

Total Pages: 24

LRM ID: MDH187

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

Monday, May 4, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: *Janet R. Forsgren*
OMB CONTACT: Janet R. Forsgren (for) Assistant Director for Legislative Reference
Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148
SUBJECT: REVISED LABOR Conference Document on HR3130 Child Support
Performance and Incentive Act of 1998

DEADLINE: 3 PM Tuesday, May 5, 1998

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

COMMENTS: Attached is the revised Department of Labor letter to the H.R. 3130 conferees. Also attached is a House Ways and Means discussion draft that would amend the Senate-passed bill's medical child support provisions and the Department's proposed substitute to this language.

We expect the H.R. 3130 conferees to meet shortly. For this reason, this deadline is firm. We will assume that you have no objection if you do not reply by the comment deadline.

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LRM ID: MDH187 SUBJECT: REVISED LABOR Conference Document on HR3130 Child Support Performance and Incentive Act of 1998

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

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

You may also respond by:

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

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

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

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

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

_____ **Concur**

_____ **No Objection**

_____ **No Comment**

_____ **See proposed edits on pages** _____

_____ **Other:** _____

_____ **FAX RETURN of** _____ **pages, attached to this response sheet**

DRAFT LETTER TO CONFEREES ON HR3130

Dear :

I am writing to provide you with the views of the Department of Labor on H.R. 3130, the "Child Support Performance and Incentive Act of 1998." The Department strongly supports the goals of this legislation. As you know, one of my primary goals as Secretary of Labor is to help people make the transition from welfare to work. To succeed, we must work closely with the States, as well as businesses, unions, churches and community organizations, to help welfare recipients find and keep real jobs with wages that reward work. One way to help parents find and keep jobs is to assure that their children have health care coverage by being enrolled in group health plans sponsored by employers of non-custodial parents.

I also want to alert you to provisions found in section 401 of the Senate-passed bill which would amend section 609 of the Employee Retirement Income Security Act (ERISA). (The ERISA provisions were originally added as conforming changes to child support initiatives under the Social Security Act in 1993.) ERISA section 609 currently allows for "qualified medical child support orders," which operate to enroll children in employer-sponsored group health plans that cover their non-custodial parents.

Under ERISA, a plan administrator does not have to implement a medical support order unless it is "qualified," i.e., it satisfies certain conditions including clearly specifying the type of coverage to be provided. Only orders "qualified" under ERISA operate to enroll the child in the plan. In that event, under the Social Security Act, any premiums required by the plan for dependents' coverage may be withheld from the wages of the non-custodial parent.

We have been advised by various State child support agencies, however, that current law does not fully effectuate Congress' intent in this area. We have also been advised that plan administrators frequently reject medical child support orders for technical reasons relating to the qualification requirements of current law.

The Senate-passed version of H.R. 3130 is intended to eliminate these and other impediments to the effective administration and enforcement of medical child support orders. It is the view of the Department, however, that the language in section 401 of the Senate-passed bill ~~may not fully accomplish this objective. For~~

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example, while the bill would require the creation of a National Standardized Medical Support Notice, it would not prevent plan administrators from continuing to raise technical reasons for rejecting medical child support orders, such as if the order neglected to fully describe a specific option for coverage available under the plan.

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We have received a copy of an April 22, 1998, discussion draft bill and are attaching suggested technical improvements. We believe our suggested language, which builds upon the draft bill, is consistent with Congressional intent and will make ERISA's medical child support order provisions administratively feasible for both state child support agencies and plan administrators. Also attached is a more detailed explanation of our proposed substitute language.

The Office of Management and Budget has advised us that ...

Sincerely,

Alexis Herman
Secretary of Labor

Attachments

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ATTACHMENT**Explanation of Proposed Substitute 401(d)
(Amendment to section 609(a) of ERISA)**

The attached substitute for the current section 401(d) of the April 22, 1998, discussion draft bill, would add new language to clarify and simplify the requirements that orders providing for health benefit coverage of dependent children must meet to be effective with respect to ERISA-covered health plans under section 609(a) of ERISA. This substitute would not affect the provisions contained in sections 401(a), (b), and (c) of the draft bill that create a Working Group and mandate the promulgation of regulations to create a National Standardized Medical Child Support Order. It also retains the mandate contained in the current section 401(d) that the Secretary of Labor, in consultation with the Secretary of Health and Human Services, report to Congress on recommendations for further legislative changes to improve the effectiveness of child support enforcement and the provision "deeming" National Standardized Medical Child Support Orders to be "qualified medical child support orders" (QMCSOs) for purposes of section 609(a) of ERISA. If this substitute is adopted, several conforming changes would be required to section 402 of the bill. These are noted at the end of the substitute language.

The substitute, by making certain additional changes to section 609(a) of ERISA, would facilitate medical child support enforcement by simplifying the requirements that an order must satisfy to be a QMCSO. It would also simplify the procedural steps that a plan administrator must take to determine whether an order meets those requirements. However, plan administrators would still, under this substitute, determine whether an order is a QMCSO and would be able to reject orders that are inappropriate, such as those that name as participants individuals who are not eligible to be covered under an employer's group health plan or that specify coverage that is not provided by the employer. OK

To achieve these aims, the substitute provides specifically that:

- Orders can be issued either pursuant to State domestic relations law or pursuant to a State child support enforcement program maintained in accordance with Subtitle IV-D of the Social Security Act (thus eliminating current law's reference to orders "enforcing" State laws described in section 1908 of the Social Security Act);
- Orders need not specify the "period to which the order applies;" they will be presumed to apply whenever group health coverage is available to the participant;
- Orders may, but need not, describe the "type of coverage to be provided;" any order that only provides for health benefit coverage will be deemed to refer to the least cost option under the plan;
- Plan administrators must notify participants and named children of receipt of any medical child support order within 10 days of receipt;
- Plan administrators must, within 21 days of receipt, either begin covering the child or

provide written reasons why the order is not qualified;

- **Plan administrators are expressly prohibited from imposing any qualification requirements not expressly provided in the statute;**
- **Adoptive children are expressly included as children eligible to be named in a QMCSO (this provision is also included in the current draft at section 402(b)(2));**
- **Plans' preexisting condition limitations, waiting periods, or open enrollment season restrictions will not apply to children named in QMCSOs.**

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ATTACHMENT**SUBSTITUTE SECTION 401(d)****(d) Technical and conforming amendments to ERISA --**

(1) Section 609(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)) is amended as follows:

(A) Strike subsection (a)(2) and replace it with the following:

"§ 609(a)(2) Definitions. For purposes of this subsection --

"(A) Medical child support order. The term "medical child support order" means any judgment, decree, or order (including approval of a settlement agreement) which

"(i) provides for health benefit coverage of a child of a participant under a group health plan (whether or not the participant is currently covered),

"(ii) is made pursuant to (i) a State domestic relations law or (ii) a State child support enforcement program maintained in accordance with Subtitle IV-D of the Social Security Act, and

"(iii) is issued by a court of competent jurisdiction or through an administrative process that has the force and effect of law under applicable State law. For purposes of this subparagraph, an administrative notice which is issued pursuant to an administrative process referred to in the preceding sentence and which has the effect of an order described in clause (ii) herein shall be treated as such an order.

"(B) Qualified medical child support order. The term "qualified medical child support order" means a medical child support order that --

"(i) specifies the name and last known mailing address (if any) of a participant in a group health plan and the name and mailing address of each child of the participant to which the order applies, except that, to the extent provided in the order, the name and mailing address of an official of a State or political subdivision thereof may be substituted for the mailing address of any such child,

"(ii) reasonably describes the health benefits that are to be provided to each child named in the order, except that, if the order does not describe such benefits, such order will be deemed to refer to the least cost option available under the plan, and

"(iii) does not require a group health plan to provide benefits not otherwise available under the plan, except to the extent required by a

State law concerning medical child support described in section 1908 of the Social Security Act.

"(C) Child. The term "child" includes any child adopted by or placed for adoption with a participant of a group health plan."

(B) Strike paragraphs (3) and (4) and insert the following:

"(3) Procedural requirements.

"(A) Timely notifications and determinations. In the case of any medical child support order received by a group health plan --

"(i) not later than 10 days after receipt, the plan administrator shall notify the participant and each child named in the order, or such child's designated representative, of the receipt of such order, and

"(ii) within 21 days of the receipt of such order, the plan administrator shall either (i) immediately provide the coverage referred to in paragraph (2)(B)(ii), notwithstanding any waiting periods that would otherwise be applicable, and provide notice to the child or the child's designated representative that coverage is being provided, a description of the coverage provided, and the effective date of such coverage; or (ii) provide written notice to the child, or the child's designated representative, specifying the reasons why the order is not qualified.

"(B) The plan administrator shall not impose any requirements for qualification that are not specified in this subsection.

"(C) The plan shall permit each child named in a medical child support order to designate a representative for receipt of copies of notices that are sent to the child with respect to a medical child support order. Such designation may be included in the medical child support order or in a separate document.

