FORD. Thank you very much. I want to thank the other witnesses, the State legislature's representative, and the Governors' Association representative who is representing the Governors' Association because it is clear that those legislative bodies and the Governors of our States will be directly involved in the day-to-day process. Knowing that most legislative bodies do not work full time, however, they will be charged with the responsibility of implementing the type of welfare policies that will be needed by children in this country.

I would just like to say to my colleagues on the State level and the Governors as well, good luck to you, and we surely want to do what we can on this level from an oversight standpoint to assist in every way.

Thank you.

Chairman SHAW. Mr. Ford, you raised with Mr. Johnson, as he raised in his testimony, the $500 million question. If we can solve that, how to get rid of the double bookkeeping, we can take back the $500 million that we put in there to give the States in order to take care of that problem. I am sure we can all think of a lot of ways to do that.

Mr. JOHNSON. Mr. Chairman, perhaps there is another way to do this. [Laughter.]

Chairman SHAW. Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman. I appreciate your holding this hearing today. I find with amazement we are getting reports on things that we feel like, the people feel like are problems within the bill and possible results that are going to come from the bill.

But I would like to give a quick report on the status and the opinions of the leaders of the State of Georgia. I read with interest the other day in the paper that Governor Zell Miller was very proud of the welfare bill the President signed. It was a Work First Program. A Work First Program that paralleled one adopted in Georgia within the last year or year and a half. He felt Georgia would benefit and the people of Georgia and those who had been entrapped in the welfare system would benefit greatly from this new bill.

Then I found with interest later, it was not 1 week to 10 days, the director of the Department of Family and Children's Services

in Georgia was giving a speech in Columbus, Georgia, which happens to be in the Third District. He too was praising the President for signing this legislation. He thought it was the best piece of legislation possibly the President had signed since he had been in office.

So I am pleased to report the people of Georgia and leadership of Georgia are way out in front and they are well satisfied with this legislation. They look forward to implementing it and I know there are going to be some things we are going to have to go back and look at. That is the reason I am going to suggest to the delegation from Georgia that sometime within the early part of the year, maybe in April or May, that we as a delegation meet with the Governor, the director of Family and Children's Services, and the commissioner of Human Resources in Georgia, so that we can have a roundtable discussion to see just how this program is being implemented, where the problems are so that we can report back to this Subcommittee and to you, Mr. Chairman.

I thank you for this time. No questions.

Chairman SHAW. Thank you, Mr. Collins.

Mr. Levin.

Mr. LEVIN. Thank you, Mr. Chairman. I think we all again want to give thanks to the panel for their thoughtful comments and technical corrections. Mr. Greenberg, some of yours, I think, go beyond them, but they are thoughtful reflections. I hope we will take them into account, as we will others of your suggestions that really are not technical corrections.

One of them relates to the contingency fund, and if I might just say, Mr. Chairman, I hope again, whoever is running the show here, together we will look at the contingency fund before the next recession. There has not been one in a number of years and there is no recession on the horizon. But I think the problems you have specified, Ms. Golonka, are real problems.

When we debated the bills, I thought one of the several instances where the Castle-Tanner bill was stronger than the bill that was up there with it, related to the contingency fund. I do not think in the conference report there was adequate attention to the strength of the suggestions in Castle-Tanner on the contingency fund.

I hope we will work together to, for example, take the present formula and apply it to the last two recessions and see how it would have operated. I think many of the States that received considerably additional funds during the last two recessions—1990 through 1992, whenever, and 1981 through 1983, I do not think many of the States would have been able to utilize this contingency fund.

The 112th provision that you mentioned, I thought stuck out like a sore thumb when it was put in there. I also think the every month provision is a unnecessary impediment to a State that is really in a recession that may have some periodicity to it. Also, as we discussed the Castle-Tanner provision without a cap would have cost over 5 years, as I remember it, would have been scored, at less than $1 billion.

But be that as it may, I should not speak for anybody but myself, I do not think it is likely we are going to take the contingency fund suggestions as a technical correction in the next 2 weeks.

But we do need to take a sober look at this provision and these other suggestions. I think that is one reason we need to make sure there is adequate research money. Somebody is going to need to research the likely impact of these provisions, including the contingency fund, and I hope your organizations will allocate some resources. I once belonged to the—I think it was called the same thing then, was it not—the conference—no, you are the National Governors' Association. I once tried to belong to that, too. [Laughter.]

The Conference of State Legislators. I think there is a temptation to put off the discussion of these issues until the House is on fire. But we will regret it if we do not look at the contingency fund and other provisions and anticipate their likely impact. And maybe we should wait a bit to see the implementation, the operation of the new bill.

But I do not think, no matter how well it works, that it is likely the contingency fund will be any relevancy. I think the way economic cycles go in this country, we are likely to bump into the use of that and I think it should be ready when needed. I do not think it is now adequately prepared, if it is needed.

Thank you, Mr. Chairman.

Chairman SHAW. Sandy, we went through a bit of a transition with regard to the contingency funds. We started out with $1 billion. Then we went to $2 billion. There are those that say that is not enough.

I said during the debate on welfare reform that this is very much like unemployment compensation. If you get into a recession, the Congress will have to take another look at it and be sure that those funds are out there. If we find the States are uniformly having problems with that, the Congress will take a look at it and, of course, take what action that that particular Congress might feel appropriate. Hopefully, the $2 billion is enough, but if you get into a deep recession, it may be that what you are forecasting will come about and we will have to take another look at it.

Mr. LEVIN. I am hopeful that things will work out so we are going to take a look at it next year regardless. I will tell you why. It is not just a matter of the money. The way this is structured now, it is likely, I think, States could go into or some States could go into a recession and even if there were $2 billion and we were able to get a raise in that amount, they would not be able to access it.

The trigger mechanism, I think, is not adequate. We had talked about this before and we made some progress. Originally, there was not a contingency fund at all and then it was moved up in amount. But the mechanism within it, I do not think was improved so that absent a national—the trouble with waiting for a recession is, as we saw with the arguments over extended unemployment benefits, when a recession hits States unevenly, it becomes a matter of immense political jockeying within this institution and with the administration.

It seems to me if we are serious about getting people off of welfare into work and getting States into the effort to really get people into work off of welfare and not simply to mechanically reduce

roles, we need to be sure the States are endeavoring to do that, if they hit a recession, are not incapacitated.

So I hope we will take a look at this prior to an emergency. I hope we are in a position to make sure that that look is taken and whoever is running this institution will do it on a bipartisan basis because the recession did not hit us on a partisan basis. Mr. Camp and I happen to be in a State that was hit early and first. Your State was hit later and we were put in the position, Michigan and the mid-West, of trying to appeal to the rest of the country to alter unemployment compensation.

Chairman SHAW. I would make two observations that I think generally your heavy manufacturing States, such as Michigan, usually get hit first and then that trickles down to States, like the State of Florida, who get hit late and conversely we are late in getting out and you are early in getting out.

So I think those are truisms, but I can tell you having worked with your Governor, Governor Engler, he will be down here and he will be heard and this Member will listen to him, whether he likes it or not, I can assure you. We will react and however Congress acts at the time of a recession certainly is exactly the way that the funds will be made available.

Mr. CAMP. Mr. Chairman, if I might, on that subject.

Chairman SHAW. Yes.

Mr. CAMP. I think your complaint is not really so much with the amount as that was changed, but with the formula. I am certainly willing to work with you on that. I know we did add a food stamp trigger that was requested by a lot of people, and I certainly will make this commitment that regardless, I think we should look at this formula and how it plays out. So I think it is a very good suggestion. I would be willing to work with you to do that.

Mr. LEVIN. Well, we will get busy.

Thanks.

Chairman SHAW. I would like to point out to you, Mr. Johnson, we strongly support your attempt and the attempt of the National Governors' Association, as well as the HHS, to raise the private funds to provide technical assistance to the States in their striving to come up and formulate effective programs. We are learning from each other and I think that is tremendously important.

I appreciate all of the witnesses today that have come forth in a sense of cooperation. I would also like to thank the Members, those that supported welfare legislation and those that did not on both sides of the aisle, for the spirit in which we are coming together.

We have been through stormier times. I am sure we have provided more spirited debate than what you have seen today. But I think that now is the time for us to come together with the spirit of cooperation in trying to help the most fragile among us and, that is, the poor to get them out of poverty and to make this new law work for all of the American people.

Thank you all for being here and this hearing is now adjourned.

[Whereupon, at 3:31 p.m., the hearing was adjourned, to reconvene on Thursday, September 19, 1996, at 10 a.m.]

IMPLEMENTATION OF WELFARE REFORM AND CHILD SUPPORT ENFORCEMENT

THURSDAY, SEPTEMBER 19, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:04 a.m., in room B–318, Rayburn House Office Building, Hon. E. Clay Shaw, Jr., (Chairman of the Subcommittee) presiding.

Chairman SHAW. We will call this hearing to order.

This is the second in our two-hearing series on implementing the new welfare reform law. As everyone agrees, the new law constitutes a historic restructuring of the Nation's welfare system.

Our purpose in these two hearings is to make sure the restructuring gets off to a good start. Today our topic is child support enforcement. I think it is fair to say almost everyone agrees that child support enforcement is vital to welfare reform, and the new law is a superb bipartisan achievement.

If anything, child support is even more important now than it was in the past, because it could offer a stream of financial support to mothers and children trying to leave welfare. But to be honest with each other, everyone felt we had created great bipartisan reforms after we passed the 1988 legislation. And yet, here we are 8 years later, and none of us are satisfied with the child support program as it was.

Yes, the 1988 reforms were good, but they did not lead to a restructured and revitalized child support program. That is what we need to accomplish this time.

More specifically, we need to solve the interstate problem. We need to bring every State program up to the status of world class data management. We need to get the new-hire system up and running. And above all, we need to improve the bottom line, more paternity establishments, and more collections.

To be certain we are moving rapidly and smoothly toward implementing the new law, we have invited a small but very experienced and knowledgeable array of witnesses. We will hear from the administration, and in particular from Judge David Ross, who runs the Federal child support program. Then we will hear from a panel that includes State administrators, experts from the private sector, and child and family advocates.

I have asked several of our witnesses to focus on two issues in which the Subcommittee is especially interested; namely, the auto-

mated information requirements of the new law and the financing of the Federal-State program.

I remind the witnesses to hold their testimony to 5 minutes which will be signaled by a red light. If everyone follows this rule, the Members of the Subcommittee will have plenty of time to ask questions.

I would at this time like to recognize the Ranking Member of this Subcommittee, Mr. Ford. Before I do so, I want to make the point that this will probably be his last meeting, his last hearing of this Subcommittee, on which he has served as the Ranking Democratic Member as well as the former Chairman of the Subcommittee. Harold and I have disagreed, and occasionally, we have agreed. I think it is particularly important to note, this area of child support is one in which we have been in lock step in working together, and even though we may see the world differently on some matters, I think on the question of parental responsibility, we certainly see eye to eye. We are going to miss Mr. Ford next year. We certainly look forward to—I guess this may be the beginning of a dynasty, because we will be welcoming his son to Washington.

Mr. Ford.

Mr. FORD. Thank you very much, Mr. Chairman, and again, I want to commend you for convening hearings so quickly on implementation of the new welfare law. And I am pleased today's session is devoted to child support enforcement. The child support provisions of this bill enjoy near universal support, and I would remind you it was the Democratic Members of this Congress, and especially this Subcommittee, who insisted that child support enforcement be a part of any welfare bill.

The reason for that, in my view, is simple. The child support provisions of this bill offer the best hope for improving the lives of American children. As you know, Mr. Chairman, this is my last term as a Member of Congress, and probably my last Subcommittee meeting before we adjourn. So it is with both fond memories and the sharp recollection of our efforts over the past two decades that I participate in today's session. After all, I can remember when child support enforcement was not such a high priority, and I recall we have had to encourage, sometimes push, States to aggressively pursue their responsibilities, that we have made good progress, but much remains to be done in our States.

I am proud of the Family Support Act, the predecessor of this new law, which attempted to make work the cornerstone of our Nation's welfare system.

I have for sometime been discouraged that States were not more bold in carrying out this law. That is in large measure why I remain skeptical about the new block grant. I cannot urge you strongly enough to keep the pressure on the 50 States, Mr. Chairman. The fundamental responsibility for the well-being of millions of American children is shifted now to the 50 State capitols. By statute, the Federal Department of Health and Human Services must shift, too, from partners to bankers and auditors.

But our responsibility in Congress to ensure that both the letter and the spirit of this new law are carried out has not diminished. You noted on Tuesday that passing a new Federal law is only 10 percent of the work; you are absolutely correct, Mr. Chairman, the

success or failure of this law is in the hands of the Governors. The job of this Subcommittee is to act as an early warning system; and I wish you well, Mr. Chairman, and I certainly wish the best to all of the Members of the Subcommittee, the Full Committee, and my colleagues in the Congress. I would certainly hope that those of us who will be watching from the outside will keep that pressure on the States and make sure that our children in this Nation are protected. We all have a responsibility, not only to reform the welfare system, but to establish one that this Nation can be proud of.

I certainly join with you and hope that Harold Ford, Jr., will replace his dad in the Congress on November 5.

Thank you.

Chairman SHAW. Thank you, Harold. I have a sneaking suspicion I have not heard the last from you.

Judge Ross, would you please come to the table and proceed with your testimony. Welcome.

STATEMENT OF DAVID GRAY ROSS, DEPUTY DIRECTOR, OFFICE OF CHILD SUPPORT ENFORCEMENT, ADMINISTRATION FOR CHILDREN AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. ROSS. Good morning, Mr. Chairman, and Members of the Subcommittee. I am David Ross, the Deputy Director of the Federal Office of Child Support Enforcement. I am certainly pleased to be here today to talk about the child support enforcement provisions of the Personal Responsibility and Work Opportunity Reconciliation Act.

As you have indicated, child support is a critical component in ensuring economic security for millions of single-parent families, and I appreciate the Subcommittee's efforts to strengthen the program by including the child support enforcement measures that President Clinton proposed 2 years ago to the Congress.

The comprehensive reforms included in the law will ensure that parents are located so that they can support their children, paternity is established where necessary, and child support orders are enforced.

Over the next 10 years, these measures could increase child support collections by some $24 billion, and reduce Federal welfare costs by some $4 billion.

I would like to briefly share with you what we are doing to implement our new responsibilities. I will then focus on child support enforcement automated systems and program funding, which I understand are areas of special concern to the Subcommittee.

As I indicated, we welcome the child support provisions of welfare reform, and we are committed to their timely implementation. With many of the provisions based on successful State practices, our job is made easier.

In addition, recognizing the similarity of child support provisions contained in various legislative proposals, we began last year to work on a number of initiatives to plan for implementation of the anticipated requirements.

Many Federal-State welfare reform work groups have been formed, and we have accomplished much of the preliminary planning for implementing the new law, such as a complete review of

regulations, new-hire reporting system design, helping States with enactment of needed legislation, and preparing the way for the nationwide implementation of the Uniform Interstate Family Support Act.

We have also undertaken initiatives that focus on challenging areas addressed by the legislation. Federal staff are providing technical assistance, training, and knowledge about effective practices in other States. Implementation of the statute will be smoother as a result of all these activities.

Clearly, automation is key to implementation. Automated systems are integral to the efficient and effective operation of the Nation's Child Support Enforcement Program. Technology allows us to complete millions of transactions involving tracking, case processing and collection, with speed and accuracy, freeing staff to focus on those hard to collect cases.

The Family Support Act of 1988 mandated complex and comprehensive automated systems, and many States started from ground zero where caseworkers did not even have access to computers. Costly and time-consuming problems were encountered with the conversion process requiring file review, research, and data collection. It often involved tracking down court files and then reconciling and updating financial and arrearage data.

However, State support programs have been transformed by these automated systems. The system enhancements called for in the new law build on this computer infrastructure and the investment of additional enhanced funding will allow all States to move to the next level of automation, including centralized child support collections and disbursement. This will enable States to use technology more efficiently to monitor cases more effectively, and to do proactive matching of entire caseloads for location, establishment, and collection.

Let me now turn to the second issue the Subcommittee has expressed an interest in my discussing, and that is incentive financing. There is no disagreement, the current system does not create a significant incentive for long-term investment necessary for the achievement of program goals, and is in need of improvement.

The new law requires we work with the States to develop a new incentive funding structure, one that rewards results. We are to submit a report to Congress by March 1 of next year. This does not allow much time, but I am happy to report we have been laying the foundation by reviewing measures that might be used in changing the incentive payment system.

An improved results-based incentive system like that envisioned in the legislation will take into account other measurable program results such as paternity establishment, order establishment, collections, and cost efficiency. A better incentive system might also reward those States with the best and most improved performance in these areas.

We have been looking at the issues in the context of our GPRA, the Government Performance Result Act pilot, and within the context of the Federal and State performance measures work group. This work group has met a number of times and during that time, they have been mindful of the need to prepare for this report to Congress.

In closing, I look forward to working closely with the Subcommittee in the future as we implement these critical changes to our child support program, and I, of course, will be very happy to answer any questions that you might have at this time.

[The prepared statement follows:]

STATEMENT OF DAVID GRAY ROSS, DEPUTY DIRECTOR
OFFICE OF CHILD SUPPORT ENFORCEMENT
ADMINISTRATION FOR CHILDREN AND FAMILIES
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Good morning Mr. Chairman and members of the Committee. As the Deputy Director of the Office of Child Support Enforcement, I am pleased to appear before you today to talk about the child support enforcement provisions in the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). Child support is a critical component in ensuring economic security for millions of single-parent families and I appreciate this Committee's efforts to strengthen the program by including the child support enforcement measures President Clinton proposed two years ago in this bill.

As President Clinton said when he signed the welfare reform bill, these Child Support Enforcement provisions "will help dramatically to reduce welfare, increase independence, and reinforce parental responsibility." These comprehensive reforms will ensure that parents are located to support their children, paternity is established when necessary, and child support orders are enforced. Over the next 10 years, these measures could increase child support collections by $24 billion and reduce federal welfare costs by $4 billion.

Under the PRWORA, a case registry and new hire directory will be established in every State, with a centralized case registry and national new hire database maintained at the Federal level. States will be given access to motor vehicle and law enforcement data to locate parents. Child support agencies will have legal authority to order paternity testing and State laws must ensure that the results are admissible as evidence of paternity. Every State will be able to suspend the drivers' and professional licenses of parents who do not support their children, and the passports of non-paying parents also will be withheld.

While we have made great strides over the last several years in improving child support, it was clear that much more still needed to be done, including addressing jurisdictional issues with tribal governments and issues involving interstate and international cases. The efforts of President Clinton and the Congress in child support have begun to have a positive impact. Collections have increased 40 percent since President Clinton took office and totalled $11 billion in FY 1995. Paternities established have also increased about 40 percent to a total of 735,000 last year, including voluntary in-hospital paternity establishments under the requirements of the Omnibus Budget Reconciliation Act of 1993. The new child support provisions will offer even greater advancements.

I would like to briefly share with you what we are doing to implement our child support enforcement responsibilities under welfare reform. Then I will focus my testimony on State Child Support Enforcement (CSE) automated systems and program incentive funding, the areas in which I understand the Committee is particularly interested.

OCSE's Welfare Reform Implementation Strategy

First, February 17, 1995, President Clinton issued Executive Order 12953, which declared that Federal agencies would be model employers and process child support wage withholding orders according to the same standards that private employers were held to, laying the foundation for related statutory changes in PRWORA. A training and outreach effort was directed at our sister agencies to familiarize them with the Executive Order and prepare them for automated matching scheduled in the near future.

We welcome the child support provisions of welfare reform and we are committed to their timely implementation. Since many of the provisions, like license revocation, new hire reporting, and bank matching, are based on successful State practices, our

job is made easier. In addition, recognizing the similarity of child support provisions contained in various legislative proposals, we began to work on numerous initiatives to plan for implementation of the anticipated requirements.

In the Spring of this year, President Clinton directed that further actions be taken to lay the groundwork for welfare reform. This included a pilot of a national new hire program. The pilot is currently underway and matches have already been made of data from 17 States against lists of non-paying parents. Over 60,000 cases have been matched and forwarded to the appropriate State. Over 30,000 of these matches were AFDC cases. We are very excited by these results, as well as by the information we are gaining which will help guide our efforts to develop the national program required by the statute.

Many Federal-State Welfare Reform workgroups have been formed and have accomplished much preliminary planning for implementing the new law, such as a complete review of regulations, new hire reporting system design, helping States with enactment of needed legislation, and preparing the way for nationwide implementation of the Uniform Interstate Family Support Act.

We have also undertaken initiatives that focus on challenging areas such as enforcing child support against members of the armed forces, and in cases involving other countries and American Indian tribal jurisdictions. Staff have been assigned to assist States with interstate, international, military, criminal non-support, and Indian tribal cases. These areas are now benefitting from the focused attention and coordinating role of Federal staff. Federal staff are providing technical assistance and training, and knowledge about effective practices to States. Implementation of related provisions in the statute will be smoother as a result of these activities.

In addition, a new State and Local Assistance Division has been formed to focus Federal staff resources on helping States and local jurisdictions assess problem areas and identify resources to enhance their efficiency and effectiveness. Federal-State workgroups on training and technical assistance have been working in partnership to better match Federal resources with State needs. This division will provide planning assistance and act as a clearing-house for best practices and new techniques in child support enforcement.

State Child Support Enforcement Automated Systems

Automated systems are integral to the efficiency and effectiveness of the nation's Child Support Enforcement program. Technology allows us to complete millions of transactions involving tracking, case processing and collection with speed and accuracy, freeing staff to focus on hard-to-collect cases. Automated systems are designed to allow the child support program to keep pace with increasing caseloads and limited government resources.

We have made a sizable investment in the automation of State Child Support Enforcement programs. Over the last 10 years, the] Federal Government has provided states with $1 billion in enhanced funding for automated systems, representing 5 percent of total child support expenditures. This investment has already made a difference. More than 40 jurisdictions have statewide automated CSE systems that are being used in day-to-day child support operations. While only 10 of these States' systems have been "certified" as meeting all of the automation requirements called for in the Family Support Act of 1988, all are providing critical services to States.

State child support programs have been transformed by automation efforts. Many States started from ground zero, where caseworkers didn't even have access to computers or networks to link county programs throughout the State. In States with county-operated programs, there often was no standardization of child support program and policies. Prior to automation requirements, case files were often buried in dusty county courthouse basements and if someone had to work on a case, he/she had to manually retrieve the case file.

Automation efforts began in earnest from 1981 through 1988, when the Federal government provided enhanced funding for States to develop systems to improve the child support enforcement program. The Family Support Act of 1988 mandated much more complex and comprehensive automated systems. These systems needed to meet all federal requirement by October 1,1995, including incorporating all IV-D cases in the state and training all workers to use the system. Many of the problems encountered were associated with converting paper child support files to an automated format. This costly and time-consuming conversion process required file review, research, and data collection; it often involved tracking down court files and reconciling and updating financial and arrearage data. Much of the effort was in ensuring consistent and standardized child support procedures within a State.

The Family Support Act requirements have brought us to the point where child support workers have computers on their desks and cases have been converted to an electronic format. These systems provide the foundation for meeting the reforms of the new law. The additional time congress provided in the recent extension of the Family Support Act certification deadline to October 1, 1997, is allowing States to conduct critical testing, piloting, training of staff, and conversion of cases.

As I indicated, the system enhancements called for in the Personal Responsibility and Work Opportunity Reconciliation Act build on the assumption that States have already completed the work of creating a computer infrastructure and the conversion of paper files to an automated database. The investment of additional enhanced funding is critical to allowing all States to move to the next level of automation, including centralized child support collections and disbursement. This will enable States to use technology more effectively, to monitor cases more efficiently, and to do proactive matching of entire caseloads for location, establishment, and collection.

In short, the next steps of automation provided in welfare reform are mass case processing and administrative enforcement remedies -- thus freeing the caseworker from handling the routine cases and allowing her/him to tackle the most difficult cases. Computer matches can be run at night against other State records, such as unemployment compensation, workers' compensation and other State benefits, as well as financial institution records and new hire data. The system will generate the matches and automatically print out the attachments or wage garnishments to be mailed in the morning. As we continue to work with States to improve their systems, we will also focus on privacy concerns associated with these types of activities.

Centralized collection and disbursement capabilities mandated in the new law will also allow States to make use of economies of scale and modern technology found in many businesses --such as high speed check processing equipment, automated mail and postal procedures, and automated billing and statement processing.

Finally, with the introduction of a potentially greater tribal role in the child support enforcement program, we are aware of the special needs of tribes related to automation. We

will work closely with tribes wishing to take advantage of the new authority in their planning for automated child support enforcement systems.

I will now turn to the second issue the Committee has expressed an interest in discussing: incentive financing.

Program Incentive Funding

The PRWORA seeks to change the current system of incentive funding to States which is based on maximizing current year child support collections (especially those for welfare cases), while restraining administrative costs. There is no disagreement that the current system does not create a significant incentive for long-term investment necessary for the achievement of program goals and is in need of improvement.

Under current law, a minimum incentive payment is made to all States, regardless of whether performance is good or poor. States can run inefficient programs and still make a profit. An improved results-based incentive system, like that envisioned in the legislation, would take into account other measurable program results such as paternity establishment, order establishment, collections and cost efficiency. A better incentive system might also reward the States with the best and most improved performance in these areas.

The PRWORA requires that we work with the States to develop a new incentive funding structure that rewards results and to submit a report to Congress by March 1, 1997. This does not allow much time, but I am happy to report on the success we have had in laying the foundation by reviewing measures that might be used in changing the incentive payment system.

As you are aware, OCSE was designated as a pilot for the Government Performance and Results Act of 1993. OCSE is just finishing up the two year pilot phase of its implementation of GPRA and is reviewing with the Executive Branch the successes and problems associated with that effort. During the pilot we have been working with States to look at many issues, including;

- A National Strategic Plan with a mission, vision, goals and objectives.
- Some options for outcome measures for Strategic Plan goals and objectives so that progress can be tracked.
- 35 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 are, as I speak, drafting an outline for a partnership agreement that will emphasize communication, joint planning, and co-responsibility for improving America's child support enforcement program.

These activities have provided the building blocks to move to a more results-oriented management of the national child support enforcement program.

A Performance Measures Workgroup was formed with representatives from HHS central and Regional offices and State and local child support agencies. During the past 18 months this workgroup has met six times and drafted and redrafted proposed outcome measures, which are still under review. During drafting, the workgroup was mindful of pending welfare reform legislation

and hoped its work would be useful in identifying changes to the incentive funding system.

We are now coordinating a group of State and Federal partners to develop a proposed incentive funding system for the report to Congress. We are already in agreement that some key indicators from the outcome measures developed for the Strategic Plan will be reviewed for potential use in a new incentive funding formula. I am confident that with the progress we have made together, we will be able to offer to the Congress our vision of a results-oriented incentive funding system by March 1, 1997, that does not increase incentive payment outlays, as required by the statute.

We are committed to working with our State and local partners to improve their programs and to ensure that we will witness the anticipated benefits of the new legislation.

Conclusion

In conclusion, Mr. Chairman, let me restate three key points:

- Efforts to implement the child support provisions of PRWORA began long ago, with State and Federal partners working closely on a number of fronts including new hire reporting, enactment of State legislation, and regulatory reinvention.

- The Federal investment in State child support automated systems is paying off. States are benefitting greatly and moving towards federal certification of their systems.

- OCSE and its State partners are working to develop a new incentive funding system that will move the national child support enforcement program to results-oriented management by rewarding performance.

Again, I want to thank this Committee for giving me the opportunity to testify today, and look forward to working closely with this Committee in the future as we implement these critical changes to the child support program. I would be happy to answer any questions you may have at this time.

Chairman SHAW. Thank you.

Mr. Ford.

Mr. FORD. Thank you. Thank you very much, Mr. Chairman, and Mr. Ross. Thank you for your testimony.

In 1988 the Federal Government has spent about $2 billion on automated computer systems for child support enforcement despite that HSS has certified only 10 States meet the requirements of the 1988 Family Support Act. And 10 States do not have a statewide computer system in place yet. I mean, why, what barriers do States face or what is the problem?

Mr. ROSS. What is the reason for that? Well, to answer the question very simply, I think to start with, we required too much of the States in 1988 with regard to what they had to do. I think we were not aware at the time of the difficulty of collecting the data, getting it out of court files, getting it converted, eliminating duplications, bringing it online and all the rest, and that has been a major obstacle. There have also been contractor problems here and there.

Across the board, the States have had great difficulty as you indicated in simply getting their systems up.

I would like to point out, though, that an automated system not being certified does not mean there has not been massive growth in the program and success in the program. I like to use the analogy that it is almost like graduation from high school. The diploma itself, while important, does not mean that those in their junior and senior years have not advanced and have not learned. I think we have learned a great deal. And with regard to the new date that the Congress gave the States, no State has told us that they will be unable to meet that date.

So, I think probably it was too big a job and we did not recognize that at the time. I think we have done a lot.

Mr. FORD. What else can we do?

Mr. ROSS. What we need to do now is, of course, be supportive of the States. There are lots of political questions within the States as to who gets to make automation-related decisions, and I think we need to convince——

Mr. FORD. I mean, just to make sure all 50 States are computerized and making sure that automation is there, what else can we do to beef that up somewhat?

Mr. ROSS. You have done that in the new legislation with regard to the technical assistance and training requirements. I believe today or tomorrow, a group of users are meeting with our office to discuss the true ability of the States as a group to meet these requirements.

We have formed task forces, including State people, including all the folks involved in the process. We did not do that last time. I think last time we simply said, "This is the law and you will abide by it." And we did not ask anyone what their idea was on how to implement it. We are certainly doing that now. We have learned that lesson. And I think that what is going to produce success for us is the fact that we have involved the States in that we are asking their people to do things to help us essentially write the regulations which will spell out the requirements.

I told State representatives the other day, that we were partners in this; collectively, we really were in fact partners, and we had to get it done, and get it done very quickly.

Mr. FORD. Mr. Ross, let me move on to staff and—am I correct that the new law requires substantial reductions in the staff at HHS, some 75 percent reduction in staff? The new law gives HHS a lot of new responsibilities in the area of child support. Given staff cuts, can you carry out these responsibilities with the cuts in the staff?

Mr. ROSS. It is the Office of Family Assistance, of course, which runs the JOBS Program and the AFDC Program where the cuts were required by what we call the Gramm amendment. I am not sure how we are going to get there. We are again in the process of deciding what the new responsibility will be.

Within my office, I have taken a number of the people and redirected their efforts. The new law, for instance, requires that we for the first time have a role in international affairs; we have a role in Native American affairs. I have taken people who were doing other things within the Office of Child Support Enforcement, and reassigned them to those tasks.

We have reorganized. We have a new Division of State and Local Assistance in order to fulfill the obligations under the law with regard to technical assistance and training. We have done that so far with existing staff; whether we need more is something we need to address within the Department at the appropriate time.

But to answer your question very clearly, I think the cuts in another part of the Department of Health and Human Services, even within the Administration for Children and Families, will not adversely affect our current operation.

Mr. FORD. So that staff cutting does not impact or does not affect the child support——

Mr. ROSS. No, staff cuts were only in the Office of Family Assistance.

Mr. FORD. Thank you, Mr. Chairman.

Chairman SHAW. Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman. It is good that you are holding these hearings. It gives us a chance to hear from the administration and others about their opinions of how things are going to work. It is also interesting to listen to the opinions of others, and try to imagine just exactly how it is going to work, and what the success is going to be.

I tell people at home that basically, the duties of Congress are to fund the operation of government and set into law policy by statute. But the day-to-day operation is handled by the administration, and those that the administration choose and hire to run the different agencies; the secretaries, commissioners, directors, and deputies. So the success or failure is really in your hands as to whether you will move toward working as Congress has intended with the laws that we have passed, and the policies that we have put in place by law, or will you, as some agencies do with the laws that we pass, make rules so stringent or so unreal, and forget common sense so that the new rules do not work. So basically, this thing is in your hands.

The child support recovery portion of the bill is very important. I hope you will work with the States, with the Subcommittee, because it is our intent that these people who are noncustodial parents pay their bill. And with that, I will say thank you for being here.

Chairman SHAW. Judge, you have the good fortune, or I might say, the awesome responsibility, of heading up an effort on which there is unanimous support of this Subcommittee. Under the law, we now reimburse the States for the moneys they spend under the child support activity. There are some that say we should be more result oriented in rewarding the States for success in collection.

Do you have any thoughts you care to share with the Subcommittee regarding that matter?

Mr. ROSS. The law itself and our direction of the program will certainly lead to a results-oriented program in terms of assessing the performance of the States.

We have announced that our implementation strategy really has four components. The first is a partnership with the States. The second is results. The third is flexibility, and the fourth is accountability.

Working within the structures of accountability, obviously, we are developing performance measures which we will agree to with the States if we can, and with those performance measures, States will be rewarded with incentive money based upon their performance.

As you know, we must report back to the Congress early next year with a plan. We are meeting again today. I think 38 of the 54 directors from around the country are in town and the ones not here are meeting this morning. We are talking about an agreement between myself and the IV–D directors of America, so that the States themselves have a major role in helping us create, as the law requires, a plan for a new incentive funding structure for this program.

So, I think to answer your question, what has been wrong with the program is that we did not reward results. It was also wrong that our audit was too concerned with procedures, so that we asked ourself the question, "Did you do a certain thing on a certain day," not whether or not you achieved an order ultimately.

Our audit rules require that if you did not send a letter to the possible father within 15 days of the receipt of a form X, Y, Z from the AFDC agency, there was a problem.

And that was a "gig," as they call it in audit. And if they sent it on the 17th day, and the result was positive, we found a fault in that file.

Now what we are doing with regard to the audit is two things. Number one, ensure those programs that are successful are known to be successful. And what we are doing differently about those that are not successful is providing technical assistance and training—we are essentially going to try and help the States come up to the point where they need to be.

In the old days we simply told them what to do, and then we audited them to see if they did it. We have added some other components now, and they are going to help us determine what needs to be done. Then we are going to use our technical assistance to help

them and audit later. If they in fact have done a good job, then obviously, they will be rewarded through the incentive process.

Chairman SHAW. If you have any legislation the administration might want to send up to accomplish some of those purposes as affecting the existing legislation, be sure to bring that to our attention.

Mr. ROSS. Certainly, sir. We need to provide technical amendments within a certain period of time, and I think they are being worked.

Chairman SHAW. Let me change the subject slightly, but this question has come up, and I have been asked to ask it. And it does get a little bit away from child support to another important issue in implementing the welfare reform.

What I am talking about is effective dates. In recent days, the Subcommittee has received questions about apparently conflicting signals on the effective date of the provision that ends cash welfare and food stamps for persons convicted of felonies involving illegal drugs. States want to implement this provision so that both cash welfare and food stamps are denied drug criminals beginning on the same date.

The legislation indicates that for cash welfare, the effective date is whenever the State begins operating this new block grant, which may be as late as July 1 of next year, but also could occur sooner.

In contrast, the Agriculture Department seems to be taking the position that food stamp benefits may be denied no sooner than July 1, 1997.

Can you help clarify that, or would you want to perhaps send me a written memo——

Mr. ROSS. I think I better do that, frankly. It is kind of out of my department.

Chairman SHAW. If you could help us out with that, the States have requested some information on that, and they have inquired as to our staff, and we are trying to get some clarification.

Mr. ROSS. Yes, sir.

[The following was subsequently received:]

Section 116(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 states that in general, except as otherwise provided in title I, this title and the amendments made by this title shall take effect on July 1, 1997. However, subsection (b)(1) allows States to accelerate the effective date for implementing the TANF provision if the State submits a plan described in section 402(a) of the Social Security Act, as amended. Should the Secretary receive a plan, then the amendments made by this title, including the provisions in section 115 regarding the denial of cash benefits only to convicted drug related criminals, shall apply with respect to the State as of the accelerated effective date.

Ms. Dunn.

Ms. DUNN. Thank you very much, Mr. Chairman. Thank you, Mr. Ross, for testifying before our Subcommittee.

You indicate in your testimony that the data system enhancements called for in the new law build on the assumption that the States are already in completion of the work of creating a computer infrastructure and getting all their paper files onto computer files.

In your opinion, are the States ready to move to the next step, and if so—or if not, what does HHS have to do to help them?

Mr. ROSS. The State of Washington, of course, has been certified as well as the State of Georgia. But the answer to the question is

there is still more work to be done in every jurisdiction. Again, we have formed a work group on everything, and there is a work group on where do we go from here with regard to the enhancements required under the new law. That work group involves those who are actually in the field doing the work in partnership with their regional and central office counterparts, and they in fact have to give me a plan fairly soon as to how we are going to accomplish that.

I learned when I was a private in the Army in basic training that to fail to plan is to plan to fail, and we simply need to have a plan. Our office has developed a strategic plan for the next 5 years, and that has taught us to listen. In every aspect of this law we have so many new responsibilities that we need to plan for every particular aspect. And that is why we have, in fact, formed 16 work groups. Not with the same people, but with specially interested and talented people who work in that particular area.

Ms. DUNN. So, you are quite confident the working group will address any States that are in a problem situation that we will not have laggard States that are not going to be able to implement the new requirements of the welfare reform——

Mr. ROSS. I absolutely believe that. I have spent a great deal of my time out visiting the States, listening to them, listening to their problems, and it is amazing how many of the problems are similar in the different parts of the country. And those on our systems staff, Robin Rushton and Larry Guerrero, really are knowledgeable. We really are working in partnership again to get those problems solved.

