Child Support – Gambling

PHOTOCOPY
PRESERVATION

CHILD SUPPORT –
GAMBLING

Talking Points on Child Support Gambling Proposal

- As you know, the Administration's budget included a legislative proposal about the collection of outstanding child support payments at gaming establishments, both Indian and non-Indian. The Department of Justice (Office of Tribal Justice) has reviewed this proposal and recommended that, in light of certain tribal sovereignty issues, HHS needs to consult with tribes before proceeding. Specifically, DOJ recommends that HHS hold off on its legislative proposal, and instead, work with tribal governments on a voluntary basis to encourage the tribes to create their own standards and policies in this area.

- We accept this recommendation. And in order to treat Indian and non-Indian gaming facilities equitably, we have determined it is best to delay the entire proposal. The child support budget language HHS is transmitting to the Hill on March 28th will therefore not include the gambling provision.

- Instead, we will consult with gaming establishments -- tribal and non-tribal – to explore a voluntary pilot effort and to work through important implementation issues. We're hopeful that gambling establishments from both sectors will work with us towards the important goal of ensuring that children and families get more of the child support they deserve.

- Of course, the Administration remains committed to the goals of collecting more child support from "deadbeat" parents who can afford to pay, ensuring that more child support goes directly to families, and helping low-income "deadbroke" fathers who owe child support go to work. We look forward to working with Congress, states, tribes, and others to enact our comprehensive package of responsible fatherhood initiatives.

- Our original proposal would have raised revenue, and to ensure budget integrity, HHS has identified an alternative offset. [anything else OMB feels it should say here].

<u>Background on the Proposal</u>

The President's budget included new measures to collect child support from parents who can afford to pay. Among them was a proposal to intercept gambling winnings from parents who owe support, which would have collected about $350 million for families and raised nearly $190 million in federal revenues over five years. Gaming establishments currently report certain gambling winnings to the IRS[1]; under this proposal, they would also have had to check whether these individuals owed child support, and if so, retain winnings for the gamblers' children.[2]

[1] Under current law, tribal and nontribal gambling establishments must complete and send to the IRS form W2G, reporting the name, SSN and winnings for patrons with keno winnings above $1,500, bingo and slot machine winnings above $1,200, and winnings above $600 when the winnings are at least 300 times the amount of the wager.

[2] For all gambling winners exceeding the thresholds listed above, the gambling establishment would transmit the individual's name, SSN and winnings to a secure Internet site where it would be matched against information on parents who owe at least $500 in child support. The match inquiry would report back: 1) there is no match and the individual does not owe child support; 2) the individual owes past due child support which exceeds the amount of the individual's winnings, and all the winnings should be retained; or 3) the individual owes child support but the amount does not exceed the amount of winnings, so only the amount owed should be retained.

Broderick Johnson
03/29/2000 07:12:14 PM

Child Supp
Gambling

Record Type: Record

To: Andrea Kane/OPD/EOP@EOP
cc:
Subject: casinos and child support collection

---------------------- Forwarded by Broderick Johnson/WHO/EOP on 03/29/2000 07:10 PM ---------------------------

Lisa M. Kountoupes
03/29/2000 07:04:14 PM

Record Type: Record

To: Broderick Johnson/WHO/EOP@EOP
cc:
Subject: casinos and child support collection

the fun continues...

---------------------- Forwarded by Lisa M. Kountoupes/WHO/EOP on 03/29/2000 07:04 PM ---------------------------

Brian S. Mason
03/29/2000 06:24:35 PM

Record Type: Record

To: Lisa M. Kountoupes/WHO/EOP@EOP
cc:
Subject: casinos and child support collection

Lisa- do you know the answer to this question? thanks.

---------------------- Forwarded by Brian S. Mason/WHO/EOP on 03/29/2000 06:24 PM ---------------------------

"Spanbauer, Amy" <Amy.Spanbauer@mail.house.gov>
03/29/2000 05:59:04 PM

Record Type: Record

To: Brian S. Mason/WHO/EOP
cc:
Subject: casinos and child support collection

Q: Has the President formally withdrawn his proposal to require casinos and gaming establishment to seize the winnings of individuals who owe child support?

The announcement is located about 2/3 of the way down in the editorial below. (Flash Nugget No. 3) Can you confirm it?

Please call me directly at 226-7937 as soon as possible. Thank you for your help. --amy

Leg Affairs w/ a response

Amy Spanbauer
Legislative Assistant
Congressman Jim Gibbons (NV-2)
100 Cannon HOB
Washington, DC 20515
202-225-6155

From: flash.vegas.com[SMTP:flash@vegas.com] <mailto:[SMTP:flash@vegas.com]>
Sent: Wednesday, March 29, 2000 3:23 PM
Subject: Flash.vegas.com – March 29, 2000

Flash.vegas.com
Wednesday
March 29, 2000

The Ralston Report
E-mail: ralston@vegas.com <mailto:ralston@vegas.com>

Jon RalstonTHE GREAT BATTLE BETWEEN FACTS AND EMOTION, NO. 1: It may be all the rage in Nevada, but the NCAA betting ban legislation didn't exactly rivet the Senate Commerce Committee this morning.

Only five of the panel's 20 members were there when the hearing began – Chairman John McCain, sponsor Sam Brownback, Nevada's Richard Bryan, Louisiana's John Breaux and South Carolina's Fritz Hollings -- and Hollings and Breaux didn't stay very long.

The deck clearly was stacked against Nevada. One sign was that McCain emerged from his inner sanctum with pro-NCAA witnesses.

Before he departed, Breaux sounded like an honorary Nevadan, saying that enforcing the current laws is the problem and that the bill is not the answer.

Bryan, who talked to McCain on the floor Tuesday about getting four

To do the math, you can be sure that he has Rep. Shelley Berkley's seat in that "gain" column.

Nugget No. 3 -- Nevada's delegation is celebrating today the burial of a provision that would have turned the gamers into deadbeat dad police when large winnings are reported to casinos. It was the kind of onerous provision that occasionally bubbles up from the budgetmeisters. The White House has informed the Nevadans that the piece has been entombed – at least for the current budget year. The question is who gets the credit -- both senators and Rep. Shelley Berkley lobbied hard. But only one of the three is up for election this year. Be generous, senators.

Today in the Las Vegas Sun

News
Business & Gaming
Panel opens debate on betting bill: Sen. John McCain drew a crowd -- and criticism from Nevada officials -- today during the first Congressional hearing on a bill that would ban betting on college sports in Nevada casinos.

Jury set after only two days: A 12-member jury has been seated in just two days in the well-publicized Ted Binion murder trial.

