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Deanne Hall
Operator's Signature

10/17/03
Date

2003 SENATE HUMAN SERVICES

SB 2160

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Deanna Hall SRB
Operator's Signature

10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

Senate Human Services Committee

☐ Conference Committee

Hearing Date January 20, 2003

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|------------|
| 1 | X | | 5048 - end |
| | | X | 0 - end |
| 2 | X | | 0 - 1012 |
| Committee Clerk Signature <i>Donna Kramer, Clerk</i> | | | |

Minutes:

SENATOR JUDY LEE opened the Public Hearing for SB 2160 relating to child support, medical support, and past-due child support; to provide an effective date; and to declare an emergency.

BARBARA SIEGEL, with the Child Support Enforcement Division within the Department of Human Services testified in favor of SB 2160. It was introduced at the request of the department to provide amendments to child support laws. Some of the provisions would ensure compliance with federal requirements, some would improve operations of the Child Support Enforcement program, and others are technical in nature. The department also prepared amendments to the bill which are attached to the testimony. (Written testimony provided + charts and Summary of Federal Regulations - Attachments) Fiscal note is attached to the bill which relates to programming costs. (Meter # 5172 - end, Side A and 0 - 1879, Side B) (Copy of National Medical Support Notice attached)

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Page 2

Senate Human Services Committee

Bill/Resolution Number SB 2160

Hearing Date January 20, 2003

JIM FLEMING, Deputy Director and Attorney for the Child Support Enforcement Division, testified. He talked about some of the provisions that would improve child support operations.

(Meter #1941 - 3515)

Questions and Answers (Meter #3517 - 4821)

JIM FLEMING, Continued on Section 10 explanation. (Meter # 4826 -5634)

SENATOR BROWN: Referred to the expense for the employer to keep track of items. PEO's mentioned by SENATOR LEE. (Meter #5672 - 5870)

JIM FLEMING: Response was the amount of money collected would not be possible without the cooperation and public spirit of the employers who do this. (Meter #5927 - 6169)

SENATOR LEE: Gave an example of her husband's business and question on bonus payments.

(Meter #6194 - end of Tape 1, Side B, Tape 2, Side A 0 - 40)

JIM FLEMING: The 50% cap in state and federal law is based on earnings. A refund of tax money is not earnings. It is earnings from labor and not earnings from investments. (Meter # 43 -

SENATOR LEE: Questioned about advances? (Meter #143 - 550)

JIM FLEMING: Continued on explanation of Sections 12 and 13. (Meter #548 - 708)

MIKE SCHWINDT, Director of Child Support Enforcement, spoke. This subject is fraught with a lot of anger, a lot of frustration. We are making progress. Our collections last year were 70 cents on a dollar in current support which is pretty good compared nationally. This is a frustrating subject. (Tape 2, Side A, Meter # 824 - 988)

The public hearing for SB 2160 was closed.

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Operator's Signature

10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

Senate Human Services Committee

☐ Conference Committee

Hearing Date January 22, 2003

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|------------|
| 1 | | X | 4735 - end |
| 2 | X | | 0 - 1370 |
| | | | |
| Committee Clerk Signature <i>Donna Kramer</i> | | | |

Minutes:

SENATOR JUDY LEE opened a discussion on SB 2160 relating to child support enforcement with a fiscal note. This was about employer withholding and child support. She referred to some amendments proposed so that the arrearages could be continued to be collected on the same basis as the current child support plus health insurance.

Discussion on definition of employer - employee, also what is considered income for child support. (Tape 1, Side B, Meter # 4960 - end and Tape 2, Side A, Meter # 0 - 149)

SENATOR LEE mentioned the proposed amendments that was brought in by the Dept. of Human Services which has to do with medical coverage. Also mentioned was the definition of a self-employed person. Discussion. (Meter # 170 - 1180)

SENATOR LEE asked the intern to check with the Insurance Department and find out what their observation is about this? The intern said she would check with WIA and see if these are mandated requirements.

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10/17/03
Date

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Senate Human Services Committee
Bill/Resolution Number SB 2160
Hearing Date January 22, 2003

SENATOR LEE asked the committee "to mull this one over" and this bill will be discussed again next week. (Meter #1370)

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10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 3, 2003

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|----------|
| 2 | X | | 0 - 1750 |
| | X | | 2500-end |
| | | X | 0-5500 |
| Committee Clerk Signature <i>Donna Kramer</i> | | | |

Minutes:

SENATOR JUDY LEE opened the discussion SB 2160 pertaining to child support. Jim Fleming and Barb Siegel testimonies were reviewed. Amendments provided by Dept. of Human Services were reviewed. (Meter # 0 - 431)

INTERN TALISA NEMEC stated there were some problems. Suggested Legislative Council do an opinion. (Meter # 450 - 710)

Continued discussion regarding insurance provider is to provide, definition of an employer, and compliance. (Meter # 715 - 1585)

SENATOR LEE stated that TaLisa check what has to be done with compliance with Federal rules. What is the minimum we can do to meet the mandate. (Meter # 1600 - 1750)

Committee Discussion on Amendments in afternoon.

INTERN TALISA NEMEC, after talking to Jon Bjornson, gave information regarding SB 2160 amendments. She said Sections 1 and 2 were in compliance with the law. Sections 3,4,5 & 6 are

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10/17/03
Date

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Senate Human Services Committee

Bill/Resolution Number SB 2160

Hearing Date February 3, 2003

text changes. Discussion on section changes. Discussion on delayed pricing, on the amendments about 50% of disposable income for a wage earner, farm income, self employment income, employer payments. Further discussion on civil contempt, lump sum payments.

SENATOR LEE proposed removing Section 10 regarding lump sum payments.

INTERN TALISA NEMEC to meet with Jim Fleming in the morning to discuss amendments.

Discussion Sections 11 and 12. Section to be deleted. Sections 14 and 15 were okay.

SB 2160 amendments to be discussed on Tuesday afternoon.

(Tape 2, Side A, Meter 2500 - end, Side B, 0 -5500)

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10/17/03
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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

Senate Human Services Committee

☐ Conference Committee

Hearing Date February 4, 2003

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|------------|
| 3 | | X | 1782 - end |
| 4 | X | | 0 - 4560 |
| | | | |
| Committee Clerk Signature <i>Donna Kramer</i> | | | |

Minutes:

SENATOR JUDY LEE opened the committee discussion on SB 2160 relating to child support. JAMES FLEMING, Deputy Director and Attorney for the Child Support Enforcement Division, would explain the amendments as proposed on the bill. Mr. Fleming stated he had Mike Schwindt, Director of Child Support Enforcement, on the phone who would appreciate the chance to use the conference phone to talk to the committee. He passed out a revised amendment proposal. Mr. Fleming talked about locating absent parents, joint power agreements, and removing emergency clause ... SDU agreement, arrears, bonuses and wages, 50% or 100% of lump-sum earnings ... 50% rule. Continued discussion and adjustments. (Tape 3, Side B, Meter #1847 - end and Tape 4, Side A, 0 - 918)

SENATOR FISCHER referred to Section 1, Line 16.

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10/17/03
Date

Page 2
Senate Human Services Committee
Bill/Resolution Number SB 2160
Hearing Date February 4, 2003

BARB SIEGEL, with the Child Support Enforcement Unit, stated this was a housekeeping measure. Continued discussion with committee regarding current law, contractual payments, difficulty with self employed. (Meter # 952 - 1472)

MIKE SCHWINDT, Director of Child Support Enforcement Unit, was put on a telephone conference call to Washington, DC.

SENATOR LEE requested he briefly tell about the 1099 issue, the 100% lump sum payment, independent contractor or self employed. Discussion between Mr. Schwindt, Mr. Fleming and committee. The amendments were reviewed, corrections made, and revisions. (Meter #1494 - 3621)

JIM FLEMING: Revisions and recap were continued with the committee. (Meter # 3622 - 4280)

SENATOR FISCHER made motion to amend.

SENATOR ERBELE seconded the motion.

Roll call was read. 6 yeas 0 nays.

SENATOR FISCHER made a motion to Do Pass as amended and rerefer to Appropriations.

SENATOR ERBELE seconded the motion.

Roll call was read. 5 yeas 1 nay.

Carrier will be SENATOR LEE. (Meter # 4560)

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10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

Senate Human Services Committee

☐ Conference Committee

Hearing Date April 1, 2003

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1 | X | | 0 -1430 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Donna Kramer, Clerk</i> | | | |

Minutes:

SENATOR JUDY LEE opened the committee discussion to have a review on the amendments of SB 2160 regarding child support, medical support, and past-due child support.

JIM FLEMING, of the Child Support Enforcement Division, stated the SB 2160 was amended by the House Human Services Committee and amended again by the House Appropriations Committee because of the fiscal note. The latest sheet of amendments should be the 0202 reading. Reviewed the changes made and discussion with committee. ... alternative to basic coverage ... adding second definition ... Section 12 only has to do with co-op's 1099s ... rationale behind limiting to co-op business ... doing all or none? ... addition is a co-op reporting patronage dividends ... (Meter # 0 - 760)

SENATOR LEE: We will need to talk to the House Human Services about this. So far, until we get to that section (12), everybody comfy with the other stuff. (Meter # 774 - 773)

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Senate Human Services Committee
Bill/Resolution Number SB 2160
Hearing Date April 1, 2003

JIM FLEMING continued on the amendments regarding service provider ... a report be provided to the respect of the Appropriations by the end of the biennium on how much was generated ... sunset ... (Meter # 774- 900)

SENATOR FISCHER: This 1099 thing gets back to me. Why are we even bothering with it if we have narrowed it down to having very few from the co-ops. It doesn't make sense to me ...

JIM FLEMING: The House took out sections altogether. Mike Schwindt, the Director, asked the committee to consider restoring this patronage provision. He thought it would be a small step and whatever help it would do to locate people or locate assets ... (Meter # 960 - 990)

SENATOR FISCHER: Looking for people (obligor), do co-ops give you a list of their patrons?

JIM FLEMING: We have not tried. ...

SENATOR LEE: Having trouble with date business ... continued discussion with Mr. Fleming - deleted part of effective date part is 2 years from now and instead that it sunsets 2 years from now (Meter #1048 - 1070)

JIM FLEMING: That is because I skipped over an amendment that I should not have skipped over. The only purpose of the effective date in the bill was to clarify the change for formula for doing arrears in incoming withholding would take place August 1, 2003 ... notices ... recall scenarios ... House decided delay implementation date and give obligors a good amount of advance notice that this was a change going to happen ... effective date is limited to the due on arrears provision and the sunset provision is limited to the continuing appropriation section. (Meter #1170 - 1283)

SENATOR LEE: Conference committee will be scheduled. Two areas of discussion.

NOT CONCUR. (Meter # 1310 - 1410)

FISCAL NOTE
Requested by Legislative Council
04/10/2003

Amendment to: SB 2160

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2001-2003 Biennium | | 2003-2005 Biennium | | 2005-2007 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | \$74,250 | | \$16,050 | | \$7,223 |
| Expenditures | \$38,250 | \$74,250 | | \$13,391 | | \$2,592 |
| Appropriations | \$0 | \$0 | (\$2,659) | \$13,391 | (\$4,631) | \$2,592 |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2001-2003 Biennium | | | 2003-2005 Biennium | | | 2005-2007 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | \$10,927 | | | \$8,352 | | |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would implement the federally mandated National Medical Support Notice which is used to enroll children in the noncustodial parent's employment health insurance plan. This should result in cost savings to the Medicaid and CHIP programs. The amount of the cost savings is unknown. Costs would be incurred by the Department of Human Services (DHS) for postage and programming changes to Fully Automated Child Support Enforcement System (FACSES). Postage costs would also be incurred by the Regional Child Support Enforcement Units (RCSEU), resulting in additional retained funds for DHS based on the SWAP legislation.

The bill would also change the monthly amount a noncustodial parent owes on arrears in arrears-only cases. This would increase child support collections which would result in a decrease in general funds needed. Costs would be incurred by DHS for programming changes to FACSES. The increase in collections is unknown.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The Department of Human Services would receive federal funds of \$74,250 for the 01-03 biennium and \$8,838 for the 03-05 biennium which is 66% of the expenditures incurred.

The increase in county expenditures by the RCSEUs would cause the Department to realize an increase in retained dollars (Other Funds) of \$7,212 for the 03-05 biennium based upon the SWAP legislation passed in the 1997 Legislative Session. \$7,212 is 66% of the total county expenditures of \$10,927 for the 03-05 biennium.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Department of Human Services would incur operating costs of \$112,500 for the 01-03 biennium and \$13,391 for the 03-05 biennium. \$112,500 for the 01-03 biennium and \$10,000 for the 03-05 biennium would be used for programming FACSES to support the National Medical Support Notices and changes in arrears amounts owed. Postage to mail the National Medical Support Notices would cost \$3,391 for the 03-05 biennium. The RCSEUs would also incur costs to the counties for postage of \$10,927 for the 01-03 biennium.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on*

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10/17/03
Date

the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The Department of Human Services would incur costs of \$112,500 in the 01-03 biennium to reprogram FACES. These costs would be absorbed into the current budget by reprioritizing current budgeted projects and no additional appropriation would be requested.
The Department of Human Services would need additional appropriation authority of \$13,391 for the 03-05 biennium. Retained dollars of \$2,659 would be in excess of the amounts needed to match additional federal expenditures incurred for the 03-05 biennium and would be used to replace General Funds.

| | | | |
|----------------------|--------------------|-----------------------|----------------|
| Name: | Debra A. McDermott | Agency: | Human Services |
| Phone Number: | 328-3695 | Date Prepared: | 04/10/2003 |

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05/17/03
Date

FISCAL NOTE
Requested by Legislative Council
03/24/2003

Amendment to: SB 2160

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2001-2003 Biennium | | 2003-2005 Biennium | | 2005-2007 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | \$74,250 | | \$16,050 | | \$7,223 |
| Expenditures | \$38,250 | \$74,250 | | \$13,391 | | \$2,592 |
| Appropriations | \$0 | \$0 | (\$2,659) | \$13,391 | (\$4,631) | \$2,592 |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2001-2003 Biennium | | | 2003-2005 Biennium | | | 2005-2007 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | \$10,927 | | | \$8,352 | | |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would implement the federally mandated National Medical Support Notice which is used to enroll children in the noncustodial parent's employment health insurance plan. This should result in cost savings to the Medicaid and CHIP programs. The amount of the cost savings is unknown. Costs would be incurred by the Department of Human Services (DHS) for postage and programming changes to Fully Automated Child Support Enforcement System (FACSES). Postage costs would also be incurred by the Regional Child Support Enforcement Units (RCSEU), resulting in additional retained funds for DHS based on the SWAP legislation.

The bill would also change the monthly amount a noncustodial parent owes on arrears in arrears-only cases. This would increase child support collections which would result in a decrease in general funds needed. Costs would be incurred by DHS for programming changes to FACSES. The increase in collections is unknown.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The Department of Human Services would receive federal funds of \$74,250 for the 01-03 biennium and \$8,838 for the 03-05 biennium which is 66% of the expenditures incurred.

The increase in county expenditures by the RCSEUs would cause the Department to realize an increase in retained dollars (Other Funds) of \$7,212 for the 03-05 biennium based upon the SWAP legislation passed in the 1997 Legislative Session. \$7,212 is 66% of the total county expenditures of \$10,927 for the 03-05 biennium.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Department of Human Services would incur operating costs of \$112,500 for the 01-03 biennium and \$13,391 for the 03-05 biennium. \$112,500 for the 01-03 biennium and \$10,000 for the 03-05 biennium would be used for programming FACSES to support the National Medical Support Notices and changes in arrears amounts owed. Postage to mail the National Medical Support Notices would cost \$3,391 for the 03-05 biennium. The RCSEUs would also incur costs to the counties for postage of \$10,927 for the 01-03 biennium.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on*

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the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The Department of Human Services would incur costs of \$112,500 in the 01-03 biennium to reprogram FACSES. These costs would be absorbed into the current budget by reprioritizing current budgeted projects and no additional appropriation would be requested.
The Department of Human Services would need additional appropriation authority of \$13,391 for the 03-05 biennium. Retained dollars of \$2,659 would be in excess of the amounts needed to match additional federal expenditures incurred for the 03-05 biennium and would be used to replace General Funds.

| | | | |
|---------------|-----------------|----------------|------------------------------|
| Name: | Brenda M. Weisz | Agency: | Department of Human Services |
| Phone Number: | 328-2397 | Date Prepared: | 03/24/2003 |

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Brenda M. Weisz
Operator's Signature

03/17/03
Date

FISCAL NOTE
Requested by Legislative Council
03/19/2003

Amendment to: SB 2160

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2001-2003 Biennium | | 2003-2005 Biennium | | 2005-2007 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | \$74,250 | | \$16,050 | | \$7,223 |
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1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2001-2003 Biennium | | | 2003-2005 Biennium | | | 2005-2007 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | \$10,927 | | | \$8,352 | | |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would implement the federally mandated National Medical Support Notice which is used to enroll children in the noncustodial parent's employment health insurance plan. This should result in cost savings to the Medicaid and CHIP programs. The amount of the cost savings is unknown. Costs would be incurred by the Department of Human Services (DHS) for postage and programming changes to Fully Automated Child Support Enforcement System (FACSES). Postage costs would also be incurred by the Regional Child Support Enforcement Units (RCSEU), resulting in additional retained funds for DHS based on the SWAP legislation.

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3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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The Department of Human Services would incur operating costs of \$112,500 for the 01-03 biennium and \$13,391 for the 03-05 biennium. \$112,500 for the 01-03 biennium and \$10,000 for the 03-05 biennium would be used for programming FACSES to support the National Medical Support Notices and changes in arrears amounts owed. Postage to mail the National Medical Support Notices would cost \$3,391 for the 03-05 biennium. The RCSEUs would also incur costs to the counties for postage of \$10,927 for the 01-03 biennium.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on*

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Deanna Hall
Operator's Signature

03/17/03
Date

the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The Department of Human Services would incur costs of \$112,500 in the 01-03 biennium to reprogram FACSES. These costs would be absorbed into the current budget by reprioritizing current budgeted projects and no additional appropriation would be requested.

The Department of Human Services would need additional appropriation authority of \$13,391 for the 03-05 biennium. Retained dollars of \$2,659 would be in excess of the amounts needed to match additional federal expenditures incurred for the 03-05 biennium and would be used to replace General Funds.

| | | | |
|---------------|-----------------|----------------|------------------------------|
| Name: | Brenda M. Weisz | Agency: | Department of Human Services |
| Phone Number: | 328-2397 | Date Prepared: | 03/19/2003 |

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Deanne Hall
Operator's Signature

10/17/03
Date

FISCAL NOTE
Requested by Legislative Council
02/10/2003

Ameridment to: SB 2160

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2001-2003 Biennium | | 2003-2005 Biennium | | 2005-2007 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | \$74,250 | | \$16,050 | | \$7,223 |
| Expenditures | \$38,250 | \$74,250 | | \$13,391 | | \$2,592 |
| Appropriations | \$0 | \$0 | (\$2,859) | \$13,391 | (\$4,631) | \$2,592 |

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2001-2003 Biennium | | | 2003-2005 Biennium | | | 2005-2007 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | \$10,927 | | | \$8,352 | | |

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would implement the federally mandated National Medical Support Notice which is used to enroll children in the noncustodial parent's employment health insurance plan. This should result in cost savings to the Medicaid and CHIP programs. The amount of the cost savings is unknown. Costs would be incurred by the Department of Human Services (DHS) for postage and programming changes to Fully Automated Child Support Enforcement System (FACSES). Postage costs would also be incurred by the Regional Child Support Enforcement Units (RCSEU), resulting in additional retained funds for DHS based on the SWAP legislation.

The bill would also change the monthly amount a noncustodial parent owes on arrears in arrears-only cases. This would increase child support collections which would result in a decrease in general funds needed. Costs would be incurred by DHS for programming changes to FACSES. The increase in collections is unknown.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The Department of Human Services would receive federal funds of \$74,250 for the 01-03 biennium and \$8,838 for the 03-05 biennium which is 66% of the expenditures incurred.

The increase in county expenditures by the RCSEUs would cause the Department to realize an increase in retained dollars (Other Funds) of \$7,212 for the 03-05 biennium based upon the SWAP legislation passed in the 1997 Legislative Session. \$7,212 is 66% of the total county expenditures of \$10,927 for the 03-05 biennium.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Department of Human Services would incur operating costs of \$112,500 for the 01-03 biennium and \$13,391 for the 03-05 biennium. \$112,500 for the 01-03 biennium and \$10,000 for the 03-05 biennium would be used for programming FACSES to support the National Medical Support Notices and changes in arrears amounts owed. Postage to mail the National Medical Support Notices would cost \$3,391 for the 03-05 biennium. The RCSEUs would also incur costs to the counties for postage of \$10,927 for the 01-03 biennium.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on*

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Operator's Signature

10/17/03
Date

the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The Department of Human Services would incur costs of \$112,500 in the 01-03 biennium to reprogram FACSES. These costs would be absorbed into the current budget by reprioritizing current budgeted projects and no additional appropriation would be requested.
The Department of Human Services would need additional appropriation authority of \$13,391 for the 03-05 biennium. Retained dollars of \$2,659 would be in excess of the amounts needed to match additional federal expenditures incurred for the 03-05 biennium and would be used to replace General Funds.

| | | | |
|---------------|-----------------|----------------|------------------------------|
| Name: | Brenda M. Welsz | Agency: | Department of Human Services |
| Phone Number: | 328-2397 | Date Prepared: | 02/10/2003 |

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10/17/03
Date

FISCAL NOTE
Requested by Legislative Council
01/03/2003

Bill/Resolution No.: SB 2160

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2001-2003 Biennium | | 2003-2005 Biennium | | 2005-2007 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | \$74,250 | | \$16,050 | | \$7,223 |
| Expenditures | \$38,250 | \$74,250 | | \$13,391 | | \$2,592 |
| Appropriations | \$0 | \$0 | (\$2,659) | \$13,391 | (\$4,631) | \$2,592 |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2001-2003 Biennium | | | 2003-2005 Biennium | | | 2005-2007 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | \$10,927 | | | \$8,352 | | |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would implement the federally mandated National Medical Support Notice which is used to enroll children in the noncustodial parent's employment health insurance plan. This should result in cost savings to the Medicaid and CHIP programs. The amount of the cost savings is unknown. Costs would be incurred by the Department of Human Services (DHS) for postage and programming changes to Fully Automated Child Support Enforcement System (FACSES). Postage costs would also be incurred by the Regional Child Support Enforcement Units (RCSEU), resulting in additional retained funds for DHS based on the SWAP legislation.

The bill would also change the monthly amount a noncustodial parent owes on arrears in arrears-only cases. This would increase child support collections which would result in a decrease in general funds needed. Costs would be incurred by DHS for programming changes to FACSES. The increase in collections is unknown.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The Department of Human Services would receive federal funds of \$74,250 for the 01-03 biennium and \$8,838 for the 03-05 biennium which is 66% of the expenditures incurred.

The increase in county expenditures by the RCSEUs would cause the Department to realize an increase in retained dollars (Other Funds) of \$7,212 for the 03-05 biennium based upon the SWAP legislation passed in the 1997 Legislative Session. \$7,212 is 66% of the total county expenditures of \$10,927 for the 03-05 biennium.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Department of Human Services would incur operating costs of \$112,500 for the 01-03 biennium and \$13,391 for the 03-05

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Operator's Signature

10/17/03
Date

biennium. \$112,500 for the 01-03 biennium and \$10,000 for the 03-05 biennium would be used for programming FACES to support the National Medical Support Notices and changes in arrears amounts owed. Postage to mail the National Medical Support Notices would cost \$3,391 for the 03-05 biennium.

The RCSEUs would also incur costs to the counties for postage of \$10,927 for the 01-03 biennium.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The Department of Human Services would incur costs of \$112,500 in the 01-03 biennium to reprogram FACES. These costs would be absorbed into the current budget by reprioritizing current budgeted projects and no additional appropriation would be requested.

The Department of Human Services would need additional appropriation authority of \$13,391 for the 03-05 biennium.

Retained dollars of \$2,659 would be in excess of the amounts needed to match additional federal expenditures incurred for the 03-05 biennium and would be used to replace General Funds.

| | | | |
|----------------------|--------------------|-----------------------|----------------|
| Name: | Debra A. McDermott | Agency: | Human Services |
| Phone Number: | 328-3695 | Date Prepared: | 01/17/2003 |

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Debra A. McDermott
Operator's Signature

01/17/03
Date

PROPOSED AMENDMENTS TO SENATE BILL 2160

Page 1, line 2, replace "and" with a comma and after "34-15-03" insert ", and a new section to chapter 50-09"

Page 1, line 4, remove the first "and" and after "duties" insert ", and cooperative agreements for child support enforcement services"

Page 1, line 7, after the semicolon insert "and"

Page 1, line 8, remove "; and to declare an emergency"

Page 4, line 14, after "or" insert "otherwise"

Page 4, after line 28, insert:

"d. Promptly notify the employer when a current order for medical support for which the public authority is responsible is no longer in effect."

Page 5, line 7, remove "emergency care, inpatient and"

Page 5, line 8, remove "outpatient hospital care."

Page 8, line 10, replace "An" with "The"

Page 8, line 14, remove "or"

Page 8, after line 14, insert:

"b. An amount the obligor is ordered to pay toward an arrearage if that amount was included in an order issued when there was no current monthly support obligation; or"

Page 10, line 3, after "obligor" insert "that includes an amount for past-due support"

Page 12, after line 17, insert:

"SECTION 14. A new section to chapter 50-09 of the North Dakota Century Code is created and enacted as follows:

Continuing appropriation – Cooperative agreements for child support enforcement services. All federal funds and other income generated by the state agency under a cooperative agreement with one or more county child support agencies for centralized administration of child support enforcement services, or with an Indian tribe for child support enforcement services, is hereby appropriated for the sole purpose of hiring additional staff and payment of other expenses as necessary to carry out the state agency's duties under such agreements." *becomes Sec 15*

Page 12, line 19, remove "and sections 1,2, and 11 of this"

Page 12, line 20, remove "Act become effective on July 1, 2003"

Page 12, remove lines 21 and 22

Renumber accordingly

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Deanna Nellis
Operator's Signature

10/17/03
Date

38201.0101
Title.0200

Adopted by the Human Services Committee
February 4, 2003

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2-6-3
lot2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2160

Page 1, line 2, replace "and" with a comma and after "34-15-03" insert ", and a new section to chapter 50-09"

Page 1, line 4, remove the first "and" and after "duties" insert ", and cooperative agreements for child support enforcement services"

Page 1, line 7, after the semicolon insert "to provide a continuing appropriation; and"

Page 1, line 8, remove "; and to declare an emergency"

Page 4, line 14, after "or" insert "otherwise"

Page 4, after line 28, insert:

"d. Promptly notify the employer when a current order for medical support for which the public authority is responsible is no longer in effect."

Page 5, line 7, remove "emergency care, inpatient and"

Page 5, line 8, remove "outpatient hospital care."

Page 8, line 10, replace "An" with "The"

Page 8, remove line 14

Page 8, line 16, replace the underscored period with ": or"

c. An amount the obligor is ordered to pay toward an arrearage if that amount is included in an order issued when there is no current monthly support obligation."

Page 9, remove lines 15 through 17

Page 9, line 18, replace "4." with "3."

Page 9, line 21, replace "5." with "4."

Page 9, line 26, replace "6." with "5."

Page 9, line 29, replace "7." with "6."

Page 10, line 3, after "obligor" insert "which includes an amount for past-due support"

Page No. 1

38201.0101

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Deanna Hall
Operator's Signature

10/17/03
Date

Page 10, line 5, remove "severance pay."

Page 10, line 6, remove "advance."

Page 10, line 11, after "make" Insert "more than one-half of"

Page 12, after line 17, Insert:

"SECTION 14. A new section to chapter 50-09 of the North Dakota Century Code is created and enacted as follows:

Continuing appropriation - Cooperative agreements for child support enforcement services. All federal funds and other income generated by the state agency under a cooperative agreement with one or more county child support agencies for centralized administration of child support enforcement services, or with an Indian tribe for child support enforcement services, is appropriated on a continuing basis for the sole purpose of hiring additional staff and payment of other expenses as necessary to carry out the state agency's duties under the agreements."

Page 12, line 19, replace "and sections 1, 2, and 11 of this" with a period

Page 12, remove lines 20 through 22

Renumber accordingly

Date: 02-04-03
Roll Call Vote #: (1)

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2160

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number LC: 38201.0101

Action Taken Amendments approved

Motion Made By Sen Fischer Seconded By Sen Erbele

| Senators | Yes | No | Senators | Yes | No |
|-----------------------------------|-----|----|----------|-----|----|
| Senator Judy Lee - Chairman | ✓ | | | | |
| Senator Richard Brown - V. Chair. | ✓ | | | | |
| Senator Robert S. Erbele | ✓ | | | | |
| Senator Tom Fischer | ✓ | | | | |
| Senator April Fairfield | ✓ | | | | |
| Senator Michael Polovitz | ✓ | | | | |
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Total (Yes) 6 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

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Deanne Wallis
Operator's Signature

10/17/03
Date

Date: 02-04-03
Roll Call Vote #: (2)

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2160

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number LC:38201.0101

Action Taken Do Pass & rerefer to approp-
as amended riddons

Motion Made By Sen. Fischer Seconded By Sen. Erbele

| Senators | Yes | No | Senators | Yes | No |
|-----------------------------------|-----|----|----------|-----|----|
| Senator Judy Lee - Chairman | ✓ | | | | |
| Senator Richard Brown - V. Chair. | ✓ | | | | |
| Senator Robert S. Erbele | ✓ | | | | |
| Senator Tom Fischer | ✓ | | | | |
| Senator April Fairfield | | ✓ | | | |
| Senator Michael Polovitz | ✓ | | | | |
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Total (Yes) 5 No 1

Absent _____

Floor Assignment Sen. J. Lee

If the vote is on an amendment, briefly indicate intent:

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Deanne Hall
Operator's Signature

10/17/03
Date

REPORT OF STANDING COMMITTEE (410)
February 7, 2003 1:12 p.m.

