

**Testimony**  
**House Bill 1329 – Department of Human Services**  
**House Human Services Committee**  
**Representative Robin Weisz, Chairman**  
**February 9, 2009**

Chairman Weisz, members of the House Human Services Committee, I am Paulette Oberst, Policy Administrator with the Child Support Enforcement Division of the Department of Human Services. I am here to provide neutral testimony regarding House Bill 1329.

We understand that House Bill 1329 would exclude atypical overtime wages or nonrecurring bonuses from an obligor's gross income in determining the child support amount under the guidelines. The exclusion would apply only if those overtime wages or bonuses are not within the obligor's significant influence or control.

Under House Bill 1329, North Dakota's guidelines would be consistent with guidelines in a number of other states that exclude nonrecurring overtime wages or bonuses but include overtime wages or bonuses that are regular and predictable, such as when the obligor has a history of working overtime or receiving bonuses and the overtime wages or bonuses are expected to continue in the future.

In implementing House Bill 1329, it appears that additional information would be required from the obligor to distinguish the overtime wages or bonuses from regular wages and to determine whether there is a pattern to receiving the overtime wages or bonuses. The obligor is in the best position to provide this documentation and to make the showing that the overtime wages or bonuses are atypical or nonrecurring and outside his or her significant influence or control.

It is quite possible that cases involving overtime wages or bonuses may result in fewer stipulations and more litigation. This is because the parties may disagree about whether the overtime wages or bonuses are atypical or nonrecurring and outside the obligor's significant influence or control. When there is a disagreement, the parties will turn to the court for a factual determination, as is done today under the rebuttal criteria in current law.

For cases we handle, the need for additional documentation or more court hearings will likely mean that these cases will take longer and require more staff time. However, we believe that the increased time and resources needed at the regional child support enforcement units would be modest and would be absorbed by current staff. Therefore, any fiscal impact to the taxpayers would be minimal.

Chairman Weisz, this concludes my testimony. I would be happy to address any questions the committee may have.