TESTIMONY
SENATE BILL 2302 – DEPARTMENT OF HUMAN SERVICES
HOUSE JUDICIARY COMMITTEE
DUANE DEKREY, CHAIRMAN
MARCH 15, 2005

Chairman DeKrey, members of the House Judiciary 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 to express the Department's support for Engrossed Senate Bill 2302.

By state law, the official records of the state regarding all child support amounts owed, collected, and distributed are kept on the automated computer system maintained by the Department, also known as FACSES (Fully Automated Child Support Enforcement System). Unpaid child support is a judgment by operation of law and therefore bears interest at the state judgment interest rate. Judgment interest that accrues on unpaid child support is recorded on FACSES, enforced, and collected along with the principal of the debt.

The Department supports a realistic interest rate that compensates the judgment creditor for the lost use of the money without penalizing the debtor. In the last biennium, we sent letters to child support obligors advising them of the interest that is accruing on their unpaid child support. We know of some cases, and there are probably many more, where the obligor paid all or part of the unpaid child support to avoid the judgment interest. Set at the proper rate, it is our belief that the accrual of judgment interest on unpaid child support is an incentive for obligors to pay the debt. Set too high, obligors cannot afford to pay the interest much less the principal of the debt and they get further behind.

Unpaid child support is unique in the sense that it is made up of monthly, "mini-judgments." As such, these debts are frequently paid off only to be replaced with a newer debt when another month's payment is missed. For simplicity, the Senate adopted an amendment to apply the same variable interest rate to all

unpaid child support, regardless of when the debt first accrued. This avoids significant programming costs to change FACSES to handle multiple interest rates.

Mr. Chairman, that concludes my testimony and I would be happy to answer any questions the committee may have.