Module No: SR-24-1988
Carrier: J. Lee
Insert LC: 38201.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2160: Human Services Committee (Sen. J. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2160 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "and" with a comma and after "34-15-03" insert ", and a new section to chapter 50-09"

Page 1, line 4, remove the first "and" and after "duties" insert ", and cooperative agreements for child support enforcement services"

Page 1, line 7, after the semicolon insert "to provide a continuing appropriation; and"

Page 1, line 8, remove "; and to declare an emergency"

Page 4, line 14, after "or" insert "otherwise"

Page 4, after line 28, insert:

"d. Promptly notify the employer when a current order for medical support for which the public authority is responsible is no longer in effect."

Page 5, line 7, remove "emergency care, inpatient and"

Page 5, line 8, remove "outpatient hospital care."

Page 8, line 10, replace "An" with "The"

Page 8, remove line 14

Page 8, line 16, replace the underscored period with "or"

c. An amount the obligor is ordered to pay toward an arrearage if that amount is included in an order issued when there is no current monthly support obligation."

Page 9, remove lines 15 through 17

Page 9, line 18, replace "4." with "3."

Page 9, line 21, replace "5." with "4."

Page 9, line 26, replace "6." with "5."

Page 9, line 29, replace "7." with "6."

Page 10, line 3, after "obligor" insert "which includes an amount for past-due support"

Page 10, line 5, remove "severance pay."

Page 10, line 6, remove "advance."

Page 10, line 11, after "make" insert "more than one-half of"

Page 12, after line 17, insert:

(2) DESK, (3) COMM

Page No. 1

SR-24-1988

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Operator's Signature

Date

REPORT OF STANDING COMMITTEE (410)
February 7, 2003 1:12 p.m.

Module No: SR-24-1988
Carrier: J. Lee
Insert LC: 38201.0101 Title: .0200

"SECTION 14. A new section to chapter 50-09 of the North Dakota Century Code is created and enacted as follows:

Continuing appropriation - Cooperative agreements for child support enforcement services. All federal funds and other income generated by the state agency under a cooperative agreement with one or more county child support agencies for centralized administration of child support enforcement services, or with an Indian tribe for child support enforcement services, is appropriated on a continuing basis for the sole purpose of hiring additional staff and payment of other expenses as necessary to carry out the state agency's duties under the agreements."

Page 12, line 19, replace "and sections 1, 2, and 11 of this" with a period

Page 12, remove lines 20 through 22

Renumber accordingly

2003 SENATE APPROPRIATIONS

SB 2160

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Deanna Hallwick
Operator's Signature

10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 11, 2003

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-----------|
| #2 | x | | #1621-end |
| | | | |
| | | | |
| Committee Clerk Signature <i>Jan Henderson</i> | | | |

Minutes:

Senator Holmberg, chair, opened the hearing on SB 2160. Engrossed copies of the bill were passed out.

James Fleming, Deputy Director and General Counsel of the State Child Support Enforcement Office of the Department of Human Services. Written testimony is attached (Exhibit #1)

The first page of his testimony talks about the \$185 million that is owed in child support in North Dakota at the end of last June. IV-D is the Social Security Act, which is the federal law authorizing the program. Non-IVD, which are the cases that are not served by Human Services.

To keep control over the rate of growth in arrears and maintain the good rate of collection of current support they must continue to strive to work harder and smarter and at the same time keep their compliance with federal requirements. They cannot afford to incur the penalties or decrease in performance-based incentive payments that they would face if they don't continue to improve their collections or comply with all federal requirements. Sections 1, 2 and 11 of SB

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Deanne Hall
Operator's Signature

10/17/03
Date

Page 2
Senate Appropriations Committee
Bill/Resolution Number SB 2160
Hearing Date February 11, 2003

2061 are proposed to comply with federal requirements for implementing the National Medical Support Notice. These provisions must be in effect on July 1, 2003. They estimate they will incur \$112,500 in programming costs which would be absorbed into the current budget for the 2001-03 biennium by re-prioritize current budgeted projects. The cost of mailing the notice during the 2003-05 biennium will be an estimated \$3,391 for the Department and \$10,927 for the counties. The mailing cost during the 2005-07 biennium will be an estimated \$2592 for the Department and \$8,352 for the counties. Sections 3 through 6 are technical in nature and reflect the fact that income withholding is now handled by the child support enforcement program rather than the clerks of court. Sections 7 through 15 are proposed to help improve their efficiency. These provisions facilitate greater accuracy in their payment records, more collection of arrears, and more efficient operations. They have already taken great strides in a short time to organize the child support records of 53 clerks of court into one system and to reconcile those records to improve the accuracy of the information maintained on their computer system. They estimate they will incur roughly \$10,000 in programming costs in the 2003-05 to implement the provisions in section 7 of the bill regarding the amount due on arrears for purposes of income withholding. Section 14 will allow them to work smarter, by authorizing them to become a service provider to counties and tribes if those entities determine that the Department can provide child support enforcement services faster and more efficiently than they can.

Questions: (#3160)

Senator Robinson: How flexible are the courts for review on child support payments? He has a client that had to go to court for a review of his child support payments and found out that the new rate went into place immediately, the client was more than willing to pay the increase but he

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Operator's Signature

10/17/03
Date

Page 3
Senate Appropriations Committee
Bill/Resolution Number SB 2160
Hearing Date February 11, 2003

needed time to budget in the increase (the next month). The client was wondering how fair was this? Mr. Fleming replied that the Supreme Court recently issued a case telling district court judges that the effective date of modification should be the date the motion is filed. So what the court did in Senator Robinson's client was consistent with what the Supreme Court has advised the court to do. But the courts were told that if there was a reason why the modification should be delayed, then the courts could consider that request. The presumption is that when the motion is filed the person should start making the adjustments just in case this modification goes into effect. This is a state supreme court decision. Modifications are reviewed every 3 years as a rule. Senator Lindaas: When the collections are made and completed, where does the money go? Mr. Fleming replied that the money is paid to the state disbursement unit in Bismarck. The information is entered into the computer from the check which has all the up to date information on that person, and the checks are written the next day and mailed. Mike Schwindt (?) answered the question further. Senator Tallackson wondered if the counties had any questions about this and Senator Bowman stated that none had contacted him. Senator Robinson wondered if the Legislature could legislate laws that would not make these modifications retroactive. Mr. Fleming stated that they probably could, but he gave some examples of how this could be a problem. Senator Robinson explained further his client's view on this subject. Senator Christmann: He wondered why the \$2.4 million does not go to the custodial parent, is this how the child enforcement is funded? Mr. Fleming responded that the family who gets public assistance, any money they receive that is over the court appointed money is given to the state. The 12.2% is not a per case percentage. Most families get the entire 100% of the support money awarded to them, but those families who are on public assistance will be given the money that is

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Senate Appropriations Committee
Bill/Resolution Number SB 2160
Hearing Date February 11, 2003

the difference between what they have received from public assistance and what the support payments are. Examples were given by Senator Christmann and Mr. Fleming to clarify the subject.

With no other testimony on SB 2160, Senator Bowman closed the hearing. (#5083).

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Deanne Hall
Operator's Signature

10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160 vote

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 2-12-03

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| 3 | X | | 2300-2686 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Sandra Davis</i> | | | |

Minutes: Chairman Holmberg opened the hearing to vote on SB 2160. (Meter 2360) Chairman Holmberg indicated there is no emergency clause but a new fiscal note. (Meter 2423) Senator Andrist moved for a DO PASS and seconded by Senator Tallackson. (Meter 2443) Chairman Holmberg noted that the fiscal note is an "iffy" thing to whether or not we really needed to have had it because the general funds is a minus two thousand dollars appropriations and an increase of other funds of thirteen thousand. (Meter 2486) Senator Kilzer: Does the county make a difference whether or not we have to see a bill. (Meter 2494) Chairman Holmberg: No, its to the state or the state agency. (Meter 2585) The roll call vote was 11 yeas 0 nays and 3 absent. The bill will be carried by the Human Services will carry (Judy Lee).

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Deanne Hall
Operator's Signature

10/17/03
Date

2160

Date: 2-12-03
Roll Call Vote #: 12003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.Senate Appropriations Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PassMotion Made By Andrist Seconded By Tallackson

| Senators | Yes | No | Senators | Yes | No |
|-------------------------------|-----|----|----------|-----|----|
| Senator Holmberg, Chairman | ✓ | | | | |
| Senator Bowman, Vice Chair | | | | | |
| Senator Grindberg, Vice Chair | ✓ | | | | |
| Senator Andrist | ✓ | | | | |
| Senator Christmann | | | | | |
| Senator Kilzer | ✓ | | | | |
| Senator Krauter | ✓ | | | | |
| Senator Kringstad | ✓ | | | | |
| Senator Lindaas | ✓ | | | | |
| Senator Mathern | | | | | |
| Senator Robinson | ✓ | | | | |
| Senator Schobinger | ✓ | | | | |
| Senator Tallackson | ✓ | | | | |
| Senator Thane | ✓ | | | | |

Total (Yes) 11 No 0Absent 3Floor Assignment HS Camp Judy Lee

If the vote is on an amendment, briefly indicate intent:

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Deanne Tallackson
Operator's Signature

10/17/03
Date

REPORT OF STANDING COMMITTEE (410)
February 12, 2003 4:59 p.m.

Module No: SR-27-2508
Carrier: J. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2160, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING).
Engrossed SB 2160 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-27-2508

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Deanne Hall SRB
Operator's Signature

10/17/03
Date

2003 HOUSE HUMAN SERVICES

SB 2160

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Deanna Waller
Operator's Signature

10/17/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

House Human Services Committee

☐ Conference Committee

Hearing Date March 3, 2003

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-------------|
| 1 | x | | 19.1 - 61.5 |
| 1 | | x | 0.0 - 33.5 |
| Committee Clerk Signature <i>Sharon R. Gray</i> | | | |

Minutes:

Barb Siegal with Child Support Enforcement Division with the Dept. of Human Services appeared in support with written testimony and went through the bill.

Rep. Niemeier: On the old due arrears, is that court order void once the child support is paid up?

Answer: A due on arrears is only in affect as there is arrears owed.

Rep. Niemeier: Is there interest charged on arrears? Answer: Yes, its 12% simple.

Rep. Weisz: Would they still be required to pay medical even though they've reached the 50%?

Answer: We would hold as much up to the 50% as we could for child support, if not, all the child support could be used to get them 50% past that _____, still responsible for that.

If child support is withheld and there is not enough to successfully enroll that child, nothing would be withheld for insurance premiums.

Questions from the committee on custodial and non custodial parents regarding insurance and defining insurance coverage and where that definition came from.

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Deanne Hall
Operator's Signature

10/17/03
Date

Page 2
House Human Services Committee
Bill/Resolution Number SB 2160
Hearing Date March 3, 2003

Rep. Porter: What if insurance coverage is less than what you've defined?

Answer: Then subsection 4 would apply.

Rep. Sandvig: What is an insurance default plan and regarding FASC Program, why is it costing us more money again?

Answer: Employers have a default plan that they enroll participants in when they do not have the choice. 2) Certification requirements in the past were based on existing federal requirements. As new federal requirements are mandated upon us, we are going to have to enhance our system to do that.

Jim Flemming, Deputy & Attorney for Child Support Enforcement Unit with Dept. of Human Services appeared to explain Sections 8 & 9 with written testimony explaining the same.

Rep. Price: You're basically saying that every employer that fills out 1099 forms are going to have to provide you with copies of them?

Answer: This wouldn't be for regular employer, for just those who've not previously reported the data. Only at the point where you have a triggering event that requires them to file a 1099 that you would also be required to let child support know that you've made that payment.

Employer Outreach will work with employers to be made aware of.

Rep. Price: Does any other state agency work with 1099's that there would be some cooperation without going this route?

Answer: Maybe we will be able to work with the tax dept. It's just another tool to help us to be able to collect and will work with GNDA and any other group.

Page 3

House Human Services Committee

Bill/Resolution Number SB 2160

Hearing Date March 3, 2003

Rep. Porter: Section 14, talks about an odd going continued appropriation, there is no safety net feature back to the legislature in regards to cost benefit analysis to make sure your hiring all the number of employees needed.

Answer: Cost benefit analysis, we are sensitive to the needs of the taxpayers and what happens in making the decision the price we pay is too high. We can only hire people we can afford, no new EFT's.

Rep. Porter: How would we know if your doing it more effectively, where are the assurances that you just said?

Answer: You can add subject to budget section review and you always have that.

Doreen Melhoff, ND Builders Association appeared in opposition with written testimony and went through the changes.

Closed Hearing.

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Doreen Melhoff
Operator's Signature

10/17/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

House Human Services Committee

☐ Conference Committee

Hearing Date March 17, 2003

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-------------|
| 1 | | x | 15.9 - 61.5 |
| 2 | x | | 0.0 - 39.4 |
| Committee Clerk Signature <i>Sharon Kenfraw</i> | | | |

Minutes: Committee work.

Rep. Pollert: SB 2160 does have some language in it that we have to have pass in order for the Child Support Unit to meet federal guidelines (1, 2 & 11). Sections 3, 4, 5 & 6 are basically housekeeping. There will be 3 sets of amendments passed out. Set # 1 is amendments that the subcommittee all agreed on. Set # 2 and #3 they did not all agree upon.

Set # 1, page 1, line 8 relates to Section 16. Page 5, line 13 - during subcommittee's discussion and their feeling that the definition for basic care was more stricter than what we wanted to have. The basic coverage definition for right now in the bill is similar to HMO basic coverage. By us putting in on page 5, line 17 or is a basic group health benefit plan approved under section 26.1-66 is that is a definition that is found for basic coverage for small business under small business contract. On page 10, line 11. Section 7 & 15 go together, that's why we will have to have discussion on them and that's why that part is in the amendment. Section 9 on offsets, it was the subcommittees feelings that we would just keep that part of the bill the way it is. The

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10/17/03
Date

Page 2
House Human Services Committee
Bill/Resolution Number SB 2160
Hearing Date March 17, 2003

same way with section 8. Section 10 on lump sum payments, page 10, line 11, we're replacing 500 with 1000. Section 10 deals only with arrears. Right now they already can take for child support, they can already do that, this particular lump sum payment deals with arrears only.

Section 11 is the same, with sections 1 & 2 which need to be in for a federal mandate. We do have discussions though on section 10, which is why the _____ is here on the cash basis and accrual basis which I think they are going to have to give us an explanation, why we didn't do anything with that.

Sections 12 & 13 will deal with set # 2 and kinda with set # 3. There has been discussion in the subcommittee about deleting section 12 and 13 completely. If you look at the second set, basically it does delete 12 and 13, but then it gets into dealing with reporting of independent contracts. Section 15, we have an effective day in there of January 1st of 2005, because basically what happens, if their current on the child support basically this will do if its a \$300 payment, its gonna go to \$360. It was the subcommittees feeling that that might be a surprise to the obligor and he might be because he's current and he's thinking he's not gonna have anymore payments, so we thought it would appropriate to have the time frame where the Child Support Unit was gonna be coming and sending notices saying "as of and effective January 1, 2005, this particular part of the law is going to come into affect and if you are current you are going to be paying on the arrears and its going to be the 20%". That's the reason behind the January 1, 2005, that was basically a compromise. It was talked about 24 months, first we had one for April 1, 2004 and that was thought to be too soon and so we compromised to agree on the January 1, 2005 for the implementation.

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10/17/03
Date

Page 3
House Human Services Committee
Bill/Resolution Number SB 2160
Hearing Date March 17, 2003

Section 16 deals with section 14 about a report. Section 16 was put forward by Rep. Porter which relates to section 14.

Donnita Wald, Attorney for the State Tax Dept. appeared and stated that Section 10 there's the lump sum payment requires that the employer withhold 50% of that lump sum payment. So the example came up of the \$1,000 bonus declared on December 15 and Rep. Porter was concerned that that would be a deductible expense for the current tax year. I was asked to answer whether the employer is an accrual basis tax payer or a cash basis tax payer, that in general for the most part unless there are strange taxing circumstances, that the full \$1000 bonus would be deductible in the year it was declared.

Rep. Niemeier: So the bonus goes to any arrears or can it go to the obligor?

Answer: Anything above the \$1000 is 50% of the lump, this section only deals with arrears.

Mr. Fleming: appeared with written testimony and to explain section 15 and how it relates back to section 7.

Rep. Pollert: made a motion to pass Set # 1 amendments, second by Rep. Porter.

VOTE: 13-0-0

Amendments Passed.

Mr. Fleming: This isn't the Dept.'s request, we would still prefer the original language, but we recognize what we are looking at is that this amendment takes and wipes out those 2 sections on the 1099 reports and we'll start from scratch. When we looked at the target populations for us to improve our service, keep in mind that we got to keep improving on our portion of federal, and when that dries up we lose control of the arrears that accrue. We got 185 million out there right now, we got 16 million new every year that goes unpaid so we got to collect 16 million a year on arrears and then to chip away at 185. Set # 2 is to give us something to help us out with this

Page 4

House Human Services Committee

Bill/Resolution Number SB 2160

Hearing Date March 17, 2003

problem and to try for 2 years. Some other states have done the 1099 route others have used independent contractors. We know that we need to do a better job with self employed obligors, we are asking that you let us at least try this provision out.

Rep. Price: What are the penalties if this (1099) are not done? Answer: \$20.00 per failure and \$250.00 if conspiracy. We have not imposed a penalty on new hire reports yet.

Rep. Price: How much do we collect monthly? Answer: 7 million plus range.

Rep. Niemeier: As a farmer, we have people come in to do roofing, etc., would they fall under this? Answer: if you pay more than \$2500 a year, you need to file a report, you will need to file a new hire report also.

Rep. Niemeier: How does a farmer know of this if it becomes law? Answer: with Outreach Employer Groups.

Rep. Price: How has compliance been in the farming community? Answer: we have no research or data on this.

Rep. Pollert: The subcommittee this was the one part that created the most heartburn, sections 12 & 13. My reason why is when we were in the subcommittee meeting and we're looking at SB 2160 and SB 2246 altogether, if all those bills pass, we're giving them a lot of discretion already. Maybe its wrong, but my feeling is that we take small steps trying to get things done instead of trying to get the whole enchilada and then we don't get a thing. That was my way of thinking it was gonna be so much more work for the businesses because of what we did, if 2246 passes and then we're going to throw this out there, so my feeling is, how much do we ask small business to swallow at this time.

Page 5
House Human Services Committee
Bill/Resolution Number SB 2160
Hearing Date March 17, 2003

Rep. Devlin: regarding custom combiners, they are usually associated with a firm or corp. or something.

Rep. Weisz: The current bill as is, set # 2 would apply to most custom combiners.

Mr. Fleming: Set #3 is a stand alone amendment. As you look at the 1099 material that would be lost if 12 & 13 came out of the bill. One of the bigger areas is the reporting of patronage by Coops. When they declare dividends and pay that money out, they file a specific 1099, which is good for this bill because you can at least identify it. We're proposing this for your consideration, right now we have the ability to match utility customer records to find out where they are but we won't know when they are making a payment in order to have that for income withholding. In this whole area, what we are talking about is information gathering only.

Rep. Uglem: On a farm corporation, when we get a refund of past dividends, retire after so many years, that doesn't come out on the 1099, we've already paid taxes on it. That's not taxable income, doesn't show up, not there. That might be something better to look at and that is cash you didn't expect and you got it.

Rep. Pollert: made a motion to pass the amendment that would eliminate sections 12 & 13,
second by Rep. Porter. VOTE: 13 - 0 - 0 Amendment passed

Rep. Price to Mr. Schwindt: Is there any sharing of information with your office and DOT or utility companies? Answer: Yes

Rep. Weisz: Made a motion to move set # 3 amendments, second by Rep. Uglem.

VOTE: 10 - 3 - 0 Amendment passed.

Rep. Sandvig made a motion to adopt Set # 2 amendments, reporting of independent contractors,
second by Rep. Amerman.

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Deanne Hall
Operator's Signature

10/17/03
Date

Page 6
House Human Services Committee
Bill/Resolution Number SB 2160
Hearing Date March 17, 2003

Brian Kramer, ND Farm Bureau spoke to the committee on the privacy issue which speaks to the contractor issue. As I read it, it says its over \$2500 to report. I guess first and foremost is the idea of privacy, personal privacy is where we would have the problem, but above and beyond that to this section and this amendment, we can appreciate the idea of \$2500, but is that far enough? \$2500 will be reached fairly quickly, you may want to raise that amount to something higher.

Rep. Amerman: If we don't put this one back in, the target area is that you won't have a vehicle to target them? Is that what you are saying? Answer: unless the patron of a coop is self employed, yes, we would have to deal with the existing tools that we have for self employed.

Rep. Potter: We must be talking about more than just farmers, aren't we? Answer: could be home repair, truckers, etc.

Rep. Price: Do you have the authority to check the income tax records? Answer: We do, but cash accounts that move to another state is a problem.

Amendment failed.

Rep. Pollert made a motion for DO PASS as Amended and re-refer to Appropriations, second by Rep. Porter.

VOTE: 13 - 0 - 0

Rep. Pollert to carry the bill.

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Operator's Signature

01/17/03
Date

Date: March 17, 2003
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2160

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended & Report to Appropriations

Motion Made By Rep Pollert Seconded By Rep Porter

| Representatives | Yes | No | Representatives | Yes | No |
|------------------------------|-----|----|---------------------|-----|----|
| Rep. Clara Sue Price - Chair | ✓ | | Rep. Sally Sandvig | ✓ | |
| Rep. Bill Devlin, Vice-Chair | ✓ | | Rep. Bill Amerman | ✓ | |
| Rep. Robin Weisz | ✓ | | Rep. Carol Niemeier | ✓ | |
| Rep. Vonnie Pietsch | ✓ | | Rep. Louise Potter | ✓ | |
| Rep. Gerald Uglem | ✓ | | | | |
| Rep. Chet Pollert | ✓ | | | | |
| Rep. Todd Porter | ✓ | | | | |
| Rep. Gary Kreidt | ✓ | | | | |
| Rep. Alon Wieland | ✓ | | | | |
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Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Pollert

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature

10/17/03
Date

REPORT OF STANDING COMMITTEE (410)
March 18, 2003 8:40 a.m.

Module No: HR-48-4991
Carrier: Pollert
Insert LC: 38201.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2160, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2160 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "two new subsections to section 34-15-03" with "a new section to chapter 34-15"

Page 1, line 6, after the second comma insert "and"

Page 1, line 7, remove ", and subsections 2 and 3 of section 34-15-01"

Page 1, line 9, after the semicolon insert "to provide for a report;"

Page 5, line 13, replace "health" with ":

(1) Health"

Page 5, line 17, after the underscored semicolon insert "or

(2) A basic group health benefit plan approved under section 26.1-36.3-08;"

Page 10, line 11, replace "five hundred" with "one thousand"

Page 11, replace lines 24 through 31 with:

"SECTION 12. A new section to chapter 34-15 of the North Dakota Century Code is created and enacted as follows:

Reporting of patronage distributions. A person who makes a distribution of funds to a patron for which the person was required to file a copy of a 1099-PATR informational form shall furnish a report to the directory of new hires in the same manner that an employer reports the hiring of an employee under this chapter. A patron is deemed to be hired under this section on the date of the distribution or the date the dividend is declared, whichever occurs first. A person required to furnish a report under this section is subject to the same duties and responsibilities as an employer under this chapter."

Page 12, remove lines 1 through 22

Page 12, after line 31, insert:

"SECTION 14. DEPARTMENT OF HUMAN SERVICES - FUNDING FOR CHILD SUPPORT ENFORCEMENT SERVICES - REPORT TO FIFTY-NINTH LEGISLATIVE ASSEMBLY. The department of human services shall prepare and present a report to the appropriations committees of the fifty-ninth legislative assembly on the department's use of any funds appropriated to the department under section 13 of this Act during the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 13, line 2, replace "the effective date of this Act" with "January 1, 2005"

Renumber accordingly

2003 HOUSE APPROPRIATIONS

SB 2160

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Deanne Hall
Operator's Signature

10/17/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

House Appropriations Committee

☐ Conference Committee

Hearing Date 03-20-03

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-------------|
| 1 | X | | 27.0 - 36.5 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Christy Kyles</i> | | | |

Minutes:

Chairman Sverjan Opened SB 2160 for discussion. A quorum was present. The continuing appropriation was the concern.

Rep. Delzer This bill needed an appropriation number in it to get a July effective date. **I move that in Section 13 we add necessary language to sunset the necessary appropriation in June, 2005. 2nd by Rep. Skarphol**

Rep. Delzer This is a new program.

Motion Carries

Rep. Wald Would you explain section 15 and why section 7 of the bill becomes effective on January 1. What are the implications there?

Rep. Pollert Section 7 is a way of dealing with older child support orders with arrears.

Rep. Warner I move a Do Pass As Amended. 2nd by Rep. Warnke. **Motion Carries**

20-2-1. Rep. Pollert will carry this bill on the floor.

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Deanne Hall
Operator's Signature

10/17/03
Date

38201.0202
Title.0400

Prepared by the Legislative Council staff for
House Appropriations
March 21, 2003

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2160

In lieu of the amendments adopted by the House as printed on pages 954 and 955 of the House Journal, Engrossed Senate Bill No. 2160 is amended as follows:

Page 1, line 2, replace "two new subsections to section 34-15-03" with "a new section to chapter 34-15"

Page 1, line 6, after the second comma insert "and"

Page 1, line 7, remove ", and subsections 2 and 3 of section 34-15-01"

Page 1, line 9, replace "and" with "to provide for a report;" and after "date" insert "; and to provide an expiration date"

Page 5, line 13, replace "health" with ":

(1) Health"

Page 5, line 17, after the underscored semicolon insert "or

(2) A basic group health benefit plan approved under section 26.1-36.3-08;"

Page 10, line 11, replace "five hundred" with "one thousand"

Page 11, replace lines 24 through 31 with:

"SECTION 12. A new section to chapter 34-15 of the North Dakota Century Code is created and enacted as follows:

Reporting of patronage distributions. A person who makes a distribution of funds to a patron for which the person was required to file a copy of a 1099-PATR informational form shall furnish a report to the directory of new hires in the same manner that an employer reports the hiring of an employee under this chapter. A patron is deemed to be hired under this section on the date of the distribution or the date the dividend is declared, whichever occurs first. A person required to furnish a report under this section is subject to the same duties and responsibilities as an employer under this chapter."

Page 12, remove lines 1 through 22

Page 12, after line 31, insert:

"SECTION 14. DEPARTMENT OF HUMAN SERVICES - FUNDING FOR
CHILD SUPPORT ENFORCEMENT SERVICES - REPORT TO FIFTY-NINTH

Page No. 1

38201.0202

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Deanne Hall
Operator's Signature

10/17/03
Date

LEGISLATIVE ASSEMBLY. The department of human services shall prepare and present a report to the appropriations committees of the fifty-ninth legislative assembly on the department's use of any funds appropriated to the department under section 13 of this Act during the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 13, line 2, replace "the effective date of this Act" with "January 1, 2005"

Page 13, after line 2, insert:

"SECTION 16. EXPIRATION DATE. Section 13 of this Act is effective through June 30, 2005, and after that date is ineffective."

Renumber accordingly

Page No. 2

38201.0202

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Deanna Hall
Operator's Signature

10/17/03
Date

Date: 3-20
Roll Call Vote #: 3

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2160

House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP4

Motion Made By Warner Seconded By Warnke

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------|-----|----|-----------------|-----|----|
| Rep. Svedjan (Chairman) | ✓ | | Rep. Glassheim | ✓ | |
| Rep. Timm (Vice-Chairman) | ✓ | | Rep. Kroeber | ✓ | |
| Rep. Martinson | ✓ | | Rep. Warner | ✓ | |
| Rep. Brusegaard | | | Rep. Delzer | | ✓ |
| Rep. Monson | ✓ | | Rep. Warnke | ✓ | |
| Rep. Rennerfeldt | ✓ | | Rep. Bellew | | ✓ |
| Rep. Wald | ✓ | | Rep. Kempenich | ✓ | |
| Rep. Aarsvold | ✓ | | Rep. Kerzman | ✓ | |
| Rep. Guleson | ✓ | | Rep. Metcalf | ✓ | |
| Rep. Carlisle | ✓ | | | | |
| Rep. Carlson | ✓ | | | | |
| Rep. Koppleman | ✓ | | | | |
| Rep. Skarphol | ✓ | | | | |
| Rep. Thoreson | ✓ | | | | |

Total (Yes) 20 No 22

Absent 1

Floor Assignment Warnke Pollert

If the vote is on an amendment, briefly indicate intent:

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Deanne Hall 10/17/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
March 21, 2003 11:57 a.m.

Module No: HR-51-5408
Carrier: Pollert
Insert LC: 38201.0202 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2160, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2160 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on pages 954 and 955 of the House Journal, Engrossed Senate Bill No. 2160 is amended as follows:

Page 1, line 2, replace "two new subsections to section 34-15-03" with "a new section to chapter 34-15"

Page 1, line 6, after the second comma insert "and"

Page 1, line 7, remove ", and subsections 2 and 3 of section 34-15-01"

Page 1, line 9, replace "and" with "to provide for a report;" and after "date" insert "; and to provide an expiration date"

Page 5, line 13, replace "health" with ":

(1) Health"

Page 5, line 17, after the underscored semicolon insert "or

(2) A basic group health benefit plan approved under section 26.1-36.3-08:"

Page 10, line 11, replace "five hundred" with "one thousand"

Page 11, replace lines 24 through 31 with:

"SECTION 12. A new section to chapter 34-15 of the North Dakota Century Code is created and enacted as follows:

Reporting of patronage distributions. A person who makes a distribution of funds to a patron for which the person was required to file a copy of a 1099-PATR informational form shall furnish a report to the directory of new hires in the same manner that an employer reports the hiring of an employee under this chapter. A patron is deemed to be hired under this section on the date of the distribution or the date the dividend is declared, whichever occurs first. A person required to furnish a report under this section is subject to the same duties and responsibilities as an employer under this chapter."