"(D) National Standardized Medical Support Notice Deemed to be a Qualified Medical Child Support Order --

"(i) In General -- If the plan administrator of a group health plan which is maintained by the employer of a noncustodial parent of a child or to which such an employer contributes receives an appropriately completed National Standardized Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 in the case of such child, and the Notice meets the requirements of subsection (a)(2)(B), the notice

shall be deemed to be a qualified medical child support order in the case of such child.

"(ii) If the name and mailing address of an official of a State or political subdivision thereof has been substituted for the mailing address of the child named in a National Standardized Medical Support Notice, such official shall be deemed to be the child's designated representative for purposes of paragraph (3)(C).

"(iii) Rule of construction — Nothing in this subparagraph shall be construed to change the applicability of paragraph (2)(B)(3) to any medical child support order, including a National Standardized Medical Support Notice.

"(4) Treatment of children named in orders.

"(A) Treatment as a beneficiary generally. A child who is named in a qualified medical child support order shall be considered a beneficiary under the plan for purposes of any provision of this Act.

"(B) Treatment as participant for purposes of disclosure requirements. A child named in any medical child support order shall be considered a participant under the plan for purposes of the disclosure requirements of part 1 [ERISA 5101 et seq.].

"(C) Preexisting conditions. A group health plan may not restrict coverage or benefits under the plan of any child named in a qualified medical child support order solely on the basis of a preexisting condition of such child."

(C) Strike paragraphs (5), (6) and (7).

(D) Redesignate paragraph (8) as paragraph (5) and redesignate paragraph (9) as paragraph (6).

(2) CONFORMING AMENDMENTS TO SECTIONS 502(a)(7) AND 514(b)(7)

(A) Section 502(a)(7) is amended by striking "609(a)(2)(A)" and inserting in its place "609(a)(2)(B)."

(B) Section 514(b)(7) is amended by striking "609(a)(2)(A)" and inserting in its place "609(a)(2)(B)", and by striking "609(a)(2)(B)(ii)" and inserting in its place "609(a)(2)(B)(iii)."

[NOTE: THE AMENDMENT CONTAINED IN SUBPARAGRAPH (B) ABOVE CAN BE COMBINED WITH THE AMENDMENT CONTAINED IN SUBPARAGRAPH (B) OF SECTION 402 OF THE APRIL 22, 1998 DISCUSSION DRAFT, WHICH ALSO PERTAINS TO SECTION 814(b)(7)]

(3) REPORT AND RECOMMENDATIONS REGARDING THE ENFORCEMENT OF QUALIFIED MEDICAL CHILD SUPPORT ORDERS UNDER ERISA — Not later than 8 months after the issuance of the report to the Congress pursuant to section 401(a)(5)(B), the Secretary of Labor, in consultation with the Secretary of Health and Human Services, shall submit to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate a report containing recommendations for appropriate legislation to improve the effectiveness of, and enforcement of, qualified medical child support orders under the provisions of section 609(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)), as amended by this subsection.

[NOTE: Section 402(b)(1)(C) and 402(b)(2) should be struck, and paragraph (3) redesignated as paragraph (2).]

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[DISCUSSION DRAFT]**APRIL 22, 1998****1 TITLE IV—MISCELLANEOUS****2 SEC. 401. ELIMINATION OF BARRIERS TO THE EFFECTIVE**
3 ESTABLISHMENT AND ENFORCEMENT OF
4 MEDICAL CHILD SUPPORT.**5 (a) STUDY ON EFFECTIVENESS OF ENFORCEMENT**
6 OF MEDICAL SUPPORT BY STATE AGENCIES.—

7 (1) MEDICAL CHILD SUPPORT WORKING
8 GROUP.—The Secretary of Health and Human Serv-
9 ices and the Secretary of Labor shall jointly estab-
10 lish a Medical Child Support Working Group. The
11 purpose of the Working Group shall be to identify
12 the impediments to the effective enforcement of
13 medical support by State agencies administering the
14 program established under part D of title IV of the
15 Social Security Act.

16 (2) MEMBERSHIP.—The Working Group shall
17 consist of not more than 20 members and shall be
18 composed of representatives of—

19 (A) the Department of Labor;

20 (B) the Department of Health and Human
21 Services;

22 (C) State directors of programs under part
23 D of title IV of the Social Security Act;

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1 (D) State directors of the medicaid pro-
2 gram under title XIX of the Social Security
3 Act;

4 (E) employers, including owners of small
5 businesses;

6 (F) plan administrators and plan sponsors
7 of group health plans (as defined in section
8 607(1) of the Employee Retirement Income Se-
9 curity Act of 1974 (29 U.S.C. 1167(1));

10 (G) children potentially eligible for medical
11 support, such as child advocacy organizations;
12 and

13 (H) State public welfare programs.

14 (3) COMPENSATION.—The members shall serve
15 without pay. Each member shall receive travel ex-
16 penses, including per diem in lieu of subsistence, in
17 accordance with sections 5702 and 5703 of title 5,
18 United States Code.

19 (4) ADMINISTRATIVE SUPPORT.—The Depart-
20 ment of Health and Human Services and the De-
21 partment of Labor shall jointly provide appropriate
22 administrative support to the Working Group, in-
23 cluding technical assistance. The Working Group
24 may use the services and facilities of either such De-

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1 partment, with or without reimbursement, as jointly
2 determined by such Departments.

3 (5) REPORTS.—

4 (A) RECOMMENDATIONS FOR NATIONAL
5 STANDARDIZED MEDICAL SUPPORT NOTICE.—

6 (i) REPORT BY WORKING GROUP TO
7 SECRETARIES.—Not later than 4 months
8 after the date of the enactment of this Act,
9 the Working Group shall submit to the
10 Secretary of Health and Human Services
11 and the Secretary of Labor a report con-
12 taining recommendations with respect to
13 the form and content of a National Stand-
14 ardized Medical Support Notice.

15 (ii) REPORT BY SECRETARIES TO THE
16 CONGRESS.—Not later than 2 months after
17 receipt of the report pursuant to clause (i),
18 the Secretaries shall jointly submit a re-
19 port to each House of the Congress regard-
20 ing the recommendations contained in the
21 report under clause (i).

22 (B) RECOMMENDATIONS ON OTHER MAT-
23 TERS.—

24 (i) REPORT BY WORKING GROUP TO
25 THE SECRETARIES.—Not later than 18

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1 months after the date of the enactment of
2 this Act, the Working Group shall submit
3 to the Secretary of Labor and the Sec-
4 retary of Health and Human Services a re-
5 port containing recommendations for ap-
6 propriate measures to address the impedi-
7 ments to the effective enforcement of medi-
8 cal support by State agencies administer-
9 ing the program established under part D
10 of title IV of the Social Security Act iden-
11 tified by the Working Group, including—

12 (I) appropriate measures that es-
13 tablish the priority of withholding of
14 child support obligations, medical sup-
15 port obligations, arrearages in such
16 obligations, and, in the case of a med-
17 ical support obligation, the employee's
18 portion of any health care coverage
19 premium, by the State agency admin-
20 istering the program established
21 under part D of title IV of the Social
22 Security Act in light of the restric-
23 tions on garnishment provided under
24 title III of the Consumer Credit Pro-
25 tection Act (15 U.S.C. 1671-1677);

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1 (II) appropriate procedures for
2 coordinating the provision, enforce-
3 ment, and transition of health care
4 coverage under the State programs es-
5 tablished under part D of title IV of
6 the Social Security Act and titles XIX
7 and XXI of such Act;

8 (III) appropriate measures to im-
9 prove the enforcement of alternate
10 types of medical support that are
11 aside from health coverage offered
12 through the noncustodial parent's
13 health plan and unrelated to the non-
14 custodial parent's employer, including
15 measures that establish a noncustodial
16 parent's responsibility to share the
17 cost of premiums, copayments,
18 deductibles, or payments for services
19 not covered under a child's existing
20 health coverage; and

21 (IV) appropriate measures for
22 eliminating any other impediments to
23 the effective enforcement of medical
24 support orders that the working group
25 deems necessary.

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1 (ii) REPORT BY SECRETARIES TO THE
2 CONGRESS.—Not later than 2 months after
3 receipt of the report pursuant to clause (i),
4 the Secretaries shall jointly submit a re-
5 port to each House of the Congress regard-
6 ing the recommendations contained in the
7 report under clause (i).

8 (6) TERMINATION.—The Working Group shall
9 terminate 30 days after the date of the issuance of
10 its report under paragraph (5)(B).

11 (b) PROMULGATION OF NATIONAL STANDARDIZED
12 MEDICAL SUPPORT NOTICE.—

13 (1) IN GENERAL.—Upon receipt of the report of
14 the Medical Child Support Working Group pursuant
15 to subsection (a)(5)(A), the Secretary of Health and
16 Human Services and the Secretary of Labor shall
17 jointly develop and promulgate by regulation—

18 (A) a National Standardized Medical Sup-
19 port Notice that satisfies the requirements of
20 section 609(a)(3) of the Employee Retirement
21 Income Security Act of 1974 (29 U.S.C.
22 1169(a)(3)) and the requirements of part D of
23 title IV of the Social Security Act and shall be
24 used by States to enforce medical support or-
25 ders; and

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1 (B) appropriate procedures for the trans-
2 mission of such Notice to employers by State
3 agencies administering the program established
4 under part D of title IV of the Social Security
5 Act.