Henderson citizens protest downtown expansion proposal: A move to possibly triple the size of Henderson's downtown redevelopment area was met with skepticism by some of the nearly 200 residents who heard about the plan Tuesday, but officials voted to recommend a study despite their concerns.

High court member raps disputed jackpots: A senior member of the Nevada Supreme Court suggested today that the state's welfare is being endangered by refusal of casinos to pay off jackpots based on technical reasons.

Quick Links to Breaking News
News Business Sports
Weather Opinion
Market
11:30 am
Change

Sun Gaming Index	733.18	+0.32%
DJ Industrials	10988.90	+52.8
Nasdaq	4696.65	-137.24
S&P 500	1508.79	+1.06

Click here for full stock report

Nevada Power wants law on deregulation struck down: Nevada Power and its Reno-based parent company want the law that deregulates the electrical power industry in the state declared unconstitutional.

Forum Shops at Caesars expansion moving ahead: After a two-year wait, the owners of the Forum Shops at Caesars are moving forward once again with plans to expand the mall a second time – but they've yet to receive the

Child Support - Gambling Proposal

- The Administration's budget included a legislative proposal about the collection of outstanding child support payments at gaming establishments, both Indian and non-Indian. In light of important tribal sovereignty issues and the Administration's commitment to working with tribes on a government-to-government basis, the Department of Justice has recommended that the Administration needs to consult with tribes before proceeding with this legislative proposal.

- In order to treat Indian and non-Indian gaming facilities equitably, the Administration has determined it is best to delay the entire proposal.

- Instead, the Administration will consult with gaming establishments – tribal and non-tribal – to explore a voluntary pilot effort and to work through important implementation issues. Gambling establishments from both sectors will have an opportunity to work towards the important goal of ensuring that children and families get more of the child support they deserve.

Talking Points on Child Support Gambling Proposal
March 28, 2000

- As you know, the Administration's budget included a legislative proposal about the collection of outstanding child support payments at gaming establishments, both Indian and non-Indian. The Department of Justice (Office of Tribal Justice) has reviewed this proposal and recommended that, in light of important tribal sovereignty issues and the Administration's commitment to working with tribes on a government-to-government basis, HHS needs to consult with tribes before proceeding. Specifically, DOJ recommends that HHS hold off on its legislative proposal, and instead, work with tribal governments on a voluntary basis to encourage the tribes to create their own standards and policies in this area.

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- Of course, the Administration remains committed to the goals of collecting more child support from "deadbeat" parents who can afford to pay, ensuring that more child support goes directly to families, and helping low-income "deadbroke" fathers who owe child support go to work. We look forward to working with Congress, states, tribes, and others to enact our comprehensive package of responsible fatherhood initiatives.

- Our original proposal would have raised revenue, and to ensure budget integrity, HHS has identified an alternative offset. This new proposal requires higher performance from states to receive child support incentive payments. At the same time, the proposal makes other changes in the incentive payments that are advantageous to states.

Background on the Proposal

The President's budget included new measures to collect child support from parents who can afford to pay. Among them was a proposal to intercept gambling winnings from parents who owe support, which would have collected about $350 million for families and raised nearly $190 million in federal revenues over five years. Gaming establishments currently report certain gambling winnings to the IRS[1]; under this proposal, they would also have had to check whether these individuals owed child support, and if so, retain winnings for the gamblers' children.[2]

[1] Under current law, tribal and nontribal gambling establishments must complete and send to the IRS form W2G, reporting the name, SSN and winnings for patrons with keno winnings above $1,500, bingo and slot machine winnings above $1,200, and winnings above $600 when the winnings are at least 300 times the amount of the wager. Gaming establishments retain 28 percent of winnings above $5,000 for federal tax purposes.

[2] For all gambling winners exceeding the thresholds listed above, the gambling establishment would transmit the individual's name, SSN and winnings to a secure Internet site where it would be matched against information on parents who owe at least $500 in child support. The match inquiry would report back: 1) there is no match and the individual does not owe child support; 2) the individual owes past due child support which exceeds the amount of the individual's winnings, and all the winnings should be retained; or 3) the individual owes child support but the amount does not exceed the amount of winnings, so only the amount owed should be retained.

Child Support Incentive Payments Proposal
March 29, 2000
(FOR INTERNAL USE ONLY)

Q: Why is HHS proposing changes to the calculation of state incentive payments?

A: The Administration consulted extensively with states and other stakeholders in the child support enforcement program during 1998 and 1999 to determine how best to finance the child support program and to bring about improvements in the program. During these consultations, one of the main concerns raised by states was that the incentive payment methodology adopted under the 1998 child support performance incentive act created competition among states for a capped amount of funds, which made this source of funding extremely uncertain. States complained that this uncertainty reduced the extent to which these funds would actually have an incentive effect.

The HHS proposal directly responds to this concern by effectively replacing the national cap on incentive payments with a state by state cap. While the proposal modestly raises performance standards in fiscal years 2002 to 2004, the changes to the calculation of the incentive payments are an overall improvement for states. Raising performance standards for an initial period helps to offset the costs of the other HHS child support initiatives, including a proposal to provide states the option to adopt radically simplified distribution rules. The complexity and administrative burden of the distribution rules adopted under welfare reform was one of the other main concerns raised by states during the consultations in 1998 and 1999.

Q: How will these changes affect states?

A: States will receive a more reliable stream of revenue to support their child support programs. This proposal addresses the concern raised by states that, under current law, they cannot predict the amount of incentive payments they will earn. Under the existing formula, a State can improve its performance in a given year, but still earn a lower amount of incentive payments if other states improve their performance even more. Under the HHS proposal, a State would know in advance of fiscal year, the maximum amount of incentive payments it could earn. The only variable for the State would be its own success in the child support program -- the amount of child support collected and its performance on five program performance measures.

Under this proposal, States can still improve their performance to earn a higher incentive payment in fiscal years 2002 to 2004. This proposal raises the standards on which the incentive payments are based in these years. It does not reduce total payments available to States.

Even with higher standards in fiscal years 2002 to 2004, States will still earn more incentive payments in the child support program than they have in prior years. In FY 2001, HHS estimates that states will receive $404 million in incentive payments; in FY 2002, states will receive an estimated $428 million, increasing to an estimated $437 million in FY 2004.

Q: Will this proposal have an effect on families?

A: Higher performance standards should encourage greater efforts on the part of States to improve their child support programs, and achieve even better results for families. Under this proposal, States can still improve their performance to earn a higher incentive payment in fiscal years 2002 to 2004. Overall, States will continue to receive a total of more than $400 million in FY 2001 in incentive payments, and higher amounts in later years (For comparison, HHS estimates FY2000 payments will be $371 million). States must reinvest these incentive payments into the child support program. The HHS proposal will improve the methodology for awarding incentive payments, and increase the incentive effect of these monies.