Page 12, remove lines 1 through 22

Page 12, after line 31, insert:

"SECTION 14. DEPARTMENT OF HUMAN SERVICES - FUNDING FOR CHILD SUPPORT ENFORCEMENT SERVICES - REPORT TO FIFTY-NINTH LEGISLATIVE ASSEMBLY. The department of human services shall prepare and present a report to the appropriations committees of the fifty-ninth legislative assembly on the department's use of any funds appropriated to the department under section 13 of this Act during the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 13, line 2, replace "the effective date of this Act" with "January 1, 2005"

REPORT OF STANDING COMMITTEE (410)
March 21, 2003 11:57 a.m.

Module No: HR-51-5408
Carrier: Pollert
Insert LC: 38201.0202 Title: .0400

Page 13, after line 2, insert:

"SECTION 16. EXPIRATION DATE. Section 13 of this Act is effective through June 30, 2005, and after that date is ineffective."

Renumber accordingly

(2) DESK, (3) COMM

Page No. 2

HR-51-5408

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Operator's Signature

10/17/03
Date

REPORT OF STANDING COMMITTEE (410)
April 8, 2003 4:30 p.m.

Module No: HR-63-7125
Carrier: Warnke
Insert LC: 38201.0203 Title: .0500

REPORT OF STANDING COMMITTEE

SB 2160, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2160 was placed on the Sixth order on the calendar.

That the House recede from its amendments as printed on pages 934 and 935 of the Senate Journal and pages 1003 and 1004 of the House Journal and that Engrossed Senate Bill No. 2160 be amended as follows:

Page 1, line 2, remove ", two new subsections to section 34-15-03,"

Page 1, line 6, after the second comma insert "and"

Page 1, line 7, remove ", and subsections 2 and 3 of section 34-15-01"

Page 1, line 9, replace "and" with "to provide for a report;" and after "date" insert "; and to provide an expiration date"

Page 5, line 13, replace "health" with ":

(1) Health"

Page 5, line 17, after the underscored semicolon insert "or

(2) A basic group health benefit plan approved under section 26.1-36.3-08;"

Page 10, line 11, replace "five hundred" with "one thousand"

Page 11, remove lines 24 through 31

Page 12, remove lines 1 through 22

Page 12, after line 31, insert:

"SECTION 13. DEPARTMENT OF HUMAN SERVICES - FUNDING FOR CHILD SUPPORT ENFORCEMENT SERVICES - REPORT TO FIFTY-NINTH LEGISLATIVE ASSEMBLY. The department of human services shall prepare and present a report to the appropriations committees of the fifty-ninth legislative assembly on the department's use of any funds appropriated to the department under section 12 of this Act during the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 13, line 2, replace "the effective date of this Act" with "January 1, 2005"

Page 13, after line 2, insert:

"SECTION 15. EXPIRATION DATE. Section 12 of this Act is effective through June 30, 2005, and after that date is ineffective."

Renumber accordingly

2003 SENATE HUMAN SERVICES

CONFERENCE COMMITTEE

SB 2160

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10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2160

Senate Human Services Committee

☒ Conference Committee

Hearing Date April 7, 2003

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1 | X | | 0-2605 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Donna Kramer, Clerk</i> | | | |

Minutes:

SENATOR FISCHER opened the conference committee discussion for SB 2160.

Roll call was read. Members present were Senator Fischer, Senator Erbele, Senator Fairfield, Representative Pollert, Representative Porter, and Representative Sandvig.

SENATOR FISCHER asked **REPRESENTATIVE POLLERT** to review the bill and the changes made by the House with an explanation.

REPRESENTATIVE POLLERT said he pulled off the five amendments the House did to the bill. He reviewed the changes from the First Engrossment - 38201.0200. Sunsets 2005.

(1) HMO definition - small business definition for basic coverage

(2) Change \$500 to \$1000 lump sum payment

(3) Section 12 and 13 in the old bill were deleted out and replaced by Page 12, lines 26-30 plus on page 12, lines 1 and 2.

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10/17/03
Date

Page 2
Senate Human Services Committee
Bill/Resolution Number SB 2160
Hearing Date April 7, 2003

(4) Section 14 - Lines 12-17 deals on the Child Support Enforcement Unit working with the Indian Tribe ...

(5)... Effective date ... switched to January 1, 2005.

Section 16 was put in by the House Appropriations because they want to make sure that the Child Support Division comes in and gives an explanation for why they're spending the money and what's going on. (Meter # 937)

SENATOR FAIRFIELD questioned the rational of leaving Section 12 with the patronage distribution included.

REPRESENTATIVE POLLERT said that he had his "druthers", it wouldn't be in there.

Continued discussion on the 1099s and the patronage distributions which had to be over \$601 for 1099s. ... Continued discussion on Section 12.

REPRESENTATIVE SANDVIG: The Child Support Enforcement Unit wanted it there for the names and addresses ...

SENATOR FISCHER: No problem with any other amendments.

REPRESENTATIVE POLLERT made a motion to recede from our amendment and further amend in the removal of Section 12, lines 24-30 and lines 1 and 2.

REPRESENTATIVE SANDVIG seconded the motion.

Roll call was called. 6 yeas 0 nays. All in favor.

REPRESENTATIVE POLLERT made a motion to further amend.

REPRESENTATIVE PORTER seconded the motion.

Roll call was held. 6 yeas. 0 nays. Motion carried.

Meeting adjourned.

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10/17/03
Date

Date: 04-07-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ^{SB} 2160

| Senate | Human Services | Committee |
|--------|----------------|-----------|
|--------|----------------|-----------|

☐ Check here for Conference Committee**Legislative Council Amendment Number**

Action Taken

Action Taken Recede from House amendment
Motion Made By and further amend 0202 Removal of Section 12.
Rep. Pollert Seconded By Rep. Sandvig

Motion Made By

Seconded By

Rep. Sandra

[illegible]

Total (Yes) 6 No 0

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature

10/17/03
Date

38201.0203
Title.0500

Adopted by the Conference Committee
April 7, 2003

203
4-8-03
102

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2160

That the House recede from its amendments as printed on pages 934 and 935 of the Senate Journal and pages 1003 and 1004 of the House Journal and that Engrossed Senate Bill No. 2160 be amended as follows:

Page 1, line 2, remove ", two new subsections to section 34-15-03,"

Page 1, line 6, after the second comma insert "and"

Page 1, line 7, remove ", and subsections 2 and 3 of section 34-15-01"

Page 1, line 9, replace "and" with "to provide for a report;" and after "date" insert "; and to provide an expiration date"

Page 5, line 13, replace "health" with ":

(1) Health"

Page 5, line 17, after the underscored semicolon insert "or

(2) A basic group health benefit plan approved under section 26.1-36.3-08;"

Page 10, line 11, replace "five hundred" with "one thousand"

Page 11, remove lines 24 through 31

Page 12, remove lines 1 through 22

Page 12, after line 31, insert:

"SECTION 13. DEPARTMENT OF HUMAN SERVICES - FUNDING FOR CHILD SUPPORT ENFORCEMENT SERVICES - REPORT TO FIFTY-NINTH LEGISLATIVE ASSEMBLY. The department of human services shall prepare and present a report to the appropriations committees of the fifty-ninth legislative assembly on the department's use of any funds appropriated to the department under section 12 of this Act during the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 13, line 2, replace "the effective date of this Act" with "January 1, 2005"

Page 13, after line 2, insert:

Page No. 1

38201.0203

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

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Operator's Signature

10/17/03
Date

252
"SECTION 15. EXPIRATION DATE. Section 12 of this Act is effective through June 30, 2005, and after that date is ineffective."

Renumber accordingly

Page No. 2

38201.0203

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Deanne Hall SRB
Operator's Signature

10/17/03
Date

Date: 04-07-03
Roll Call Vote # (2)

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2160

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38201.0203

Action Taken Motion to amend further

Motion Made By Rep. Pollert Seconded By Rep. Porter

| Senators | Yes | No | Representative | Yes | No |
|-------------------|-----|----|------------------------|-----|----|
| Senator Fairfield | ✓ | | Representative Porter | ✓ | |
| Senator Fischer | ✓ | | Representative Sandvig | ✓ | |
| Senator Erbele | ✓ | | Representative Pollert | ✓ | |
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Total (Yes) 6 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature

10/17/03
Date

REPORT OF CONFERENCE COMMITTEE (420)
April 9, 2003 9:16 a.m.

Module No: SR-64-7157

Insert LC: 38201.0203

REPORT OF CONFERENCE COMMITTEE

SB 2160, as engrossed: Your conference committee (Sens. Fischer, Erbele, Fairfield and Reps. Porter, Potter, Sandvig) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 934-935, adopt amendments as follows, and place SB 2160 on the Seventh order:

That the House recede from its amendments as printed on pages 934 and 935 of the Senate Journal and pages 1003 and 1004 of the House Journal and that Engrossed Senate Bill No. 2160 be amended as follows:

Page 1, line 2, remove ", two new subsections to section 34-15-03,"

Page 1, line 6, after the second comma insert "and"

Page 1, line 7, remove ", and subsections 2 and 3 of section 34-15-01"

Page 1, line 9, replace "and" with "to provide for a report;" and after "date" insert "; and to provide an expiration date"

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Page 13, line 2, replace "the effective date of this Act" with "January 1, 2005"

Page 13, after line 2, insert:

"SECTION 15. EXPIRATION DATE. Section 12 of this Act is effective through June 30, 2005, and after that date is ineffective."

Renumber accordingly

Engrossed SB 2160 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

SB 2160

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Deanne Hallitt RB
Operator's Signature

10/17/03
Date

**TESTIMONY BEFORE THE
SENATE HUMAN SERVICES COMMITTEE
REGARDING SENATE BILL 2160
JANUARY 20, 2003**

Chairman Lee and members of the Senate Human Services Committee, I am Barbara Siegel with the Child Support Enforcement Division within the Department of Human Services. James Fleming and I will be providing this testimony.

SB 2160 was introduced at the request of the department to provide amendments to child support laws. Some of the provisions would ensure compliance with federal requirements, some would improve operations of the Child Support Enforcement program, and others are technical in nature. The department has also prepared amendments to the bill which are attached to the testimony.

A fiscal note has been filed relating to programming costs for the Fully Automated Child Support Enforcement System (FACSES) and to postage costs.

Sections 1, 2, 11, 14, and 15 These sections would provide the authority for the program to implement the National Medical Support Notice, in compliance with new federal requirements. There would be a fiscal impact for FACSES programming costs this biennium and for postage costs in subsequent years.

BACKGROUND Since 1984, federal law has addressed the need to secure and enforce medical support obligations.

- The enactment of the Child Support Enforcement Amendments of 1984 resulted in the requirement that the program secure and enforce medical support obligations whenever health insurance coverage is available to the noncustodial parent at a reasonable cost.

Deanna Hall
Operator's Signature

10/17/03
Date

- The Omnibus Budget Reconciliation Act of 1993 was a significant piece of legislation that contained provisions intended to remove some of the impediments to the ability of programs to secure and enforce health insurance coverage for children. These provisions included prohibiting discriminatory health insurance coverage practices and allowing employers to deduct the cost of health insurance premiums from the noncustodial parent's income.
- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 required a provision for health insurance coverage in all child support orders established by the program.

Despite improved medical support requirements and a focus on enforcement of these obligations at the federal and state levels, the enforcement of medical support coverage for children has remained problematic.

The National Medical Support Notice provisions were included in the Child Support Performance and Incentive Act of 1998. North Dakota must have the authority to implement the Notice by July 1, 2003 (thus, the emergency effective date found in Sections 14 and 15).

The provisions strengthened the enforcement of health insurance coverage for children by requiring that the federal Office of Child Support Enforcement and the federal Department of Labor jointly develop a Notice to be issued by programs to enforce the medical support obligations of a noncustodial parent. All states' programs must use the standard form, which will be a benefit to employers. The goals are to simplify the processing of the required enrollment of children in health insurance coverage for all concerned (the parents, the employer, the insurer, and the program) and, more importantly, enhance health insurance coverage for children who are excluded from their noncustodial parent's group health plan.

Attached to this testimony is a table which summarizes the federal requirements (Attachment A) and a chart which outlines the general process for the National Medical Support Notice (Attachment B). A copy of the Notice has not been attached. A copy, however, has been provided to the Committee's Clerk.

SECTION 1 of the bill would amend N.D.C.C. § 14-09-08.11, which already authorizes the program to apply to an employer for enrollment of a child in health insurance coverage. The amendments serve to address employer duties and liabilities with respect to the Notice as well as to provide for a noncustodial parent contest. Employers must comply with the provisions of the Notice, including transferring the Notice to the insurer within 20 business days. The employer must also promptly notify the program whenever the noncustodial parent's employment is terminated. Sanctions for noncompliance would be the same as those for noncompliance with an income withholding order. The noncustodial parent may contest the withholding of premiums for health insurance coverage by filing a request for a hearing. The employer must continue to withhold while the contest is pending.

SECTION 2 of the bill would create a new section to provide for the program's duties. When a noncustodial parent has an obligation to provide health insurance coverage for a child, our duties include:

- Serving the Notice on the employer (within two business days if the employer is identified through the State Directory of New Hires);
- Providing notice to the noncustodial parent;
- Choosing an option, following provisions in subdivision c of subsection 1, if informed by the insurer that multiple enrollment options exist; and
- Promptly notifying the employer when the obligation to provide health insurance coverage is no longer in effect. (This particular provision is addressed by a proposed amendment to add a subdivision d to subsection 1.)

Other proposed amendments to Section 2 are quite technical in nature. A clarifying word ("otherwise") would be added and duplicate language ("emergency care, inpatient and outpatient hospital care") would be removed.

SECTION 11 of the bill would amend N.D.C.C. § 26.1-36.5-03 to address insurer duties regarding the Notice. Insurers must comply with the provisions of the Notice, including taking appropriate action within 40 business days. The insurer must also enroll the child, and the noncustodial parent if necessary, in the insurer's default plan if the program does not select an option when multiple options exist.

There are two areas that we would like to highlight for the Committee.

MULTIPLE OPTIONS When an insurer receives the Notice, the insurer is to enroll the child as a dependent of the noncustodial parent under the health insurance plan. If there are multiple options under the plan, the insurer is to enroll the child in the option in which the noncustodial parent is enrolled. However, if there are multiple options under the plan, and the noncustodial parent is not enrolled in any option, the insurer is to notify the program of the available options. The program is to then notify the insurer of the option chosen.

We have learned, from other states that have already implemented the Notice, that this is one of the areas that has caused confusion and concerns, even though it does not occur frequently. The federal requirements do not mandate how the choice is made; only that, in these situations, the program must promptly select from available plan options in consultation with the custodial parent.

Based on other states' experiences, we decided it would be best to include, in the proposed legislation, specifics as to how program staff are to make this choice. These specifics can be found in Section 2 of the bill (subdivision c of subsection 1). Generally, the option would be chosen as follows:

- The option would be chosen by the Medicaid agency if there is a medical assignment to the state and by the custodial parent if there is no medical assignment to the state.
- If there is no medical assignment and the custodial parent fails to make a timely choice, we would consider other factors such as the extent of coverage, accessibility, and premium cost.

In addition, Section 2, subsection 3, includes immunity language regarding the program's choices.

PRIORITY OF WITHHOLDING When an income withholding order is issued to an employer, it often includes amounts to be withheld for current support and arrears. These amounts are withheld from the noncustodial parent's income and paid to the State Disbursement Unit (SDU). If a Notice is issued and the noncustodial parent must pay premiums in order for the child to be enrolled in health insurance coverage, that amount must be withheld as well. The premium amount is paid directly to the insurer.

There is a limit to the total amount that may be withheld from the noncustodial parent's income (50% of disposable income). For some noncustodial parents, that limit will be reached before all of the withholdings can occur. In these cases, the priority of withholding becomes an issue. The fundamental dilemma: to give priority to cash support at the expense of health insurance premiums means that children could lose private health insurance coverage. But giving priority to health insurance premiums over cash support may mean that the children's other basic needs cannot be met.

It is currently up to states to determine the priority of withholding. In North Dakota, the priority has been addressed in law since 1995. N.D.C.C. § 14-09-08.11(3) states that any amount owed under the income withholding order must be satisfied before any payment is made to the insurer.

We are not pursuing any changes to this priority of withholding. In addition to our preference for cash support being satisfied first, we considered many factors including the fact that a national medical support work group has made recommendations that would affect this issue. These recommendations include:

- That there be federal policy on the priority of withholding, and
- That the federal regulation that deems all employment-related or group-based coverage to be "reasonable in cost" should be replaced with a standard based on the cost of coverage relative to the income of the noncustodial parent.

We believe it is prudent to see if the federal Office of Child Support Enforcement takes action on either of these two recommendations – either one of which would affect further consideration of the priority of withholding issue – prior to making any change to existing law.

Sections 3, 4, 5, and 6 These sections make changes which are technical in nature. Obsolete references to "clerk of court" are removed because clerks of court are no longer involved in issuing, amending, or terminating income withholding orders. In addition, Sections 3 and 6 replace the term "income payor" with "income payer."

Sections 7 and 14 In situations in which no current support is due (for example, the children covered by the support order have attained majority), these sections would change the monthly amount that would be collected on arrears under income withholding. The change would increase arrears collections. At the present time, we are very limited on the amount we may collect through income withholding once a current support obligation terminates, if a "due on arrears" amount exists. Income withholding is our most effective and frequently used enforcement tool. As of June 30, 2002, the total arrears balance in North Dakota was over \$185 million. We need to increase collections on arrears that are due to the state and to families.

The change would also promote equity among noncustodial parents as well as take into consideration that noncustodial parents are able to pay more toward arrears when no current support is due.

In situations in which current support is due, there would be no change to the monthly amount that a noncustodial parent owes on arrears. That is, if a noncustodial parent owes a current support amount, the monthly amount owed on arrears would continue to be either the "due on arrears" amount ordered by a court or, absent such an order, an amount equal to 20% of the current support amount.

At the present time, in situations in which no current support is due, the monthly amount owed on the arrears is the "due on arrears" amount ordered by a court or, absent such an order, the amount of the most recent current support obligation. Proposed amendments to N.D.C.C. § 14-09-09.30 would change this. Instead, if there is no current support due, the monthly amount owed on the arrears would be the greater of:

- The "due on arrears" amount ordered by a court, or
- The sum of the most recent current support obligation and 20% of the most recent current support obligation.

To illustrate the present and proposed provisions, scenarios are attached to this testimony (Attachment C).

A proposed amendment would make a grammatical change (from "An" to "The") for consistency with a previous subsection.

There would be a fiscal impact next biennium for FACES programming costs.

Section 14 clarifies that the changes would be applicable not only to orders which are entered after the effective date, but to orders which are in existence at the time of the effective date as well.

Section 8 This section relates to out-of-court agreements to waive or forgive child support. Waivers of child support are common and require a lot of work to verify the identity of the parties, the amount of child support to be waived or forgiven, whether the right to support has been assigned, and whether the custodial parent has freely agreed to waive or forgive child support.

The North Dakota Supreme Court has repeatedly held, as recently as December 20, 2002, that the right to current and future support belongs to the children. Therefore, it is inappropriate for a custodial parent to waive the children's right to support and Section 8 specifically provides that an agreement waiving or relieving an obligor of a current or future duty of child support is void and unenforceable.

When past-due support is owed, in most cases it is the custodial parent who has had to dip further into his or her resources to support the children. Under the proposed section, if a custodial parent agrees to waive or forgive the repayment of past-due support, the agreement may be enforced as long as it is in writing and approved by a court. If the past-due support has been assigned to the state, the state must also give its consent before any assigned past-due support may be waived or forgiven.

Section 8 is patterned after a South Dakota law that has been used for several years. By involving the court, this section assures the clerks of court and the SDU that the parents' arrangement regarding their legal obligations to support their children is approved by a court and should be implemented. A copy of the order approving the agreement must be provided to the SDU so its payment records can be updated.

Section 9 This section regulates "offsets" of child support. The word "offset" refers to a process of reducing a larger debt owed by Party A to Party B by the amount of a smaller debt owed by Party B to Party A, producing a smaller "net" debt owed by Party A to Party B.

In the child support enforcement context, an offset generally occurs when a former noncustodial parent still owes past-due support to the other parent but now has custody of the children. For example:

- Dad owes Mom several thousand dollars of past-due child support. A few months ago, custody of the minor children was changed from Mom to Dad. Mom now owes Dad child support on behalf of the children but also has accumulated arrears. In other words, Dad owes arrears to Mom and Mom owes arrears to Dad.

In the example above, there is some appeal to subtracting the smaller arrears from the larger arrears and producing "net" arrears that are still owed. Current law does not expressly prohibit or authorize offsets involving child support, and there is no consistent state-wide practice. In some cases, particularly stipulations, an offset is approved by a court. In other cases, a court has held that an offset is a form of payment and must be made to the SDU. Section 9 is written to authorize offsets in certain circumstances and to prohibit offsets when they are inappropriate.

Subsection 1 explains when an offset of past-due child support is appropriate. An offset should not deprive children of the current support they need for food, clothes, shelter, and other essentials (subdivision a). Therefore, except as provided in subsection 5 of this section, an offset of child support arrears against child support that is due in the current month, or that will be due in a future month, is not permitted. An offset is inappropriate if some of the arrears have been assigned to the state and are no longer owed to the parent (subdivision b).

An offset is essentially a payment of past-due child support in equal amounts by both parents. If a parent who owes child support arrears to Family A also owes a duty of support to Family B, an offset would override the automatic proration of child support payments received by the SDU and allow the parent to choose a preferred family to support, which we believe is contrary to public policy (subdivision c). In addition, there is a potential that the opportunity for an offset will be used as an incentive by a former custodial parent to avoid paying support for the current month. Let's discuss the example mentioned earlier:

- Dad owes arrears to Mom but now has custody of the children. Mom owes current child support to Dad on behalf of the children. For every month that Mom avoids paying current support and creates arrears, she may seek an offset of her arrears against the arrears Dad owes to her. In other words, by avoiding her obligation to meet the current needs of the children, Mom can reduce the debt owed to her.

While this is a way to reduce the arrears, it also leaves the children with no money coming into the home for necessary expenses. To prevent this, there is a presumption that a second request for an offset in a case has been used as an incentive to avoid paying current child support and should be denied (subdivision d, subsection 3). Finally, a court needs to specifically find that the proposed offset serves the best interests of the children to whom the parents owe a duty of support (subsection 2). If the conditions in Section 9 are met, we believe the reduction in arrears that results from the offset will, in most cases, serve the interests of the supported children because a debt of the current custodial parent is eliminated or reduced and future collection actions against each parent may be avoided.

Subsection 4 clarifies that Section 9 is the exclusive basis for offsetting child support arrears.

Subsection 5 authorizes an offset of a current child support obligation against arrears in the very limited context of reducing a credit that is produced by a retroactive reduction in a child support obligation. When a motion for a change in child support is filed, there will be a delay before it is approved by a court. The North Dakota Supreme Court has held that in most cases, the change should be made "retroactive" to the date the motion is filed. If the motion is for a reduction in child support and the noncustodial parent had been paying in full until the motion was granted, the retroactive nature of the reduction will produce a credit that needs to be eliminated or "spent down." Section 9 expressly authorizes current or future child support to be offset by this credit, but only if approved by a court. Other offsets involving child support for the current month or for future months are not permitted.

Subsection 6 clarifies that an offset is essentially a payment of child support in equal amounts by both parents. A copy of the order for an offset must be provided to the SDU so its payment records can be updated.

Subsection 7 limits the regulation of offsets in Section 9 to child support only and not to combined payments of spousal support and child support.

Section 10 This section is patterned after a Minnesota law and improves the information the program obtains regarding assets that may be used to pay child support. The section involves a process that resembles and supplements the existing process for income withholding. For regular wages or payments to a noncustodial parent, income withholding may be used to satisfy the current monthly support obligation plus any amount the noncustodial parent is required to pay toward arrears, up to a maximum of 50% of the noncustodial parent's disposable earnings. For irregular payments such as commissions or bonuses, this section requires income payers to notify the program of the payment so the irregular payment may be collected through existing enforcement tools and applied to child support arrears owed by the noncustodial parent.

Included in the amendments that are attached to this testimony is a proposed refinement to this section. When a noncustodial parent does not owe past-due child support, notice of a lump sum payment is unnecessary. Rather than delay the payment of the lump sum to the noncustodial parent until the program can respond to the income payer, the amendment would allow an income payer to make the payment immediately as long as the current monthly obligation is withheld as directed in the income withholding order. The income withholding order itself indicates whether past-due support is owed, so it will be easy for an income payer to know whether notice of a lump sum payment is required.

Sections 12 and 13 These sections expand the new hire reporting requirements. Currently, newly hired employees must be reported to the program by their employer. Under these sections, individuals who receive payments that would result in the filing of a 1099 Informational Form must be reported to the program by the entity or individual making the payment. The report must be made no later than 20 days after the date of an agreement between the payer and payee or the date a payment is made.

The expansion would assist the program in identifying payments for possible collection and in locating noncustodial parents.

Self-employed noncustodial parents very often present the biggest challenges to the collection of child support. This is because we often lack information on the income of these noncustodial parents. In addition, our most effective and frequently used enforcement tool - income withholding - is not effective in these situations. Frequently, individuals who receive payments that would result in the filing of a 1099 Informational Form are self-employed. Expanding this tool will result in improved collection in these cases.

This concludes our testimony. We would be happy to answer any questions you may have.

Attachment A

National Medical Support Notice
Summary of Federal Regulations

| FEDERAL REQUIREMENT | SB 2160 |
|---|---|
| States must have laws regarding the Notice. (45 CFR § 303.32 (a)) | |
| Program must use the Notice to transfer notice of the provision for health insurance coverage to the employer. (45 CFR § 303.32 (c) (1)) | Section 2 |
| Program must transfer the Notice to the employer within two business days after the date of entry in the State Directory of New Hires. (45 CFR § 303.32 (c) (2)) | Section 2 |
| Employer must transfer the Notice to the insurer within twenty business days. (45 CFR § 303.32 (c) (3)) | Section 1 |
| Employer must withhold premiums necessary for coverage and send to insurer. (45 CFR § 303.32 (c) (4)) | (addressed in current law - §14-09-08.11 (1) (e)) |
| Noncustodial parent may contest the withholding for premiums based on a mistake of fact. (45 CFR § 303.32 (c) (5)) | Section 1 |
| In the case of a contest, employer must continue to withhold for premiums pending resolution. (45 CFR § 303.32 (c) (5)) | Section 1 |
| Employer must notify the public authority, in the same manner as under income withholding, whenever the noncustodial parent's employment is terminated. (45 CFR § 303.32 (c) (6)) | Section 1 |
| Program must promptly notify the employer when there is no longer a current order for medical support. (45 CFR § 303.32 (c) (7)) | proposed amendment to Section 2 |
| Program must, in consultation with the custodial parent, promptly select from available plan options when the insurer reports that there is more than one option available. (45 CFR § 303.32 (c) (8)) | Section 2 |
| When multiple options exist, and program does not respond within 20 days, insurer must enroll the child in the default option. (29 CFR § 2590.609-2 (c) (3)) | Sections 2 and 11 |
| State law must be effective no later than the close of the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after October 1, 2001. For States with 2-year legislative sessions, each year of such session would be regarded as a separate regular session. (45 CFR § 303.32 (d)) | Sections 14 and 15 |

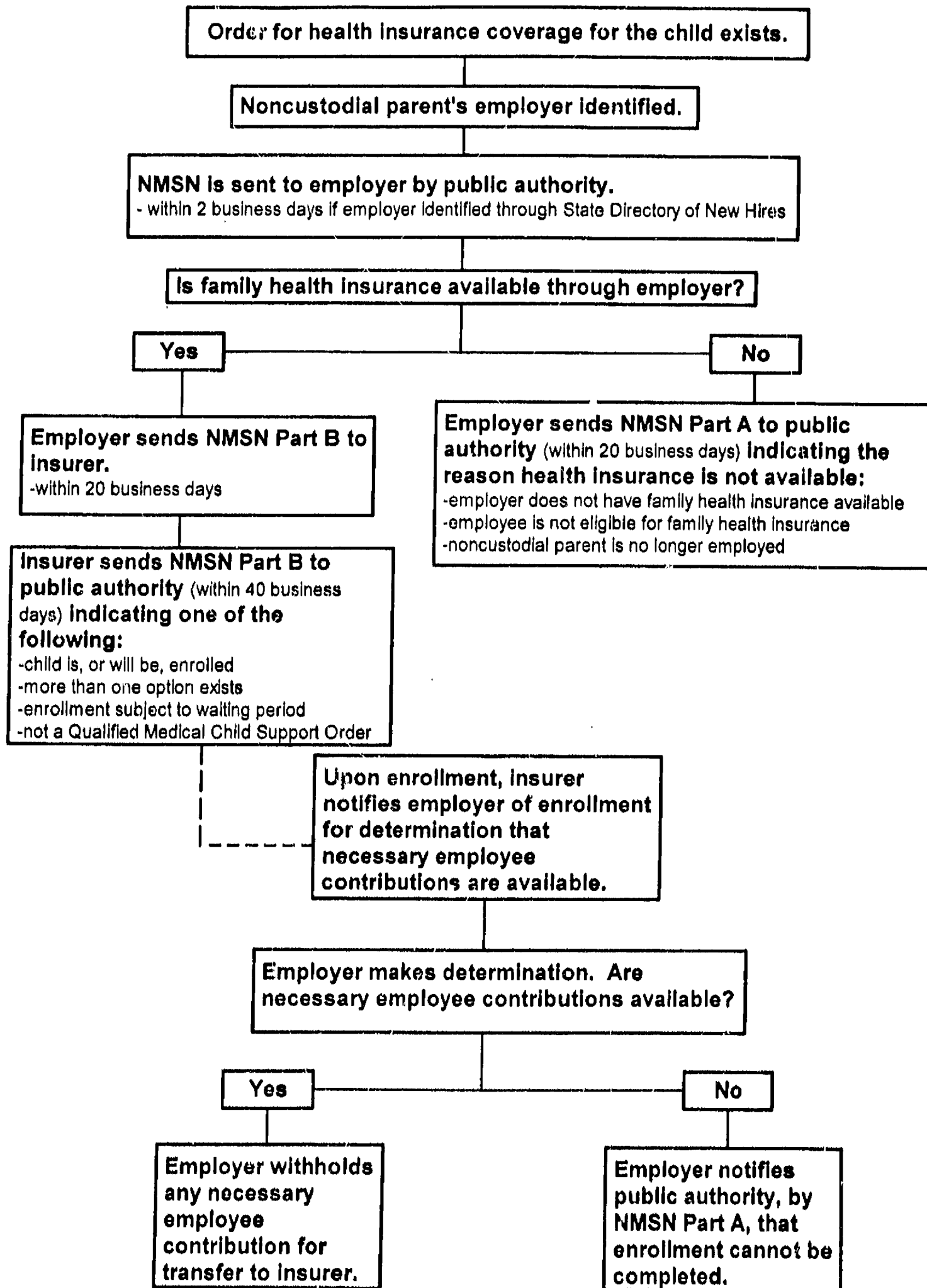
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Operator's Signature

Date

National Medical Support Notice (NMSN)
General Process

Attachment B



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Operator's Signature

Date

Attachment C

Section 7
Scenarios

Scenario 1: Noncustodial parent owes current support in the amount of \$300/mo and a court-ordered "due on arrears" amount of \$15/mo exists.