6 In issuing such regulations, the Secretaries shall
7 take into account the recommendations of the Medi-
8 cal Child Support Working Group presented in its
9 report under subsection (a)(5)(A).

10 (2) INITIAL REGULATIONS.—Not later than 6
11 months after the date of the receipt of such report,
12 the Secretaries shall issue proposed regulations pro-
13 viding for the National Standardized Medical Sup-
14 port Notice.

15 (3) FINAL REGULATIONS.—Not later than 6
16 months after the issuance of the initial regulations
17 under paragraph (2), the Secretary of Health and
18 Human Services and the Secretary of Labor shall
19 jointly issue final regulations providing for the Na-
20 tional Standardized Medical Support Notice.

21 (c) REQUIRED USE BY STATES OF NATIONAL
22 STANDARDIZED MEDICAL CHILD SUPPORT NOTICES.—

23 (1) STATE PROCEDURES.—Section 466(a)(19)
24 of the Social Security Act (42 U.S.C. 666(a)(19)) is
25 amended to read as follows:

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1 “(19) HEALTH CARE COVERAGE.—Procedures
2 under which—

3 “(A) effective not later than October 1,
4 2000, all child support orders enforced pursu-
5 ant to this part include a provision for the
6 health care coverage of the child which is en-
7 forced, where appropriate, through the use of
8 the National Standardized Medical Support No-
9 tice promulgated pursuant to section 401(b) of
10 the Child Support Performance and Incentive
11 Act of 1998;

12 “(B) in any case in which a noncustodial
13 parent is required under the child support order
14 to provide such health care coverage and the
15 employer of such noncustodial parent is known
16 to the State agency—

17 “(i) the State agency uses the Na-
18 tional Standardized Medical Support No-
19 tice to transfer notice of the provision for
20 the health care coverage of the child to the
21 employer;

22 “(ii) within 7 days after receipt of the
23 National Standardized Medical Support
24 Notice, the employer is required to transfer
25 the Notice to the appropriate plan provid-

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1 ing any such health care coverage for
2 which the child is eligible;

3 “(iii) in any case in which the plan
4 providing such health care coverage to
5 which the employer transfers the Notice
6 pursuant to clause (ii) requires employee
7 contributions, the State agency provides
8 the employer with an income withholding
9 notice with respect to the employee con-
10 tributions; and

11 “(iv) in any case in which the non-
12 custodial parent is a newly hired employee
13 entered in the State Directory of New
14 Hires pursuant to section 452A(c), the
15 State agency provides, where appropriate,
16 an income withholding notice within 2 days
17 after the date of the entry of such em-
18 ployee in such Directory; and

19 “(C) any liability of the noncustodial par-
20 ent to such plan for employee contributions
21 which are required under such plan for enroll-
22 ment of the child is effectively subject to appro-
23 priate enforcement, unless the noncustodial par-
24 ent contests such enforcement based on a mis-
25 take of fact.”.

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1 (2) CONFORMING AMENDMENTS.—Section
2 452(f) of such Act (42 U.S.C. 652(f)) is amended in
3 the first sentence—

4 (A) by striking “petition for the inclusion
5 of” and inserting “include”; and

6 (B) by inserting “and enforce medical sup-
7 port” before “whenever”.

8 (d) NATIONAL STANDARDIZED MEDICAL SUPPORT
9 NOTICE DEEMED A QUALIFIED MEDICAL CHILD SUP-
10 PORT ORDER.—

11 (1) AMENDMENT TO ERISA.—Section 609(a)(5)
12 of the Employee Retirement Income Security Act of
13 1974 (29 U.S.C. 1169(a)(5)) is amended by adding
14 at the end the following:

15 “(C) NATIONAL STANDARDIZED MEDICAL
16 SUPPORT NOTICE DEEMED TO BE A QUALIFIED
17 MEDICAL CHILD SUPPORT ORDER.—

18 “(i) IN GENERAL.—If the plan admin-
19 istrator of a group health plan which is
20 maintained by the employer of a noncusto-
21 dial parent of a child or to which such an
22 employer contributes receives an appro-
23 priately completed National Standardized
24 Medical Support Notice promulgated pur-
25 suant to section 401(b) of the Child Sup-

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1 port Performance and Incentive Act of
2 1998 in the case of such child, and the no-
3 tice meets the requirements of paragraphs
4 (3) and (4), the notice shall be deemed to
5 be a qualified medical child support order
6 in the case of such child.

7 “(ii) ENROLLMENT OF CHILD IN
8 GROUP HEALTH PLAN.—In any case in
9 which an appropriately completed National
10 Standardized Medical Support Notice—

11 “(I) which is issued in the case of
12 a child of a participant under a group
13 health plan who is a noncustodial par-
14 ent of the child, and

15 “(II) which is deemed under
16 clause (i) to be a qualified medical
17 child support order,

18 the plan administrator, within 21 business
19 days after receipt of the Notice, shall no-
20 tify the State agency issuing the notice
21 with respect to such child whether coverage
22 of the child is available under the terms of
23 the plan and, if so, whether such child has
24 been enrolled under the plan and the effec-
25 tive date of the enrollment, and shall pro-

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1 vide to the custodial parent (or the official
2 of a State or political subdivision thereof
3 substituted for the name of such child pur-
4 suant to paragraph (3)(A)) any docu-
5 mentation of such enrollment necessary for
6 notification of the custodial parent (or
7 such official) of such enrollment.

8 “(iii) RULE OF CONSTRUCTION.—
9 Nothing in this subparagraph shall be con-
10 strued as requiring a group health plan,
11 upon receipt of a National Standardized
12 Medical Support Notice, to provide benefits
13 under the plan (or eligibility for such bene-
14 fits) in addition to benefits (or eligibility
15 for benefits) provided under the terms of
16 the plan as of immediately before receipt of
17 such Notice.”.

18 (2) REPORT AND RECOMMENDATIONS REGARD-
19 ING THE ENFORCEMENT OF QUALIFIED MEDICAL
20 SUPPORT ORDERS UNDER ERISA.—Not later than 8
21 months after the issuance of the report to the Con-
22 gress pursuant to section 401(a)(5)(B), the Sec-
23 retary of Labor, in consultation with the Secretary
24 of Health and Human Services, shall submit to the
25 Committee on Education and the Workforce and the

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1 Committee on Ways and Means of the House of
2 Representatives and the Committee on Labor and
3 Human Resources and the Committee on Finance of
4 the Senate a report containing recommendations for
5 appropriate legislation to improve the effectiveness
6 of, and enforcement of, qualified medical child sup-
7 port orders under the provisions of section 609(a) of
8 the Employee Retirement Income Security Act of
9 1974 (29 U.S.C. 1109(a)).

10 SEC. 402. TECHNICAL CORRECTIONS.

11 (a) AMENDMENT RELATING TO PUBLIC LAW 104-
12 266.—

13 (1) IN GENERAL.—Subsection (f) of section 101
14 of the Employee Retirement Income Security Act of
15 1974 (29 U.S.C. 1021(f)) is repealed.

16 (2) EFFECTIVE DATE.—The amendment made
17 by subsection (a) shall take effect as if included in
18 the enactment of the Act entitled "An Act to repeal
19 the Medicare and Medicaid Coverage Data Bank",
20 approved October 2, 1996 (Public Law 104-226;
21 110 Stat. 3033).

22 (b) AMENDMENTS RELATING TO PUBLIC LAW 103-
23 66.—

24 (1) IN GENERAL.—(A) Section 4301(c)(4)(A) of
25 the Omnibus Budget Reconciliation Act of 1993

F:\LAJ\NEW105\MEDCHILD\MEDCHILD.001

H.L.C.

14

1 (Public Law 103-66; 107 Stat. 377) is amended by
2 striking "subsection (b)(7)(D)" and inserting "sub-
3 section (b)(7)".

4 (B) Section 514(b)(7) of the Employee Retirement
5 Income Security Act of 1974 (29 U.S.C.
6 1144(b)(7)) is amended by striking "enforced by"
7 and inserting "they apply to".

8 (C) Section 609(a)(2)(B)(ii) of such Act (29
9 U.S.C. 1169(a)(2)(B)(ii)) is amended by striking
10 "enforces" and inserting "is made pursuant to".

11 (2) CHILD DEFINED.—Section 609(a)(2) of the
12 Employee Retirement Income Security Act of 1974
13 (29 U.S.C. 1169(a)(2)) is amended by adding at the
14 end the following:

15 "(D) CHILD.—The term 'child' includes
16 any child adopted by, or placed for adoption
17 with, a participant of a group health plan."

18 (3) EFFECTIVE DATE.—The amendments made
19 by paragraph (1) shall be effective as if included in
20 the enactment of section 4301(c)(4)(A) of the Omni-
21 bus Budget Reconciliation Act of 1993.

OFFICE OF MANAGEMENT AND BUDGET

*Legislative Reference Division
Labor-Welfare-Personnel Branch*

Telecopier Transmittal Sheet



URGENT

FROM: Melinda Haskins

395-3923

DATE: 5/6/98

TIME: 9:00 a.m.