Q: Is HHS backing off of a commitment it made to states during the development of the incentive payment methodology adopted under the Child Support Performance and Incentive Act of 1998?

A: The primary change to the incentive payment methodology under the HHS proposal is very advantageous to states. The HHS proposal replaces the national cap on incentive payments with a state by state cap. While the proposal modestly raises performance standards in three fiscal years, the proposal retains the essential structure of the incentive payment methodology developed with states. For example, the proposal retains the five performance measures under current law and the methodology for calculating state performance on these measures.

Background

HHS proposes to make several changes to the calculation of incentive payments to states. Under this proposal, HHS would set annually a prospective incentive payment percentage, at the percentage estimated to result in total incentive payments equal to the statutory cap. For fiscal years 2002 to 2004, HHS will incorporate a higher performance standard when setting the incentive payment percentage, relative to the prior fiscal year. These changes will result in very modest reductions to the incentive payment amounts paid to states – an estimated reduction of about $60 million over three years or less than 5% of the $1.4 billion available in those years.

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

MAR 28 2000

The Honorable Albert Gore, Jr.
President of the Senate
Washington, D.C. 20515

Dear Mr. President:

Enclosed for the consideration of the Congress is the Administration's draft bill, the "Child Support Enforcement Amendments of 2000". The bill makes amendments to the program under title IV-D of the Social Security Act (the Act) to carry out proposals included in the President's Budget for FY 2001.

These are important proposals designed to renew support for children, strengthen families and promote personal responsibility and responsible fatherhood. They include a number of changes to our nation's child support enforcement system that will improve enforcement tools and increase collections paid to children and families by $1.5 billion over the next five years.

The bill includes amendments to encourage States to increase the amount of child support collections passed through to families currently or formerly receiving cash assistance. It modifies the formula for calculating the amount of incentive payments to States to reduce the extent of retroactive downward adjustments in payment amounts, thus better enabling States to plan their support enforcement efforts. The proposal also raises the standards for the award of these payments for an initial three-year period. It seeks to ensure the fairness of support awards to both custodial and non-custodial parents by mandating 3-year review and modification of support orders for recipients of Temporary Assistance for Needy Families (TANF). Finally, it adds various new tools for recovery of past-due support, including offset of Social Security benefits, denial of Medicare billing privileges to health care professionals in arrears, and State authority to require work from more individuals who are not paying their past-due support, and to boot their vehicles. All of the provisions of the bill are detailed in the enclosed section-by-section summary.

The Omnibus Budget Reconciliation Act requires that all revenue and direct spending legislation meet a pay-as-you-go (PAYGO) requirement. That is, no such bill should result in a net budget cost; and if it does, it could contribute to a sequester if not fully offset. This proposal would increase direct spending by $7 million in FY 2001, but would reduce direct spending by a total of $142 million during FYs 2001-2005. This proposal should be considered in conjunction with all other PAYGO proposals in the President's Budget.

The Honorable Albert Gore, Jr.--Page 2

We urge the Congress to give the draft bill its prompt and favorable consideration. The Office of Management and Budget has advised that there is no objection to the submission of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

Donna E. Shalala

Enclosures

"Child Support Enforcement Amendments of 2000"

Section-by-Section Summary

NOTE: When used in this summary, references to "the Act" or to a provision of law are references to the Social Security Act or a provision thereof; "Secretary" means the Secretary of Health and Human Services (HHS).

SEC. 2. REDUCED SUPPORT ARREARAGE THRESHOLD FOR PASSPORT DENIAL.

Section 2 amends section 452(k)(1) to reduce from $5,000 to $2,500 the minimum amount of child support arrears that must be certified by a State agency to support action by the Secretary of State to revoke, deny, or limit the passport of an individual owing support arrearages. This section also makes an amendment to conform terminology in the provisions concerning passport denial and tax refund offset.

SEC. 3. ELIMINATION OF ENHANCED MATCHING FOR LABORATORY COSTS FOR PATERNITY ESTABLISHMENT.

Section 3 repeals section 455(a)(1)(C), which provides for 90 percent matching of laboratory costs incurred by the State CSE agency in paternity determination.

SEC. 4. FEDERAL MATCHING OF CERTAIN SUPPORT AMOUNTS PASSED THROUGH TO FAMILIES RECEIVING TANF.

Section 4 amends section 457(a)(1) (the formula for distribution of child support collected on behalf of a family receiving assistance under TANF). Under current law, the Federal share of amounts collected, up to the amount of assistance provided, must be paid to the Federal Government; the State may distribute all or part of its share of such collections to the family, but there is no Federal matching of such distribution.

This amendment provides Federal matching, beginning with FY 2001, for part or all of any increased amounts of collections that the State distributes to the family and disregards for purposes of eligibility for and payment of TANF benefits under title IV-A. If the State distributes and disregards in excess of the amount (the base amount) that the State would have distributed and disregarded under the State CSE and TANF plans in effect on September 30, 1999, the Secretary will provide a Federal matching share of up to the greater of (1) so much of the excess amount as does not bring the total distribution above $100; or (2) the excess over the base amount, up to $50.

SEC. 5. STATE OPTION TO INCREASE DISTRIBUTIONS TO FAMILIES FORMERLY RECEIVING ASSISTANCE.

Section 5 amends section 457(a)(2) (the formula for distribution of support collected on behalf of a family formerly receiving AFDC or TANF) to give the State the option, beginning in January 2002, to distribute to the family all arrearages assigned to the State (as well as current support, as under current law). A State electing this option must relinquish any assignment right it may have to any amounts distributed to the family under this option.

SEC. 6. REVISED CALCULATION OF STATE INCENTIVE PAYMENTS.

Section 6 makes amendments to the State incentive payment formula under section 458A. Current law sets an annual statutory ceiling on total incentive payments, and retrospectively determines the actual payment to each State based on comparison of State performance levels. The amendments made by the bill would reduce the uncertainty as to the final amount of the State's incentive payment, by effectively replacing the national cap with a state by state cap. The amendments also raise performance standards for the award of these payments in fiscal years 2002 to 2004.

Beginning with FY 2001, the Secretary would set annually a prospective incentive payment percentage at the percentage the Secretary estimated would result in total incentive payments equal to the statutory amount. For FY 2001 this percentage would be 1.45 percent. The Secretary would set these percentages assuming, for FYs 2002 and 2003, a 10 percent improvement in State performance over the prior fiscal year, and for FY 2004, an 8 percent improvement over the prior fiscal year. The statutory annual amounts would cease to be ceilings and would instead become targets, which would be increased or decreased annually (beginning with FY 2007) as necessary to offset the excess or shortfall of the second preceding year's total payments with respect to that year's target. (The one-year lag is necessitated by the delayed availability of final data on a fiscal year.)