PRESENT:

Current support order: \$ 300/mo
 "Due on arrears" amount: \$ 15/mo
 20% amount: N/A

Total amount due: \$ 315/mo

PROPOSED (SECTION 7):

Current support order: \$ 300/mo
 "Due on arrears" amount: \$ 15/mo
 20% amount: N/A

Total amount due: \$ 315/mo

Scenario 2: Noncustodial parent owes current support in the amount of \$300/mo and a court-ordered "due on arrears" amount does not exist.

PRESENT:

Current support order: \$ 300/mo
 "Due on arrears" amount: N/A
 20% amount: \$ 60/mo

Total amount due: \$ 360/mo

PROPOSED (SECTION 7):

Current support order: \$ 300/mo
 "Due on arrears" amount: N/A
 20% amount: \$ 60/mo

Total amount due: \$ 360/mo

Scenario 3: Noncustodial parent does not owe current support (former current support amount was \$300/mo) and a court-ordered "due on arrears" amount of \$15/mo exists.

PRESENT:

Current support order: \$ 0/mo
 Former current support amount: not considered
 "Due on arrears" amount: \$ 15/mo
 20% amount: N/A

Total amount due: \$ 15/mo

PROPOSED (SECTION 7):

Current support order: \$ 0/mo
 Former current support amount: \$ 300/mo
 "Due on arrears" amount: \$ 15/mo
 20% amount: \$ 60/mo

Total amount due: \$ 360/mo

Scenario 4: Noncustodial parent does not owe current support (former current support amount was \$300/mo) and a court-ordered "due on arrears" amount does not exist.

PRESENT:

Current support order: \$ 0/mo
 Former current support amount: \$ 300/mo
 "Due on arrears" amount: N/A
 20% amount: not considered

Total amount due: \$ 300/mo

PROPOSED (SECTION 7):

Current support order: \$ 0/mo
 Former current support amount: \$ 300/mo
 "Due on arrears" amount: N/A
 20% amount: \$ 60/mo

Total amount due: \$ 360/mo

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Operator's Signature

Date

Prepared by the North Dakota
Department of Human Services
1/13/03

PROPOSED AMENDMENTS TO SENATE BILL 2160

Page 4, line 14, after "or" insert "otherwise"

Page 4, after line 28, insert:

"d. Promptly notify the employer when a current order for medical support for which the public authority is responsible is no longer in effect."

Page 5, line 7, remove "emergency care, inpatient and"

Page 5, line 8, remove "outpatient hospital care."

Page 8, line 10, replace "An" with "The"

Page 10, line 3, after "obligor" insert "that includes an amount for past-due support"

Renumber accordingly

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Deanna H. Hall
Operator's Signature

1/17/03
Date

NATIONAL MEDICAL SUPPORT NOTICE

PART A

NOTICE TO WITHHOLD FOR HEALTH CARE COVERAGE

This Notice is issued under section 466(a)(19) of the Social Security Act, section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 (ERISA), and for State and local government and church plans, sections 401(e) and (f) of the Child Support Performance and Incentive Act of 1998.

| | |
|-------------------------------|--|
| Issuing Agency: _____ | Court or Administrative Authority: _____ |
| Issuing Agency Address: _____ | Date of Support Order: _____ |
| _____ | Support Order Number: _____ |
| Date of Notice: _____ | |
| Case Number: _____ | |
| Telephone Number: _____ | |
| FAX Number: _____ | |

_____) Employer/Withholder's Federal EIN Number

RE* _____ Employee's Name (Last, First, MI)

_____) Employer/Withholder's Name

_____) Employee's Social Security Number

_____) Employer/Withholder's Address

_____) Employee's Mailing Address

_____) Custodial Parent's Name (Last, First, MI)

_____) Custodial Parent's Mailing Address

_____) Substituted Official/Agency Name and Address

_____) Child(ren)'s Mailing Address (if different from Custodial Parent's)

_____) _____

_____) Name, Mailing Address, and Telephone Number of a Representative of the Child(ren)

| Child(ren)'s Name(s) | DOB | SSN | Child(ren)'s Name(s) | DOB | SSN |
|----------------------|-------|-------|----------------------|-------|-------|
| _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ |

The order requires the child(ren) to be enrolled in [] any health coverages available; or [] only the following coverage(s): ☐ Medical; ☐ Dental; ☐ Vision; ☐ Prescription drug; ☐ Mental health; ☐ Other (specify): _____

THE PAPERWORK REDUCTION ACT OF 1995 (P.L. 104-13) Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. 0970-0222 Expiration Date: 12/31/2003.

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_____) Operator's Signature Date 10/17/03

EMPLOYER RESPONSE

If either 1, 2, or 3 below applies, check the appropriate box and return this Part A to the Issuing Agency within 20 business days after the date of the Notice, or sooner if reasonable. NO OTHER ACTION IS NECESSARY. If neither 1, 2, nor 3 applies, forward Part B to the appropriate plan administrator(s) within 20 business days after the date of the Notice, or sooner if reasonable. Check number 4 and return this Part A to the Issuing Agency if the Plan Administrator informs you that the child(ren) is/are enrolled in an option under the plan for which you have determined that the employee contribution exceeds the amount that may be withheld from the employee's income due to State or Federal withholding limitations and/or prioritization.

1. Employer does not maintain or contribute to plans providing dependent or family health care coverage.

2. The employee is among a class of employees (for example, part -time or non-union) that are not eligible for family health coverage under any group health plan maintained by the employer or to which the employer contributes.

3. Health care coverage is not available because employee is no longer employed by the employer:

Date of termination: _____

Last known address: _____

Last known telephone number: _____

New employer (if known): _____

New employer address: _____

New employer telephone number: _____

4. State or Federal withholding limitations and/or prioritization prevent the withholding from the employee's income of the amount required to obtain coverage under the terms of the plan.

Employer Representative:

Name: _____ Telephone Number: _____

Title: _____ Date: _____

EIN (if not provided by Issuing Agency on Notice to Withhold for Health Care Coverage):

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Operator's Signature

Deanne Hall

10/17/03

Date

INSTRUCTIONS TO EMPLOYER

This document serves as notice that the employee identified on this National Medical Support Notice is obligated by a court or administrative child support order to provide health care coverage for the child(ren) identified on this Notice. This National Medical Support Notice replaces any Medical Support Notice that the Issuing Agency has previously served on you with respect to the employee and the children listed on this Notice.

The document consists of **Part A - Notice to Withhold for Health Care Coverage** for the employer to withhold any employee contributions required by the group health plan(s) in which the child(ren) is/are enrolled; and **Part B - Medical Support Notice to the Plan Administrator**, which must be forwarded to the administrator of each group health plan identified by the employer to enroll the eligible child(ren).

EMPLOYER RESPONSIBILITIES

1. If the individual named above is not your employee, or if family health care coverage is not available, please complete item 1, 2, or 3 of the Employer Response as appropriate, and return it to the Issuing Agency. **NO FURTHER ACTION IS NECESSARY.**
2. If family health care coverage is available for which the child(ren) identified above may be eligible, you are required to:
 - a. Transfer, not later than 20 business days after the date of this Notice, a copy of **Part B - Medical Support Notice to the Plan Administrator** to the administrator of each appropriate group health plan for which the child(ren) may be eligible, and
 - b. Upon notification from the plan administrator(s) that the child(ren) is/are enrolled, either
 - 1) withhold from the employee's income any employee contributions required under each group health plan, in accordance with the applicable law of the employee's principal place of employment and transfer employee contributions to the appropriate plan(s), or
 - 2) complete item 4 of the Employer Response to notify the Issuing Agency that enrollment cannot be completed because of prioritization or limitations on withholding.
 - c. If the plan administrator notifies you that the employee is subject to a waiting period that expires more than 90 days from the date of its receipt of **Part B** of this Notice, or whose duration is determined by a measure other than the passage of time (for example, the completion of a certain number of hours worked), notify the plan administrator when the employee is eligible to enroll in the plan and that

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Operator's Signature

Deanne Hall

Date

10/17/03

this Notice requires the enrollment of the child(ren) named in the Notice in the plan.

LIMITATIONS ON WITHHOLDING

The total amount withheld for both cash and medical support cannot exceed ____% of the employee's aggregate disposable weekly earnings. The employer may not withhold more under this National Medical Support Notice than the lesser of:

1. The amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C., section 1673(b));
2. The amounts allowed by the State of the employee's principal place of employment; or
3. The amounts allowed for health insurance premiums by the child support order, as indicated here: _____.

The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as State, Federal, local taxes; Social Security taxes; and Medicare taxes.

PRIORITY OF WITHHOLDING

If withholding is required for employee contributions to one or more plans under this notice and for a support obligation under a separate notice and available funds are insufficient for withholding for both cash and medical support contributions, the employer must withhold amounts for purposes of cash support and medical support contributions in accordance with the law, if any, of the State of the employee's principal place of employment requiring prioritization between cash and medical support, as described here: _____.

DURATION OF WITHHOLDING

The child(ren) shall be treated as dependents under the terms of the plan. Coverage of a child as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA may entitle the child to continuation coverage under the plan. The employer must continue to withhold employee contributions and may not disenroll (or eliminate coverage for) the child(ren) unless:

1. The employer is provided satisfactory written evidence that:
 - a. The court or administrative child support order referred to above is no longer in effect; or

- b. The child(ren) is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan; or

2. The employer eliminates family health coverage for all of its employees.

POSSIBLE SANCTIONS

An employer may be subject to sanctions or penalties imposed under State law and/or ERISA for discharging an employee from employment, refusing to employ, or taking disciplinary action against any employee because of medical child support withholding, or for failing to withhold income, or transmit such withheld amounts to the applicable plan(s) as the Notice directs.

NOTICE OF TERMINATION OF EMPLOYMENT

In any case in which the above employee's employment terminates, the employer must promptly notify the Issuing Agency listed above of such termination. This requirement may be satisfied by sending to the Issuing Agency a copy of any notice the employer is required to provide under the continuation coverage provisions of ERISA or the Health Insurance Portability and Accountability Act.

EMPLOYEE LIABILITY FOR CONTRIBUTION TO PLAN

The employee is liable for any employee contributions that are required under the plan(s) for enrollment of the child(ren) and is subject to appropriate enforcement. The employee may contest the withholding under this Notice based on a mistake of fact (such as the identity of the obligor). Should an employee contest the withholding under this Notice, the employer must proceed to comply with the employer responsibilities in this Notice until notified by the Issuing Agency to discontinue withholding. To contest the withholding under this Notice, the employee should contact the Issuing Agency at the address and telephone number listed on the Notice. With respect to plans subject to ERISA, it is the view of the Department of Labor that Federal Courts have jurisdiction if the employee challenges a determination that the Notice constitutes a Qualified Medical Child Support Order.

CONTACT FOR QUESTIONS

If you have any questions regarding this Notice, you may contact the Issuing Agency at the address and telephone number listed above.

NATIONAL MEDICAL SUPPORT NOTICE OMB NO. 1210-0113

PART B

MEDICAL SUPPORT NOTICE TO PLAN ADMINISTRATOR

This Notice is issued under section 466(a)(19) of the Social Security Act, section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974, and for State and local government and church plans, sections 401(e) and (f) of the Child Support Performance and Incentive Act of 1998. Receipt of this Notice from the Issuing Agency constitutes receipt of a Medical Child Support Order under applicable law. The rights of the parties and the duties of the plan administrator under this Notice are in addition to the existing rights and duties established under such law.

| | |
|---|---|
| Issuing Agency: _____ Issuing Agency Address: _____ Date of Notice: _____ Case Number: _____ Telephone Number: _____ FAX Number: _____ | Court or Administrative Authority: _____ Date of Support Order: _____ Support Order Number: _____ |
|---|---|

Employer/Withholder's Federal EIN Number

RE* _____
Employee's Name (Last, First, MI)

Employer/Withholder's Name

Employee's Social Security Number

Employer/Withholder's Address

Employee's Address

Custodial Parent's Name (Last, First, MI)

Custodial Parent's Mailing Address

Substituted Official/Agency Name and Address

Child(ren)'s Mailing Address (If Different from Custodial Parent's)

Name(s), Mailing Address, and Telephone Number of a Representative of the Child(ren)

| Child(ren)'s Name(s) | DOB | SSN | Child(ren)'s Name(s) | DOB | SSN |
|----------------------|-------|-------|----------------------|-------|-------|
| _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ | _____ |

The order requires the child(ren) to be enrolled in ☐ any health coverages available; or ☐ only the following coverage(s): ☐ medical; ☐ dental; ☐ vision; ☐ prescription drug; ☐ mental health; ☐ other (specify): _____

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Deanne Hall
Operator's Signature

10/17/03
Date

PLAN ADMINISTRATOR RESPONSE

(To be completed and returned to the Issuing Agency within 40 business days after the date of the Notice, or sooner if reasonable)

This Notice was received by the plan administrator on _____.

1. This Notice was determined to be a "qualified medical child support order," on _____. Complete Response 2 or 3, and 4, if applicable.

2. The participant (employee) and alternate recipient(s) (child(ren)) are to be enrolled in the following family coverage.

- The child(ren) is/are currently enrolled in the plan as a dependent of the participant.
- There is only one type of coverage provided under the plan. The child(ren) is/are included as dependents of the participant under the plan.
- The participant is enrolled in an option that is providing dependent coverage and the child(ren) will be enrolled in the same option.
- The participant is enrolled in an option that permits dependent coverage that has not been elected; dependent coverage will be provided.

Coverage is effective as of ____/____/____ (includes waiting period of less than 90 days from date of receipt of this Notice). The child(ren) has/have been enrolled in the following option:

_____. Any necessary withholding should commence if the employer determines that it is permitted under State and Federal withholding and/or prioritization limitations.

3. There is more than one option available under the plan and the participant is not enrolled. The Issuing Agency must select from the available options. Each child is to be included as a dependent under one of the available options that provide family coverage. If the Issuing Agency does not reply within 20 business days of the date this Response is returned, the child(ren), and the participant if necessary, will be enrolled in the plan's default option, if any: _____.

4. The participant is subject to a waiting period that expires ____/____/____ (more than 90 days from the date of receipt of this Notice), or has not completed a waiting period which is determined by some measure other than the passage of time, such as the completion of a certain number of hours worked (describe here: _____). At the completion of the waiting period, the plan administrator will process the enrollment.

5. This Notice does not constitute a "qualified medical child support order" because:

The name of the child(ren) or participant is unavailable.

The mailing address of the child(ren) (or a substituted official) or participant is unavailable.

The following child(ren) is/are at or above the age at which dependents are no longer eligible for coverage under the plan _____ (insert name(s) of child(ren)).

Plan Administrator or Representative:

Name: _____ Telephone Number: _____

Title: _____ Date: _____

Address: _____

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Operator's Signature

Date

INSTRUCTIONS TO PLAN ADMINISTRATOR

This Notice has been forwarded from the employer identified above to you as the plan administrator of a group health plan maintained by the employer (or a group health plan to which the employer contributes) and in which the noncustodial parent/participant identified above is enrolled or is eligible for enrollment.

This Notice serves to inform you that the noncustodial parent/participant is obligated by an order issued by the court or agency identified above to provide health care coverage for the child(ren) under the group health plan(s) as described on **Part B**.

(A) If the participant and child(ren) and their mailing addresses (or that of a Substituted Official or Agency) are identified above, and if coverage for the child(ren) is or will become available, this Notice constitutes a "qualified medical child support order" (QMCSO) under ERISA or CSPIA, as applicable. (If any mailing address is not present, but it is reasonably accessible, this Notice will not fail to be a QMCSO on that basis.) You must, within 40 business days of the date of this Notice, or sooner if reasonable:

(1) Complete Part B - Plan Administrator Response - and send it to the Issuing Agency:

(a) if you checked Response 2:

(i) notify the noncustodial parent/participant named above, each named child, and the custodial parent that coverage of the child(ren) is or will become available (notification of the custodial parent will be deemed notification of the child(ren) if they reside at the same address);

(ii) furnish the custodial parent a description of the coverage available and the effective date of the coverage, including, if not already provided, a summary plan description and any forms, documents, or information necessary to effectuate such coverage, as well as information necessary to submit claims for benefits;

(b) if you checked Response 3:

(i) if you have not already done so, provide to the Issuing Agency copies of applicable summary plan descriptions or other documents that describe available coverage including the additional participant contribution necessary to obtain coverage for the child(ren) under each option and whether there is a limited service area for any option;

(ii) if the plan has a default option, you are to enroll the child(ren) in the default option if you have not received an election from the Issuing Agency within 20 business days of the date you returned the Response. If the plan does not have a default option, you are to enroll the child(ren) in the option selected by the Issuing Agency.

(c) if the participant is subject to a waiting period that expires more than 90 days from the date of receipt of this Notice, or has not completed a waiting period whose duration is determined by a measure other than the passage of time (for example, the completion of a certain number of hours worked), complete Response 4 on the Plan Administrator Response and return to the employer and the Issuing Agency, and notify the participant and the custodial parent; and upon satisfaction of the period or requirement, complete enrollment under Response 2 or 3, and

(d) upon completion of the enrollment, transfer the applicable information on Part B - Plan Administrator Response to the employer for a determination that the necessary employee contributions are available. Inform the employer that the enrollment is pursuant to a National Medical Support Notice.

(B) If within 40 business days of the date of this Notice, or sooner if reasonable, you determine that this Notice does not constitute a QMCSO, you must complete Response 5 of Part B - Plan Administrator Response and send it to the Issuing Agency, and inform the noncustodial parent/participant, custodial parent, and child(ren) of the specific reasons for your determination.

(C) Any required notification of the custodial parent, child(ren) and/or participant that is required may be satisfied by sending the party a copy of the Plan Administrator Response, if appropriate.

UNLAWFUL REFUSAL TO ENROLL

Enrollment of a child may not be denied on the ground that: (1) the child was born out of wedlock; (2) the child is not claimed as a dependent on the participant's Federal income tax return; (3) the child does not reside with the participant or in the plan's service area; or (4) because the child is receiving benefits or is eligible to receive benefits under the State Medicaid plan. If the plan requires that the participant be enrolled in order for the child(ren) to be enrolled, and the participant is not currently enrolled, you must enroll both the participant and the child(ren). All enrollments are to be made without regard to open season restrictions.

PAYMENT OF CLAIMS

A child covered by a QMCSO, or the child's custodial parent, legal guardian, or the provider of services to the child, or a State agency to the extent assigned the child's rights, may file claims and the plan shall make payment for covered benefits or reimbursement directly to such party.

PERIOD OF COVERAGE

The alternate recipient(s) shall be treated as dependents under the terms of the plan. Coverage of an alternate recipient as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA or other applicable law may entitle the alternate recipient to continue coverage under the plan. Once a child is enrolled in the plan as directed above, the alternate recipient may not be disenrolled unless:

Deanne Hall
Operator's Signature

10/17/03
Date

- (1) The plan administrator is provided satisfactory written evidence that either:
- (a) the court or administrative child support order referred to above is no longer in effect, or
 - (b) the alternate recipient is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan;

(2) The employer eliminates family health coverage for all of its employees; or

(3) Any available continuation coverage is not elected, or the period of such coverage expires.

CONTACT FOR QUESTIONS

If you have any questions regarding this Notice, you may contact the Issuing Agency at the address and telephone number listed above.

Paperwork Reduction Act Notice

The Issuing Agency asks for the information on this form to carry out the law as specified in the Employee Retirement Income Security Act or the Child Support Performance and Incentive Act, as applicable. You are required to give the Issuing Agency the information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Issuing Agency needs the information to determine whether health care coverage is provided in accordance with the underlying child support order. The Average time needed to complete and file the form is estimated below. These times will vary depending on the individual circumstances.

Learning about the law or the form

First Notice 1 hr.

Subsequent -----
Notices

Preparing the form

1 hr., 45 min.

35min.

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10/17/03
Date



**NORTH DAKOTA DEPARTMENT
OF HUMAN SERVICES**

John Hoeven, Governor
Carol K. Olson, Executive Director

Child Support Enforcement

1929 N Washington St, PO Box 7190, Bismarck, ND 58507-7190
(701) 328-3582
ND Toll Free 1-800-755-8530
Fax (701) 328-6575

March 3, 2002

Representative Clara Sue Price
Chairman, House Human Services Committee
State Capitol
Bismarck, ND 58505

RE: Senate Bill 2160, Sections 12 and 13

Madame Chairman:

At the hearing this morning, questions were raised regarding "new hire reporting" of independent contractors and other payments for which a 1099 Form must be filed. Specifically, a member of the committee asked whether there was a penalty for failing to report new hires.

The law requiring employers to report all new hires is in chapter 34-15 of the North Dakota Century Code. Under that law, and under SB 2160, new hires must be reported within 20 days of the date the employee is "hired." Section 13 of the bill clarifies that, if a 1099 report must be filed for a payment to an "employee," the "hiring" of the employee must be reported within 20 days of the date of an agreement with the employee or the date a payment is made to the employee, whichever occurs first.

There is a penalty for failing to report new hires.

34-15-05. Civil money penalties.

1. Except as provided in subsection 3, an employer who, after warning provided under subsection 2, fails to file a timely, complete, and correct report required under this chapter is liable for a civil money penalty of twenty dollars for each failure to report a new hire.
2. The department may issue a written warning to an employer who fails to file a timely, complete, and correct report required under this chapter. The warning must state that a failure to report may result in a civil money penalty.
3. An employer who, by agreement between the employer and employee, fails to file a timely, complete, and correct report required under this chapter or files a false or incomplete report, is liable for a civil money penalty of two hundred fifty dollars for each failure to report or each false or incomplete report.

This section contemplates a two-step process. Before a penalty may be imposed, the Department is required to send the employer a written warning.

600 East Boulevard Avenue Department 325 -- Bismarck, ND 58505-0250
www.state.nd.us/humanservices

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Since the inception of the new hire reporting process in the summer of 1997, we have run across many employers who have violated this statute. Most of the time, these violations are unintentional. We have yet to impose a penalty under N.D.C.C. § 34-15-05. In fact, the Department has not yet sent a written warning under that statute. Instead of punishing employers who may not be aware of the new hire reporting requirements, we work with employers to bring the requirements to their attention and work towards future compliance. We intend to take the same cooperative approach for the 1099 reporting process under SB 2160.

For the committee's information, attached is a copy of the voluntary form that employers may use to report new hires. I think you will see that the minimal information that needs to be reported is the same information that an employer will need to complete a 1099 form for the payment.

Sincerely,



Mike Schwindt, Director
Child Support Enforcement

Enclosure



NEW HIRE REPORTING FORM
NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
SFN 1018 (12/97)

Date:

Mail To:

Child Support Enforcement
ND Department of Human Services
PO Box 7369
Bismarck, ND 58507-7369

OR

Fax To:

Child Support Enforcement
ND Department of Human Services
Fax #: (701) 328-5497
Total Pages Faxed: _____

Part 1: Employer Information (please print or type)

Employer Name and Address:

Federal Employer Identification Number:

For SDNH office use only.

Part 2: Employee Information (please print or type)

| | Employee Name | Employee Address | Employee Social Security Number | Employee Date of Birth (optional) | Employee Date of Hire (optional) |
|---|---------------|------------------|---------------------------------|-----------------------------------|----------------------------------|
| 1 | | | | | |
| 2 | | | | | |
| 3 | | | | | |
| 4 | | | | | |
| 5 | | | | | |

(Use continuation sheet to report additional new hires.)

Employer Representative:

Telephone:

INSTRUCTIONS FOR COMPLETING THIS FORM MAY BE FOUND ON THE REVERSE SIDE

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Deanne Hall

10/17/03

Date



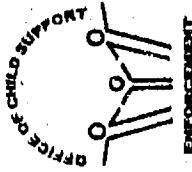
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
ADMINISTRATION FOR CHILDREN AND FAMILIES
OFFICE OF CHILD SUPPORT ENFORCEMENT

Certificate of Achievement

Presented to:

North Dakota Department of Human Services
Child Support Enforcement Agency

FOR LEADERSHIP, COMMITMENT, DEDICATION, AND SUCCESS IN COMPLETING
THE PRWORA REQUIREMENTS FOR CERTIFICATION OF
NORTH DAKOTA'S FULLY AUTOMATED CHILD SUPPORT ENFORCEMENT SYSTEM (FACES)



January 2003

Sheri Z. Heller
Sheri Z. Heller, Ed.D., Commissioner
Office of Child Support Enforcement

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Operator's Signature

10/17/03
Date

Exhibit
#1
SB 2160

TESTIMONY
SB 2160 - DEPARTMENT OF HUMAN SERVICES
SENATE APPROPRIATIONS
RAY HOLMBERG, CHAIRMAN
FEBRUARY 11, 2003

Chairman Holmberg, members of the Senate Appropriations Committee, I am James Fleming, Deputy Director and General Counsel of the State Child Support Enforcement Office of the Department of Human Services. I am here today to provide information and ask for your support of Senate Bill 2160.

A number of questions were asked yesterday about our program, so I'd like to begin with some further details regarding the information you received yesterday. At the end of last June, over \$185 million in child support arrears was owed in North Dakota.

- \$ 66.15 million in IV-D that is owed to the families
- 66.89 million in IV-D that is owed to the State for TANF benefits
- 9.77 million in IV-D that is owed to the State for Foster Care
- 0.26 million in IV-D that is owed to the State for Medicaid
- 14.00 million in IV-D (owed to other payees, such as other states)
- \$157.07 million in Total IV-D arrears
- 28.23 million in Non-IVD (no state involvement except SDU processing)
- \$185.30 million in total arrears

As these numbers indicate, large amounts of money are owed to the State (\$77 million) and to the supported families (over \$94 million).

Last year, we received \$87.2 million dollars in child support. Of that amount, our collections in IV-D cases, which are the cases that are serviced by our program, amounted to \$55.3 million dollars. Of this amount, 12.2% was collected for the State and the remaining 87.8% was paid out to the families. Our collections increase every year, but assuming a constant rate of collection, every 1% increase in collections in IV-D cases over the course of the next biennium will equal \$1.1 million in additional collections, of which \$134,000 would go to the State.

- For example, yesterday you took action on SB 2246 sponsored by Senator Fischer. That legislation is patterned after similar laws in Virginia and Colorado. Colorado experienced a 2% increase in total collections and Virginia saw a 4% increase as a result of implementing an administrative license suspension process. Similar numbers would produce additional collections in North Dakota between \$2.2 million and \$4.4 million in the next biennium alone, of which \$270,000 to \$540,000 would go to the State. On a cost-benefit analysis, one-time programming costs of \$150,000 would be recovered quickly just on the 12.2% of collections retained by the State in the first biennium, with the balance being paid out to the families.
- A significant amount of federal funds for our program are incentive payments based on our performance in certain areas. One of these areas is total collections, and each dollar that we collect that is owed to the State is doubled for purposes of this incentive measure. Three-fourths of these incentive payments go back to the counties.

These examples show the significance of even the slightest improvement in our collection efforts.

All child support payments in North Dakota are processed by the State Disbursement Unit (SDU), which receives an average of 30,000 checks and other payments per month for a monthly total of \$7 million. With this volume, and the two-day federal timeframe for distributing payments, we must operate efficiently. With one centralized disbursement unit, the burden on employers in the income withholding process is decreased because only one check needs to be written to the SDU instead of multiple checks to multiple clerks of court. Advancing technology has allowed us to use the Internet and electronic funds transfers to further ease the burden on employers for reporting new hires and turning over to the SDU any income they have withheld from the wages of obligors for child support.

Our IV-D caseload was 39,236 open cases as of January 1, 2003, with another 11,872 non-IVD cases. These cases involved 64,000 children, 36,000 custodial parents, and 41,000 noncustodial parents. Within the IV-D portion of the program, 12,000 cases are awaiting court orders to establish a child support obligation. On the IV-D cases with orders, for the federal fiscal year ending in September 2002, \$56 million was owed in current support and we collected \$40 million. This rate of 71.6% was good for third in the nation, yet it still means 30% or \$16 million in additional arrears became due and owing to children or the State last federal fiscal year.