Pages sent (including transmittal sheet): 3

COMMENTS:

HHS does not want DOC to transmit
its letter to the HR3130 conferees. Will
call later to discuss. (see LHM MDH
187)

TO: Diana Fortuna
Emil Parker

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



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Office of the General Counsel
Legislation Division
Washington, D.C. 20201

May 5, 1998

NOTE TO MELINDA HASKINS (OMB)

Re: Revised Labor Dept. conference letter on H.R. 3130 (Child Support Performance and Incentive Act of 1998) (LRM ID: MDH187)

This is to confirm that, as I informed you when we spoke this afternoon, HHS **nonconcurs** in the Labor Dept. (DOI.) draft letter.

While we have no disagreement with the substantive comments made or with DOL's recommendations for statutory amendments, we believe there are compelling strategic reasons for not transmitting the letter.

Sen. Rockefeller's staff carefully crafted the medical support provisions currently in the Senate version of H.R. 3130, in negotiation with a multitude of stakeholders including HHS and DOL. We have been advised by Sen. Rockefeller's staff that raising concerns with the language at this point could jeopardize the entire effort in conference: rather than expend further time and effort in conference on the medical support provision, they would be inclined to drop the provision altogether. This would be most unfortunate.

The Rockefeller provision as currently drafted would significantly improve State child support agencies' ability to enforce medical support orders. Specifically, the creation of a nationally uniform medical support form will eliminate most of the remaining barriers to the enforcement of medical support orders. While we have no quarrel with DOI's position that there is still room for improvement, we would note that the Rockefeller language provides for this as well, by requiring the Medical Support Working Group and DOL to make recommendations to the Congress on how to eliminate any remaining impediments to medical support.

For the foregoing reasons, HHS strongly believes that allowing DOL to send its proposed conference letter, raising concerns with the Rockefeller language as drafted, is not worth the risk that the provision would be dropped from the bill. We therefore **nonconcur** in the DOI. letter. Should OMB or DOL wish to discuss this matter with an HHS policy official, they may contact John Monahan (Deputy Assistant Secretary for Children and Families) or Mary Bourdette (Deputy Assistant Secretary for Legislation/Human Services).

On a related point, we would urge that DOL avoid making statements such as those in its draft letter to the effect that ERISA plan administrators could reject the now proposed standardized medical support form. We feel such statements are premature, and that they invite plan administrators to search for loopholes in the proposed law.

SSW

Sondra Stigen Wallace
202-690-7760

OFFICE OF MANAGEMENT AND BUDGET

Legislative Reference Division
Labor-Welfare-Personnel Branch

Telecopier Transmittal Sheet

URGENT



FROM: Melinda Haskins

395-3923

DATE: 4/30/98

TIME: 12:15 pm

Pages sent (including transmittal sheet): 6

COMMENTS:

Attached is SSA's redraft of the
conference letter on HR 3130 and
your comments on the original.

TO: Sandra Wallace
Thayer Nelson

* Diana Fortuna

Are you OK?
I need comments
no later than
2 pm today.
Thanks.

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

Revised
4/30/98

The Honorable Bill Archer
Chairman
House Committee on Ways and Means
United States House of Representatives
Washington DC 20515

Dear Mr. Chairman:

I am writing to you to present the views of the Social Security Administration concerning H.R. 3130, the Child Support Performance and Incentive Act of 1998. In large part, neither the House-passed nor the Senate-passed version of the bill will directly affect the Social Security Administration. However, there is one provision contained in the Senate-passed bill to which the Social Security Administration strongly objects.

Section 402(b) of the Senate-passed version of H.R. 3130 provides that information contained in the National Directory of New Hires would in most cases be deleted from the database after 12 months. Data could be retained for 24 months, but only with respect to individuals whose names match certain "information comparisons" relating to attempts to locate parents or enforce child support orders.

The National Directory of New Hires was established by section 453(i) of the Social Security Act which was enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. The National Directory of New Hires contains not only a listing of newly hired individuals, but also quarterly wage reports and reports of unemployment compensation payments. Section 453(j)(4) of the Social Security Act provides that the information in the National Directory of New Hires shall be provided to the Social Security Administration.

The Social Security Administration needs the data in the National Directory of New Hires to be available for at least 24 months in order to enable Social Security to use the data to help ensure the accuracy of the wage reports on which an individual's old age, survivors, and disability insurance benefits are based. Each year the Social Security Administration receives wage information from W-2 forms filed by employers and each year, for a variety of reasons, primarily improperly filled out forms, the Social Security Administration is unable to post wages in a small percentage of cases. Wages earned in January of one year are not even reported to the Social Security Administration until the following year. It takes nearly nine months to enter the information from the more than 200 million W-2 forms into Social Security's wage records and only then would the Social Security Administration be able to begin verifying the data - nearly 21 months after some of the wages were paid.

The Social Security Administration believes that the data in the National Directory of New Hires will be an invaluable help in assuring that workers are credited for all the wages they have earned and the data must be retained for a minimum 24 months for it to be useful at all for this purpose.

In addition, the National Directory of New Hires, as PRWORA recognized, provides invaluable

data not only for the enforcement of child support but also for the administration of the Supplemental Security Income Program (SSI) and the Disability Insurance Program (DI). The Social Security Administration intends to begin using this data later this year to help it ensure payment accuracy and eligibility for SSI and DI. The data will be invaluable in determining whether a beneficiary has unreported income, whether a continuing disability review should be conducted because the individual is working, and whether an individual is within his or her trial work period or extended period of eligibility for DI.

The use of this data is part of our effort to respond to the General Accounting Office's designation of the SSI program as a "high risk" program and has been recommended by the General Accounting Office. Retaining the data in the National Directory of New Hires for 24 months, rather than merely 12, significantly improves the usefulness of the data for these purposes.

Thank you for the consideration of our views. I am sending a similar letter to Senator Roth.

I am advised by the Office of Management and Budget that there is no objection to these views from the standpoint of the President's program.

Sincerely,

Kenneth S. Apfel
Commissioner
of Social Security

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE GENERAL COUNSEL
LEGISLATION DIVISION

FACSIMILE/HARD COPY TRANSMISSION

ADDRESSEE:

Melinda Haskins, OMB
Phone: 202-395-3923
FAX: 202-395-6148

SENDER:

Sondra Stigen Wallace
PH # 202-690-7760
FAX # 202-690-7309

DATE: April 16, 1998

COMMENTS:

Re: SSA draft letter to conferees on H.R. 3130
(IRM ID MDH165)

I have just received the attached e mail from HHS/AEPE,
explaining in more detail the concern I indicated in our response
to you yesterday, and providing suggested language for the SSA
letter.

This revision is merely a recommendation, not a condition of HHS
clearance of the SSA letter.



April 15, 1998

NOTE TO MELINDA HASKINS (OMB)

Re: SSA draft letter to conferees on H.R. 3130

HHS has no objection to the SSA draft letter.

However, we would suggest that SSA's position (that they need to be able to retain the New Hire Directory data on all cases for 24 months) would be strengthened by an explanation of why this is so. As written, the letter merely asserts that "[a] retention period of less than 24 months for any report will significantly erode the value of the directory...", without any real explanation.

SSW
Sondra Stigen Wallace
202-690-7760

To: Sondra S. Wallace@OGC.LEC
From: "LINDA MELLGREN" <LMELLGRE@OSASPE.DHHS.GOV>
Cc:
Bcc:
Subject: SSA letter on CSE bill
Attachment: Headers.822
Date: 4/16/98 9:50 AM

My one concern about the SSA letter is that it doesn't clearly identify what information is available from the wage and earnings records that is not available in SSA own records. A sentence or two that identifies the significance of the additional information would make the letter much stronger. For example "The wage and earnings records contains information on payments to consultants and contractors who are responsible for payment of their entire social security contributions. SSA records only contain earnings and income when the employer has paid a share of the Social Security tax."

OFFICE OF MANAGEMENT AND BUDGET

*Legislative Reference Division
Labor-Welfare-Personnel Branch*

Telecopier Transmittal Sheet

URGENT



FROM: Melinda Haskins

395-3923

DATE: 2/26/98

TIME: 1:06 am

Pages sent (including transmittal sheet): 7

COMMENTS:

Attached is the "Carden Amendment" to
HR 3130. We understand that this
will be added to the bill before it is considered.
What's your take on this?

TO: Greg Jones - DOJ
Vanessa Harmon - state

CC: Diana Ferreira
Cynthia Rice
Julie Fernandes

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

1 Social Security Act), and whose failure to
2 pay such child support has resulted in an
3 arrearage exceeding \$5,000, until child
4 support payments under the judgment, de-
5 cree, or order are satisfied or the alien is
6 in compliance with an approved payment
7 agreement.

8 "(ii) APPLICATION TO PERMANENT
9 RESIDENTS.—Notwithstanding section
10 101(a)(13)(C), an alien lawfully admitted
11 for permanent residence in the United
12 States who has been absent from the Unit-
13 ed States for any period of time shall be
14 regarded as seeking an admission into the
15 United States for purposes of this subpara-
16 graph.

