105TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT 105–422

CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

FEBRUARY 27, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 3130]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3130) to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. Introduction	12
A. Purpose and Summary	12
B. Background and Need for Legislation	12
C. Legislative History	15
II. Explanation of Provisions	16
III. Vote of The Committee	38
IV. Budget Effects of The Bill	38
A. Committee Estimate of Budgetary Effects	38
B. Statement Regarding New Budget Authority And Tax Expenditures	38
C. Cost Estimate Prepared by The Congressional Budget Office	38
V. Other Matters Required to Be Discussed Under The Rules of The House	43
A. Committee Oversight Findings And Recommendations	43
B. Summary of Findings And Recommendations of The Government Reform And Oversight Committee	44
C. Constitutional Authority Statement	44
VI. Changes in Existing Laws Made by The Bill, as Reported	44

59–006

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS

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

TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

Sec. 201. Incentive payments to States.

TITLE III—ADOPTION PROVISIONS

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

TITLE IV—TECHNICAL CORRECTIONS

Sec. 401. Technical corrections.

TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS

SEC. 101. ALTERNATIVE PENALTY PROCEDURE.

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

"(4)(A) If—

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

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

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

"(B) In this paragraph:

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

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

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

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

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

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

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

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

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

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

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

to the State under paragraph (1)(A) of this subsection for the succeeding fiscal year by an amount equal to 75 percent of the reduction for the fiscal year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and maintaining the system for 5 years, and the Secretary has agreed with the estimates.".

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

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and"; and

(3) by inserting after subparagraph (C) the following:

"(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does

not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver;".

TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

SEC. 201. INCENTIVE PAYMENTS TO STATES.

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

"SEC. 458A. INCENTIVE PAYMENTS TO STATES.

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

"(b) AMOUNT OF INCENTIVE PAYMENT.—

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

"(2) INCENTIVE PAYMENT POOL.—

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

"(i) $422,000,000 for fiscal year 2000;

"(ii) $429,000,000 for fiscal year 2001;

"(iii) $450,000,000 for fiscal year 2002;

"(iv) $461,000,000 for fiscal year 2003;

"(v) $454,000,000 for fiscal year 2004;

"(vi) $446,000,000 for fiscal year 2005;

"(vii) $458,000,000 for fiscal year 2006;

"(viii) $471,000,000 for fiscal year 2007;

"(ix) $483,000,000 for fiscal year 2008; and

"(x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the 2nd preceding fiscal year.

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

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

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

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

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

"(A) The paternity establishment performance level.

"(B) The support order performance level.

"(C) The current payment performance level.

"(D) The arrearage payment performance level.

"(E) The cost-effectiveness performance level.

"(5) MAXIMUM INCENTIVE BASE AMOUNT.—

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

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

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

"(B) DATA REQUIRED TO BE COMPLETE AND RELIABLE.—Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4)

is zero, unless the Secretary determines, on the basis of an audit performed under section 452(a)(4)(C)(i), that the data which the State submitted pursuant to section 454(15)(B) for the fiscal year and which is used to determine the performance level involved is complete and reliable.

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

"(i) 2 times the sum of—

"(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

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

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

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

"(A) PATERNITY ESTABLISHMENT.—

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

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

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

"If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
50%	51%	60
0%	50%	0.

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

"(B) ESTABLISHMENT OF CHILD SUPPORT ORDERS.—

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

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

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

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

percentage with respect to the State's support order performance level is 50 percent.

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

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

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

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

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment perform-

ance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

"(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.—

"(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.—The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

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

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

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

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

"(E) COST-EFFECTIVENESS.—

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

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

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

"(c) TREATMENT OF INTERSTATE COLLECTIONS.—In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 455(e) shall be excluded.

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

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

"(f) REINVESTMENT.—A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State—

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

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

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

(1) for fiscal year 2000, the Secretary shall reduce by ⅓ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅔ the amount otherwise payable to a State under section 458A of such Act; and

(2) for fiscal year 2001, the Secretary shall reduce by ⅔ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅓ the amount otherwise payable to a State under section 458A of such Act.

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

(d) STUDIES.—

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

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

(B) REPORTS TO THE CONGRESS.—

(i) REPORT ON VARIATIONS IN STATE PERFORMANCE ATTRIBUTABLE TO DEMOGRAPHIC VARIABLES.—Not later than October 1, 2000, the Secretary shall submit to the Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system as may be necessary to ensure that the relative performance of States is measured from a baseline that takes account of any such variables.

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

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

(2) DEVELOPMENT OF MEDICAL SUPPORT INCENTIVE.—

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

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

(e) TECHNICAL AMENDMENTS.—

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

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

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

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

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

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

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

(f) ELIMINATION OF PREDECESSOR INCENTIVE PAYMENT SYSTEM.—

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

(2) CONFORMING AMENDMENTS.—

(A) Section 458A of the Social Security Act, as added by section 201(a) of this Act, is redesignated as section 458.

(B) Section 455(a)(4)(C)(iii) of such Act (42 U.S.C. 655(a)(4)(C)(iii)), as added by section 101 of this Act, is amended—

(i) by striking "458A(b)(4)" and inserting "458(b)(4)";

(ii) by striking "458A(b)(6)" and inserting "458(b)(6)"; and

(iii) by striking "458A(b)(5)(B)" and inserting "458(b)(5)(B)".

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

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

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

TITLE III—ADOPTION PROVISIONS

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

(a) CONVERSION OF FUNDING BAN INTO STATE PLAN REQUIREMENT.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; and"; and

(3) by adding at the end the following:

"(23) provides that the State shall not—

"(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

"(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness.".

(b) PENALTY FOR NONCOMPLIANCE.—Section 474(d) of such Act (42 U.S.C. 674(d)) is amended in each of paragraphs (1) and (2) by striking "section 471(a)(18)" and inserting "paragraph (18) or (23) of section 471(a)".

(c) CONFORMING AMENDMENT.—Section 474 of such Act (42 U.S.C. 674) is amended by striking subsection (e).

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

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. TECHNICAL CORRECTIONS.

(a) Section 413(g)(1) of the Social Security Act (42 U.S.C. 613(g)(1)) is amended by striking "Economic and Educational Opportunities" and inserting "Education and the Workforce".

(b) Section 422(b)(2) of the Social Security Act (42 U.S.C. 622(b)(2)) is amended by striking "under under" and inserting "under".

(c) Section 432(a)(8) of the Social Security Act (42 U.S.C. 632(a)(8)) is amended by adding "; and" at the end.

(d) Section 453(a)(2) of the Social Security Act (42 U.S.C. 653(a)(2)) is amended—

(1) by striking "parentage," and inserting "parentage or";

(2) by striking "or making or enforcing child custody or visitation orders,"; and

(3) in subparagraph (A), by decreasing the indentation of clause (iv) by 2 ems.

(e)(1) Section 5557(b) of the Balanced Budget Act of 1997 (42 U.S.C. 608 note) is amended by adding at the end the following: "The amendment made by section 5536(1)(A) shall not take effect with respect to a State until October 1, 2000, or such earlier date as the State may select.".

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 5557 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 637).

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

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

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

(g) Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended by striking "(subject to the limitations imposed by subsection (b))".

(h) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a) is amended—

(1) in subsection (b)(3)(D), by striking "Energy and"; and

(2) in subsection (d)(4), by striking "(b)(3)(D)" and inserting "(b)(3)".

I. INTRODUCTION

A. Purpose and Summary

The Committee proposal allows the Secretary of Health and Human Services to use an alternative penalty procedure in dealing with States that failed to implement by October 1, 1997 the automatic data processing system required by the Family Support Act of 1988. Under current law, States that miss the deadline are penalized by the loss of all of their Federal child support funds under Title IV–D of the Social Security Act and all of their funds from the Temporary Assistance for Needy Families block grant under Title IV–A of the Social Security Act. In hearings and through personal contacts, Members of the Committee have found that virtually no group or individual thinks it would be wise to impose these enormous penalties on any State at this time. Thus, the Committee, after consultation with States, advocates, members of the Senate, and officials in the Clinton Administration, developed an alternative penalty procedure that enjoys widespread bipartisan support.

In addition, the Committee proposal contains extensive revisions of the current child support incentive system. The current system has two major shortcomings. First, incentive payments are based almost exclusively on collections without providing adequate incentives for the program outcomes—such as paternity establishment—upon which collections are based. Second, States receive incentive payments that are guaranteed regardless of their efficiency in making collections. Along with other child support reforms enacted in the 1996 welfare reform legislation, the new incentive system is expected to have a major impact by increasing both the effectiveness and efficiency of the child support programs conducted by the States. Among other notable outcomes, the new system will help families leave welfare and maintain their independence from welfare.

The Committee proposal also contains a modification of the penalty procedure used against States that violate the jurisdictional barriers provision of last year's adoption legislation. As with child support data systems, the penalty contained in current law—in this case, loss of all Federal funds under Title IV–E of the Social Security Act—is too severe. The new penalty procedure would substantially reduce the financial impact on States while nonetheless maintaining a real deterrent against violations of the prohibition on delaying or denying adoptions across county or State lines.

B. Background and Need for Legislation

The following are the major features of the new penalty procedures and the new child support performance and incentive system that would be established under the Committee proposal:

TITLE I: ALTERNATIVE PENALTY PROCEDURE

Eligibility for alternative penalty.—If a State is making a good faith effort to comply with the data processing requirements of the 1988 Family Support Act and if the State submits to the Secretary of the Department of Health and Human Services (HHS) a corrective compliance plan describing how, by when, and at what cost it will comply, the State may avoid the penalty in current law and qualify for the new penalty. The new penalty would be 4 percent, 8 percent, 16 percent, and 20 percent, respectively, for the first, second, third, and fourth or subsequent years of failing to comply with the data processing requirements; this percentage would be applied to the amount payable to the State in the previous year as Federal administrative reimbursement under the child support program.

Penalty waiver.—All penalties would be waived if, by December 31, 1997, a State has submitted to the Secretary a request that the Secretary certify the State as meeting the 1988 data processing requirements and the State is subsequently certified as a result of a review conducted pursuant to the request.

Partial penalty forgiveness.—If a State operating under the penalty procedure achieves compliance with the data processing requirements before the first day of the next fiscal year, then the penalty for the current fiscal year would be reduced by 75 percent.