To keep control over the rate of growth in arrears and maintain our good rate of collection of current support, we continually strive to work harder and smarter and, at the same time, maintain our compliance with federal requirements. We cannot afford to incur the penalties or decrease in performance-based incentive payments that we would face if we don't continue to improve our collections or comply with all federal requirements.

Sections 1, 2, and 11 are proposed to comply with federal requirements for implementing the National Medical Support Notice. These provisions must be in effect on July 1, 2003. We estimate we will incur \$112,500 in programming costs which would be absorbed into the current budget for the 2001-03 biennium by reprioritizing current budgeted projects. The cost of mailing the notice during the 2003-05 biennium will be an estimated \$3,391 for the Department and \$10,927 for the counties. The mailing cost during the 2005-07 biennium will be an estimated \$2,592 for the Department and \$8,352 for the counties.

Sections 3 through 6 are technical in nature and reflect the fact that income withholding is now handled by the child support enforcement program rather than the clerks of court.

Sections 7 through 15 are proposed to help improve our efficiency. These provisions facilitate greater accuracy in our payment records, more collection of arrears, and more efficient operations. We have already taken great strides in a short time to organize the child support records of 53 clerks of court into one system and to reconcile those records to improve the accuracy of the information maintained on our computer system. We estimate we will incur roughly \$10,000 in programming costs in the 2003-05 to implement the provisions in section 7 of the bill regarding the amount due on arrears for purposes of income withholding.

It is frequently said that the quality of government programs would improve if they were run like a business. Section 14 will allow us to work "smarter" like a business by authorizing us to become a service provider to counties and tribes if those entities determine that the Department can provide child support enforcement services faster and more efficiently than they can.

This bill does not increase any child support obligations – those are set by court order after applying the child support guidelines to the obligor's income. Our focus in Senate Bill 2160 is two-fold: comply with federal mandates and collect what courts have already ordered obligors to pay. This bill will help us continue to improve our performance of the duties assigned by the Legislature.

This concludes my testimony. I would be happy to answer any questions the committee may have.

OVERVIEW

**CHILD SUPPORT ENFORCEMENT PROGRAM
DEPARTMENT OF HUMAN SERVICES
HOUSE HUMAN SERVICES
CLARA SUE PRICE, CHAIRMAN
MARCH 3, 2003**

Chairman Price, members of the House Human Services Committee, I am Mike Schwindt, Director of the State Child Support Enforcement Office of the Department of Human Services. I am here today on behalf of the Department to provide information on the child support enforcement program in North Dakota.

Child support is divided into IV-D and nonIV-D cases.

- In nonIV-D cases, our involvement is limited to issuing income withholding orders and receiving child support payments through our State Disbursement Unit (SDU).
- In IV-D cases, an array of collection services are available to public assistance recipients and anyone who applies for those services. These services include establishing and enforcing orders, income withholding, SDU processing, locating absent parents, judicial and administrative executions and liens, and intercepting income tax refunds.

"Current" child support is the amount of support due in the current amount as determined by a court under the income-based child support guidelines. "Past-due" child support, or arrears, is child support that was not paid in the month in which it was due and is now a judgment against the obligor. If a supported family receives public assistance (TANF, Foster Care, or Medicaid), the child support for that month is assigned to the state and any collections of assigned support are used first to reimburse the state for the assistance it provided in that month.

Last year, we received \$87.2 million dollars in child support.

- Of that, our collections in IV-D cases, which are the cases that are serviced by our program, amounted to \$55.3 million dollars. Of this amount, 12.2% (\$6.75

million) was collected for the State and the remaining 87.8% was paid out to the families.

- Despite our increase in collections each year, our receivables continue to go up.
- As of last June, over \$185 million in arrears was owed in North Dakota.

Our collections have increased every year. Assuming a constant rate of collection, every 1% increase in collections in IV-D cases over the course of the next biennium will equal \$1.1 million in additional collections, of which \$134,000 would go to the State but most would go to the kids.

- For example, one of the bills before you today is SB 2246 sponsored by Senator Fischer. That legislation is patterned after similar laws in Virginia and Colorado. Colorado experienced a 2% increase in total collections and Virginia saw a 4% increase as a result of implementing an administrative license suspension process. Similar numbers would produce additional collections in North Dakota between \$2.2 million and \$4.4 million in the next biennium alone, of which \$270,000 to \$540,000 would go to the State. On a cost-benefit analysis, one-time programming costs of \$150,000 would be recovered quickly just on the 12.2% of collections retained by the State in the first biennium, with the balance being paid out to the families.
- A significant amount of federal funds for our program are incentive payments based on our performance in certain areas. One of these areas is total collections, and each dollar that we collect that is owed to the State is doubled for purposes of this incentive measure. Three-fourths of these incentive payments go back to the counties.

These examples show the significance of even the slightest improvement in our collection efforts.

All child support payments in North Dakota are processed by the State Disbursement Unit (SDU), which receives an average of 30,000 checks and other payments per month for a monthly total of \$7 million. With this volume, and the two-day federal timeframe for distributing payments, we must operate efficiently.

- With one centralized disbursement unit, the burden on employers in the income withholding process is decreased because only one payment needs to be made instead of checks to multiple clerks of court.
- Advancing technology has allowed us to use the Internet and electronic funds transfers to further ease the burden on employers for reporting new hires and sending us the income they have withheld from the wages of obligors.

Our IV-D caseload was 39,236 open cases as of January 1, 2003, with another 11,872 nonIV-D cases. These cases involved 64,000 children, 36,000 custodial parents, and 41,000 noncustodial parents. Within the IV-D portion of the program, 12,000 cases are awaiting court orders to establish a child support obligation. On the IV-D cases with orders, for the federal fiscal year ending in September 2002, \$56 million was owed in current support and we collected \$40 million. This 72% rate was good for third in the nation, yet it means we didn't collect 28% and \$16 million more in additional arrears became due and owing to children or the State last federal fiscal year.

To keep control over the rate of growth in arrears and maintain our good rate of collection of current support, we continually strive to work harder and smarter and, at the same time, maintain our compliance with federal requirements. We cannot afford to incur the penalties or decrease in performance-based incentive payments that we would face if we don't continue to improve our collections or comply with all federal requirements.

The bills that you will consider today do not increase any child support obligations – those are set by court order after applying the child support guidelines. These bills will help us work smarter with available resources and, as a result, continue to improve our performance of the duties assigned by the Legislature and maximize the federal incentive funds we can receive in the next biennium.

This concludes my testimony. I would be happy to answer any questions the committee may have.

Fact Sheet

Child Support Enforcement

Child Support Enforcement is a joint state, county, and federal partnership. The purpose of the program is to secure financial support from legally responsible parents so that families and children receive that support, and so that the demand on public treasuries is reduced.

The Child Support Enforcement Division works with two types of cases:

- **IV-D cases** which stem from referrals from public assistance programs (TANF, foster care and Medical Assistance) or from either custodial or noncustodial parents applying for IV-D services.
- **NonIV-D cases** which stem from court orders where there is no application or referral to the IV-D program or where people choose to close their IV-D case.

Services Provided:

By the eight Regional Child Support Enforcement Units (county entities) through cooperative agreement:

IV-D cases: Paternity establishment, establishment and enforcement (including issuing income withholding orders) of child support and medical support orders, review and adjustment of court orders, local locate when customers need to be found, and customer services.

- **NonIV-D cases:** None

By the Clerks of Court:

- **IV-D and NonIV-D cases:** Initiate contempt proceedings, enter civil file information into the automated system, and customer services.

By the Child Support Enforcement Division:

- **IV-D Cases:** Manage a number of programs including Federal and State Tax Intercept, State Parent Locate Service, Credit Bureau Reporting, Financial Institution Data Match, Passport Denial, State Directory of New Hires, Central Registry, and Federal Case Registry. Also provide customer services and centralized receipting and distribution of payments including Electronic Funds Transfer (EFT).
- **NonIV-D cases:** Centralized receipting and distribution of payments, issuing income withholding orders, customer services, and EFT.

The court order:

- Is issued by the district court. District court judges or judicial referees may conduct hearings.
- Establishes medical support and the amount of child support due based upon the child support guidelines and the unique fact situations of each case.
- May be amended at the request of either party either through private legal counsel or pro se (self representation).
- Will be reviewed, on IV-D cases, by RCSEUs, generally no more frequently than 35 months since the order was entered or last reviewed.
- Is enforced by the courts. Requests for enforcement may come from Clerks of Court, private attorneys, either party or, in IV-D cases, the RCSEUs.
- Is also enforced, in IV-D cases, by the Child Support Enforcement Division and the RCSEUs through a variety of administrative actions.
- Is also enforced, in nonIV-D cases, by the Child Support Enforcement Division through administratively issued income withholding orders.

Contacts/Information:

Web site: <http://www.childsupportnd.com>

Customers:

Customer Service Unit:

Email: socscs@state.nd.us

Ph: 800.231.4255 Local: 328.5440 Fax: 701.328.5425

Customer Address Changes:

Email: sosdu@state.nd.us

Web site: <http://www.childsupportnd.com>

(select Child Support On-Line Services)

Employers:

New Hire Reporting:

Email: sohire@state.nd.us

Web site: <http://www.childsupportnd.com>

(select Child Support On-Line Services)

Fax: 701.328.5497

Mike Schwindt, Director

Email: soschm@state.nd.us Ph: 701.328.3582

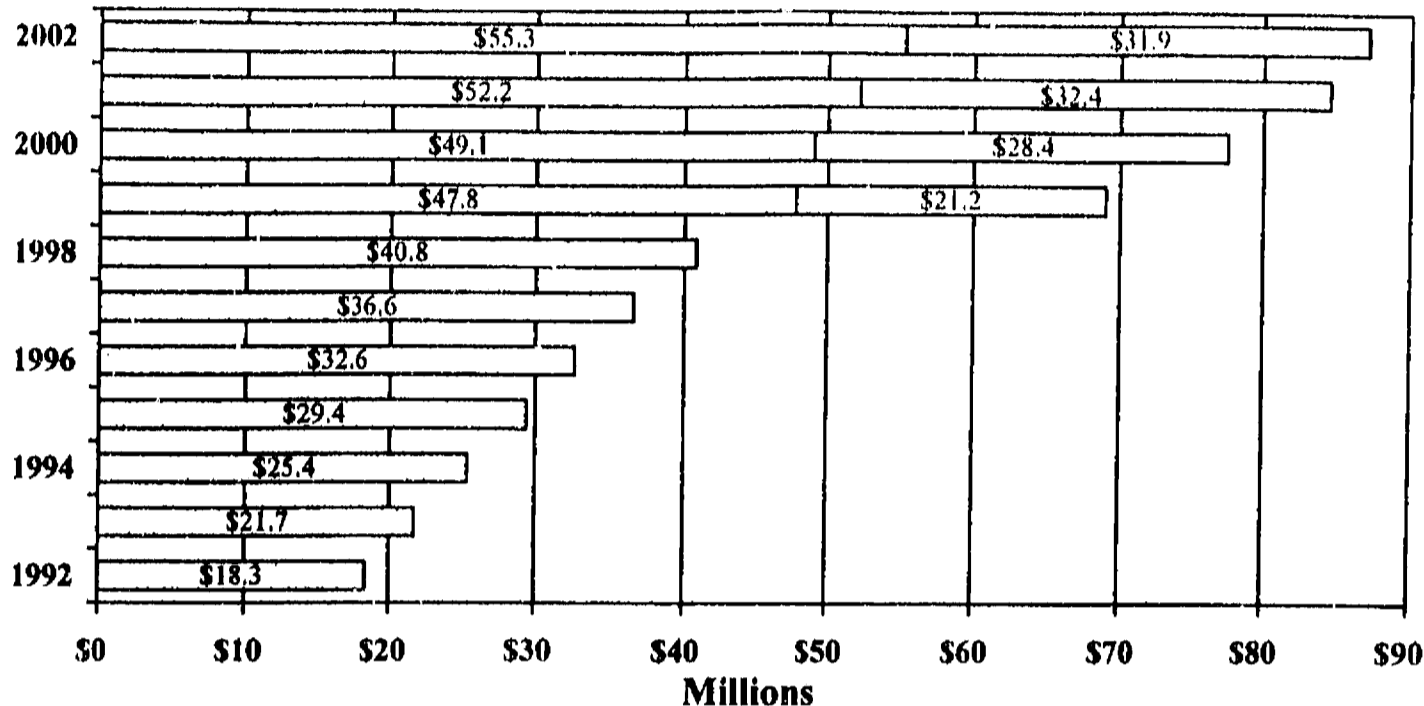
Revised February 2003 for the North Dakota Department of Human Services, Child Support Enforcement Division, P.O. Box 7190, Bismarck ND 58507-7190, (701) 328-3582, toll free ND: (800) 755-8530, TTY: (800) 366-6889

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Deanna Hall
Operator's Signature

10/17/03
Date

Department of Human Services
Child Support Receipts
Calendar Years 1992-2002



At June 30, 2002, over \$185 million in child support arrears was owed in North Dakota.

\$ 66.15 million in IV-D that is owed to the families

66.89 million in IV-D that is owed to the State for TANF benefits

9.77 million in IV-D that is owed to the State for Foster Care

0.26 million in IV-D that is owed to the State for Medicaid

14.00 million in IV-D (owed to other payees, such as other states)

\$157.07 million in Total IV-D arrears

28.23 million in Non-IVD (no state involvement except SDU processing)

\$185.30 million in total arrears

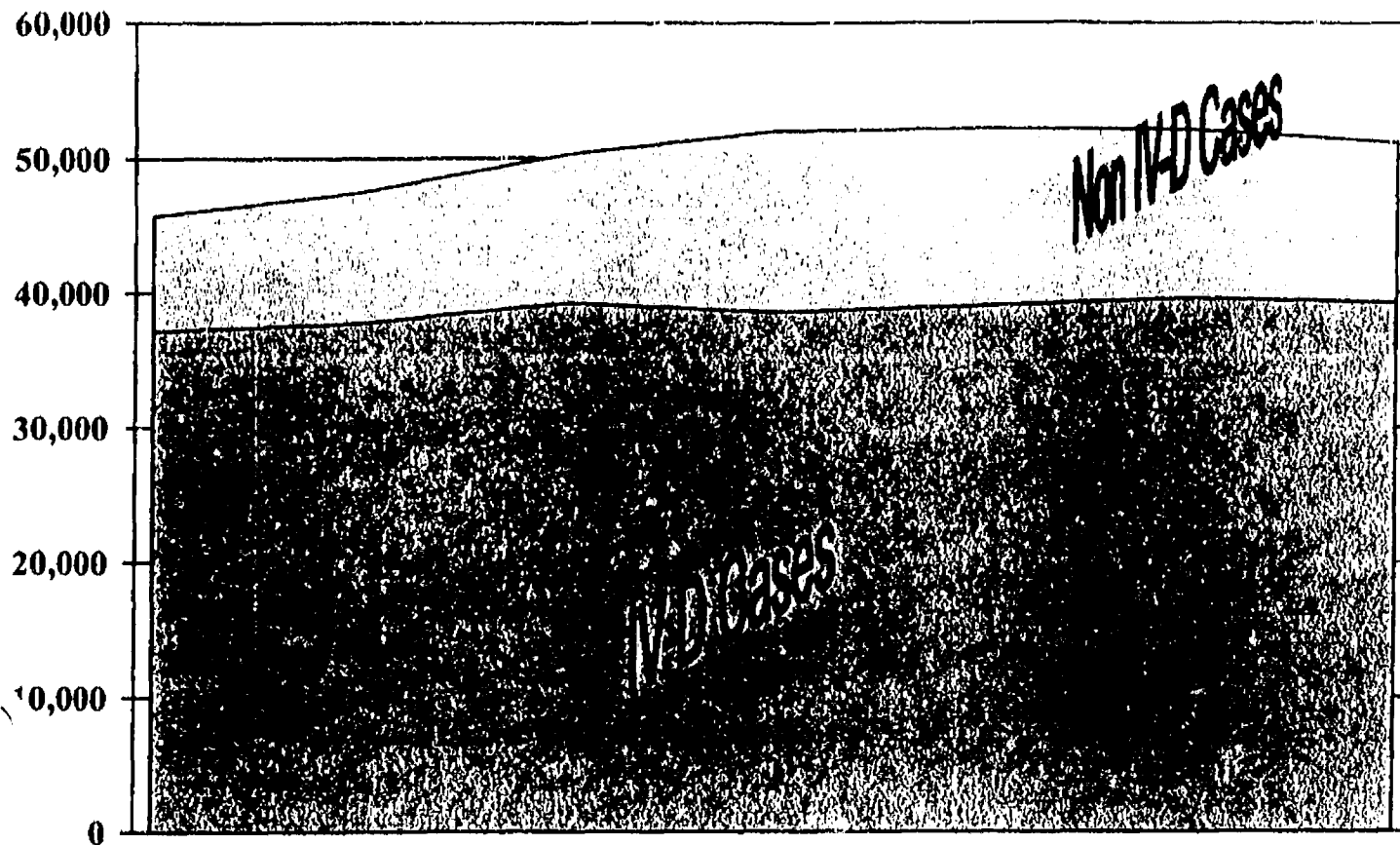
As these numbers indicate, large amounts of money are owed to the State (\$77 million) and to the supported families (over \$94 million).

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Operator's Signature

10/17/03
Date

**Department of Human Services
Open Child Support Cases
December 1999 through December 2002**



| | Dec-99 | Jun-00 | Dec-00 | Jun-01 | Dec-01 | Jun-02 | Dec-02 |
|------------|--------|--------|--------|--------|--------|--------|--------|
| □ Non IV-D | 8,591 | 9,741 | 11,071 | 13,443 | 13,131 | 12,542 | 11,872 |
| □ IV-D | 37,161 | 37,735 | 39,244 | 38,590 | 39,047 | 39,564 | 39,236 |

The Child Support Enforcement Program serves customers in North Dakota as well as in other states and in other countries.

- 64,000 Children
- 36,000 custodial parents
- 41,000 noncustodial parents

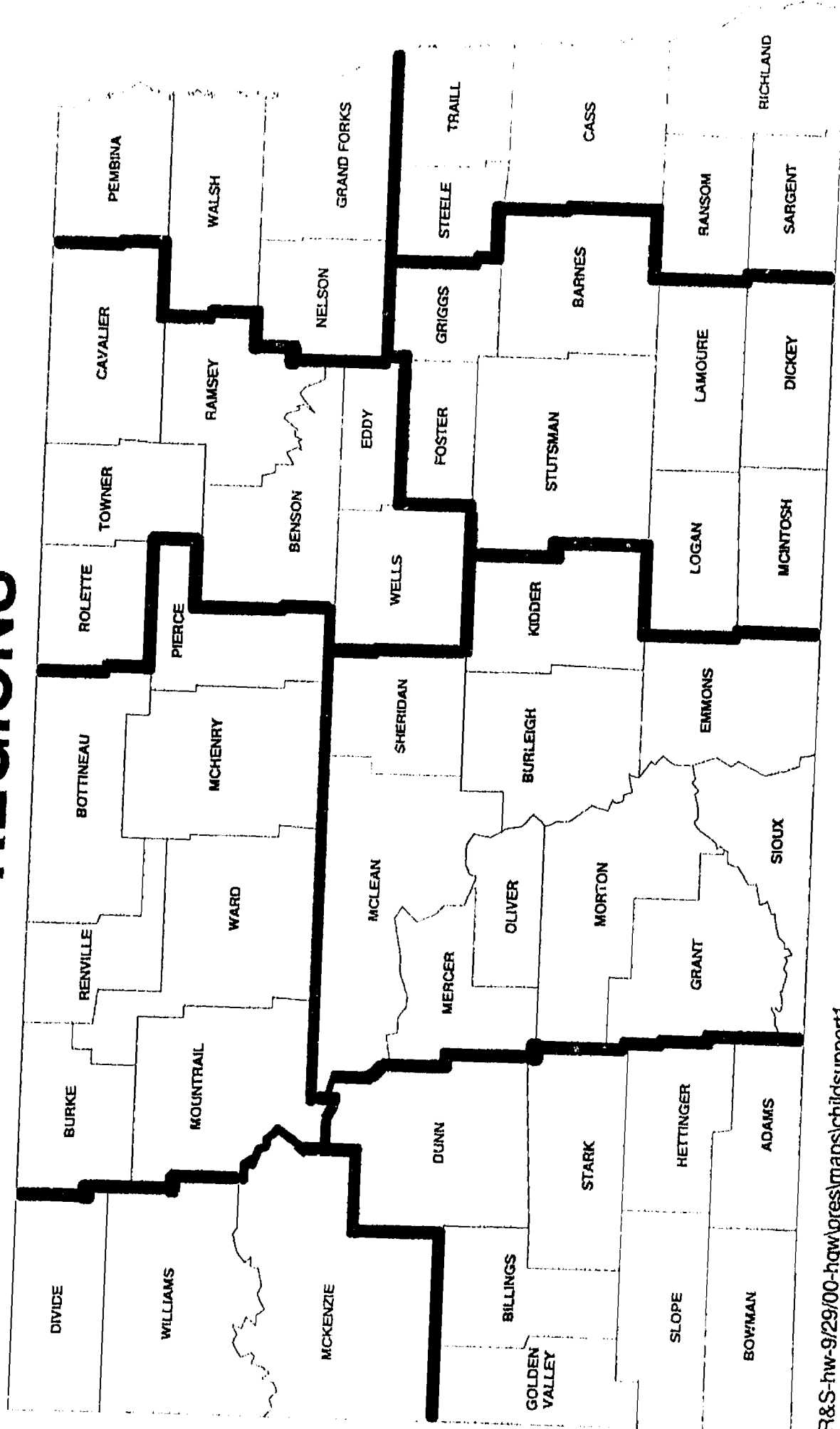
The caseload includes about 12,000 cases where orders need to be established.

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Deanna Nellis
Operator's Signature

10/17/03
Date

CHILD SUPPORT ENFORCEMENT REGIONS



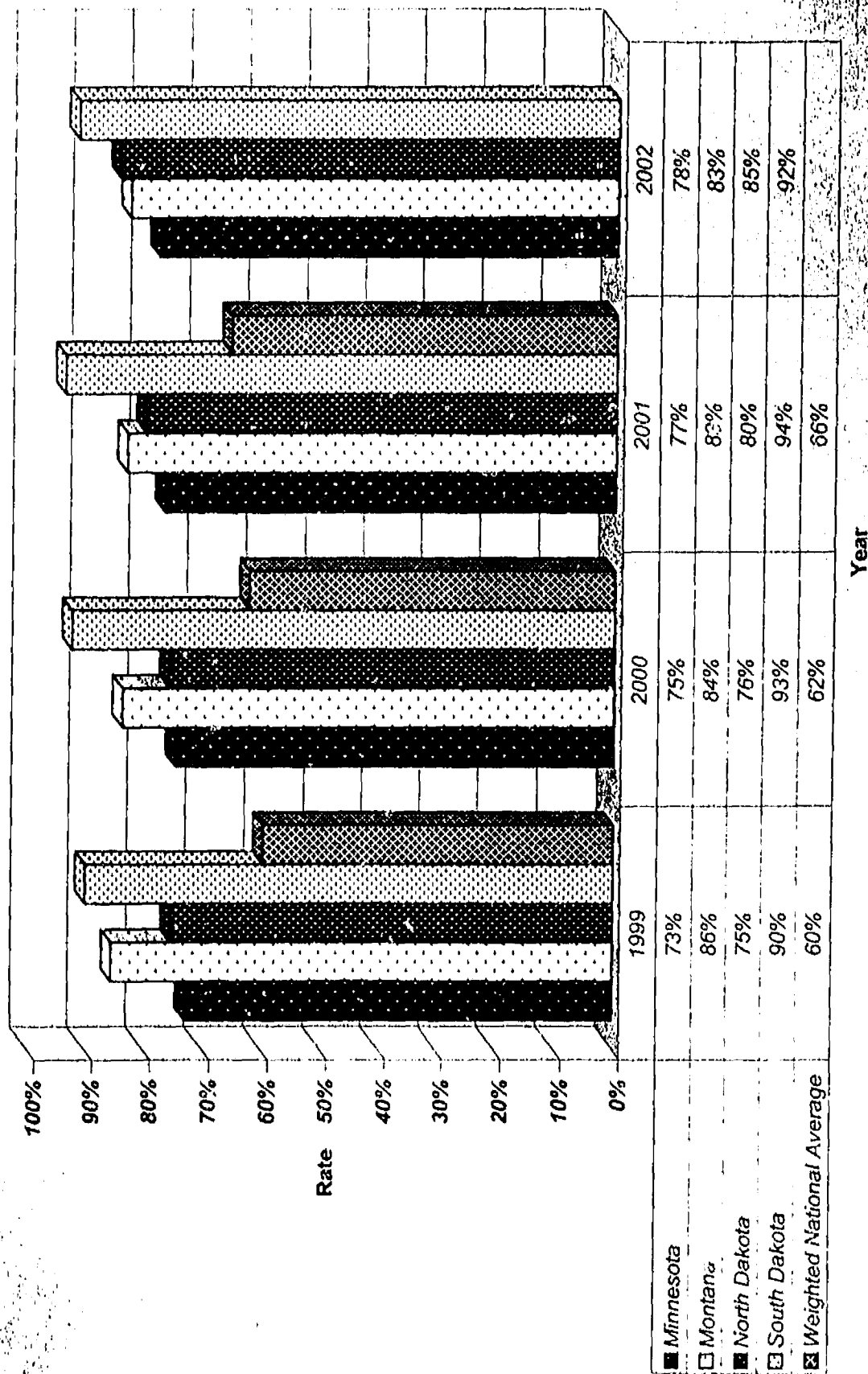
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Deanna Bell
Operator's Signature

10/17/03
Date

**Comparative Annual Obligation Percentage
Child Support Enforcement
FFY 1999 - 2002**

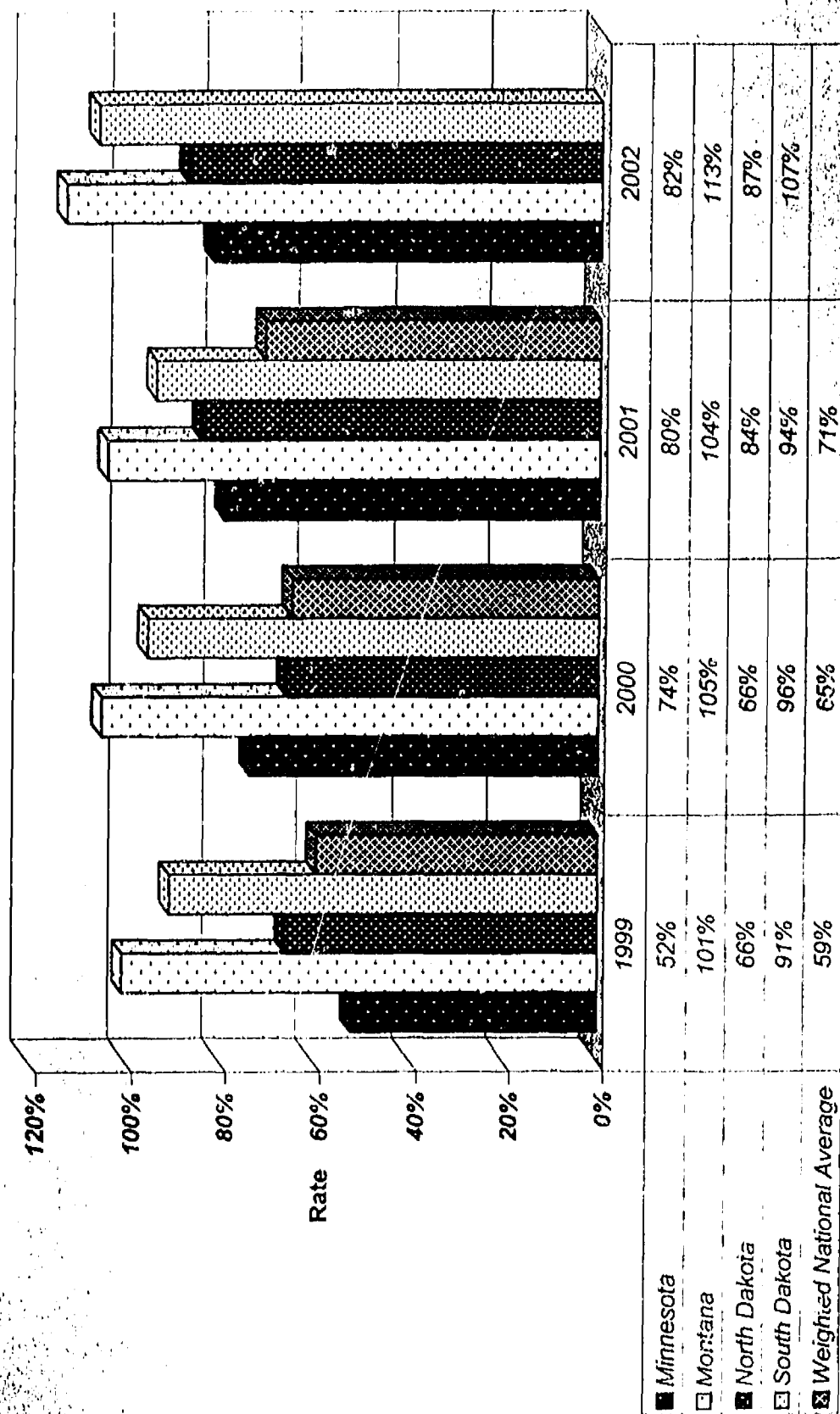


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Comparative Annual PEP Percentage
Child Support Enforcement
FFY 1999 - 2002