Ms. DUNN. Thank you. Thank you, Mr. Chairman.

Mr. ROSS. We have no alternative. We just have to get it done.

Chairman SHAW. Ms. Kennelly. No questions.

Judge we thank you—oh, excuse me. Mr. McCrery.

Mr. MCCRERY. No questions.

Chairman SHAW. Thank you for being here, Judge. We appreciate it. We look forward to working with you over the next whatever it is.

Mr. ROSS. Yes, sir. Thank you.

Chairman SHAW. Thank you.

We next have a panel of witnesses. If they would come up to the table and seat themselves, Wayne Doss, who is director, District Attorney's Bureau of Family Support Operations, Los Angeles, California; James R. Weaver, director, Unisys Corp. of Blue Bell, Pennsylvania; Leslie L. Frye, chief, Office of Child Support, Department of Social Services from Sacramento, California; Robert Melia, vice president of Policy Studies, Inc., Boston, Massachusetts; David Levy, Esq., president of Children's Rights Council, Washington DC; Elisabeth Donahue, counsel of the National Woman's Law Center in Washington, DC; and Marilyn Ray Smith, associate deputy commissioner and chief legal counsel of the Department of Revenue, Child Support Enforcement Division, Cambridge, Massachusetts.

We have each of your statements, and would ask if you would feel free to summarize.

Mr. Doss.

STATEMENT OF WAYNE D. DOSS, DIRECTOR, DISTRICT ATTORNEY'S BUREAU OF FAMILY SUPPORT OPERATIONS, LOS ANGELES, CALIFORNIA

Mr. DOSS. Thank you, Mr. Chairman, and Members of the Subcommittee. I appreciate the opportunity you have extended to us to appear here and talk about this very important problem.

The district attorney's office in Los Angeles County is responsible for operating a Child Support Enforcement Program that is larger than all but 42 or 43 States. We have 650,000 cases in Los Angeles County involving almost 2,000,000 participants if you count all children and parents in that number. We have developed in Los Angeles County a very complex web as we have in the entire State of California to approach the task that you have given us through the Child Support Enforcement Program, and the laws and regulations that implement that program.

That network of responsibility extends to agencies at the State level including our supervising agency, the Department of Social Services, the Franchise Tax Board, the Department of Motor Vehicles, any number of State licensing agencies, and more and more as time progresses.

At the local level, we also have a number of agencies that we work with on a regular basis, not only our welfare and children services departments, but our auditor, controller, our registrar recorder, to ensure that liens are established against real property.

We have entered into private sector partnerships as well to assist us in doing the work you have given us.

Clearly this work cannot be done, and not certainly in a county of my size, with a caseload that we have to deal with without the benefits of automation. Automation has given us some great challenges, and you have heard about some of the criticisms. I know one of the reasons you are having this hearing is because of the concerns you have about the progress of automation in the States. And I was specifically invited to tell you a little bit about the experience we have had in Los Angeles County.

I am very pleased to tell you my county was able to implement an automation system prior to the Federal deadline of October 1, 1995. Because I was given a 1115 waiver, the system we built in Los Angeles County is not a level two certification system, because we are not statewide—although some would say we are a State—but we will be certified with the rest of the State of California prior to the October 1997 deadline.

Even so, we are certified as functional in every area that the Federal Government requires, and in fact, we exceed these functional requirements.

The benefits of automation are palpable, tangible, and they are for everyone to see. I brought some charts. I have attached them to my testimony, but I have them here on display for you to look at as well, which show what automation can do. The charts I have given the time to put together and show you give a sense of the sequential benefits that we have been seeing from automation.

The biggest challenge we have faced over the years in child support in my view is the failure to adequately locate absent parents so that we could enforce orders, establish orders, do whatever it is you ask us to do under the child support program.

As a result of the automation system we brought up in the middle of the fiscal year, 1994–95, we have seen a dramatic increase in the number of locates to the degree that now we are over 700,000 a year in locates.

Now, granted, we are finding information from a lot of multiple sources on the same people, but we are also having to locate people several times during the same year, because even after we find them for purposes of serving them with a court order, we may have to find them again for purposes of attaching wages, or attaching a bank account.

So, that factor notwithstanding, we have had great success in locating the absent parent population.

As a consequence of being able to locate noncustodial absent parents, we are now able to serve them. In calendar year 1995, my office was responsible for filing 75,000 lawsuits in Los Angeles County to establish paternity and support. That is a huge number. That is over 80 percent of all the family law filings in Los Angeles County; it is over 60 percent of all the civil filings in Los Angeles County.

This calendar year, we are projecting we will file over 175,000 lawsuits in Los Angeles County. That will be virtually all of the family law filings in my county, and it will be over 95 percent of all the civil filings in my county. This would not be possible without automation.

As a consequence of this, we have been able to do some good things for the families in my county. The next charts demonstrate what we have been able to do in terms of establishing paternity and establishing support.

In the area of paternity, in 1 year, as a result of automation, we have doubled the numbers of children for whom we have established paternity, from 25,000 to almost 50,000. This is what automation is all about. This is what automation can do. This is what you are paying for, and you should be proud of it. You have nothing to be ashamed of, and you should be aware that changes like this are happening all across the country. And they are happening even before systems come online.

As Judge Ross said in his remarks, the process is not unlike that of getting a diploma. I liken my remarks to the space program. Before we put a man on the moon, we had achieved a lot of tangible benefits here on Earth, and the same thing is happening with child support automation.

Thank you, Mr. Chairman, I will be happy to answer any questions.

[The prepared statement and attachments follow:]

TESTIMONY OF WAYNE D. DOSS
DIRECTOR, BUREAU OF FAMILY SUPPORT OPERATIONS
LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

Before the Hearing of the

HOUSE WAYS AND MEANS COMMITTEE
HUMAN RESOURCES SUBCOMMITTEE

Held on

SEPTEMBER 19, 1996

Mr. Chairman and Members of the Committee:

My name is Wayne Doss. I am the Director of the Bureau of Family Support Operations of the Los Angeles County District Attorney's Office. On behalf of our District Attorney, Gil Garcetti, I thank you for providing our office with this opportunity to address you on the important issues which this Committee is undertaking to study.

The Bureau of Family Support Operations is responsible for carrying out day to day operational functions of the Title IV-D child support enforcement program in Los Angeles County. The scope of that responsibility extends to providing services in more than 650,000 cases involving almost 2 million custodial parents, non-custodial parents and children. This makes our program larger than those of all but seven or eight states.

The Expanding Child Support Enforcement Network

The geographic size, population density and demographic diversity of Los Angeles County make the delivery of child support services a complex--some would say daunting--task. These services are provided by more than 1200 district attorney staff located in seven offices throughout the county. Their efforts are integrated with those of welfare caseworkers in 25 Department of Public Social Services offices around the county and with caseworkers from our Department of Children's Services situated in 16 locations.

To secure, enforce and modify court orders for child and medical support, our staff of more than 90 attorneys make appearances in 33 Superior Court family law departments located in 14 courthouses around the county. Criminal prosecution of parents who fail to pay support involves daily appearances in as many as 10 divisions of the Municipal Court.

Public sector partnerships are essential to support the Bureau's work. Working under the supervision of the California Department of Social Services, the District Attorney has established, and in some cases piloted, valuable cooperative agreements with state level agencies such as the Franchise Tax Board, the California Parent Locator Service in the Department of Justice, the Department of Motor Vehicles, the Employment Development Department, the Department of Health and state professional licensing agencies.

At the local level, in addition to the welfare and children's' services departments and the courts, the District has entered into cooperative agreements with county agencies such as the Registrar-Recorder to ensure the filing of real property liens against delinquent obligors and the Department of Community and Senior Services to supervise counseling, job training and placement of unemployed parents participating in the Parents' Fair Share Project. Information sharing agreements currently exist with a number of local municipalities, such as the City of Los Angeles, municipally owned agencies, such as the Los Angeles Department of Water and Power and school districts to match employment data and retirement benefit information which is not otherwise reported to the state. Efforts to establish more such information sharing opportunities are now underway.

Not only public sector but also private sector partnerships are necessary to assist in carrying out our federally mandated functions. Services such as receipting, posting and accounting of payments, service of process, genetic testing to establish paternity and information exchange with credit reporting agencies are conducted under contract with the District Attorney's office.

My purpose in outlining the broad network of arrangements described above is to demonstrate that current operation of the child support enforcement program involves the efforts of many agencies beyond those vested with direct responsibility for carrying out the mandates of the program. As caseloads have proliferated and demands for services have escalated, the need to establish still larger and even more comprehensive networks of cooperation to enforce the financial responsibility of parents to support their children has become all the more apparent.

The New Challenges of Welfare Reform

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, passed by Congress and signed into law by the President last month, increases still further the need for state and local child support agencies to broaden the scope of their reach in providing services for families in need. Now, for example, hospitals, pre-natal clinics and vital records offices will be mandated to assist in securing voluntary acknowledgments of paternity for children born out of wedlock. Banks and other financial institutions will be required to provide greater access to information about their depositors. New requirements to create and enforce child support liens against personal as well as real property will mean interaction and cooperation with many more agencies than is the case today.

At the same time, the ramifications of the new federal law make it all the more critical that state and local child support agencies operate effective child support enforcement programs. Because of the time-limited nature of welfare benefits, it will be more important than ever that paternity be established sooner and support collected reliably whenever possible. The apparent desire of Congress to move toward a performance based incentive structure also means that states will have to become more effective in producing positive outcomes.

The complex nature of the services we provide, the size of the caseloads we manage and the amount of information we must maintain and process to carry out our obligations make automation a necessity. This is not news. Congress recognized the need for states to computerize their programs eight years ago, when it legislated the Family Support Act of 1988. While some states were able to meet the original certification deadline of October 1, 1995, implementation efforts continue to be carried out around the country. As part of the *Personal Responsibility and Work Opportunity Reconciliation Act*, Congress has extended the certification deadline for state systems two years beyond the original date to October 1, 1997.

The Positive Value of State Automation Efforts

In some quarters, questions have been raised about the wisdom of granting states an extension of the Family Support Act's original systems deadline. Even though the *Personal Responsibility and Work Opportunity Reconciliation Act* does not increase the existing cost ceilings approved for state systems, some critics charge that granting states

more time to complete the implementation and certification of their systems is tantamount to throwing good money after bad. They argue that states which have failed to secure federal certification of their systems are now being rewarded for failure to properly manage computer development in the first place. These critics allege that the child support automation process has largely been a waste of taxpayer dollars, another boondoggle which has left the federal government with a big bill and nothing to show for it. In some minds, the experience is an argument for scrapping the process, taking it out of the hands of the states and starting over with a new and wholly federalized system.

I strongly disagree. The progress taking place around the country toward effective automation of child support systems is measurable and significant. If that progress has been slower than some, including Congress, would have preferred, the experience of states which have successfully implemented statewide automation proves that it can, in fact, be done--and done well. No one need doubt that child support automation, for all its complications, is within the realm of the possible. Further, the record of the states which are now automated is proof that computerization can be achieved within the financial limitations set by federal regulators.

It is easy--and perhaps all too tempting--to charge that delays in achieving automation are the product of poor management. The truth is that strong management of automation efforts often demands that those in positions of responsibility take the time to do the job right. The original time frame for states to achieve certification of their automation efforts was conceived out of the correct perception that the child support program could not any longer be managed without a national effort to achieve computerization. Absent the deadline imposed by Congress, there is no question that states would not have made the progress we have seen to date.

The drafters of the Family Support Act undoubtedly thought of the October, 1995, deadline as a reasonable target at the time. But that deadline was not the result of a process of long term planning nor was it based on feasibility studies or surveys of states' capacity and readiness to automate on that schedule. Most assuredly, in setting the target Congress did not foresee the delay in promulgating regulations that followed the enactment of the Family Support Act, which greatly slowed the states' ability to properly plan for automation. Nor is it likely that Congress contemplated the difficulties in identifying sufficient vendor resources to support more than fifty separate automation efforts taking place at the same time and on the same deadline. State procurement processes and vendor protests acted as further brakes on some state developments.

As a family support administrator with an operational system, I am pleased that Los Angeles County was able to meet the 1995 deadline. Successful completion of our project prior to the deadline is a tribute to the commitment, hard work and cooperation of everyone on the County team, the Lockheed-Martin project team, the staff at the state Office of Child Support, the staff of federal Office of Child Support Enforcement and the staff of the Division of Child Support Information Systems. Still, I know that with a few more slips here or delays there, a far different result could just as easily have been the case.

In evaluating the benefits of the federal investment in child support automation thus far, observers would do well to contemplate the progress and positive changes that have taken place. Ten, soon to be 13, state systems have been certified as fully functional and statewide in application (so-called Level 2 certification). Bear in mind certification itself is,

to some degree, an artificial process. Many states have systems which are certified as functional under the Family Support Act but which have not yet achieved statewide application (so-called level 1 certification). Even systems which are not certified as fully functional under the Family Support Act can be operational and productive, supporting efforts of staff to meet many of the demands of the program. Taken altogether, there are currently forty systems which are operational to a greater or lesser degree.

The Los Angeles County Experience

Although only one-fifth of the states have received level 2 certification, I believe that the process which began with the automation requirements of the Family Support Act has been extremely beneficial in moving the states toward greater productivity and increased responsiveness to public need. In this regard, I know that our experience in Los Angeles County is emblematic of similar efforts which have taken place all around the country. Long before the first lines of software programming code were written, staff began a comprehensive evaluation of the way we did business. The point of this effort was to avoid a common pitfall in automation projects, that is, simply automating the status quo. Instead, we committed ourselves to rethinking each and every one of our procedures and work processes in the light of the benefits automation could bring.

The task we set for ourselves was to automate every function that did not require the individual attention or discretion of a staff member. If, for example, programming criteria could be developed to evaluate the need for and initiate action to locate a new address or employer for a non-custodial parent, then staff would be freed from this necessary but onerous and routine task to focus efforts on activities which might more closely and directly support the establishment of paternity or the enforcement of a support order. Along the way, every assumption which underlay our approach to our work–no matter how long-standing–was challenged and rethought. Existing organizational structures, policies and procedures were also rethought and, in many cases, redesigned, retooled or even scrapped.

As a consequence of this process, Los Angeles County's automation system exceeds the functional certification requirements of the Family Support Act and its implementing regulations. As part of their certification review, staff from the Division of Child Support Information Systems of the Administration for Children and Families identified several components of our design as "best practices," model features worthy of emulation.

As pleased as all of us in Los Angeles County are with the architecture and design of our system, we are far more pleased with the productivity which is now being realized as a result of automation. As attachments to this testimony I have included graphs which demonstrate in sequential terms the practical outcomes which have resulted from the implementation of our system:

- Graph 1 displays the explosion of successful locate activity which has occurred since the Los Angeles system came on line in February of 1995. Locating non-custodial parents, their employers and their assets is essential to successful operation of any child support program. Our system records each locate activity which occurs, maintains a file of all historical locate data and generates subsequent tasks which flow from a successful locate effort.

- Graph 2 describes one direct consequence flowing from the successful locate efforts described in Graph 1. In calendar year 1995, the District Attorney's office filed 75,309

lawsuits to establish paternity and child support on behalf of families in our caseload. As large a number as that is, we are projecting that the number of lawsuits filed in calendar year 1996 will approach 175,000--an increase of more than 130%. This is made possible not only by the increased effectiveness of our locate efforts but also because the system is designed to generate the necessary paperwork for the lawsuit as soon as all necessary data elements are in place.

- Graphs 3 and 4 depict Los Angeles County's increased success in establishing paternities and securing court orders for support over the last three years. These are ultimate outcomes which flow from our escalating success at locating non-custodial parents and filing the lawsuits to bring them before the courts. As dramatic as the increases--particularly the doubling of paternities established--already seem, our expectation is that the lawsuits filed this year will yield even more impressive results in years to come.

As I hope the successes described in the accompanying graphs make clear, automating the child support program is a task worthy of our time, effort and expense. If measured only in terms of the increases in staff productivity and outcomes achieved, the payback period is short. In fact, payback often begins to take place even before a system achieves "certified" status. This is because states are reengineering their business practices in anticipation of automation, in much the same way that I described the process we followed in Los Angeles. States are also expending considerable effort in preparation for automation by cleaning up their caseloads, identifying gaps in information and taking action to update their case records.

Many of these efforts result in increased positive outcomes well before automation systems are ready to go on-line. In one sense, the situation is not unlike the experience our nation had after the launch of the space program. Long before we landed on the moon, our nation benefited in diverse ways from the scientific effort which supported our attempts to explore space. Similarly, even in states where automation has not been fully realized, families are seeing benefits from the efforts undertaken in preparation for start-up.

There was a time, not all that long ago, when Los Angeles County's performance in the child support program was well below the average of the other counties in California. With all our efforts, the process of trying to manage hundreds of thousands of cases in a paper driven system under the complex mandates of Title IV-D yielded poor results at best. Because of our size, the impact of that poor performance had statewide, even national, implications.

I am pleased to tell you that such is no longer the case. Today, Los Angeles County is not a giant anchor dragging down California's overall performance. Instead, in key areas such as successful locates and paternity establishment, our performance can be likened more to a sail, leading the statewide average and acting as a positive force to pull statewide improvement forward. None of this would be possible without automation. And automation could not have been achieved without the commitment of resources by Congress in the child support enforcement program.

Future Measures of Success

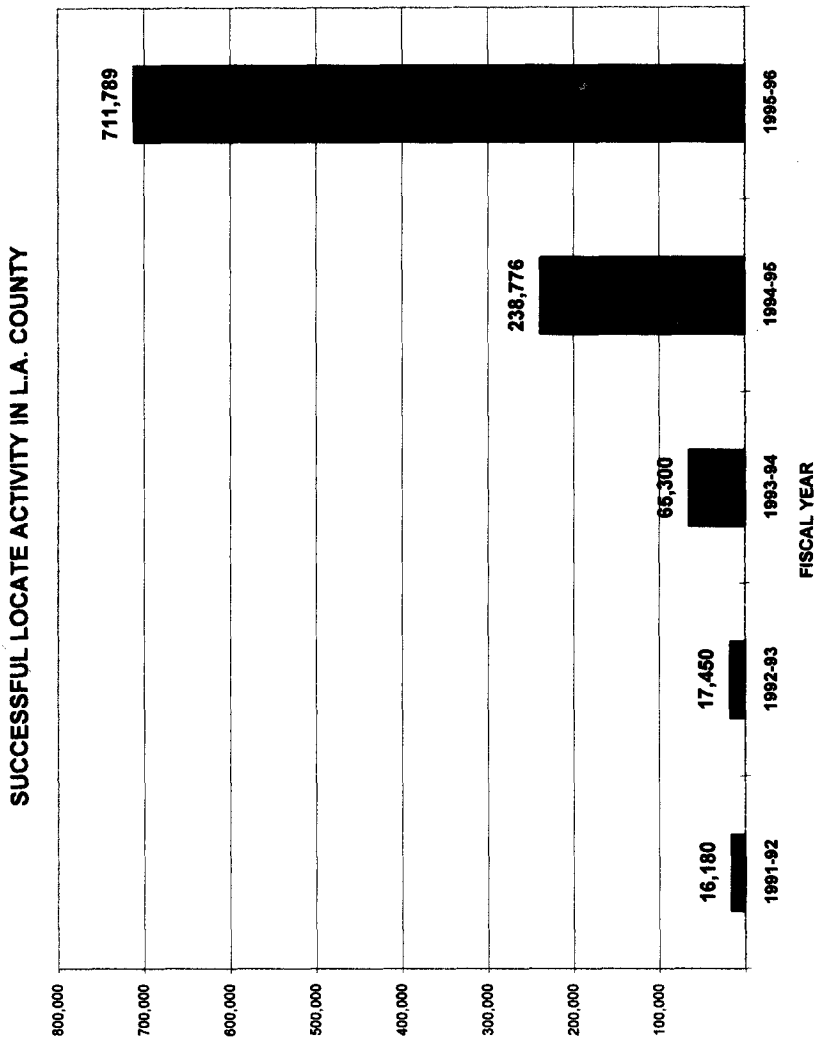
In enacting the *Personal Responsibility and Work Opportunity Reconciliation Act,* Congress has taken a historical step in the reform of our nation's welfare system. At the

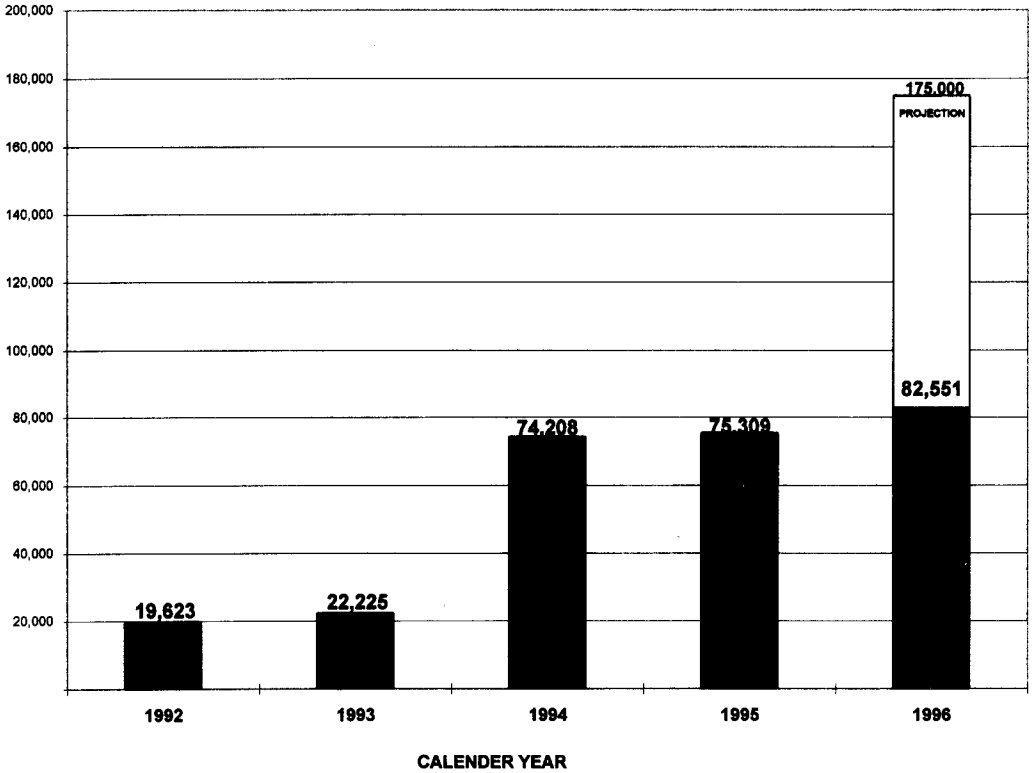
same time, Congress has elevated the importance of the child support enforcement program in securing better lives for our youngest citizens. It is essential that you continue to critically examine the progress we in the states are making toward the goal of ensuring that parents assume primary responsibility for the financial well being of their children.

As you continue to examine this program, and particularly as you contemplate the future funding structure that will govern the federal and state partnership in this effort, I ask that you keep the following in mind. As a nation, we do not hesitate to maintain a defense force that we hope never to use because we know that not every nation will act with peaceful intent toward us. As citizens, we understand the need to maintain and support law enforcement and justice systems to protect us from members of our society who do not abide by commonly accepted norms of behavior. In neither instance do we measure the return on our investment in dollar value; instead, we measure the return by the level of the security we enjoy.

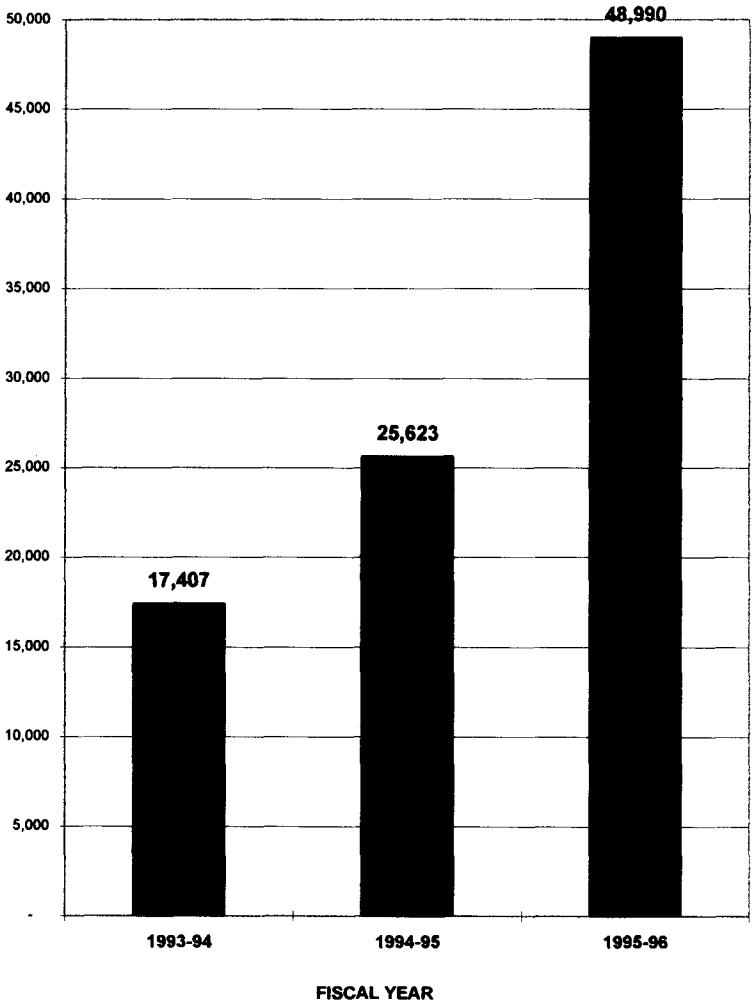
The basic obligation of parents to support their children is one which all of us here today recognize and accept. Nevertheless, we know that not all parents demonstrate the same acceptance of this proposition. It is important and necessary that we engage in efforts to ensure that parents honor their financial obligations to their children. While the result of our efforts to recapture taxpayer dollars is a useful measure of our success, it is not by any means the only measure. The child support enforcement program is important because it has ramifications for the protection of all families, not only those who have been made so vulnerable by abandonment that they must seek government assistance to survive. As more and more families move away from long term reliance on welfare, future measurements of our program, and the value of taxpayer investment in it, must include consideration of the benefits and protections offered to all those we serve. Whether the dollars spent are earmarked for automation, administration or other services provided through the program, the security enjoyed by all children, not only those who are aided, must be the ultimate assessment.

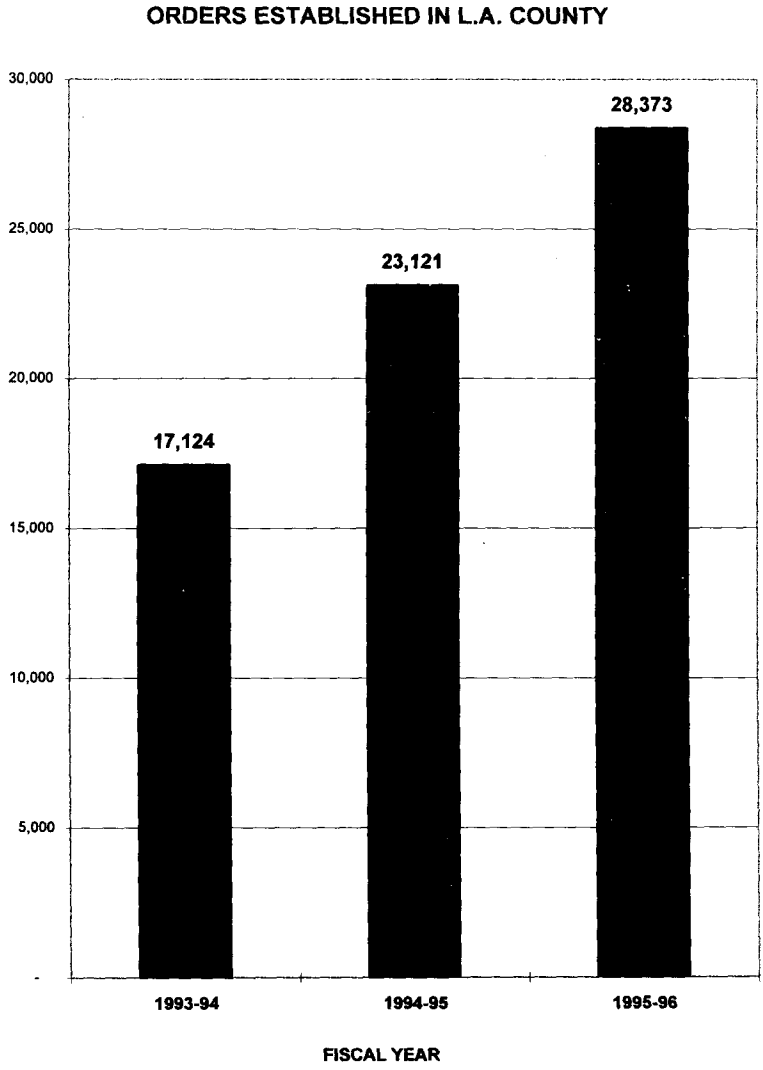
Thank you, again, Mr. Chairman and Members of the Committee, for inviting us to participate in this hearing. I shall be happy to answer any questions you may have.


SUCCESSFUL LOCATE ACTIVITY IN L.A. COUNTY
800,000
700,000
600,000
500,000
400,000
300,000
200,000
100,000
16,180
17,450
65,300
238,776
711,789
1991-92
1992-93
1993-94
1994-95
1995-96
FISCAL YEAR


LAWSUITS FILED TO ESTABLISH JUDGMENTS FOR PATERNITY AND CHILD SUPPORT
200,000
180,000
160,000
140,000
120,000
100,000
80,000
60,000
40,000
20,000
19,623
22,225
74,208
75,309
82,551
175,000
PROJECTION
1992
1993
1994
1995
1996
CALENDER YEAR

PATERNITIES ESTABLISHED IN L.A. COUNTY




ORDERS ESTABLISHED IN L.A. COUNTY
30,000
25,000
20,000
15,000
10,000
5,000
-
17,124
23,121
28,373
1993-94
1994-95
1995-96
FISCAL YEAR

Chairman SHAW. Thank you, and congratulations for the great success.

Mr. Weaver.

Mr. WEAVER. Thank you.

STATEMENT OF JAMES R. WEAVER, DIRECTOR, CHILD SUPPORT, UNISYS CORP., BLUE BELL, PENNSYLVANIA; AND HUMAN SERVICES INFORMATION TECHNOLOGY ADVISORY GROUP

Mr. WEAVER. Mr. Chairman, and distinguished Members of the Subcommittee, I thank you for this opportunity to present concerns around the areas of automated systems development in the Child Support Enforcement Program.

My name is Jim Weaver, and I am director for Child Support Services for the Unisys Corp., and I have held both public and private sector positions for the past 15 years, starting in Pennsylvania where I worked as a hearing officer, and then I held various management positions in both the State of Pennsylvania and the State of Virginia.

Unisys has been involved in the systems development area in child support, and we have activities currently in 10 States. Our involvement ranges from providing hardware and technology to being the full systems integrator.

Unisys is also an active member of the Human Services Information Technology Advisory Group. This informal group of public companies working with State and local governments in the human services area was formed more than 3 years ago. The group advises on modern management methods, improved delivery of human service programs through information technology, and provides industry perspective on information technology issues related to the delivery of the services to the Nation's human services agencies.

Many of these companies are engaged in providing services to State and local child support enforcement agencies. My testimony today reflects the position of this group.

Chairman Shaw, you asked that I specifically address the issue of child support enforcement automated data processing, and the benefits and critical need for information technology in child support enforcement as we move into the 21st century.

We believe that States have made substantial improvements in the child support program consistent with the testimony that has been provided so far. It is important to recognize the dynamic environment in which States operate. There have been significant program and policy changes resulting from Federal legislation that affect changes in scope and schedule of the automation initiatives. I would like to highlight some of these changes and the impacts on the States.

In 1980, as you are aware, Congress authorized enhanced Federal funding to encourage States to develop and install child support systems. Congress believed the State's information systems would provide better program management and expedite coordination among programs across jurisdictions.

Beginning in 1994, enhanced Federal funding was provided for hardware and costs to automate the income withholding programs.

The majority of the States began developing child support systems in the early and mideighties, and for the most part, the earlier Federal efforts to persuade States to adopt the national model were not successful.

In 1986 HHS had helped to fund over 300 separate State and local automated systems development projects. And in 1988, 39 States and territories had received enhanced funding. An additional 13 had claimed regular funding for system-related costs.

While all these positive initiatives were taking place, States were faced with additional requirements with the result of the Family Support Act of 1988. The Family Support Act required States to computerize child support programs and enact other major policy changes.

This legislation had a significant impact on State's child support system development efforts. States were forced to enhance or replace legacy applications with fully certified systems by October 1, 1995.

The administration has acknowledged the situation was further complicated by not issuing the Federal rules implementing the FSA requirements until October 1992, and the revised certification guide until June 1993. The constant legislative changes to the child support program have had an impact on State's efforts to automate their programs, we believe.

The Child Support Enforcement Program is one of the most complex programs in the health and human services area. Many States have and continue to be confronted with the difficult task of integrating pervasive legislative changes into their systems development life cycle.

In spite of these dynamics, many States have realized significant benefits from the automation efforts. To cite several examples, Washington State has reduced clerical staff by 400 positions while increasing the average collections for full-time employees from $162,000 to $371,000.

System development efforts have also allowed States to improve service in a number of other ways. System development efforts have provided an opportunity to purify and clean up existing data, to allow workers to focus on active cases, and not cases that needed to be purged from the system.

The State administrators have been able to reevaluate staff needs and roles as automation redirects their resource allocation.

States focusing on program outcomes have had to take a proactive approach in changing service delivery even before the recent welfare reform legislation was enacted. Forty-one States have some form of license revocation, 18 States have centralized collection units, and numerous States across the Nation have employed creative techniques with partners from the private sector to enhance delivery to their clients.

In 1995, Congress extended the certification deadline to October 1, 1997, and the recent welfare reform legislation has extended the funding through 1997 for those funds that have been approved in the APDs as of October 1, 1995. To date, 10 States have certified systems under FSA, an additional 3 States are pending certification.

My people I believe would agree that the welfare reform legislation will strengthen the child support program. This legislation will again significantly impact the States' abilities to computerize the necessary requirements. While provisions will specifically require additional child support systems or system modifications, others will result in less pervasive changes.

However, every child support enforcement provision depends upon State automation capacity, and requires major or minor changes to the State application.

First, the legislation requires States to add or enhance new databases for the child support program.

Second, the legislation requires States to add or enhance automated interfaces between the IV–D Program and in a variety of public and private agencies.

Third, legislation requires States to increase the IV–D case management capacities of their systems.

Fourth, the legislation requires States to improve their ability to collect, calculate, and report on performance measure.

And fifth, the legislation requires State automated systems to implement a range of new child support policies. And as indicated earlier, we believe this legislation to some extent assumes that States' systems are already up and statewide and fully operational, which we know is not the case.

We believe it is important to recognize the advancements and the successes in the child support program, and the direct results that have come through automation. It is also important to support the continued efforts of the States to completely install their systems without additional program revisions.

The Child Support Enforcement Program is and we believe will be successful only with the necessary support of automated systems.

The welfare reform measure is including State registries, and as they expand and locate, automated enforcement is an important step in the strengthening of the program, but will be an additional strain on existing State systems.

Automation of the Child Support Enforcement Program we believe is essential. This Subcommittee and Congress have supported the efforts and shall continue to do so to enable the child support program to continue to achieve the results it has demonstrated to date.

Thank you for the opportunity.

[The prepared statement follows:]

UNITED STATES HOUSE OF REPRESENTATIVES
WAYS AND MEANS SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON CHILD SUPPORT ENFORCEMENT AUTOMATION
SEPTEMBER 19, 1996

Statements of
James R. Weaver
Director, Child Support
UNISYS CORPORATION
and representing
HUMAN SERVICES INFORMATION TECHNOLOGY ADVISORY GROUP

Chairman Shaw and distinguished members of the Subcommittee, thank you for this opportunity to testify before you concerning automated systems development in the child support enforcement program. I am Jim Weaver, Director of Child Support for Unisys Corporation. I have held both private and public sector positions in the child support program for more than 15 years. I started my career in child support enforcement as a Hearing Officer in Pennsylvania and have held various management positions in Pennsylvania and Virginia.

Unisys has been involved in over 10 state child support system development projects across the Nation. Our involvement ranges from providing hardware and technology to being the full systems integrator.

Unisys is also an active member of the Human Services Information Technology Advisory Group (HSITAG)[1]. This informal group of private companies working with state and local governments in the human services area was formed more than three years ago. The group advises on modern management methods, improved delivery of human service programs through information technology, and to provide industry perspectives on information technology issues related to the delivery of these services to the nation's human services agencies. Many of these companies are engaged in providing services for state and local child support enforcement agencies. My testimony today reflects the positions of this group.