Penalty reduction for good performance.—In addition to complying with the data processing requirements of the 1988 Act, States would have to comply with the data processing requirements imposed by the 1996 welfare reform law by October 1, 2000. In the case of the 1996 requirements, a State that fails to comply may nonetheless have its annual penalty reduced by 20 percent for each performance measure under the new child support incentive system (see summary of Title II provisions, below) for which it achieves a maximum score.

Expansion of waiver provision.—The authority of the Secretary to waive certain data processing requirements and to provide Federal funding for a wider range of State data system activities would be expanded to include waiving the single Statewide system requirement under certain conditions and providing Federal funds to develop and enhance local systems linked to State systems. To qualify, a State would have to demonstrate that it can develop an alternative system that:

Can help the State meet the paternity establishment requirement and other performance measures;

Can submit required data to HHS that is complete and reliable;

Substantially complies with all requirements of the child support enforcement program;

Achieves all the functional capacity for automatic data processing outlined in the statute;

Meets the requirements for distributing collections to families and governments, including cases in which support is owed to more than one family or more than one government;

Has one point of contact for interstate case processing and intrastate case management;

Is based on standardized data elements, forms, and definitions that are used throughout the State;

Can be operational in no more time than it would take to achieve an operational single Statewide system; and

Can process child support cases as quickly, efficiently, and effectively as would be possible with a single Statewide system.

Federal payments under waiver.—In addition to the various waiver requirements described above, and to the requirements in current law, the State would have to submit to the Secretary separate estimates of the cost of developing and implementing a single Statewide system and the alternative system being proposed by the State plus the costs of operating and maintaining these systems for 5 years from the date of implementation. The Secretary would have to agree with the estimates. If a State elects to operate an alternative system, the State would be paid the regular 66 percent Federal administrative reimbursement only on costs up to the amount of the estimated cost of the single Statewide system.

TITLE II: CHILD SUPPORT INCENTIVE SYSTEM

Amount of incentive payments.—The incentive payment for a State for a given year would be calculated by multiplying the incentive payment pool for the year by the State's incentive payment share for the year. The incentive payment pool would be equal to the Congressional Budget Office estimate of incentive payments for each year under current law. Specifically, the amounts (in millions) for fiscal years 2000 through 2008, respectively, would be: $422, $429, $450, $461, $454, $446, $458, $471, and $483. Specifying these amounts in the statute assures that the new incentive payments system would be budget neutral. After 2008, the incentive payment pool would increase each year by an amount equal to the rate of inflation.

Calculating incentive payments.—In addition to the incentive payment pool, incentive calculations would be based on the various factors defined below. The general approach would be to pay to each State its share of the incentive payment pool based on the quality of its performance on the five incentive performance measures. The five measures would be: paternity establishment; establishment of support orders; collections on current payments; collections on arrearages; and cost effectiveness.

Treatment of interstate collections.—In computing incentive payments, support collected by a State at the request of another State would be treated as having been collected by both States. State expenditures on a special interstate project carried out under section 455(e) would be excluded from incentive payment calculations.

Regulations.—The Secretary of Health and Human Services would be required to prescribe regulations necessary to implement the incentive payment program within 9 months of the date of enactment. These regulations could include directions for excluding certain closed cases and cases over which the State has no jurisdiction.

Reinvestment.—States would be required to spend their child support incentive payments to carry out their child support enforcement program or to conduct activities approved by the Secretary which may contribute to improving the effectiveness or effi-

ciency of the State child support enforcement program. In so doing, States must supplement and not supplant other funds used by the State to conduct its child support enforcement program.

Transition rule.—The new incentive system would be phased in over 2 years beginning in fiscal year 2000 In fiscal year 2000, ⅓rd of each State's incentive payment would be based on the new incentive system and ⅔rds on the old system. In fiscal year 2001,⅔rds of each State's incentive payment would be based on the new incentive system and ⅓rd on the old system. The new system would be fully operational in fiscal year 2002.

General effective date.—Except for the elimination of the current incentive program, the amendments made by this legislation would take effect on October 1, 1999.

TITLE III: ADOPTION PROVISIONS

The current penalty for violating the provision on adoption across jurisdictional lines would be terminated and a new penalty substituted. Under the new penalty, States that violate this adoption provision would receive a penalty equal to the loss of 2 percent of the Federal funds for foster care and adoption under Title IV–E of the Social Security Act for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations.

TITLE IV: TECHNICAL CORRECTIONS

The current law on data sources to calculate the adoption incentive payments only allows the use of data reported by States by November 30, 1997, and approved by the Secretary by March 1, 1998. The new provision would give States an additional 5 months to report data (until April 30, 1998) and the Secretary an additional 4 months to approve the data (until July 1, 1998).

The 1996 welfare reform law required States to collect Social Security numbers on applications for State licenses for purposes of matching in child support cases by January 1, 1998. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required States to collect Social Security numbers on applications for State drivers' licenses for purposes of checking the identity of immigrants by October 1, 2000. This technical amendment would conform the two requirements by changing the date in the Social Security Act by which States must collect Social Security Numbers on applications for State drivers' licenses to October 1, 2000, or such earlier date as the State selects.

C. Legislative History

Committee bill

H.R. 3130 was introduced on January 28, 1998 by Chairman Shaw and Mr. Levin of the Subcommittee on Human Resources. The Subcommittee on Human Resources considered H.R. 3130 and ordered it favorably reported to the full Committee on February 3, 1998 by voice vote, with a quorum present. The full Committee on Ways and Means considered the Subcommittee reported bill on February 25, 1998 and ordered it favorably reported, as amended, on Wednesday, February 25, 1998, by voice vote. On September 18,

1997 the Subcommittee on Human Resources ordered favorably reported to the full Committee, as amended, H.R. 2487, the "Child Support Incentive Act of 1997," by voice vote. The full Committee on Ways and Means considered the Subcommittee reported bill and ordered it favorably reported as amended, on September 23, 1997, by voice vote. On September 29, 1997, H.R. 2487 passed the House with amendment, by voice vote. A version of this legislation is included as Title II of H.R. 3130, modified from last year's legislation in order to ensure a budget neutral incentive system.

Legislative hearings

The Subcommittee on Human Resources held a hearing on modifying child support penalties for automatic data processing and on the child support incentive payment proposal on January 29, 1998, which included testimony from Members of Congress, the Administration, child support administrators, organizations representing noncustodial parents, and child advocacy groups. The Subcommittee also held a hearing on September 10, 1997 on data system improvements, which included testimony from the Administration, State child support program directors, child advocacy groups, and private companies participating in child support enforcement programs. The Subcommittee held prior hearings on the child support incentive payment proposal on September 19, 1996 and March 20, 1997, which included testimony from the Administration, national organizations of child support administrators, organizations representing noncustodial parents, child advocacy groups, and the Congressional Research Service.

II. EXPLANATION OF PROVISIONS

1. SHORT TITLE

Present law

No provision.

Explanation of provision

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

Reason for change

Not applicable.

Title I—Child Support Data Processing Requirements

1. ELIGIBILITY FOR ALTERNATIVE PENALTY PROCEDURE

Present law

No provision. Under current law, if a State failed to implement a Statewide automated data processing and information retrieval system by October 1, 1997 (which is a child support enforcement State plan requirement), the Office of Child Support Enforcement is required to, after an appeals process, "disapprove" the State's child support enforcement plan and suspend Federal funding for the State's child support enforcement program. Moreover, pursuant to title IV–A (Temporary Assistance for Needy Families; TANF)

law, a State that cannot certify that it has an approved Child Support Enforcement plan when it amends its TANF plan (generally every 2 years), is not eligible for TANF block grant funding. Thus, a State that failed to implement a Statewide automated data processing and information retrieval system is in eventual jeopardy of losing its TANF block grant allocation along with its Federal Child Support Enforcement funding.

Explanation of provision

If the Secretary determines that a State is making good faith efforts to comply with the data processing requirements and if the State submits a corrective compliance plan describing how it will comply, by when, and at what cost, the State may avoid the penalty in current law and qualify for the new penalty procedure outlined below.

Reason for change

The Committee found broad bipartisan agreement that the current law penalty of ending both the Federal child support and TANF funds of any State that violated the October 1, 1997 automated data processing deadline was too severe. Penalties should be high enough to serve as an incentive to meet Federal requirements but not severe enough to cripple State programs. The new penalty recommended by the Committee meets this test, especially because it starts at a modest level and then increases in subsequent years if States continue to fail to come into compliance with the data processing requirements. In the unlikely case of a State that willfully and repeatedly defies Federal requirements, the Secretary may still use the full penalty of ending all Federal child support and TANF funds.

2. PENALTY AMOUNT

Present law

As noted above, the penalty for noncompliance with a Child Support Enforcement State plan requirement is loss of all Federal Child Support Enforcement funding and eventually all TANF funding as well.

Explanation of provision

The percentage penalty is 4 percent, 8 percent, 16 percent, and 20 percent respectively for the first, second, third, and fourth and subsequent years of failing to comply with the data processing requirements. The percentage penalty is applied to the amount payable to the State in the previous year as Federal administrative reimbursement under the child support enforcement program.

Reason for change

The specific penalty percentages adopted by the Committee represent a compromise between those, especially child advocates, who wanted higher penalties, and those, especially State officials, who wanted lower penalties. The percentage amounts, as well as other penalty provisions (see below), were adjusted to reach a compromise between these two basic perspectives.

3. PENALTY WAIVER

Present law

No provision.

Explanation of provision

If by December 31, 1997 a State has submitted to the Secretary a request that the Secretary certify the State as meeting the 1988 data processing requirements and is subsequently certified as a result of a review pursuant to the request, all penalties are waived.

Reason for change

Even though the deadline under current law for implementing the data systems is October 1, 1997, States were not required to report that they are out of compliance until December 31, 1997. After the States report they are out of compliance, HHS will notify them within a month or so that HHS intends to invoke the penalty. States then have up to 60 days to respond to HHS's notice of intent. Even after these various exchanges have taken place, States can delay the actual withholding of funds by appealing the HHS decision through the courts. If a State comes into compliance during this protracted period of time, the State would pay no penalty. Given that the intent of the Committee bill is to reduce the magnitude of child support penalties if States are making good faith efforts to comply with Federal requirements, the Committee did not want to impose the new penalty on States that may not have been penalized under current law. To avoid this outcome, the Committee included this provision which would exempt from penalties any State that had notified HHS by December 31, 1997 that it was ready to undergo the certification process and that was subsequently certified as a result of the process initiated by the State's letter. If this provision had not been included, some States that could have avoided the penalty under current law would have been forced to pay the new penalty.