Finally, this section this includes a technical amendment to the formula for calculation of the State's incentive base amount. Under current law, the formula produces total incentive base amounts for all States several times higher than the ceiling; States' actual incentive amounts are then ratably reduced to stay within the ceiling. This proposal eliminates the need to ratably reduce the incentive amounts; this section reduces the current maximum percentages of the five performance levels (while retaining their weighting relative to each other). The maximum percentages for paternity establishment, support order, and current payment performance are reduced from 100 to 22 percent; those for arrearage payment and cost-effectiveness are reduced from 75 to 17 percent.

SEC. 7. MANDATORY 3-YEAR REVIEW AND MODIFICATION OF CHILD SUPPORT ORDERS FOR TANF RECIPIENTS.

Section 7 amends section 466(a)(10) to make mandatory (rather than a State option) the review and modification, at least every three years, of child support orders for TANF recipients.

SEC. 8. EXPANDED WORK REQUIREMENT FOR NON-CUSTODIAL PARENTS IN ARREARS.

Section 8 amends section 466(a)(15) to require States to have laws giving them authority to require any individual owing overdue support to a child either to pay support or to participate in work activities. (Current law requires States to have this authority only with respect to children receiving assistance under TANF.)

SEC. 9. VEHICLE BOOTING.

Section 9 adds to section 466(a) a new paragraph (20), requiring States to have laws under which they have, and use in appropriate cases, authority to boot vehicles registered to non-custodial parents owing $1,000 or more in overdue child support.

SEC. 10. AUTHORITY TO EXCLUDE OR REFUSE TO ENROLL CERTAIN HEALTH CARE PROFESSIONALS DELINQUENT IN THEIR SUPPORT OBLIGATIONS.

Section 10 (a) amends section 454(31) (providing a procedure for certification of support arrears for purposes of passport denial) to allow use of this procedure also for purposes of a new section 1842(u) (authority to deny certain categories of health care professionals billing privileges under Medicare).

Subsection (b) adds to section 1842 a new subsection (u), providing the Secretary with the authority to deny billing privileges under Medicare to physicians and certain other health care professionals certified by a State CSE agency as owing past-due support in excess of the minimum amount specified in section 454(31).

SEC. 11. RECOVERY OF PAST-DUE SUPPORT THROUGH OFFSET OF OASDI BENEFITS.

Section 11 amends 31 U.S.C. 3716(h)(3) (which provides that the administrative offset authority for collection of debts owed the government cannot be used to offset payments under the Social Security Act against debts owed a State). The amendment provides an exception in the case of past-due support being enforced by a State CSE agency, to permit offset against OASDI payments owed to the child support debtor under title II of the Social Security Act.

SEC. 12. EFFECTIVE DATE.

Section 12 provides that, except as otherwise specifically provided, amendments made by the bill are effective on an after October 1, 2000. A grace period is provided to allow time for enactment or amendment of State laws as required to comply with new requirements.

A BILL

To improve the effectiveness of the child support enforcement program under title IV-D of the Social Security Act, and for other purposes.

Be it enacted by the House of Representatives and the Senate of the United States of America in Congress assembled, That this Act may be cited as the "Child Support Enforcement Amendments of 2000".

SECTION 1. REFERENCES IN ACT; TABLE OF CONTENTS.

(a) REFERENCES IN ACT.—Except as otherwise specifically provided, references in this Act shall be considered to be made to the Social Security Act, or to a section or other provision thereof.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

SEC. 2. REDUCED SUPPORT ARREARAGE THRESHOLD FOR PASSPORT DENIAL.

(a) REDUCED THRESHOLD.—Section 452(k)(1) (42 U.S.C. 652(k)(1) is amended by striking "$5,000" and inserting "$2,500".

(b) CONFORMING AMENDMENT TO CERTIFICATION PROCEDURE.—Section 454(31) (42 U.S.C. 654(31) is amended by striking "$5,000" and inserting "$2,500".

(c) TECHNICAL AMENDMENTS.—Sections 452(k)(1) (42 U.S.C. 652(k)(1)) and 454(31) (42 U.S.C. 654(31)) are each amended by striking "arrearages of child support" and inserting "past-due support as defined in section 464(c)".

SEC. 3. ELIMINATION OF ENHANCED MATCHING FOR LABORATORY COSTS FOR PATERNITY ESTABLISHMENT.

Section 455(a)(1) (42 U.S.C. 655(a)(1)) is amended—

(1) in subparagraph (B), by adding "and" at the end; and

(2) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

SEC. 4. FEDERAL MATCHING OF CERTAIN SUPPORT AMOUNTS PASSED THROUGH TO FAMILIES RECEIVING TANF.

Section 457(a) (42 U.S.C. 657(a) is amended in the first sentence of paragraph (1) to read as follows:

"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, amounts collected in a month shall be distributed as follows:

"(A) Except as provided in subparagraph (B), the State shall—

"(i) pay to the Federal Government the Federal share of the amount so collected; and

"(ii) retain, or distribute to the family, the State share of the amount so collected.

"(B) If the State elects, from amounts collected in a month in or after fiscal year 2001, to distribute to the family and to disregard, for purposes of eligibility for and payment of assistance under part A, an amount that exceeds the amount (hereinafter referred to as the 'base amount') that would have been so distributed and disregarded under the State plans under this part and part A in effect on September 30, 1999, the Federal share otherwise payable under subparagraph (A)(i) shall be reduced by the Federal medical assistance percentage of the greater of—

"(i) so much of such excess amount as does not (when added to the base amount) exceed $100; or

"(ii) so much of such excess amount as does not exceed $50.".

SEC. 5. STATE OPTION TO INCREASE DISTRIBUTIONS TO FAMILIES FORMERLY RECEIVING ASSISTANCE.

Section 457(a)(2) (42 U.S.C. 657(a)(2)) is amended —

(1) in subparagraph (B), by striking "To the extent" and inserting "Except as provided in subparagraph (C), to the extent"; and

(2) by adding at the end the following new subparagraph:

"(C) ALTERNATIVE DISTRIBUTION TO FAMILY.—

"(i) IN GENERAL.—Instead of distributing in accordance with subparagraph (B) amounts collected as support that are assigned to the State, the State may elect, in months beginning on or after January 1, 2002, to distribute to the family all such amounts, regardless of whether they represent current support payments or arrearages.