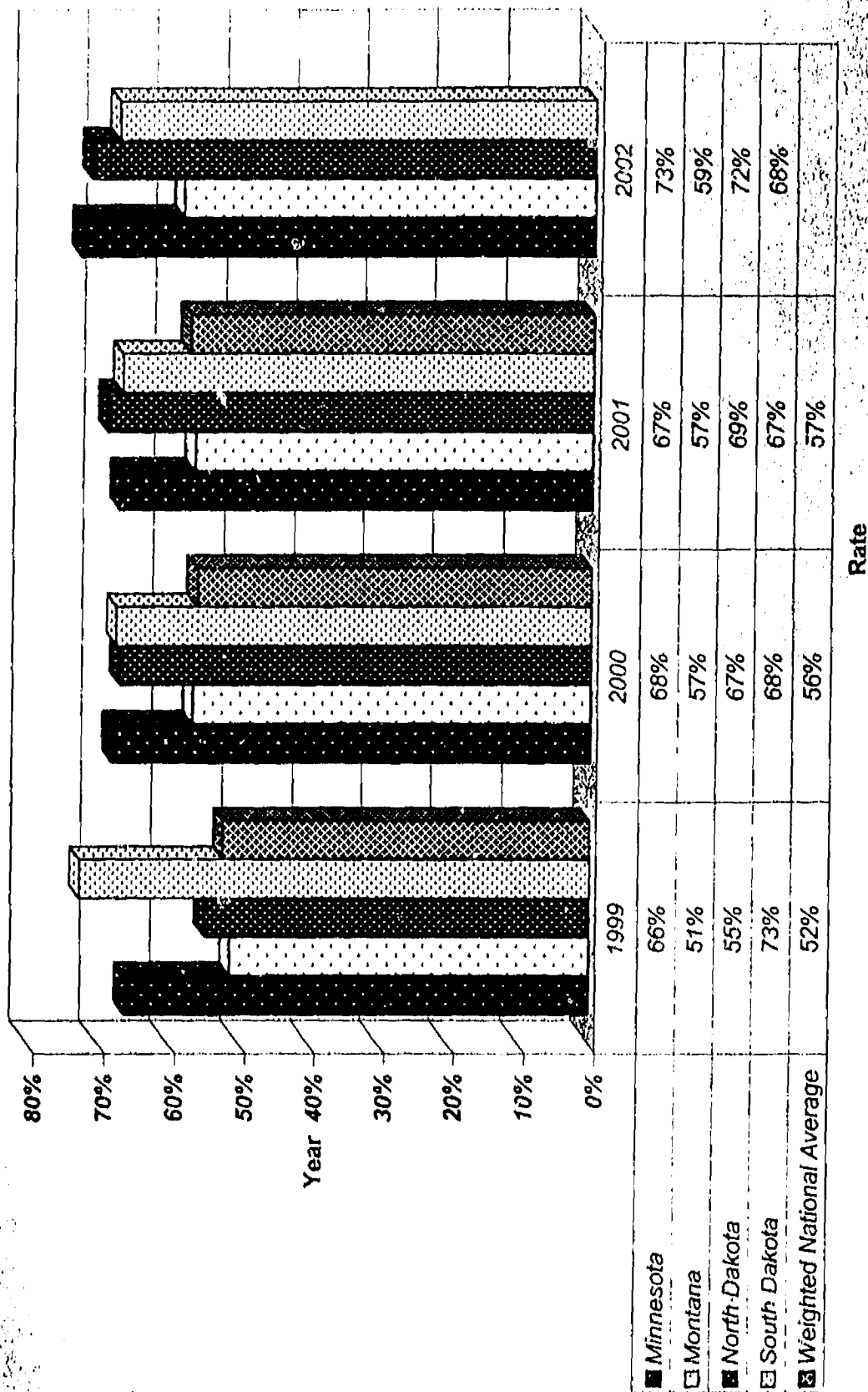


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**Comparative Annual Current Support Percentage
Child Support Enforcement
FFY 1999 - 2002**

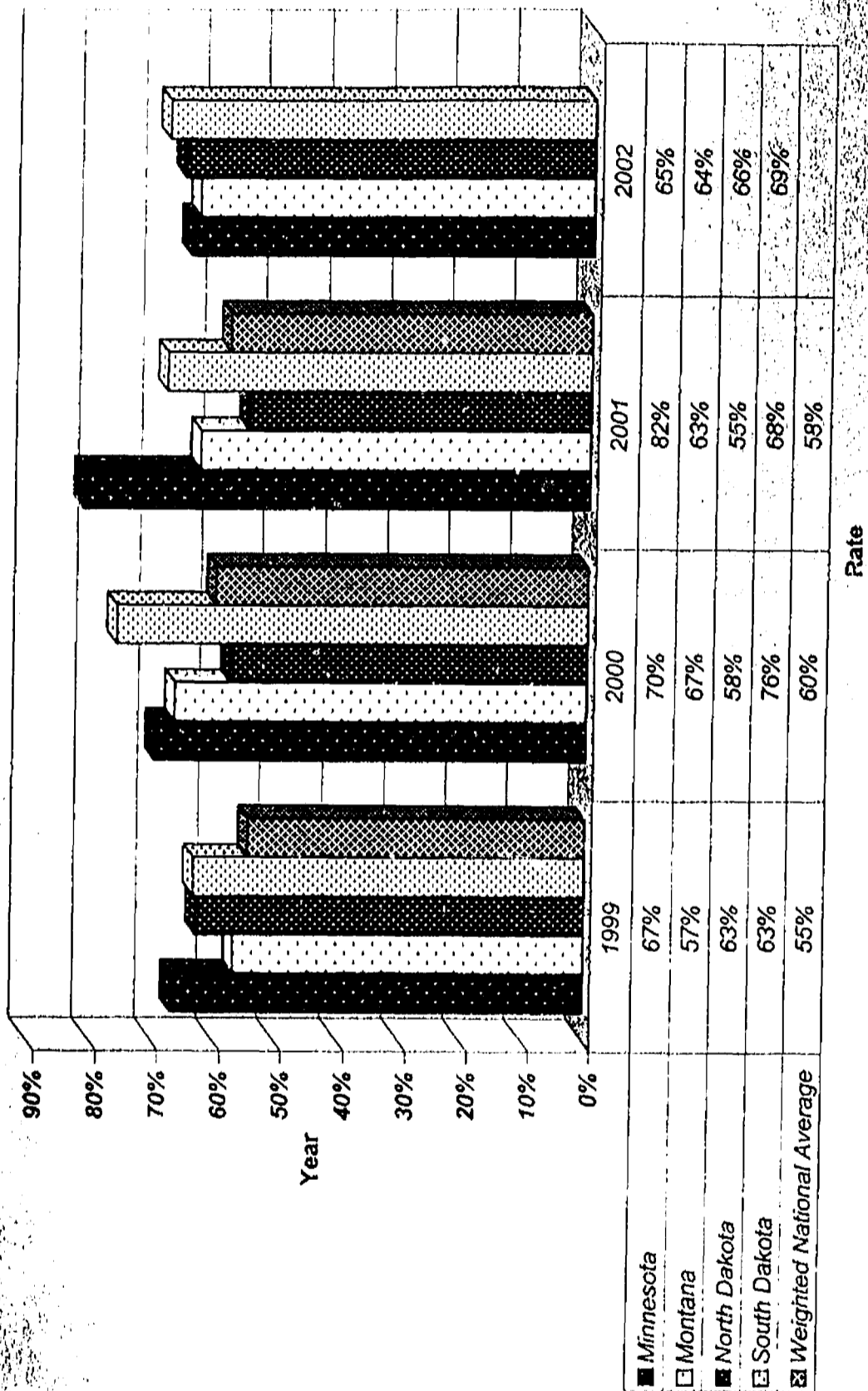


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Comparative Annual Arrears Percentage
Child Support Enforcement
FFY 1999 - 2002



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Comparative Annual Cost Effectiveness Rate
Child Support Enforcement
FFY 1999 - 2001



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| Obligation Rate | | | PEP | | | % of Current Support Paid | | | % of Cases Paying on Arrears | | |
|-----------------|------|------|----------------|------|------|---------------------------|------|------|------------------------------|------|------|
| State | 2002 | Rank | State | 2002 | Rank | State | 2002 | Rank | State | 2002 | Rank |
| South Dakota | 92% | | Idaho | 131% | | Pennsylvania | 75% | | New Hampshire | 72% | |
| Washington | 91% | | Vermont | 119% | | Minnesota | 73% | | Pennsylvania | 71% | |
| Iowa | 88% | | Montana | 113% | | North Dakota | 72% | 3 | Vermont | 71% | |
| Maine | 87% | | New Hampshire | 107% | | Wisconsin | 71% | | South Dakota | 69% | |
| Vermont | 86% | | Utah | 107% | | South Dakota | 68% | | Washington | 68% | |
| Utah | 85% | | South Dakota | 107% | | Ohio | 67% | | Delaware | 68% | |
| North Dakota | 85% | 7 | Washington | 101% | | Nebraska | 67% | | Alaska | 67% | |
| Colorado | 84% | | Kansas | 95% | | Vermont | 66% | | Ohio | 67% | |
| Montana | 83% | | Wisconsin | 95% | | New Hampshire | 66% | | North Dakota | 66% | 9 |
| Pennsylvania | 83% | | Maine | 94% | | New York | 65% | | Colorado | 66% | |
| Wyoming | 83% | | Hawaii | 89% | | New Jersey | 65% | | Utah | 66% | |
| Alaska | 83% | | Colorado | 89% | | Washington | 64% | | Minnesota | 65% | |
| New Hampshire | 82% | | North Dakota | 87% | 13 | West Virginia | 62% | | Louisiana | 65% | |
| Virginia | 80% | | Nevada | 87% | | Maryland | 62% | | Texas | 65% | |
| Wisconsin | 79% | | Arkansas | 87% | | North Carolina | 61% | | Maryland | 64% | |
| Missouri | 79% | | Florida | 86% | | Rhode Island | 61% | | Montana | 64% | |
| New Jersey | 79% | | Missouri | 86% | | Delaware | 61% | | Iowa | 63% | |
| Idaho | 79% | | Connecticut | 85% | | Oregon | 60% | | Florida | 63% | |
| Arkansas | 79% | | North Carolina | 84% | | Wyoming | 60% | | Nevada | 62% | |
| Minnesota | 78% | | Kentucky | 83% | | Texas | 60% | | Nebraska | 62% | |
| Michigan | 76% | | Nebraska | 83% | | Massachusetts | 60% | | Wyoming | 62% | |
| Nebraska | 76% | | Minnesota | 82% | | Michigan | 59% | | Maine | 61% | |
| California | 75% | | South Carolina | 81% | | Iowa | 59% | | New Jersey | 61% | |
| West Virginia | 75% | | Alaska | 81% | | Virginia | 59% | | Wisconsin | 61% | |
| North Carolina | 73% | | Michigan | 81% | | Utah | 59% | | Kansas | 61% | |
| New York | 73% | | New Jersey | 80% | | Montana | 59% | | Oregon | 61% | |
| Massachusetts | 72% | | Pennsylvania | 79% | | Maine | 58% | | Georgia | 61% | |
| Ohio | 71% | | Delaware | 77% | | Florida | 56% | | Michigan | 61% | |
| Indiana | 71% | | Louisiana | 77% | | Idaho | 55% | | New York | 60% | |
| Delaware | 70% | | Massachusetts | 77% | | Kansas | 55% | | New Mexico | 60% | |
| Kentucky | 70% | | Virginia | 77% | | Louisiana | 55% | | North Carolina | 60% | |
| Oklahoma | 70% | | Ohio | 75% | | Colorado | 55% | | Idaho | 60% | |
| Texas | 69% | | Maryland | 75% | | Connecticut | 55% | | Mississippi | 60% | |
| Maryland | 69% | | West Virginia | 75% | | Alaska | 54% | | Massachusetts | 58% | |
| Georgia | 68% | | California | 75% | | Kentucky | 53% | | Rhode Island | 58% | |
| Oregon | 67% | | Oregon | 74% | | Hawaii | 51% | | West Virginia | 58% | |
| South Carolina | 67% | | Wyoming | 72% | | Missouri | 51% | | Arkansas | 57% | |
| Arizona | 66% | | Texas | 70% | | Tennessee | 50% | | Oklahoma | 57% | |
| Alabama | 66% | | Mississippi | 70% | | Arkansas | 50% | | California | 55% | |
| Florida | 65% | | Rhode Island | 69% | | Georgia | 50% | | Tennessee | 55% | |
| Louisiana | 64% | | Tennessee | 67% | | Mississippi | 50% | | Virginia | 54% | |
| Connecticut | 64% | | Iowa | 66% | | South Carolina | 50% | | Connecticut | 53% | |
| Kansas | 64% | | Alabama | 65% | | Indiana | 49% | | Indiana | 53% | |
| Nevada | 60% | | New York | 64% | | Washington, DC | 48% | | Illinois | 52% | |
| Hawaii | 59% | | New Mexico | 58% | | Alabama | 48% | | South Carolina | 52% | |
| Tennessee | 57% | | Arizona | 51% | | Nevada | 47% | | Arizona | 51% | |
| Rhode Island | 51% | | Indiana | 51% | | New Mexico | 47% | | Kentucky | 50% | |
| Mississippi | 50% | | Georgia | 50% | | Oklahoma | 47% | | Missouri | 50% | |
| New Mexico | 48% | | Oklahoma | 47% | | Arizona | 45% | | Alabama | 48% | |
| Illinois | 41% | | Illinois | 46% | | California | 42% | | Hawaii | 37% | |
| Washington, DC | 30% | | Washington, DC | 33% | | Illinois | 39% | | Washington, DC | 30% | |

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Human Services Child Support

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- Links to Other Child Support Resources

Related Areas:

News

Child Support in the News
Child Support 101 Lesson One

More News...

☒ Spotlight on State Child Support Programs In this exciting new feature, we are profiling different states' child support programs. This month, the spotlight is on Iowa!

If you have any questions regarding a specific case: NCSL is a bi-partisan, non-advocacy, private, non-profit organization serving state legislators and their staffs. The Child Support Project does not handle or intercede in individual cases. For assistance with establishing or collecting child support, please consult an attorney or your state child support office. (click on State Child Support Offices for a listing)

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ALL words ☒

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| | |
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| Arts & Culture | <input checked="" type="checkbox"/> |
| Banking & Financial Services | <input checked="" type="checkbox"/> |
| Budget & Tax--Federal | <input checked="" type="checkbox"/> |
| Budgets--State | <input checked="" type="checkbox"/> |
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WHY DO WE NEED CHILD SUPPORT?

WE NEED CHILD SUPPORT BECAUSE...

- Approximately half of all children spend time in a single-parent home.
- Children with one uninvolved or absent parent tend to have more behavioral and emotional problems than children who are raised in two-parent families.
- Despite a healthy economy, millions of American children live in poverty, and most of these children are living in single-parent households.

CHILD SUPPORT AFFECTS MARRIAGE AND FAMILIES...

- Strong child support programs have been shown to keep families together.
- Higher support awards can mean lower divorce rates. Parents are forced to consider the full ramifications of divorce or separation.
- Fathers who pay child support are more likely to remain involved in their children's lives.
- Payment of child support decreases conflict between parents.

CHILD SUPPORT AFFECTS STATES...

- States become surrogate guardians for kids with problems; kids who receive child support have fewer problems.
- Immediate savings are realized as families become less reliant on TANF, food stamps and Medicaid.
- Savings also are realized on future costs of juvenile and criminal court processing, special education resources and mental health services.

DOES THE AMOUNT OF SUPPORT PAID MATTER?

WHAT ARE THE POTENTIAL LONG-TERM BENEFITS OF A STRONG CHILD SUPPORT PROGRAM?

HOW EFFECTIVE IS THE CHILD SUPPORT PROGRAM NATIONWIDE?

Call the Child Support Project at (303) 364-7700 or visit our website, <http://www.ncsl.org/programs/cyf/cs.htm>, for the answers to these questions and more!

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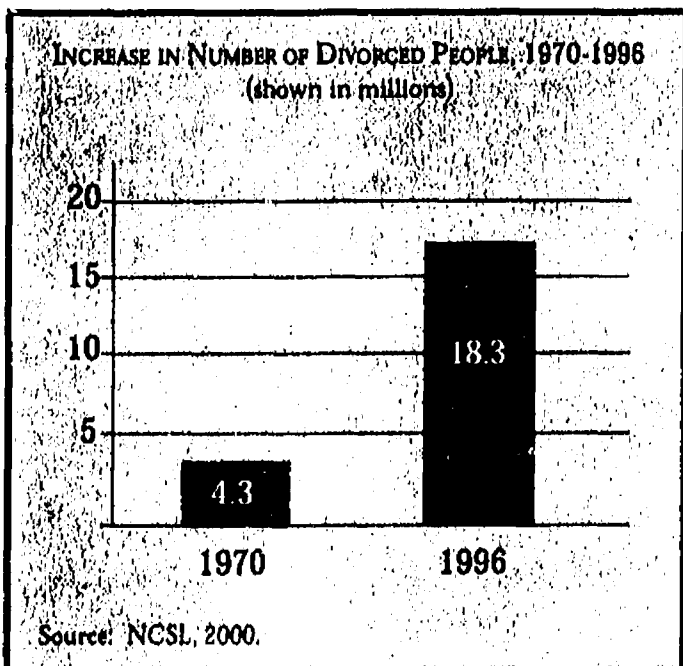
Lesson One

WHY DO WE NEED CHILD SUPPORT?

Approximately half of all children today will spend time in a single-parent home, evenly divided between those whose parents separated or divorced and those whose parents were never married.

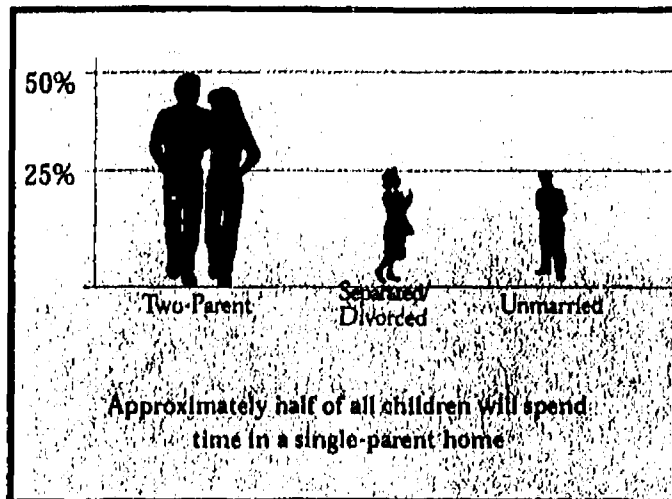
Between 1970 and 1996, the number of divorced people more than quadrupled, while the number of never-married adults more than doubled.

During the same period, the proportion of children under 18 years of age living with one parent grew from 12 percent to 28 percent.

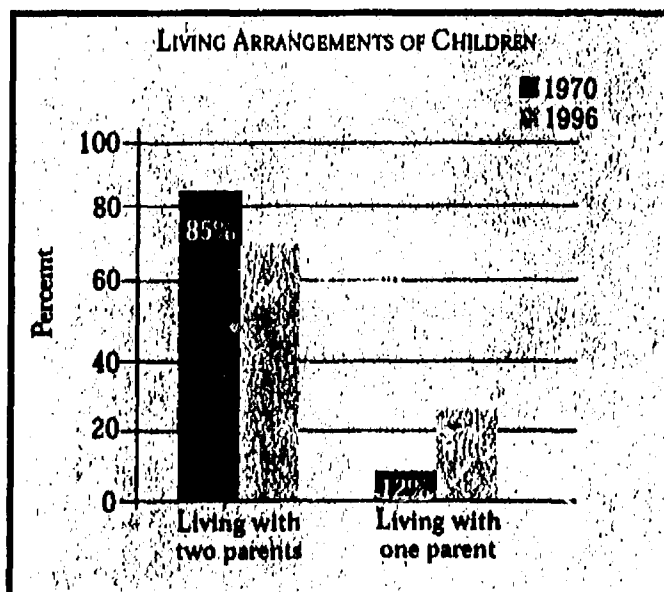


More than 3 million children under age 18 live only with their fathers; approximately 46 percent of these dads were *divorced*, 31 percent were *never married*, 19 percent were *separated*, and 4 percent were *widowed*.

The percent of single-parent families in 1995 ranged from 60 percent in Washington, D.C., to 14 percent in Utah. Most states have a rate of approximately 25 percent.



The marriage disruption rate nationally may be as high as 64 percent. Mothers head 80 percent of single-parent households nationwide. Although most custodial parents are mothers, a 1998 Census Bureau report shows single-parent households are increasingly headed by fathers.



A recent California study found that more children in the state relied on the child support program than on any other state program, with the exception of the public school system.

Children from single-parent homes tend to have more behavioral and emotional problems than children raised in two-parent families. Analysis and summary of 92 studies of children found that parental divorce is associated with negative outcomes in academic achievement, psychological adjustment, personal conduct, self-esteem and social relationships.

**CHILDREN LIVING IN SINGLE-PARENT HOMES
WITH ONE UNINVOLVED PARENT ARE:**

- More likely to experience health and behavioral problems
- More likely to become teen parents
- Twice as likely to live in poverty
- More likely to run away from home
- Twice as likely to drop out of high school
- If boys: more likely to abuse drugs
- If girls: more likely to commit suicide
- If boys: twice as likely to commit a crime

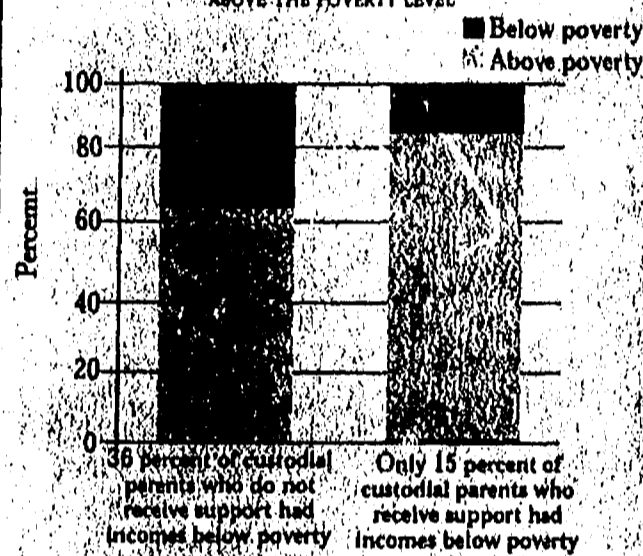
Despite a healthy economy, millions of American children live in poverty, and most of these children are living in single-parent households. Almost 20 percent of children were considered "poor" in 1998, and the proportion of families living in extreme poverty doubled from 5 percent in 1975 to 10 percent in 1992.

One in four American children lives with only one parent.

One in five children receives food stamps.

Child support makes a big difference in the income of single-parent families. According to 1997 census data, the poverty rate for custodial parents due child support who did not receive any payments was 36 percent, but only 15 percent of custodial parents who received all the child support due to them had incomes below the poverty level.

**CHILD SUPPORT HELPS TO KEEP FAMILIES
ABOVE THE POVERTY LEVEL**



**HOW DOES A LACK OF CHILD
SUPPORT AFFECT THE STATE?**

The state becomes surrogate guardian for kids with problems. There are strong fiscal incentives for states to make a commitment to child support programs. States realize immediate cost-avoidance savings as families become self-sufficient and less reliant on other state programs such as TANF, food stamps and Medicare. States also realize savings on future costs of child well-being through lower juvenile and criminal court costs, special education resources and mental health expenditures.

SAVINGS IN TWO STATES

- A Michigan study showed including medical support orders with child support orders resulted in Medicaid savings of \$1,550 per person in FY 1997, or \$228 million in federal and state savings.
- A Washington study showed investment in resources that led to good child support collections generated a cost-avoidance savings of \$5.5 million in reduced custodial parent welfare benefits over a three-year period.

HOW DOES CHILD SUPPORT AFFECT MARRIAGE AND FAMILIES?

Child support affects original families. Strong child support programs have been correlated with a slight negative impact on family dissolution. Higher child support awards force parents to consider the full ramifications of any decision to divorce or separate.

Effects of child support on second families. Among fathers who remarry, stricter enforcement of child support has no significant negative effects on the likelihood that they will father new children. Among women who married twice, 35 percent of total births to those women occurred in second marriages. Research indicates that child support creates no statistically significant economic effect on second families. A recent fatherhood study suggests that poor second families will continue to be poor, but that new poor families will not be created due to child support payments. If income-based guidelines are being properly applied, this should always be the case.

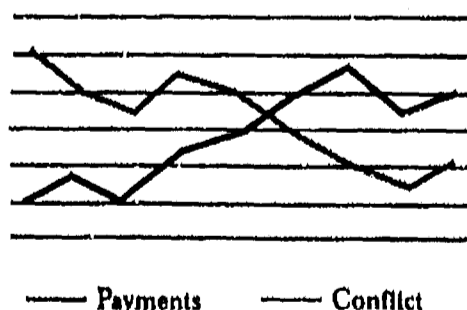
Child support affects level of conflict between parents. Fathers who paid no child support reported the least conflict, however, among low-income fathers, those paying at least some support are less likely to experi-

ence conflict. Among fathers who paid at least some child support, the amount of support paid was inversely related to the amount of conflict between the parents.

Child support affects involvement and influence of non-custodial fathers. Fathers who pay child support are more likely to visit their child, to see their child more frequently, and to influence how their child is raised, regardless of how much support they pay. Custodial parents accord greater legitimacy to non-custodial parents' participation in child-rearing decisions when they pay child support. Research shows that payment of child support has a greater influence on contact with children than contact has on payment of child support.

Child support affects noncustodial parents differently. Policymakers are increasingly distinguishing between those obligors who have the ability to pay child support but refuse to do so, and those obligors who are financially unable to meet their child support obligation. Almost 37 percent of young noncustodial fathers are impoverished, 30 percent did not work in 1990. More than half of them have not completed high school, and have never married. More common is the delinquent parent who is financially able but does not pay support. In 1990, more than 70 percent of delinquent obligors were working the entire year

RESEARCH INDICATES THAT AS CHILD SUPPORT PAYMENTS INCREASE, CONFLICT DECREASES.



and earned, on average, about \$20,000. Recognition of the differences in types of obligors has led policymakers to develop a variety of programs to encourage child support compliance and parental involvement.

DOES IT MATTER HOW MUCH CHILD SUPPORT IS PAID?

Studies show a positive relationship between the amount of child support that noncustodial parents pay, and their children's behavior and school achievement. In addition to improving financial stability and emotional well-being, payment of child support may also have symbolic value for children, indicating a parent's concern and reinforcing the beneficial effects of the greater amount of time that parents who pay support spend with their children.

Research demonstrates that the amount of child support paid was positively correlated to the amount of influence the parent had in child-rearing matters, and to the frequency of visits with the child. Higher child support guidelines have not been shown to result in fewer child support collections.

WHAT ARE THE POTENTIAL LONG-TERM BENEFITS OF A STRONG CHILD SUPPORT PROGRAM?

Payment of child support fosters better relationships between parents and children. A strong child support program creates a disincentive for marriage dissolution. It creates role models for personal and parental responsibility for future generations. Studies have found a link between payment of child support and parental involvement. Payment of child support may decrease conflict between parents.

Child support helps reduce the child poverty rate and associated future economic and social costs for children. Child support helps create and maintain family self-sufficiency. States are now reporting that regular, reasonable child support awards can make the difference between reliance on the state, and self-sufficiency. The key to self-sufficiency is consistent, reliable, reasonable support payments. Above a certain threshold, it is more important that payments are reasonable and regular than that they be large.

HOW EFFECTIVE IS THE CHILD SUPPORT PROGRAM?

According to the Federal Office of Child Support Enforcement preliminary data for fiscal year 1999, state agencies:

- Collected \$15.8 billion, an increase of 98.9 percent since 1992 and 10.4 percent since 1998.
- Provided services to customers in more than 16 million cases.
- Established paternity for more than 1.5 million children.

Current statistics are promising, but more needs to be done. Collection rates hover around 37 percent, and enforcement is especially difficult for low-income families in which the obligor may not have a steady income or additional assets. States and communities are experimenting with a variety of programs to assist low-income parents in meeting their child support obligations. Many new innovations—such as state-wide automated systems, new enforcement tools and programs to help low-income parents meet their obligations—are expected to result in improved performance in the years to come.

SELECTED RESOURCES

Department of Commerce, Economics and Statistics Division, Bureau of the Census. *March 1996 Population Survey*. Washington, D.C.: U.S. Bureau of the Census, March 1996.

Garfinkel, Irwin, et al. *Fathers Under Fire*. New York: Russell Sage Foundation, 1998.

Harper, Michelle, and Sharon Vandivere. *Research Brief: Poverty, Welfare, and Children: A Summary of the Data*, Child Trends: 1999.

Morgan, Laura, and Chuck Shively. *The Link Between Visitation and Support Compliance*. SupportGuidelines.com. 2000.

National Center for Children in Poverty. *Map and Track, State Initiatives to Encourage Responsible Fatherhood*. New York, N.Y.: National Center for Children in Poverty, 1997.

National Child Support Enforcement Association. "Deadbeats and Turnips," *Child Support Quarterly* (Summer 1998).

Sorensen, Elaine. *Child Support Is Working Better than We Think*. Washington, D.C.: The Urban Institute, 1999.

Turetsky, Vicki. *Income Levels of IV-D Families*. Washington, D.C.: Center for Law and Social Policy, 1999.

U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement. *Child Support Enforcement FY 1999 Preliminary Data Report*. Washington, D.C.: DHHS, 2000.

The Child Support Project is part of NCSL's Children and Families Program. For more information about child support and custody/visitation issues, call Christi Goodman or Stephanie Walton at (303) 830-2200, or e-mail them at christi.goodman@ncsl.org or stephanie.walton@ncsl.org.

Visit NCSL's Child Support Project web site at <http://www.ncsl.org/programs/cyf/cs.htm>



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5

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Child Support 101

An Introductory Course for Legislators

Lesson Two

Six Steps for
Child Support Enforcement

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Lesson Two

SIX STEPS FOR CHILD SUPPORT ENFORCEMENT

Is Child Support Important?