4. PARTIAL PENALTY FORGIVENESS

Present law

No provision.

Explanation of provision

If a State operating under the penalty procedure achieves compliance with the data processing requirements before the first day of the next fiscal year, then the penalty for the current fiscal year is reduced by 75 percent.

Reason for change

In order to encourage States to comply with data processing requirements during the course of a given fiscal year, the Committee bill proposes to provide States that come into compliance with a financial reward by reducing the penalty for that year. This provision is also part of the compromise between those who wanted higher and those who wanted lower penalties. More specifically,

those wanting lower penalties agreed to relatively higher penalties in exchange for this partial forgiveness provision.

5. PENALTY REDUCTION FOR GOOD PERFORMANCE

Present law

No provision.

Explanation of provision

States must comply with all the data processing requirements imposed by the 1996 welfare reform law by October 1, 2000. Some data processing requirements must be fulfilled before this date. A State that fails to comply with any of the 1996 data processing requirements may nonetheless have its annual penalty reduced by 20 percent for each performance measure under the new incentive system (see Title II below) for which it achieves a maximum score. Thus, for example, a State being penalized would have its penalty for a given year reduced by 60 percent if it achieved maximum performance on three of the five performance measures.

Reason for change

During one of the meetings conducted by the Committee with groups interested in the penalty provision, several States pointed out that the overall goal of the child support legislation is to improve child support performance. If the new incentive system is enacted by Congress (see Title II below), Congress will have in place an effective way to measure the effectiveness of State programs in achieving the fundamental goals of child support enforcement—establishing paternity and child support orders, collecting child support payments, and operating efficiently. If a State has not fully complied with the data processing requirements, but nonetheless conducts an effective and efficient child support program as measured by the incentive system, then the State should be able to avoid at least part of the penalty for failing to implement the automatic data systems. Thus, the Committee included this provision to provide partial relief from penalties for States that achieve highly effective performance. This provision, however, applies only to the data processing requirements imposed by the 1996 welfare reform legislation (not the requirements established in 1988). States receive penalty reductions only by achieving the highest rating on the various performance measures.

6. PENALTY PROCEDURE APPLIES TO REQUIREMENTS OF 1988 ACT AND 1996 ACT

Present law

P.L. 104–193 requires that as part of their State child support enforcement plans all States, by October 1, 2000, have in effect a single Statewide automated data processing and information retrieval system that meets all of the specified requirements, except that the deadline is extended by one day for each day (if any) by which the Secretary fails to meet the deadline for final regulations on the new data processing requirements (i.e., which is not later than August 22, 1998). The disapproval procedures described above also would apply to these new data processing requirements.

Explanation of provision

With the exception of the December 31, 1997 waiver provision, which applies only to the 1988 requirements, and the penalty reduction provision for good performance, which applies only to the 1996 requirements, the new penalty procedure applies to data processing requirements of both the 1988 Family Support Act and the 1996 welfare reform legislation.

Reason for change

One way to avoid the problem of States' missing data system deadlines is to be certain that States know well in advance exactly what penalties will be imposed for failing to meet the deadlines. Given the huge penalties that would be imposed on States that failed to meet the 1988 requirements, it is entirely possible that State officials assumed that these penalties would never be imposed. The penalties would have ruined States' child support and welfare programs and caused a firestorm of protest. Further, there are numerous examples of prior penalties in Federal social programs that should have been imposed on States but were not. However, once the amendments proposed by the Committee bill are enacted, at least 16 States will be required to pay penalties for failing to meet the 1988 requirements. By putting the new penalty procedure in place, and by ensuring that several States actually receive a penalty a few of which may be quite substantial the Committee provision reinforces the understanding that penalties will actually be imposed on States that fail to meet Federal requirements. This action will in turn increase the likelihood that States will comply with Federal requirements in the future including the 1996 data processing requirements.

7. EXPANSION OF WAIVER PROVISION

Present law

Current law states that the Secretary of the Department of Health and Human Services may waive any requirement related to the advance planning automated data processing document or the automated data processing and information retrieval system. The Secretary may grant such waivers if the State demonstrates to her satisfaction that the State has an alternative system or systems that enable the State to be in substantial compliance with all requirements of the child support enforcement program. The waiver must also meet the following conditions: (1) it must be designed to improve the financial well-being of children or otherwise improve the operation of the child support enforcement program; (2) it may not permit modifications in the child support enforcement program which would have the effect of disadvantaging children in need of support; and (3) it must not result in increased cost to the Federal government under the TANF program; or the State must provide assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program.

Explanation of provision

This provision would expand the Secretary's authority to grant waivers. More specifically, States would be allowed to meet the

automated system requirements through an alternative system configuration that links local child support systems electronically so that they function as a Statewide system. However, the proposed alternative system must allow the State to develop and implement an automated system that operates as quickly, efficiently, and effectively as a single Statewide system. This provision also would expand the Secretary's authority to fund the development of an alternative system configuration, permitting Federal funds to be used for the development of new local systems and for making major changes or enhancements to existing local systems, while ensuring that total Federal reimbursement not exceed the amount the State would have received to build and operate a single Statewide system.

To obtain a waiver, a State must demonstrate to the satisfaction of the Secretary that the proposed alternative system will be completed in no more time than would be required to complete a single Statewide system. The State also must demonstrate that the alternative system will meet all applicable certification requirements for a single Statewide system. The Committee provision highlights six specific functions that alternative systems configurations must meet in order to be eligible for a waiver. These include: meeting (both the linked system and each local system) all the functional requirements of section 454(16); accounting for all child support distributions; having a single point of contact in the State for all interstate case processing; and, using standardized and uniform data elements throughout the State.

The distribution of child support collections is of particular concern to the Committee. The bill requires that alternative systems meet the distribution requirements in section 457 of the Act. The bill further requires that the system must appropriately account for the distribution of collections to children residing with different custodial parents in different States or different jurisdictions within the State.

Although the Committee provision directs the Secretary to carefully examine waiver applications and specifies in considerable detail the functions an alternative system must perform, it is not the intent of the Committee that States applying for a waiver from the single Statewide system requirement be subject to all of the requirements appropriate for single Statewide systems. The requirements that would not apply to linked systems include:

The system represents the sole system effort for administration of the IV–D program within the State;

The system's design must not require duplicative application software development or application software maintenance;

There is no duplicative application software; that is, the same functions are not performed by different software modules; and

There is only one single application software development and maintenance effort and organization.

On the other hand, the Committee provision is designed to ensure that many of the requirements of single Statewide systems do apply to alternative system configurations. In addition to those outlined above, these include:

The IV–D agency, through the Statewide, comprehensive system, must have the ability to control, account for, and monitor all factors in support collection and paternity determination processes;

There must be no duplicative data entry. Common data elements contained in more than one component must be entered only once and updates to common data elements must be made automatically in all components; that is, the data in all components must be electronically synchronized; and

All system components must be electronically linked and the linkage must be transparent to users.

The principles of transparent linkage and avoidance of duplicate data entry are essential for States opting for an alternative system configuration. The intent is to ensure that child support caseworkers using different local systems within the State, and in other States, are not adversely impacted in processing child support cases by the State's decision to implement an alternative system configuration rather than a single Statewide system. The alternative system configuration must ensure that the linkage between systems within a State will not result in duplicative data entry when a case transfers from one local system within the State to another local system within that State. The proposed design for the linkage between local systems within a State must ensure the electronic transmission of data among systems.

The alternative system configuration also must ensure coordinated, automated intrastate case management by the IV–D agency. Through the State's automated child support enforcement system, including all linked systems, the IV–D agency must be able to control, account for, and monitor all factors in support collection and paternity determination processes.

The Committee is concerned about both the costs of developing and implementing an alternative system configuration and the costs of operating and maintaining that system. To address this concern, the Committee provision caps both categories of costs at a single total amount. The provision requires that as part of its waiver request, a State provide to the Secretary estimates of the costs associated with developing and implementing both the proposed alternative system and a single Statewide system of comparable functionality, plus estimates of the costs associated with operating and maintaining these systems for a period of 5 years from the date each system would be implemented. The Secretary must agree with these estimates.

The Committee's bill would cap Federal financial participation (FFP) for an alternative system configuration waiver at a level determined by the Secretary that would not exceed the amount of Federal reimbursement the state would have received to build a single Statewide system. If the alternative system configuration costs more to develop or operate than the amount initially approved by the Secretary, the State would be responsible for making up any shortfall.

The Committee does not expect the Secretary to adjust cost estimates periodically to reflect cost increases. Rather, the Committee expects that the only time HHS would increase the cost cap for an alternative system configuration would be if a State proposed to in-

crease the functionality of the system. The revised cost cap would be based on a comparison of the costs of the revised alternative system configuration and a single Statewide system of comparable functionality. The Committee reiterates that States implementing alternative systems are expected to assume the financial risks that such systems may cost more to maintain and enhance than expected.

The intent of this provision is to provide additional flexibility in the statute and subsequent regulations and polices related to alternative system configurations. Because of the need to make this new flexibility available to States as quickly as possible, the Committee provision does not require regulations. It is the intent of the Committee that current regulations and policies related to the HHS systems waiver process and documentation requirements be followed where not in direct conflict with these new provisions. It is assumed that HHS will provide clarification on the new flexibility provided by this provision through issuance of an Action Transmittal as quickly as possible.

The provision requires the Secretary to approve a waiver request once she determines to her satisfaction that it meets the requirements of the statute. This provision does not eliminate or diminish the Secretary's authority to review the material submitted by a State to ensure compliance with statutory requirements and to assess the reasonableness of States' costs estimates.

Reason for change

This provision was a matter of great controversy in testimony presented to the Subcommittee on Human Resources and in numerous meetings Subcommittee Members and staff had with the various parties interested in this legislation. The controversy was caused by the fear, especially among child advocates and other critics of State programs, that States would use the waiver provision to establish inferior automatic data processing programs. These critics charged that States were unwilling to force local governments to conform to the requirements of a single, Statewide data system. States and local governments, on the other hand, argued that many local systems were highly effective and had been in operation for many years. Thus, it made little sense to require local governments to give up these effective systems in order to adopt a new system that would be used by all local governments in the State.

This basic conflict was aggravated in a few cases by attempts to actually impose Statewide systems on local governments. In California, for example, several counties participated in the initial stage of a plan to bring a single system to all counties in the State. The participating counties gave up their data systems to adopt, on a trial basis, a new system that the State hoped to eventually use in every county. According to California officials who testified before our Committee, one of the many reasons for failure was that the new system actually reduced the data system capacity of some of the counties. After about 6 months, the counties refused to use the new system any longer. Other States had similar experiences in trying to adopt single, Statewide systems.