"(ii) RELINQUISHMENT OF ASSIGNMENT RIGHTS.—Notwithstanding subsection (b) or any other provision of law, a State electing the option under this subparagraph shall relinquish its right, pursuant to an assignment under section 408(a)(3) or any other provision of law, to an amount equal to the amount distributed in accordance with clause (i).".

SEC. 6. REVISED CALCULATION OF STATE INCENTIVE PAYMENTS.

(a) MODIFIED CALCULATION.—Section 458A(b) (42 U.S.C. 658A(b)) is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—The incentive payment for a State for a fiscal year shall be an amount equal to the adjusted percentage of the incentive base amount for the State for the fiscal year.";

(2) by striking paragraph (3) and redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph:

"(2) ADJUSTED PERCENTAGE.—In paragraph (1), the term 'adjusted percentage' means—

"(A) 1.45 percent for fiscal year 2001;

(B) for fiscal years 2002 and 2003, such percentage as the Secretary estimates, on or before the first day of such fiscal year, will result in payments under this section to all States for such fiscal year totaling the incentive payment target amount for such fiscal year, as determined under paragraph (3), and assuming a 10 percent improvement in state performance over the prior fiscal year, such performance to be measured by the national average applicable percentage as weighted according to paragraph (5)(A);

(C) for fiscal year 2004, such percentage as the Secretary estimates, on or before the first day of such fiscal year, will result in payments under this section to all States for such fiscal year totaling the incentive payment target amount for such fiscal year, as determined under paragraph (3), and assuming an 8 percent improvement in state performance over the prior fiscal year, such performance to be measured by the national average applicable percentage as weighted according to paragraph (5)(A);

"(D) for fiscal year 2005 and each succeeding fiscal year, such percentage as the Secretary estimates, on or before the first day of such fiscal year, will result in payments under this section to all States for such fiscal year totaling the incentive payment target amount for such fiscal year, as determined under paragraph (3).";

(4) in paragraph (3), as redesignated—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking all that precedes clause (ii) of subparagraph (A) and inserting the following:

"(3) INCENTIVE PAYMENT TARGET AMOUNT.—

"(A) IN GENERAL.—In paragraph (2), the term 'incentive payment target amount' means, with respect to a fiscal year, the base amount specified for such fiscal year in subparagraph (B). For fiscal year 2007 and each succeeding fiscal year, the incentive payment target amount shall be increased or decreased (as appropriate) by the difference between the incentive payment target amount for the second preceding fiscal year and the total amount of incentive payments to all States under this section for such second preceding fiscal year."

"(B) BASE AMOUNT.—For purposes of subparagraph (A), the base amount for a fiscal year is as follows:"; and

(C) by redesignating clauses (ii) through (x) as clauses (i) through (ix); and

(5) in paragraph (5)(A)—

(A) in clause (i), by inserting "22 percent of" before "the State collections base"; and

(B) in clause (ii) by striking "75 percent" and inserting "17 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal years beginning on and after October 1, 2000.

SEC. 7. MANDATORY 3-YEAR REVIEW AND MODIFICATION OF CHILD SUPPORT ORDERS FOR TANF RECIPIENTS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended in subparagraph (A)(i), in the matter preceding subclause (I)—

(1) by striking the comma after "or"; and

(2) by striking "upon the request of the State agency under the State plan or of either parent,".

SEC. 8. EXPANDED WORK REQUIREMENT FOR NON-CUSTODIAL PARENTS IN ARREARS.

Section 466(a)(15) (42 U.S.C. 666(a)(15)) is amended by striking "owes overdue support with respect to a child receiving assistance under a State program funded under Part A" and inserting "owes overdue child support".

SEC. 9. VEHICLE BOOTING.

Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

"(20) VEHICLE BOOTING.—Procedures under which the State has (and uses in appropriate cases) authority to boot or otherwise immobilize a vehicle registered to a non-custodial parent owing $1,000 or more in overdue support.".

SEC. 10. DENIAL OF MEDICARE BILLING PRIVILEGES TO CERTAIN HEALTH CARE PROFESSIONALS DELINQUENT IN THEIR SUPPORT OBLIGATIONS.

(a) REQUIREMENT FOR STATE CSE AGENCIES.—Section 454(31) (42 U.S.C. 654(31)) is amended by striking "the procedure under section 452(k)" and inserting "the procedures under sections 452(k) and 1842(u)".

(b) REQUIREMENT TO DENY MEDICARE BILLING PRIVILEGES.—Section 1842 (42 U.S.C. 1395u) is amended by adding after subsection (t) the following new subsection:

"(u) DENIAL OF BILLING PRIVILEGES TO INDIVIDUALS CERTIFIED AS OWING PAST-DUE SUPPORT.—

"(1) IN GENERAL.—Upon receiving, from a State agency administering a plan approved under part D of title IV, certification pursuant to section 454(31) that an individual described in paragraph (2) owes past-due support (as defined in section 464(c)) in excess of the amount specified in section 454(31), and until such time as such certification is rescinded, the Secretary shall deny billing privileges for such individual (either individually, as a corporation or other legal entity, or as a member of a group or other legal entity) under this title by (as applicable)—

"(A) refusing to grant to such individual billing privileges under this title; or

"(B) revoking or suspending billing privileges under this title previously granted to such individual.

"(2) INDIVIDUALS SUBJECT TO DENIAL OF BILLING PRIVILEGES.—The provisions of paragraph (1) apply to any individual who is—

"(A) a physician described in section 1861(r);

"(B) a practitioner described in subsection (b)(18)(C); or

"(C) an independently practicing physical therapist or occupational therapist providing outpatient physical therapy services as described in section 1861(p).

"(3) NO RECOURSE AGAINST SECRETARY.—The Secretary shall not be liable to any person for an action with respect to a certification described in paragraph (1).".

SEC. 11. RECOVERY OF PAST-DUE SUPPORT THROUGH OFFSET OF OASDI BENEFITS.

Section 3716(h)(3) of title 31 of the United States Code is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), in applying this section with respect to any debt owed to a State, subsection (c)(3)(A) shall not apply.

"(B) Subparagraph (A) shall not apply with respect to payments owed to an individual under title II of the Social Security Act, for purposes of offset under this section of such payments against past-due support (as defined in paragraph (1) of section 464(c) of the Social Security Act, without regard to paragraphs (2) and (3) of such section 464(c)) that is being enforced by a State agency administering a program under part D of title IV of that Act.".