17 "(iii) WAIVER AUTHORIZED.—The At-
18 torney General may waive the application
19 of clause (i) in the case of an alien, if the
20 Attorney General-

21 "(I) has received a request for
22 the waiver from the court or adminis-
23 trative agency having jurisdiction over
24 the judgment, decree, or order obligat-

1 ing the alien to pay child support that
2 is referred to in such clause; and
3 “(II) determines that the likeli-
4 hood of the arrearage being elimi-
5 nated, and all subsequent child sup-
6 port payments timely being made by
7 the alien, would increase substantially
8 if the waiver were granted.”

9 (b) **EFFECTIVE DATE.**—The amendment made by
10 this section shall take effect 180 days after the date of
11 the enactment of this Act.

12 **SEC. 402. EFFECT OF NONPAYMENT OF CHILD SUPPORT ON**
13 **ESTABLISHMENT OF GOOD MORAL CHAR-**
14 **ACTER.**

15 (a) **IN GENERAL.**—Section 101(f) of the Immigration
16 and Nationality Act (8 U.S.C. 1101(f)) is amended—

17 (1) in paragraph (8), by striking the period at
18 the end and inserting “; or”; and

19 (2) by inserting after paragraph (8) the follow-
20 ing:

21 “(9) one who is legally obligated under a judg-
22 ment, decree, or order to pay child support (as de-
23 fined in section 459(l) of the Social Security Act),
24 and whose failure to pay such child support has re-
25 sulted in any arrearage, unless child support pay-

February 25, 1998

1 ments under the judgment, decree, or order are sat-
2 isfied or the alien is in compliance with an approved
3 payment agreement.”.

4 (b) **EFFECTIVE DATE.**—The amendment made by
5 this section shall apply to aliens applying for a benefit
6 under the Immigration and Nationality Act on or after
7 180 days after the date of the enactment of this Act.

8 **SEC. 403. AUTHORIZATION TO SERVE LEGAL PROCESS IN**
9 **CHILD SUPPORT CASES ON CERTAIN ARRIV-**
10 **ING ALIENS.**

11 (a) **IN GENERAL.**—Section 235(d) of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1225(d)) is amended
13 by adding at the end the following:

14 “(5) **AUTHORITY TO SERVE PROCESS IN CHILD**
15 **SUPPORT CASES.**—

16 “(A) **IN GENERAL.**—To the extent consist-
17 ent with State law, immigration officers are au-
18 thorized to serve on any alien who is an appli-
19 cant for admission to the United States legal
20 process with respect to any action to enforce or
21 establish a legal obligation of an individual to
22 pay child support (as defined in section 459(i)
23 of the Social Security Act).

24 “(B) **DEFINITION.**—For purposes of sub-
25 paragraph (A), the term ‘legal process’ means

February 23, 1998

1 any writ, order, summons or other similar proc-
2 ess, which is issued by—

3 “(i) a court or an administrative
4 agency of competent jurisdiction in any
5 State, territory, or possession of the Unit-
6 ed States; or

7 (ii) an authorized official pursuant to
8 an order of such a court or agency or pur-
9 suant to State or local law.”.

10 (b) **EFFECTIVE DATE.**—The amendment made by
11 this section shall apply to aliens applying for admission
12 to the United States on or after 180 days after the date
13 of the enactment of this Act.

14 **SEC. 404. AUTHORIZATION TO OBTAIN INFORMATION ON**
15 **CHILD SUPPORT PAYMENTS BY ALIENS.**

16 Section 453(h) of the Social Security Act (42 U.S.C.
17 653(h)) is amended by adding at the end the following:

18 “(3) **PROVISION TO ATTORNEY GENERAL AND**
19 **SECRETARY OF STATE OF INFORMATION ON PER-**
20 **SONS DELINQUENT IN CHILD SUPPORT PAY-**
21 **MENTS.**—On request by the Attorney General or the
22 Secretary of State, the Secretary of Health and
23 Human Services shall provide the requestor with
24 such information as the Secretary of Health and
25 Human Services determines may aid them in deter-

February 25, 1988

- 1 mining whether an alien is delinquent in the pay-
- 2 ment of child support."

Amend the title so as to read: "A bill to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes."

February 23, 1998

THE WHITE HOUSE
WASHINGTON

Diana -

Here are comments on the
Cardin amendment that Bob
Baeh sent me last week. I have
had no time to look @ this.
As far as I know, Bob (or IWS)
has not made any comments along
these lines in the LRM process.

Julie

*Julie
Fernandez*

FAX : 456-5581

Comments on Cardin's amendment concerning Child Support Payments and Inadmissibility.

(my comments)

The Administration has voiced its concern about the practicality of such an approach to securing child support payments, while continuing its strong support for recovery of those payments. Recovery of child support payments from nonpayers is one, if not the single, most important way to raise the welfare levels of dependent children.

INS should support the inclusion of nonpayment of child support into naturalization and adjustment of status decisions, whether it is through good moral character or, as the Center for Budget Priorities supports, through the redrafted provision of a requirement.

However, using the admissibility of legal permanent residents or non-immigrants as the mechanism to collect payments is fundamentally flawed.

- departure from the United States for less than six months does not require an LPR to seek admission upon his/her return. As a result, as the Cardin amendment proposes, a distinction would have to be made for one particular type of person – a nonpayer of child support. HHS is given discretion to determine how long someone is out of the country to trigger this provision. That discretion significantly changes the immigration law and opens the possibility for other social services payments (such as Food Stamps and others) to be included in a similar way.
- the logic of this provision is a “debtor’s prison” approach – exclude people from earning the money they need to pay the child support. Barring someone from the country also has the danger of separating them from their “new family,” to the extent that the person has remarried.
- Declaring someone inadmissible for the purposes of nonpayment also creates an incentive for illegal immigration, as the barred person would seek to reunite with their new but separated family. As an illegal immigrant, the intention of the proposal, to get the money for the first family, would still not be achieved.
- This proposal puts a tremendous, even unworkable, burden on INS inspectors. The Administration has worked hard to keep determinations of social service payments out of inspections process at airports and land borders. It has also sought to make the enforcement of social services a separate act from immigration enforcement. Although payment of child support is something we value highly, it is the same logic of enforcement to say that immigration law should be used to enforce this welfare payment as it is to say that immigration law should be used to enforce payment of school fees, medical expenses, food stamps, etc. This puts us

*true in
lots of
cases we
don't
enforce*

in a Prop. 187 framework of enforcement. Let's find tough ways to enforce against nonpayment of child support, but keep immigration law out of this.

- This approach targets immigrants, LPRs, further reinforcing the immigrant-bashing sentiments that, as an Administration, we are trying to eliminate. Our approach should be against all deadbeats, not just those whose circumstances are uniquely an immigrant experience.



but we try to
catch them

at many opps.
(so don't bar?)

DATE: April 7, 1998U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201

OMB LRM - views due Monday

PHONE: (202) 690-6311

FAX: (202) 690-8425

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
HUMAN SERVICES LEGISLATION
ROOM 413 H HUMPHREY BUILDINGTO : Diana Fortuna
OFFICE : _____
ROOM NO : _____
PHONE NO : _____
FAX NO : 456-7431

FROM:

☐ MARY M. BOURDETTE
☐ BARBARA P. CLARK
☐ GREG JONES
☐ PATRICIA BRAVO
☐ AMY LOCKHART
☒ LAUREN GRIFFIN
☐ LULA BARNESTOTAL PAGES
(INCLUDING COVER) : 0 11

REMARKS:

Diana - Here is a new version of the
side-by-side
1st - w/out our comments
2nd - w/our comments to help you.
-Lauren

DRAFT 4/7/1998

COMPARISON OF CHILD SUPPORT ENFORCEMENT BILLS

H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
Sec. 101 Alternate Penalty Procedure -- Forgiveness. Does not forgive penalty in the first year.	Sec. 101. Alternate Penalty Procedure -- Forgiveness. Provides complete forgiveness of the penalty in the year in which the State comes into compliance. The effect of this provision is to extend the 10/1/97 deadline by one year.	
Sec. 101 Alternate Penalty Procedure -- Single Reduction. No provision.	Sec. 101. Alternate Penalty Procedure -- Single Reduction. The Senate bill provides that the Secretary "may only impose a single reduction" if a State fails to comply with the 10/1/97 deadline "or with any other provision of this part that imposes a requirement with respect to the establishment or operation of an automated data processing and information retrieval system."	

2

H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
Sec. 101. Alternate Penalty Procedure -- Size of Penalty. Four percent in the first year, then 8 percent, 16 percent and 20 percent in subsequent years. Forgiveness of 75 percent of penalty in year of completion.	Sec. 101. Alternate Penalty procedure -- Size of Penalty. The Senate amendment provides for a percentage penalty of 4 percent, 8 percent, 16 percent for the first three years but increases the penalty percentage to 30 percent for the 4th year. The Senate bill provides an additional penalty reduction for FY 1998 and 1999. Under the Senate bill, if a State completes its system in FY 1998, it receives no penalty. If it completes its system in FY 1999, it receives no penalty in FY 1999 and gets back 20% of its FY 1998 penalty. If it completes its system in FY 2000, it receives no penalty in that year and gets back 20% of the penalty imposed in FY 1999.	
Sec. 102. Authority to Waive Single Statewide Automated Data processing and Information Retrieval system Requirement.	Sec. 102. Authority to Waive Single Statewide Automated Data processing and Information Retrieval system Requirement. Identical provisions.	
Sec. 201. Incentive Payments to States.	Sec. 201. Incentive Payments to States. Identical provision.	
Sec. 301. Adoption provision.	Sec. 301. Adoption Provision. May have the same effect as House bill but is drafted differently.	
Sec. 401. Technical corrections.	Sec. 406. Technical corrections. Identical Provisions.	