Chairman Shaw, you asked that I specifically address the issues of child support enforcement automated data processing, and the benefits and critical need for information technology in child support enforcement as we move into the 21 century.

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[1] The following companies are involved in the Human Services Information Technology Advisory Group (HSITAG): American Management Systems, Inc., Andersen Consulting, BDM Technologies, Deloitte & Touche, Digital Equipment Corp., Integrated Systems Solutions Corp., Lockheed Martin IMS, EDS, Maximus, National Comprehensive Services Corp., Network Six, Inc., SHL Systemhouse, Inc., Software AG, Sun Microsystems, and Unisys Corp.

We believe that states have made substantial improvements in child support enforcement since the program began and that many of these improvements are the result of automation initiatives. It is important to recognize the dynamic environment in which states operate. There have been significant program and policy changes resulting from Federal legislation that effect changes in scope and schedule of automation initiatives. I would like to highlight some of these changes and the impact on states.

In 1980, Congress authorized enhanced federal funding to encourage states to develop and install child support systems. Congress believed that state information systems would provide better program management and expedite coordination among programs and across jurisdictions.[2] Beginning in 1984, enhanced federal funding[3] was provided for computer hardware and the cost to automate income withholding programs.

The majority of states began developing child support systems in the early and mid - 1980s. For the most part, early federal efforts to persuade states to adopt a national model failed.[4]

By 1986, HHS had helped fund over 300 separate state and local automated child support systems. By 1988, 39 states and territories had received enhanced funding, and an additional 13 had claimed regular funding for systems-related costs.[5]

While all these positive actions were taking place, states were suddenly faces with additional requirements as a result of the 1988 Family Support Act (FSA). ,[6] The Family Support Act required states to computerize child support programs and enact other major policy changes[7]. This legislation had a significant impact on every state 's child support system development efforts. States were forced to enhance or replace legacy applications with a fully certified system by October 1, 1995. The Administration has acknowledged this situation was further complicated by not issuing Federal rules implementing the FSA requirements until October 1992, and the revised certification guide until June 1993.[8]

The constant legislative changes to the child support enforcement program have had an impact on states' efforts to automate their programs. The child support enforcement

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[2] Sen. R. 96-408, 1980 U.S. CODE CONG. & AD. NEWS, 1346.

[3] Authorized by the Child Support Enforcement Amendments of 1984, 98-378.

[4] *See* 46 Fed. Reg.47788 (Sept. 30, 1981); OCSE, *Child Support Enforcement: Seventh Annual report to Congress* (for the period ending September 30, 1982). OCSE advanced two prototypes of a comprehensive, transferable computer system called "Model I" and "Model II". Model I was for jurisdictions with smaller caseloads and Model II was for jurisdictions with larger caseloads.

[5] *OCSE, Child Support Enforcement: Thirteenth Annual Report to Congress (for period ending Sept. 30, 1988)*; GAO, *Child Support: State Progress in Developing Automated Enforcement Systems,* GAO/HRD-89-10FS (1989). According to OCSE data, only Guam and the Virgin Islands claimed zero systems funding in 1987 and 1988. *See* OCSE, *Child Support Enforcement: Sixteenth Annual Report to Congress (for period ending September 30, 1991),* Table 31.

[6] P.L. 100-485.

[7] These policies included mandatory child support guidelines, review and adjustment of orders, immediate income withholding, and genetic testing in paternity cases.

[8] OCSE, *Automated Systems for Child Support Enforcement: a Guide for States* (rev. June 1993).

program is one of the most complex programs in the health and human services area. Many states have, and continue to be confronted, with the difficult task of integrating pervasive legislative changes into their system development lifecycles.

In spite of these dynamics, many states (and the families and children they serve) have realized significant benefits from automation efforts. To cite several examples, Washington State has reduced clerical staff by 400 positions, while increasing the average annual collection per full time employee from $162,000 to $371,000, due to their automation efforts over the past eight years. Likewise, the state of Georgia has gone from generating child support payments on a weekly basis to generating checks daily.

System development efforts have also allowed states to improve service in a number of other ways. For example, data purification and clean-up activity have allowed workers to focus on active cases and not cases which need to be purged from the system. State administrators have been able to re-evaluate staff needs and roles as automation redirects resource allocations. Likewise, administrators have engaged in critical reviews of case handling activities, as a function of process re-engineering. These activities are all by-products of system automation.

States focusing on program outcomes have taken a proactive approach in changing service delivery even before the recent welfare reform was signed into law. Forty-one states have some form of license revocation. Eighteen states have centralized collection units. Numerous states across the nation have employed creative techniques with partners from the private sector to enhance service delivery to clients. .

In September 1995, Congress extended the certification deadline to October 1, 1997. The recent welfare reform legislation provided a funding extension through October 1997. To qualify, a state had to have an approved APD for funding effective October 1, 1995. To date, ten states have certified systems under FSA[9] and an additional three states are pending certification[10].

Most people would agree welfare reform legislation will strengthen the child support enforcement program. This legislation will again significantly impact state computerization efforts in several ways. Some provisions will specifically require additional child support systems or system enhancements. Others will result in less pervasive change. However, nearly every child support provision depends upon state automation capacity and will require major or minor changes to state computer applications.

First, the legislation requires states to add or enhance new data bases to the child support program, including:

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[9] Montana, Delaware, Georgia, Virginia, Washington, West Virginia, Arizona, Wyoming, Utah, and Connecticut.

[10] New Hampshire, Mississippi, and Louisiana.

- a central case registry of IV-D cases and support orders established or modified in the state after October 1, 1998,
- a new-hire directory,
- a centralized unit to collect and disburse child support payments, and
- a registry of paternity orders and acknowledgments.

Second, the legislation requires states to add or enhance automated interfaces between the IV-D program and a variety of public and private entities. These interfaces are intended to improve the IV-D program's ability to locate non-custodial parents, to initiate enforcement actions, and to coordinate with state public assistance programs.

Third, the legislation requires states to increase their IV-D case management capacity, by imposing new data collection, data security, case monitoring, and case processing requirements.

Fourth, the legislation requires states to improve their ability to collect, calculate, and report performance measure.

Fifth, the legislation requires state automated systems to implement a range of new child support policies, including:
- revised distribution rules,
- new paternity and cooperation policies,
- new non-custodial parent provisions, and
- expanded medical support requirements.

Again, this legislation assumes a state will be able to build on its current automated system, many of which are not yet in place. While states with certified or nearly certified operational systems may be able to absorb new system changes, other states may run the risk of falling farther behind as they attempt to develop old and new systems concurrently.

It is important to recognize the advancements and successes in the child support program that are the direct result of automation. It is also important to support the continued efforts of the states to completely install their systems without additional program revisions. The child support enforcement program is, and will be, successful but only with the necessary support of automated systems.

Welfare reform measures, including state registries, expanded locate interfaces, and automated enforcement, are important steps in strengthening the child support program but will put additional strain on existing state systems. Automation of the child support program is essential. This subcommittee and Congress has supported these efforts and should continue to do so to enable the child support program to continue to achieve the significant results it has demonstrated to date.

Thank you again for this opportunity.

Chairman SHAW. Thank you, Mr. Weaver. There is a vote on the floor. The Members will recess at this point to go over and vote. We will be back in approximately 15 minutes, and we will lead off with Ms. Frye.

[Recess.]

Chairman SHAW. We will wait just another moment to give the Members just another minute to return. There should not be any further interruptions to the hearing. On the floor they are taking up the partial birth abortion issue, and that is going to take a couple of hours, so I do not think we will be interrupted again.

Ms. Frye.

STATEMENT OF LESLIE L. FRYE, CHIEF, OFFICE OF CHILD SUPPORT, DEPARTMENT OF SOCIAL SERVICES, SACRAMENTO, CALIFORNIA

Ms. FRYE. Thank you, Mr. Chairman.

As Judge Ross stated this morning, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires the Secretary of the Department of Health and Human Services to work with States to develop recommendations to Congress for changes to the child support incentive system by March 1, 1997.

It is especially important to redesign the current system as we implement a new commitment to moving families to self-sufficiency.

The current Federal system of paying incentives to States is wrong. It is wrong because the better a State does to meet the key program outcomes, the worse the State will be financially.

California has been engaged over the last several years in changing the basis for incentive payments to our 58 counties which operate the programs locally. We have departed from the Federal system which rewards only collections and cost effectiveness in favor of a performance-based system. Given that 14 of our counties are larger than at least one other State, that Los Angeles County would be the fourth largest State if it were to secede from California, and that our county government in California is very strong and comprehensive, I believe we have some good advice and insight to offer Congress and the Secretary in considering how to approach this task.

The California experience with performance-based incentives shows that significant progress can be achieved through a focus on outcomes, agreement on criteria, and a commitment by all of the partners to program improvement.

In California, we did away with the differentiation that the Federal system now has between public assistance and nonpublic assistance collections in determining incentive payments. We did this because we recognize that many of our so-called nonpublic assistance families were just one child support check away from having to return to the welfare department. More than 50 percent of the families we call "nonassistance" or "nonpublic assistance" are actually continuing service families who entered our system through an application for cash benefits.

Clearly, it is in all of our best interests to maintain vigilance with regard to child support for these families. The current funding

system considers only two factors in determining a State's incentive level; collections and cost effectiveness.

In other words, the State that collects the most money at the least cost wins. States which invest in educating their teens and their public about responsible parenthood, States with innovative programs to obtain private medical insurance for children, States that have effective paternity establishment programs, and States that invest in user friendly order establishment processings, will not necessarily fare as well as States which focus solely on bigger and better enforcement tools to get more money at lower cost from the available pool of obligors.

In California, we found that focusing on a few widely acknowledged program outcomes has led to significant improvements in a relatively short period of time. I refer you to the charts at the back of the testimony called California's Performance-Based Incentive System Results. And I will show you these.

This tracks our paternity establishment progress for a 10-year period. In the middle of the chart we began our performance-based incentive system, and I think you will see that performance improved markedly once we started focusing on those outcomes.

The next chart is Orders Established, and similarly, we had progress before, but once we began this performance-based system, things really picked up.

And the last chart is Collections. Again, we had been making improvement, but the graph shows a marked improvement, especially in the last year or so.

We think we can reach some kind of a consensus with the States and with the Federal Government to develop a performance-based system. Our system is based on several underlying principles which I think are important to keep in mind.

First, we must agree that everybody, States, the Federal Government, and families wins when child support performance improves. Securing regular child support for families does more than just save title IV–A dollars. Regular monthly payments mean that families can actually seek employment and move out of dependency.

We need to quantify the actual effects of child support as we recognize that more and more, the recruitment of welfare dollars is no longer going to be the sole way that we measure our success in this program. We must agree that the purpose of the new system is to secure improvements, not to cut child support budgets.

The new incentive system must be responsive to actual improvements in performance unlike the old AFDC quality control system that was hung up for years in appeals and disagreements about the measurement system.

At the same time, we should not disrupt State budgets and allow sufficient time for States to retool their programs to focus on these new performance expectations. We need to evaluate a simple set of widely agreed upon performance measures and move to that system over time.

The new incentive system must focus on outcomes which can be readily agreed upon, and States must be able to win either by beating some national standard, or beating their own past performance, which is the method that Congress has used with regard to the paternity establishment percentage.

I do not have a magic formula. As Judge Ross indicated, a lot of work, ground work, has already begun, and we look forward to working with his office in developing these recommendations for Congress. This will not be an easy task, but by working together toward a common goal, and with common sense, we can develop a funding structure that does not reward the wrong behavior in trying to move families to self-sufficiency.

Thank you.

[The prepared statement and attachments follow:]

TESTIMONY OF LESLIE L. FRYE
HOUSE WAYS AND MEANS COMMITTEE
SUBCOMMITTEE ON HUMAN RESOURCES
SEPTEMBER 19, 1996

Thank you for the opportunity to address the Subcommittee on Human Resources today, on the subject of the incentive system for the Child Support Enforcement Program. My name is Leslie Frye, and I am Chief of the California Office of Child Support, which oversees the administration of the Title IV-D Child Support Enforcement Program throughout the state.

The Child Support Enforcement Program collected over $10.8 billion in Federal Fiscal Year 1995 at a cost of $3 billion nationwide, recovering $2.7 billion in public assistance expenditures (FY 1995 Preliminary Data Report, May 1996, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement). Federally funded incentives are paid to states based on their collections and their cost effectiveness ratios. These incentives are used in many states to provide matching dollars which fund the services of the program. In California, the combination of federal financial participation and incentives provides a total federal funding level of about 83 percent of program costs.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193, H.R. 3734) requires the Secretary of the Department of Health and Human Services to work with state child support administrators and others to develop recommendations to Congress for changes to the incentive system by March 1, 1997.

It is especially important to redesign the current system as we implement a new commitment to moving families to self-sufficiency. The current incentive system values collections for persons actually receiving public assistance benefits under IV-A of the Social Security Act more than collections for persons who have made the move to independence. In other words, states that have done a good job helping families off the public assistance rolls are actually jeopardizing their funding, compared to states that keep people on the dole. This makes no sense, yet, heretofore Congress has capped incentives for non-public assistance collections at 115 percent of the amount paid for collections on behalf of public assistance recipients. To the extent that states become more able to move families into self-sufficiency under the terms of the Personal Responsibility and Work Opportunity Reconciliation Act, this illogical effect will increase, unless the incentive system is revised.

This is particularly true considering the changes Congress made with regard to the ownership and priority of payment of child support arrearages. States have "owned" arrearages that accrue prior to a welfare episode; after the year 2000, these will belong to families. States now have the option of "paying themselves back" for welfare costs before paying families for post-welfare arrearages which accrue after the family leaves public assistance; under the Personal Responsibility and Work Opportunity Reconciliation Act, families will receive their arrearages before government is reimbursed for welfare costs. While these changes mean that families may be helped to sustain self-sufficiency, which we all support, the traditional method of evaluating success in the Child Support Enforcement Program--looking at the recovery of welfare funds--will become less and less meaningful, to the extent that we are successful in helping families avoid dependency.

The current federal system of paying incentives to states is wrong. It is wrong because the better a state does to meet the key program outcomes, the worse off the state will be financially. In fact, the incentive system is topsy-turvy. A state that behaves rationally earning the greatest incentive under the current system will likely be dismally out of compliance with program standards and therefore subject to audit sanctions.

In order to counteract the logic of the current incentive system, the Office of Child Support Enforcement (OCSE) must employ an army of auditors to conduct time- and resource-intensive case reviews every three years to make sure that states are not behaving rationally under the current scheme.

California has been engaged over the last several years in changing the basis for incentive payments to our 58 counties which operate the program locally, under the elected district attorneys in each county. We have departed from a system which rewards only collections and cost effectiveness, in favor of a performance-based system. Given that 14 of our counties have caseloads larger than at least one state, that Los Angeles County would be the fourth largest state if it were to secede from California, and that county government in California is strong and comprehensive, I believe that we have some good advice and insight to offer Congress and the Secretary in considering how to approach this task. Further, the California experience with performance-based incentives shows that significant progress can be achieved through a focus on outcomes, an agreement on criteria and a commitment by all of the partners to program improvement.

In California we did away with the differentiation between public assistance collections, in the determination of incentive payments to counties, more than five years ago. We did this because we recognized that many of our so-called "non-public assistance" collections, in the determination of incentive payments to counties, more than five years ago. We did this because we recognized that many of our so-called "non-public assistance" families were just one child support check away from having to return to the welfare department. We estimate that about 50 percent of the families we serve as "non-welfare" are actually "continuing services" families who entered our system through an application for cash benefits. In low grant states the continuing services population is even higher, up to 75 percent in Texas. Clearly it is in all of our best interests to maintain vigilance with regard to child support to ensure that families remain self-sufficient.

California made the investment in these incentives for non-welfare families, and the counties' funding is not capped the way states' funding is capped by the federal incentive system. The result has been that performance increased across the board, for both public assistance and non-public assistance families. But states currently earn no additional incentives for keeping families off cash aid and perversely can increase their incentives by keeping families on the welfare rolls.

Another anomaly in the current system is that the activity which establishes paternity and orders for support, the activity to reduce Medicaid expenditures by securing private medical insurance for children, and the activity to encourage responsible parenthood and prevent unwanted pregnancies that all child support programs engage in, are not supported by the incentive system. The current system considers only two factors in determining a state's funding level: collections and cost effectiveness. In other words, the state that collects the most money at the least cost wins. States which invest in educating their teens and their public about responsible parenthood, states with innovative programs to obtain private medical insurance for children, states that have effective paternity establishment programs, and states which invest in user-friendly order establishment processes will not necessarily fare as well as states which focus solely on bigger and better enforcement tools to get more money at lower cost from the available pool of obligors. While strengthening enforcement capabilities, which California and many states have done in advance of the Personal Responsibility and Work Opportunity Reconciliation Act, is very important, and we applaud the features of the Act, it will take a broader approach to recognizing and rewarding performance to achieve significant improvements in the long run.

In California we have found that focusing on a few widely acknowledged program outcomes has led to significant improvement in a relatively short period of time. I refer you to the charts titled **California's Performance-Based Incentive System**, which track our improvements in paternities and support orders established, and in collections from 1985 through 1996. The line in the center of the chart marks the beginning of our new incentive

system. As these charts show, once we began paying counties for performance, performance improved markedly. There was growth in the key indicators of program performance--the number of paternities established and collections--during the years before we implemented this system. But please notice that the pace of improvement increased considerably when we began to reward counties for outcomes.

Underlying California's performance-based incentive system are several principles which I would encourage Congress and the Secretary to consider when embarking on the design of a new incentive system. Without agreement on these concepts it is unlikely that states and the federal government will be able to reach consensus on any new approach. First, we must agree that everybody--states, the federal government and families--wins when child support performance improves. Securing regular child support for families does more than just save Title IV-A dollars. Regular monthly payments, along with private medical insurance where available, bring stability to families, shoring up the custodial parent's ability to gain and hold employment. It lets children know that two adults are looking out for their well-being. It relieves the pressure on any number of public and private assistance funding pools.

Much work needs to be done to quantify the cost avoidance contributions of the Child Support Enforcement Program. The paradigm has shifted with the Personal Responsibility and Work Opportunity Reconciliation Act. We must recognize that we, the federal and state governments, are partners in the success of families, helping them avoid or shorten welfare dependency by putting child support collections in their hands, not in our treasuries.

We must agree that the purpose of the new system is to secure improvements, not to cut budgets in the child support program. The more successful we are in enabling families to move off welfare rolls, the more each dollar of public assistance may cost to recover. Single parent families with minimal resources with which to establish independence from the welfare system will likely have non-custodial parents in similar circumstances. These parents, fathers mostly, may need additional investment if they are going to shoulder their responsibilities to provide for their children. It is important that we look beyond the recovery of expended welfare dollars as the single measure of program success.

The new incentive system must be responsive to actual improvements (or declines) in performance, unlike the former AFDC quality control system which looked at years-old data and was mired in endless appeal processes. At the same time, the new system should not be disruptive to state budgets, allowing sufficient time for states to re-tool their programs to focus on performance expectations. These principles argue for a simple evaluation of a few key program outcomes and a phased-in approach. In California, we gradually increased the impact of the new system on counties over a five-year period, and provided a great deal of assistance with corrective action and re-engineered business practices, with the result that performance in every county improved over time.

The performance indicators on which incentives are based should be measurable and consistent. Data consistency and integrity are major barriers to nationwide performance evaluation, and likely to remain controversial. Additionally, states currently are at varying levels of performance. In order to address these issues, the new incentive system must focus at least initially on performance outcomes which can be readily agreed-upon and measured, and states must be able to "win" either by beating some national standard or by besting their own past performance. Congress has already taken this approach with the Paternity Establishment Percentage which requires that states meet a standard or improve by a specified amount each year to avoid sanction.

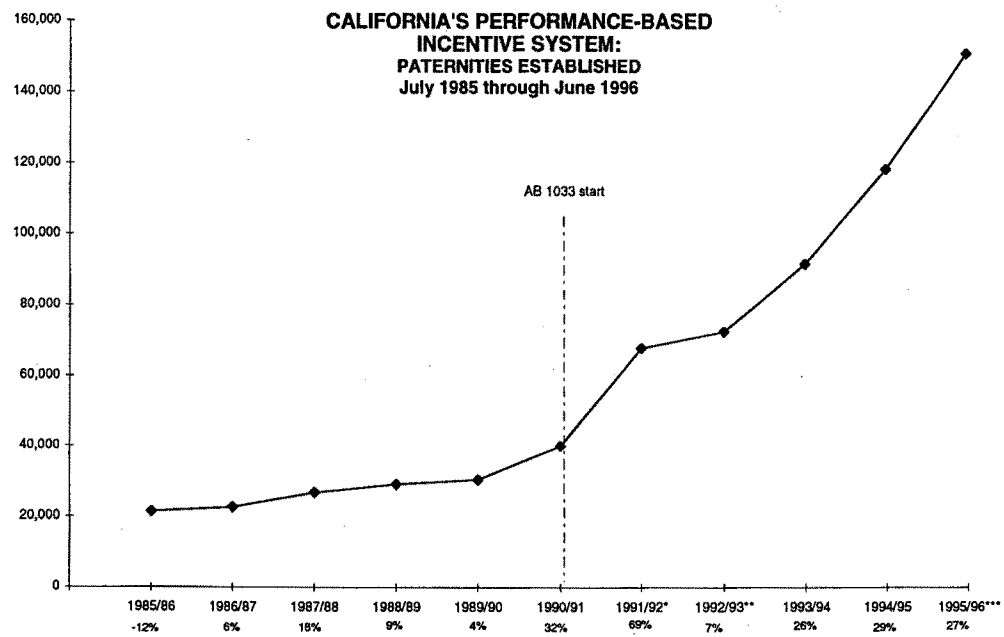
I do not come before you today with a magic formula to recommend. There already has been a great deal of discussion within the child support community and with OCSE about performance measures and outcome-based incentive systems. This work can serve as a starting place for us to develop a new incentive system that supports program goals. We will need the assistance of the Secretary to develop a cost-avoidance analysis to address the real effects of the Child Support Enforcement Program in the new environment where the recovery of public

assistance funds is no longer the sole measure of a successful program. Congress provided resources for technical assistance to the Office of Child Support Enforcement in the Personal Responsibility and Work Opportunity Reconciliation Act, and I believe this analysis is an important first task to be tackled. We will need to agree on consistent and measurable performance criteria and an approach to implementation that does not devastate states that are in the midst of program improvements. We will need to gain consensus among the states and the many partners involved in the child support community that the new system provides incentives for the right program outcomes.

This will not be an easy task. But I believe that working together toward a common goal, and with common sense, we can develop a funding structure that pays for results, that is not perverse in its incentives, and that makes an investment in the self-sufficiency of the nation's families.

California Department of Social Services
Office of Child Support

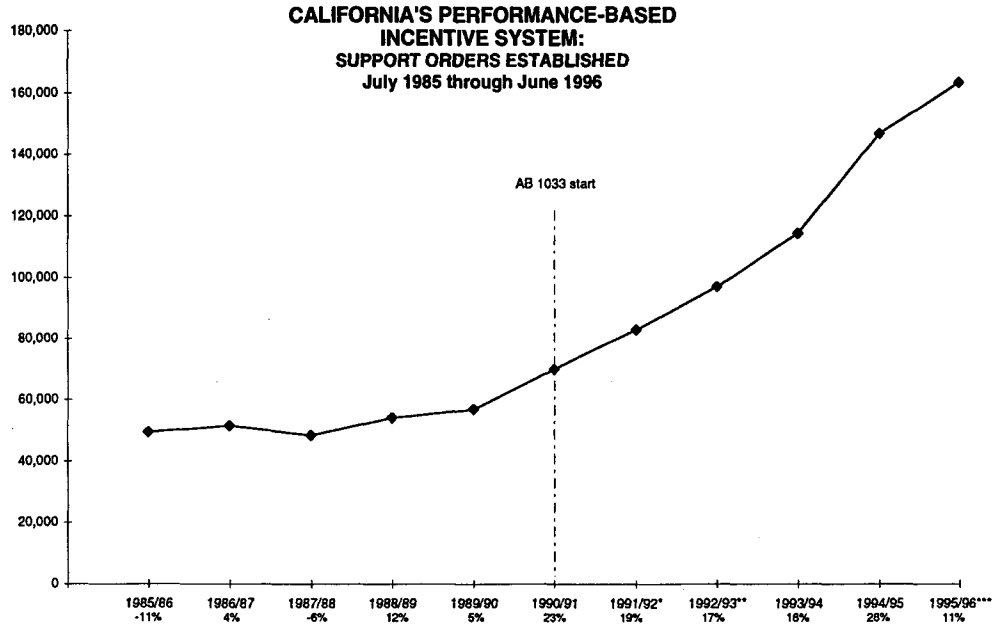
Source: CS 850
July 1985 - June 1996



* 4 counties did not report
** 1 county did not report
***1995-96 amount is preliminary

California Department of Social Services
Office of Child Support

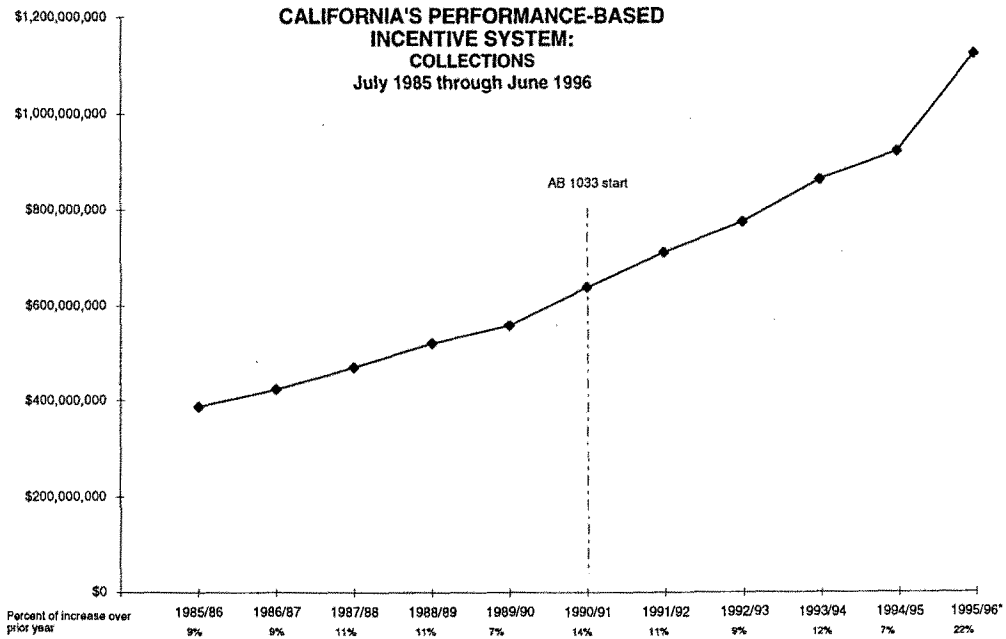
Source: CS 850
July 1985 - June 1996



* 4 counties did not report
** 1 county did not report
***1995-96 amount is preliminary

California Department of Social Services
Office of Child Support

Source: CS 820
July 1985 - June 1996



*1995-96 amount is preliminary

Chairman SHAW. Mr. Melia.

STATEMENT OF ROBERT M. MELIA, VICE PRESIDENT, POLICY STUDIES INC., BOSTON, MASSACHUSETTS

Mr. MELIA. Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to testify. I am vice president of Policy Studies, Inc. Policy Studies is the Nation's largest private provider of child support enforcement services. We manage cases under contract to half a dozen States.

In fact, we manage more cases and collect more child support than 18 of the 50 States. And I am here today to focus on some of the bad news in child support; that the current method of funding the program will impede and perhaps undermine the central goal of welfare reform—to help families move from welfare to work.

It will do that in three ways. Number one, it will distract States from maximizing child support collections.

Number two, it will discourage, and in some instances penalize, States from helping mothers leave the welfare rolls.

Number three, it contains no incentive to States to enforce medical support orders. And as we all know, access to health care, or lack of it, is one of the key barriers to families getting off and staying off public assistance.

Over the last 15 years, Congress has been instrumental in encouraging States to use more efficient methods of collecting child support. Yet despite those new tools, and despite all the money poured into automation, there has been no overall increase in the productivity of the program.

Fifteen years ago, for every $1 we spent on child support, we collected $3.80. Today, we still collect $3.80 for every $1 spent. One of the main reasons for that is that while Congress has given with one hand, that is, encouraged and helped to finance more effective ways of collecting child support, it has taken away with the other hand. What I mean by that is that Congress has promulgated, or caused to be promulgated, scores and scores of rules and regulations that have absolutely nothing to do with actually helping to collect child support. What that does is it requires States to take time that they ought to spend tracking down delinquents, and instead, spend it tracking down data elements to prove that they are complying with all the necessary rules and regulations.

When it comes to productivity and efficiency in this program, it seems that every time we take two steps forward, we take two steps backward. The root cause of this, I believe, is the open-ended reimbursement system whereby Congress essentially says, "Our wallet is open, spend what you will, send us the bill, and we will give you two-thirds of what you spent." And that causes a reaction on the back end to build an excruciatingly elaborate system of rules, reports, and audits, to make sure that States are in fact doing what Congress would like them to do.

I think it will be a lot simpler for Congress to pay States in the first place to do what you want them to do. As far as I can tell, that is two things; collect more child support, and establish more paternity.

When my company bids on child support programs, that is in fact how States treat us. They do not pay us for complying with process

oriented rules and regulations. We have to comply with all of them, but we only get paid by collecting more child support, or establishing more paternities. That is probably one big reason why we collect 42 percent more per case than the average of the five States where we operate. I think if Congress extended this performance type funding system to all States, you would see similar, very significant improvements in performance.

Second is what happens when a State does do a good job in collecting child support and the mother starts to realize, "OK, I am getting my $250 or $300, or $350 in child support every month like clockwork, now I can afford to take that job at $6 an hour and make ends meet. I am going to leave the welfare rolls."

The existing funding system does two things to States, both of them bad.

First, it says, "OK, you have helped the mother leave the welfare rolls; as a result you will get less Federal money." That is number one.

Number two, it causes your staff and OCSE's staff to produce reports that say that every time a State helps the mother leave the welfare rolls, the Federal Government loses more and more money on this program, because there is no effort made yet, and there is no existing methodology that recognizes the fact that when families leave the welfare rolls, both the State and Federal Government save money.

As far as health insurance, the existing funding system does not provide any incentives, does not make any payments to States for enforcing health insurance orders. In fact, under some State guidelines, States can actually lose Federal money by doing a good job in enforcing health insurance orders.

There is potentially big money here. Preliminary data indicates that in Massachusetts, the efforts of a child support program cut Medicaid spending by at least $25 million, and the State does not treat it as a priority, partly because the incentive system does not treat it as a priority.

If Congress wants to maximize the chance of making welfare reform work, we have to recognize the fact that many of these families are going to need all the help that they can get from the child support program, and they cannot do that under the existing cost reimbursement system. We need to move—I think we need to move fairly quickly, to a performance-based reimbursement system.

I would be glad during the question and answer period to take more detailed questions on this.

Mr. Chairman, thank you for the opportunity to testify.

[The prepared statement follows:]

TESTIMONY OF ROBERT M. MELIA
VICE PRESIDENT
POLICY STUDIES INC

BEFORE

SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON WAYS AND MEANS
UNITED STATES HOUSE OF REPRESENTATIVES

THURSDAY, SEPTEMBER 19, 1996

Mr. Chairman, distinguished members of the committee, thank you for the opportunity to testify. My name is Robert Melia and I am Vice President of Policy Studies Inc (PSI). PSI is the private sector's largest and most experienced operator of full service child support offices, with 16 offices in six states. We also manage another four specialized services offices in Iowa, where 40 PSI staff provide establishment-only services, covering approximately one-half of the state's unobligated caseload. If PSI were a state, we would rank above 18 other states in both the size of our caseload and the dollar amount of support collections.

Before joining PSI, I was the First Deputy Commissioner of the Massachusetts Department of Revenue, where I directed the child support enforcement program from 1991 to 1995. As committee members may recall, many of the key child support requirements incorporated into the 1996 Personal Responsibility and Work Opportunity Reconciliation Act — liens arising by operation of law, automated review and adjustment, quarterly bank matches, centralized payment processing with automatic enforcement capabilities, new hire reporting — were based on innovations that were either pioneered in Massachusetts or first put into widespread use there.

In this testimony I discuss the merits of changing the way the federal government funds child support enforcement, moving from a cost-reimbursement system to a performance based system. I also examine the need for a performance based system to recognize and reward two key aspects of child support enforcement, medical support and cost-avoidance. Finally, I discuss how a performance based funding system might make child support assurance affordable, and how child support assurance would help further the goals of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act — paternity establishment, work and time-limited welfare.

THE CURRENT FUNDING SYSTEM: AN "A" FOR EFFORT

For nearly twenty years, federal funding has played a dominant role in the development of the child support enforcement program. Federal dollars have underwritten an enormous increase

in staff — now numbering more than 45,000 — and have financed the development of expensive computer systems. Over the last decade, federal spending on the program has grown at an average annual rate of 13 percent, and by federal fiscal year 1994 broke the $2 billion barrier. Moreover, in recent years Congress has been receiving alarming reports that the federal government is losing money on the program. That is to say, the federal government's share of administrative costs exceeds the amount of child support that the federal government receives to help offset AFDC costs.

Not surprisingly, Congress is now asking what it gets for its money and whether the existing financing system can be improved upon. These questions take on new urgency when we realize that there has been no increase in productivity over the last 15 years. In 1979, every dollar spent on child support enforcement yielded only $3.70 in collections. Since then, Congress has done a great deal to strengthen the effectiveness of enforcement efforts and improve productivity. Thanks to federal reform efforts, the following tools are now used in every state:

- child support guidelines, designed to increase the amount, fairness and uniformity of support orders;
- wage withholding, intended to make collection fast and simple;
- tax refund intercept, developed to be a highly cost-effective way to collect past-due child support;
- unemployment compensation intercept, intended to be a reliable way to ensure the continued flow of child support when obligors are between jobs;
- liens, designed to efficiently collect arrears; and
- the Federal Parent Locator Service, intended to be an effective way to locate obligors who move out of state.

In addition, states have developed many innovations to increase collections and productivity, including:

- voluntary, in-hospital paternity establishment to avoid the expensive, time-consuming process of proving paternity in court;
- genetic testing, to quickly and easily resolve contested paternity cases;
- new hire reporting, to get near real-time information on where obligors work; and
- license revocation, to provide a faster and more effective way of collecting arrears than the traditional contempt route.

There is no denying that these innovations work. Child support professionals can hardly imagine working without them, and studies have demonstrated that they are indeed more cost-effective than the methods they replaced. Yet their very effectiveness produces a paradox. With all of these innovations in widespread use, the program collected just $3.86 for every dollar spent in 1994. That means that there has been virtually no productivity improvement in the program over the past fifteen years. How can this be?

Part of the answer is that by doing a better job establishing paternity, states are working harder, more labor intensive cases. But more paternity cases have been balanced by a large increase in the number of middle class, easy to enforce, never-AFDC cases. So a change in the caseload mix cannot account for all or even most of the lack of productivity increase. The answer is that while the federal government has given with one hand, it has taken away with the other. Congress has in fact mandated that all states adopt the more effective techniques discussed above, and has provided generous funding to allow states to do so. However, federal generosity has come with a host of regulations that have nothing to do with collecting more child support. To comply with those regulations, states must divert time and effort away from collecting child support. All the productivity improvements discussed above, then, are offset by the busy-work of complying with regulations that measure not results, but process.
The root cause of these non-productive regulations is the existing funding structure. For every dollar states spend, the federal government reimburses states 66 cents, without regard to whether that money was spent wisely or simply squandered. Because this type of funding structure contains no incentive for efficiency or economy, Congress has tried to create artificial performance measures and has closely monitored those measures.

The federal Office of Child Support Enforcement (OCSE), attempting to implement the will of Congress, has written reams of regulations covering the most mundane processes. There are regulations governing when cases must be opened. There are regulations governing when cases can be closed. There are regulations governing how many letters and notices must be mailed, what those notices must say, when they must be sent, and which can be sent first class mail and which must be by registered mail. Each year more regulations are issued, roughly counter-balancing any productivity gains.

These regulations also help explain why virtually every state has missed the original deadline (October 1995) for developing new computer systems, and why those systems are running far over budget. A major purpose of the new computer systems is to make it easier for OCSE to audit states and determine whether they are complying with all of the process- oriented regulations. This means that states must gather and track many hundreds of data elements. Gathering and tracking these data elements requires scores — even hundreds — of different computer screens. Managing the interaction between all this data and all these screens requires enormously complicated programs that have proved to be far more difficult, time-consuming and expensive to write than anyone ever imagined. When these systems are finally developed, the total cost will approach $2 billion. A large chunk of this cost will have been spent complying with pure process rules; rules that don't help collect more child support and that don't help families build better lives.

It's time for a more rational financing system, a system that allows child support professionals to do what they thought they signed up for — tracking down delinquents, not tracking down data elements.