SEC. 12. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided, subject to subsection (b), amendments made by this Act shall be effective on and after October 1, 2000.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this Act shall become effective with respect to a State on the later of—

(1) the date specified in this Act; or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a two-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

CHILD SUPPORT — GAMBLING

CONFIDENTIAL

DETERMINED TO BE AN ADMINISTRATIVE MARKING
INITIALS: RCR DATE: 05/24/13
2013-0717-S

MEMORANDUM

TO: Lynn Cutler, Office of the Chief of Staff, White House

FR: Mark Van Norman, Director, Office of Tribal Justice

RE: Collection of Child Support at Indian Gaming Establishments

You asked our office to provide some background on Federal Indian law, tribal self-government, and the development of legislation to require Indian tribes to collect overdue child support from Indian gaming establishments.

Prior to the formation of the United States, Indian tribes were sovereign, independent nations. See National Farmers Union v. Crow Tribe, 471 U.S. 845, 851 (1985). The United States Constitution recognizes Indian tribes as sovereign polities both in the Indian Commerce Clause and in the Supremacy Clause affirmation of Indian treaties entered into prior to 1789. Through treaties and war, Indian tribes were incorporated into the United States, and after their incorporation, the Supreme Court then described Indian tribes as "domestic dependent nations." Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 17 (1831). Indian tribes are termed "domestic" because they are within the territory of the United States; "dependent" because they are under Federal Government protection, and "nations" because they retain their sovereign authority over their members and territory. The United States has historically understood that Indian tribes reserved the right to self-government over internal affairs through treaties, and thus, treaties have been read to "guarantee" tribal self-government. Congress possesses authority to abrogate Indian treaties by subsequent legislation to the same extent as it may abrogate international treaties, but it is presumed that Congress will exercise "good faith" in regard to Indian tribes by protecting their rights and interests.

President Clinton has had the strongest policy in support of Indian tribes and tribal self-government since President Franklin Roosevelt or perhaps even President Grant. For example, in the Executive Order on Consultation and Coordination with Indian Tribal Governments, President Clinton stated that:

> The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive orders, and court decisions. Since the formation of the Union, the United States has recognized

Indian tribes as domestic dependent nations under its protection. In treaties, our Nation has guaranteed the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on government-to-government basis.

Exec. Order 13084 (1998). Indeed, under this policy, the President has signed into law a number of measures that promote tribal self-government, such as the Indian Tribal Justice Act, 25 U.S.C. secs. 3601 et seq.; the Indian Self-Determination Amendments Act of 1994, 25 U.S.C. secs. 450 et seq.; and the Native American Housing Assistance and Self-Determination Act, 25 U.S.C. secs. 4061 et seq. Perhaps most importantly, pursuant to this policy, the Executive agencies are working with Indian tribes on a government-to-government basis, and that means that we consult with tribal government leaders in a meaningful and timely manner on matters that would affect tribal self-government, among other things.

I understand that there has been a proposal by HHS to require through legislation that Indian tribes and others assist the Federal Government in collecting outstanding child support payments due under state or tribal court child support orders from winners at Indian gaming establishments. If this effort goes forward, under the President's policy on government-to-government relations with Indian tribes, HHS should consult with Indian tribes and as part of those consultations, should work cooperatively with tribes to develop an approach respectful of tribal self-government.

In our view, HHS should first consult with Indian tribes concerning any legislative proposal concerning the collection of outstanding child support payments at Indian gaming establishments. Under the President's government-to-government relations policy, consultations should be guided "by the principles of respect for Indian tribal self-government and sovereignty, for tribal treaty and other rights, and for responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments." Exec. Order No. 13084, Sec. 2 (1998). Without consultation guided by respect for tribal sovereignty, Indian tribes would view the legislative proposal to require the collection of child support as burdening treaty- and statutorily-protected rights to engage in Indian gaming to generate tribal government revenue. They would view such an effort as violating the mandate and spirit of the Executive Order. Given this background, under the present facts and circumstances, we would recommend that HHS hold off on its legislative proposal, and instead, work with tribal governments on a voluntary basis to encourage the tribes to create their own standards and policies in this area..

BR – FYI – the hands. Typing language

If we can be of further assistance on this or any other issue, please let us know.

U.S. Department of Justice

Office of Tribal Justice

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Copied SRR– Original

MAR 10 2000

MEMORANDUM

TO: Lynn Cutler, Office of the Chief of Staff
White House

FR: Mark Van Norman, Director MVN
Office of Tribal Justice

RE: Collection of Child Support at Indian Gaming Establishments

You asked me to provide some background on Federal Indian law, tribal self-government, and the development of regulations to require Indian tribes to collect overdue child support from Indian gaming establishments.

Prior to the formation of the United States, Indian tribes were sovereign, independent nations. See National Farmers Union v. Crow Tribe, 471 U.S. 845, 851 (1985). The United States Constitution recognizes Indian tribes as sovereign polities both in the Indian Commerce Clause and in the Supremacy Clause affirmation of Indian treaties entered into prior to 1789. Through treaties and war, Indian tribes were incorporated into the United States, and after their incorporation, the Supreme Court then described Indian tribes as "domestic dependent nations." Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1, 17 (1831). Domestic because they are within the territory of the United States, dependent because they are under Federal Government protection, and nations because they retain their sovereign authority over their members and territory. The United States has historically understood that Indian tribes reserved the right to self-government over internal affairs through treaties, and thus, treaties have been read to "guarantee" tribal self-government. Congress possesses authority to abrogate Indian treaties by subsequent legislation to the same extent as it may abrogate international treaties, but it is presumed that Congress will exercise "good faith" in regard to Indian tribes by protecting their rights and interests. On the other hand, the federal courts have ruled that administrative agencies may not unilaterally "alter Indian treaty rights. . . . [O]nly Congress has such power." Northwest Sea Farms, Inc. v. United States Army Corps of Engineers, 931 F. Supp. 1515, 1520 (W.D. Wash. 1996).[1]

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[1] Indeed, in Minnesota v. Mille Lacs Band, 119 S. Ct. 1187 (1999), the Supreme Court recently held that the President did not have authority to unilaterally diminish the Tribe's treaty protected off-reservation hunting, fishing, and gathering rights. Thus, this case also stands for the proposition that only Congress may abrogate Indian treaty rights. (The Solicitor General

President Clinton has had the strongest policy in support of Indian tribes and tribal self-government since President Franklin Roosevelt or perhaps even President Grant. For example, in the Executive Order on Consultation and Coordination with Indian Tribal Governments, President Clinton stated that:

> The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. In treaties, our Nation has guaranteed the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on government-to-government basis.

Exec. Order 13084 (1998). Pursuant to this policy, the Executive Branch agencies are working with Indian tribes on a government-to-government basis, and that means that we consult with tribal government leaders prior to undertaking actions that would affect tribal self-government, among other things.