M

H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
Sec. 501 - 504. Immigration Provisions. Visa and admission restrictions for aliens for nonpayment of child support.	No Similar Provision.	
No Similar Provision.	Sec. 401. Elimination of barriers to the effective establishment and enforcement of medical support. Provides for the promulgation of a "Nationalized Standardized Support Notice"; establishes a working group to make recommendations to Congress within 18 months as to appropriate measures and procedures for medical support enforcement; requires publication of proposed rule in 180 days and final rule in 1 year mandating the use of the standardized notice by States; revises IV-D mandated procedures for ensuring health care coverage for children; amends ERISA to make the standardized notice a Qualified Medical Child Support Order; and calls for a report by the Secretary of Labor, in consultation with the Secretary of HHS, containing recommendations to improve the effectiveness of, and enforcement of, qualified child support orders under ERISA.	
No Similar Provision.	Sec. 402. Safeguard of New Employee Information. Provides for a penalty for unauthorized access, disclosure, or use of information. Provides a one-year limit on retention of data in the National Directory of New Hires which does not match with a IV-D case and a two-year limit on data in the NDNH which matches with a IV-D case.	

4

H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
No Similar Provision.	Sec. 403. Conforming amendments regarding the collection and use of Social Security Numbers for purposes of child support enforcement. Conforms the Social Security Act Section 205(c)(2)(C) to the provisions of PRWORA which required the collection in specified records and use of Social Security Numbers for child support enforcement purposes.	
No Similar Provision.	Sec. 404. Elimination of definition regarding high-volume automated administrative enforcement of child support. Amends the PRWORA provisions as amended by the 1997 Technical corrections to remove inconsistent definition.	
No Similar Provision.	Sec. 405. General Accounting Office Reports. Requires the Comptroller General to report to the Committee on Finance and the Committee on Ways and Means by December 31, 1998 on the feasibility and cost of creating and maintaining a nationwide instant child support order check system under which an employer would be able to determine whether a newly hired employee is required to provide support under a child support order. Also requires the Comptroller General to report on the implementation and use of child support databases. The report shall include a detailed discussion of the purposes for which, and the manner in which, the information maintained in such databases has been used, and an examination as to whether such databases are subject to adequate safeguards to protect the privacy of the individuals with respect to whom information is reported and maintained.	

5

DRAFT 4/7/1998

COMPARISON OF CHILD SUPPORT ENFORCEMENT BILLS

H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
Sec. 101 Alternate Penalty Procedure -- Forgiveness. Does not forgive penalty in the first year.	Sec. 101. Alternate Penalty Procedure -- Forgiveness. Provides complete forgiveness of the penalty in the year in which the State comes into compliance. The effect of this provision is to extend the 10/1/97 deadline by one year.	The Administration opposes the Senate version. The Administration has consistently taken the position that the systems deadline should not be extended.

H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
Sec. 101 Alternate Penalty Procedure -- Single Reduction. No provision.	Sec. 101. Alternate Penalty Procedure -- Single Reduction. The Senate bill provides that the Secretary "may only impose a single reduction" if a State fails to comply with the 10/1/97 deadline "or with any other provision of this part that imposes a requirement with respect to the establishment or operation of an automated data processing and information retrieval system."	The intent of the Senate language is unclear. Finance Committee staff told AS/L staff that this provision was not intended to impact the State Disbursement Unit requirement. However, OCSE staff believe that California and other States will argue after enactment that this language would prohibit us from pursuing State plan disapproval for lack of an SDU if the State is subject to a systems sanction. (Note that the Senate bill also contains the language from the original House bill that prohibits HHS from taking a CSE audit penalty with respect to systems-related compliance issues. It's not clear what additional protections the Senate "single reduction" language is intended to convey.) OCSE staff recommend that the Administration oppose the Senate language; at a minimum, we should insist on conference report language clarifying Congressional intent.

fix cld be worse

H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
Sec. 101. Alternate Penalty Procedure -- Size of Penalty. Four percent in the first year, then 8 percent, 16 percent and 20 percent in subsequent years. Forgiveness of 75 percent of penalty in year of completion.	Sec. 101. Alternate Penalty procedure -- Size of Penalty. The Senate amendment provides for a percentage penalty of 4 percent, 8 percent, 16 percent for the first three years but increases the penalty percentage to <u>30</u> percent for the 4th year. The Senate bill provides an additional penalty reduction for FY 1998 and 1999. Under the Senate bill, if a State completes its system in FY 1998, it receives no penalty. If it completes its system in FY 1999, it receives no penalty in FY 1999 and gets back 20% of its FY 1998 penalty. If it completes its system in FY 2000, it receives no penalty in that year and gets back 20% of the penalty imposed in FY 1999.	The Administration supports the House penalty structure. The Secretary of HHS has consistently maintained that States should be required to get their systems up and certified without delay. OCSE staff understand that the out-year penalties were increased in the Senate bill to compensate for reductions in earlier-years' penalties; this was necessary to keep the Senate bill cost-neutral. OCSE staff are concerned that with the forgiveness provision in the Senate bill the net penalty in the early years may be too small to be an effective incentive for States to move quickly to get their systems certified. The Administration opposes 100 percent forgiveness for the year in which the State comes into compliance and any forgiveness for prior years.
Sec. 102. Authority to Waive Single Statewide Automated Data processing and Information Retrieval system Requirement.	Sec. 102. Authority to Waive Single Statewide Automated Data processing and Information Retrieval system Requirement. Identical provisions.	The Administration has opposed this provision. However, we provided technical assistance in drafting the bills so that the sections contain safeguards intended to assure that linked systems' performance and cost are similar to those of a single statewide system.
Sec. 201. Incentive Payments to States.	Sec. 201. Incentive Payments to States. Identical provision.	The Administration has supported the new incentive system.
Sec. 301. Adoption provision.	Sec. 301. Adoption Provision. May have the same effect as House bill but is drafted differently.	??

Nuclear penalty fix
interjurisdictional adoption

H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
Sec. 401. Technical corrections.	Sec. 406. Technical corrections. Identical Provisions.	The Administration supports these provisions.
Sec. 501 - 504. Immigration Provisions. Visa and admission restrictions for aliens for nonpayment of child support.	No Similar Provision.	The Administration does not oppose the House provisions but may want to provide some technical assistance on the language.
No Similar Provision.	Sec. 401. Elimination of barriers to the effective establishment and enforcement of medical support. Provides for the promulgation of a "Nationalized Standardized Support Notice"; establishes a working group to make recommendations to Congress within 18 months as to appropriate measures and procedures for medical support enforcement; requires publication of proposed rule in 180 days and final rule in 1 year mandating the use of the standardized notice by States; revises IV-D mandated procedures for ensuring health care coverage for children; amends ERISA to make the standardized notice a Qualified Medical Child Support Order; and calls for a report by the Secretary of Labor, in consultation with the Secretary of HHS, containing recommendations to improve the effectiveness of, and enforcement of, qualified child support orders under ERISA.	The Administration supports the Senate version. The Administration prefers that the bill specify that HHS forwards the report to Congress but recognizes that development of the present bill language involved our technical assistance.

DOL
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 AGC/IPS
 S. H. L.

Who

Labor

9

H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
No Similar Provision.	Sec. 402. Safeguard of New Employee Information. Provides for a penalty for unauthorized access, disclosure, or use of information. Provides a <u>one-year limit</u> on retention of data in the National Directory of New Hires which does not match with a IV-D case and a <u>two-year limit</u> on data in the NDNH which matches with a IV-D case. <i>DM is: at least 2 yrs.</i>	The Administration recognizes the need to safeguard data against unauthorized access, disclosure, or use and the Administration supports reasonable restrictions on the use of data. <i>ever</i> The Administration supports the penalty provisions. The Administration supports a 24 month limit on retention of all NDNH data. Data must be retained for 2 years to determine employer compliance with new hire reporting requirements. The SSA also supports a 24-month, rather than 12-month restriction, in order to determine <u>disability and SSI overpayments</u>. ① SSA is developing cost estimates for loss of revenue if the data is not retained for two years.
No Similar Provision.	Sec. 403. Conforming amendments regarding the collection and use of Social Security Numbers for purposes of child support enforcement. Conforms the Social Security Act Section 205(c)(2)(C) to the provisions of PRWORA which required the collection in specified records and use of Social Security Numbers for child support enforcement purposes.	The Administration supports this provision.
No Similar Provision.	Sec. 404. Elimination of definition regarding high-volume automated administrative enforcement of child support. Amends the PRWORA provisions as amended by the 1997 Technical corrections to remove inconsistent definition.	The Administration supports this provision.