In several meetings of the Committee's bipartisan working group, the General Accounting Office (GAO) assured the Committee that the technology needed to link these disparate local systems together to achieve the advantages of a Statewide system was readily available. Thus, at least in theory, States could build linked, local systems that would allow counties to keep the systems they were already using and yet achieve the advantages of a Statewide system. In the end, given the Committee's reluctance to force counties to give up their data systems and the assurance from GAO that the technology to build linked systems was readily available, the Committee decided to allow linked systems under some circumstances.

Based on our work with advocates and other interested parties, the Committee provision spells out in substantial detail the requirements that linked systems must meet before the Secretary can allow States to implement them. States wishing to build linked systems must present a detailed plan to the Secretary that spells out how the linked system will meet all the statutory requirements. If the Secretary concludes that the proposed linked system will not be effective, she is required by the Committee provision to reject the waiver request. Allowing linked systems, but imposing strict requirements on the capabilities, cost, and timing of these alternative systems, seems to Members of the Committee to be the fairest and most effective way to ensure that States build effective data processing systems. The burden to prove that an alternative system will be equal to the single State system required under current law rests with the State. The Committee expects the Department of Health and Human Services to take very seriously its responsibility to approve or disapprove any waiver request. The success of the nation's child support enforcement program depends on it.

8. FEDERAL PAYMENTS UNDER WAIVER PROVISION

Present law

To be approved for a waiver, a State must demonstrate that the proposed project: (1) is designed to improve the financial well-being of children or otherwise improve the operation of the child support program; (2) does not permit modifications in the child support program that would have the effect of disadvantaging children in need of support; and (3) does not result in increased cost to the Federal government under the TANF program.

Explanation of provision

In addition to the various waiver requirements described in provision #7 above, and to the requirements in current law, the State must submit to the Secretary separate estimates of the costs of developing and implementing both a single Statewide system and the alternative system being proposed by the State plus the costs of operating and maintaining these systems for 5 years from the date of implementation. The Secretary must agree with the estimates. If a State elects to operate such an alternative system, the State would be paid the 66 percent Federal administrative reimbursement only on expenditures up to the estimated cost of the single Statewide system.

Reason for change

Under current statutes, States that obtain waivers from child support data processing requirements generally are not eligible for Federal financial participation in implementing the waiver provision. By contrast, the Committee provision allows States to claim Federal financial participation for alternative data systems, but only in an amount up to the amount that would have been required to implement the single Statewide system. Thus, if extra costs are involved in implementing the alternative data system, those costs must be borne entirely by the State. As long as Federal taxpayers do not pay additional costs, States should not be prevented from spending additional State funds on their linked data systems.

TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

1. AMOUNT OF INCENTIVE PAYMENTS

Present law

Each State receives an incentive payment equal to at least 6 percent of the State's total amount of child support collected on behalf of TANF families for the year, plus at least 6 percent of the State's total amount of child support collected on behalf of non-TANF families for the year. (Note: P.L. 98–378, the Child Support Enforcement Amendments of 1984, stipulates that political subdivisions of a State that participate in the costs of support enforcement must receive an appropriate share of any incentive payment given to the State. P.L. 98–378 also requires States to develop criteria for passing through incentives to localities, taking into account the efficiency and effectiveness of local programs.)

Explanation of provision

The incentive payment for a State for a given year is calculated by multiplying the incentive payment pool for the year by the State's incentive payment share for the year.

Reason for change

As discussed below, multiplying the incentive payment pool by the incentive payment share for each State is the last step in the series of steps required by the new method of computing incentive payments. In order to create a budget neutral method of making incentive payments to States, the Committee decided to match incentive payments each year under the new system to the exact annual amount of incentive payments to States that CBO estimates would occur under current law. Because this amount varies every year, the mathematical strategy in performing the annual calculation is to treat each year's amount as 100 percent and then to determine the percentage share earned by each State. This percentage share is then multiplied by the particular amount in the incentive pool each year.

2. INCENTIVE PAYMENT POOL

Present law

No provision.

Explanation of provision

The incentive payment pool is equal to the CBO estimate of incentive payments for each year under current law. Specifically, the amounts (in millions) for fiscal years 2000 through 2008 respectively are: $422, $429, $450, $461, $454, $446, $458, $471 and $483. Stating these amounts in the statute assures that the incentive payments will be budget neutral. After 2008, the incentive payment pool would increase each year by an amount equal to the rate of inflation.

Reason for change

The incentive payment pool is simply a device for ensuring that the new incentive system is budget neutral between 2000 and 2008. The amount of money in the pool each year equals the amount of money CBO estimates would be spent on incentive payments each year under current law. The rest of the calculations (see below) are designed to divide up the incentive payment pool each year among States based on the relative quality of their child support performance.

3. CALCULATING INCENTIVE PAYMENTS

Present law

The maximum incentive payment for a State could reach a high of 10 percent of child support collected on behalf of families in the Temporary Assistance for Needy Families (TANF) program plus 10 percent of child support collected on behalf of non-TANF families. There is a limit, however, on the incentive payment for non-TANF child support collections. The incentive payments for such collections may not exceed 115 percent of incentive payments for TANF child support collections.

Explanation of provision

In addition to the incentive payment pool, incentive calculations are based on the five computational factors defined here and the five incentive performance measures (see #6, #7, #8, #9, and #10 below). The general approach is to pay to each State its share of the incentive payment pool based on the quality of its performance on the five incentive performance measures. The five computational factors are:

(1) *State collections base* is used to ensure that incentive payments are proportional to the amount of child support collected by the State; collections for welfare cases are given double the weight of collections for nonwelfare cases in the calculations;

(2) *Maximum incentive base* amount is simply a device to give extra weight to three of the five incentive performance measures because these measures are thought to be more important to State performance. Specifically, paternity establishment, establishment of support orders, and collections on current support receive full weight in the calculations, while collections on past-due support and the cost-effectiveness performance level receive a weight of only 75 percent of the other three measures;

(3) *Applicable percentage* is the actual measure of performance effectiveness and is determined by looking up the raw performance

level in a table; there is a different table for each of the five performance measures (see section 201 of bill text);

(4) *Incentive base* amount is the total of the applicable percentages for each of the five performance measures multiplied by their respective maximum incentive base amounts (either 1.00 or 0.75);

(5) *State incentive payment share* is a percentage calculated by using the four factors defined above. This measure specifies the percentage share of the annual payment pool that each State receives. The State incentive payment share takes into account the State's performance on all five incentive performance measures, the weighting of the five incentive performance measures, its collections in the TANF and non-TANF caseloads, and its performance relative to other States.

Reason for change

One of the major deficiencies of the incentive system in current law is that its rewards are based almost entirely on child support collections. The Committee believes that a better approach is to reward both collections and State performance on the underlying factors on which collections are based. Thus, the new system rewards paternity establishment and establishment of legal child support orders because these are the foundations of collections; without paternity and support order establishment, collections are impossible. The new system retains a measure of collections on current support (support that is not past-due) but also adds collections on past-due support as a performance measure. The Committee has received extensive testimony that States are sometimes reluctant to work cases with past-due support (arrearages) because they are frequently difficult to bring to successful completion. By providing a separate performance measure of arrearage payments, the legislation encourages States not to ignore these important cases. Finally, because efficiency should be an ingredient of any incentive system, the legislation includes a measure of the efficiency with which States collect payments.

Perhaps the greatest shortcoming of the current incentive system is that States get a substantial portion of their incentive payment without regard to performance. The new system involves a computational approach that overcomes this deficiency. First, the quality of State performance is calculated on each of the five performance measures, usually by calculating a percentage that represents the fraction of perfect performance the State achieved. To take paternity establishment as an example, the calculation is simply the number of out-of-wedlock births in which paternity is established divided by the total number of out-of-wedlock births. This percentage is then located in a table that, based on previous performance by all States on this measure, converts this percentage to a second percentage called the "applicable percentage" (see section 201 of bill text). This step is necessary to convert the absolute percentage performance on each performance measure to a relative percentage reflecting quality of performance relative to previous performance on each measure by the States.

A notable feature of the performance tables is that for inferior performance (usually below about 50 percent of maximum achievement), States would receive no incentive payments unless they sub-

stantially increase their performance from the previous year. This feature of the new system ensures that States that do not achieve at least a modestly effective level of performance receive either very low incentive payments or no incentive payment at all.

4. DATA USED TO CALCULATE RATIOS REQUIRED TO BE COMPLETE AND RELIABLE

Present law

No provision.

Explanation of provision

The payment on each of the five performance measures is zero unless the Secretary determines that the data submitted by the State for each measure is complete and reliable.

Reason for change

States sometimes report data to the Department of Health and Human Services that are incomplete and unreliable. Usually, there is little that the Federal government can do about this problem. However, in the case of the incentive system, the Committee bill gives the Secretary the authority to refuse payments if the data for the performance measures are not complete and reliable. The Secretary can refuse payments on one or more measures and award payments on the others. Given the substantial sums of money involved, this authority to refuse to make payments should ensure high quality data.

5. STATE COLLECTIONS BASE

Present law

Although the "collections base" terminology is not used in current law, the incentive payment is based on total child support collected on behalf of TANF families (i.e., TANF collections) plus total child support collected on behalf of non-TANF families (i.e., non-TANF collections). Collections made on behalf of Title IV–E foster care children are considered TANF collections for purposes of the incentive payment.

Explanation of provision

The collections base for a fiscal year is the sum of two categories of child support collections by the State. The first category is collections on cases in the State child support welfare caseload. This category includes families that are currently or were formerly receiving benefits from TANF (or its predecessor program Aid to Families with Dependent Children) under Title IV–A of the Social Security Act, from Medicaid under Title XIX, or from foster care under Title IV–E. Total collections from this category are doubled in the State collections base calculation. The second category is collections from all other families receiving services from the State child support enforcement program.

Reason for change

Applying the sum of State incentive percentages to the collections base has the effect of retaining the most important outcome

measure—the actual collection of payments—as the central and most highly rewarded feature of the new system. In effect, collections are counted twice, once under the collection performance measures for current support and for arrearages and again when the incentive percentages for all five measures are applied to the State collections base. A second important feature of the State collections base is that collections in welfare or former welfare cases are doubled. Thus, $1 of collections in welfare cases is equivalent to $2 of collections in non-welfare cases. The purpose of this approach is to encourage States to emphasize collections for the most needy families and to avoid the temptation to concentrate their resources simply on cases with the highest potential payments.