Approximately half of all children today will spend time in a single-parent home. One state study found that more children rely on the child support program than on any other state program, with the exception of the public school system. Child support can mean the difference between living above or below the poverty level for some single-parent families, and regular child support payments are essential to families who are leaving cash assistance.

The collection of child support has increased steadily nationwide, and new enforcement techniques and automation are expected to result in improved performance in the future.

This lesson provides an overview of the child support enforcement process. This question and answer format attempts to provide the information that is most likely to be of concern to constituents who are involved in the child support process.

STEP ONE: GETTING STARTED—HOW DO I GET CHILD SUPPORT?

What child support services are offered by the state agency? At a minimum, state child support programs are required to provide the following services:

- 1) Locating noncustodial parents
- 2) Establishing paternity
- 3) Establishing child support orders
- 4) Enforcing child support orders (collecting support owed)
- 5) Distributing child support
- 6) Reviewing child support orders periodically and modifying them when appropriate

Some child support payments are handled through courts or private attorneys. These arrangements are separate from state child support programs, although some state programs process all child support payments in the state.

Child support programs typically do not provide services related to child custody, visitation or property distribution. Some programs collect alimony when it is included as part of the child support order, and others may facilitate limited access and visitation programs.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, more commonly known as the 1996 federal welfare reform act) required states to expand the administrative authority of their state agencies to carry out many of the child support establishment and enforcement tasks previously reserved to the courts. In many states, administrative

processes are used more often than judicial processes for child support functions. For example, some state agencies have broad powers to establish child support orders (with judicial review and approval), use enforcement tools such as liens and license suspensions, and review child support orders every few years.

Where are child support offices located? Child support offices are located in state or county departments of human services or revenue, state attorneys general offices, county district attorney offices, or county clerks of court offices. In California, the child support agency is a separate state department.

Child support program structures vary widely from state to state. Some states have centralized programs that offer the same services statewide through local service offices. Other states have county-operated programs that are completely independent of each other in their procedures, forms and requirements.

Who can receive child support services from the state agency? Any parent or person with custody of a child can apply for services from the state child support agency. These services include paternity establishment, establishment of a child support or medical support order, modification of an order, or enforcement of an order.

How much will the state charge for these services? States are permitted under federal law to charge a fee of up to \$25 for child support enforcement services, and many states do. Agencies may also charge fees for legal work done by agency attorneys or for costs associated with locating absent parents. However, cash as-

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sistance (Temporary Assistance to Needy Families [TANF], foster care) and Food Stamp recipients are required to pay for any child support services.

... there any special requirements for TANF or food stamp recipients? Under federal law, all TANF clients are required to cooperate with state authorities in child support establishment and enforcement efforts as a condition of receiving benefits or assistance. Assistance includes cash, food and housing to meet basic needs. Failure to cooperate results in loss of TANF eligibility, with limited exceptions for domestic violence situations.

In addition, TANF clients are required to assign their rights to their child support payments to the state in return for eligibility to receive TANF assistance. This requirement has its origin in the initial creation of state child support programs as cost-recovery programs for state and federal welfare expenditures.

Delinquent obligors whose children are TANF recipients may be required to agree to a payment plan or to participate in work activities.

TWO: LOCATING THE NON-CUSTODIAL PARENT—HOW DOES THE STATE FIND THEM?

How does the state locate missing parents? State child support programs have a wide variety of tools to locate a noncustodial parent, including the following.

- **New Hire Directories (SDNH and NDNH)**—Employers are required to report all new employees to the State New Hire Directory within 20 days of hiring. This information is shared with other states through the National New Hire Directory.
- **Federal Parent Locator Service (FPLS)**—This database is used to cross-check information with the Internal Revenue Service, Department of Defense, National Personnel Records Center, Social Security Administration, Department of Veterans Affairs, and state employment security agencies.
- **Data Matches**—The child support agency conducts data matches with state financial institutions to locate obligor's assets. The agency also conducts data matches with other state agency databases, such as state departments of corrections and transportation.

- **Statewide Automated Systems**—Each state is mandated to develop a statewide automated child support computer system. State systems will be linked nationwide to improve location techniques and successes.

STEP THREE: ESTABLISHING PATERNITY—HOW DO I ESTABLISH PATERNITY?

What are the federal requirements for paternity establishment? Under federal law, all state programs must:

- Permit paternity establishment at any time before the child reaches 18.
- Provide written and oral notice to both parents of the consequences of paternity acknowledgment.
- Have procedures to require paternity tests at the request of a child or parent who is alleging or denying paternity.
- Permit parties to contest acknowledgments and court orders within 60 days. After that, challenges are allowed only on the basis of fraud, duress or mistake of fact.
- Pay for state-ordered genetic tests, subject to recoupment from the challenging party if the test result is negative.
- Admit genetic test results into evidence and create a rebuttable presumption of paternity if test results are positive to a certain probability.
- Order a second set of paternity tests if the first results are contested.
- Require TANF recipients to cooperate with paternity establishment proceedings.
- Have procedures available at hospitals and birth records agencies for a simple civil process to voluntarily acknowledge paternity.
- Permit a father to initiate a paternity action.
- Include the father's name on the child's birth certificate only if both parents sign an acknowledgment of paternity, or if subject to a court order.

Approved and Certified by the Director

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- Not provide a jury trial for paternity proceedings.

How is paternity established? Fathers may acknowledge paternity voluntarily by signing an affidavit of acknowledgment in-hospital at the time of birth or, in some states, at a state agency. The state has powers to establish paternity whether the putative father wishes to do so or not. The state can order genetic testing over a putative father's objections. If the test results are positive, he can contest the results and request a second set of tests, but he may be required to pay for the second tests. If the test results are again positive, a rebuttable presumption that he is the father takes effect. To rebut this presumption, he must then prove that he is not the father and that the test is wrong.

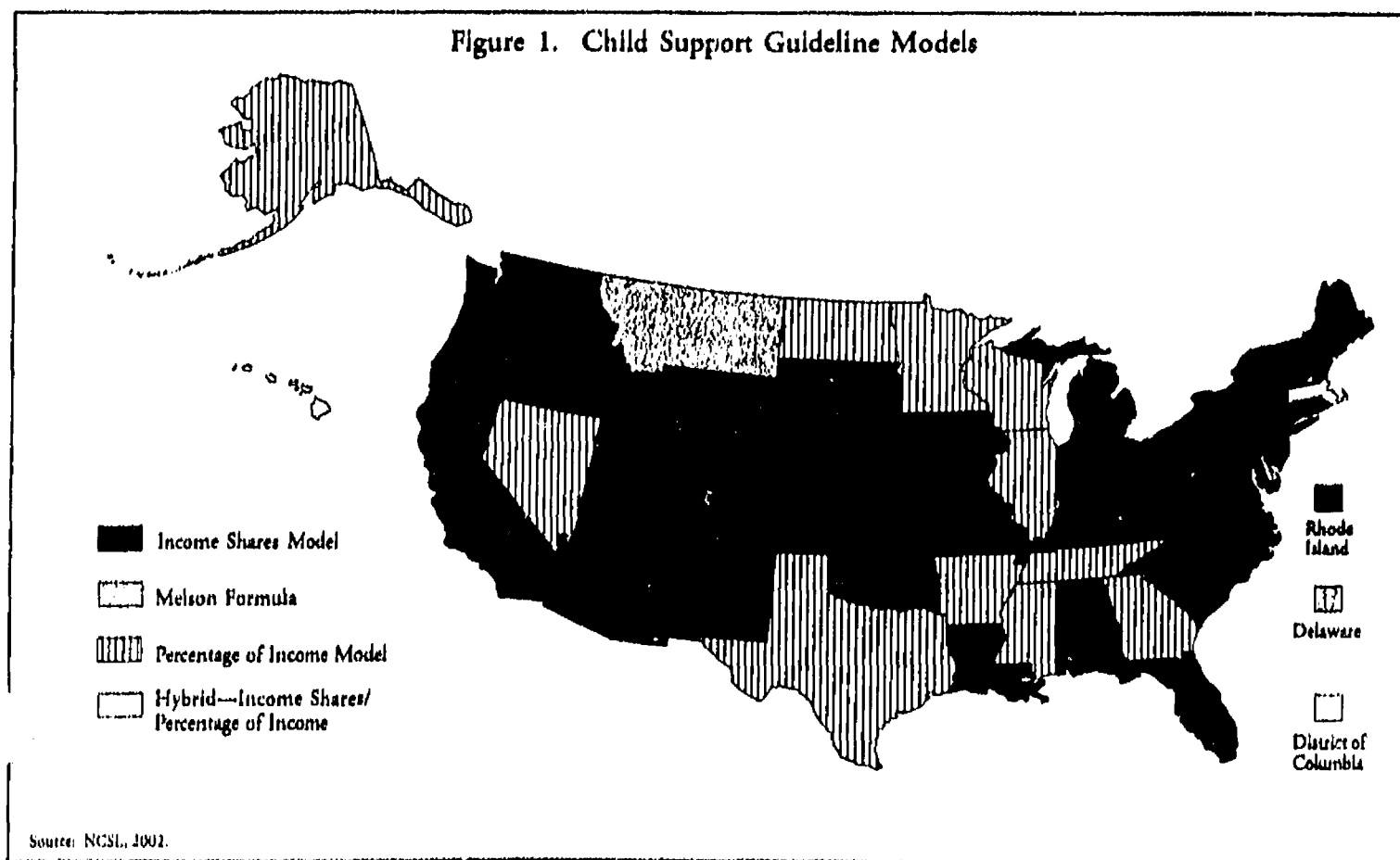
STEP FOUR: SETTING THE CHILD SUPPORT ORDER—HOW ARE CHILD SUPPORT ORDER AMOUNTS DETERMINED?

Child support guidelines are the formula and rules used by courts and agencies to set award amounts for child support orders so that each child support order in the state is evaluated and set according to the same rules. In many states, the formula is applied to different income levels to develop a table or schedule of awards,

much like an income tax table. This schedule is often referred to as the "guidelines;" however, child support guidelines also include any other rules or laws that affect how child support is determined.

How do state child support guidelines work? The Family Support Act of 1988 mandated that states implement presumptive child support guidelines by 1994. In presumptive guidelines there is an assumption that the guideline amount is correct; however, the court can deviate from a set award amount in cases where application of the guidelines would be unjust or inappropriate. Child support guidelines provide a consistent standard against which each child support order established in a state can be measured, and they help courts set similar award amounts for parents in similar situations. Most child support orders require payment until the child's 18th birthday, with some possible exceptions for disabled children, educational costs and other circumstances.

How does the state set its guidelines? States currently use three models to calculate appropriate guideline amounts: the Income Shares Model, the Percentage of Income Model, and the Melson Formula Model (figure 1).



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The *Percentage of Income Model* is used in 11 states, and a hybrid form of this model that incorporates some aspects of the income shares model is used in Massachusetts and Washington, D.C. This model sets support as a percentage of the noncustodial parent's income only; the custodial parent's income is not considered. This policy standard assumes that each parent will expend the designated proportion of income on the child, with the custodial parent's portion spent directly.

The *Income Shares Model* is used in 35 states. The policy behind this model assumes that a child should receive the same proportion of parental income that would have been spent on the child had the parents not divorced, and it is assumed that, as income increases, the proportion of income spent on the child decreases. This model, more flexible than the percentage of income model, can more easily adjust for shared and split custody, health care needs, child care expenses, serial family development, and children's ages. It allows for the manipulation of income, add-ons and deductions and then allocates these costs between parents.

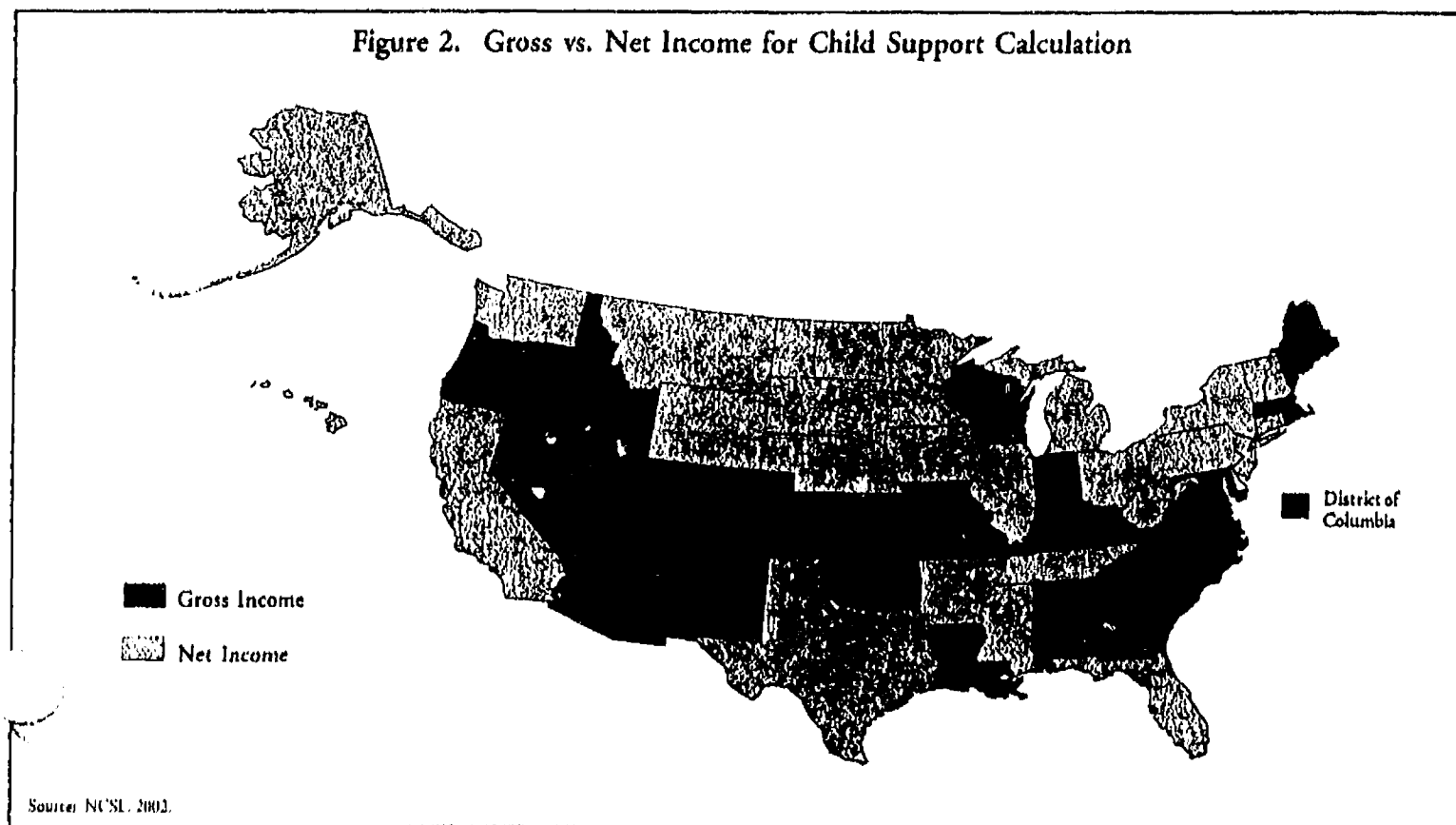
The *Melson Formula Model* is used in three states. This model, developed by a Delaware Family Court judge in 1979, is a more complicated version of the income shares model. The Melson model recognizes

that support of others is impossible until one's own basic support needs are met. It also asserts that further enhancement of the parents' own economic status should not be allowed until the parents jointly, in proportion to their incomes, first meet the basic poverty-level needs of their children. This model holds that parents should share their additional incomes with their children, thus improving their children's standard of living as their own standards of living improve. This is achieved through inclusion of a "Standard of Living Allowance."

How is income determined? States determine income to be used in setting child support orders based on either gross or net income (figure 2). Gross income (23 states and the District of Columbia) is all income with no deductions. Net income (27 states) is all income with deductions for taxes and other mandatory deductions, such as mandatory contributions to retirement plans and mandatory union dues.

States also permit judges to use imputed income. Courts impute, or proceed to act as though a parent earns a certain income, in the following situations:

- The court does not believe the parent's testimony regarding reported income;



- The court believes the evidence of the parent's income, but the income does not meet the parent's demonstrated earning capacity (as in situations where the parent is voluntarily earning less money presumably to avoid paying more child support); or
- The parent does not appear in court as required under law, so the court imputes an income from available evidence in order to set an initial child support order.

When imputing income, courts may base earning capacity on several factors, including previous work history, physical and mental condition, educational background, efforts to find and retain employment, and current employment market.

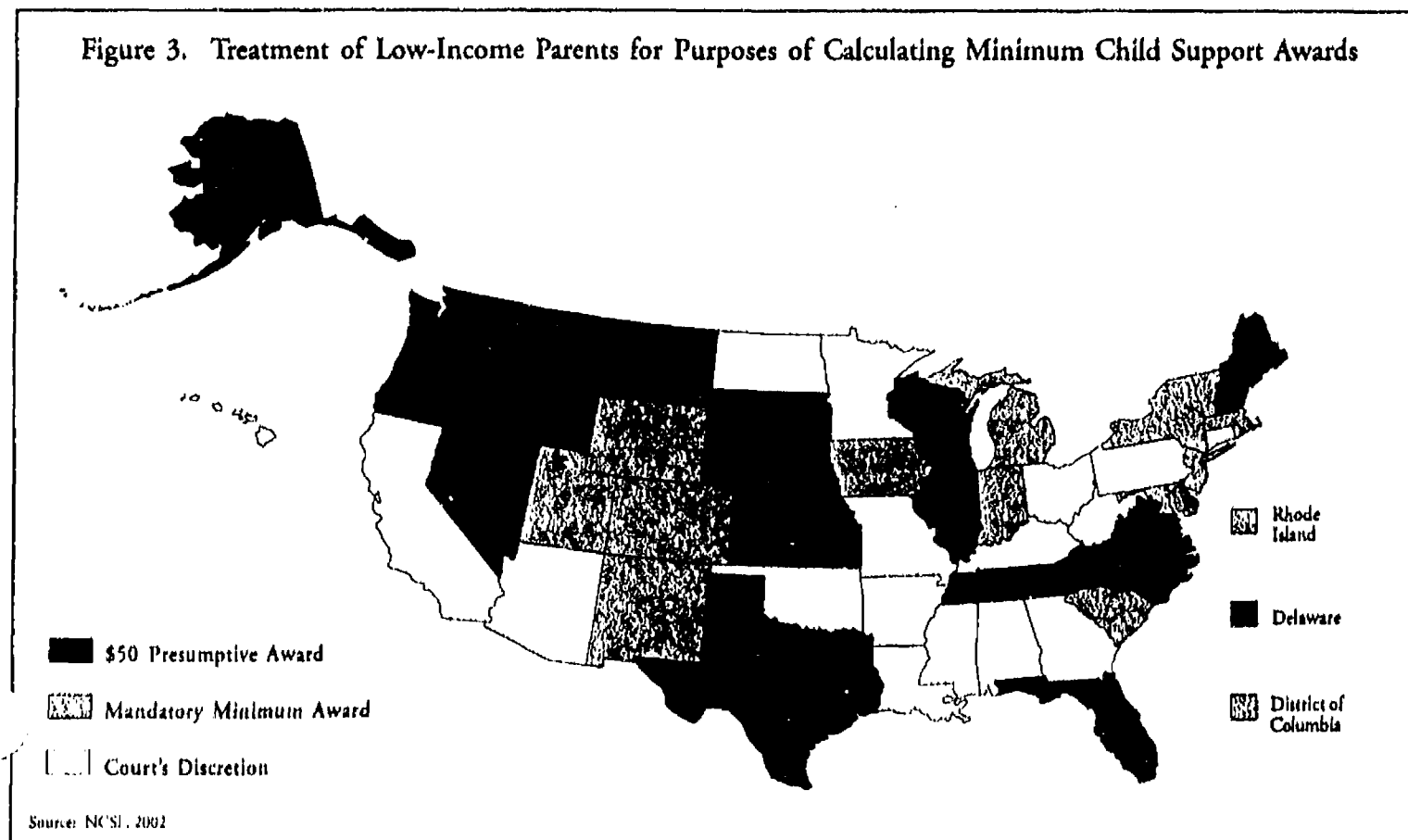
Unemployment and underemployment may be considered voluntary or involuntary by the court, and courts differentiate between situations where the income level decrease is voluntary or involuntary. An example of voluntary underemployment is a situation where an obligor takes a job that pays much less than he or she historically has earned. Some states consider incarceration to be voluntary unemployment, others consider it to be involuntary.

Can courts deviate from the guidelines? Guideline deviations are necessary when the circumstances render application of the guidelines unjust or inappropriate because the situation is at odds with the economic assumptions that form the basis of the guidelines. Judges adhere to presumptive child support guidelines in the overwhelming majority of cases. The most common reasons for deviation are extremely high or extremely low income, prior and subsequent families, and agreements between the parties.

State guidelines also permit certain add-ons and deductions to the basic child support award, which can include mandatory add-ons for health care needs and child care expenses. Some states have mandatory considerations for adjustment to the support amount for shared or split custody, extraordinary visitation, prior and subsequent families, and older children.

Are there any special considerations for low-income parents? Federal law prohibits simply exempting extremely low-income parents from paying child support—child support guidelines must apply to all cases, regardless of income. States take three approaches to setting child support amounts for very low-income parents (figure 3). In 19 states, a minimum presumptive amount (e.g., \$50 per month) is set and presumed appropriate, but this amount can be modified downward

Figure 3. Treatment of Low-Income Parents for Purposes of Calculating Minimum Child Support Awards



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if necessary. Fourteen states and the District of Columbia set a minimum mandatory amount, where the mandatory minimum (usually \$20 to \$50 per month) is adopted and cannot be modified downward. The court is given complete discretion to independently assess the obligor's ability to pay and to set an appropriate award in 17 states.

How far back can my child support order go? States treat retroactive child support orders differently. In some states, courts can backdate child support orders to the date of the child's birth, creating an arrearage as soon as the order is issued. The states that allow this are split on whether the guidelines apply to the retroactive period or whether the custodial parent is entitled only to reimbursement of expenses. Some states allow courts to backdate child support only to the date the child support petition was filed with the court. Other states allow retroactive support only for a certain number of years or for a certain capped amount (e.g., New York sets a limit of \$500 on accumulated arrearages for obligors with income below the poverty level). Retroactive child support orders are one of the primary reasons low-income obligors accrue such large arrearage amounts.

Does visitation have anything to do with child support? Although most lay people consider the two linked, visitation and child support are consistently viewed by courts as two separate issues of family law, with the public policy position that a child is entitled to support from both parents regardless of the amount of contact with the parents. As a general rule, noncustodial parents cannot use lack of visitation to justify not paying child support, and custodial parents usually cannot use lack of visitation to justify an increase in child support. However, most guidelines assume that a child will spend at least 20 percent of the time with the noncustodial parent, and if that threshold is not met some courts are willing to modify the child support award. In addition, many state guidelines provide for adjustments to child support orders based on extended visitation arrangements.

Can I get my child support order changed? States are required by federal law to review and make necessary modifications to all child support orders in the state system at least once every three years. Modifications are permitted at the request of either parent or at the agency's discretion, based on a substantial change in circumstances. Parties are permitted only 30 days to contest the modification.

STEP FIVE: ENFORCING THE CHILD SUPPORT ORDER—HOW WILL THE STATE COLLECT MY CHILD SUPPORT?

State child support programs mainly assist low-income parents to establish and enforce child support orders, since members of this population are least likely to hire a private attorney to pursue their cases.

How does the state get money from my child's other parent? Under federal law, all child support orders handled by the state system are subject to automatic income withholding when a delinquency of at least one month occurs.

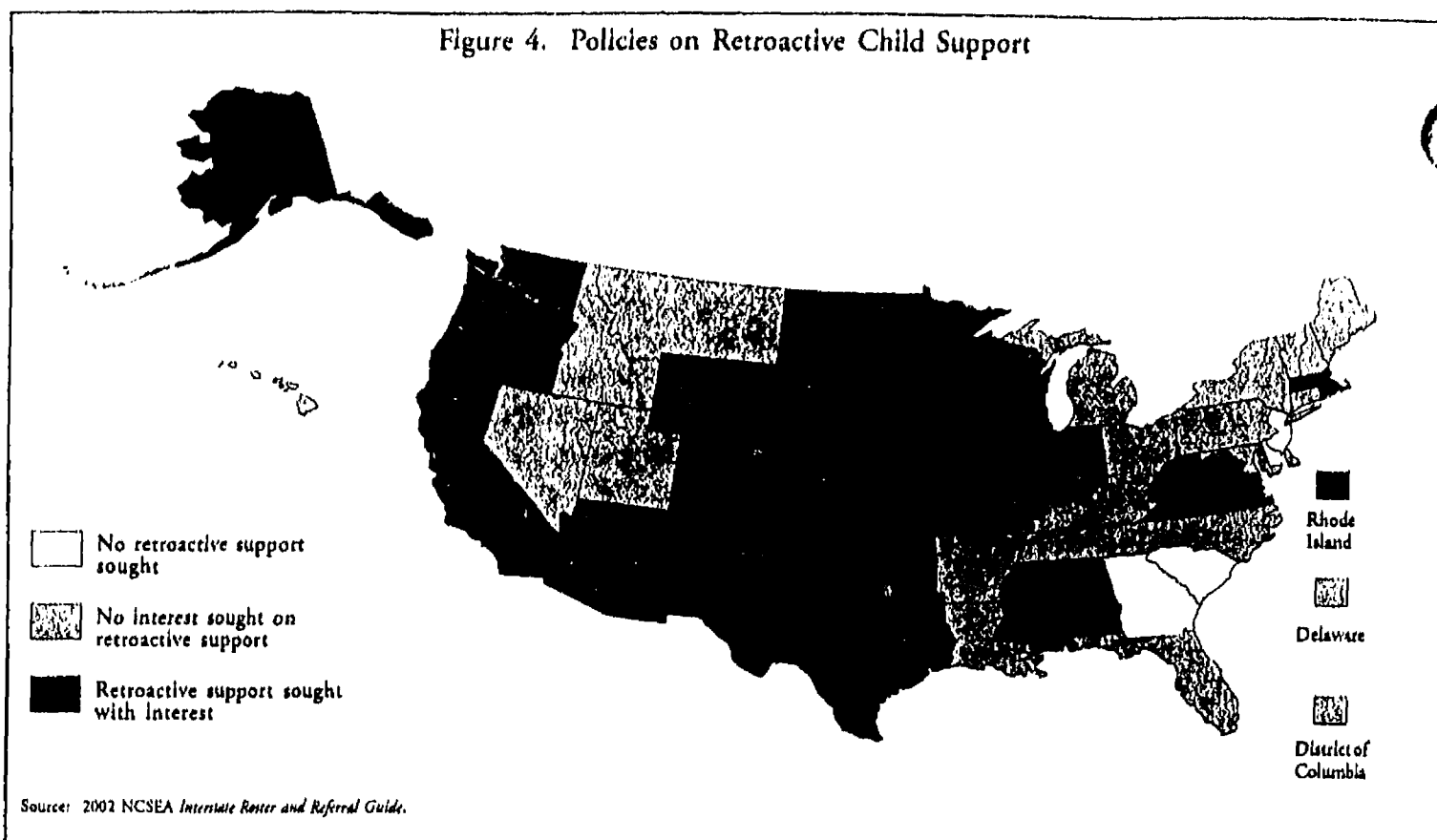
How do arrearages accrue? Among the many reasons why noncustodial parents accrue arrearages are the following.

- Retroactive child support awards—When courts order retroactive child support, the obligor starts his child support payments with an arrearage already in place. This is particularly difficult for low-income obligors because they are saddled with an insurmountable debt at the outset.
- Knowing or willful failure to pay—A Minnesota study identified five types of child support obligors:
 - 1) Ready, willing and able parents who consistently pay;
 - 2) Uninformed parents who do not know what their obligations are;
 - 3) Parents who are unable to pay;
 - 4) Parents who are reluctant to pay; and,
 - 5) Parents who are active evaders and will do everything possible to avoid their obligation.

The last two groups of parents are the main targets of the most severe enforcement penalties.

- Interest charges—Some states charge interest on delinquent payments. Twenty-six states charged interest on child support arrearages in 2002 (figure 4). Such charges can make it nearly impossible for low-income obligors to overcome their debt.
- Default orders—States set orders automatically when noncustodial parents fail to appear in court, whether intentionally or because they could not be found to notify. In some of these cases, delinquent

Figure 4. Policies on Retroactive Child Support



obligors may not know they have a child support order, or that they have a mounting child support arrearage debt.

Some states set limitations on collecting child support arrearages. Statutes of limitation determine the length of time during which a child support debt is collectable. State approaches vary widely in collecting arrearages. Some require the arrearage to be converted to a lump sum judgment and pursued accordingly, while others setting exact deadlines for collection (e.g., Louisiana, five years; Idaho, until the child reaches age 23).

Some states facilitate opportunities for obligors' child support debts to be compromised or forgiven. Under the federal law known as the Bradley Amendment, state courts may not retroactively modify child support orders, nor may they unilaterally forgive or waive child support arrearages. However, states are permitted to compromise and forgive arrearages under certain circumstances. States can compromise child support arrearages by specific agreement of the parties or by the same legal grounds that exist for any other judgment. If the child support arrearages at issue have been assigned to the state by a TANF recipient, the state also must agree to the compromise or settlement.

Some states are experimenting with forgiveness or amnesty programs. These typically are time-limited programs during which delinquent obligors can meet with child support officials to arrange to have their arrearage forgiven or adjusted or to arrive at an agreement on a payment plan.

What other enforcement procedures will the state use to collect my child support? States have many choices for specific child support enforcement procedures for delinquent obligors, including the following.

- License restrictions;
- Property liens;
- Income tax refund intercepts;
- Reporting delinquent obligors to credit bureaus;
- Voiding property transfers completed to evade child support obligations; and
- Mandating work requirements for delinquent obligors whose children are TANF recipients.