PERFORMANCE BASED FUNDING

There is almost unanimous agreement among child support professionals that the current system whereby the federal government audits states for process ought to be scrapped and replaced by a system that audits results. OCSE Deputy Director Judge David Ross has prepared a strategic plan that could serve as the basis for such a results oriented system. But this consensus begs another question: if auditing for results makes sense, why not fund for results? It would be relatively easy to develop a funding system that rewards results. At it's simplest (and most effective), such a system would have only two measures, the number (or percentage) of paternities established and the amount of child support collected. For example, the system might pay states $400 per paternity established (regardless of whether the child was in the IV-D caseload) and 18 cents for every dollar of child support collected. Such a system would be revenue-neutral, meaning that it would cost the federal government about the same amount as the current system.

This system would have three results. First, federal funds would shift to states that established the most paternities and had the most cost-effective child support enforcement programs. For example, under this system Virginia would have received $43.8 million in 1994, $4.8 million or 12 percent more than the $39 million it actually received. Because the entire system would be revenue neutral, Virginia's gain would come at the expense of some other state. But precisely because Virginia has a relatively effective program, it would be able to use that extra $4.8 million to collect more support and help more families than could any of the states with weaker programs. As this shift of resources happens across the nation, many more families will receive child support.

Second, this financing system would encourage states to adopt more efficient business practices. For example, it costs more than $500 to establish a paternity in court but much less than $500 to establish a paternity voluntarily, in the hospital. This means that states would have a strong incentive to maximize the effectiveness of their in-hospital paternity establishment programs. The current system rewards just the opposite behavior: states with the weakest in-hospital programs end up in court more often, spending more money to litigate — and receiving more federal reimbursement!

Finally, all states would be freed from the tangle of process-oriented regulations that currently put a strangle hold on productivity and effectiveness. Without the need to collect data and report on these pure process measures, states will be free to devote more resources to actually collecting child support.

The advantages of a results-driven reimbursement system that shifts resources to the strongest programs are simply common sense. Such a system is implicitly used in almost all other aspects of our society. Successful corporations discard pilot products that are rejected by

consumers and concentrate their resources on promoting products that show the greatest potential. Intelligent investors prune their portfolios of poorly managed companies and buy more shares in well managed companies. Drug companies underwrite expensive clinical trials on the most promising new drugs, not the least promising.

If the advantages of moving to results oriented funding are so clear — and so widely adopted in almost all other aspects of our society — why are most child support professionals opposed to such a change? Most objections to results oriented funding fall into one of three categories. First, and most important, is the fear that cutting federal funding to weaker states will throw those programs into chaos, causing collections to stagnate or even decline, and hurting families who live in those states. Second, is the fear that the federal government won't live up to its side of the bargain — that the open-ended, 66 percent federal reimbursement will end, but the red tape will continue, thereby preventing states from achieving the promised productivity improvements. Third, is the fear that without stringent federal requirements (and financial penalties to back them up), states will simply not do a good job in the child support enforcement arena. Let's briefly examine each of these fears, assess the degree to which such fears are valid, and recommend some strategies to mitigate the most worrisome fears.

Shifting to a revenue-neutral, performance-based funding system will certainly reduce federal funding to a number of states. It is probably not realistic to expect that those states to pick up the slack, so total funding will decline in a number of states. In the long-run, this will cause those states to cut costs in ways that do not harm the program. For example, if the federal government were not paying two thirds of the cost, very few states would still be processing checks manually, on a county or local office basis, at a cost of over $2 per check. These states would instead move to a modern lockbox or electronic funds transfer system, and cut their costs by 50-75 percent. Nor would most states continue to have expensive caseworkers print and mail wage assignments, when a computer can do that job for a fraction of the cost. But wringing all the inefficiencies out of the system takes several years, and in the interim there would indeed be chaos, layoffs and lost opportunities to collect child support. To prevent this from happening, Congress must provide some type of transition provision. For example, in the first year of a shift to a performance based funding system, states would also get to calculate their federal reimbursement under the old rules. If the old, cost-reimbursement system resulted in more federal dollars, states could claim 100 percent of the excess. The following years, states could claim 75 percent, 50 percent and 25 percent of the excess. This type of arrangement should provide the necessary cushion to allow all states to successfully make the transition to performance based funding.

The second fear and third fears are closely linked. Many advocates, in particular, have pushed for federal micro-management of the program because they distrust the states' ability and willingness to run effective programs. I think this fear is greatly exaggerated. Every effective innovation in child support enforcement has come from the states. Moreover, welfare reform, with its block grants and work requirements, gives states a tremendous incentive to make child support enforcement a top priority. Bottom-rung jobs are not much better than remaining on welfare. For hundreds of thousands of families, being able to rely on $200 to $300 dollars a month in child support will make or break their efforts to get off public assistance. Most states

understand this. That's why, even as welfare reform was stalled at the federal level for two years, many states went ahead and enacted new hire reporting, license revocation, and in-hospital paternity laws. The notion that only the federal government cares about child support and the states must be dragged kicking and screaming into doing a good job is simply not supported by the facts.

MEDICAID SAVINGS AND COST AVOIDANCE

Deregulating child support should produce the same benefits that deregulation has had in other areas — productivity improvements and ultimately better service. But for any new federal-state partnership to succeed, both sides must be convinced that they are benefiting. And for this to happen, we need to address one of the myths of child support funding; that the states make money on the program and the federal government loses money. OCSE's 19th Annual Report to Congress claims that the states made a profit of $452 million on the program in FFY94, while the federal government lost $943 million. Profit or loss is determined by subtracting AFDC collections from total administrative expenses. Because the federal government pays for two-thirds of administrative expenses but AFDC collections are shared about equally between the states and the federal government, the states' bottom-line is in better shape than the federal government's.

However, this analysis does not account for two very significant factors. First, most child support orders also contain an order for health insurance. When these medical support orders can be enforced, it means that private insurance pays for those families medical costs, not Medicaid. In some cases, the savings to government from a medical support order exceeds the savings from the monetary part of the order. However, Medicaid savings are not included in the analysis that concludes that the federal government loses money on the child support program. In Massachusetts, preliminary data suggest that $25 million annually in Medicaid costs are recouped or avoided because of the efforts of the child support program in enforcing support orders. If this experience holds true in other states, it means that there is at least $1 billion in annual Medicaid cost savings that ought to be credited to the child support enforcement program. (Moreover, few if any states are doing a good job enforcing medical support orders. A performance based funding system that rewards states for enforcing medical support could spur a very significant increase in Medicaid savings).

Second, child support enables some families who would otherwise receive AFDC to become or remain independent of AFDC. The Massachusetts Department of Revenue has recently looked at this issue. They studied 16,556 families which were once on AFDC in Massachusetts, but by the time of the study (1993), were no longer on AFDC. By looking at their earnings and child support payments, the study concluded that 5,122 of those families would have been eligible for AFDC if they had not received child support payments. Total public assistance to these families, AFDC, Food Stamps and Medicaid, would have totaled $38.5 million.

These savings, while real, are not counted in OCSE's annual report to Congress. Yet to get a true picture of the child support enforcement program's finances, medical support and cost

avoidance must be included. Together, these two items amount to about $70 million in Massachusetts, compared to FY96 AFDC collections of $74 million. With the AFDC caseload continuing to decline in Massachusetts, and health care costs continuing to rise, Medicaid savings and cost-avoidance will soon exceed the cash AFDC collections. By ignoring the fact that helping families become independent of welfare saves taxpayer money, the existing funding system is on a collision course with the goals of the 1996 welfare reform law. As time limit and work requirements reduce the number of welfare cases, "AFDC" child support collections will stagnate or decline, leading to the illusion that the federal government is losing more and more money on the program. If Congress, deceived by this illusion, cuts child support funding, it will inadvertently cut one of the key strategies that families use to stay off welfare — supplementing a low wage job with child support payments.

With this in mind, Congress should direct OCSE to develop a methodology to calculate both medical support savings and cost avoidance. Determining how to measure medical support savings is especially important if Congress wishes to move to a performance based funding system. It costs money to enforce medical support orders. Moreover, under some states' child support guidelines, when the obligor provides medical support the amount of cash child support declines a little. If Congress wishes to maximize Medical support savings, it is important to figure out how to incorporate such savings into a performance based funding system.

There is no doubt that — properly measured — the federal government makes money on the child support program. But there is also no doubt that the current financing formula encourages states to gather data elements not child support. Performance based funding will allow all states to devote more resources to collecting child support instead of filling out federal reports. It will encourage innovation. And it will give all states an incentive to adopt techniques and tools that have already proven to be more cost-effective.

CHILD SUPPORT ASSURANCE

Many members of Congress are concerned about what will happen two and five years from now, when welfare time limits kick in. The performance based funding system discussed here, by driving states to create more effective child support programs, may help greatly reduce the number of families who will be thrown off welfare, by making it possible to create a child support assurance program.

Both Republican and Democrats have proposed child support assurance bills in the past, but those proposals did not go anywhere, in large part because of concerns over the potential cost of a child support assurance program. Before discussing how performance based funding can help create a child support assurance program, I'd like to briefly outline what, exactly, child support assurance is.

The program has a simple premise: a single parent family with a child support order would be assured of a minimum level of child support, regardless of whether the government could collect on that order. In its simplest form, the government would pay a minimum child

support benefit to a custodial parent on the first of each month. Government would then try to enforce the child support order. If the order is enforced, the government has recouped its cost (assuming that the child support order is high enough to cover the assured benefit). If the order in not enforced, government would have to eat the cost of the assured benefit.

To understand how this works, assume that the assured benefit level is $300 per month and that there are two families, Family A and Family B, in the child support system, neither of whom is on welfare. Family A has a child support order of $500 per month and Family B an order of $200 per month. If government succeeds in enforcing the $500 order, it keeps $300 to offset the cost of the assured benefit and passes the additional $200 along to Family A. Because the support order is high enough to cover the assured benefit and has been successfully enforced, there is no net cost to the government. If the government is able to enforce and collect the $200 order for Family B, it will keep to $200 to help offset the assured benefit. However, the government will still incur a net loss of $100 on this case, because Family B's support order is too low to cover the assured benefit. If the government is unable to enforce either order, it will lose $600. Obviously, this puts a premium on a strong enforcement capability.

If Family A were on welfare, the assured child support benefits would offset the welfare benefit, dollar for dollar. If Family A's welfare benefits were $500 per month, the government would send that family a $300 child support assurance check and a $200 welfare payment. So even if the government fails to collect child support for families on welfare, there is no additional cost to the government.

Two points are worth mentioning here. First, only families with child support orders are eligible for child support assurance, giving a mother a strong financial incentive to identify the father and establish paternity. Second, the child support assurance payment is not time limited and is paid even when the mother finds work.

A child support assurance system encourages work. A single parent working at the new, higher, minimum wage will earn about $900 per month. If her welfare grant and food stamps come to $700 a month, she is $200 better off working. This is not much of an incentive, especially considering that she may incur some work related costs (transportation, clothing, day care). Many observers fear that welfare recipients will wait until their two years are almost up before trying to find a job, increasing the odds that their welfare benefits will expire before they can find work.

In this example, a $300 assured child support benefit would increase monthly income to $1,200, making this family $500 better off each month. With a much higher incentive, welfare recipients are likely to look for jobs earlier.

A major objection to this idea is cost. So far, the child support enforcement program is simply not effective enough to make child support assurance affordable. One study estimates that child support enforcement programs would have to collect at an 80 percent rate for child support assurance to be revenue-neutral. (Because child support assurance encourages

families to leave welfare faster, welfare savings can offset the remaining 20 percent of the cost of a child support assurance program). However, even the best programs are collecting at only about a 65 percent level. While the new child support tools in the welfare reform law will increase collections, not many states are likely to reach 80 percent compliance anytime soon.

This is where performance based funding can help. By rewarding states with the strongest, most cost-effective child support programs, those states will receive additional money that they can plow back into their child support programs. This will help them improve faster and reach the 80 percent rate more quickly. These states could then serve as pilot states for a child support assurance program. If child support assurance works as advertised — encouraging mothers to establish paternity and choose work over welfare — then we can both end welfare as we know it and give single parent families a realistic shot at living above the poverty line.

Chairman SHAW. Thank you, sir.

Mr. Levy.

STATEMENT OF DAVID L. LEVY, ESQ., PRESIDENT, CHILDREN'S RIGHTS COUNCIL

Mr. LEVY. Good morning. Our Children's Rights Council is impressed with the welfare reform law you have passed and which the President has signed, because welfare reform is the critical vehicle for improving child welfare in the United States.

Our Children's Rights Council, which has chapters in 31 States, Japan, and the District of Columbia, has been working to improve child welfare for 11 years. We have expertise and experience in many areas that the welfare reform bill law will address, and we are eager to help the States in implementing welfare reform.

Our Children's Rights Council is credited as being the catalyst for Congress providing $2 million in access visitation grants in section 504 of the 1988 Family Support Act, and we are glad that Congress has expanded those access grants in the welfare reform law so that all the States can participate in up to $10 million a year to improve access for the benefit of children.

We also applaud the law's expansion of the Federal Parent Locator Service to require government entities to use the service for the purposes of enforcing child custody and access visitation purposes.

Here are some ideas for the States to further the aims of the legislation, and to qualify them for bonus grants for successful programs.

Kinship care. In cases where a child is removed from the home because of child abuse and neglect, some States like New York allow the child to be placed with kin; father, aunts, uncles. This is a step in the right direction, but States should not limit their efforts to the worst case scenarios, but should also look to the other relatives of the child for placement as an alternative to welfare.

States will save considerable money if relatives are allowed to take in their children and grandchildren voluntarily if they wish to. It is not a forced thing.

If the mother applies for welfare, the Cato Institute says Florida would save $853 million; Tennessee would save $323 million; other States would save comparable money if there were placements with kin in 20 percent of cases where otherwise there would be welfare.

That is kinship care.

Also, welfare and financial child support officials should be able to explain the benefits of marriage to their clientele, both financially and in terms of child welfare. Welfare and financial child support officials should be trained to explain to applicants for welfare and financial child support that economies of scale exist. That is, two-parent families are better able to avoid welfare and poverty than single-parent families.

The number one predictor of preventing poverty is marriage.

Written material and training of staff could be developed that inculcates the message that marriage is the best child support program, and best immunization program for kids against all the social pathology that affects children of single-parent homes.

Financial child support and welfare are backstops in case parents still need those resources, but parents—States interested in quali-

fying for the incentive payments in the law that encourages family formation and maintenance of two-parent families will want to look at encouraging marriage.

Next is schools. Education and parenting skills should be available to schools. This is far different from sex education.

It means that young people should be told, "Someday you will have a child. Let us tell you how big a job that is. Let us tell you about the responsibilities of being a father and a mother."

Materials regarding parenting education programs in schools are available, and could help prevent teenage pregnancy and encourage the institution of marriage.

Next, parenting education. There are about 55,000 parenting education programs in the United States. Our Children's Rights Council received an award from the National Parents Day Coalition in Washington, DC, in July for our parenting education efforts. Elizabeth Hickey, developer of Utah's first in the Nation required parenting education for all separating parents, is our National parenting education director.

But I want to emphasize that parenting education should be used before marriage, during marriage, and in the event that a marriage does not last.

Next, mediation. Mediation is a proven way of conflict resolution, before, during, and after divorce, in which a third party helps parents and others to avoid problems without recourse to the courts.

Mediation has helped to improve financial child support compliance as well as to resolve other problems in daily life. My written testimony gives examples of how mediation works.

There are also access visitation mediation programs, such as in Prince George's County, where our Children's Rights Council got a program started which has a high success rate in resolving complaints.

Conflict resolution skills can be taught to help people to resolve problems contemplating marriage, who experience problems during the marriage, and in the event of divorce.

Mediators, marriage counselors, family therapists, qualified individuals in churches, synagogues, and the communities, can help people.

Current and former welfare recipients can be encouraged to take advantage of existing resources, or to obtain help within their communities.

All of these resources can be used if there is the right formula and incentives for family formation and family preservation.

Shared parenting. States should encourage joint custody shared parenting for all the reasons stated above, to keep both parents involved in the child's life and to minimize children against problems and to decrease welfare dependency.

The other parent is not the enemy, but a resource to be developed psychologically and financially. The Census Bureau found that fathers who have joint custody and access to their children pay more than parents who do not.

And in a study of reasons for nonpayment of child support by noncustodial parents by Sumati N. Dubey, University of Illinois, which has not yet been publicly released by HHS, researchers found that the 150 fathers who responded gave the following rea-

sons for nonpayment of support; 39 percent indicated they had no money, 23 percent said they did not pay because the mother or child would not allow visitation, 14 percent indicated they did not have any control over however the money is spent, and other reasons which are very interesting in this study, one of the few studies I have ever seen, as to why people do not pay financial child support.

David Gray Ross, the outstanding director of the Federal Child Support Program, has said at our Children's Rights Council national conferences that child support will not truly work until most parents pay voluntarily.

If the States can bring noncustodial parents in as partners in the child support process, including the 2 million noncustodial mothers in this country, whose organization, Mothers Without Custody, is affiliated with our Children's Rights Council, we can induce for more compliance than we have now.

We also suggest a waiting period for divorce. In Virginia, it takes 6 months to get a divorce; but if you have children, you must wait 1 year. This "braking mechanism," which is not going back to the fault divorce, just a slowing down of the process, may also help to slow down divorce.

For custody and economic issues, give preference to the parent trying to preserve the marriage. States should consider "leaning a little" in the direction of the parent who does not wish to obtain the divorce. This would not be the only factor in granting of custody rights, but it could be one factor among several to be considered. Knowing that where there are fit parents, a factor in deciding who might obtain custody would be a parent who opposes the divorce, might help slow down the divorce process.

Finally, the formula for eligibility, one of the most important requirements, is for a formula to be developed to determine the eligibility of States for the bonus grants. Our Children's Rights Council is offering to work with HHS to develop these criteria.

Thank you.

[The prepared statement follows:]

HELPING PARENTS HELP KIDS

Children's Rights Council

220 Eye Street N.E., Ste. 140, Washington, D.C. 20002–4362
Telephone (202) 547–6227 • Fax (202) 546–4CRC (4272)

OFFICERS:
David L. Levy, Esq., President
Joan Longworthy, Treasurer
Ellen Dublin Levy, Secretary

HONORARY PRESIDENT:
David Brenner, Entertainer
New York, New York

EXECUTIVE DIRECTOR:
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Arcadia, California

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Salt Lake City, Utah

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Ed Madrak

NATIONAL SPOKESPERSONS:
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Superbowl XVII and XXII Champion
Doug Supernaw, Country Music Singer
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John L. Bauserman
Anna Keller

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Rabbi Mendel Abrams, D. Min.
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of Greater Washington, D.C.

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Los Angeles, California

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Judith L. Bauersfeld, President
Stepfamily Association of America (SAA)

Kay and Ray Berryhill, Co-founders
Grandparent Rights in New Strength
(G.R.I.N.S.), Corunna, Indiana

David Birney, Actor
Santa Monica, California

Jim Cook, President, Joint Custody
Association, Los Angeles, California

Karen DeCrow
Former President of N.O.W.
Jamesville, New York

Elliott H. Diamond, Co-Founder, CRC
Reston, Virginia

Phyllis Diller, Comedienne
Los Angeles, California

Warren Farrell, Ph.D., Author
Former Member of the Board of
Directors-New York City N.O.W.
Leucadia, California

Larry Gaughan, Director, Family
Mediation of Greater Washington, D.C.

Jonathan M. Goodson, President
Mark Goodson Productions
Los Angeles, California

Jennifer Isham, President
Mothers Without Custody (MWOC)
Crystal Lake, Illinois

Joan Berlin Kelly, Ph.D.
Executive Director
Northern California Mediation Center
Corte Madera, California

Elisabeth Kübler-Ross, M.D.
Author, Psychiatrist
Head Waters, Virginia

Vicki Lansky
Author, Columnist
Deephaven, Minnesota

Testimony of David L. Levy, Esquire
President, the Children's Rights Council (CRC)

before the Subcommittee on Human Resources
of the House Ways and Means Committee,
September 19, 1996
on the Personal Responsibility and Work Opportunity
Reconciliation Act of 1996 (P.L. 104-193)

Our Children's Rights Council is impressed with the Welfare Reform bill you have passed and which the President has signed, because welfare reform is the critical vehicle for improving child welfare in the United States.

Our Children's Rights Council, which has chapters in 31 states, Washington, D.C. and Japan, has been working to improve child welfare for 11 years, and we are pleased that a bill has passed which we think is going to strengthen the family.

Our Children's Rights Council has expertise and experience in many areas that the Welfare Reform bill addresses, and we are eager to help the states in implementing this welfare reform.

Our Children's Rights Council is credited as convincing Congress to provide $2 million in seven access/visitation demonstration grants in Section 504 of the 1988 Family Support Act. We are glad to see those access/visitation grants expanded now in this new law to $10 million a year for all the states to share in, for the benefit of children.

We also applaud the bill's expansion of the Federal Parent Locator Service to require government entities to use the Service for the purposes of "...enforcing child custody or visitation orders...."

There are many other advances in this legislation, including the provision that block grants to the states are to be used to "encourage the formation and maintenance of two-parent families," rather than just applying band-aids to aid children and families after damage has been done.

A NON-PROFIT, TAX EXEMPT ORGANIZATION STRENGTHENING FAMILIES THROUGH EDUCATION AND ASSISTING CHILDREN OF SEPARATION AND DIVORCE

Janine Levine
Families and Work Institute
New York, New York

John Money, Ph.D., Professor of
Medical Psychology and Pediatrics
Johns Hopkins University and Hospital
Baltimore, Maryland

Linda Nagelsmann, President
Parents Without Partners (PWP)
Chicago, Illinois

Here are some ideas for the states to further the aims of the legislation and to qualify them for bonus grants for successful programs.

A. Kinship care.

In cases where the child must be removed from the home because of child abuse and neglect, some states, such as New York, look to the kinship care network--the relatives of the child--for placement, rather than to the foster care system. This is a step in the right direction, but the states should not limit their effort to the worst case scenarios, but also look to the other parent, grandparents, aunts, uncles, and other relatives for placement as an alternative to welfare. One of the stated purposes of the law is to provide assistance so that children may be raised in their own homes or in the homes of relatives. In this and other provisions of the law, states will find the door is open to the kinship care network as an alternative to welfare.

States will save considerable money if fathers (or other immediate family members) are allowed to take in their children or grandchildren if the mother applies for welfare. Minimal government money could then be expended to train the mother for the workplace. An example of the savings available if 20% of fathers or other family members were allowed to do so:

Arizona	$ 213 million
Florida	853 million
Iowa	137 million
Kansas	100 million
Massachusetts	540 million
Michigan	787 million
Mississippi	148 million
Nevada	52 million
New Mexico	117 million
South Carolina	166 million
Tennessee	323 million
Texas	857 million
Virginia	290 million

(data based on Cato Policy Analysis # 240)

B. Welfare and financial child support officials should be able to explain the benefits of marriage to their clientele, both financially, and in terms of child welfare.

Divorce economics is part of family formation and family preservation. Welfare and financial child support officials should be trained to explain to applicants for welfare or financial child support that economies of scale exist; that is, two parent families are better able to avoid welfare and poverty than single parent families. The number one predictor of preventing poverty is marriage. Resources spread over two households do not go as far as

when the resources are all concentrated in one household. The benefits of marriage are economic, as well as in providing the best setting for the raising of children.

Written material and training of staff could be developed that inculcates the message that marriage is the best child support program and best immunization program for kids against all the social pathology that affects children of single parent homes.

The Children's Rights Council has experience in this area, and we stand ready to train staff at every level where the public comes into contact with welfare and financial child support officials.

Financial child support and welfare are backstops in case parents still need those resources, but states interested in incentive payments for encouraging family formation and maintenance of two-parent families will want to look at this alternative.

C. Schools.

Education in parenting skills should be available in schools. This is far different from sex education. It means that young people should be told that some day you will have a child, Let us tell you how big a job that is. Let us tell you about the responsibilities of being a father and a mother. The materials to develop parenting education programs in schools are available, and could help prevent teenage pregnancy and to encourage the institution of marriage.

D. Parenting Education.

The Pew Foundation reports that there are about 55,000 parenting education programs in the U.S. There is truly an explosion of interest in this topic, and parenting education can help with family formation and family preservation.

Our Children's Rights Council received an award from the National Parents Day Coalition in Washington, D.C. in July, 1996 for our parenting education efforts, and I and other award winners met at the White House with First Lady Hillary Clinton the following day.

Our director of National Parenting Education is Elizabeth Hickey, M.S.W., developer of Utah's first in the national required parenting education for all separating parents. But I want to emphasize that parenting education should be used before marriage, during marriage, and in the event that a marriage does not last.

CRC has videos and books on parenting education, as well as on divorce as seen from the perspective of children. When parents see how divorce affects the children, this is parenting education that truly hits home!

E. Mediation.

Mediation is a proven way of conflict resolution, before, during and after divorce, in which a third party helps parents and others to resolve problems, without resource to the courts. Mediation has helped to improve child support compliance, as well as to resolve other problems that arise in daily life.

In divorce mediation, a mediator helps parents to arrive at

their own agreement. If the mother thinks the father is being too intimidating in his language, the mediator will point out how the father can soften his language. If the father says the mother seeks to bankrupt him financially, the mediator will point out that it is in everyone's interests for both parents to remain solvent. The mediator cannot impose a solution, but enables the parents to arrive at their own agreement, with they are more likely to follow than a decision imposed upon them by a third party, such as a judge.

There are also access/visitation mediation programs, such as in Prince George's County, Maryland. Prince George's County started its program 10 years ago at the urging of our Children's Rights Council. The access mediator helps parents resolve access/visitation complaints, with a reported 80 percent success rate at resolving complaints, at an average time of 1 hour and 37 minutes, at an average salary cost of $25 per case.

F. Conflict resolution skills.

Conflict resolution skills can be taught so that people can help to resolve problems themselves. Conflict resolution is invaluable to people who are contemplating marriage, who experience problems during the marriage, and in the event of divorce. It can also help people to perform well on their jobs.

G. Counseling.

Marriage counselors, family therapists and other qualified individuals provide counseling to individuals before and after divorce. Sometimes this counseling takes place within the context of a church, synagogue or school. Current and former welfare recipients can be encouraged to take advantage of existing sources of help within their communities. Counseling can help a child to not drop out of school, help someone to avoid or end substance abuse, or help someone to avoid violent behavior. All of these can contribute to family formation and family preservation.

H. Shared parenting.

States should encourage joint custody (shared parenting) for all of the reasons stated above, to keep both parents involved in the child's life, that is, for child immunization against problems and to decrease welfare dependency.

The second/other parent is not the enemy, but a resource to be developed psychologically and financially.

In polling of mothers only, the Census Bureau reports that fathers with joint custody (8 percent of fathers) pay 90.2 percent of their support, fathers with access/visitation (55 percent of fathers) pay 79.1 percent of their support, and fathers with neither joint custody nor visitation (37 percent of fathers) pay only 44.5 percent of their support.

In "A Study of Reasons for Non-Payment of Child Support by Non-Custodial Parents" by Sumati N. Dubey, University of Illinois at Chicago Jane Addams College of Social Work, which has not yet been publicly released by HHS, the researchers found that the 150

fathers who responded, gave the following reasons for non-payment of child support: 39 percent indicated that they had no money; 23 percent indicated that they did not pay because the mother of the child would not allow visitation; 14 percent indicated that they did not have any control over how the money is spent, 13 percent said that they were not responsible for the children because they did not want to have a child and the women were the ones who wanted to have a child; 13 percent indicated that they were not the fathers of the children for whom child support was sought.

This is one of the only studies I have ever seen as to why people do not pay financial child support.

David Gray Ross, the outstanding director of the federal child support program has said at our Children's Rights Council national conferences that child support will not truly work until most parents pay voluntarily.

If the states can bring non-custodial parents in as partners in the child support process, including the 2 million non-custodial mothers in this country, we can induce far more compliance than we have now. And parenting will also improve with those parents involved in their children's lives.

I. **Waiting period for divorce.** In Virginia, there is a six-month waiting period for divorce, but if you have children, you must wait a year. This is not fault divorce, but a "braking mechanism"--to slow down the divorce process, where there are children. Other states could also consider similar braking mechanisms for divorce.

J. **For custody and economic issues, give preference to the parent trying to preserve the marriage.** States should consider "leaning a little" in the direction of the parent who does not wish to obtain the divorce. This would not be the only factor to be considered in granting of custody rights, but it could be one factor among several to be considered. Knowing that where there are fit parents, a factor in who might obtain custody would be a parent who opposed the divorce, might help slow down the divorce process. Again, I am emphasizing fit parents here, not parents with severe problems, nor am I suggesting a return to fault divorce. I am only suggesting a slight advantage to a fit parent who wants the marriage to work where there are children to be cared for.

K. **Formula for eligibility.** One of the most important requirements is for a formula to be developed to determine the eligibility of states for bonus grants for complying with the intent and purposes of this law. Our Children's Rights Council is offering to work with HHS to develop these criteria.

Thank you very much.

The Best Parents is Both Parents. A Guide to Shared Parenting in the 21st Century, edited by David L. Levy, Esquire, President, Children's Rights Council (Hampton Roads Publishing Company, 1993)
Putting Kids First. by Michael L. Oddenino, General Counsel, the Children's Rights Council, (Family Connection Publishing, 1995)
Healing Hearts. Helping Children and Adults Recover from Divorce", co-authored by Elizabeth Hickey, M.S.W., Director of Parenting Education, Children's Rights Council (Gold Leaf Press, 1994).
Children's Rights Council's Multi-Organizational Welfare Reform Position (1994)

Chairman SHAW. Thank you, sir.
Ms. Donahue.

STATEMENT OF ELISABETH HIRSCHHORN DONAHUE, COUNSEL, NATIONAL WOMEN'S LAW CENTER

Ms. DONAHUE. Mr. Chairman, and Members of the Subcommittee, I thank you for the opportunity to testify today on behalf of the National Women's Law Center.

I commend the Subcommittee for all its work in the past 2 years on the child support provisions of the welfare bill. I want to focus today on the fact that these reforms will only help families if they are truly implemented by the States, and I hope that we do not all lose sight of the fact that families are really the reason we have done all this, and there are a lot of custodial families out there who are in desperate need of the reforms that have been enacted in this recent child support law.

There are three areas that I think need particular vigilance by the Federal Government. The first is automation which others have talked about in more detail than I will go into. I only want to just add that we really need to look at what happened with the 1988 law, and why only one State was certified by the deadline. It is not to point fingers and decide who deserves the blame, it is more that the reasons are very complex, and we need to identify them in detail so we can make sure the Federal financial effort in this time does not get wasted again.

Another area of the new law that I think needs particular vigilance is the centralized collection and disbursement unit. This is a controversial area of the bill as I think all of us realize because there are States out there that want to maintain their localized systems. But what we have seen from States that have centralized collection and disbursement is that it truly helps families because it gets them their money faster, and it gets it to them on a more reliable basis.

The new law does make a provision that States that want to maintain localized systems can do so as long as families are not hurt in the process, and there are a very, very clear criteria in the new law that says when a State can maintain its localized system. I would hope that HHS in deciding whether a State can keep its localized system, or whether it has to go through a centralized disbursement unit, really sticks to that criteria. The criteria are very clearly laid out in the statute, and there is no reason to deviate from it.

I think a third provision that really needs vigilance from the Federal Government in the new law is the new provision that allows families who were formerly receiving public assistance and who have left to keep more of the back due support collected on their behalf. This is money that used to go to the States, and now due to a provision that I think is quite good in the new law, it will go to families.

I have just two concerns about the new provision, concerns that this provision might be undermined in some way. One is I think the Federal Government has to make sure States do not now ease up on collecting those arrears simply because they cannot now keep the money. This provision should not be a green light to States to

become lax in their efforts to collect arrears, because this money is just too important to families to not make sure that they get what they are due.

The second thing is something I think actually needs a change in legislation. An anomaly was created in the new law which allows States to keep all money collected from the tax refund intercept program for back due support, but makes States pay the family all the money that States collect in arrears. What you have is a perverse incentive so that money collected when the States do not do any of the work goes to the State, and money collected by the States when they do all of the work goes to the family. The way to fix this, I think, because this money is so important to families, is to make the tax refund intercept dollars follow the same distribution scheme as set out for back due support that is collected by the State.

Now, as many people here have pointed out, none of these reforms are possible if States do not have adequate funding, and I think it is very, very, important that funding not be cut at this point, because States are going to really need the funding to implement the reforms. That said, I think the Federal Government has every right to and should say, "We want to see some results for the money that we put into this program." And that is not true under the current system. I think the best example of that is in 1994 Indiana had an effective Federal match of 112 percent. It basically made money off of the child support program, and yet it had an 8.6-percent collection rate.

So the Federal Government is not getting its money's worth from this program from a number of States.

I think there are some things that can be changed. I think States do need a base match. I think we cannot move to a complete performance-based funding system, because there are going to be poor performing States that need the base match in order to remedy their past errors, and improve their systems.

That said, on top of that, States should not be given increased funding if they do not truly perform. And in my written testimony, I give an example of a system that I think would truly reward States for true performance, and in fact, it is a system that was in the original Ways and Means bill that was passed by the Committee in 1995.

Finally, I just want to end by saying the States have been given a lot of tools to improve enforcement, and the Federal Government has to ensure that they are truly implementing and using them. Therefore, the audit process has become very, very, important. States really have to show the Federal Government that they are using the money the best way that they can, and the numbers and the audit criteria that are submitted to the Federal Government have to be uniform, and have to truly tell a picture of what the States are doing. Otherwise, we are making public policy on numbers that we are not really sure are right, or accurate.

So, I would just like to conclude by saying I thank you for this new law, and I hope it turns into true financial support for families.

[The prepared statement follows:]

STATEMENT OF ELISABETH HIRSCHHORN DONAHUE
COUNSEL
NATIONAL WOMEN'S LAW CENTER

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today on behalf of the National Women's Law Center. The Center is a non-profit organization that has been working since 1972 to advance and protect women's legal rights. The Center focuses on major policy areas of importance to women and their families, including child support, employment, education, reproductive rights and health, child and adult dependent care, public assistance, tax reform and Social Security -- with special attention given to the concerns of low-income women.

The Center wishes to commend the Subcommittee for its strong leadership on child support issues, particularly in the past two years. We are heartened by many of the detailed improvements made in the child support provisions of the recently enacted welfare bill. These provisions were designed to augment the current federal-state Child Support Enforcement program contained in Title IV-D of the Social Security Act, often referred to as the IV-D program. Specifically, the new law provides important tools to ensure that child support obligations are enforced in a timely and efficient manner: improved automation and locate functions; establishment of state and federal registries to track and enforce child support obligations; centralized collection of child support payments; uniform state laws; and procedures to revoke licenses and passports, and impose liens on delinquent noncustodial parents. It includes reforms that build on provisions passed in 1993 to make the establishment of paternity an easier, fairer, and more accessible process for parents. It contains an important provision that is the first step to ensuring that former welfare families receive more of the child support collection on their behalf, helping them to leave and stay off welfare. In an effort to ensure that states' successes and failures are adequately measured, the new law changes the current audit system to ensure that states improve their method of reporting information to the Department of Health and Human Services (HHS) by making the audit process more performance-oriented, automated and uniform. The Center has advocated for several years that many of the above reforms be enacted, and we applaud this Subcommittee for its work in turning our policy recommendations into law.

If the new child support law is to have real positive impact on custodial families, however, the provisions must be effectively implemented by the states. States must be given adequate funding to do the job, but in return states must produce results and improve their often-dismal past performance in establishing paternity and establishing and enforcing child support orders. Careful monitoring of, and technical assistance to, the states at the national level -- especially in the key areas of automation, centralized collection, and distribution of arrears to former welfare families -- are crucial to ensure that the reforms in the new law are implemented correctly, cost-efficiently, and in a way that truly helps custodial families. If not, the child support reforms in the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" will be reforms on paper only.

The states have been handed a bold, new law that revamps the current child support system, and provides them with the tools to ensure that more families get the child support to which they are entitled. But with an 18.3 percent collection rate and no discernible improvement in collection rates since 1975 despite repeated overhauls of the system, states have a sorry track record to repair. With the new law as their roadmap and continued investment and leadership by the federal government, states must make the needed improvements in the program work this time around; for the sake of our families, they must succeed.

I. ADEQUATE FUNDING IS NECESSARY FOR STATES TO IMPLEMENT THE REQUIREMENTS OF THE NEW LAW

Without proper resources, IV-D agencies will be unable to implement the complex requirements of the new child support law. An adequate base match, coupled with an incentive system that rewards states for good performance in the establishment of paternity, establishment and enforcement of orders, and cost-effectiveness, is necessary to handle a burgeoning caseload, build effective computer systems, and ensure that families receive the child support to which they are entitled.