6. DETERMINATION OF APPLICABLE PERCENTAGES FOR PATERNITY ESTABLISHMENT PERFORMANCE LEVEL

Present law

No provision.

Explanation of provision

The paternity establishment performance level for a State for a fiscal year is, at the option of the State, either the paternity establishment percentage of cases in the child support program or the paternity establishment percentage of all births in the State. In both cases, the paternity establishment percentage is obtained by dividing the cases in which paternity is established by the total number of nonmarital births. The applicable percentage is then determined in accord with the table in section 201(A) of the bill text.

Special rule for computing the applicable percentage for paternity establishment.—If the paternity establishment performance level of a State is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State paternity establishment performance level is 50 percent.

Reason for change

As explained above, an important characteristic of the new incentive system is that State performance on several measures other than collections is rewarded. As one of the most important foundations of child support, paternity establishment is included as one of the new performance measures. The special rule for States operating at a very low performance level is included so that States that perform poorly can receive at least a minimum payment if they improve their performance substantially. This approach provides even the lowest-performing States with financial incentives to improve.

7. DETERMINATION OF APPLICABLE PERCENTAGES FOR CHILD SUPPORT ORDER PERFORMANCE LEVEL

Present law

No provision.

Explanation of provision

The support order performance level for a State for a fiscal year is the percentage of cases in the child support program for which there is a support order. The applicable percentage is then determined in accord with the table in section 201(B) of the bill text.

Special rule for computing the applicable percentage for child support orders.—If the support order performance level of a State is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State's support order performance level is 50 percent.

Reason for change

Like paternity establishment, establishment of support orders is one of the foundations of an effective child support enforcement system. Collections are virtually impossible in cases that do not have support orders. Thus, including establishment of support orders as a performance measure is well justified. As in the case of paternity establishment, a special rule for very low performing States is included to maintain a financial incentive for these States to improve their performance.

8. DETERMINATION OF APPLICABLE PERCENTAGES FOR COLLECTIONS ON CURRENT CHILD SUPPORT DUE PERFORMANCE LEVEL

Present law

No provision.

Explanation of provision

The current payment performance level for a State for a fiscal year is the total amount of current support collected during the fiscal year from all cases in the child support program (both welfare and non-welfare cases) divided by the total amount owed on support which is not past due. The applicable percentage is then determined in accord with the table in section 201(C) of the bill text.

Special rule for computing the applicable percentage for current payments.—If the current payment performance level is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State's current payment performance level is 50 percent.

Reason for change

As the most important outcome measure, collections play a central role in the new incentive system. However, the new system distinguishes between collections on current support and collections on past-due support in order to maintain an incentive for States to collect on arrearage cases. Again, a special rule is included to maintain an incentive for States that perform poorly if they substantially improve their performance.

9. DETERMINATION OF APPLICABLE PERCENTAGES FOR COLLECTIONS ON CHILD SUPPORT ARREARAGES PERFORMANCE LEVEL

Present law

No provision.

Explanation of provision

The arrearages payment performance level for a State for a fiscal year is the total number of cases in the State child support program that received payments on past-due child support divided by the total number of cases in the State child support program in which a payment of child support is past due. The applicable percentage is then determined in accord with the table in section 201(D) of the bill text.

Special rule for computing the applicable percentage for arrearages.—If the arrearages payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearages payment performance level for the immediately preceding fiscal year, then the applicable percentage for the State's arrearages performance level is 50 percent.

The importance of this measure, relative to paternity establishment, support order establishment, and collections on current payments, is somewhat reduced in the incentive calculations by assigning a weight of 0.75 to this measure and a weight of 1.0 to the first three measures.

Reason for change

Collections on past-due support are included as a performance measure in order to maintain an incentive for States to collect on arrearage cases. These cases are more difficult than cases involving current support because the parent owing money is often more difficult to locate, needed documents are more difficult to locate, and parents who owe arrearages are often the most reluctant to pay support. Again, a special rule is included to maintain an incentive for States that perform poorly if they substantially improve their performance. The computations weight this measure at 75 percent of the value of the first three measures because there is consensus that this measure and the measure of cost effectiveness (see #10 below) are less important than the first three measures.

10. DETERMINATION OF APPLICABLE PERCENTAGES FOR COST-EFFECTIVENESS PERFORMANCE LEVEL

Present law

Incentive payments are made according to the collection-to-cost ratios (ratio of TANF collections to total child support enforcement administrative costs and ratio of non-TANF collections to total child support enforcement administrative costs) shown below.

Collection-to-cost ratio	*Incentive payment received*
Less than 1.4 to 1	6.0%
At least 1.4 to 1	6.5%
At least 1.6 to 1	7.0%
At least 1.8 to 1	7.5%
At least 2.0 to 1	8.0%
At least 2.2 to 1	8.5%

Collection-to-cost ratio	*Incentive payment received*
At least 2.4 to 1	9.0%
At least 2.6 to 1	9.5%
At least 2.8 to 1	10.0%

For purposes of calculating these ratios, interstate collections are credited to both the initiating and responding States. In addition, at State option, laboratory costs (for example, for blood testing) to establish paternity may be excluded from the State's administrative costs in calculating the State's collection-to-cost ratios for purposes of determining the incentive payment.

Explanation of provision

The cost-effectiveness performance level for a State for a fiscal year is the total amount collected during the fiscal year from all cases in the State child support program divided by the total amount expended during the fiscal year on the State child support program. The applicable percentage is then determined in accord with the table in section 201(E) of the bill text.

The importance of this measure, relative to paternity establishment, support order establishment, and collections on current payments is somewhat reduced in the incentive calculations by assigning a weight of 0.75 to this measure and a weight of 1.0 to the first three measures.

Reason for change

The current incentive system is based in part on program efficiency. Thus, including an efficiency performance measure does not represent a change in the new system. Moreover, the calculation of efficiency is identical in both the current and the proposed incentive systems (total collections divided by total administrative expenditures). The computations under the new system, however, weight this measure at 75 percent of the value of the first three measures because there is consensus that this measure, like collections on arrearages, is less important than the other three measures.

11. TREATMENT OF INTERSTATE COLLECTIONS

Present law

As noted above, in computing incentive payments, child support collected by one State at the request of another State (i.e., interstate collections) is credited to both the initiating State and the responding State. State expenditures on special interstate projects carried out under section 455(e) of the Social Security Act must be excluded from the incentive payment calculation.

Explanation of provision

In computing incentive payments, support collected by a State at the request of another State is treated as having been collected by both States. State expenditures on a special interstate project carried out under section 455(e) are excluded from incentive payment calculations.

Reason for change

The procedure of counting collections in interstate cases as collections in both the State collecting the money and the State receiving the money is identical to current law.

12. ADMINISTRATIVE PROVISIONS

Present law

The Secretary's incentive payments to States for any fiscal year are estimated at or before the beginning of the year based on the best information available. The Secretary makes such payments on a quarterly basis. Each quarterly payment must be reduced or increased to the extent of overpayments or underpayments for prior periods.

Explanation of provision

The Secretary's incentive payments to States are based on estimates computed from previous performance by the States. Each year, the Secretary must make quarterly payments based on these estimates. After final data are received by HHS, each quarterly payment must be reduced or increased to the extent of overpayments or underpayments for prior periods.

Reason for change

The administrative provision in the new bill for payments to States is based on current law and represents no change in policy.

13. REGULATIONS

Present law

Not applicable.

Explanation of provision

The Secretary of Health and Human Services must prescribe regulations necessary to implement the incentive payment program within 9 months of the date of enactment. These regulations may include directions for excluding certain closed cases and cases over which the State has no jurisdiction.

Reason for change

Most new legislation contains instructions for the Secretary to issue regulations. Thus, this provision is not a change in policy.

14. REINVESTMENT

Present law

No provision.

Explanation of provision

States must spend their child support incentive payments to carry out their child support enforcement program or to conduct activities approved by the Secretary which may contribute to improving the effectiveness or efficiency of the State child support enforcement program. In so doing, States are required to supplement and not supplant State spending.

Reason for change

Unlike current law, the incentive system proposed by the Committee bill requires States to spend all their incentive payments on the child support enforcement program. Three considerations justify this change. First, it makes no sense for Congress to design a child support program that provides States with money to use for other purposes such as building bridges and roads. Second, given the modest performance of most States in conducting their child support program, there is a great need for States to spend more money on building the infrastructure and hiring the personnel necessary to improve child support performance. Third, the agency that must carry the burden in improving State child support performance is the child support agency. Allowing incentive money to be spent by other agencies, as is often done under the current system, can be expected to reduce the impact of performance incentive payments on improving the child support program.

15. TRANSITION RULE

Present law

Not applicable.

Explanation of provision

The new incentive system is phased in over 2 years beginning in fiscal year 2000. In fiscal year 2000, ⅓rd of each State's incentive payment is based on the new incentive system and ⅔rds on the old system. In fiscal year 2001, ⅔rds of each State's incentive payment is based on the new incentive system and ⅓rd on the old system. The new system is fully operational in fiscal year 2002.

Reason for change

Several States will lose money under the new incentive system unless they improve their performance. In order to give these States time to make the program adjustments and improvements necessary to increase their performance as measured under the new system, the Committee wanted to be certain that several years elapsed before the new system was fully implemented. After discussion, the Committee decided to wait until October 1, 1999 to implement the program and then to spread the implementation over a 2-year period. In effect, this approach will provide States with up to 4 years to adjust to the new system.

16. REVIEW

Present law

No provision.

Explanation of provision

The Secretary of Health and Human Services must conduct a study of the implementation of the incentive payment program in order to identify problems with and successes of the program. An interim report must be presented to Congress not later than March 1, 2001. By October 1, 2003, the Secretary must submit a final report. Recommendations for changes that the Secretary determines

would improve program operation must be included in the final report.

Reason for change

As is the case with any new program, problems with implementation are to be expected. Some of these will be solved at the State or local level. Others, however, may be due to flaws in the way the program was conceived by Congress or in the way the statute is written. Given these potential problems, it is wise to have the Secretary conduct an unbiased study of the new program both during its early stages and after it is fully implemented. If there are problems that require Congressional action, legislators will have timely information to use in taking remedial steps. The Committee included a provision requiring the Secretary to study the impact of demographic and economic factors on State incentive payments because of the striking demographic and economic differences between States, especially in factors such as poverty rates, rates of out-of-wedlock births, and per capita income, that might be expected to play amajor role in the potential for collecting child support payments. At some point, Congress may want to contemplate designing an incentive system that adjusts for these demographic and economic differences.