I understand that the Department of Health and Human Services is interested in seeking the assistance of Indian tribes to collect outstanding child support payments due under state or tribal court child support orders from winners at Indian gaming establishments. If HHS goes forward with this effort, under the President's policy on government-to-government relations with Indian tribes, the first step would normally be to consult with Indian tribes and to work cooperatively to develop an approach respectful of tribal self-government.

Moreover, in the Indian Gaming Regulatory Act, 25 U.S.C. sec. 2701, Congress provided that Indian tribes may conduct Indian gaming as an aspect of tribal self-government to generate governmental revenue. Without prior congressional authorization, an effort by HHS to proceed to implement agency regulations mandating tribal government collection of outstanding child support payments at Indian gaming establishments would likely run afoul of the general rule that only Congress, not federal agency, may alter treaty or statutorily protected rights to tribal self-government. And, Indian tribes would also be likely to challenge it on that basis.

Accordingly, in our view, it may be most appropriate to consider either a request to Indian tribes to undertake such collections efforts on a voluntary basis, or to consult with Indian tribes about a possible legislative proposal concerning such collections efforts. This course of action would be consistent with the President's policy on government-to-government relations and the Federal treaty and statutory protections of tribal self-government.

If we can be of further assistance on this or any other issue, please let us know.

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supported the Tribe's treaty rights in this case before the Supreme Court under an alternative theory.)

THE WHITE HOUSE

CHILD SUPPORT — GAMBLING

Domestic Policy Council

DATE: __________

FACSIMILE FOR: Eric Liu

FAX: 62878
PHONE:

FACSIMILE FROM: Cynthia Rice, Special Assistant to the President for Domestic Policy

FAX: 202-456-7431
PHONE: 202-456-2846

NUMBER OF PAGES (INCLUDING COVER): 3

COMMENTS: DOJ memo on tribes + gaming — note they really lay out a balancing test — if the burden on tribes is minimal and we proceed with consultation, a mandate is OK; otherwise it's not.

U.S. Department of Justice

Office of Tribal Justice

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Washington, DC 20530-0001

(202) 514-8812
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February 14, 2000

TO: Lynn Cutler

FR: Mark C. Van Norman, Director MCV
Office of Tribal Justice

RE: Collection of child support from tribal casino awards

This memorandum briefly sets forth some preliminary considerations that should be taken into account when deciding whether the United States should require tribal casinos to develop a mechanism to deduct overdue child support obligations from reportable awards at tribal casinos.

- The United States recognizes that Indian tribes are "domestic dependent nations" with "inherent sovereign powers over their members and territory." Executive Order No. 13084, Consultation and Coordination with Indian Tribal Governments (May 14, 1998).

- It is well-established that "[t]he United States has a unique legal relationship with Indian tribal governments." EO 13084. This "unique" relationship is akin to the relationship between a trustee and beneficiary, pursuant to which the United States "has charged itself with moral obligations of the highest responsibility" toward tribes. Seminole Nation v. United States, 316 U.S. 286, 297 (1942).

- This general "trust responsibility" arises from two primary sources. First, the United States pledged protection to tribes in treaties. Second, the United States engaged in a course of dealing with tribes that left them in a dependent position, given rise to a moral obligation to promote tribal interests.

- This "trust responsibility" includes a federal responsibility to protect "the sovereignty of each tribal government" and to protect tribal resources. See 25 U.S.C. sec. 3601.

- These principles temper United States' dealings with tribes. The United States deals with tribes on a government-to-government basis, based primarily on federal consultation with tribes when proposed federal actions might affect tribal interests, see EO 13084, and tribal consent when tribal action might be required to promote a federal interest. Thus, the federal government is cautious not to require tribes to administer federal programs unless the tribe involved chooses to take on that responsibility. This is true even in cases where the federal program is primarily designed to benefit the tribe involved. See, e.g., 25 U.S.C. sec. 450f (requiring tribal request before responsibility for federal programs may be contracted to tribes); id., sec.2503(d) (providing that tribal administration of federal schools programs is "strictly voluntary").

- As in the case with state governments,[1] the federal government can, and does, require tribes to undertake generally applicable minimal administrative burdens to promote federal interests. See, e.g., 25 U.S.C. sec. 2719(d) (requiring tribal casinos to apply federal income tax reporting and withholding laws to tribal casino awards); cf. 26 U.S.C. sec. 3402(q) (setting forth requirements for withholding from winnings from state lotteries). Where more extensive tribal action is necessary, consistent with the trust responsibility, the federal government ordinarily offers the tribe a choice to operate the program with federal support or to leave the program operation to a federal agency.

- Collecting overdue child support would potentially be more burdensome than withholding federal income tax. At a minimum, it would require tribal casinos to have access to the appropriate data base – presumably computerized – and undertake an individualized check for overdue child support each time a payout is made. Consistent with the trust relationship, the federal government would ordinarily consult with tribes prior to imposing a burden on tribal economic development efforts, even where the burden furthers such laudable purposes as child support enforcement.

[1] This policy of restraint is analogous in purpose to the Tenth Amendment. The Tenth Amendment limits the federal government's ability to require states to regulate, unless that requirement is tied to states' acceptance of federal funds. See Printz v. United States, 521 U.S. 898 (1997) (holding that requiring local officials to conduct background checks on prospective handgun purchasers violates the Tenth Amendment). While the Tenth Amendment applies, by its precise terms, only to states, the federal policy of restraint has caused the federal government to avoid requiring tribes to regulate unless tribes consent to undertake that regulatory obligation.

March 8, 2000

MEMORANDUM FOR THE CHIEF OF STAFF

Child support – Gambling

FROM: Bruce Reed
Cynthia Rice

SUBJECT: Child Support and Gambling

Issue

Given opposition to the provision in the President's budget to intercept gambling winnings from parents who owe child support, should we:

(1) Officially amend the proposal to make it a small scale demonstration, with voluntary participation on the part of gambling establishments, submitting a budget amendment with substitute pay-fors; or

(2) Agree to not push the proposal.

Background on the Proposal

The responsible fatherhood initiative in the President's budget includes new measures to: 1) collect child support from parents who can afford to pay; 2) ensure that more child support goes directly to families; and 3) provide funds to help more "deadbroke" fathers who owe child support go to work. The package of child support collection initiatives includes intercepting gambling winnings from parents who owe support, which will collect about $350 million for families and raise nearly $190 million in federal revenues over five years. Gaming establishments currently must report to the IRS certain gambling winnings[1]; under this proposal, they would also check to see if these individuals owe child support, and if so, retain winnings for the gamblers' children[2].