Under the current system, states receive a base match rate (Federal Financial Participation, or FFP) of 66 percent -- for every $ .34 that the state contributes to the IV-D

program, the federal government matches that with $.66. In addition, states receive a minimum "incentive payment" of 6 percent of the amount of child support they collect, and can receive an additional incentive payment of between 6.5 and 10 percent of the support they collect if their collection programs are cost-effective -- that is, if the money invested in the program sufficiently exceeds the amount of support collected.[1]

The initial six percent incentive payment bears no relation to state performance and the additional percentage payment rewards only state performance in collecting child support, ignoring performance in establishing paternity and establishing awards. Moreover, because incentive payments are measured as a percentage of collections, there is almost no limit on the actual dollar amount a state can earn, since the amount a state can collect in child support is open-ended.[2] Open-ended incentive payments, coupled with an FFP of 66 percent, actually make it possible states for states to make money on the child support program; in 1994, with a combination of the 66 percent match rate and incentive payments, two states earned an effective FFP of over 100 percent, while eight states earned over 90 percent, 36 states earned over 80 percent, and no state earned less than 74 percent. Compounding the problem, high federal incentive payments do not translate into high collection rates. Indiana, which earned an effective FFP of 112 percent in 1994 -- the highest of any state -- collected child support in only 8.6 percent of its IV-D cases -- the second-lowest of any state. Put in stark terms by the 1994 Greenbook produced by the House Committee on Ways and Means, "states can run inefficient programs and still make a profit from the CSE [child support enforcement] program."

The new law keeps in place the current match rate of 66 percent, correctly recognizing that without a sufficient base match of at least 66 percent, poor-performing states -- the ones that need funding to improve but will not earn much in incentive payments -- will not have sufficient resources to improve their programs. Unresolved under the new law, however, is the structure of the incentive system. The new law maintains the current incentive payment system, but requires the Secretary of HHS, in consultation with state IV-D directors, to develop and transmit to Congress by March 1, 1997, a new incentive system to replace the current scheme. This new incentive system must be designed to reward states for good performance, but it cannot cost the federal government any more than the current incentive system.

To carry out this mandate, we hope that HHS will recommend the adoption of an incentive system that mirrors closely the system established in the welfare bill originally passed by the full Committee on Ways in Means in 1995 (H.R. 1157), and in the welfare bill passed by the House of Representatives on March 24, 1995 (H.R. 4).

Under the system proposed in these bills, states would be able to earn up to 12 percent in incentive payments for meeting certain benchmarks established by the Secretary of HHS to measure improvements in establishing paternity and establishing child support orders, as well as improvements in collecting support and the overall cost-effectiveness of the program. In addition, there would be an overall cap of 90 percent on the total federal match. Rather than making incentive payments a percentage of collections, the incentive percentage would be added to the base match FFP (so, for example, a state earning 12 percent in incentive payments would have an overall FFP of 78 percent).

A number of benefits would result from adopting such an incentive system. First, unlike the current system, states would not receive any incentive money until they have improved their performance -- eliminating the perversity in current law that rewards even the most badly functioning states. This is important if incentive payments are to truly motivate

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[1] The money for incentive payments is taken from the federal share of child support collected from noncustodial parents of children who are receiving or have received AFDC.

[2] While there is no limit on the dollar amount states can earn in incentive payments based on the percentage of AFDC collections, there is a cap on the dollar amount states can earn in incentive payments based on the percentage of non-AFDC collections.

states to improve performance. Second, unlike the current system in which states are rewarded only for increases in collections -- an incentive to emphasize collections over other child support agency responsibilities -- states would be rewarded for increases in the number of paternities and support orders established as well. Third, since the incentive percentage would be added to the base FFP, states would have to put up state money to draw down federal incentive payments. This would mean states would have to use the additional federal matching funds for their IV-D programs. Although some states currently reinvest their incentive payments in the IV-D program or use this money for other needs-based programs that help families, other states simply put the money into the general treasury where it can be used to pay for anything -- including repaving roads. Fourth, since total federal expenditures would be capped at 90 percent, no state would be able to earn over 100 percent and effectively make money from the child support program. It would also be harder to reach 90 percent under this system than under current law since states would not receive a minimum incentive payment, and they would have to show real improvement in their performance in order to receive incentive funds.

II. CAREFUL MONITORING AT THE NATIONAL LEVEL IS NECESSARY TO ENSURE THAT THE REFORMS OF 1996 ARE PROPERLY IMPLEMENTED

While state child support programs must be funded adequately, federal funding cannot be a blank check. States must implement and carry out the requirements of the new law, and do so in a timely and cost-efficient manner. Given the detailed requirements of the new statute, close and careful monitoring of, and technical assistance to, the states by the federal government is crucial to ensure the new law's success. Three areas in particular are important to watch closely: the new automation requirements; the establishment of centralized collection and disbursement units; and the new distribution scheme for child support arrears for families formerly receiving public assistance.

Automation Requirements: Case Registries and New Hire Directories

The new law strives to increase the amount of child support information collected as well as the ease with which information can be accessed, recognizing that federal and state governments need to develop more advanced and more comprehensive automation systems to locate noncustodial parents, monitor the payment of awards, and enforce existing child support obligations. The new law requires new data bases to be established and existing data systems to be linked or centralized, and mandates technological improvements that will make these comprehensive data bases useful and manageable. Given that only one state met the October, 1995, deadline for the 1988 Family Support Act automation requirements, states must be monitored extensively to ensure that they are complying with the automation requirements of the new law in a timely and cost-effective manner. To ensure that federal money is well-spent and mistakes of the past avoided, the federal government must provide leadership and coordination as the states strive to meet the new automation requirements.

The new law requires each state to establish a central state case registry of copies of all child support orders established or modified in the state. The new state case registry, which will record in one central location the amount of monthly support owed and collected, will include basic identifying information about both parents, including names, Social Security numbers, dates of birth, and case identification numbers for all IV-D child support orders and all other child support orders established or modified in the state on or after October 1, 1998. The registry will be used not only to keep a record of all child support orders, but also to match child support orders against other state records that contain information about the location and assets of parents. To ensure that child support orders are successfully matched up with these records, Social Security numbers must be listed on applications for professional, occupational, commercial driver's and marriage licenses; divorce decrees; paternity determinations and acknowledgments; and death certificates. The central state registry created by the new law will be important in tracking and enforcing orders against obligors residing or doing business in the state, and for providing current information to the Federal Parent Locator Service, which is required under the new law to create a national case registry, for the use in interstate cases.

The new law also requires each state to establish a State Directory of New Hires. Under this provision, each employer in a state will be required to send to a State Directory of New Hires the name, address, and Social Security number of every new employee and the employer's name, address and identification number within 20 days of hire or bimonthly in the case of electronic reports. Failure to comply with this provision can subject employers to a nominal fine, if the state opts to impose it. Employers with employees working in different states will be permitted to designate to the Secretary of HHS one state to which they will send all information. Within five days of receipt, the State Directory of New Hires must enter the information into the data base. Within three business days after the information is entered into the data base, the State Directory of New Hires must furnish the information collected to the National Directory of New Hires created under the new law and housed within the Federal Parent Locator Service.

The information contained in new-hire records will be matched against various data bases at the state and federal levels to identify the employment status, location, and assets of individuals who owe child support. In addition, state agencies operating employment security, workers' compensation, welfare, Medicaid, unemployment compensation and food stamp programs will have access to this new-hire information to administer their programs. The states that have already established new-hire registries have found that they greatly enhance the ability to locate child support obligors, even those who frequently change jobs.

Not only are the automation requirements of the new law more extensive than those in the 1988 Family Support Act, but the success of almost all the child support reforms made in the new statute depends on the successful installation of the new computer systems. It is vital that these computer systems be set up correctly and cost-efficiently. Accordingly, the federal government must help states avoid the roadblocks of the past.

The reasons for the failure of the states to successfully implement the requirements of the Family Support Act are complex and varied. First, in 1988 there was a noted lack of technological expertise -- in both the public and private sector -- in setting up and running complex child support computer systems. Improvements in computer technology and eight years of "hit-and-miss" experience have provided a wealth of knowledge that states can use in setting up their new systems. The federal government should be the receptacle of this information and provide technical assistance to educate states about successful models. Money set aside in the new statute for training should be used to educate and train state and federal workers about the intricacies of using the new state automated systems and the ways in which these systems interact with the federal systems.

Second, states did not always have a broad vision of how their child support programs should operate and how their automated systems should be integrated into their overall program; only with the "big picture" in mind, can states effectively design their computer systems to work with their overall child support program. For example, in states with locally administered programs, if local, county and state players all have different visions of the child support program, creating a computer system that satisfies everyone's vision is almost impossible. To ensure that state computer systems are integrated into state child support programs, the federal government should help states conceptualize strategic plans about the direction of their programs, creating a detailed plan about how their computer systems will work within the overall system.

Third, in trying to implement the 1988 requirements, many states have run into contract problems with private vendors in setting up the systems. Some states have complained that vendors set up the systems but then did not follow through with appropriate technical assistance. With the power of hindsight, states should rethink how they contract with vendors, and the federal government should give them guidance on writing and negotiating such contracts.

Other reasons given for the problems in implementing the Family Support Act requirements have largely been addressed in the bill; for example, a more realistic phase-in

period for the establishment of the computer systems and extensions for the states if HHS is late in producing regulations should ensure a smoother process this time around.

Centralized Collection and Disbursement

An important part of the new law is the establishment of centralized state units for the collection and disbursement of child support payments, including payments made by income withholding.

Under current law, all parents who owe child support who receive a paycheck from an employer must participate in income withholding unless both parents "opt out" of such withholding. The state must administer the withholding through a public entity or an entity accountable to the state -- regardless of the parents' IV-D status. This public entity does not have to be housed in one location; in fact, in some states, withholding is funneled through individual clerks of the courts or other such non-central locations. States must give an obligor advance notice that income withholding is about to begin and about the procedures available for contesting the withholding if there has been a factual mistake; if an obligor contests the withholding, states have 45 days to resolve the dispute. In addition, states have the option to have non-income withholding IV-D cases administered through the public entity at the request of either parent, for a small fee.

The new law requires each state to establish and operate a central state disbursement unit to collect and disburse child support payments. Child support withheld from income in both IV-D and non-IV-D cases must be administered through this central disbursement unit. Child support paid directly by the parent (rather than through income withholding) must be administered through this central disbursement unit in all IV-D cases. States are required to distribute the child support paid within two working days of receipt to the custodial parent or, if the custodial parent has assigned his or her right to child support to the state agency to qualify for public assistance, to the state agency. A system that links local collection and distribution units is only permissible if it does not cost more or take longer to establish or operate than a single, centralized system, and if it provides one location to which employers must send withheld income.[3]

For income withholding cases going through this centralized disbursement unit, the new law contains provisions to ensure that child support withheld from income gets to the custodial family as quickly as possible. First, the new law requires the state to send the employer a notice to commence income withholding within two days of entering the new-hire information into the data bank, to ensure that income withholding begins promptly in each case. Second, the new law requires the employer to submit income withholding collections to the central registry within seven days of its pay day so that money owed to custodial families is paid promptly rather than sitting in the employer's bank account. Third, as stated above, the state must distribute the child support within two working days of receipt. These provisions are crucial to ensure that families who are living paycheck to paycheck receive their support in a timely fashion. In carrying out income withholding, states must meet state due process standards, as well as inform obligors that withholding has commenced and of the procedures for contesting income withholding if there has been a factual mistake.

The centralized collection and disbursement requirement is one of the hallmarks of the new law, and the federal government must make sure that this requirement is not weakened in any way. If the centralized collection provision is weakened, families will be hurt as payments take longer to reach them, accounting errors result in discrepancies in payments, and enforcement efforts are not initiated promptly.

Having payments go through one centralized location rather than locations scattered throughout the state is crucial for a variety of reasons. First, because of economies of scale, states can afford to construct centralized collection systems that utilize higher technology and

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[3] States that currently administer child support payments through local courts can continue to do so through September 30, 1999.

more complex computer systems than could be constructed at a local level. These complex systems are able to collect and disburse money quickly and efficiently -- often without ever using paper. The less paper involved (envelopes to open, hand-written records to keep, paper files to maintain), the faster the system, and the faster the system, the quicker families get their much-needed child support payments. Second, with one central location, it is clear who is accountable for payments (and missed payments), and families have a clear idea of who can be held accountable. Third, by having all money collected and disbursed by the same entity, errors are less likely to occur. Fourth, in states with centralized enforcement systems, information on missed payments will be available immediately, triggering prompt enforcement actions. Indeed, a centralized collection system may prompt more states to centralize enforcement as well, because of the speed and efficiencies involved.

Nevertheless, if a state can prove to the Secretary of HHS that it can collect and disburse child support to families as quickly and cost-efficiently by linking local registries as it could with one centralized system, then under the new law it is able to do so. However, it is crucial that the federal government review carefully the claim of a state that it can operate a local system as effectively as a centralized system and not deviate from the criteria for approving a localized system that are set out so clearly in the new law. For example, while a state that has just expended funds on a localized system may argue that these recent expenditures should be considered in determining whether it can maintain its local system, past investment in a system is not one of the criteria established by Congress. Only if the Secretary of HHS agrees that the state can establish and operate its system as cheaply and as quickly as a centralized system, that its local disbursement units are linked electronically, and that employers in the state have one location to which they can send withholding, can the state deviate from the centralized collection unit requirement under the new law. If the federal government weakens this requirement by deviating from these very clear criteria, families will be hurt as disbursement takes longer, enforcement is less efficient, and accounting errors slow down the process.

Distribution of Arrears to Families Formerly Receiving Assistance

The new law includes an important provision to help ensure that families who formerly received Temporary Assistance for Needy Families (TANF) under the block grant get more of the past-due child support collected on their behalf that was previously kept by the states to reimburse themselves for AFDC outlays. The federal government must monitor the implementation of this provision by the states to ensure that states continue to emphasize the collection of arrears, even though states will now be able to keep less of the money. Due to an exception made in the new law for arrears collected by intercepting federal tax refunds, however, the new law may actually create a perverse incentive for states to rely soley on the federal government to collect child support arrears instead of working these cases themselves. A legislative change is necessary to fix this glitch.

Under current law, when a family applies for Aid to Families with Dependent Children (AFDC) benefits it assigns its right to child support collected on its behalf to the state, including any past-due support that accrued before the family received AFDC, in order to reimburse the state for AFDC paid to the family. Therefore, even when a family has left the AFDC system, the state is entitled to keep any past-due support collected that accrued before the family applied for AFDC as well as any that accrued while the family received AFDC, until the state has reimbursed itself for the AFDC paid to the family. Since the assignment of child support to the state ends when the family goes off the rolls, arrears that accrued after the family left AFDC belong to the family.

However, a state that collects child support for the family after it goes off the rolls can choose to pay itself the arrears that accrued before and during AFDC receipt before it pays the family arrears that accrue after the family leaves AFDC. Almost two-thirds of the states choose to pay themselves back for AFDC outlays before paying the family; the effect of this choice is that, unless all past-due support is collected, the family may receive little, if any, of the arrears that accrue after the family leaves the rolls. The new law changes these

distribution rules for former welfare recipients.

The new law requires a state, after a period of gradual implementation, to pay a family that formerly received TANF any child support arrears that accrued when the family was not receiving TANF, and requires the state to pay this money to the family first before reimbursing itself for its TANF outlays. Specifically, the new law changes the distribution rules as follows: (1) beginning October 1, 1997, child support received for arrearages that accumulate after the family leaves TANF are paid to the family before the state can use that money to reimburse itself for assistance paid to the family and (2) beginning October 1, 2000, child support received for arrearages that accumulated before the family received TANF are also paid to the family before the state can use that money to reimburse itself, unless Congress determines, based on a study by HHS, that providing this money to the family first has not actually succeeded in moving and keeping people off welfare.

In essence, the new law changes the distribution rules for former welfare recipients to ensure that families actually receive some or all of past-due child support collected on their behalf. First, past-due child support that accrued before the family went on welfare will belong to the family, while past-due support that accrued while the family was on welfare will continue to belong to the state. Second, the state will have to pay the family any past-due child support that accrued before the family went on welfare, and any such support that accrued after the family left welfare, before the state can reimburse itself for any welfare outlays. In other words, only when a family had been paid any past-due child support that accrued pre- and post-welfare, can the state keep past-due support owed to it from arrears that accrued while the family was on welfare. The new law's changes increase the likelihood of a family's success in leaving welfare by ensuring that the family receives more of the child support collected on its behalf.

It is important to note that this change in policy will not cost the states any more money than they now spend under the current distribution policy. The new law ensures this by providing that if the change in distribution policy results in state expenditures that exceed the amount saved by a state due to the elimination of the required $50 pass-through, the federal government will make up the difference.

In overseeing the states' implementation of this provision, HHS must ensure that states do not ease up on trying to collect arrears simply because they are now able to keep less of this money -- this change is very important for families, and states must not be allowed to become lax in their efforts to collect arrears simply because they do not benefit economically as they did in the past. HHS should provide states with technical assistance that will help them increase the collection of arrears as well as calculate and distribute arrears in a comprehensible manner. In addition, HHS should assure that its own required study of this change in the distribution policy accurately evaluates the role that the new policy plays in enabling families to move and stay off welfare.

Congress, too, must ensure that the goals of the new distribution scheme are fully realized by repealing the statutory exception to the new distribution scheme for arrearages collected through the tax refund intercept program. Under this exception, child support arrears collected through the intercept program are paid to a state to reimburse it for welfare outlays before any payments are made to the family. This provision effectively allows a state to keep arrears when it has does none of the work to collect them; in contrast (as discussed above), when a state collects arrears on its own, some of the money must be passed on to the family. This discrepancy creates an incentive for a state to try to collect arrears only through the tax intercept program. To correct this discrepancy, Congress should impose the same distribution scheme on arrears collected through the tax intercept as it does on arrears collected by the states directly. With this change, families would truly benefit from past-due support collected on their behalf.

III. THE FEDERAL GOVERNMENT MUST ENSURE, THROUGH ITS AUDIT PROCESS, THAT STATES ARE MEETING THEIR IV-D OBLIGATIONS

Thorough, consistent and uniform audits are necessary to adequately measure state compliance with the new law and evaluate the success of state programs. Accordingly, we are pleased with the new law's requirement that states improve the method of reporting information to the Secretary of HHS about their programs, and the requirement that HHS improve the method by which it measures the success of state efforts.

While current law requires states to report information about their accomplishments to HHS as part of the audit process, the new law makes this process more performance-oriented, automated and uniform. First, states must emphasize actual numbers in reporting on their performance-based achievements. Second, states must base their reports on data extracted from the automated data processing system required under the new law. Third, states must use uniform definitions established by the Secretary for the reporting of information, curing a problem in the current system of inconsistent reporting among the states (and sometimes within states) of similar information. These changes should help ensure that states report accurate data and that their performance in establishing paternity, establishing child support orders, and collecting support is adequately measured.

For these changes to succeed, HHS must establish uniform definitions that are user-friendly for the states. HHS must also provide technical assistance to the states to help them incorporate these new definitions into their record-keeping. When audit data identify weaknesses in state programs, HHS must work with states to construct remedies for the deficiencies in their programs. Finally, when a state fails an audit and does not submit an adequate corrective action plan, HHS must be prepared to cut funding. States must know that the federal government is serious about enforcing the requirements of the new law.

IV. CONCLUSION

The child support provisions of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" have provided states with many of the tools necessary to improve a program that has thus far not served families effectively. It is critical that states use these new tools to effectively change their past performance, and that HHS help states implement the new law's requirements and hold states to them. Talk about getting tough on child support has been rampant for the past two years. Now is the time to turn that talk into action and help custodial parents and their children receive the child support to which they are entitled and which they so desperately need.

Chairman SHAW. Thank you.
Ms. Smith.

STATEMENT OF MARILYN RAY SMITH, ASSOCIATE DEPUTY COMMISSIONER AND CHIEF LEGAL COUNSEL, CHILD SUPPORT ENFORCEMENT DIVISION, MASSACHUSETTS DEPARTMENT OF REVENUE, CAMBRIDGE, MASSACHUSETTS

Ms. SMITH. Good morning, Mr. Chairman, Members of the Subcommittee. My name is Marilyn Ray Smith. I am the chief legal counsel of the Child Support Enforcement Division in Massachusetts where child support has been a priority for Governor Bill Weld. I am also the past president of the National Child Support Enforcement Association.

I first would like to thank you for your leadership in securing passage of the most comprehensive child support legislation in the history of the program. The Personal Responsibility and Work Opportunity Reconciliation Act contains all the effective tools for collecting child support. But passing legislation is just the beginning. Implementation is where we have to make sure this act lives up to its promise.

The greatest danger will be the tendency to view this act as a long—and some would say, onerous—laundry list of individual requirements rather than as a comprehensive rational scheme that will move the child support program into the 21st century in the age of information technology.

This act does more than require States to pass a series of laws. It pushes States to consolidate information, streamline processes, and centralize decisionmaking authority. It calls for building a network of information and automated data matches that is virtually unprecedented in government.

To get the act's full benefit, States will have to reengineer child support operations to shift from what I call "retail," to "wholesale," to go from individualized case-by-case processing to a standardized computerized system that automatically takes action on thousands of cases at a time.

Achieving such a transformation means more than adding computer technology. It also means realigning decisional power and organizational functions among the multiple State and local agencies that may be involved in child support in a particular State.

The transition to automation will not be easy. It will require caseworkers to cast aside comfortable ways of doing business. Turf battles may arise between State and county offices, or between courts and the administrative agency. To make it work will require not just child support people figuring out the details, but strong, sustained political leadership at the highest levels of Federal and State government.

In analyzing States that have already improved their programs, you will almost always find a "political angel" in the wings—a Governor, a key legislative leader, an innovative commissioner—who provided the resources and guidance to translate the vision into reality. We need your help to help identify and support that political leadership at the State level.

You can also help by keeping child support visible in the ongoing public debate about welfare reform. You can use hearings like this

one, to get the other necessary players to pay attention to the details.

Historically, child support programs have suffered from fragmentation across many different agencies. In some States, the welfare agency performs intake and case management functions. The district attorney's office is called in when the case needs to be taken to court. The county clerk of court collects the child support payments and sends them to the custodial parent. Each of these entities may report to a different elected official at the State or county level, perhaps in different political parties. Under these circumstances, it is difficult to get coordinated action.

Case functions are also fragmented. In some States, there are dozens or even hundreds of collection points to which employers send wage assignments. Chrysler, for example, reportedly sends 11,000 wage assignments to 350 locations throughout the country. Wage assignments or bank account attachments are completed by hand, one at a time, and by the time the notice reaches its destination—even if it gets there, given the avalanche of unfinished paperwork and unreturned phone calls that plague the average caseworker—the noncustodial parent, or the bank account, has moved on.

This act will change all this. It requires States to consolidate all cases into a central case registry, to send all payments to one location, and to use an impressive arsenal of enforcement remedies, all through automated processes that can handle thousands of cases at a time.

While some may resist these changes, the use of automation to obtain economies of scale does work. States that have already gone this route have achieved impressive results.

In Massachusetts, for example, reengineering meant going from a pool of 200 judges hearing cases any day of the week to a pool of 45 judges hearing only child support cases 1 day a week. It meant going from 144 collection points, using 200 clerks to open envelopes and send out checks by hand, to one lock box where 30 employees use the latest in bar coding equipment. It meant going from 200 employees to process wage assignments one at a time to an automated new-hire reporting system that sent out 150,000 wage assignments by computer needing the oversight management of only 20 people. And along the way, the legislature did not cut our staff; rather it added staff, because it wanted to invest in a successful program.

The result of 5 years of reengineering is that 50 percent more families receive child support. Collections have gone up by 45 percent, and four times as many families leave welfare every year because there is a regular child support check. And there are charts attached to my testimony to illustrate this.

In spite of the pressures on Congress and HHS to back down on some of these bold changes that reengineering requires, it is important to stay the course if you are going to get the results that you expect from your investment in the Nation's child support program.

While child support professionals are among the most dedicated public servants in the country, it is simply not realistic to expect us to have the political clout to make this transition alone. We need Governors to coordinate interagency cooperation. We need

commissioners of diverse agencies to open doors and eliminate bureaucratic barriers in making the linkages for information exchange. We need legislatures to provide adequate funding and laws with real teeth. We need courts to interpret these new laws for the benefit of children.

Even though you have done your part in passing this powerful legislation, you can continue to influence HHS and State and local political leaders by encouraging them to provide the visionary leadership to ensure that the necessary changes take place.

We hope you continue to stay tuned as implementation of this important legislation unfolds.

Thank you very much for this opportunity to testify.

[The prepared statement and attachment follow:]

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON CHILD SUPPORT ENFORCEMENT

Statement of

MARILYN RAY SMITH

Chief Legal Counsel
Associate Deputy Commissioner

CHILD SUPPORT ENFORCEMENT DIVISION
MASSACHUSETTS DEPARTMENT OF REVENUE

September 19, 1996

Mr. Chairman, distinguished members of the Subcommittee: Good morning, and thank you for the opportunity to testify on issues relating to implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

My name is Marilyn Ray Smith. I am Chief Legal Counsel and Associate Deputy Commissioner for the Child Support Enforcement Division of the Massachusetts Department of Revenue, where Governor Bill Weld has made child support a priority. I am also past president of the National Child Support Enforcement Association, a national, nonprofit organization of more than 2,500 State and local child support agencies and professionals dedicated to the enforcement of children's rights to financial support from their parents.

I wish to commend Congress for its bold vision -- led by this Committee -- in enacting the most comprehensive child support legislation in the history of the program. With time-limited welfare benefits and mandated work requirements, child support is a critical part of the safety net to keep children from sinking into poverty when their parents separate or never marry. This legislation contains all the effective tools for collecting child support -- central case registries; new hire reporting; automatic liens for every case; license revocation; centralized payment processing; streamlined procedures for handling interstate cases, updating orders, and establishing paternity; access to information from credit reporting bureaus, financial institutions, public utilities, and law enforcement agencies; and much, much more.

But passing bold legislation is just the beginning. This legislation is replete with technical details for reengineering processes, as well as precise requirements for cooperation among Federal, State, and local agencies that are virtually unprecedented in government. We must ensure that the implementation by the States working in conjunction with the Department of Health and Human Services translates the vision into reality, so that this legislation lives up to its promise.

I therefore also wish to commend this Committee for holding hearings so soon after the enactment of this legislation -- to signal your commitment to an effective child support program as an integral part of real welfare reform.

Today, I'd like to suggest to you several areas where Congress should pay particular attention to the implementation of this bill. First, the full power of new hire reporting and automatic liens depends on fitting together a complex puzzle of information exchange that will require an extensive and ongoing cooperative partnership between

many Federal, State and local agencies. Second, the heart of this legislation is the extensive use of automation to collect child support quickly and efficiently. The transition to automation will not be easy, and will require many States to cast aside accepted and comfortable ways of doing business. Third, funding should be redesigned to reward States for collecting money, not for spending money, and incentives should be redesigned to reward States for keeping families off welfare, not for keeping families on welfare, as is the case with current law. Finally, Congress needs to continue to encourage States to take steps to strengthen marriage and reduce the number of out-of-wedlock births, as the surest route out of poverty for children is to live with two parents.

Achieving these objectives will require strong, sustained political leadership at the highest levels of Federal and State government. Child support agencies -- no matter how dedicated -- cannot do it alone. Without strong leadership, the requirements to centralize case information and manage cases through the use of high-volume automated enforcement remedies may be met with resistance or founder on an incomplete vision that fails to carry out the full potential of this powerful legislation. The greatest danger will be the tendency to view this legislation as a long -- and onerous -- laundry list of individual requirements, rather than a comprehensive, rational scheme that will move the child support program into the 21st century and the age of information technology.

The Personal Responsibility and Work Opportunity Reconciliation Act does more than require States to pass a series of laws and follow certain specific procedures. It also requires States to reengineer child support operations, to shift from "retail to wholesale." To get the full benefit of this legislation, States will have to transform what has been a highly individualized, case-by-case process into a standardized, computerized system that automatically makes decisions and takes action on thousands of cases at a time, once certain threshold criteria are met.

Achieving such a transformation means more than adding computer technology. It also means realigning decisional power and organizational functions among the multiple State and local agencies that may be involved in child support enforcement in a particular State. This will be the most difficult part of successful implementation. There will be other barriers, to be sure, but those will be operational details that resourceful child support professionals can resolve.

Achieving the full potential of this legislation will also require State political leadership -- governors as well as key legislative, judicial, and executive branch leaders -- to analyze how child support functions are allocated among various State and local agencies and to initiate any appropriate structural changes. If there is not clear vision and decisive leadership at the highest levels, child support agencies are not likely to have the will, the courage, the energy, or the resources to make the necessary structural changes on their own.

To give you a sense of the magnitude of the changes that confront States, I would like to describe some current practices, suggest some new ways of doing business, and provide a case history of one State's successful reengineering experience.

Starting Point for Implementation of Child Support Reform

Historically, child support programs have suffered from a fragmentation of functions across many agencies within a State, in a complex system where no single authority has control over essential case processing functions. In some States, the welfare agency performs intake and case management functions; the district attorney's office is called in when a case needs to be taken to court to establish paternity and to establish, modify, and enforce a support order; and the clerk of court collects the child support payments from employers or individual obligors and sends them on to the custodial parent or, if the family receives AFDC, to the welfare agency. Each of these entities may report to a different elected official at the State or county level, perhaps from different political parties, who may have little incentive to cooperate toward a common purpose related to child support enforcement.

In some States, there are literally dozens or even hundreds of collection points throughout the State to which employers must send wage assignment checks, based on the local court having the order. (Chrysler reportedly sends 11,000 wage assignments to 350 locations throughout the country.) Until recently when the new automated systems came on line, thousands of caseworkers kept handwritten pay cards, where individual notations were made every time a check arrived in the mail or was hand-delivered by the noncustodial parent. In some instances, the clerk of court and the child support agency still keep separate payment histories, with accounts differing in the amount of arrearages owed, because different points of collection mean that not all payments get credited to both accounts.

Enforcement remedies -- whether sending a wage assignment to an employer or attaching a bank account -- are also completed by hand, one at a time. Information about a new job may land on the desk of an overwhelmed caseworker, where it may get buried for weeks under mounds of paper. Sometimes the only way to find out that the obligor has a worker's compensation claim or is receiving unemployment compensation is if the custodial parent calls a caseworker in a local office, who must then fill out a wage assignment form, and mail it to the local unemployment or worker's compensation office. By then, unemployment checks may be exhausted or the claim settled. If by chance a bank account is located, the worker may have to obtain the court's permission to seize it, resulting in weeks of delay that may mean the money is gone before the lien reaches the bank.

Putting the Pieces Together to Make the Machine Do the Work

The Personal Responsibility and Work Opportunity Reconciliation Act requires States to consolidate the caseload into one central registry, send all payments to one location for entry on a single database, amass a vast array of information about income and assets of noncustodial parents from a wide variety of public and private sources, and assemble an impressive arsenal of enforcement remedies for collecting current and past-due support -- all through maximum use of automated, computerized processes. It requires wage assignments in every case and new hire reporting to make sure wage assignments keep up with job hoppers. So that enforcement remedies can locate shifting income and assets, there are provisions for States to share information by reporting case information to a Federal registry of cases and the National Directory of New Hires. Automatic liens are required in every case owing past-due support. To put teeth into those liens, States must conduct data matches with banks and other financial institutions every quarter to locate bank accounts of delinquent obligors.

In addition, States must build information linkages, including automated access where available, with a wide range of other State and local agencies. This network for information will extend from welfare, Medicaid, and foster care agencies to registries of birth records, motor vehicles, and real property; from state licensing boards to corrections and revenue departments; from financial institutions to insurance companies and worker's compensation agencies; from multinational employers to "mom and pop" shops; from hospitals to public utilities and cable television companies.

Agreements to obtain this information will have to be negotiated on a statewide basis, not county by county or office by office. Banks cannot be expected to negotiate individual reporting arrangements with sixty different counties in a State, nor will unemployment compensation agencies be able to conduct data matches under different agreements with every local child support office.

Moreover, for information on location, income and assets to be useful, it must be used quickly, before it is stale and the obligor or his money moves on. States must be able to take enforcement action as soon as they locate an asset. It does little good to obtain information from an automated data match, and then revert to an individualized case review to decide whether to act on the information, while the case gathers dust in a crowded in-box.

The use of automation working from a centralized data base that contains accurate account information to obtain economies of scale works. It was the recommendation of the Interstate Commission, the Clinton Administrative Working Group on Welfare Reform, and testimony at many Congressional hearings. It has produced results for States that have made the transition, however painful. Full automation -- as opposed to using computers to support individual casework -- is necessary if Congress is going to see the results it expects from its significant investment in computerization of the nation's child support program.

In spite of pressures that may arise to persuade Congress and HHS to back down on some of the bold changes that reengineering requires, it is important to stay the course. It may take longer than anyone wants or expects, but dramatic improvements in the nation's child support program are indeed possible through proper implementation of the provisions in this legislation.

While child support professionals are among the most dedicated and committed public servants in the country, it is simply not realistic to expect child support agencies to have the political clout to do this alone. They need governors to coordinate interagency cooperation, commissioners of diverse agencies to open doors and eliminate bureaucratic barriers, legislatures to provide adequate funding and laws with real teeth, and courts to interpret the new laws for the benefit of children.

Congress as a body and as individual members in their respective States can exert significant informal influence over State and local political leaders to encourage them to take a keen interest in ensuring that the necessary changes happen. And HHS can lead, encourage, cajole, train, and coach State programs, while interceding as appropriate with the governors' offices and legislatures at the critical juncture to maintain forward progress.

Getting Results: The Massachusetts Experience

Many States, such as Iowa, Virginia, California, New York, and others too numerous to mention, are well into the reengineering process that the Personal Responsibility and Work Opportunity Reconciliation Act envisions, and can attest to its success. Massachusetts is unique in that it has implemented virtually all of the requirements of the PRWORA and has documented the dramatic results through charts and graphs. Other States that have adopted these strategies in anticipation of these legislative reforms are getting similar boosts in productivity.

Massachusetts started the reengineering process almost ten years ago, when the State legislature began implementing the Child Support Enforcement Amendments of 1984. Like many States, Massachusetts' child support program suffered from fragmentation of essential functions among several entities, lacking a single agency having clear accountability or control over case management.

The first step in reengineering was transferring the child support program from the Department of Public Welfare to the Department of Revenue (DOR). Then DOR consolidated payment records from 84 local courts and 60 local welfare offices into one central payment processing location. Now every week, some 20,000 checks representing payments from more than 40,000 obligors arrive from employers -- with many sending payments for several employees in one check; the latest in payment processing technology ensures that checks to custodial parents are reissued in 24 to 48 hours. The staff devoted to payment processing went from almost 200 clerks opening envelopes in the courts and local offices to 30 employees at a central lockbox location using the latest in scanning and bar-code technology. Court jurisdiction over child support and paternity cases was changed so that on any given day a pool of some 45 family court judges instead of 200 judges could hear child support cases in special weekly sessions devoted exclusively to child support.

Wage assignments are now required in every case and, based on new hire information from employers, can be transferred by computer to the new employer without going back to court -- and without human intervention. Data matches with the unemployment agency ensure that a wage assignment is in place when the first unemployment check goes out. The new hire reporting program has transferred 150,000 wage assignments by computer. Before the automated wage assignment and new hire program went into effect, enforcing wage assignments required 200 employees and cost $9.2 million annually. These innovations reduced to 20 the number of employees required to manage the process, at an annual cost of $800,000. Costs for this program alone thus decreased by $8.4 million per year while collections increased by $33.2 million.

Taking a page from tax collection strategy, Massachusetts issues administrative liens in every case owing past-due support, with the agency poised to spring into action as soon as income or assets are discovered, again without a court or administrative order -- and all without human intervention. Since 1992, 150,000 liens have been issued against delinquent child support obligors, and more than $20 million has been collected from their assets. As a result of the first data match with the worker's compensation agency, virtually overnight, 8,000 liens were filed on workers' compensation claims, a process that previously took 20 staff working for a month to locate each worker's comp case for an obligor owing past due support. Now these matches take place monthly and DOR's lien is there -- sent by computer, not by a caseworker -- whenever a case involving a delinquent child support obligor is settled. Legislation requiring banks and other financial institutions to provide, at first, annual -- and then, in 1994, quarterly -- information enabled DOR to use data matches with bank account information to further boost collections by $17 million over the last three and a half years. Going from an annual to a quarterly bank match nearly tripled the collections from this powerful enforcement remedy. Parents of more than 70% of children born out of wedlock sign voluntary acknowledgments in the hospital or shortly thereafter in a program that has established legal fatherhood for 25,000 Massachusetts babies in just two years.

The caseworkers' job has changed in this process. Less of their time is spent looking for income and assets or dealing directly with custodial and noncustodial parents to gather case information. Instead, caseworkers resolve account disputes and handle customer inquiries. As a result of computerization, their time is being freed up to tackle the tough cases where the machine cannot find assets or income; or they work through the backlog of cases needing paternity, new orders or modifications. Contempt proceedings now focus on obligors where no income or assets can be located, making more effective use of scarce and costly attorney and judicial resources. Reductions in staff for particular programs did not mean layoffs; in fact, the legislature, at the Governor's request, added **more** staff because it was willing to invest in a successful program.

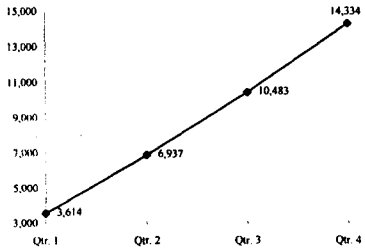
There was plenty of chaos and deflated morale along the way to this new style of doing business. Caseworkers were not always enthusiastic about changes in their job descriptions or the consolidation of local offices into regional centers. The telephones literally burned off the hook when the lien notices first went out and bank accounts were seized. There was many a naysaying, doubting Thomas, as well as complaints to the Governor's office or the press about missing checks or inadequate service. But at the end of this five-year process, the number of cases receiving child support has increased by 50% -- from 37,200 in July of 1991, to almost 56,000 in June of 1996. Child support collections also increased from $177 million in 1991 to $256 million in fiscal year 1996, growing by more than 45 percent. There has been a similar increase in the number of families where child support collections have helped them move from welfare to self-sufficiency -- growing from 3,000 in 1991 to 11,700 in 1996. In the process, child support has saved the taxpayer millions of dollars in welfare costs not expended. And in the end, staff have grown in sophistication and have developed a thoughtful pride in the accomplishments of the program.