17. STUDY

Present law

No provision.

Explanation of provision

The Secretary, in consultation with State IV–D directors and representatives of children potentially eligible for medical support, must develop a new medical support incentive measure based on effective performance. A report on this new incentive measure must be submitted to Congress not later than October 1, 1999.

Reason for change

Several witnesses who appeared before the Committee recommended that we consider including medical child support as a performance measure. After discussion, the Committee decided not to include this measure because of the lack of information about the reliability of State data on medical support as well as lack of historical information about State performance on the measure that could be used to estimate payments. However, because medical support is of central importance to a good child support system, the Committee decided to ask the Secretary to study the feasibility of using medical support as a performance measure and to report her findings to Congress.

18. TECHNICAL AND CONFORMING AMENDMENTS

Present law

No provision.

Explanation of provision

This section contains two technical and conforming amendments.

Reason for change

These technical amendments conform the current statutes to the changes created by this legislation.

19. ELIMINATION OF CURRENT INCENTIVE PROGRAM

Present law

No provision. (The current incentive payment system is a permanent provision of law.)

Explanation of provision

The current incentive program under section 458 of the Social Security Act is repealed on October 1, 2001. On that date, section 458A is redesignated as section 458.

Reason for change

Once the new system is fully implemented in fiscal year 2002, the old system is repealed and the statute is rearranged so that the number of the old system (section 458) becomes the number of the new system (section 458) and the number used for the new system during the transition period (section 458A) is discontinued.

20. GENERAL EFFECTIVE DATE

Present law

The current incentive payment system took effect on October 1, 1985.

Explanation of provision

Except for the elimination of the current incentive program (see item #19), the amendments made by this legislation take effect on October 1, 1999.

Reason for change

This provision is not a change in current law; it simply specifies a general effective date for the provisions of this legislation.

As explained previously, the Committee intended to allow ample time for States to adjust to the new incentive system and to improve their collection and reporting of the data on which the new system is based. For this reason, the Committee delayed the effective date until October 1, 1999 and gave States 3 years to implement the new system.

TITLE III—ADOPTION PROVISIONS

1. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION

Present law

Under section 474(e) of the Social Security Act (as established by P.L. 105–89), a State is not eligible for any foster care or adoption assistance payments under Title IV–E if the Secretary finds that the State has denied or delayed a child's adoptive placement when an approved family is available outside the jurisdiction, or that the State has failed to grant an opportunity for a fair hearing to any-

one who alleges that the State violated this provision or failed to act promptly on a complaint of such violation.

Explanation of provision

The current penalty of losing all Federal Title IV–E funds for violating the jurisdictional provision is dropped and a new penalty is substituted. Under the new penalty, States that violate the adoption provision would receive a penalty equal to 2 percent of the Federal funds for foster care and adoption under Title IV–E of the Social Security Act for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations.

Reason for change

The Committee made this change in the adoption penalty on geographical barriers to avoid imposing severe penalties on States. Terminating a State's IV–E money would be a devastating blow for the State's child protection programs and would certainly not be in the best interests of children. Moreover, imposing the more modest but nonetheless substantial penalty called for by the Committee provision can be expected to give States plenty of incentive to permit adoptions across geographical barriers but without dealing a severe blow to States that violate the requirement.

TITLE IV—TECHNICAL CORRECTIONS

1. TECHNICAL CORRECTIONS

Present law

Most of the provisions in this section make minor corrections to section references or other references in current statutes. Two provisions, however, require some explanation:

First, under section 473A of the Social Security Act (as established by P.L. 105–89), States may receive financial incentives for increasing the number of adoptions of foster children above an annual base level. In determining the base levels for each State, the Secretary uses data from the Adoption and Foster Care Analysis and Reporting System (AFCARS). However, in determining the base levels for fiscal years 1995 through 1997, the Secretary may use alternative data sources, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

Second, the 1996 welfare reform law required States to collect Social Security numbers on applications for State licenses for purposes of matching in child support cases by January 1, 1998. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required States to collect Social Security numbers on applications for State licenses for purposes of checking the identity of immigrants by October 1, 2000.

Explanation of provision

Current law on alternative data sources to calculate the adoption incentive amount only allows the use of data reported by States by November 30, 1997 and approved by the Secretary by March 1, 1998. The new provision provides States with an additional 5 months to report data (until April 30, 1998) and the Secretary with an additional 4 months to approve the data (until July 1, 1998).

The technical amendment on State licenses changes the January 1, 1998 date in the welfare reform bill to October 1, 2000, or such earlier date as the State selects.

Reason for change

The Committee approved the provision on adoption data at the request of the Administration to allow States more time to collect and report data for computing adoption incentive payments. There is general agreement in the States, in the Administration, and in the Committee that States can use the extra time to improve the quality and amount of data reported to HHS.

The Committee changed the date by which States must collect Social Security Numbers both to give States more time to change their law and their license application procedures and to avoid having two conflicting dates in the Federal statutes.

III. VOTE OF THE COMMITTEE

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statements are made concerning the vote of the Committee in its consideration of the bill, H.R. 3130.

MOTION TO REPORT THE BILL

The bill, H.R. 3130, as introduced, was ordered favorably reported with amendment by voice vote on February 25, 1998, with a quorum present.

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made:

The Committee agrees with the estimate prepared by the Congressional Budget office (CBO) which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that the Committee bill results in no new budget authority and no new tax expenditures.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office (CBO), the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 27, 1998.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3130, the Child Support Performance and Incentive Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sheila Dacey.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 3130—Child Support Performance and Incentive Act of 1998

Summary: H.R. 3130, the Child Support Performance and Incentive Act of 1998, would make several changes to the child support enforcement program. It would establish an alternative penalty procedure for states that fail to operate a single statewide automated child support enforcement system, allow the federal government to fund alternative configurations of automated systems, change the formula for awarding incentive payments to States, and lower the penalties on states that delay adoptions across state lines. CBO estimates the bill would have no net budgetary effect over the 1999–2003 period—it would save $200 million from 1999 to 2001 and cost $200 million in the following two years.

H.R. 3130 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA). The bill includes other provisions that will generate both costs and savings to states, but these amounts would net to zero over the 1999–2003 period.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3130 is shown in the following table.

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003
CHANGES IN DIRECT SPENDING					
Alternate penalty procedure:					
Estimated budget authority	−105	−65	−40	40	160
Estimated outlays	−105	−65	−40	40	160
Authority to waive statewide computer system requirement:					
Estimated budget authority	5	5	0	0	0
Estimated outlays	5	5	0	0	0
Total:					
Estimated budget authority	−100	−60	−40	40	160
Estimated outlays	−100	−60	−40	40	160

The costs of this legislation fall within budget function 600 (Income Security).

BASIS OF ESTIMATE

Alternative penalty procedure

Current law requires states to have implemented, by October 1, 1997, statewide automated systems to be used for managing child support cases, monitoring compliance, initiating enforcement actions, and reporting on performance. Many states failed to meet that deadline. This bill would change the way the Secretary of Health and Human Services (HHS) would collect penalties from states that do not meet the requirement. CBO estimates that the new penalty structure would reduce federal outlays by $10 million over the 1999–2003 period and would have no effect thereafter.

Current Law.—The child support enforcement program helps families collect child support payments from absent parents. Federal and state governments jointly fund the program, with the federal government paying 66 percent of the administrative costs. Federal spending for such administrative costs totaled over $2 billion for all states in 1997. The program is operated by states, but the federal government sets many of the program's requirements, including a requirement to operate a statewide automated child support system.

The HHS Secretary audits states every few years to ensure they are in compliance with program requirements. If a state is not in compliance and remains out of compliance for more than a year, the Secretary is required to charge the state a penalty. The initial penalty is 1 or 2 percent of the state's funding under the Temporary Assistance for Needy Families (TANF) program—a $16.5 billion grant program. The penalty rises for each year of continued non-compliance up to 5 percent of the TANF grant.

In January 1998, the Secretary sent letters to sixteen states informing them that they were not in compliance with the automated system requirement. According to HHS staff, the majority of these states will probably complete their automated system within a year or two, but a few could be several years away from having a fully functional system. CBO expects that the Secretary will audit states that do not meet the requirement, but that most states will complete their systems during the audit or the following year. CBO estimates that a few large states will remain out of compliance and the Secretary will assess penalties totaling $250 million; $50 million in 2001, $100 million in 2002, and $100 million in 2003.

The penalties on states could be much higher than the audit penalties if the Secretary disapproves some state plans for child support enforcement. States are only eligible for federal funding of child support administrative costs if they have an approved state plan. As of October 1, 1997, the Secretary is required to disapprove any state plan if the state is not operating a statewide automated system. If a state plan is disapproved, then the state cannot receive any money from the federal government to run its child support program. Also, if a state does not have an approved state plan for child support, it may not receive any funding under TANF.

CBO has assumed, however, that HHS will not disapprove any state plans. A state may appeal the Secretary's notice of her intention to disapprove its state plan through a process that may take many years. The state plan would not be disapproved an funding

withheld until all appeals are exhausted. The estimate assumes that all states complete their automated systems before appeals are exhausted so that the Secretary would never need to disapprove a state plan.

H.R. 3130.—The bill would give the Secretary an alternative to applying the audit penalties or disapproving state plans. The alternative penalty would rise from 4 percent of child support administrative expenses in the first year of noncompliance to a maximum of 20 percent of expenses for the fourth and all subsequent years of noncompliance. If a state achieves compliance with the automated system requirement during the following year, the Secretary would forgive 75 percent of the previous year's penalty.

While the maximum penalty on states under the bill is lower than the maximum penalty under current law, CBO estimates that slightly higher penalties would be collected under the bill. If all states were assessed the maximum audit penalty, they would be charged $800 million ($16.5 billion multiplied by 5 percent). If all states received the maximum alternative penalty under H.R. 3130, they would be charged about $600 million in 2002 ($3 billion multiplied by 20 percent). However, under H.R. 3130, the Secretary could charge penalties sooner because HHS would not have to do a full audit of a state or allow a year for the state to come into compliance. Because penalties would be applied sooner, fewer states would have completed systems when penalties are charged, and more states would pay penalties. CBO estimates that states would pay penalties totaling $260 million over the 1999–2003 period.