These procedures were developed by states and, when they proved effective, were adopted by federal bill drafters into federal law. The procedures are meant to be

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used with discretion, and the most severe are intended for—and are most effective when used on—obligors with assets and incomes that are presumed adequate to child support. States are continuing to develop new enforcement tools, including car boots, most-wanted posters, and public relations campaigns to encourage compliance.

Where will my child support payments be sent once they are collected? Federal law requires all child support payments to be processed by centralized state collection and distribution units (SDUs). The payments are received by the SDU, then distributed to custodial parents. Some states have received limited waivers to this general rule.

STEP SIX: DISTRIBUTING COLLECTED SUPPORT—WILL I GET ALL THE SUPPORT COLLECTED ON BEHALF OF MY CHILD?

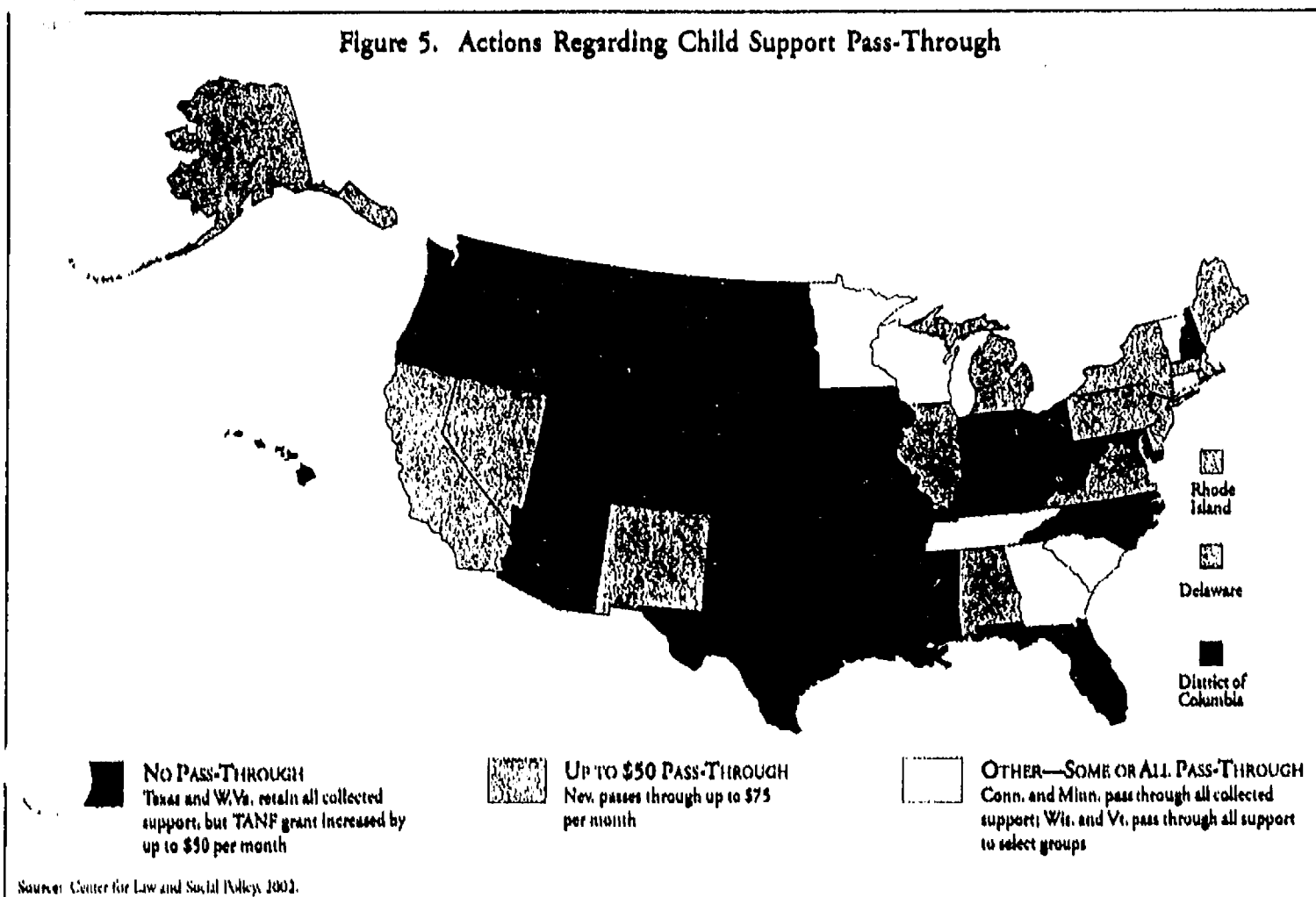
Child support collected on behalf of current and former TANF clients may be kept by the state. Under federal law, states are allowed to retain collected child support to reimburse themselves and the federal government for payments that have been made to the family.

Some states operate “pass-through” programs where some or all of the child support collected on behalf of TANF recipients is passed through to the family (figure 5). A few states pass through the entire amount of collected support. States that pass through some of the collections can choose whether to disregard some or all of the pass-through when evaluating a client’s eligibility for TANF. These programs would be more popular if states were not required to reimburse the federal government for its share of the child support collected on behalf of TANF families, regardless of whether they have passed those collections through to the families. Policymakers argue that pass-through programs provide an increased incentive for low-income obligors to participate in the child support program.

For child support clients who have never received TANF and have no TANF debt, all collected child support, minus any state fees or charges, is distributed directly to the family.

Child support distribution rules are so complex and so expensive to implement that Congress has considered several new distribution schemes to streamline the process.

Figure 5. Actions Regarding Child Support Pass-Through



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**TESTIMONY BEFORE THE
HOUSE HUMAN SERVICES COMMITTEE
REGARDING ENGROSSED SENATE BILL 2160
MARCH 3, 2003**

Chairman Price and members of the House Human Services Committee, I am Barbara Siegel with the Child Support Enforcement Division within the Department of Human Services. James Fleming and I will be providing this testimony.

SB 2160 was introduced at the request of the department to provide amendments to child support laws. Some of the provisions would ensure compliance with federal requirements, some would improve operations of the Child Support Enforcement program, and others are technical in nature.

A fiscal note has been filed relating to programming costs for the Fully Automated Child Support Enforcement System (FACSES) and to postage costs.

Sections 1, 2, and 11 These sections would provide the authority for the program to implement the National Medical Support Notice, in compliance with new federal requirements. There would be a fiscal impact for FACSES programming costs this biennium and for postage costs in subsequent years.

BACKGROUND Since 1984, federal law has addressed the need to secure and enforce medical support obligations.

- The enactment of the Child Support Enforcement Amendments of 1984 resulted in the requirement that the program secure and enforce medical support obligations whenever health insurance coverage is available to the noncustodial parent at a reasonable cost.
- The Omnibus Budget Reconciliation Act of 1993 was a significant piece of legislation that contained provisions intended to remove some of the

Impediments to the ability of programs to secure and enforce health insurance coverage for children. These provisions included prohibiting discriminatory health insurance coverage practices and allowing employers to deduct the cost of health insurance premiums from the noncustodial parent's income.

- The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 required a provision for health insurance coverage in all child support orders established by the program.

Despite improved medical support requirements and a focus on enforcement of these obligations at the federal and state levels, the enforcement of medical support coverage for children has remained problematic.

The National Medical Support Notice provisions were included in the Child Support Performance and Incentive Act of 1998. North Dakota must have the authority to implement the Notice by July 1, 2003, the effective date of this bill due to the appropriation measure found in Section 14.

The provisions strengthened the enforcement of health insurance coverage for children by requiring that the federal Office of Child Support Enforcement and the federal Department of Labor jointly develop a Notice to be issued by programs to enforce the medical support obligations of a noncustodial parent. All states' programs must use the standard form, which will be a benefit to employers. The goals are to simplify the processing of the required enrollment of children in health insurance coverage for all concerned (the parents, the employer, the insurer, and the program) and, more importantly, enhance health insurance coverage for children who are excluded from their noncustodial parent's group health plan.

Attached to this testimony is a table which summarizes the federal requirements (Attachment A) and a chart which outlines the general process for the National

Medical Support Notice (Attachment B). A copy of the Notice has not been attached. A copy, however, has been provided to the Committee's Clerk.

SECTION 1 of the bill would amend N.D.C.C. § 14-09-08.11, which already authorizes the program to apply to an employer for enrollment of a child in health insurance coverage. The amendments serve to address employer duties and liabilities with respect to the Notice as well as to provide for a noncustodial parent contest. Employers must comply with the provisions of the Notice, including transferring the Notice to the insurer within 20 business days. The employer must also promptly notify the program whenever the noncustodial parent's employment is terminated. Sanctions for noncompliance would be the same as those for noncompliance with an income withholding order. The noncustodial parent may contest the withholding of premiums for health insurance coverage by filing a request for a hearing. The employer must continue to withhold while the contest is pending.

SECTION 2 of the bill would create a new section to provide for the program's duties. When a noncustodial parent has an obligation to provide health insurance coverage for a child, our duties include:

- Serving the Notice on the employer (within two business days if the employer is identified through the State Directory of New Hires);
- Providing notice to the noncustodial parent;
- Choosing an option, following provisions in subdivision c of subsection 1, if informed by the insurer that multiple enrollment options exist; and
- Promptly notifying the employer when the obligation to provide health insurance coverage is no longer in effect.

SECTION 11 of the bill would amend N.D.C.C. § 26.1-36.5-03 to address insurer duties regarding the Notice. Insurers must comply with the provisions of the Notice, including taking appropriate action within 40 business days. The insurer must also enroll the child, and the noncustodial parent if necessary, in the

Insurer's default plan if the program does not select an option when multiple options exist.

There are two areas that we would like to highlight for the Committee.

MULTIPLE OPTIONS When an insurer receives the Notice, the insurer is to enroll the child as a dependent of the noncustodial parent under the health insurance plan. If there are multiple options under the plan, the insurer is to enroll the child in the option in which the noncustodial parent is enrolled. However, if there are multiple options under the plan, and the noncustodial parent is not enrolled in any option, the insurer is to notify the program of the available options. The program is to then notify the insurer of the option chosen.

We have learned, from other states that have already implemented the Notice, that this is one of the areas that has caused confusion and concerns, even though it does not occur frequently. The federal requirements do not mandate how the choice is made; only that, in these situations, the program must promptly select from available plan options in consultation with the custodial parent.

Based on other states' experiences, we decided it would be best to include, in the proposed legislation, specifics as to how program staff are to make this choice. These specifics can be found in Section 2 of the bill (subdivision c of subsection 1). Generally, the option would be chosen as follows:

- The option would be chosen by the Medicaid agency if there is a medical assignment to the state and by the custodial parent if there is no medical assignment to the state.
- If there is no medical assignment and the custodial parent fails to make a timely choice, we would consider other factors such as the extent of coverage, accessibility, and premium cost.

In addition, Section 2, subsection 3, includes immunity language regarding the program's choices.

PRIORITY OF WITHHOLDING When an income withholding order is issued to an employer, it often includes amounts to be withheld for current support and arrears. These amounts are withheld from the noncustodial parent's income and paid to the State Disbursement Unit (SDU). If a Notice is issued and the noncustodial parent must pay premiums in order for the child to be enrolled in health insurance coverage, that amount must be withheld as well. The premium amount is paid directly to the insurer.

There is a limit to the total amount that may be withheld from the noncustodial parent's income (50% of disposable income). For some noncustodial parents, that limit will be reached before all of the withholdings can occur. In these cases, the priority of withholding becomes an issue. The fundamental dilemma: to give priority to cash support at the expense of health insurance premiums means that children could lose private health insurance coverage. But giving priority to health insurance premiums over cash support may mean that the children's other basic needs cannot be met.

It is currently up to states to determine the priority of withholding. In North Dakota, the priority has been addressed in law since 1995. N.D.C.C. § 14-09-08.11(3) states that any amount owed under the income withholding order must be satisfied before any payment is made to the insurer.

We are not pursuing any changes to this priority of withholding. In addition to our preference for cash support being satisfied first, we considered many factors including the fact that a national medical support work group has made recommendations that would affect this issue. These recommendations include:

- That there be federal policy on the priority of withholding, and
- That the federal regulation that deems all employment-related or group-based coverage to be "reasonable in cost" should be replaced with a standard based on the cost of coverage relative to the income of the noncustodial parent.

We believe it is prudent to see if the federal Office of Child Support Enforcement takes action on either of these two recommendations – either one of which would affect further consideration of the priority of withholding issue – prior to making any change to existing law.

This concludes the testimony on the National Medical Support Notice provisions.

Sections 3, 4, 5, and 6 These sections make changes which are technical in nature. Obsolete references to "clerk of court" are removed because clerks of court are no longer involved in issuing, amending, or terminating income withholding orders. In addition, Sections 3 and 6 replace the term "income payor" with "income payer."

Sections 7 and 15 In situations in which no current support is due (for example, the children covered by the support order have attained majority), these sections would change the monthly amount that would be collected on arrears under income withholding. The change would increase arrears collections. At the present time, we are very limited on the amount we may collect through income withholding once a current support obligation terminates, if a "due on arrears" amount exists. Income withholding is our most effective and frequently used enforcement tool. As of June 30, 2002, the total arrears balance in North Dakota was over \$185 million. We need to increase collections on arrears that are due to the state and to families.

In addition, the change would promote equity among noncustodial parents. It would also take into consideration that noncustodial parents are able to pay more

toward arrears when no current support is due, while still ensuring there is an avenue available through the courts.

In situations in which current support is due, there would be no change to the monthly amount that a noncustodial parent owes on arrears. That is, if a noncustodial parent owes a current support amount, the monthly amount owed on arrears would continue to be either the "due on arrears" amount ordered by a court or, absent such an order, an amount equal to 20% of the current support amount.

At the present time, in situations in which no current support is due, the monthly amount owed on the arrears is the "due on arrears" amount ordered by a court or, absent such an order, the amount of the most recent current support obligation. Proposed amendments to N.D.C.C. § 14-09-09.30 would change this. Instead, if there is no current support due, the monthly amount owed on the arrears would be the greater of:

- The "due on arrears" amount ordered by a court, or
- The sum of the most recent current support obligation and 20% of the most recent current support obligation.

There would be exceptions if the child resides with the obligor pursuant to a court order or if there is a "due on arrears" amount included in an order that was issued when no current support was due.

To illustrate the present and proposed provisions, scenarios are attached to this testimony (Attachment C).

There would be a fiscal impact next biennium for FACES programming costs.

Section 15 clarifies that the changes would be applicable not only to orders which are entered after the effective date, but to orders which are in existence at the time of the effective date as well.

Section 8 This section relates to out-of-court agreements to waive or forgive child support. Walvers of child support are common and require a lot of work to verify the identity of the parties, the amount of child support to be waived or forgiven, whether the right to support has been assigned, and whether the custodial parent has freely agreed to waive or forgive child support.

The North Dakota Supreme Court has repeatedly held, as recently as December 20, 2002, that the right to current and future support belongs to the children. Therefore, it is inappropriate for a custodial parent to waive the children's right to support and Section 8 specifically provides that an agreement waiving or relieving an obligor of a current or future duty of child support is void and unenforceable.

When past-due support is owed, in most cases it is the custodial parent who has had to dip further into his or her resources to support the children. Under the proposed section, if a custodial parent agrees to waive or forgive the repayment of past-due support, the agreement may be enforced as long as it is in writing and approved by a court. If the past-due support has been assigned to the state, the state must also give its consent before any assigned past-due support may be waived or forgiven.

Section 8 is patterned after a South Dakota law that has been used for several years. By involving the court, this section assures the clerks of court and the SDU that the parents' arrangement regarding their legal obligations to support their children is approved by a court and should be implemented. A copy of the order approving the agreement must be provided to the SDU so its payment records can be updated.

Section 9 This section regulates "offsets" of child support. The word "offset" refers to a process of reducing a larger debt owed by Party A to Party B by the

amount of a smaller debt owed by Party B to Party A, producing a smaller "net" debt owed by Party A to Party B.

In the child support enforcement context, an offset generally occurs when a former noncustodial parent still owes past-due support to the other parent but now has custody of the children. For example:

- Dad owes Mom several thousand dollars of past-due child support. A few months ago, custody of the minor children was changed from Mom to Dad. Mom now owes Dad child support on behalf of the children but also has accumulated arrears. In other words, Dad owes arrears to Mom and Mom owes arrears to Dad.

In the example above, there is some appeal to subtracting the smaller arrears from the larger arrears and producing "net" arrears that are still owed. Current law does not expressly prohibit or authorize offsets involving child support, and there is no consistent state-wide practice. In some cases, particularly stipulations, an offset is approved by a court. In other cases, a court has held that an offset is a form of payment and must be made to the SDU. Section 9 is written to authorize offsets in certain circumstances and to prohibit offsets when they are inappropriate.

Subsection 1 explains when an offset of past-due child support is appropriate. An offset should not deprive children of the current support they need for food, clothes, shelter, and other essentials (subdivision a). Therefore, except as provided in subsection 4 of this section, an offset of child support arrears against child support that is due in the current month, or that will be due in a future month, is not permitted. An offset is inappropriate if some of the arrears have been assigned to the state and are no longer owed to the parent (subdivision b).

An offset is essentially a payment of past-due child support in equal amounts by both parents. If a parent who owes child support arrears to Family A also owes a

duty of support to Family B, an offset would override the automatic proration of child support payments received by the SDU and allow the parent to choose a preferred family to support, which we believe is contrary to public policy (subdivision c). In addition, there is a potential that the opportunity for an offset will be used as an incentive by a former custodial parent to avoid paying support for the current month. Let's discuss the example mentioned earlier:

- Dad owes arrears to Mom but now has custody of the children. Mom owes current child support to Dad on behalf of the children. For every month that Mom avoids paying current support and creates arrears, she may seek an offset of her arrears against the arrears Dad owes to her. In other words, by avoiding her obligation to meet the current needs of the children, Mom can reduce the debt owed to her.

While this is a way to reduce the arrears, it also leaves the children with no money coming into the home for necessary expenses. To prevent this, an offset is not appropriate if the opportunity to request an offset in a case has been used as an incentive to avoid paying current child support (subdivision d). Finally, a court needs to specifically find that the proposed offset serves the best interests of the children to whom the parents owe a duty of support (subsection 2). If the conditions in Section 9 are met, we believe the reduction in arrears that results from the offset will, in most cases, serve the interests of the supported children because a debt of the current custodial parent is eliminated or reduced and future collection actions against each parent may be avoided.

Subsection 3 clarifies that Section 9 is the exclusive basis for offsetting child support arrears.

Subsection 4 authorizes an offset of a current child support obligation against arrears in the very limited context of reducing a credit that is produced by a retroactive reduction in a child support obligation. When a motion for a change in child support is filed, there will be a delay before it is approved by a court. The

North Dakota Supreme Court has held that in most cases, the change should be made "retroactive" to the date the motion is filed. If the motion is for a reduction in child support and the noncustodial parent had been paying in full until the motion was granted, the retroactive nature of the reduction will produce a credit that needs to be eliminated or "spent down." Section 9 expressly authorizes current or future child support to be offset by this credit, but only if approved by a court. Other offsets involving child support for the current month or for future months are not permitted.

Subsection 5 clarifies that an offset is essentially a payment of child support in equal amounts by both parents. A copy of the order for an offset must be provided to the SDU so its payment records can be updated.

Subsection 6 limits the regulation of offsets in Section 9 to child support only and not to combined payments of spousal support and child support.

Section 10 This section is patterned after a Minnesota law and improves the information the program obtains regarding assets that may be used to pay child support. The section involves a process that resembles and supplements the existing process for income withholding. For regular wages or payments to a noncustodial parent, income withholding may be used to satisfy the current monthly support obligation plus any amount the noncustodial parent is required to pay toward arrears, up to a maximum of 50% of the noncustodial parent's disposable earnings. For irregular payments such as commissions or bonuses, this section requires income payers to notify the program of the payment so a portion (not more than 50%) of the irregular payment may be collected through existing enforcement tools and applied to child support arrears owed by the noncustodial parent.

When a noncustodial parent does not owe past-due child support, notice of a lump sum payment is unnecessary and an income payer can make the full

payment immediately as long as the current monthly obligation is withheld as directed in the income withholding order. The income withholding order itself indicates whether past-due support is owed, so it will be easy for an income payer to know whether notice of a lump sum payment is required.

Sections 12 and 13 These sections expand the new hire reporting requirements. Currently, newly hired employees must be reported to the program by their employer. Under these sections, individuals who receive payments that would result in the filing of a 1099 Informational Form must be reported to the program by the entity or individual making the payment. The report must be made no later than 20 days after the date of an agreement between the payer and payee or the date a payment is made.

The expansion would assist the program in identifying payments for possible collection and in locating noncustodial parents.

Self-employed noncustodial parents very often present the biggest challenges to the collection of child support. This is because we often lack information on the income of these noncustodial parents. In addition, our most effective and frequently used enforcement tool - income withholding - is not effective in these situations. Frequently, individuals who receive payments that would result in the filing of a 1099 Informational Form are self-employed. Expanding this tool will result in improved collection in these cases.

Section 14 It is frequently said that the quality of government programs would improve if they were run like a business. Section 14 will allow us to work "smarter" like a business by authorizing us to become a service provider to counties and tribes if those entities determine that the Department can provide child support enforcement services faster and more efficiently than they can.

This concludes our testimony. We would be happy to answer any questions you may have.

Attachment A

National Medical Support Notice
Summary of Federal Regulations

| FEDERAL REQUIREMENT | SB 2160 |
|---|---|
| States must have laws regarding the Notice. (45 CFR § 303.32 (a)) | |
| Program must use the Notice to transfer notice of the provision for health insurance coverage to the employer. (45 CFR § 303.32 (c) (1)) | Section 2 |
| Program must transfer the Notice to the employer within two business days after the date of entry in the State Directory of New Hires. (45 CFR § 303.32 (c) (2)) | Section 2 |
| Employer must transfer the Notice to the insurer within twenty business days. (45 CFR § 303.32 (c) (3)) | Section 1 |
| Employer must withhold premiums necessary for coverage and send to insurer. (45 CFR § 303.32 (c) (4)) | (addressed in current law - §14-09-08.11 (1) (e)) |
| Noncustodial parent may contest the withholding for premiums based on a mistake of fact. (45 CFR § 303.32 (c) (5)) | Section 1 |
| In the case of a contest, employer must continue to withhold for premiums pending resolution. (45 CFR § 303.32 (c) (5)) | Section 1 |
| Employer must notify the public authority, in the same manner as under income withholding, whenever the noncustodial parent's employment is terminated. (45 CFR § 303.32 (c) (6)) | Section 1 |
| Program must promptly notify the employer when there is no longer a current order for medical support. (45 CFR § 303.32 (c) (7)) | Section 2 |
| Program must, in consultation with the custodial parent, promptly select from available plan options when the insurer reports that there is more than one option available. (45 CFR § 303.32 (c) (8)) | Section 2 |
| When multiple options exist, and program does not respond within 20 days, insurer must enroll the child in the default option. (29 CFR § 2590.609-2 (c) (3)) | Sections 2 and 11 |
| State law must be effective no later than the close of the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after October 1, 2001. For States with 2-year legislative sessions, each year of such session would be regarded as a separate regular session. (45 CFR § 303.32 (d)) | |

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Operator's Signature

Date

Attachment C

Section 7 Scenarios

Scenario 1: Noncustodial parent owes current support in the amount of \$300/mo and owes arrears. A court-ordered "due on arrears" amount of \$15/mo exists.

| PRESENT: | | PROPOSED (SECTION 7): | |
|--------------------------|------------------|------------------------------|------------------|
| Current support order: | \$ 300/mo | Current support order: | \$ 300/mo |
| "Due on arrears" amount: | \$ 15/mo | "Due on arrears" amount: | \$ 15/mo |
| 20% amount: | N/A | 20% amount: | N/A |
| Total amount due: | \$ 315/mo | Total amount due: | \$ 315/mo |

Scenario 2: Noncustodial parent owes current support in the amount of \$300/mo and owes arrears. A court-ordered "due on arrears" amount does not exist.

| PRESENT: | | PROPOSED (SECTION 7): | |
|--------------------------|------------------|------------------------------|------------------|
| Current support order: | \$ 300/mo | Current support order: | \$ 300/mo |
| "Due on arrears" amount: | N/A | "Due on arrears" amount: | N/A |
| 20% amount: | \$ 60/mo | 20% amount: | \$ 60/mo |
| Total amount due: | \$ 360/mo | Total amount due: | \$ 360/mo |

Scenario 3: Noncustodial parent does not owe current support (former current support amount was \$300/mo) but does owe arrears. An old* court-ordered "due on arrears" amount of \$15/mo exists.

| PRESENT: | | PROPOSED (SECTION 7): | |
|--------------------------------|-------------------|--------------------------------|--------------------|
| Current support order: | \$ 0/mo | Current support order: | \$ 0/mo |
| Former current support amount: | not considered | Former current support amount: | \$ 300/mo |
| Old* "Due on arrears" amount: | \$ 15/mo | Old* "Due on arrears" amount: | \$ 15/mo |
| 20% amount: | N/A | 20% amount: | \$ 60/mo |
| Total amount due: | \$ 15/mo** | Total amount due: | \$ 360/mo** |

Scenario 4: Noncustodial parent does not owe current support (former current support amount was \$300/mo) but does owe arrears. An old* court-ordered "due on arrears" amount does not exist.

| PRESENT: | | PROPOSED (SECTION 7): | |
|--------------------------------|--------------------|--------------------------------|--------------------|
| Current support order: | \$ 0/mo | Current support order: | \$ 0/mo |
| Former current support amount: | \$ 300/mo | Former current support amount: | \$ 300/mo |
| Old* "Due on arrears" amount: | N/A | Old* "Due on arrears" amount: | N/A |
| 20% amount: | not considered | 20% amount: | \$ 60/mo |
| Total amount due: | \$ 300/mo** | Total amount due: | \$ 360/mo** |

* An old "due on arrears" amount refers to an amount for payment of arrears that is included in a court order issued when current support was due.

** If a new "due on arrears" amount exists, the total amount due would be the amount of the new "due on arrears" amount. A new "due on arrears" amount refers to an amount for payment of arrears that is included in a court order issued when no current support was due.

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Operator's Signature

Date

**TESTIMONY
SB 2160 – DEPARTMENT OF HUMAN SERVICES
HOUSE HUMAN SERVICES
MARCH 17, 2003**

Chairman Price, members of the House Human Services Committee, I am James Fleming, Deputy Director and General Counsel of the State Child Support Enforcement Office of the Department of Human Services.

The Committee has received proposed amendments that have been produced as a result of the subcommittee's work on the bill. One of the amendments before the committee for its consideration is on page 13, line 2 of the engrossed bill. The amendment would delay the effective date of the changes in the formula for income withholding orders until January 1, 2005. The subcommittee asked us to provide legislative history on implementation of the new provision.

After the 2001 legislative session, we sent out notices that the records of the state disbursement unit (SDU) would begin to include judgment interest for arrears that accrue after July 1, 2002. Upon enactment of SB 2160, we would send similar notices to obligors that the formula for income withholding will be changing and that the change will be effective on January 1, 2005. The notice will also advise obligors of the opportunity to go to court and get an order setting a different amount that is due on arrears each month. Hopefully, as with judgment interest, this process can be advertised as an "amnesty" concept and encourage obligors to pay child support prior to the deadline.

James Fleming
Operator's Signature

03/17/03
Date

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL 2160

Page 1, line 8, after the semicolon insert "to provide reporting requirements;"

Page 5, line 13, after "means" remove "health" and insert "

(1) Health"

Page 5, line 17, after the semicolon insert "or"

Page 5, after line 17, insert:

"(2) A basic group health benefit plan approved under section 26.1-36.3-08;"

Page 10, line 11, replace "five hundred" with "one thousand"

Page 13, line 2, replace "the effective date of this Act" with "January 1, 2005"

Page 13, after line 2, insert:

"SECTION 16. DEPARTMENT OF HUMAN SERVICES – FUNDING FOR CHILD SUPPORT ENFORCEMENT SERVICES – REPORT TO FIFTY-NINTH LEGISLATIVE ASSEMBLY. The department of human services shall prepare and present a report to the appropriations committees of the fifty-ninth legislative assembly on its use of any funds appropriated to the department under section 14 of this act during the biennium beginning July 1, 2003, and ending June 30, 2005."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL 2160

Page 1, line 2, replace "two new subsections to section 34-15-03" with "a new section to chapter 34-15"

Page 11, replace lines 24 through 31 with:

"SECTION 12. A new section to chapter 34-15 of the North Dakota Century Code is created and enacted as follows:

Reporting of independent contractors. A person who purchases services from an individual or from an entity owned exclusively by an individual must furnish a report to the directory of new hires in the same manner that an employer reports the hiring of an employee under this chapter if the aggregate payment for the services is anticipated to exceed two thousand five hundred dollars in a calendar year and if the payment is not subject to withholding for federal and state income tax obligations. An individual or entity is deemed to be hired under this section on the date of an agreement between the individual or entity and the person purchasing the services or the date the person makes a payment to the individual or entity, whichever occurs first. A person required to furnish a report under this section is subject to the same duties and responsibilities as an employer under this chapter."

Page 12, remove lines 1 through 22

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL 2160

Page 1, line 2, after the second comma, Insert "a new section to chapter 34-15"

Page 12, after line 22, insert:

"SECTION 14. A new section to chapter 34-15 of the North Dakota Century Code is created and enacted as follows:

Reporting of patronage distributions. A person who makes a distribution of funds to a patron for which the person is required to file a copy of a 1099-PATR informational form must furnish a report to the directory of new hires in the same manner that an employer reports the hiring of an employee under this chapter. A patron is deemed to be hired under this section on the date of the distribution or the date the dividend is declared, whichever occurs first. A person required to furnish a report under this section is subject to the same duties and responsibilities as an employer under this chapter."

Renumber accordingly

Deanne Hall
Operator's Signature

10/17/03
Date