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H.R. 3130 House Version	H.R. 3130 Senate Version	Comments
House	Senate	Comments
No Similar Provision.	Sec. 405. General Accounting Office Reports. Requires the Comptroller General to report to the Committee on Finance and the Committee on Ways and Means by December 31, 1998 on the feasibility and cost of creating and maintaining a nationwide <u>instant child support order check system</u> under which an employer would be able to determine whether a newly hired employee is required to provide support under a child support order. Also requires the Comptroller General to report on the implementation and use of child support databases. The report shall include a detailed discussion of the purposes for which, and the manner in which, the information maintained in such databases has been used, and an examination as to whether such databases are subject to adequate safeguards to protect the privacy of the individuals with respect to whom information is reported and maintained.	The Administration does not oppose either GAO report. However, the date of the report, December 31, 1998, may be too early. A six month delay would allow HHS to focus all efforts to meeting the 10/1/1998 deadline for the Federal Case Register. In addition, GAO would benefit from the delay because SSA will be fully utilizing the data beginning in October.

*Christian
Scientists blocked?*

11

OFFICE OF MANAGEMENT AND BUDGET

*Legislative Reference Division
Labor-Welfare-Personnel Branch*

Telecopier Transmittal Sheet



URGENT

FROM: Melinda Haskins

395-3923

DATE: 4/29/98

TIME: 5:30 pm

Pages sent (including transmittal sheet): 3

COMMENTS:

Here's the proposed OMB
passback for the HHS letter
on MA 3130. OK?

TO: Diana Fortuna

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

What on WR/NADB

Eclw
4/28

Dear Conferees:

Edwin re MSU
Jack S re public chg.

I am writing to convey the Department's views on H.R. 3130, the "Child Support Enforcement and Incentive Act of 1998". The bill provides for a performance-based incentive funding system for the child support enforcement program and an alternative penalty structure for the enforcement of requirements for state automated systems. We are pleased that Congress has acted expeditiously on this important legislation.

The House and Senate versions of H.R. 3130 include identical provisions for performance-based child support enforcement program incentives. We strongly support these provisions and appreciate the efforts of the Congress to closely track the proposal we submitted last year.

With regard to the penalties for state failure to complete essential automated child support enforcement systems, we support the automatic and escalating penalties included in both bills. While we support the penalty structure included in the House bill, we do, however, have serious concerns with the one-year extension of the systems deadline and the penalty earnback provisions in the Senate bill. We believe it is important that the new penalties give the states a strong incentive to complete their child support systems quickly. The penalty structure in the House bill is tough yet fair and will send a clear message to the states about the importance of automation to the child support enforcement program. ~~On the other hand,~~ we are troubled that the relaxation of the penalties in the Senate bill will send states the wrong message.

Insert A * ^{but} With respect to the miscellaneous provisions, the House bill includes a provision that would make aliens ineligible to receive visas and exclude them from admission to the United States for failure to pay child support. ~~Although we support the goal of this amendment,~~ we urge the conferees to consider language which would better target the population the provision seeks to reach. We would be happy to offer assistance to that end. ^{Taxlet}

We strongly support the provisions in the Senate bill concerning the successful establishment and enforcement of medical support. In particular, we support the language providing for use of a National Standardized Medical Support Notice, because it ~~will eliminate most~~ remaining impediments to ensuring that children are covered by health insurance available to their parents. ^{is an important first step in eliminating the}

We also support the Senate bill's penalty for unauthorized access to, or disclosure or use of, information in the National Directory of New Hires (NDNH), as well as the bill's restrictions on the use

Furthermore, we understand that DOJ is concerned about implementation of this amendment as currently drafted. We encourage you to work with DOJ to address its concerns.

Insert A

Crales

Insert after paragraph about penalties:

- * We would also like to reiterate our concern about the provision, included in both the House and Senate versions of the bill, that would allow Federal reimbursement for linked-county based child support enforcement systems. Such reimbursements may encourage states to try inappropriately to link local computer systems instead of creating functioning state-wide systems.

Melinda D. Haskins 04/28/98 05:09:21 PM

*Call Melinda
re DOJ sugg
- HHS position*

Record Type: Record

To: jonesgre @ justice.usdoj.gov@inet
cc: See the distribution list at the bottom of this message
Subject: HHS Reaction to DOJ Insert to HHS' Conferee Letter on H.R. 3130

Greg,

HHS is reticent to insert the proposed INS insert into its conferee letter on H.R. 3130. Would DOJ accept the following wording in lieu of the suggested insert?

I need comments ASAP. Thanks.

fourth paragraph, fifth line:

Strike "amendment," and replace it with "provision," and insert: "it is likely to reduce the ability of aliens to repay child support arrearages by separating them from jobs in the United States and to provide an incentive to illegal immigration as aliens denied lawful admission seek alternatives to return to jobs and family in this country. We urge the conferees to consider . . ."

*??
No*

fourth paragraph, seventh line:

After last sentence, insert: "Furthermore, we understand that the Department of Justice is concerned about implementation of this amendment as currently drafted. We encourage you to work with the Department of Justice to address its concerns.

MH

Message Copied To:

Diana Fortuna/OPD/EOP
Julie A. Fernandes/OPD/EOP
Janet R. Forsgren/OMB/EOP
Edwin Lau/OMB/EOP
Lillian S. Spuria/OMB/EOP

Total Pages: 4

LRM ID: MDH171

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

Thursday, April 23, 1998

URGENT**LEGISLATIVE REFERRAL MEMORANDUM**

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-8148

SUBJECT: HHS Conference Document on HR3130 Child Support Performance and Incentive Act of 1998

DEADLINE: 3 PM Friday, April 24, 1998

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

COMMENTS: We expect the conference on H.R. 3130 to begin the week of April 27th.

DISTRIBUTION LIST**AGENCIES:**

7-AGRICULTURE - Marvin Shapiro - (202) 720-1516
61-JUSTICE - Andrew Fois - (202) 514-2141
62-LABOR - Robert A. Shapiro - (202) 219-8201
110-Social Security Administration - Judy Chessner - (202) 358-6030
118-TREASURY - Richard S. Carro - (202) 622-0850

EOP:

Barbara Chow
Barry White
Keith J. Fontenot
Jack A. Smalligan
Edwin Lau
Cynthia A. Rice
Diana Fortuna
Wendy A. Taylor
Maya A. Bernstein
Laura Oliven Silberfarb
Timothy R. Fain
Richard E. Green
Jennifer L. Klein
Nicole R. Rabner

Emil E. Parker
Evan T. Farley
Joseph G. Pipan
Steven M. Mertens
Julie A. Fernandes
Ingrid M. Schroeder
Barry T. Clendenin
Mark E. Miller
Nicolette Highsmith
Margaret A. Murray
Mark D. Menchik
Thomas P. Stack
Kate P. Donovan
Lisa M. Kountoupes
Janet R. Forsgren

LRM ID: MDH171 SUBJECT: HHS Conference Document on HR3130 Child Support
Performance and Incentive Act of 1998

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

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

You may also respond by:

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

(2) sending us a memo or letter

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

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

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

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

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

Dear Conference:

I am writing to convey the Department's views on H.R. 3130, the "Child Support Enforcement and Incentive Act of 1998". The bill provides for a performance-based incentive funding system for the child support enforcement program and an alternative penalty structure for the enforcement of requirements for state automated systems. We are pleased that Congress has acted expeditiously on this important legislation.

The House and Senate versions of H.R. 3130 include identical provisions for performance-based child support enforcement program incentives. We strongly support these provisions and appreciate the efforts of the Congress to closely track the proposal we submitted last year.

With regard to the penalties for state failure to complete essential automated child support enforcement systems, we support the automatic and escalating penalties included in both bills. While we support the penalty structure included in the House bill, we do, however, have serious concerns with the one-year extension of the systems deadline and the penalty earnback provisions in the Senate bill. We believe it is important that the new penalties give the states a strong incentive to complete their child support systems quickly. The penalty structure in the House bill is tough yet fair and will send a clear message to the states about the importance of automation to the child support enforcement program. On the other hand, we are troubled that the relaxation of the penalties in the Senate bill will send states the wrong message.

With respect to the miscellaneous provisions, the House bill includes a provision that would make aliens ineligible to receive visas and exclude them from admission to the United States for failure to pay child support. Although we support the goal of this amendment, we urge the conferees to consider language which would better target the population the provision seeks to reach. We would be happy to offer assistance to that end.

We strongly support the provisions in the Senate bill concerning the successful establishment and enforcement of medical support. In particular, we support the language providing for use of a National Standardized Medical Support Notice, because it will eliminate most remaining impediments to ensuring that children are covered by health insurance available to their parents.