Other States will no doubt adopt different organizational strategies and will show different results, depending on where they already are in the reengineering process and

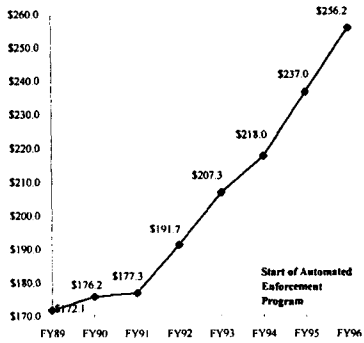
what works best for their particular size, demographics and history. HHS can help by sharing success stories, and by coming up with **simple** solutions to the vexing operational details that plague this complex program.

FY96 Performance Overview

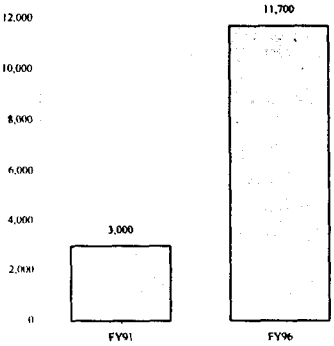
We're establishing more child support orders...



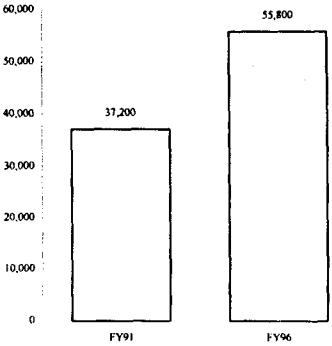
Collections are rising...



AFDC Net Case Closings...



And best of all, 18,600 **More Families Are Receiving Support**



Funding to Achieve Desired Results

Funding is a powerful tool to drive child support programs to achieve the results desired under this legislation, and one that has been deferred for further analysis. The Personal Responsibility and Work Opportunity Reconciliation Act requires the Secretary of Health and Human Services, in consultation with State child support directors, to develop a new incentive system and report back to Congress by March 1, 1997. This presents a unique opportunity to design funding incentives to achieve the mission of the child support program: to collect child support so that families will not be forced to turn to public assistance for economic survival. There are a few general principles that may assist Congress in reviewing these proposals.

The current Federal matching rate focuses on how much money **States spend,** not on how much money **States collect**. A more productive approach would tie performance measures to desired program outcomes that push States toward more efficiency and higher productivity.

Similarly, the current incentives structure is derived from AFDC collections. Rather than measuring a program's success at getting families **off welfare**, Congress in effect rewards States for keeping families **on welfare**. Cost avoidance -- money saved because child support enabled families to leave welfare, or to avoid public assistance in the first instance -- is not taken into account.

States which focus on closing AFDC cases actually reduce their potential income from the program. In Massachusetts, for example, in 1994, approximately $25.7 million was collected from 11,000 former AFDC cases, for an estimated savings of $38.5 million for AFDC, Medicaid, and Food Stamps expenditures that would have otherwise been made. Had those collections been counted as AFDC collections for calculating the incentive payments, Massachusetts would have received an additional $4.5 million. This is particularly important for the Massachusetts child support agency, as all incentive payments are funneled directly back into the program and provide the critical margin for creative innovations to collect support. The chart at the end of this testimony illustrates how AFDC collections have remained relatively constant, even as overall collections rose, as more and more families receiving child support have moved into the non-AFDC caseload.

In re-thinking the funding structure, Congress should reward cost avoidance by redefining the incentives to include collections in former AFDC, foster care, and Medicaid-only cases, along with AFDC collections, as part of the formula for calculating incentives. These families are a priority, as they are demonstrably the most at risk of turning, or returning, to public assistance. In addition, Congress should require that all incentives be reinvested in the child support program, not used to build roads or bridges, or other programs not related to children.

Reducing the Number of Children Needing Child Support Services

As a result of the welfare reform debate, Congress in a short amount of time has raised the public's awareness of the long-term harmful consequences on children of growing up in a single-parent family. With a third of children born out of wedlock and half of marriages ending in divorce, more than half of the children of this generation will spend at least part of their childhood in a single-parent household. Of these, an estimated 73% will experience periods of poverty during their minority, as compared to only 20% of children raised with two parents in the home. Perhaps worse than periodic economic deprivation are the increased risks of other social disadvantages. As McLanahan and Sandefur have documented, children growing up with only one parent -- usually the mother -- are three times more likely to have a child out of wedlock, 2.5 times more likely to become teen mothers, twice as likely to drop out of school, and 1.4 times as likely to be idle -- out of school and out of work. These risk factors cut across race, sex, parents' education, and place of residence. Although most single mothers struggle

valiantly against staggering odds with insufficient resources to raise children alone, -- and are not to be blamed for these outcomes -- a caring, involved, responsible father is clearly a powerful and necessary role model for both boys and girls in their journey to responsible adulthood.

While Congress does not, nor should it, legislate morality, it can support parent education programs that strengthen marriage and discourage out-of-wedlock births. Today the cultural norms that militate against marriage -- as reflected in television, movies and just everyday life -- seem well-entrenched. But not too long ago, the same might have been said about drunk driving and smoking tobacco. Well-conceived and well-executed campaigns to educate the public can work. And child support agencies, as the frontline professionals who deal with the fallout of divorce and unmarried parentage, are particularly well positioned to assist in this endeavor.

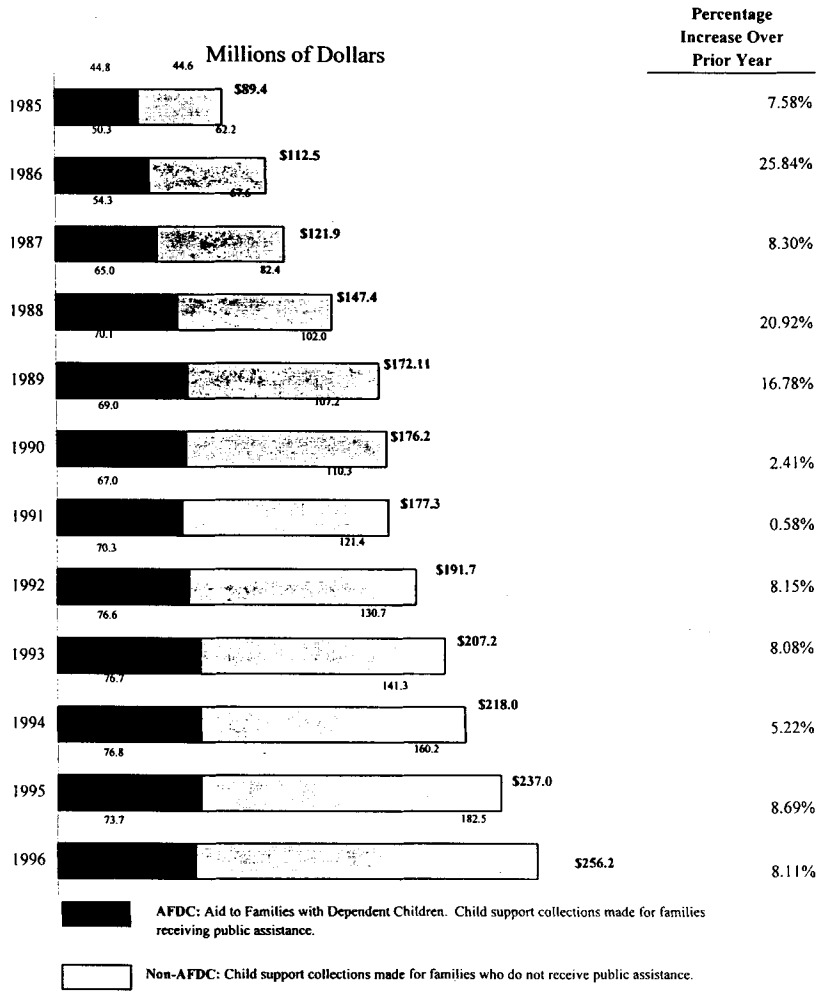
Conclusion

Mr. Chairman, while we have laid a strong and ambitious foundation for change in the Personal Responsibility and Work Opportunity Reconciliation Act, the real work of revolutionizing child support has just begun. We who work in child support understand that the road to successful implementation of this powerful legislation will not be smooth. We will undoubtedly have moments of frustration; we'll also need technical adjustments to fine-tune these comprehensive provisions. But we also know that the goal -- ensuring that families which rely on child support payments for economic self-sufficiency can count on receiving what is due, on time and in full -- is well worth the effort.

Once again, we thank you for your leadership and vision in bringing this legislation forward. We hope that Congress continues to stay interested as the implementation of this legislation unfolds.

Thank you also for your gracious attention.

Total Collections, 1985 - 1996
(Fiscal Year, July through June)



AFDC: Aid to Families with Dependent Children. Child support collections made for families receiving public assistance.

Non-AFDC: Child support collections made for families who do not receive public assistance.

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Chairman SHAW. Thank you very much.

Mr. McCrery.

Mr. MCCRERY. Thank you, Mr. Chairman. I do not have many questions, but I do think that today's panel is an excellent example of the kind of oversight that we are going to have to do with respect to the new welfare reform bill that we passed. The testimony we have heard today I think points up the need to look very closely at the tools that are in the law now that we hope will dovetail with the new welfare reform bill, and maybe, just maybe, the tools that are in current law need some refining.

So I am very pleased with the testimony we have had today, and I want to tell all the witnesses your testimony has been excellent; very informative and to the point, concise. That is very helpful to us.

Actually, the Chairman brought this question up on our way over to vote, but I am curious to hear the answer, so I am going to go ahead and ask it, Mr. Chairman. If you just will listen, I will steal your question.

To Mr. Doss, we were both impressed with the increases in filings that you have been able to accomplish, but we were curious as to the impact that it had on your court system, and how you are handling that.

Mr. DOSS. It has had a tremendous impact on the court system. In Los Angeles County, when our current district attorney, Mr. Garcetti, assumed office, we had two dedicated courts handling the child support enforcement caseload in Los Angeles County. We had to make appearances around the county in various courthouses because we also appeared in existing family law action. Within 1 year of his becoming district attorney, we added a third. We will be adding a fourth, I am sure, before very long; and quite frankly, I do not see how we will do without more than five or six, because it is simply that large an impact in terms of the caseload that we are bringing into the courts.

We have been able to work very cooperatively with the courts, the availability of Federal funding has helped to some degree to do that. But they understand this is a priority that we have. It is a priority they are going to have to deal with, and it is putting some strains on our ability to get our work done. It has been a limiter up until now, in fact, in some of what we have tried to accomplish.

Mr. MCCRERY. But you are optimistic the State and the county are going to recognize the importance of it and cooperate in terms of expanding access?

Mr. DOSS. We just passed legislation in California that Mrs. Frye can talk about that will authorize additional courts around the State to handle specifically the child support enforcement caseloads of the district attorneys in California. And it does fund those courts separately. It does give them a priority within the county court structure. It is a very, very, positive move. We need it, and we will be using them very quickly.

Mr. MCCRERY. Ms. Frye, do you want to expand on that?

Ms. FRYE. Yes, I was just going to add that as we prepared for automation, both in Los Angeles County and statewide, we saw this workload coming as we became more efficient in locating and serving, preparing those filings for enforcement and establishment

of support. We did pass this year landmark legislation that was sponsored by Governor Wilson and carried in our State legislature which will simplify the process, make it more understandable for the families who are going through it, and it will streamline the rules of court and many other features so we can have the resources we need to process these orders through the court system. It was something developed in cooperation with the judiciary, and all of the players, and it is something that I think we are really proud of, and it is going to enable us to meet this challenge

Mr. McCrery. Ms. Smith, do you have any similar experience in Massachusetts?

Ms. Smith. Well, we went quite a different route. We organized our program as much as possible to keep things out of the court. Almost all of our enforcement remedies are done through the administrative agency, through bank match, and administrative license revocation, and transferring wage assignments. We use the contempt process only when we cannot locate any income or assets through any other mechanism or use any other mechanism for seizing them.

With respect to establishing orders, we have had enormously successful in-hospital paternity programs. We are establishing paternity in almost 70 percent of the cases of children born out of wedlock, either in the hospital or shortly after they leave the hospital. This is just after 2 years of work, and we still have not completed all our outreach mechanisms.

We do use the courts. We do not have administrative or quasi-judicial process. We do use judges, but we focus on cases where judges set orders in the first instance as well as the modification process, and we do have legislation to make that process even more non-court-oriented, if possible, in the next round of reform.

But our strategy has been to keep the judges to do the difficult cases that you cannot resolve in any other way, and use them as a last resort. That has made an enormous difference. We would never be able to bring 20,000 lien actions back to court. It is all done through the administrative agency. And this legislation, I believe, will move all States to go in that direction, because many of these enforcement procedures will happen by operation of law. The State has the ability to go forward without getting individual approval of a court, and then the court can be there in the event that there is some contest or dispute over the amount of the arrearages, or so on.

Mr. McCrery. Thank you. Good question, Mr. Chairman.

Chairman Shaw. Just as a followup, you said establishing 70 percent of paternity in the hospital. I assume you are talking about single moms?

Ms. Smith. Oh, yes. We are not talking about married parents. No, no, we are talking about unmarried parents.

Chairman Shaw. I just wanted to be very clear on that

Ms. Smith. Right.

Chairman Shaw. Ms. Kennelly.

Mrs. Kennelly. Thank you Mr. Shaw. I have been working on this subject, child support enforcement, for 12 years now on this Subcommittee. I remember in 1984 when we began the amendments on child support, there was a debate, and as even as we

began, we did not address non-IV–D cases or nonwelfare cases. And then of course, we realized we had to do it, because one of the ways you are going to keep people off welfare is by making sure that their child support orders are paid.

In this last round, this Subcommittee looked at a number of suggestions by the U.S. Commission on Interstate Child Support, of which I was a member. One of the suggestions that I thought was most important, of course, was that we—and obviously the Chairman and the Subcommittee did—that we establish a Federal registry for child support orders.

What I would like you to address, starting with Ms. Donahue, is when we have a national registry, and the States put all their cases on file, is it important to put both IV–D cases and the non-IV–D cases on the national registry? My understanding is that is what we did, and I want to make sure that we did it, but also, I would like to ask you how important you think it is to have all orders on the national registry?

Ms. DONAHUE. The way I read the legislation is the way you did. So I am glad that you think that is what you did, too.

Mrs. KENNELLY. I am positive that is what we did, but I understand there is some question about it now.

Ms. DONAHUE. Yes. I mean, I think it is vital that both IV–D and non-IV–D cases be sent up to the Federal registry for a number of reasons.

One-third to one-half of all the child support cases in this country are not IV–D cases. So, if we really want to move toward a system where we can identify and enforce all child support orders, and I am not saying that the IV–D agencies at the State level would have to enforce those orders, but at least know where people are, and what information we have on them, it is really important that the national registry house both the IV–D and the non-IV–D orders.

And of course, this national case registry is comparing these orders to a national new-hire registry, so to really get a full picture of where everybody is and who owes child support, we really need to include all orders.

Also, the requirements of the Uniform Interstate Family Support Act and the new full faith and credit law really require that you have information about all cases, not just IV–D cases.

I think it is crucial, and I think the legislative language is pretty clear as well.

Mrs. KENNELLY. The only caveat you had there is that the States put into the computer all the cases, and then they would not have to follow up, but at least let the Federal Government and the national registry have that information?

Ms. DONAHUE. Right. I think the legislation is pretty clear that while the States have to keep a record of all new and modified orders that are not IV–D orders in their case registry, they do not have to work those orders. They do not have to work them unless the case becomes a IV–D case. One of the things that is important about having information on both cases is that cases go in and out of the system, and a case may not start out as a IV–D case, but it may become one pretty quickly. So you want to not have lost the

opportunity to have that information simply because it was not IV–D from the outset.

Mrs. KENNELLY. Thank you very much.

Would anybody else like to comment?

Mr. LEVY. May I just mention that despite our best efforts on child support since 1984, we have not reduced poverty or welfare even 1 percent, and it is apparently because when parents are poor, breaking them into dysfunctional single parent units makes them even poorer. But if we can have some of the family formation and family preservation measures called for by this excellent welfare reform legislation, we may be able to do more in helping families form and stay together. I refer to the ideas I previously outlined like kinship care, explaining the benefits of marriage at the intake for child support and welfare, schools teaching parenting skills, parenting education, mediation, conflict resolution skills, counseling, shared parenting, waiting periods for separation, "leaning a little" to parents who want to preserve the marriage. If the States do some of those things which are very low cost, and some of them no cost, they may find that their incentive payments after several years go up, because they have helped with family formation, and family preservation. And really, a family together, a married family, is the best child support in the country.

Mrs. KENNELLY. Thank you. I would just like to quickly make one more comment, Mr. Chairman.

Ms. Smith, you called upon us to stay vigilant in overseeing this legislation. I want to ask all of you to stay vigilant, because in my experience, I have found this is such a complicated subject, that if I did not have you, the experts, I could not address it. So I hope you will stay with us as we work with you.

Chairman SHAW. Mr. Collins.

Mr. COLLINS. Thank you, Mr. Chairman. I just wanted to compliment this panel on their comments. As I listen to you, I hear echoes of a lot of statements that were made during the discussions when we were going through this process last year, and I just want to say thank you. I hope that those noncustodial parents that have not fulfilled their duties in the past, and those of the future will understand that we are intent on collecting the funds that they owe, and maybe that will be a deterrent in the future so they will not be lax in their payment. And we will be able to gain a lot from this system—it will just work out for the benefit of families that need this assistance. Thanks for your help. Thanks for your comments.

Thank you, Mr. Chairman.

Chairman SHAW. Mr. Ensign.

Mr. Levy, I was listening to your testimony, I was reminded that when I was a very young lawyer starting out in practice, when you take almost any case that would walk in the door, and the few divorce cases that I handled back then, when you start to write down the assets, and the wages, and income of the family, the first thing you would understand is that there is no way they could make it by splitting it in half. I spent half my time trying to talk them out of going to court and telling them they would not owe me anything if they walked out the door, because it is really pitiful when you see what does happen.

But of course, we know that poverty sometimes breeds abuse, and abuse is sometimes worse in a family than a single parent, and it is a terrible cycle.

But I certainly agree with you that marriage is the best way to avoid the problems of poverty.

I would like to get some information from both the folks from California, and you, Ms. Smith from Massachusetts, and both you, obviously, are way ahead of the curve as far as child support collection. Pennsylvania possibly might come into this, too.

What experience have these three jurisdictions had—and I include you in this, Mr. Weaver—with the private sector being involved in the collection of child support? Or have you had any experience with that?

Mr. DOSS. I will begin to address that. We have had some limited experience in Los Angeles County with private sector collections. It is been a difficult task at best, because when we deal with private collectors, they generally want to ask of us the cases that are easiest to collect and leave with us the problems that are hardest and most unmanageable.

So we have not successfully entered into a collection contract to date with the private sector.

We have had some good success in the public sector. We did a pilot in Los Angeles County along with five other counties that brought in our State revenue agency, the franchise tax board, to act as a collector for us, and to use the same kinds of authority that they use to collect taxes, to collect back child support. We only pay them for what they collect, and that has been very successful not only in Los Angeles County, but it is now moving statewide. But our success with the private sector has been limited.

Ms. SMITH. The same has been true in Massachusetts. Our system is organized so that we have access to tax information through the Department of Revenue. We have access to new-hire reporting information for all employers. We have access to bank account information that banks report to us quarterly. We have access to license revocation, and by the time we have exhausted all our remedies and databases, we have picked up the money that is relatively easy to get. We do have a couple of contracts with private collection agencies, and they are working on the difficult cases. And so not surprisingly, those cases are not as lucrative as they might be if all these other programs were not in place. And I think if States go toward automation, and automatic seizures of assets and income and so on, that they may be able to move more effectively than collection agencies. Collection agencies may be particularly useful in interstate cases where it is very difficult to track somebody down, where you really do need the kind of "gum shoe" private investigator type of work, and if there is big money at stake. So I think there may very well be a role. But it is probably not in the automation domain.

Chairman SHAW. "Gum shoe." Boy, that is a name out of the past.

Mr. Weaver.

Mr. WEAVER. I think the experience in Pennsylvania has been predominantly at the county level in terms of privatization, and it has not really been that prevalent. But where there has been pri-

vatization efforts, it has been predominantly similar to what Marilyn has mentioned, which is in taking cases where there has been difficulty in collections, or has not been a collection for an extended period of time, and contracting that out with a collection agency, or quasi-collection agency.

Ms. FRYE. I would like to just add one thing.

Chairman SHAW. Yes, ma'am.

Ms. FRYE. The actual collection or entering into a partnership with a collection agency, is the one way that privatization has affected child support programs. This is not to say that we do not partner with the private sector for service of process, for genetic testing, for development of automation and so on and so on. So that is just one aspect of it, is the actual collection.

Mr. LEVY. Mr. Shaw, Mr. Chairman, thank you for your insights and experience into poverty and breaking up the family assets. Regarding an earlier comment about paternity establishment, our Children's Rights Council favors 100 percent paternity establishment. In Vermont, they are getting higher compliance by Con Hogan, the director of family social services, who has instituted parentage forms—not just paternity forms—for unwed parents so that moms and dads both acknowledge mutual rights and responsibilities in support, custody, and access. The forms do not say what level of support, custody, or access you will have, only that there are mutual rights and responsibilities.

Parents, if they know they are going to be involved in their child's life more than just providing a Social Security number for support collections, are going to be much more responsive.

And in Texas, they do something like that, they establish custody visitation, support, all in one hearing.

In other States like Illinois, you sign a paternity form, they establish a support order, they do not even address custody or access. That is not going to induce family formation, family preservation, or family connections. The incentives can help a lot.

Thank you, Mr. Chairman.

Chairman SHAW. Would you like to comment on that, Mr. Melia? That seems to be getting into your area a little bit on the private sector.

Mr. MELIA. Yes. And I used to run the child support program in Massachusetts as well. So I have been on both sides of the fence. And I know what Wayne and Marilyn said is generally true across the country.

When States farm out unsuccessful cases, they tend to be the most difficult ones to pursue, and the more organized and better a State is at collecting, of course, the worst the remaining cases are, and the more difficult they are to collect. I do not know of anyone who has really had good results with that type of contracting.

The other, and probably more significant way the private sector gets involved, is that some States elect to take a particular city or county, and turn the program over pretty much lock, stock, and barrel, to a private company, where the private company hires all the employees, and performs all of the child support functions for that jurisdiction. And the——

Chairman SHAW. What is an example of that?

Mr. MELIA. Well, Tennessee has probably gone the furthest. They probably have 4 or 5 of their 30 judicial districts run privately. The State of Georgia does it for Atlanta where my company runs a contract. Omaha, Nebraska, is another large one.

The main advantage of a private company is its flexibility, especially in the overhead areas. It just is much easier to make personnel decisions and to move people around and to hire and fire. It is easier to buy equipment. It is easier to replace it as it should be replaced. It is quicker and easier to rent space than to go through the State government agencies. So you can take a fair amount of cost out of the program. I think we would probably have a 10- to 15-percent cost advantage, even assuming that we pay employees pretty much the same wage and benefit package, which tends to be the case.

Chairman SHAW. Are you given the same access to bank information and things of that nature as the other——

Mr. MELIA. For the most part, yes. It can vary according to the precise contract. But generally, States recognize that they cannot hire somebody and expect them to do a good job without access to the critical information. The other area that seems to be of value is the ability to pay incentives. We pay people a base salary, but on top of that, every employee has a chance to earn a bonus, and it is all tied directly to the basic performance measures, paternity establishments, and collections. And that definitely helps.

So to the extent that you can incorporate those lessons that—incentives work better than mandates—into the overall funding system, I think you can generate some more widespread improvements in the program.

Chairman SHAW. With the new legislation, we on the Federal level, are paying for a great expansion of the electronic process in which all this is set up. Are you finding that there is an adequate number of talented people to put these programs together? I mean, I am speaking as a guy that cannot even turn on a computer.

Mr. MELIA. No, there clearly is not. One of the major reasons why so many of these systems are delayed is the legislation essentially drove all 50 States into the marketplace at the same time. What has happened is the same thing that happens when the four-lane highway becomes a two-lane road.

When I was directing the Massachusetts program, and I was on the phone constantly with Wayne, and he with me, because we hired the same company to do it, and we were constantly arguing over, you know, is this guy going to be in Los Angeles next week, or is he going to be in Boston. There just are not enough folks out there who are both expert in technology, and expert in the program areas.

Mr. DOSS. I would like to reiterate that point. That is absolutely the experience, and it is certainly the case when we started. It is better today than it was in the early nineties, when these systems were getting off the ground and the States were scrambling to get contracts in place. But we saw a real increase in costs of systems. The systems particularly that came along later, because vendors did not have the available resources to do the job. They were already committed elsewhere.

Chairman SHAW. Do not the vendors see this as an opportunity so they should be scrambling to become more competitive with each other to get the business?

Mr. DOSS. I do not think there was any lack of effort on the part of the vendor community to try to find resources. In fact, one of the reasons Mr. Melia, for example, is no longer in Massachusetts is because of the efforts of the vendor community to do that.

Chairman SHAW. Oh, he is the one-lane highway, now.

Mr. DOSS. What I was going to suggest to you is that in all those conversations about whether our vendor would work in Los Angeles or Massachusetts, I won, and that is why he is no longer there. But I am not sure that is true. No, the situation is better, but it is still not where it needs to be. The problem is, there has not been enough child support expertise in the community to support the computer experts in doing what they do. They have to know what to do in order to program the computer. And they did not have the strong base of knowledge of child support, child support regulations, and law, that was needed to do this job in the beginning. It is getting better, but it has not reached the point it needs to.

Mr. MELIA. Mr. Chairman, there is probably one other point that is worth mentioning here, and that is, a significant part of the complexity of these systems and a significant reason for cost overruns and delays is the fact that a good portion of these computer programs are devoted not simply to collecting child support, but also to producing the necessary documentation so that States can show OCSE that they are in fact meeting all the many rules and regulations.

Chairman SHAW. Do you think that the timeline that we have produced in the legislation is reasonable?

Mr. MELIA. I know the new time line is October 1997, and then——

Chairman SHAW. For the old——

Mr. MELIA. For the old one——

Chairman SHAW. We extended that one.

Mr. MELIA. And another one——

Chairman SHAW. We had to because I think——

Mr. MELIA. I think that what we will see is history repeat itself in that many of these changes will prove to be—the new law will cause many States to go back and rethink their fundamental organization structure.

When the computer systems are finished here, one of the things you need to understand is the job of improving efficiency is not over, it has just begun. I was up in Minnesota a couple of days ago, they just implemented their new-hire reporting system. And the front end works like a charm. The employer's reports get keyed into their computer system right away. They match it to their database of all their child support people. So all well and good.

But then what happens? What happens is their computer turns this into a printout. Minnesota is organized on a county basis, and you heard some of the members of the panel here talk about the problems. And the computer prints out this big printout every week, organized by Minnesota's 88 counties. And I met this woman who said she takes this printout, she puts it in the trunk of her car, she goes home, and while she watches television at night, she

rips the pages apart, and organizes them by the 88 counties on her living room floor. She puts them into manila envelopes and writes the address on them to which they should go. She brings them back into work, she mails them out.

All right. So they go to the county mailrooms. They eventually surface in the local child support programs, and somebody rips them open, and caseworkers figure out, "OK, this guy has gone to 3M, maybe I should send a wage assignment out here."

And that is because they are still operating fundamentally as they already have when all caseworkers had to make even the most routine decisions on all cases.

We have to get out of that mentality and start to say, "We do not need to do any of this."

Once 3M notifies us through a new-hire report that they have hired Bob Melia, then the system knows that Melia ought to be paying $100 a week in child support, the machine should simply print out a wage assignment in the middle of the night and mail a letter to 3M saying, "Take $100 out of this guy's pay."

There is a lot of work changing those organization structures, and we went through it in Massachusetts, and as Marilyn gave you the headlines, it took several years of effort. And other States are going to have to go through the same effort.

Ms. FRYE. I would just like to concur with that, and I would say also that different States took different approaches. Some went farther along the lines that Bob described; others just barely got started. But in addition, in terms of whether your timeframes are realistic, I want to point out that there is a substantial amount of automation development that is going to be required of the Federal partner in this program. And to some degree, there is a problem with the interplay of what OCSE is expected to do, what HHS is expected to do, by a certain date. That is, build a national registry, and a national new-hire reporting, and what it is that the States are expected to do. And I think we need to look at those dates.

In one instance, HHS is required to tell us what the data elements are for one of the registries by 1998, which appears to be the same date by which we are supposed to have our State level registries developed.

So I think there is some confusion, or some lack of clarity. And I am concerned about whether the Federal Government—well, I think they will face the same kinds of procurement and resource issues that States have been facing for the last 5 years.

Mr. LEVY. We might also consider reporting terminations and fires as well as new hires so that the employment information will be complete and accurate.

Chairman SHAW. Well, I have just been handed a note by staff that the 1988 requirements are now October 1, 1997, and the new requirements are October 1, 2000. I do not want to get ourselves in a situation where we find we get down to the deadline as we did under the 1988 law and find out that because a lot of folks were asleep at the switch that these were not done.

So I would hope that this Subcommittee and the—our partners in the administration would watch this very, very, closely, and perhaps we need to do some oversight on this Subcommittee with the private sector to find out what is out there, what are they doing,

how are they gearing up to meet the requirements of the States. Because this is so important. And we have got to be sure. Now, we have got a whole new thing to worry about.

Mr. MCCRERY. Mr. Chairman.

Chairman SHAW. Yes, sir.

Mr. MCCRERY. I am just curious, based on the comments of Mr. Melia, is there any effort ongoing, say with the National Governor's Association, or council of State legislatures, or Child Support Enforcement Association that is going to have workshops or seminars, on solving some of these problems outlining how to consolidate your effort, and use computers and data?

Ms. SMITH. Yes.

Mr. MELIA. Yes. Marilyn can tell you.

Ms. SMITH. We are working right now to put together a program right after the first of the year on reengineering child support to talk about some of these issues so that people do not use the computer to take manual processes and computerize them, but instead they do what the private sector has done. That is what reengineering is all about, it is a real paradigm shift. You look at things in a very, very, different way, and not just do business the old way. That is where I think States are going to have the most difficulty, because local folks may find it hard to make those changes. That is why I stress the importance of political leadership at the highest levels to put the pressure on people to make it happen, because it is not easy.

We went through a lot of internal turmoil for several years in Massachusetts while we went through that process, and we had Bob Melia here telling us to "jump off the cliff no matter what, you have to do it," and people did it.

And we are going to have to try to be in touch with States to learn from each other, and hopefully, people will testify in other State legislatures, and work with other State Governors' offices, and so on, so that people will be moving in the right direction. But that absolutely is the greatest concern, that the will and the leadership will not have the energy to take it through to the end.

Mr. MCCRERY. So I think I heard you say that after the first of the year, we are going——

Ms. SMITH. Oh, the National Child Support Enforcement Association, which is composed of all the professionals who work in the child support community; it includes prosecutors, local and State administrators, judges, private sector; it is virtually everyone who is involved in child support.

Mr. MCCRERY. And those folks will have to go back to their States and talk to their Governors or their State legislatures or whatever about implementing some of the suggestions they learn at this meeting.

Ms. SMITH. That is right. Now, OSCE is also putting together work groups and people are sharing model legislation, and people are bringing up different kinds of detailed questions about what direction to go in, but we do not have very much time to put this together. Most States will have to have their laws passed by January 1, 1998. So that means 1 year to figure out what the laws ought to say, and get the language integrated into each State's system. It is going to be quite a challenge.

Ms. FRYE. I would like to say also that OCSE was provided technical assistance funds in the new bill to help States achieve what they need to do in order to meet the requirements.

Chairman SHAW. Yes, we have got $400 million in the bill——

Mr. MCCRERY. Yes, but if they do not know what to do, they can spend that money in a heartbeat and accomplish very little.

Ms. FRYE. Right. This is in addition to that. It is technical assistance funds, and it is for the purpose of helping States reengineer their business processes——

Chairman SHAW. CBO told us that $400 million would do it. I know there is probably some question about that. Maybe there is some difference of opinion on this panel as to whether that is going to be adequate when it is split up among the 50 States, and other agencies that are involved with it.

Mr. MCCRERY. Mr. Chairman, it might be helpful for us to contact the National Governors' Association, for example, and just try to get them to cooperate with this other organization, and mesh their efforts, so that all parts of the dog know what is happening.

Chairman SHAW. Well, we will be watching it, and I am going to ask for regular reports from HHS as to the expenditure of those funds to see what is happening, and I think that is an excellent suggestion to get the NGA as well as other agencies involved in that in reporting to the Congress so we do not let this thing slip up on us again as we did under the 1988 law.

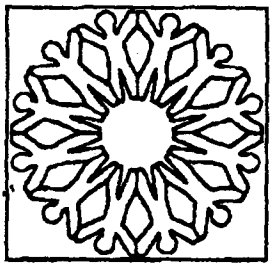
I would like to thank all of you for being here. It has been very helpful. I think you have certainly shown that we are on the right track, but we are going to have to be careful and watch it very carefully as to the direction we are going, and how we are going to get there, because this is one thing that everybody agrees on that we have got to do, we have got to make fathers of these kids responsible and quit walking away from particularly these poor moms. I know it works the other way occasionally, but the big problem is with the single moms, and we need to be sure that they do not have to live a life of poverty simply because their partner is not taking seriously his responsibility.

Thank you very much.

The hearing is adjourned.

[Whereupon, at 12:11 p.m., the hearing was adjourned.]

[Submissions for the record follow:]



TESTIMONY OF
DR. RODGER G. LUM, DIRECTOR
ALAMEDA COUNTY SOCIAL SERVICES AGENCY

REGARDING IMPLEMENTATION OF WELFARE REFORM
P.L. 104-193

U.S. HOUSE COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON HUMAN RESOURCES
SEPTEMBER 26, 1996

401 Broadway, Oakland, CA 94607

My name is Dr. Rodger G. Lum and I am the Director of Alameda County Social Services Agency. My Agency is responsible for the delivery of AFDC and Child Care services (Title IV-A), Child Welfare services and Foster Care (Title IV-B and Title IV-E), JOBS (Title IV-F), Food Stamp services, Medicaid eligibility (Title XIX), local General Assistance, Adult and Aging Services, and Job Training Partnership Act Services in Alameda County, California. Over 170,000 low income and vulnerable children and adults are served each month. It is an honor to provide testimony to the House Committee on Ways and Means, Subcommittee on Human Resources regarding the implementation issues which I anticipate as welfare director in California's seventh largest county.

With a population of 1,356,100 people, Alameda County is larger than many states. It is also one of the most ethnically diverse in the State with 18% African Americans, 15% Hispanics, and 14% Asian Americans. Members of our community who will be impacted by welfare reform include:

- 99,460 children and adults who currently receive Aid to Families with Dependent Children (AFDC) plus Food Stamps and Medicaid - 12,000 of these individuals are legal immigrants;
- 47,650 aged, blind and disabled people who currently receive Supplemental Security Income (SSI) plus Medicaid through the Social Security Administration - 13,185 of these people are legal immigrants;
- 70,350 individuals who receive Medically Needy Only Medi-Cal benefits - 6,760 of these individuals are legal immigrants (Medically Needy recipients overlap with Food Stamp recipients, but not AFDC recipients); and,
- 44,700 people who currently receive Food Stamps in conjunction with General Assistance and Medi-Cal (this does not include individuals who receive Food Stamps as a result of AFDC eligibility) - 1,800 of these people are immigrants and as many as 6,000 are unemployed able-bodied adults without children.

Over 16% of Alameda County's residents will experience change in the safety net they rely on for health care, nutrition assistance, cash aid, employment assistance, child care and social supports. The pending changes, regardless of how they manifest themselves in State regulations, will result in fewer benefits to recipients and more expectations of them.

The challenge of welfare reform will be extremely difficult as our community may lose up to $126 million annually in Federal support if the Governor and State Legislature in California decide not to benefit legal immigrants currently receiving public assistance. The Federal welfare benefits which will be lost are paid to low-income and disabled

individuals who spend their benefits in local retail stores and in health care services. When fully implemented, lost Federal funds in Alameda County include:

- SSI - phase out of benefits to 13,185 elderly and disabled immigrants amounting to approximately $63 million in Federal funds;
- Food Stamps - phase out of benefits to 12,000 low income immigrants amounting to approximately $10 million in Federal funds;
- Food Stamps - time limited assistance (3 months in any 3 year period) for 6,000 unemployed, able-bodied adults between 18-50 years without children amounting to more than $6.9 million in Federal funds; and,
- Medicaid - phase out of benefits to 38,000 low-income and disabled immigrants amounting to approximately $34 million in Federal funds.

