The National Conference of State Legislatures (NCSL) expresses deep concern over the failure of personal responsibility that has caused many of our nation’s children to live increasingly in poverty and economic uncertainty. A stable household with adequate financial resources to provide for basic needs of children should be the goal of every parent. The role of government should be to encourage individual parental responsibility in meeting that goal and to assist in providing support for children whose parents are unable to do so.

NCSL believes that enforcing parental support obligations is an integral part of a comprehensive income security program for our nation’s families. The federal child support enforcement program, authorized under Title IV-D of the Social Security Act, was established to enforce support obligations owed by non-custodial parents to their children by: (1) establishing paternity; (2) locating non-custodial parents; and (3) obtaining support payments.

NCSL believes states and the federal government should ensure that child support is fair, equitable, and timely. In reviewing the current system, NCSL concludes that child support enforcement can be enhanced through better coordination of purpose at the state and federal level, through a renewed
commitment to interstate cooperation, and through the application of intellectual and financial resources to attack the problem with creativity, innovation, flexibility, and strength.

NCSL supports improved coordination of all programs and organizations working on child support enforcement, including but not limited to: state policy makers, state courts, local and state bar associations, district and state attorneys, local and state child support directors, local law enforcement officials, family and child support advocacy groups, tribes, and programs that work with both parents.

NCSL believes that the federal child support audit process would be improved by focusing on performance outcomes rather than administrative procedures and processes. A revision of the process would allow for more innovation and adaptability to individual state needs, while still providing oversight. NCSL also urges the federal government to allow states to reinvest their child support penalties in the child support system as a more effective way for states to come into compliance. Similar penalty reinvestment practices are followed in other human services programs. State investments in technology-related expenditures, which are necessary in order to come into compliance with federal requirements, should be taken into account in the penalty process.
Program and System Improvements

The increasing effectiveness of state child support enforcement programs performs an important service for children. Federal financial participation has created the base for these effective and increasingly successful programs. However, as more families leave welfare and go into the workforce, the program no longer provides the financial return to the state and federal government. The states and federal government need to re-examine the financing of this program.

NCSL urges the federal government to continue to support technical assistance to the states with respect to exemplary practices, procedures, and legislation that has been effectively implemented.

New child support initiatives from the federal government should allow maximum flexibility among states, reward new initiatives and encourage state experimentation and innovation.

NCSL is pleased with the progress OCSE has made in focusing on program outcomes and assistance to states to maximize the effectiveness of state child support systems and collections. NCSL encourages OCSE to regularly communicate with state legislators, particularly through the regional offices and relevant action transmittals.
NCSL supports an incentive approach for a permanent enhanced federal administrative match for states that implement a minimum package of innovative procedures to increase program effectiveness.

NCSL realizes states need to make significant improvements in the number and timeliness of paternity establishments, as this is the cornerstone to an effective child support enforcement program. Currently, states are rewarded for improving paternity establishment. Federal funds should accompany federal paternity mandates.

NCSL supports proposals that would put states on a phased-in schedule of improvement that would use current year levels of paternity establishments as the base and would require a reasonable schedule for improvement.

NCSL recommends that if any additional mandatory program requirements are adopted as amendments to the existing Child Support Enforcement program, Congress should provide for: (1) a reasonable transition period; (2) waivers to permit states to address state specific problems with program requirements; and (3) flexibility for states to implement innovative alternatives that still meet the goals of the program.

NCSL supports the federal parent locator service but opposes a mandate that would charge states for the use of the service.
Nutrition Assistance and Child Support Enforcement

NCSL fully supports the rights of all children to be financially supported by both parents and the enforcement of parental support obligations owed by non-custodial parents to their children. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), the welfare reform law, created a state option to withhold food stamps from custodial parents who do not cooperate and non-custodial parents who are delinquent in child support payments. However, NCSL is concerned about underfunded and burdensome mandates to states and does not support federal proposals to mandate child support enforcement cooperation as a condition of eligibility in the food stamp program.