Authority to waive statewide automated system requirement

H.R. 3130 would allow the federal government to fund alternative configurations of automated systems. Under current law the federal government provides matching dollars only to build a single statewide automated system. The Secretary has the authority to approve alternative configurations of automated systems, but has only limited ability to fund them. An alternative system configuration links various automated systems together so that they operate as a unified statewide system even though the component systems may use different hardware and software. Under HHS regulations, federal matching funding for alternative system configurations is limited to paying for a central database, any linkages, and minor upgrades to component systems that are linked.

H.R. 3130 would allow federal matching funds for alternative configurations, including upgrades to component parts of a linked system. CBO surveyed automated system experts in federal and state governments. The experts did not agree whether an alternative system would be more or less expensive than a single statewide system. Most agreed that it is not possible to determine which is cheaper in the abstract—the relative costs depend on particular elements of the systems being compared. Based on these conversations, CBO estimates that funding of alternative systems would not necessarily cost more or less, in general, than funding single statewide systems.

The only instance in which the new funding would clearly cost the federal government is if a state was committed to building an

alternative system under the current law and planned to use state funding for significant upgrades to component systems. If federal funding is made available for alternative configurations, such a state would receive more federal funding than under current law. Only one state, Illinois, has committed to an alternative system configuration and still has significant work remaining to completion. Based on information from the state of Illinois and HHS staff, CBO estimates that Illinois would receive an extra $5 million in federal funding in each of the fiscal years 1999 and 2000 if H.R. 3130 is enacted.

Incentive payments

H.R. 3130 would change the funding of incentive payments to states. It would set a guaranteed level for the total amount of incentives to be paid to all states, regardless of states' overall performance in collecting child support payments. Because the bill sets the national level of incentive payments each year equal to CBO's estimate of incentive payments under current law, CBO estimates no budgetary effect from the new incentive payment system.

Under current law, the federal government pays each state a percentage of all of the child support it collects. A state that runs a very cost-effective program earns higher federal incentive payments, but only about half a dozen states have qualified for higher incentives in recent years. In 1997, the federal government paid states $401 million in incentives. CBO estimates these payments will rise to $422 million in 2000 and to $483 million by 2008.

H.R. 3130 would set a national level of incentive payments for each year 2000 through 2008. After 2008 the level of incentive payments would increase with inflation. Each state's share of the total incentive payments would be based on its performance on five measures: paternity establishment, establishment of support orders, collections of current support, collections of past-due support, and cost effectiveness.

Adoption provisions

Title III of H.R. 3130 would lower the penalties on states that delay adoptions across state lines. Those penalties were added to the federal foster care law as part of H.R. 867, the Adoption and Safe Families Act of 1997. CBO does not expect that any penalties would be imposed as a result of the Adoption and Safe Families Act of 1997, and therefore does not estimate any budgetary effects from weakening these provisions under H.R. 3130.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act of 1985 establishes pay-as-you-go procedures for legislation affecting direct spending or receipts. The projected changes in direct spending are shown in the table below for fiscal years 1999–2008. For purposes of enforcing pay-as-you-go procedures, however, only the effects in the current year, budget year, and the succeeding four years are counted.

SUMMARY OF PAY-AS-YOU-GO EFFECTS

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Change in outlays	−100	−60	−40	40	160	0	0	0	0	0
Change in receipts	Not applicable									

Estimated impact on State, local, and tribal governments: H.R. 3130 contains no new intergovernmental mandates as defined in UMRA. While the bill would change the penalties that states incur if they fail to comply with child support system requirements, it would not change the underlying requirements. These penalties take the form of reductions in federal assistance to states.

Total penalties paid by states failing to meet those requirements would increase in each year from 1999 through 2001. CBO estimates that additional penalties paid during those years would total $210 million. We estimate that penalties for noncompliance would be reduced in 2002 and 2003 by $40 million and $160 million, respectively. When compared to the current system, the distribution of these penalties among states would change; some states would face larger reductions in federal assistance, while others would face smaller cuts.

The bill would also allow the Secretary of HHS to waive certain statewide computer system requirements when awarding federal assistance for child support administrative costs. As previously noted, CBO estimates that one state, Illinois, would receive an additional $5 million in each of fiscal years 1999 and 2000 because of this waiver provision.

The bill would also lower penalties for states that delay interjurisdictional adoptions. However, CBO did not estimate any penalty collections under current law, so lowering those penalties would have no budgetary effect on state governments.

Estimated impact on the private sector: The bill contains no private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995.

Estimate prepared by: Federal cost: Child Support—Sheila Dacey, Adoption—Justin Latus; Impact on State, local, and tribal governments: Leo Lex; Impact on the private sector: Nabeel Alsalam.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

V. OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the need for this legislation was confirmed by the oversight hearings of the Subcommittee on Human Resources. The Subcommittee on Human Resources held a hearing on modifying child support penalties for automatic data processing and on the child support incentive payment proposal on January 29, 1998 and the Subcommittee also held hearings on September 10, 1997 and March 20, 1997, on child

support system improvements and the child support incentive payment proposal.

In the 104th Congress, the Subcommittee on Human Resources held a hearing on September 19, 1996 on the child support incentive payment proposal.

B. Summary of Findings and Recommendations of the Government Reform and Oversight Committee

In compliance with clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been submitted to the Committee on Government Reform and Oversight regarding the subject of the bill.

C. Constitutional Authority Statement

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States * * *").

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SOCIAL SECURITY ACT

* * * * * * *

TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

* * * * * * *

PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

* * * * * * *

SEC. 413. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

(a) * * *

* * * * * * *

(g) Report on Circumstances of Certain Children and Families.—

(1) In general.—Beginning 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committees on Ways and

Means and on [Economic and Educational Opportunities] *Education and the Workforce* of the House of Representatives and to the Committees on Finance and on Labor and Resources of the Senate annual reports that examine in detail the matters described in paragraph (2) with respect to each of the following groups for the period after such enactment:

* * * * * * *

PART B—CHILD AND FAMILY SERVICES

Subpart 1—Child Welfare Services

* * * * * * *

STATE PLANS FOR CHILD WELFARE SERVICES

SEC. 422. (a) * * *

(b) Each plan for child welfare services under this subpart shall—

(1) * * *

(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under title XX, under the State program funded under part A, under the State plan approved under subpart 2 of this part, under the State plan approved [under] under the State plan approved under part E, and under other State programs having a relationship to the program under this subpart, with a view to provision of welfare and related services which will best promote the welfare of such children and their families;

* * * * * * *

Subpart 2—Promoting Safe and Stable Families

* * * * * * *

SEC. 432. STATE PLANS.

(a) PLAN REQUIREMENTS.—A State plan meets the requirements of this subsection if the plan—

(1) * * *

* * * * * * *

(8) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require*; and*

* * * * * * *

PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

* * * * * * *

DUTIES OF THE SECRETARY

SEC. 452. (a) * * *

* * * * * * *

(d)(1) * * *

* * * * * * *

[(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16) with respect to a State if—

[(A) the State demonstrates to the satisfaction of the Secretary that the State has an alternative system or systems that enable the State, for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined under section 452(g)(2)) and other performance measures that may be established by the Secretary, and to submit data under section 454(15)(B) that is complete and reliable, and to substantially comply with the requirements of this part; and

[(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(b), or

[(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program.]

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

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

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

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

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

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

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

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

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

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

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

(VI) process child support cases as quickly, efficiently, and effectively as such cases would be proc-

essed through a single statewide system that meets such requirement;

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

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

(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and maintaining the system for 5 years, and the Secretary has agreed with the estimates.

* * * * * * *

FEDERAL PARENT LOCATOR SERVICE

SEC. 453. (a)(1) The Secretary shall establish and conduct a Federal Parent Locator Service, under the direction of the designee of the Secretary referred to in section 452(a), which shall be used for the purposes specified in paragraphs (2) and (3).

(2) For the purpose of establishing [parentage,] *parentage or* establishing, setting the amount of, modifying, or enforcing child support obligations, [or making or enforcing child custody or visitation orders,] the Federal Parent Locator Service shall obtain and transmit to any authorized person specified in subsection (c)—

(A) information on, or facilitating the discovery of, the location of any individual—

(i) * * *

* * * * * * *

(iv) who has or may have parental rights with respect to a child,

including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

* * * * * * *

PAYMENTS TO STATES

SEC. 455. (a)(1) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter an amount—

(A) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454,

(B) equal to the percent specified in paragraph (3) (rather than the percent specified in subparagraph (A)) of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system (including in such sums the full cost of the hardware components of such system), [and]

(C) equal to 90 percent (rather than the percentage specified in subparagraph (A)) of so much of the sums expended during such quarter as are attributable to laboratory costs incurred in determining paternity**[**;**]**, *and*

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

* * * * * * *

(4)(A) If—

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

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

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

(B) In this paragraph:

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

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

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

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

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

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

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

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

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

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

(ii) If a State with respect to which a reduction is made under this paragraph for a fiscal year achieves compliance with section 454(24)(A) by the beginning of the succeeding fiscal year, the Sec-

retary shall increase the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the succeeding fiscal year by an amount equal to 75 percent of the reduction for the fiscal year.

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

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

* * * * * * *

[INCENTIVE PAYMENTS TO STATES

[SEC. 458. (a) In order to encourage and reward State child support enforcement programs which perform in a cost-effective and efficient manner to secure support for all children who have sought assistance in securing support, whether such children reside within the State or elsewhere and whether or not they are eligible for aid to families with dependent children under a State plan approved under part A of this title, and regardless of the economic circumstances of their parents, the Secretary shall, from support collected which would otherwise represent the Federal share of assistance to families of noncustodial parents, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e)) beginning with the quarter commencing October 1, 1985, an incentive payment in an amount determined under subsection (b).

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

[(A) 6 percent of the total amount of support collected under the plan during the fiscal year in cases in which the support obligation involved is assigned to the State pursuant to section 402(a)(26) or section 471(a)(17) (with such total amount for any fiscal year being hereafter referred to in this section as the State's "AFDC collections" for that year), plus

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

[(2) If subsection (c) applies with respect to a State's AFDC collections or non-AFDC collections for any fiscal year, the percent specified in paragraph (1)(A) or (B) (with respect to such collections) shall be increased to the higher percent determined under

such subsection (with respect to such collections) in determining the State's incentive payment under this subsection for that year.