If the State of California decides to cut costs and does not reinvest the funds which had been used to match Federal funds, then the numbers are even larger. Our analysis is that this would result in the loss of another $37 million in SSI State Supplemental Program funds and $34 million in Medicaid State matching funds.

County costs could be as high as $35 million if the newly disqualified legal immigrants receiving SSI all apply for General Assistance (GA). Additionally, if the State does not opt to provide current recipients with TANF benefits, there could be another $30 million impact on our County's General Assistance program. This could mean $65 million in increased GA costs to the county when fully implemented. The cost to the health system if all these individuals were served through the County's medically indigent program would be even higher.

Mandated work requirements make implementation of welfare reform even more difficult. Currently, we estimate that we have 27,000 persons in Alameda County who could be included in the "employable" pool of recipients under the new welfare reform rules. Since our computer systems do not track persons in all categories of "work activities" counted as work participation in the new program, we must estimate the number of families who currently "work". Using these estimates, we conclude the following:

	"Employable" pool	Recipients currently employed over 20 hours per week		Working recipients needed to meet requirements		New jobs needed in FFY 96-97
One-parent families	20,654	4,075	19.7%	5,164	25%	1,089
Two-parent families	6,605	1,282	19.4%	4,954	75%	3,672

Even with aggressive efforts toward quick employment, it will be difficult for Alameda County to meet work participation targets. The employment challenge under welfare reform is massive. To meet the 25% and 75% work participation rates, the number of jobs in our community must expand by approximately 4,800 to accommodate welfare recipients who are expected to enter the workforce. The job market will also have to expand to meet the needs of up to 17,500 immigrants who had been receiving Federal benefits, but are now being disqualified. One must also keep in mind that Alameda County is in the midst of three major military base closures with employment needs for workers who displaced.

RECOMMENDATIONS

Please consider the following six recommendations to help local communities improve the delivery of welfare services so as to promote self-sufficiency and improve outcomes for families.

1) LOCAL INITIATIVES. I ask, Mr. Chairman, that you give consideration to County-level or regional block grants in large states with county-run welfare systems. In light of the potentially severe consequences of welfare reform, my County is extremely concerned with the preparation of California's State Plan. California's 58 counties each have unique capacities for service delivery, population demographics and economies. The diversity of California's counties will make it difficult for a single State Plan to meet local needs. Welfare Reform will demand that government be responsive to the needs of the economy and the assets of vulnerable constituents. This responsiveness is only practical at the local or regional level. One only needs to look at the recent confusion in California around discontinuing legal immigrants from Food Stamps to see that the State bureaucracy is too unwieldy to allow for rapid communication and planning between communities needing assistance and bureaucracies which must maintain accountability.

   Over the past nine months Alameda County has been planning for welfare reform. A community-based Welfare Reform Design Team consisting of County officials, community/faith based organizations, interested individuals and welfare recipients has been meeting since January 1996 to develop a vision of welfare which can best meet the needs of our community. This vision, still under consideration by our Board of Supervisors, is what we call a "single welfare system" that would allow us to blend services and funding across categorical lines (AFDC and GA) and reduce fragmentation in serving poor families and communities. Anticipated in this plan are simplified eligibility rules and the removal of artificial categories between populations. Savings from streamlining administration could then be reinvested in employment programs or supportive services. Savings in cash assistance payments resulting from successful efforts to transition welfare recipients to self-sufficiency could also be spent on supportive services.

   Perhaps there is another reason why Congress should support regional or local initiatives. One basic theory behind the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) is that recipients will change behaviors due to the combination of time-limited assistance, work requirements, tougher sanctions for noncompliance, etc., If we believe time-limited assistance is one of the most important variables in motivating job-seeking behaviors, among those who are able to work, how would we know that other approaches (with or without time-limits) might not also work as effectively? How effective might integrated welfare systems or regional administration and service delivery be in improving outcomes? If Congress is serious about evaluating and improving on the new welfare paradigm, then it must allow for substantive variations in that paradigm.

2) LEGAL IMMIGRANTS. The negative impact on the local economy and to immigrant members of our community can be mitigated by passing legislation allowing aid to immigrants who legally entered the United States prior to passage of PL 104-193 (they can still be subject to alien sponsor deeming until citizenship). At a minimum, a grandfather clause continuing aid to legal immigrant recipients who have begun their naturalization process is needed. Implementing welfare reform demands an expanding local economy for success. The loss of Federal funds in our community as a result of discontinuing assistance to legal immigrants is likely to stunt our local economic growth.

3) FOOD STAMPS. It is not realistic to expect members of our community and our workforce who are paid minimum wage, are unskilled and employed on an "as-needed" basis, to experience a maximum of six-months of Food Stamps in a three year period. One way to reduce harm is to extend time limits for adults without children.

4) WORK REQUIREMENTS. The Federal government should allow states and counties to experiment with alternative work requirement standards. We propose that each county (and the state as an aggregate) establish a performance "window" built on baseline data on work participation plus a uniform, negotiated add-on percentage, and for succeeding years incremental percentages be added. For example, the work participation rate for one county might be 28% in the first year (23% baseline rate for work participation, plus 5% add-on negotiated for the entire state), whereas in another county with high rates of unemployment it might be 15% (10% work participation + 5% add-on). This approach acknowledges state and county uniqueness in labor market conditions, unemployment rates, and socio-demographic variables and establishes more realistic and reasonable standards.

The desired outcome of federal welfare reform is to encourage recipients to move from welfare to work, and to provide States with the necessary tools and flexibility to succeed in their efforts. Rigid work participation rates that are not based on baseline performance histories for states and counties will either result in state sanctions or efforts by states to meet performance requirements by adopting measures even harsher and more stringent than intended by Congress.

Should the Federal government not authorize such variances or waivers, then mandated work participation rates and sanctions for not meeting targets must be waived for FFY 97. To meet work requirements, Alameda County will have to place 4,800 welfare recipients in work activities for FFY 97. This is not realistic and is not likely to happen since California does not yet have a State plan, and funds are allocated to Counties in the categorical programs which were in effect prior to P.L. 104-193.

Redirecting funds from AFDC assistance payments to job search, job training and community service projects is necessary to create work opportunities for welfare recipients. If TANF funds are reduced as a result of sanctions, the necessary redirection of funds will be difficult, further compounding difficulties by states and counties in meeting even higher expectations in the following year.

5) ADMINISTRATIVE EFFICIENCIES. Achieving administrative efficiencies and breaking down categorical barriers to serving communities is essential to implementing real welfare reform. P.L. 104-193, however, establishes new categorical barriers to serving families and continues many existing cumbersome eligibility processes. Examples of new categorical barriers to service delivery include prohibitions against serving the following populations with Federal funds:

- most legal immigrants;
- families with an adult who has received cash aid for 60 months;
- parents not working after receiving 24 months of cash aid;
- adults convicted of felony drug possession, use or distribution; and,
- unmarried parents under 18 who do not live with an adult.

Monitoring the population to ensure that they do not fit the prohibited profile will take funds desperately needed for community support. Clarifying that the social re-engineering goals of P.L. 104-193 do not have to be met through an eligibility process tied to individual people served through the TANF program is essential.

6) AUTOMATION. Sanctions for not having all the required data to meet mandated reporting requirements need to be delayed until such time as California is able to fully implement its Statewide Automated Welfare System (SAWS), which is likely by FY2000. Counties will require funding for the development of automated systems to track welfare recipients, which needs to be in addition to the TANF block grant and funded at an enhanced level. The effort and cost of developing the nationwide database necessary for tracking welfare recipients will be astronomical. The new TANF and Food Stamp legislation requires that nationwide information be stored on all future TANF and Food Stamp aid received so as to be able to track time-limits and work requirements. Any additional funding will also allow the State to incorporate GA as a functional component

Startling new findings from the National Incidence Study of child maltreatment recently reported by the U.S. Department of Health and Human Services clearly establish poverty as a profound risk factor. Key changes brought about by the PRWORA may restore hope for America's poor, but they may also unintentionally increase the risk of child abuse and neglect among the poor who aré unable to find work at a living wage. To reduce such risk, (1) States must have the option of developing county-specific baseline performance standards for work participation with aggregated performance data for State accountability and (2) States must allow counties to experiment with integrated eligibility and services delivery (e.g., job training, community service) that links TANF and GA programs.

In conclusion, let me again thank you for this opportunity to present Alameda County's concerns with implementing welfare reform. Welfare reform offers our community the hope for change and improved public accountability for serving low-income families. However, the loss of Federal funds to our economy and the burdensome administrative requirements of the new legislation will make it difficult to bring that hope to fruition. However, your Committee's action on the recommendations for clean-up legislation will allow our community to better help welfare recipients break out of difficult financial and personal circumstances and achieve long-term self-sufficiency.

STATEMENT OF MARGARET CAMPBELL HAYNES

PRESIDENT
EASTERN REGIONAL INTERSTATE CHILD SUPPORT ASSOCIATION

October 3, 1996

Mr. Chairman and members of the Subcommittee on Human Resources, thank you for the opportunity to submit testimony on issues related to implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

My name is Margaret Campbell Haynes. I am submitting testimony as President of the Eastern Regional Interstate Child Support Association. ERICSA is a non-profit association that represents the child support administrators, case workers, attorneys, decision-makers, private sector individuals and other child support professionals from the 33 states and territories bordering on and east of the Mississippi River, as well as the District of Columbia. ERICSA promotes the development of effective family and child support programs through its annual training conference, material development, and technical assistance.

My own background reflects the diversity of ERICSA members. I am a former child support prosecutor who directed the American Bar Association's Child Support Project for more than nine years. I have conducted interstate training in more than 35 states. I am now a partner with Service Design Associates, a private consulting firm addressing human service issues. I also had the privilege of serving with Congresswomen Kennelly and Roukema as Chair of the U.S. Commission on Interstate Child Support.

The Interstate Commission's report to Congress in 1992 galvanized a national debate on child support. It was a comprehensive report that was visionary, yet also practical. Our Congressional members quickly introduced enacting legislation. Watching this legislation work its way through Congress over the past four years has been frustrating at times. However, the provisions you have passed are stronger for that wait. It provided states like Massachusetts the opportunity to implement various recommendations within the report, and identify needed additional program enhancements.

ERICSA commends you on the bold vision embodied in Title III of the welfare reform legislation. It is appropriate that child support is a major component of welfare reform. Early paternity establishment is the first step toward providing a child with emotional as well as financial support. And regular receipt of child support will help keep single parent households from sinking further into poverty.

The Personal Responsibility Act contains every major recommendation of the Interstate Commission — state and national registries of orders, new hire reporting with state and national registries of new hires, computer interfaces to strengthen and expedite locate and enforcement, an expanded Federal Parent Locator Service, enactment of the official version of the Uniform Interstate Family Support Act (UIFSA) by a date certain, authorization for direct income withholding, streamlined paternity establishment procedures, money allocated to HHS for research, training, and technical assistance for states, and a study of the funding formula for the Title IV-D program. ERICSA strongly supports each of these provisions.

A special focus of ERICSA is to improve cooperation among states and jurisdictions, and to strengthen laws for the interstate establishment and enforcement of child support obligations. Interstate cases represent about 30 % of the child support caseload, but only 10 % of the collections. My testimony will address several issues related to interstate support cases where Congressional oversight of implementation of this bill or further study may be warranted.

I. Federal Case Registry

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires States to establish a registry of support orders by October 1, 1998. This state registry must include all IV-D (child support agency) cases. This means that new and existing IV-D cases, IV-D cases with orders and those without must be maintained on the registry. Also included on the registry are all non-IV-D orders established or modified after October 1, 1998. (According to Census Bureau data, roughly 1/3 to 1/2 of child support cases are non-IV-D.) By October 1, 1998, HHS must expand the Federal Parent Locator Service to include a Federal Case Registry. Pursuant to Section 311 of the Personal Responsibility Act, the federal case registry must include abstracted information from child support cases recorded in the state case registry.

In recommending state and national registries of support orders, the Interstate Commission had two objectives. First, the case registries will greatly help in the location of noncustodial parents in interstate cases. At the federal level, all cases on the federal case registry will be matched against all new hires maintained on the federal directory of new hires. Where there is a match, HHS will notify the state which in turn will immediately send out an income withholding order/notice. Second, it is crucial that there be a database of existing support orders involving the same family in order to more easily apply the jurisdiction rules of UIFSA and the Federal Full Faith and Credit for Child Support Orders Act. Both Acts attempt to eliminate the multiple orders that populate the interstate arena. They contain rules for determining which of several multiple support orders is controlling and must be recognized for prospective support. These same rules govern determination of jurisdiction to modify. One of the greatest accomplishments of UIFSA is to prevent "willy nilly modification. Under URESA, when a custodial parent seeks enforcement of an existing support order, the tribunal typically issues a de novo order in a different amount or may register the order and subsequently modify it. UIFSA limits when a state has jurisdiction to modify an existing

order. Thse same rules are found in the Federal Full Faith and Credit for Child Support Orders Act. In order for a tribunal to properly apply the jurisdiction rules, it is crucial that the tribunal be aware of existing orders between the parties. The national and state registries of orders will be a crucial first step.

In order to improve locate and enforcement, and to facilitate the determination of controlling order and modification jurisdiction, it is crucial that every support order in a state, regardless of IV-D status, be included on the federal case registry. There is some discussion that only IV-D cases should be on the federal case registry. ERICSA urges Congress to reiiterate its intent that both IV-D and non-IV-D orders must be on the federal case registry. To interpret the legislation otherwise is to gut the usefulness of the registry.

There is also some discussion that social security numbers listed on the Federal Registry be limited to those that have been verified. The rationale is that in order to preserve the dignity of the data, only accurate information should be maintained. Again, such an interpretation would seem to limit the usefulness of the registry for locate purposes. If a noncustodial parent cannot be located in an interstate case, the caseworker would benefit from being able to conduct data matches using every social security number he or she knows has been used by the parent.

II. Investment in Human Resources

Far too often, when budgets are tight, training of staff is the first casualty. Yet there is no greater investment that can be made. The best automated system and most comprehensive laws will never replace the need for an adequate number of trained personnel to process child support cases.

The Personal Responsibility Act provides HHS with a 1% set aside for information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, technical assistance related to automated systems, research, demonstration and special a projects of regional or national significance. ERICSA strongly encourages HHS to devote a portion of that money to training on the Uniform Interstate Family Support Act (UIFSA) and the Federal Full Faith and Credit for Child Support Orders Act (FFCCSOA).

Both Acts require enforcement of valid support orders and establish rules for determining the controlling order when there multiple orders involving the same family. Both Acts dramatically change traditional concepts of a court's continuing jurisdiction and limit a tribunal's ability to modify an order. The Personal Responsibility Act requires a state to implement UIFSA by January 1, 1998, as a condition of receiving federal funding. Currently UIFSA has been enacted by 34 states and the District of Columbia. Although the Federal Office of Child Support Enforcement is to be commended for the initiative it has taken in providing UIFSA training, states will continue to need resources and training assistance on implementation of the Act. OCSE should also evaluate the need for judicial and legal training

on the Federal Full Faith and Credit for Child Support Orders Act. This Act became effective in October 1994. However, since it does not require enabling legislation, many private lawyers and judges are unaware of it. In fact, at a recent national judicial conference funded by the State Justice Institute, a source of outstanding judicial training and technical assistance, half of the attending judges had never heard of the FFCCSOA. These were judges and other decision-makers from about 40 states who had been hand-picked by their State Supreme Court Chief Justice to attend the conference because of their expertise in child support. The Personal Responsibility Act of 1996 amends FFCCSOA so that it is now consistent with the jurisdiction rules of UIFSA. Unfortunately, due to a lack of knowledge about FFCCSOA, it is likely that a number of order have been issued since 1994 that modify existing support orders in conflict with FFCCSA's jurisdiction rules. Judicial training on this Act will continue to be paramount for at least the next year.

In addition, OCSE should develop training for state child support directors. States, as a requirement for receipt of federal funding, should include within their state plans a demonstrated commitment to formal training of staff. Agencies should be required to provide training not only for IV-D personnel, but for other individuals and entities under cooperative agreements with the agency, such as prosecutors and quasi-judicial decision-makers. Training is not a luxury. It ensures that problems are better anticipated, customers are better served, resources are more widely used, and appropriate legal remedies are sought.

B. Research

ERICSA commends Congress for including research as a permissible purpose for expenditure of the 1% funds. Welfare reform raises a host of implementation and policy issues that warrant further study. The shift of responsibility for determining cooperation to the IV-D agency is an area that would greatly benefit from research and evaluation. The relationship of domestic violence and support is only beginning to be explored. The impact of early paternity establishment on the creation of father-child relationship, in addition to its impact on financial support, is also information needed to better inform the welfare debate.

C. Field Visits

ERICSA notes that training of federal staff is also a permissible expenditure of funds. ERICSA encourages OCSE to fund such training. ERICSA also supports use of a portion of the funds to enable regional office staff to travel to their appropriate states. Such meetings would promote better relationships between the federal and state government and would encourage problem-solving. Some states report that their regional representative has not visited the state in two years. OCSE may also want to explore internships where central staff spend a short period of time within a state program. Such internships would provide OCSE staff with valuable information about running a local program.

III. IRS and Enforcement

ERICSA supports the broad reform of a state-based child support system embodied by the Personal Responsibility Act. For many reasons, the organization does not support "turning over" enforcement responsibilities from the states to the IRS.

However, ERICSA supports improvements that the Act makes to the IRS' current role in child support enforcement. We recommend two additional legislative changes:

- Strengthen the full IRS collection procedure by replacing subjective determinations by IRS agents regarding the appropriateness of enforcement with objective criteria, and by eliminating the necessity of demonstrating that further enforcement techniques would be ineffective;

- Eliminate disparities between AFDC and non-AFDC IV-D cases regarding the availability of federal income tax refund intercept. The triggering arrearage in both cases should be less than $200, and arrearage should be collected regardless of the child's age.

IV. Funding

Currently states receive 66 % of their funding for administrative costs from the federal government. Certain items such as automated systems and genetic testing are reimbursed at 90 percent. It is open-ended funding which rewards spending, rather than performance. States also receive federal incentives of 6 to 10 % (based on collection efficiency) of the amount collected for both AFDC and non-AFDC IV-D cases. However, federal incentives are capped in non-AFDC cases at 115 percent of the amount collected in AFDC cases. This funding formula works against the goal of Congress to decrease the number of cases receiving cash assistance. Based on this formula, to the extent the assistance caseload is decreased with a resulting decrease in collections, the incentive payment is decreased to States for working nonassistance cases. The formula also results in lower priority given to interstate cases. Since States normally reach the AFDC cap simply by working their intrastate cases, they receive no financial incentive for handling interstate cases. Where states do receive incentives, there is no restriction on the use of incentives other than the state must share incentives earned with any political subdivision which helps pay the administrative cost of the program. In 1990, 32 states had no statute or regulation governing the use of incentive money.

Although everyone agrees that funding should be changed, there is not consensus on the elements of that change. ERICSA supports the legislative mandate that authorizes HHS to conduct a study to examine funding alternatives.

- Any funding scheme should reinforce Congressional commitment that agencies serve

all children who need financial support, not just our country's poorest.

- It should also reward performance, not just reimburse expenditures.
- It should provide incentives for health care support; and
- It should require states to reinvest incentives into the child support program.

V. Uniform State Laws

In public hearings held throughout the country by the Interstate Commission, parents and attorneys alike criticized the lack of uniformity among state laws governing statute of limitations.

The statute of limitations is the length of time that someone has to bring a legal action. States have varying statutes of limitation in child support cases. Some states have no statute of limitations and will enforce arrears as long as they exist. Most states have statutes of limitation that range from three to ten years, precluding the collection of child support arrears that accrued earlier than that time period -- even if the lack of enforcement was due to an inability to locate or serve the delinquent parent. ERICSA recommends that Congress require States to eliminate statutes of limitation regarding the collection of child support arrears. Obligors should not be able to escape payment of support by delay tactics or by hiding until the child has reached majority age.

Another area where the lack of uniformity is wreaking havoc is interest on support arrears. For a long time, support arrears were the only debt that came "interest free." Testimony before the Interstate Commission urged that States charge interest on late payments so that child support would have equal weight with a VISA or Mastercard bill in the eyes of the obligor. Since 1990, a number of states have enacted laws requiring interest on support arrears. These laws vary a great deal. See Attachment A prepared by Georgette Crosa of the Child Support Enforcement Division, Alaska Department of Revenue. The problem arises in interstate enforcement. When State 1 asks State 2 to enforce the State 1 order, whose law regarding interest applies? Is the answer different for arrears that accrued prior to the enforcement request and arrears that accrue after the order has been registered for enforcement in State 2? A further complication is the existence of expensive computer systems that are tailored to a particular state's law. As long as states have different laws regarding interest, the result in interstate cases will either a manual, time-consuming process of calculating interest in addition to current and past-due support (a process that undermines the legislation's push toward automated batch enforcement) or an expensive reprogramming of systems to incorporate various state laws. ERICSA recommends that Congress require States, as a condition of receiving federal funds, to enact a standardized interest rate.

VI. Conclusion

The Personal Responsibility Act has been described as "ending welfare as we know it." Although Title III of the Act has attracted less media attention, it just as dramatically "ends child support practice as we know it." Its implementation requires reengineering child support programs, coordinating creative interfaces between the public and private sectors, and designing child support computer systems beyond what exists in most states. The members of ERICSA gladly accept the challenge offered by the Act. We look forward to working with Congress and the Administration in ensuring that families receive quality child support services and that children receive regular financial support from both parents.

Attachment A

INTEREST ON CHILD SUPPORT CASES BY STATE

State	Authority/Statute	Charging	Percent
Alabama	Yes	Yes	12% per annum
Alaska	Yes	Yes	12% per annum
Arizona	Yes	?	10% per annum
Arkansas	Yes	No	10% per annum
California	Yes	Yes	10% per annum
Connecticut	No	No	N/A
Delaware	No	No	N/A
Georgia	No	No	N/A
Guam	Yes	Yes	12% per annum
Iowa	Yes	No	10% per annum
Idaho	Yes	No	10.875% per annum
Illinois	Yes	No	9% per annum
Indiana	Yes	No	18% per annum
Kentucky	Yes	No	Legal rate
Louisiana	Yes	No	Thru 12/95: 8.75% per annum 1/96 + after: 9.75% per annum
Maine	Yes	No	6%
Maryland	No	No	N/A
Massachusetts	Yes/No*	No	*Have statutes but no regulations
Michigan	Yes*	No	16% per annum *Statutes/regs not available
Minnesota	Yes	No	Current rate plus 2%
Mississippi	Yes	No	8%

State	Authority/Statute	Charging	Percent
Missouri	Yes	No	Thru 9/28/79: 6% per annum Thru 8/31/82: 9% per annum Thereafter: 1% per month
Montana	Yes	No	10% per annum
Nebraska	Yes	Yes	Court determined
New Mexico	Yes	Yes	8.75% per annum
North Carolina	Yes	No	12% per annum
North Dakota	Yes	No	12% per annum
Nevada	Yes	No	8.25 plus 2%
New Hampshire	Yes	No	6% per annum
New York	Yes*	Yes	9% per annum * Must be reduced to judgment
Oregon	Yes	No	9% per annum
Pennsylvania	Yes	No (see letter)	6% per annum
South Carolina	Yes/No*	Yes/No*	14% per annum *Must be reduced to judgment
South Dakota	Yes	No	12% per annum
Tennessee	yes	No/Yes*	12% per annum *Will commence when automated system up (5/96)
Vermont	Yes	No	12% per annum
Virginia	Yes	Yes	9% per annum
Virgin Islands	No	No	N/A
Washington	Yes	No	12% per annum
West Virginia	Yes	Yes	10%
Wisconsin	Yes	Yes/No*	18% per annum *Only counties that have the automated computer ability to charge interest are doing so

Subcommittee on Human Resources

Attn: Phillip D. Moseley, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

witness:
Chad Mears
750 Jonive Road
Sebastopol, CA
95472
(707) 874-1510

SUPPLEMENTAL SHEET

*****

Submission for the
Public Hearing & Written Record
On

IMPLEMENTATION CONCERNS
for the
PERSONAL RESPONSIBILITY AND
WORK OPPORTUNITY RECONCILIATION ACT OF 1996
(P.L. 104-193)

*****

SYNOPSIS OF THIS TESTIMONY
FOR THE WRITTEN RECORD:

GOVERNMENTAL DISCRIMINATION AGAINST MEN

In several of the component Titles of this Act, notably 'Title III--CHILD SUPPORT', particular provisions apply specifically to 'custodial' and/or 'noncustodial' parents. Reading the letter of the law, there is a deceptive illusion of complete gender-equity in the Act's impact upon, and treatment of, women and men, mothers and fathers, etc. There is no question though, that most of the Title divisions of this Act, in effect, impact men and women very differently.

There is growing awareness and resentment, among American men, of numerous distortions in public perceptions of gender-equity. Regarding this Act, specifically, it is the contention of many, that its strict and efficient implementation..in all of its policies, provisions and intentions..will affect men, particularly as 'noncustodial parents', more negatively than women.

This statement looks at a few of this Act's provisions --primarily in Title III - CHILD SUPPORT -- which give strong indication of having such a negative, discriminatory impact upon a substantial proportion of the American male population.

In many cases, we believe this impact will be profoundly destructive to men. In some cases, that destruction will be permanent.

In the implementation of this Act, we ask that all legislative, judicial & executive divisions of government --at the local, state & national level-- administer, review and modify this Act, with truly equitable treatment of both genders, that is measurable and verifiable.

Chad Mears

Subcommittee on Human Resources
Committee on Ways and Means witness: Mears, C.B.
Public Hearing: 'Welfare Act' (P.L. 104-193). Concern: Governmental Discrimination Against Men
Note: Witness' commentary in **[bold brackets]**

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(1) TITLE I--BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) ***Marriage is the foundation of a successful society.***

(2) ***Marriage is an essential institution of a successful society which promotes the interests of children.***

[It is conspicuous irony --thrust before the eyes of the American populace, in this legislative Act-- that a most obvious and logical principle of social cohesion and efficiency.. the institution of marriage..is boldly affirmed in the opening sentences of this tremendously complex and influential act of congress.

Throughout this document, the term 'marriage' appears approximately a dozen times. However, the phrase '*preservation* of marriage' does not appear at all. The irony here should be obvious: Incredible inefficiency, waste, pain and suffering, could be eliminated by re-establishing and recognizing the eminence of marital and family continuity.

The administration, implementation, enforcement, misinterpretation and abuse of this Act, will permanently bequeath an historical record of preposterous governmental and societal inefficiency and deterioration.]

*****

(2) TITLE III--CHILD SUPPORT

SEC. 303. PRIVACY SAFEGUARDS.

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

.....

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

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

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

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

entered; and

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

[The term 'party(ies)' is vague. It is not clear that 'parties' include fathers and children.

It is not clear that paragraphs (A), (B), & (C) will, in fact, provide equal protection for non-custodial fathers. Objective monitoring must be assured to measure : 1) effect on all parties, of these provisions; 2) instances of violation ; and 3)details on punishment of the violators (those who release the information, illegally).

What constitutes 'emotional' harm? Why does not *'emotional harm'* apply to *all* parties?]

*****

(3) TITLE III--CHILD SUPPORT

*SUBTITLE B--**LOCATE AND CASE TRACKING***

[The term 'LOCATE AND CASE TRACKING' , is confusing, grammatically.]

*****

(4) **SEC. 311. STATE CASE REGISTRY.**

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

'(e) STATE CASE REGISTRY-

.....

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

.....

'(4) PAYMENT RECORDS- ***Each case record in the State case registry*** .....shall include ***a record of–***

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

'(B) any amount described in subparagraph (A) that has been collected;

'(C) the distribution of such collected amounts;
'(D) the birth date of any child for whom the order requires the provision of support; and
'(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

'(5) UPDATING AND MONITORING- ***The State agency*** operating the automated system required by this section ***shall promptly establish and update, maintain, and regularly monitor, case records in the State case registry*** with respect to which services are being provided under the State plan approved under this part, ***on the basis of–***

'(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;
'(B) information obtained from comparison with Federal, State, or local sources of information;
'(C) information on support collections and distributions; and
'(D) any other relevant information.

'(f) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION- ***The State shall use the automated system*** required by this section ***to extract information from,..to share and compare information with, and to receive information from, other databases and information comparison services, in order to obtain (or provide) information*** necessary....to carry out [this Title]. Such information comparison activities shall include the following:

'(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS- ***Furnishing to the Federal Case Registry of Child Support Orders*** established under section 453(h) .....the minimum amount of ***information on child support cases recorded in the State case registry*** that is necessary to operate the registry (as specified by the Secretary in regulations).

'(2) FEDERAL PARENT LOCATOR SERVICE- ***Exchanging information with the Federal Parent Locator Service*** for [related] purposes...

.....

'(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS- ***Exchanging information with other agencies of the State, agencies of other States, and interstate information networks,***.....to carry out (or assist other States to

carry out) [this Title].'

[In the San Francisco Chronicle (Sept.19th:"*Welfare Law's ID Provision Causes Concern*") **Lucas Guttentag of the National Immigration Project of the American Civil Liberties Union, succinctly encapsulates a number of concerns with the above information system to be created: "*As a practical matter, the welfare bill requires a national computer registry to collect massive amounts of information in a centralized way that does not currently exist, that threatens privacy, and is rife for abuse.*"]**

*****

(5) CONCERNS APPLICABLE TO ALL SECTIONS OF 'TITLE III--CHILD SUPPORT', AS WELL AS OTHER TITLES IN THIS ACT

GOVERNMENTAL DISCRIMINATION AGAINST MEN

[In several of the component Sections of Title III--CHILD SUPPORT, particular provisions apply specifically to 'custodial' and/or 'noncustodial' parents. Reading the letter of the law, there is a deceptive illusion of complete gender-equity in this Title's impact upon (--as well as P.L. 104-193's impact upon..), and treatment of, both genders --male and female. There is no question though, that most of the Sections of this Title, and Title divisions of this Act, in effect, impact men and women very differently.

There is growing awareness and resentment, among American men, of numerous distortions in public perceptions of gender-equity. Regarding Title III and this Act, specifically, it is the contention of many, that its strict and efficient implementation..in all of its policies, provisions and intentions..will affect men, particularly as 'noncustodial parents', more negatively than women.

In many cases, we believe this impact will be profoundly destructive to men. In some cases, that destruction will be permanent.

In the implementation of this Title and this Act, we ask that all legislative, judicial & executive divisions of government --at the local, state & national level-- administer, review and modify this Act, with truly equitable treatment of women and men, mothers and fathers, etc., that is *measurable* and *verifiable*.]

*****

(6) TITLE IX--MISCELLANEOUS

SEC. 912. ABSTINENCE EDUCATION.

Title V of the Social Security Act....is amended by adding... :

'SEPARATE PROGRAM FOR ABSTINENCE EDUCATION

.....

Subcommittee on Human Resources
Committee on Ways and Means witness: Mears, C.B.
Public Hearing: 'Welfare Act' (P.L. 104-193). Concern: Governmental Discrimination Against Men
Note: Witness' commentary in **[bold brackets]**

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'(b)(1) The purpose of an allotment....to a State is....***to provide abstinence education***, and....where appropriate, ***mentoring, counseling, and adult supervision to promote abstinence from sexual activity***, with a focus on those groups which are most likely to bear children out-of-wedlock.

[American social mores --with marriage being discouraged until people have advanced in their education and/or economic stability-- are incongruous with human (particularly male) sexual instinctive behavior, that develops in the early teen years.

Regarding socio-sexual behavior, one of the most serious errors we make as a culture (--and many of the provisions in this legislative Act are testament to those errors), is in not understanding and accommodating, appropriately, natural human sexual behavior.]

'(2) For purposes of this section, the term 'abstinence education' means an educational or motivational program which--

'(A) has as its exclusive purpose, teaching the ***social, psychological, and health gains*** to be realized by abstaining from sexual activity;

[Have the psychological and mental health aspects of abstinence been studied thoroughly enough to predict uniform 'gains' in personality & behavior?]

'(B) teaches abstinence from sexual activity outside marriage as the expected standard ***for all school age children;***

[Does 'school-age children' include university youth? If not, young people will inevitably see through the hypocrisy.]

'(D) teaches that a mutually faithful monogamous relationship in context of marriage is the ***expected standard*** of human sexual activity;

'(E) teaches that sexual activity ***outside of the context of marriage*** is likely to have harmful ***psychological*** and physical effects;

[Some of these "abstinence education" criteria, (A) thru (H), straddle vaguely-defined value, religious, moral and/or sexual-preference mandates of individuals. This criteria should be reviewed for compatibility with individuals' civil rights, notwithstanding the initial objective of improving the wholesomeness of socio-sexual behavior.]

'(G) teaches young people ***how to reject sexual advances*** and how alcohol and drug use increases vulnerability to sexual ***advances;***

Subcommittee on Human Resources
Committee on Ways and Means witness: Mears, C.B.
Public Hearing: 'Welfare Act' (P.L. 104-193). Concern: Governmental Discrimination Against Men
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[Since males are, by nature, more sexually aggressive, caution must be exercised in not censuring one gender more than the other. Again, we err continuously as a culture, when we moralize and blame individuals, without understanding socio-sexual behavior comprehensively.]

'(H) teaches the importance of ***attaining self-sufficiency***
before engaging in sexual activity.

[Has 'self-sufficiency' in this context been defined? The meaning is vague.]

*****

witness:
Chad Mears
750 Jonive Road
Sebastopol, CA
95472
(707) 874-1510

County of Santa Clara
Office of the County Executive

County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-2424

COUNTY OF SANTA CLARA, CALIFORNIA
COMMITTEE ON WAYS AND MEANS SUBCOMMITTEE ON HUMAN RESOURCES
IMPLEMENTATION OF WELFARE REFORM
September 17, 1996

The passage of H.R. 3734, the Personal Responsibility and Work Opportunity and Reconciliation Act of 1996, represents a major shift in public policy. The new law shifts government's focus from an "income maintenance" philosophy to a "work first" approach, based on the belief that society is best served by communities containing strong supportive families.

Santa Clara County has long advocated family self-sufficiency through education and employment, and has operated welfare-to-work programs in our Social Services Agency for many years. While the new welfare reform law introduces a familiar philosophy to our community, it also presents many new challenges to our local public assistance system.

Our county has begun the monumental task of carefully analyzing the provisions of the bills and assessing their impact. We have identified a number of provisions which would be extremely costly, difficult, or punitive to implement in their current form. Due to the extreme complexity of the bill, we realize that some of these impacts may be the unintended results of drafting errors. We also recognize that the provisions to which we object may represent fundamental differences in philosophy on the best way to achieve welfare reform.

In either case, we would like to submit our recommendations for revisions to federal welfare reform legislation:

IMMIGRANTS

- Exempt all current resident noncitizen legal immigrants from the SSI/Food Stamp bar and from the option for states to bar current immigrants from TANF and Title XX. These immigrants entered the country legally, most have worked and paid taxes for years, and they have played by the rules. These contributing, law-abiding noncitizen residents should be treated the same as citizens.

- Eliminate the state option to deny Medicaid benefits to noncitizen legal immigrants, including all current and future immigrants. Basic medical care for the poor is cost-effective and a prerequisite to good health for all.

- Allow noncitizen legal immigrants to receive foster care and adoptive parent benefits during their first five years in the country.

- Repeal the requirement that welfare departments report to the INS any "suspected" undocumented immigrant. Eligibility workers should not be required to serve as immigration police. In addition, these requirements will discourage undocumented individuals from seeking necessary medical care which could pose a threat to the health and safety of the community.

WORK PARTICIPATION RATES

- Move back the effective date and reduce the level of the work participation rates. As currently written, these rates are unachievable and will force states to incur fiscal penalties. California will have only months to get thousands of welfare recipients into jobs before participation rates begin. States and counties should be given at least one year to beef up work programs before having their performance measured.

- Reduce the unrealistic two-parent family work participation rates (currently set at 90% by 1999). These rates are simply unattainable. At a minimum, two-parent families should be held to the same rates as single parent families.

- Vocational educational training should be extended to 24 months (from 12 months) as an acceptable work activity, and community college courses should be defined as an allowable vocational activity. Vocational training has proven to be a valid activity for getting welfare recipients on the road to self-sufficiency, but most vocational degrees take longer than one year to complete, particularly the technical programs. These are necessary to be readily employable in a high technology center such as Santa Clara County.

FUNDING FOR JOB TRAINING

- Congress should appropriate new funding or add funding to the block grant for job training services. The work participation goals cannot be met without additional funding to reflect the requirement that at least 50% of TANF recipients are in an allowable work activity. In addition, funding will be required in order to meet the community service requirements expected of all non-exempt TANF recipients after receiving aid for two months. The current level of funding received by Santa Clara County enables us to serve only 25% of eligible recipients. Adequate job training

resources are particularly important in a region like ours which requires a highly skilled workforce.

FUNDING FOR CHILD CARE

- While Congress provided $7 billion in new funding for child care, California anticipates a shortfall of $1.8 billion in child care funding if it wishes to meet the work participation rates established by the new bill.

AUTOMATION

- Congress should provide enhanced funding outside the block grant to fund state efforts to create a data collection/reporting system that is uniform among states.