Payment of Child Support in the TANF Program/Child Support Passthrough

NCSL supports the option for states to use a disregard as a minimum financial incentive for recipients of Temporary Assistance to Needy Families (TANF) to participate in the child support program and believes that states need flexibility to use disregards innovatively. NCSL also supports allowing states to permit families to keep more of the money collected on their behalf whether on or off public assistance. However, NCSL insists that the federal government share in the cost of this forgone revenue. NCSL opposes a federal mandate to pass
through child support as a cost-shift to states. Additionally, NCSL supports more efficient outreach efforts to include a greater number of recipients receiving child support enforcement assistance. State innovations in this area are important to children and families, particularly those transitioning from welfare to work and ultimate self-sufficiency. States must have the flexibility necessary to continue these innovations to meet the need of children and families in each state. NCSL applauds Congress for including new passthrough and distribution options in the Deficit Reduction Act of 2005.

Noncustodial Parents

Historically, states have taken the lead in issues pertaining to family law. State legislators support innovative programs that reach more absent parents, especially young fathers. However, the issues of custody and visitation are under the purview of the states and NCSL would strongly oppose any effort to preempt state laws in this area. If the federal government establishes block grants to states to examine ways to involve noncustodial parents in the lives of their children, state legislatures must have the authority to appropriate these funds, as in the Brown amendment (Section 901) to 1996 welfare reform law. (The NCSL policy on Nurturing Responsible Families further details NCSL positions on fatherhood, child support distribution, and family formation.) NCSL urges OCSE to encourage flexibility and creativity in addressing arrearages. NCSL also urges that OCSE continue to work with policymakers to clarify the usage of current
policy regarding arrearages. While states cannot retroactively modify awards, it
is possible for states to forgive arrearages for those noncustodial parents who
are working to meet current obligations but are genuinely unable to pay
arrearages.

**Child Support Assurance**

Child Support Assurance provides a guaranteed level of child support payment.
NCSL supports maintaining the option of states to develop pilot programs for the
assurance concept that can be rigorously analyzed and evaluated.

**Appropriate Federal and State Roles**

Federal efforts should first be directed to helping states do a better job. The
federal commitment to child support enforcement has been to elevate and
strengthen the federal Office of Child Support Enforcement so that it will be a
more effective partner with the states. This should include attempts to improve
cooperation between IV-D agencies, state revenue agencies, and the state and
local courts. Federal dollars should be used to create incentives to develop
innovations, to replicate successes, and to provide improved training. Incentives
should be structured in a manner that is supportive of and not coercive to states.
State and local courts should retain power and discretion over establishing and
modifying child support orders. The federal government should not create criminal sanctions.

**Federalization**

Several proposals to improve the child support system begin with a premise that centralizing the system should be the driving force for change. Federalization of the child support system, however, would disrupt state efforts to integrate family support services and further diminish the sense of community that is required for government to be responsive to the needs of its citizens. NCSL rejects the assumption that transferring the program to the federal government and funding, creating, and training a new bureaucracy at the national level will offer immediate improvement. Instead, NCSL supports sorting of responsibilities in a reasonable and rational fashion. Federal responsibilities should be expanded only where compelling reason to do so exists. Any other actions should be considered violations of the 10th amendment.

NCSL concurs with the conclusion of the U.S. Commission on Interstate Child Support that transferring responsibility to the federal government will not improve the system. Federalization raises problems for an uninitiated and overworked federal court system and poses great risk because of the absence of a national system or model. Proposals to use existing mechanisms within the Social Security System and the Internal Revenue Service, while intriguing, must be
rigorously tested and evaluated before exposing the entire system to enormous
cost and risk. Overlapping responsibilities would create new disorder with federal
administrative law judges interfering with settled state authority in family law.

Child Support Incentive Program

The National Conference of State Legislatures (NCSL) strongly supports the
current incentive system for child support enforcement. The current incentive
system must reward performance and recognizes our changing caseloads. As
states succeed in their welfare reform efforts, the child support caseload is
changing from mostly welfare recipients to include more working families. Most
states easily reached the maximum incentive for non-welfare cases and the
system should be revised and updated.