We also support the Senate bill's penalty for unauthorized access to, or disclosure or use of, information in the National Directory of New Hires (NDNH), as well as the bill's restrictions on the use

Cardin - make sure
- CBPP at gov/ASPE
Cardin

HHS - hard to manage
- some steps
away from child.
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meaning
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Just big
and group

Page 2 - Letter to Conferees on H.R. 3130

of data. However, we have serious concerns about the limit on retention of data in the NDNH included in the Senate bill. All NDNH data must be retained for at least two years to achieve the underlying legislative intent of the system. First and foremost, data must be retained for two years to determine employer compliance with new hire reporting requirements. Failure to do so could jeopardize the usefulness of the NDNH in improving the enforcement of child support.

Furthermore, we strongly believe that a two-year retention limit should include an exception permitting the Secretary to retain a limited sample of information in the New Hire Data Base for longer than 24 months. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which enacted the NDNH requirement, authorized the Secretary to use these data to determine whether the purposes of titles IV-A and IV-D are being achieved. Without the ability to examine over time the wages of current and former TANF recipients and other parents, it will not be possible to determine the long term effects of welfare reform. We would be happy to work with the Committee to develop language that gives the Secretary this limited authority.

Together we have made great strides to craft legislation to resolve issues of automation of State child support systems and aligning incentives to performance. We urge consideration of the comments above to ensure enactment of the strongest bill possible.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report, and that enactment of H.R. 3130, with the amendments recommended above, would be [consistent with the program of the President].

Sincerely,

Donna E. Shalala

cc Andrea - What do you think?

Diane

research

Cynthia

Andrea

(Ron)

Dennis

Kathy

Total Pages: 5

LRM ID: MDH165

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

Monday, April 13, 1998

URGENT**LEGISLATIVE REFERRAL MEMORANDUM**

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
Melinda D. Haskins

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

SUBJECT: Social Security Administration Conference Document on HR3130 Child Support Performance and Incentive Act of 1998

DEADLINE: 4 PM Tuesday, April 14, 1998

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

COMMENTS: We expect the conference on H.R. 3130 to begin the week of April 20th.

THIS IS A FIRM DEADLINE. IF WE DO NOT HEAR FROM YOU BY THE DEADLINE, WE WILL ASSUME THAT YOU HAVE NO OBJECTION.

DISTRIBUTION LIST**AGENCIES:**

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30-EDUCATION - Jack Kristy - (202) 401-8313
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54-HUD - Jeff Lischer - (202) 708-1793
61-JUSTICE - Andrew Fois - (202) 514-2141
62-LABOR - Robert A. Shapiro - (202) 219-8201
114-STATE - Paul Rademacher - (202) 647-4463
118-TREASURY - Richard S. Carro - (202) 622-0650

EOP:

Barbara Chow
Barry White
Keith J. Fontenot
Edwin Lau
Cynthia A. Rice
Diana Fortuna
Bruce W. McConnell
Maya A. Bernstein

Richard Green

Wendy A. Taylor
Timothy R. Fain
Jennifer L. Klein
Nicole R. Rabner
Emil E. Parker
Richard B. Bavier
Joseph G. Pipan
Evan T. Farley
Steven M. Mertens
Julie A. Fernandes
Ingrid M. Schroeder
Peter G. Jacoby
Barry T. Clendenin
Mark E. Miller
Nicolette Highsmith
Margaret A. Murray
Mark D. Menchik
Thomas P. Stack
Norwood J. Jackson Jr
Janet R. Forsgren
Scott Busby
James C. Murr
OMB-LA

**LRM ID: MDH165 SUBJECT: Social Security Administration Conference Document on
HR3130 Child Support Performance and Incentive Act of 1998**

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

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

You may also respond by:

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

(2) sending us a memo or letter

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

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

**FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)**

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

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

**The Honorable Bill Archer
Chairman
House Committee on Ways and Means
United States House of Representatives
Washington DC 20515**

Dear Mr. Chairman:

I am writing to you to present the views of the Social Security Administration concerning H.R. 3130, the Child Support Performance and Incentive Act of 1998. In large part, neither the House-passed nor the Senate-passed version of the bill will directly affect the Social Security Administration. However, there is one provision contained in the Senate-passed bill to which the Social Security Administration strongly objects.

Section 402(b) of the Senate-passed version of H.R. 3130 provides that information contained in the National Directory of New Hires would in most cases be deleted from the database after 12 months. Data could be retained for 24 months, but only with respect to individuals whose names match certain "information comparisons" relating to attempts to locate parents or enforce child support orders.

The National Directory of New Hires was established by section 453(i) of the Social Security Act which was enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. The National Directory of New Hires contains not only a listing of newly hired individuals, but also quarterly wage reports and reports of unemployment compensation payments. Section 453(j)(4) of the Social Security Act provides that the information in the National Directory of New Hires shall be provided to the Social Security Administration.

The National Directory of New Hires, as PRWORA recognized, provides invaluable data not only for the enforcement of child support but also for the administration of the Supplemental Security Income Program (SSI) and the Disability Insurance Program (DI). In order for the Social Security Administration to use that data, it must be retained in all cases for at least 24 months. A retention period of less than 24 months for any report will significantly erode the value of the directory as a means of strengthening the administration of the SSI and DI programs.

The Social Security Administration intends to begin using this data later this year to help it ensure payment accuracy and eligibility for SSI and DI. The use of this data is part of our effort to respond to the General Accounting Office's designation of the SSI program as a "high risk" program and has been recommended by the General Accounting Office. Because of the operational needs of those programs, 24 months is the minimum period for the data to be retained. The data will be invaluable in determining whether a beneficiary has unreported income, whether a continuing disability review should be conducted because the individual is working, and whether an individual is within his or her trial work period or extended period of eligibility for DI.

- Thank you for the consideration of our views. I am sending a similar letter to Senator Roth.

I am advised by the Office of Management and Budget that there is no objection to these views from the standpoint of the President's program.

Sincerely,

Kenneth S. Apfel
Commissioner
of Social Security



DATE: _____

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

PHONE: (202) 690-6311

FAX: (202) 690-8425

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

FROM:

TO : Diana Fortuna [] MARY M. BOURDETTE
OFFICE : _____ [] BARBARA P. CLARK
ROOM NO : _____ [] GREG JONES
PHONE NO : _____ [] PATRICIA BRAVO
FAX NO : 436-7431 [] AMY LOCKHART
[☒] LAUREN GRIFFIN
[] LULA BARNES

TOTAL PAGES
INCLUDING COVER) : 3

REMARKS:

Per our conversation, here is
① HHS need for NDNH data for 2 years
② certification update

P.S. I spoke to Doug Steiger and he
said that it was unlikely that conferees
would be named until the end of the week. -Laura

Need for 2 Year Retention Period for National Directory of New Hire Data

The information contained in OCSE's National Directory of New Hires (NDNH) database is used to support the locate efforts of the State child support enforcement agencies. This data is of value because it contains current employer and address information that can result in rapid wage withholding actions. In order to monitor employer reporting compliance, and thus the effectiveness of the expanded Federal Parent Locator Service, the data collected by NDNH must be compared to a "complete" baseline of employers and employees. The most complete baseline available is the annual wage reporting data maintained by the Social Security Administration, which has a reporting time delay of 9 months beyond the close of a calendar year. This delay requires retention of NDNH data for a period of 2 years in order to perform an effective cross-match.

- We believe the annual wage reporting data to be the most complete data set of employee data because there are tax and benefit implications associated with it. Employers must report employee information to the IRS for tax purposes and to SSA for employee benefit purposes. This information is housed in the annual wage reporting file. Furthermore, it is estimated that the annual wage reporting file contains as many as 10 million employees who are not reported on quarterly wage files.
- The SSA processing cycle of the annual wage reporting file takes approximately 9 months beyond the close of a calendar year to ensure that the data is complete and cross matched with IRS data. As an example, 1997 data will be available for OCSE cross match processing purposes at the end of September 1998. This, then, requires a 24 month retention period for each 12 months of annual wage reporting data.
- To take advantage of the annual wage reporting data maintained at the SSA, OCSE must retain all NDNH data for the same periods covered by the SSA annual wage reporting data. Consequently, this requires OCSE to retain new hire, quarterly wage, and unemployment insurance data for a minimum of 24 months.
- In order to verify employer compliance, OCSE will run cross matches of new hire, quarterly wage, and unemployment insurance data against the SSA annual wage reporting files. These cross matches will result in lists of people who are on the annual wage reporting files but were not reported on one or more of the new hire, quarterly wage, or unemployment insurance files. From these lists we will be able to determine which employers did not report new employees during the required periods, and which employers did not report at all.
- Identifying non-reporting employers and non-reported employees and taking corrective action is part of the audit function for the program and is essential to maintain the effectiveness of the program. OCSE must be able to identify non-compliant parties and take corrective action. If there is no ability to even identify non-compliant parties, the intent of the legislation in providing penalties for non-compliance will be subverted.

States likely to meet certification standards in FY 1998 that did not send a letter by December 30, 1997:

Alaska
Maryland
DC
Illinois
Hawaii
Oregon
New Mexico
South Carolina
Virgin Islands

The following States requested a review by December 30, but their systems were not certified after the initial review:

Missouri
Nebraska
Kansas

(Note: All 3 of these states expect to request a second review before Sept. 30, 1998)

The remaining States:

Pennsylvania
North Dakota
Indiana
Ohio
Nevada
Michigan
California