- Reporting requirements should be delayed until 1999-2000 rather than requiring f ll reporting in 1998.

ADMINISTRATIVE CAP

- Eliminate or increase the 15% administrative cap as unworkable in a capped block grant with mandated levels of service.

- Exclude from the definition of administration those staff who deliver client services, such as eligibility workers.

FOOD STAMPS

- The Food Stamps eligibility limitation for single 18-50 year olds of three months is too short and the three year ineligibility period is too long. Many Food Stamp recipients are employed seasonally or are chronically underemployed and periodically need Food Stamps. It is unreasonable to restrict these persons, who are trying hard to work, to only three months of food stamps during a three-year period.

The County of Santa Clara shares Congress's goal of moving people from public assistance to self-sufficiency as quickly as possible. However, deadlines and restrictions must be carefully and realistically balanced with the resources of the public agencies, the workforce demands of the local economy, and the circumstances of the client.

For many years, Santa Clara County has proactively developed innovative programs to assist our public assistance clients. We are committed to developing an effective local program, and we look forward to working with Congress to ensure that federal welfare reform legislation creates a framework for success.

Statement of Rep. Charles Stenholm
House Ways and Means Subcommittee on Human Resources
Concerning Implementation of Welfare Reform Legislation
September 17, 1996

I would like to thank Chairman Shaw for holding this hearing. Although I have at times disagreed with Chairman Shaw on the precise shape that welfare reform legislation should take, I have always had tremendous respect for his commitment to helping America's families and children. I appreciate having this opportunity to present my views regarding the implementation of the welfare reform bill passed by Congress and signed by the President on August 22 of this year.

I would like to address my comments to the treatment of states such as Texas that are operating welfare reform programs under waivers approved by the Department of Health and Human Services in the implementation of the bill. One of the principal reasons that I supported the conference report for H.R. 3734 was the addition of a provision providing additional flexibility in meeting the work requirements for states that are implementing welfare waivers. Specifically the conference report added a provision allowing states implementing plans under federal waivers to continue their experiments, even if they are inconsistent with the mandates in the federal statute. This provision is contained in the new Section 415 of the Social Security Act.

I was concerned that earlier versions of the bill would force states such as Texas that are implementing innovative welfare reform proposals under waivers to change their state plans or face financial penalties for failure to comply with the mandates in the federal statute. President Clinton has approved waivers allowing 41 states to implement innovative programs to move welfare recipients to work. H.R. 3734 as passed by the House would have restricted the reform initiatives being implemented by states across the country under these waivers by imposing work mandates that are less flexible than states are implementing. Over 20 states operating welfare to work programs under waivers would have been required to change their programs to meet the mandates in the bill or face substantial penalties from the federal government. For example, many state plans contain work requirements less than the thirty hours a week that will be required by the statute by 1999

because the state determined that it would not be practical to find jobs of thirty hours a week for a large number of welfare recipients. The bill also restricts the ability of states to count remedial education or vocation education as a work activity, even though several states implementing welfare reform demonstrations have had success in moving welfare recipients off of the rolls through programs that focus on remedial and vocational education. The Texas plan contains a strong remedial education component to deal with the fact that more than half of the adults receiving AFDC cannot read at a fourth grade level. In addition, the time limit on all benefits, including benefits for children, would conflict with the plans of several states, including Texas, to impose short time limits on adults without eliminating benefits for children. There are several other areas in which provisions of welfare reform experiments being conducted by states through waivers would be restricted by the new federal statute.

In order to address this problem, I worked with Chairman Shaw, Representative Jim McCrery, Senator Orrin Hatch and others to add a provision that allows states with waivers to continue to operate their plans, even if the state plan is inconsistent with the federal statute. The waiver provision allows states such as Texas that have just received waivers to actually implement these reforms and Utah, Michigan and other states that have demonstrated success in moving welfare recipients into self-sufficiency to continue their programs.

I have attached a copy of my statement on the House floor during the debate on the conference report which focused on this provision. I am also enclosing statements submitted for the record by John Tanner and Bill Orton citing this provision in explaining their support for the conference report. All of the attached statements, which represent the only statements regarding the waiver provision by supporters of the conference report during the House or Senate debate on the bill, suggest a broad interpretation of this provision. A broad interpretation of this provision is also consistent with the intent expressed by members on both sides of the aisle throughout the welfare reform debate that states be given maximum flexibility to develop their own welfare reform plans.

The clear intent of those of us who advocated this provision was that the provision applied to

the entire state demonstration project, not just the specific list of waivers necessary to implement the demonstration at the time of its approval. If a state chooses to continue a demonstration project approved under a waiver, it should be allowed to implement the entire plan with the same amount of flexibility that was allowed under the waiver. Limiting the application of the grandfather provision to limited portions of the demonstration project will disrupt state plans because the provisions of state demonstration projects are interrelated. Requiring states to change provisions of their demonstrations that did not require waivers under prior law but are inconsistent with the new statute would undermine the intent of the waiver provision and jeopardize the success of the programs by disrupting the balance struck by the states in developing the plan.

It is particularly important that states be allowed to count individuals participating in work programs established under waivers in meeting the participation rates under the bill, even if the definition of work activities is not specifically contained in the waiver. As you know, most of the waivers that have been approved do not directly address the hours of work required or the definition of work activities because they did not conflict with the statute at the time the waiver was submitted. I do not believe that the waiver language can or should be interpreted to exempt states from the work participation rates in the bill. However, the language does give states with waivers flexibility to count all work activities contained in the demonstration project in calculating the participation rates. This is a very significant issue, because states face severe financial penalties if they do not meet the work participation rates set forth in the bill. The Federal government should not impose penalties on Texas or other states with waivers because the work program in the state does not meet the definition in the federal statute.

All of us who have worked on this issue recognize that there are no easy solutions to the problems of welfare dependency. We do not have enough experience with programs designed to move welfare recipients to work to know which approach works best. The strength of the welfare reform bill that we enacted is that it provides states with the flexibility to experiment with different approaches to determine what works best. Allowing states with waivers to continue their

demonstration projects will provide more opportunities to test approaches different from the approach mandated in the statute. Forcing states to change programs that have had success in reducing welfare dependency in order to place welfare recipients into programs that meet federal standards defies common sense.

Congress will monitor the progress of the state plans. The statute requires Congress to conduct a thorough review of the work programs in three years. Instead of holding states to rhetorical standards about being "tough on work", we should hold states accountable for performance in moving welfare recipients into private sector employment. If there is evidence that states are using the waiver provision to circumvent the work requirements in the bill -- which I do not believe any state will do -- Congress can take action through subsequent legislation. On the other hand, if states that continue to operate demonstration projects that are inconsistent with the statute have success in moving welfare recipients to work, Congress may choose to amend the statute so that all states have the opportunity to utilize those approaches.

It is my strong preference that this issue be addressed through the normal regulatory process that provides states with clear guidance about how this provision will be implemented. However, if the legal questions and political objections that have been raised about this provision cannot be resolved in a manner that allows states to continue these experiments without facing penalties, I would like to work with you to clarify this issue legislatively as part of a technical corrections bill. Whether the issue is resolved administratively or legislatively, I am willing to do whatever I can to help develop a policy that receives bipartisan support.

It is critical that all parties involved resist the temptation to engage in partisanship or rhetorical oneupsmanship on this issue. I was troubled by some of the comments I have heard from members on both sides of the aisle using this provision to score political points. States face a tremendous challenge in implementing the welfare reform bill. We should be working together in a bipartisan manner to ensure that they have the tools they need to succeed instead of making them pawns in a political battle to score points in the welfare debate.

I look forward to working with this Committee to ensure that this provision is implemented as we intended when we wrote the conference report so that states that have begun to implement welfare reform initiatives through waivers continue to have the same amount of flexibility they were promised when the waiver was approved, and ultimately so that they can find the best way in each of their states to move the maximum number of people from welfare to work.

UNITED STATES CONGRESS
HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES

HEARING ON THE CHILD SUPPORT ENFORCEMENT PROVISIONS OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (P.L. 104-193)

September 19, 1996

Statement of

DAVID VELA
Title IV-D Director
OFFICE OF THE ATTORNEY GENERAL OF TEXAS

Introduction.

Mr. Chairman and distinguished members of the Committee: thank you for the opportunity to present written testimony about the child support enforcement provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

I am David Vela, the Title IV-D director for the State of Texas. In 1985 the Texas Legislature designated the Office of the Attorney General of Texas the Title IV-D agency for the state, thereby identifying the essential character of the IV-D program as law enforcement, and not merely as a collections agency or an extension of a welfare or social services enterprise. At that time, Texas became the second state in the nation that vested responsibility for its child support enforcement program with an attorney general's office. Today, Texas is still only one of three states in which an attorney general has responsibility for the operation of the Title IV-D program, and the only state in which the IV-D program is administered by an elected official.

The 1985 placement of the IV-D agency in the Office of the Attorney General resulted in the establishment of a centralized, yet statewide, IV-D program, with field offices throughout the state and with its own legal staff, automated system, central case registry and disbursement unit, and court masters to hear only IV-D cases. Since that time the Texas IV-D program has grown to be one of the most successful child support enforcement programs in the country, being twice recognized as the "most improved" IV-D program in the nation - in 1989, by the National Child Support Enforcement Association, and, in 1991, by this Committee. The process of improvement has steadily continued, year after year.

For example, during the state fiscal year 1996 which ended August 31st, the Texas IV-D program established a record 43,891 paternities - an increase of 258% over 1990. This achievement places Texas as 2nd in the nation in the number of paternities established, according to preliminary FY 1995 data released by the federal Office of Child Support Enforcement (OCSE) - up from 12th in the nation in 1990 and 38th in 1988. Moreover, Texas had the highest number of paternity acknowledgments reported in the country for FY 1995 - 38,462.

With respect to child support collections, the Texas program had the third highest percentage increase in the nation between 1994 and 1995 - 22.1% (more than twice the national average of 9.9 percent). By the end of the current federal fiscal year (September 30, 1996) our collections are expected to total almost $600 million - $100 million more than last year. In addition, our paying cases have increased by 209% since 1990, from 59,486 to 183,732 at the end of the 1996 state fiscal year, while the number of support orders established has risen from 1990 to 1995 to place Texas as the 4th ranking in the nation, up from 21st in 1990.

This impressive record of accomplishments reflects the commitment of Texas Attorney General Dan Morales and the dedicated efforts of the staff of his Child Support Division, as well as the effective laws enacted by the Texas Legislature over the years. Because we have all worked

together to make the Texas child support enforcement program the vital and productive enterprise it is today, we are keenly interested in every action of Congress and of the federal government to assist us in our efforts to make the program even stronger and more productive. We welcome, therefore, this opportunity to comment on aspects of the child support enforcement provisions of H.R. 3734.

The Importance of a State Case Registry with Automated Enforcement Processes.

First, together with Attorney General Morales, I want to commend not only this committee, but all members of Congress in focusing public attention, during the course of enacting welfare reform legislation, upon the critical role of child support enforcement in helping millions of American families achieve the financial self-sufficiency they need in order to leave public assistance or to avoid having to turn to it in the first place. We know, as you do, that even the most effective child support enforcement program will not eliminate the need to provide assistance to families struggling to achieve economic independence. We believe, however, as you do, that a fully effective program will provide those families with an opportunity they might not otherwise have to attain that goal, while helping to promote in parents a stronger sense of responsibility for the children they bring into this world.

Second, I want to communicate to you the pleasure of the Texas program that several of the enforcement ideas and techniques which it has advocated and pioneered over the years are reflected in the new federal law. For example, ten years ago Texas established within its Attorney General's Office a truly statewide, integrated child support enforcement system, with a central case registry for IV-D orders, supported by automation. Recognizing the strength of that system and the efforts of the Texas program to integrate the support registry and enforcement activities of counties more fully into its statewide system, the 102nd Congress provided Texas with a statutory waiver from the IV-D requirement of an application for services in non-public assistance cases in order to carry forward a pilot project in one of its most populous counties - Bexar (in which San Antonio is located).

This pilot was, at that time, one of two such county projects in the state - and now seven. These county projects - Automated Monitoring and Referral (AMR) projects - operate under cooperative agreements with the IV-D agency and incorporate the use of a "self-starting" mechanism whereby support orders, including non-AFDC cases, are monitored for compliance from the point they are entered, permitting the use of enforcement action within days after a delinquency occurs and before arrears accumulate and the obligor disappears. In these pilots, however, there is still the need, in compliance with regulations, to require the filing of an application for IV-D services ***before any enforcement action may be pursued***.

In the AMR projects, child support cases are entered into the participating county's automated monitoring program when a court issues a new order or modifies an existing one. The local registry office enters the record of the order into its computer. At this point, the computer automatically sends a letter to both parents, explaining that the system will monitor support payments and initiate rapid enforcement action if any delinquency occurs. The computer monitors each case, ensuring that payments are received on time, and calculates arrears instantaneously as they occur. If there is a delinquency, the system, ***without human intervention***, sends a notice to the obligated parent, asking that payment be made promptly. If there is no response from the obligated parent within a stated period of time, the case is referred to the IV-D agency, which then notifies the custodial parent of the referral and offers the parent an opportunity to fill out an application for IV-D enforcement services. If the custodial parent returns a signed application, the agency proceeds with enforcement actions.

Although having to stop the enforcement process in order to obtain a written application from the custodial parent may seem a small impediment, the fact is that ***over one-half of the applications sent out to custodial parents are never returned and the ones that are returned take an average of 32 days before the completed form is received by the AMR office***. The value of the self-starting enforcement process is, thereby, dramatically undercut. The cases in which the

custodial parent does not return a signed application go without any enforcement response to delinquency. As a result, arrearages accumulate, and the family suffers. In time, the family may turn to the IV-D agency for help, but by then the arrearage is more difficult to collect, if, indeed, the obligor can be found. Or, for lack of financial security, the family may have to turn to the IV-A agency for assistance, only to be referred to the IV-D agency for belated enforcement actions. Either way, more administrative time and more state and federal financial resources will need to be spent on cases which, in the first place, could have been speedily brought back into compliance if an application didn't need to be solicited from the custodial parent.

The waiver granted by the 102nd Congress was to enable the Texas program in the Bexar County pilot project to make support orders, in non-AFDC cases, IV-D cases at the time they are issued and ***without the requirement of a written application*** - although custodial parents were to be allowed to opt out of the IV-D services. The essential aspect of the pilot was that, instead of waiting for the custodial parent to make a complaint and file an application for IV-D services, the case could be monitored for compliance from the outset so that an effective response to non-compliance could be made immediately.

Perhaps the greatest limitation to fully effective child support enforcement is that the IV-D agency can act to enforce support obligations only in those cases referred to it, either by the IV-A agency (in AFDC cases) or by a custodial parent (in non-AFDC cases). This means, often enough, that by the time the AFDC or non-AFDC case comes to the attention of the agency the court order for support may be years old, the arrearage on support payments may have mounted to uncollectible sums, and the obligor may have long since disappeared--and, of course, children may have had to "go without." The original, legislative intent of the Title IV-D program to deter welfare dependency and to avoid increased welfare costs is clearly defeated by this process of delayed referral. A good number of cases might never become welfare-needy if court orders for child support were monitored for compliance and enforcement action from the time they were entered. To place the initiation of enforcement activities so far down the path from the entry of orders or from the first occurrence of delinquency is to make enforcement unnecessarily difficult and welfare, too often, a virtual certainty.

Unfortunately, because of the complexity of project evaluation requirements imposed by the Office of Child Support Enforcement, we could not implement the congressional waiver. Still, without the benefit of the exemption from the application requirement, the pilot projects have demonstrated that the "self-starting" enforcement mechanism yields higher levels of compliance with support obligations.

Initial studies indicate that at least one regular child support payment is received in 93.7% of the cases referred from the county registry to the IV-D program within 60 days of referral. This percentage of payment is in sharp contrast with payment in cases in our normal complaint-driven IV-D system where only 26.7% of the cases receive a regular payment within 60 days of being opened. The success rate in the pilot projects indicates the speed with which compliance can be obtained. In addition, once paying, the non-AFDC cases in the AMR projects remain in full compliance at a rate of 73%, contrasted with 49% on our regular IV-D system and only 20% in county, non-IV-D caseloads.

We believe that the sort of "delinquency monitoring" installed in our county projects can revolutionize the collection of child support, and we have regarded the projects as a first step in the building of a new kind of central state registry for child support enforcement in which county registries are fully integrated into the IV-D agency's automated system and in which ***all*** new or modified orders become subject to IV-D agency monitoring and enforcement actions ***at the point they are issued***. We are very grateful that Secretary Shalala has granted Texas a waiver from the requirement of a written application for services (but with an "opt-out" allowance for custodial parents) in non-public assistance cases so that we can move forward with the establishment of such a statewide "Integrated Child Support Registry" in which, eventually, all counties will participate and all new or modified orders issued in the state will automatically receive IV-D enforcement actions if delinquencies in compliance occur.

We were pleased, therefore, that, first, the Clinton Administration and, then, the 104th Congress endorsed the kind of case registry and automated monitoring and enforcement processes we have presented in published policy papers over the past several years and which we recommended to the U.S. Commission on Interstate Child Support, established under the Family Support Act of 1988. We only regret that H.R. 3734 did not fully embrace - as did other bills filed by members of both parties - the principle of a "self-starting," instead of a complaint-driven, enforcement system, by giving states the option of making all cases in the state central case registry IV-D cases, subject to immediate enforcement actions.

In addition to the concepts of the central case registry and "delinquency monitoring" which Texas has pioneered, we applaud the inclusion in H.R. 3734 of provisions for the kind of administrative processes for income withholding Texas has had since 1985 and which we have found to be one of the most effective enforcement tools available to us. As members of this Committee may know, the income withholding provisions in the Family Support Act of 1988 were modeled after the universal, mandatory income withholding procedures established in Texas.

The legislation also contains proposals for a new incentive structure and for new kinds of state program reviews and audits of the sort advocated by the Texas program in published papers six years ago and recommended to the U.S. Commission on Interstate Child Support. I want to return to these matters presently, but I did want to mention at this point that we welcome the bold move of the Congress to deal with the deficiencies of the incentive system and the audit process which have negatively impacted the operation of state IV-D programs for years.

Some Problems in H.R. 3734.

H.R. 3734 is not without its flaws. A "technical corrections" bill needs to deal with problems in the time frames attached to certain requirements and with what may be drafting errors. For example, section 344(b) of H.R. 3734 provides enhanced federal funds at the rate of 80% for expenditures by states in meeting the automation requirements laid out in the Act. This enhanced rate, however, is available for five fiscal years beginning FY 1996, while the legislation was not enacted until nearly the beginning of FY 1997 and final rules for the Act's automation requirements are not due until nearly the beginning of FY 1999. Another example is the requirement under section 313 that by May 1, 1998 a designated agency execute data matches of information in the State Directory of New Hires with case records in the State Case Registry, when the case registry is not required to be operational until October 1, 1998. There is also, of course, the glaring conflict in the dates for the repeal of the $50 "disregard" under Title IV-A and for the discontinuation of the $50 "pass-through" under Title IV-D.

While there may be other problems like these, overall the effective dates for the many, and sometimes massive, state plan and state law changes required under the Act should be delayed by at least one calendar year. Most of these dates, as currently laid out in the Act, are not realistic with respect to the ability of state agencies and legislatures to make needed changes. Moreover, the Secretary will not be able to provide states with regulatory guidance in sufficient time for the mandated state law and state plan amendments to reflect the interpretation of statutes provided by the Secretary.

In that regard, it is imperative that regulations be prepared as quickly as possible, given the number and complexity of the changes in federal law. We urge, however, that - without disrupting the processes for rule making required under the federal Administrative Procedures Act - state IV-D agencies be consulted about the ways in which these changes may be most effectively implemented ***even before proposed rules are developed and published.*** We have already suggested this to the Administration for Children and Families because we believe that those actually doing the day-to-day work of child support enforcement may have a clearer sense of what does or does not work than those formulating the rules. Too often in the past federal regulations have not meshed with the practical realities of enforcement and have not served to enhance enforcement efforts but have, instead, impeded those efforts.

As for possible drafting errors in H.R. 3734, there is, for example, the requirement under section 325 of the legislation that the state IV-D agency have the authority to order genetic testing in, presumably, any contested paternity case. Under section 331, however, genetic testing may not be required unless it is requested by one of the parties (the mother and a putative father, but, obviously not the state) but only "if the request is supported by a sworn statement by the party" that the requisite sexual contact has, or has not, taken place. Also, while the caption of section 373 refers to "enforcement of orders against paternal or maternal grandparents in cases of minor parents," the text of the provision identifies only the "parents of the noncustodial parent" - that is, the paternal grandparents. Finally, while section 381 extends the definition of a medical child support order in ERISA to include orders issued by administrative process, the legislation leaves unaddressed the real problem with current ERISA provisions which allow employers to refuse to honor a medical support obligation because a court or administrative order incorporating such an obligation is not in the style of a "qualified medical child support order," as specified in ERISA. The language in section 514(b)(7) of the ERISA [29 U.S.C. 1144(b)(7)] which limits enforcement of medical support obligations to orders having all of the particulars of an ERISA "qualified medical child support order" needs to be amended, as well.

Although not really a drafting error, there is a lack of clarity about some key funding issues. We have been assured by the Administration for Children and Families that federal financial participation will be available for any activity relating to a state plan amendment - including the establishment and operation of the required State Case Registry, State Directory of New Hires, and the State Central Disbursement Unit. It is not clear, however, whether or not enhanced federal funding at the rate of 80% will be available for **all** of the new automation requirements in the H.R. 3734, or just for those specifically related to sections 454(16) and 454A of the Social Security Act, as amended by H.R. 3734. This would encompass the case registry but perhaps not all the functions of the new hire directory and the disbursement unit. Also, it is not clear from section 331 of the legislation the extent to which federal funds will be available for the establishment and operation of a paternity registry in a state's vital statistics agency or for the offering of paternity acknowledgment services by such agency and other agencies designated by the Secretary. We are sure that Congress did not intend to impose any unfunded mandates upon the states in the child support enforcement provisions of H.R. 3734, but it is very important that there be statutory language clarifying the overall funding of the new state plan and state law requirements in the legislation.

The Need for Flexibility in Federal Title IV-D Laws and Regulations.

Perhaps our greatest concern about the child support enforcement provisions of the legislation is that they appear to reflect the notion that "one size fits all" - viz., that there are no differences among states with respect to their legal cultures and traditions and that what "works" in one state, must work just as well in any other state. For example, quarterly data matches with financial institutions may be a useful activity for one state IV-D agency while for another it may prove to be an enormous waste of valuable resources which ought to directed to other kinds of enforcement efforts. Indeed, as recent annual reports of the Secretary to Congress on the nationwide IV-D programs show, Texas has been more productive in establishing paternities and collecting child support than some states which already use certain of the procedures mandated under H.R. 3734. It is doubtful that every procedure mandated in H.R. 3734 will add to the productivity of the Texas program in establishing paternity and collecting support. Some may, instead, divert staff energies and time and state and federal funds from more fruitful enforcement activities.

What states have learned over the past 20 years is that if a particular enforcement activity is, indeed, a "best practice", it will find its way into use by other states. The fact is that states - not the federal government - have originated the effective enforcement "tools"currently used within the nationwide IV-D system. States teach one another, and they adapt practices to their particular legal environment. It really is not necessary for the federal government to micro-manage state laws and legal procedures. Indeed, to do so is inimical to the original intent of the federal legislation which established the state-federal partnership under Title IV-D of the Social

Security Act. That intent was - and should continue to be - that the federal government would provide oversight and technical assistance and share administrative costs, while the states would be responsible for administering their child support enforcement programs. What was envisioned 20 years ago was a child support enforcement program which, although nationwide in structure and operation, would look to the states for the exercise not only of full diligence in pursuing the goals of the program but also of imagination and creative energies in designing effective strategies. This kind of partnership recognized that domestic relations law is properly, as it has been historically, the domain of the states, not the federal government.

Thus, the intent of Congress in creating Title IV-D was that states should enjoy a good amount of flexibility in how they constructed and operated their programs. The theme of ***flexibility*** has been voiced throughout the legislative history of the IV-D program. One of the clearest and strongest statements concerning the need by state IV-D program for flexibility in their operations--allowing them ample room for creativity and innovation--was made by the, then, Secretary of Health and Human Services, Margaret M. Heckler, in testimony on January 24, 1984 before the Senate Finance Committee. Speaking in opposition to a House bill which would have imposed burdensome performance requirements upon the state IV-D programs, leaving no room for needed flexibility, Secretary Heckler said:

> [T]he prescription of so many techniques [for support enforcement] imposes a laundry list of approaches on the states when what we really want, to achieve our goal, is simply to have effective techniques and allow the states the ***flexibility*** to add to what we consider the most important approaches available. I think ***giving the states flexibility is important because the states differ***. What we want as the bottom line is to see the children receive the child support payments, ***not impose a whole series of new changes on the states***. Even though those changes might be desirable, are they really essential? ***We feel if they are not essential, that the states should have flexibility.*** [S. Hrg. 98-673, pp. 49-50. Emphasis added.]

We regret that, at a time when Congress has recognized the importance of giving states flexibility in administering their public assistance programs by relieving them of the onerous burden of excessive federal regulation, it should have reversed directions with the Title IV-D program. What that program needs is not more regulations, not more federal mandates, but the opportunity to employ fully the creative energies of the states which, more than the federal government, know how to use their legal processes to attack the problem of non-support.

It is unfortunate that the legislation did not provide more generously for state options, but we hope that the federal government will make waivers available to states from some of the less useful requirements in H.R. 3734 so that states can continue to use and perfect their own more productive laws and procedures. What those who advocate a "lock-step" approach to child support enforcement, with a proliferation of federal mandates, seem not to understand is that there are distinct differences among states with respect to their legal cultures and traditions and that already state IV-D programs are having to invest so much of their finite resources - including both state and federal funds - not in establishing paternity and collecting support, but in meeting the minutiae of dozens and dozens of federal requirements. To add to this regulatory structure will not improve enforcement, but only diminish it.

The IV-D Incentive Structure and Audit Process

As I mentioned earlier, the Texas program is very pleased that the reform of the federal incentive structure and audit process which it has been advocating for many years in policy papers, national associations, and testimony before Congress may now be realized through provisions in H.R. 3734. What we have repeatedly urged is an incentive system which rewards, and an audit process which evaluates, the real accomplishments of the state IV-D programs. The current incentive system is based upon only one area of productivity - support collections - and upon fundamentally meaningless measures of "cost-effectiveness" which do not take into account all the areas of program productivity or expenditures. Moreover, by limiting the amount of

collections in non-public assistance cases which may be credited for incentive purposes, the current system actually rewards states to the extent that they do not remove families from welfare. Nor does the current system reward states for the savings in public assistance, food stamps, and Medicaid realized by their success in helping families become financially independent.

We believe - as the Congress evidently does - that the incentive structure needs to be reworked so that it acknowledges and rewards states for their accomplishments in ***all*** areas of child support enforcement, and not just in the collection of support. We also believe very strongly that the reworking of the incentive structure must be tied to a complete overhaul of the federal audit system. The two are really inseparable.

As the Committee knows, a fundamental component of the federal role in the state-federal IV-D partnership has been the assessment of the effectiveness of state programs through periodic audits. Over the years new legislation and regulations have expanded the scope of the program and strengthened its activities and have introduced a great measure of uniformity in state laws and legal processes. With these developments, however, the audit process has become increasingly complex. What was at first a fairly simple review of a few selected aspects of state program operations has grown to an undertaking of nearly unmanageable proportions, imposing an onerous burden upon both the states and the federal Office of Child Support Enforcement (OCSE). As OCSE itself has acknowledged, "a more efficient and more expeditious approach to the audit of State IV-D programs is necessary." [Federal Register, Vol.54, No. 19, Jan. 31, 1989, 4841] OCSE is clearly concerned about this unacceptable situation, just as the states are dissatisfied not only with the length of time and expenditure of resources the audit process demands but also with the measures by which their programs are currently evaluated.

The flaws in the current federal audit process are many. The fundamental deficiency in the process is that it relies on a mechanical, quantitative standard for measuring, not productivity, but compliance with process rules. Applied as a template for measuring program effectiveness, the quantitative standard ignores important and distinctive differences among categories of enforcement activity, including degrees of difficulty and the varying allocations of time and resources required. The express purpose of the quantitative measurement is to determine the extent to which actions are taken on cases, not the extent to which the actions taken have been productive or the ones not taken have had a negative impact on the program's effectiveness.

This checklist approach to "effectiveness" requires only that something be done, whether or not doing it really matters to the outcome of a case. The concern once more is with process, not product - with quantity of action, not quality of effect. The application of this measure presupposes that there are no differences among state programs in types of caseload and in program structure and operation, that every case of a type (e.g., paternity establishment) requires not only the same actions, but also all of those actions in a particular sequence, with no variation. It assumes that if all cases of a type are worked using the same techniques, identical results will follow, regardless of degrees of difficulty, differences in circumstances, available data or staff, or any one of numerous variables. Mechanistic inflexibility is the mode of measurement.

Unfortunately, in the current OCSE audit, state IV-D programs are judged, not by their actual productivity and growth over a triennial period, but by their ability to jump through procedural hoops, regardless of whether or not all the time and resources spent on meeting the dozens of audit criteria really pays off in increased productivity and program effectiveness. The curious notion informing the use of the current audit seems to be that if a state program performs all the prescribed procedural steps and adheres rigorously to all the many details of a uniform process, success is sure to follow. More than that, the notion is that if **all** state programs faithfully follow **all** the prescribed procedures, **all** will enjoy equal success, ***no matter the distinctive differences among the programs***. But inasmuch as success in terms of real growth and real productivity is never measured in the audit, it cannot be known whether or not the rigidly applied procedural requirements lead anywhere or are merely ends in themselves - a process which produces nothing but itself. **The only success the current audit measures is success in passing the audit.**

The enactment of H.R. 3734 offers the Secretary the opportunity to work with the states in creating an audit system which evaluates product, not process, and which is integrated with a new incentive system which rewards all areas of program productivity. The audit process has become the victim of regulatory technology, and in its cumbersome complexity it does not serve the IV-D program by providing the kind of thoughtful monitoring and correcting direction needed for the program's continuing growth. Reforming the process means, at the least, establishing performance standards which truly measure product, not process, applying those standards equitably, and judging substantial compliance by how fully those standards are met. Procedural deficiencies, when identified, ought not to be the basis for assessing penalties but, instead, be used as opportunities for improving processes for the purpose of achieving optimal program functioning and productivity.

Texas' Proposal for Reforming the Audit Process and Incentive System.

The Texas program proposes that there be a new product-oriented audit process tied to a new product-driven incentive system.

First of all, the kind of audit process we have in mind would do away altogether with the current audit criteria and quantitative "performance" standards. Each state would set production goals for itself to be met over a triennium. These goals, covering all of the essential service areas - locate, paternity establishment, obligation establishment and enforcement, collections, interstate enforcement, and medical support - would result from a conference with the regional IV-D representative and would be "certified" by the OCSE director. The goals would reflect realistic assessments of potential for growth and productivity, analyses of areas needing particular attention and improvement, and factors peculiar to the state (e.g., economic and demographic features, structural organization of the state's IV-D program, and matters of state statute and legislative process) influencing performance. The federal office would certify that the stated goals were acceptable - that is, were not too low or at too great a deviation from national norms and/or trends.

Once agreed upon by the state IV-D agency, the regional office, and the federal office, the state would be held accountable for realizing the performance goals over the period of the triennium. As prescribed under section 344 of H.R. 3734, each state would use its automated system to maintain performance data and calculate performance indicators, and, as section 342 requires, on an annual basis each state would report to the Secretary the "data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators" . . . These annual reports would be the basis of awarding each state an appropriate incentive payment, but the reports - their data and calculations - would directly relate to a state's performance goals, as set forth in its strategic plan certified by the federal director.

At the end of the three-year period, a review and assessment would be undertaken by the state agency and the regional office together. OCSE auditors would assess program data (including, as section 343 requires, "the completeness, reliability, and security of the data and the accuracy of the reporting systems used in calculating performance indicators") and confer with state auditors. Regional IV-D staff would confer with state agency staff and together visit selected sites. The outcome of the review would be a report to the federal office in which an assessment of accomplishment would be made, with any divergences in the assessment between the regional office and the state agency identified and justified.

The federal office would then have responsibility to determine on the basis of the report the degree to which the state program had met or exceeded its goals and, correspondingly, the amount of any financial penalty to be levied. The penalty, however, would be imposed upon the amount of "federal financial participation" (FFP) already paid to the state for the triennium just reviewed, not upon the amount of federal funds to be paid the state for the IV-A (TANF) program. Moreover, the penalty would be flexibly applied, taking into consideration not just failure to meet a particular goal, but also success in meeting other goals. Any disallowance would be suspended until a follow-up review one year later showed whether or not improved productivity

and efficiency were of sufficient magnitude to "correct" the earlier deficiencies. The state agency would have the opportunity both after the triennial review and after the follow-up review to appeal any adverse judgments to the Department Grants Appeal Board.

The advantages of such a scheme of program funding and evaluation would be these:

1. There would be on-going strategic planning for the IV-D program at the state, regional, and federal levels, with the state and federal programs in a partnership relationship identifying goals and assessing results. This sort of cyclical planning and assessment should enable state programs to make sounder judgments about the deployment of resources in meeting specific targets over the long-term, as well as provide a sharper, historical focus on the areas of strength and need in the continuing development of the programs.

2. State programs would be evaluated **against their own respective historical performances**, although their individual and collective experiences in striving to meet the purposes of the IV-D program would inform and help shape program development and policy at the federal level, including the creation of new laws and regulations.

3. Provision for a disallowance of FFP upon an unjustified failure to meet three-year goals would ensure that state programs did not simply spend federal funds without being accountable for the results of those expenditures. This would counter the sort of situation, often cited by the federal government as an instance of states' making a "profit" on the program, where a state runs an inefficient, unproductive program and still collects the full measure of FFP and at least the minimum percentage for incentive payments. This scheme introduces a higher level of accountability and a greater sense of stewardship of federal funds.

4. This scheme of program planning and assessment of performance moves state-federal government interaction from a nearly adversarial relationship in which state IV-D agencies feel the "feds" are out to get them and the federal government feels that state agencies are out to cheat it, to one of shared responsibility for the overall success of the IV-D program. Instead of the current audit which functions as a system of negative sanctions to motivate positive behavior and as a punishment for imputed laziness and negative intentions, there would be cooperative planning and assessment of program activities by state agencies and the federal government. Currently state programs divert time and resources from planning for productivity to planning for passing an audit which addresses only procedures and not product. It is a three-year long effort to avoid losing funding, rather than a three-year long effort to realize productive goals, mutually agreed to by state agency and federal government.

5. A periodic technical review would enable state agencies to identify particular procedural problems and enable OCSE to offer assistance in resolving these problems, without disrupting the on-going work of the state program, as the current audit does, and without imposing crippling wholesale penalties, as the current audit does, for procedural deficiencies which do not affect the overall performance of the state IV-D program and its true "substantial compliance" with the fundamental purposes of Title IV-D.

Looking to the Future.

The creation of the IV-D program represented one of the most significant experiments in "cooperative federalism" this country has known. The 1975 law establishing the program envisioned Title IV-D as a kind of marriage of state family law and federal public policy in addressing the difficult and worsening problem of non-support and welfare-dependency. In this

new venture of "co-operative federalism," Congress assigned to the states, out of deference to their traditional claim to preeminence in domestic relations, the primary responsibility for child support and paternity establishment, while leaving to the federal government the responsibility for providing the funding and general oversight necessary to achieve a coherent, nationwide program. The Child Support Amendments of 1984 significantly changed this assignment of responsibilities. The dramatic changes in the IV-D program which the 1984 Amendments brought, represented not merely improvements in an existing system of support enforcement, but a conceptual reworking of that system, moving towards the federalization of state domestic relations law. That process of reconceptualization was advanced further by, first, the Family Support Act of 1988 and, now, the Personal Responsibility and Work Reconciliation Act of 1996. Perhaps the final chapters of the process have yet to be written in the halls of Congress.

Over the 20 years of its existence, the program has grown into a major force for the well-being of the nation's children, and it needs to continue to develop in order to serve more fully the high-minded purposes for which it was established. Continuing development, however, presupposes flexibility of operation for state programs and their freedom from regulatory impediments and the punitive effects of an audit which measures procedural performance instead of program productivity.

Everyone with an interest in the growing crisis of child support in this country wants the IV-D child support enforcement program to succeed. But the success that everyone seeks for the program - the federal government, Congress, the states, and advocacy groups - will not be achieved by piling on more mandates, more regulations, more constraints on flexibility and creativity among the states in how they pursue the fundamental purposes of the IV-D program. Just as states must continue to apply themselves with diligence and imagination to increase the productivity of their child support enforcement programs, so the federal Administration must work to liberate the IV-D program from the regulatory impediments which limit the program's possibilities, waste its resources, and burden its progress. For its part, Congress must be disposed to revisit the laws it has passed in order to determine whether or not the "one size fits all" approach is the soundest way to move the program forward. It must also be prepared to make available the financial resources required to assist states in their efforts to ensure that the families of the nation receive the child support they are due. Child support enforcement is an endeavor in which all participants are - and **must be** - active partners.

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