NCSL strongly supports federal legislation to remove the provision in the Deficit
Reduction Act of 2005 that prohibited states from using child support incentive
funds to match federal funds for the program. This action, reversing existing law
encouraging states to use funds in this manner, was identified by the
Congressional Budget Office as an intergovernmental mandate that exceeded
the threshold of the Unfunded Mandate Reform Act. The federal funds states
matched with incentive funds were used for integral parts of the child support
enforcement program, such as establishing and enforcing child support
obligations, obtaining health care coverage for children, and linking low-income
fathers to job programs. Reduction of child support funding inevitably leads to lower child support collections, leaving families less able to achieve self-sufficiency. States are put in the unenviable position of reducing services or finding state funds to make up for this federal cost-shift.

Concerns about the incentive system have been a long-standing component of NCSL policy. NCSL continues to believe that the increasing effectiveness of state child support programs provides a financial return to both states and the federal government, while performing an important service for children and families. Federal financial participation has created the base for these effective and increasingly successful programs.

The 1996 welfare reform law required the Department of Health and Human Services to report to Congress with suggested revisions to the current incentive system. In response to the Administration’s proposal and pending Congressional action, state legislators:

- Support a base matching rate of no less than 66 percent. This is critical in light of the extensive federal mandates in the welfare law;
- Support enhanced funding for automated data systems required by federal law;
- Support the development of clear, understandable criteria for a new incentive system;
Believe that these criteria should be based on performance outcomes rather than administrative procedures and processes;

- Oppose efforts to require that incentives received by the state be reinvested in the child support program. This ignores state priorities and preempts state authority over these funds, and

- Support a more flexible approach to reinvestment. NCSL supports state flexibility to reinvest in programs that serve children and families.

Medical Child Support Enforcement

The federal government regulates health insurance covered by self-insured companies under the federal Employee Retirement Income Security Act of 1974 (ERISA); state laws do not apply to these companies. NCSL continues to urge Congress to close a loophole in ERISA that allows self-insured companies to refuse to acknowledge state medical child support orders and effectively block access to medical child support for thousands of children. As ERISA companies refuse to acknowledge transferred orders, states must return to court and get a new order if a noncustodial parent changes jobs. ERISA companies also set highly individualized criteria which, absent a standardized medical support notice, are barriers to the Congressional goal of a uniform and efficient enforcement system. A change in ERISA is needed so that these companies will comply with state medical child support orders and children of the fathers employed by these companies will no longer remain on Medicaid.
To effectively manage welfare costs, states must have access to the necessary tools. Absent a change in ERISA clarifying that there is no preemption of state laws and procedures for medical child support, state medical costs will continue to rise. Particularly given the rigid child support mandates of PRWORA, the federal government should take efforts to remedy these problems in ERISA so that states can effectively manage costs and insure that children of noncustodial parents working for ERISA companies have adequate health insurance. NCSL also urges OCSE to continue to discuss the linkages between medical child support and the use of the Children's Health Insurance Program (CHIP).

A number of recent changes have strengthened medical child support enforcement and removed some of the impediments to providing children with health care coverage. For example, the 1996 welfare reform law included a provision for health care coverage in all child support orders and directed the child support enforcement agency to notify an employer of the noncustodial parent's medical child support coverage. However, ensuring that children get the health care coverage that they need remains complicated. The Medical Child Support Working Group, created as part of the Child Support Performance and Incentive Act of 1998, brought together the stakeholders in this issue to address topics including the National Medical Support Notice, coordination of medical child support with CHIP, and evaluating the standard for "reasonable cost" in federal law and issued a final rule on the National Medical Support Notice.
(NMSM) in January of 2001. We urge the federal government to continue such collaborative efforts and to consider the cost to states of any policy changes. Continuing discussion is especially needed regarding state flexibility to determine the “reasonable cost” of insurance. The current federal definition is very problematic because of changes in insurance coverage available through employers.

Automation

The child support enforcement system relies on accurate, working information systems. Unfortunately, implementation of these computer systems has been difficult and fraught with problems and delays. NCSL encourages Congress to convene state elected officials, welfare commissioners, vendors and the U.S. Department of Health and Human Services to review child support automation services and to develop realistic recommendations for the next phase of implementation. NCSL supports efforts to allow for corrective action plans for states in the disallowance process.