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

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

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

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

[(D) 115 percent of such dollar amount in the case of fiscal year 1990 or any fiscal year thereafter.

[(4) The Secretary shall make such additional payments to the State under this part, for fiscal year 1986 or 1987, as may be necessary to assure that the total amount of payments under this section and section 455(a)(1)(A) for such fiscal year is no less than 80 percent of the amount that would have been payable to that State and its political subdivisions for such fiscal year under this section and section 455(a)(1)(A) if those sections (including the amendment made by section 5(c)(2)(A) of the Child Support Enforcement Amendments of 1984) had remained in effect as they were in effect for fiscal year 1985.

[(c) If the total amount of a State's AFDC collections or non-AFDC collections for any fiscal year bears a ratio to the total amount expended by the State in that year for the operation of its plan approved under section 454 for which payment may be made under section 455 (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State's "combined AFDC/non-AFDC administrative costs" for that year) which is equal to or greater than 1.4, the relevant percent specified in subparagraph (A) or (B) of subsection (b)(1) (with respect to such collections) shall be increased to—

[(1) 6.5 percent, plus

[(2) one-half of 1 percent for each full two-tenths by which such ratio exceeds 1.4;

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

[(d) In computing incentive payments under this section, support which is collected by one State at the request of another State, including amounts collected under section 466(a)(14), shall be treated as having been collected in full by each such State, and any amounts expended by the State in carrying out a special project assisted under section 455(e) shall be excluded.

[(e) The amounts of the incentive payments to be made to the various States under this section for any fiscal year shall be estimated by the Secretary at or before the beginning of such year on

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

SEC. 458A. INCENTIVE PAYMENTS TO STATES.

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

(b) AMOUNT OF INCENTIVE PAYMENT.—

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

(2) INCENTIVE PAYMENT POOL.—

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

(i) $422,000,000 for fiscal year 2000;
(ii) $429,000,000 for fiscal year 2001;
(iii) $450,000,000 for fiscal year 2002;
(iv) $461,000,000 for fiscal year 2003;
(v) $454,000,000 for fiscal year 2004;
(vi) $446,000,000 for fiscal year 2005;
(vii) $458,000,000 for fiscal year 2006;
(viii) $471,000,000 for fiscal year 2007;
(ix) $483,000,000 for fiscal year 2008; and
(x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the 2nd preceding fiscal year.

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

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

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

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

(4) INCENTIVE BASE AMOUNT.—In paragraph (3), the term "incentive base amount" means, with respect to a State and a fis-

cal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

(A) The paternity establishment performance level.

(B) The support order performance level.

(C) The current payment performance level.

(D) The arrearage payment performance level.

(E) The cost-effectiveness performance level.

(5) MAXIMUM INCENTIVE BASE AMOUNT.—

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

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

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

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

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

(i) 2 times the sum of—

(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

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

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

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

(A) PATERNITY ESTABLISHMENT.—

(i) DETERMINATION OF PATERNITY ESTABLISHMENT PERFORMANCE LEVEL.—The paternity establishment

performance level for a State for a fiscal year is, at the option of the State, the IV–D paternity establishment percentage determined under section 452(g)(2)(A) or the statewide paternity establishment percentage determined under section 452(g)(2)(B).

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

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

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

(B) ESTABLISHMENT OF CHILD SUPPORT ORDERS.—

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

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

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

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

(C) COLLECTIONS ON CURRENT CHILD SUPPORT DUE.—

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

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

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

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

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

(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.—

(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.—The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

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

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

If the arrearage payment performance level is:		*The applicable percentage is:*
At least:	***But less than:***	
63%	*64%*	*73*
62%	*63%*	*72*
61%	*62%*	*71*
60%	*61%*	*70*
59%	*60%*	*69*
58%	*59%*	*68*
57%	*58%*	*67*
56%	*57%*	*66*
55%	*56%*	*65*
54%	*55%*	*64*
53%	*54%*	*63*
52%	*53%*	*62*
51%	*52%*	*61*
50%	*51%*	*60*
49%	*50%*	*59*
48%	*49%*	*58*
47%	*48%*	*57*
46%	*47%*	*56*
45%	*46%*	*55*
44%	*45%*	*54*
43%	*44%*	*53*
42%	*43%*	*52*
41%	*42%*	*51*
40%	*41%*	*50*
0%	*40%*	*0.*

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

(E) COST-EFFECTIVENESS.—

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

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

If the cost effectiveness performance level is:		*The applicable percentage is:*
At least:	***But less than:***	
5.00		*100*
4.50	*4.99*	*90*

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

(c) TREATMENT OF INTERSTATE COLLECTIONS.—In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 455(e) shall be excluded.

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

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

(f) REINVESTMENT.—A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State—

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

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

* * * * * * *

PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

* * * * * * *

STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(1) * * *

* * * * * * *

(21) provides for health insurance coverage (including, at State option, through the program under the State plan approved under title XIX) for any child who has been determined to be a child with special needs, for whom there is in effect an adoption assistance agreement (other than an agreement under this part) between the State and an adoptive parent or parents, and who the State has determined cannot be placed with an adoptive parent or parents without medical assistance because such child has special needs for medical, mental health, or rehabilitative care, and that with respect to the provision of such health insurance coverage—

(A) * * *

* * * * * * *

(D) in determining cost-sharing requirements, the State shall take into consideration the circumstances of the adopting parent or parents and the needs of the child being adopted consistent, to the extent coverage is provided through a State medical assistance program, with the rules under such program; **[**and**]**

(22) provides that, not later than January 1, 1999, the State shall develop and implement standards to ensure that children in foster care placements in public or private agencies are provided quality services that protect the safety and health of the children**[**.**]***; and*

(23) provides that the State shall not—

(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness.

* * * * * * *

SEC. 473A. ADOPTION INCENTIVE PAYMENTS.

(a) * * *

* * * * * * *

(c) DATA REQUIREMENTS.—

(1) * * *

* * * * * * *

(2) DETERMINATION OF NUMBERS OF ADOPTIONS.—

(A) * * *

(B) ALTERNATIVE DATA SOURCES PERMITTED FOR FISCAL YEARS 1995 THROUGH 1997.—For purposes of the determination described in subparagraph (A) for fiscal years 1995 through 1997, the Secretary may use data from a source or sources other than that specified in subparagraph (A) that the Secretary finds to be of equivalent completeness and reliability, as reported by a State by [November 30, 1997] *April 30, 1998*, and approved by the Secretary by [March 1, 1998] *July 1, 1998*.

* * * * * * *

PAYMENTS TO STATES; ALLOTMENTS TO STATES

SEC. 474. (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part [(subject to the limitations imposed by subsection (b))] shall be entitled to a payment equal to the sum of—

(1) * * *

* * * * * * *

(d)(1) If, during any quarter of a fiscal year, a State's program operated under this part is found, as a result of a review conducted under section 1123A, or otherwise, to have violated [section 471(a)(18)] *paragraph (18) or (23) of section 471(a)* with respect to a person or to have failed to implement a corrective action plan within a period of time not to exceed 6 months with respect to such violation, then, notwithstanding subsection (a) of this section and any regulations promulgated under section 1123A(b)(3), the Secretary shall reduce the amount otherwise payable to the State under this part, for that fiscal year quarter and for any subsequent quarter of such fiscal year, until the State program is found, as a result of a subsequent review under section 1123A, to have implemented a corrective action plan with respect to such violation, by—

(A) * * *

* * * * * * *

(2) Any other entity which is in a State that receives funds under this part and which violates [section 471(a)(18)] *paragraph (18) or (23) of section 471(a)* during a fiscal year quarter with respect to any person shall remit to the Secretary all funds that were paid by the State to the entity during the quarter from such funds.

* * * * * * *

[(e) Notwithstanding subsection (a), a State shall not be eligible for any payment under this section if the Secretary finds that, after the date of the enactment of this subsection, the State has—

[(1) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

[(2) failed to grant an opportunity for a fair hearing, as described in section 471(a)(12), to an individual whose allegation of a violation of paragraph (1) of this subsection is denied by

the State or not acted upon by the State with reasonable promptness.]

* * * * * * *

SECTION 341 OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

SEC. 341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

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

[(b)] *(a)* CONFORMING AMENDMENTS TO PRESENT SYSTEM.—Section 458 (42 U.S.C. 658) is amended—

(1) * * *

* * * * * * *

[(c)] *(b)* CALCULATION OF PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) * * *

* * * * * * *

[(d)] *(c)* EFFECTIVE DATES.—

[(1) INCENTIVE ADJUSTMENTS.—

[(A) IN GENERAL.—The system developed under subsection (a) and the amendments made by subsection (b) shall become effective on October 1, 1999, except to the extent provided in subparagraph (B).

[(B) APPLICATION OF SECTION 458.—Section 458 of the Social Security Act, as in effect on the day before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 2000.]

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

(2) PENALTY REDUCTIONS.—The amendments made by subsection [(c)] *(b)* shall become effective with respect to calendar quarters beginning on or after the date of the enactment of this Act.

* * * * * * *

SECTION 5557 OF THE BALANCED BUDGET ACT OF 1997

SEC. 5557. EFFECTIVE DATE.

(a) * * *

(b) EXCEPTION.—The amendments made by section 5532(b)(2) of this Act shall take effect as if the amendments had been included in the enactment of section 103(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2112). *The amendment made by section 5536(1)(A) shall not take effect with respect to a State until October 1, 2000, or such earlier date as the State may select.*

* * * * * * *

SECTION 232 OF THE SOCIAL SECURITY ACT AMENDMENTS OF 1994

SEC. 232. MEASUREMENT AND REPORTING OF WELFARE RECEIPT.

(a) * * *

(b) DEVELOPMENT OF WELFARE INDICATORS AND PREDICTORS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") in consultation with the Secretary of Agriculture shall—

(1) * * *

* * * * * * *

(3) not later than 2 years after the date of the enactment of this section, provide an interim report containing conclusions resulting from the development and assessment described in paragraphs (1) and (2), to—

(A) * * *

* * * * * * *

(D) the Committee on ⟦Energy and⟧ Commerce of the House of Representatives;

* * * * * * *

(d) ANNUAL WELFARE INDICATORS REPORT.—

(1) * * *

* * * * * * *

(4) SUBMISSION.—The Secretary shall submit such a report not later than 3 years after the date of the enactment of this section and annually thereafter, to the committees specified in subsection (b)(3)⟦(D)⟧. Each such report shall be transmitted during the first 60 days of each regular session of Congress.

* * * * * * *

○