---

[1] Under current law, tribal and nontribal gambling establishments must complete and send to the IRS form W2G, reporting the name, social security number and amount of winnings for patrons with keno winnings above $1,500, bingo and slot machine winnings above $1,200, and winnings above $600 when the winnings are at least 300 times the amount of the wager.

[2] For all gambling winners exceeding the thresholds listed above, the gambling establishment would transmit the individual's name, social security number and amount of winnings via computer to a secure internet site where it would be matched against information on parents who owe at least $500 in child support. The match inquiry would report back: 1) there is no match and the individual does not owe past due child support; 2) the individual owes past due child support which exceeds the amount of the individual's winnings, therefore, the entire amount of winnings should be retained; or 3) the individual owes child support but the amount does not exceed the amount of winnings; therefore, only the amount of child support owed should be retained.

Reaction to the Proposal

Opposition to the child support gambling proposal has come from several sources. Tribal organizations have numerous concerns, including that the proposal was made without consultation, violates their sovereignty by requiring them to enforce federal and state laws, and requires their gambling establishments to dedicate staff time and other resources to collecting child support. The National Indian Gaming Commission, the federal agency with oversight of tribal gaming, opposes the proposal. Democratic members of Congress, in particular Rep. Shelley Berkley (D-NV), have also called for us to abandon the proposal because of the burden it would impose on the industry.

Child support legislation is likely to move through the Ways and Means Committee this Spring. Human Resources Subcommittee staff are planning a hearing in late March and a mark-up in April. There is bipartisan consensus on the need to simplify the current child support distribution rules, to ensure more child support goes directly to families, and the committee will need child support collection proposals to help offset the costs. Currently, the committee staff have the gambling proposal, as well our other child support budget proposals, on their proposed list, which is not yet public. However, Democratic staff think that because CBO has scored the gambling provision as raising only $36 million (compared to our nearly $190 million score), that they will drop the gambling proposal if they receive protests.

Pay-for Options

If we submit a budget amendment officially changing our proposal in a way that lowers the savings, OMB believes we should propose substitute pay-fors. Several child support options are currently being examined; early estimates show they likely will raise only about $50 million of the cost. The remaining costs could be made up by proposing a pay-for that HHS vigorously protested during the development of the budget, which would moderately reduce the amount of performance-based child support funds made available to states at the same time we make other changes that are advantageous to states. — [illegible]

MN, OR – ~~[illegible]~~ Gold[illegible] [illegible] / CS?
Smith + Wyden

Welfare

CHILD SUPPORT - GAMBLING

845

Cynthia A. Rice 02/10/2000 02:19:16 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Eric P. Liu/OPD/EOP@EOP

cc: See the distribution list at the bottom of this message

Subject: Solving the child support gambling problem is NOT easy

I've looked into the option of having gaming establishments collect and report to the federal child support database the gambling winner's name, social security number, home address and possibly his employer's name and address. In my view, the option would do little to collect child support and we would still need to exempt tribes (lest we renege on our long-standing support for tribal sovereignity). The only advantage would be that it gives us a quasi-face-saving way to minimize opposition without abandoning our proposal altogether, which may be the best we can hope for at this point.

Please advise on how I should proceed. We need to resolve this by Monday (before a scheduled meeting with tribes on Tuesday) and OMB may need to come up with another pay-for. Should I begin selling this reporting only option, with a tribal exemption, to OMB, HHS, Leg Affairs, etc.? Keep in mind Lynn Cutler specifically requested a meeting where she and others would be at the table to weigh in (but she should like this option).

See below for more on the pros and cons of this option, and see the attached document for the wide range of unsavory options available to us.

Require only reporting from tribes and nontribal gaming establishments

Pros: Likely to generate less opposition from gambling establishments, because it would require them only to report winnings, not collect child support. Allows us to minimize opposition without abandoning the proposal altogether.

Cons: Unlikely to generate information the child support office doesn't already have, and thus is unlikely to result in more child support collections or federal revenues. For example, the child support office will already have access to the home address on the individual's drivers license, and in this process will only get a more up-to-date address if the individual volunteers it to the gambling establishment. If employer's name and address are also collected, this will require gambling establishments to collect more information than they generally do for the W2G and will increase opposition to the proposal.

In addition, this impinges on tribal sovereignty by having the federal government impose a requirement on tribes (the proposal builds on current law, requiring tribes to report and in some cases withhold funds for federal income taxes, which also impinges on tribal sovereignty.) We could thereforce exempt tribes from this reporting requirement, generating more concerns from nontribal establishments.

cse0210 gambling.d 2 pager on variety of options

Collecting Child Support from Gambling Winnings

2/10/00 2:00 DRAFT

Current Proposal

The proposal would require that gaming establishments submitting information to the IRS on individuals with winnings exceeding a certain amount ($600 to $1,500 depending on the type of gambling[1]) also check to see if these individuals owe child support, and if so, retain winnings for the gambler's children[2]. The proposal would increase child support collections to families by $348 million over five years, saving the federal government $183 million, and would apply to both tribal and nontribal gaming.

Options

(1) Keep current proposal. Propose legislative language that amends the Social Security Act to require states and tribes to implement withholding of child support from gambling winnings, notwithstanding any provision of the Indian Gaming Regulatory Act.

Pros: Proposal does not amend Indian Gaming Regulatory Act, which the Administration has fought to not re-open. The proposal collects $348 million for children and saves the federal government $183 million over 5 years.

Cons: Strongly opposed by gambling establishments and certain members of Congress. Impinges on tribal sovereignty by having the federal government impose a requirement on tribes (the proposal builds on current law, requiring tribes to report and in some cases withhold funds for federal income taxes, which also impinges on tribal sovereignty).

(2) Make reporting and collecting optional for tribes but put in place for other gaming establishments. Could offer tribes an incentive to take the option (pay for costs of computers etc.)

Pros: Does not impinge on tribal sovereignty.

Cons: Will generate more opposition from nontribal gaming establishments. Will result in lower child support collections and federal revenues.

---

[1] Under current law, tribal and nontribal gambling establishments must complete and send to the IRS form W2G, reporting the name, social security number and amount of winnings for patrons with keno winnings above $1,500, bingo and slot machine winnings above $1,200, and winnings above $600 when the winnings are at least 300 times the amount of the wager. (Note the 300 to 1 odds requirement in the latter category exempts most card games but includes certain horse, dog, and sports (such as jai alai) betting.) Gambling establishments must withhold 28 percent for taxes only for winnings over $5,000 when the winnings are at least 300 times the amount of the wager, but not for keno, bingo, or slots.

[2] For all gambling winners exceeding the thresholds listed above, the gambling establishment would transmit the individual's name, social security number and amount of winnings via computer to a secure internet site where it would be matched against information on parents who owe at least $500 in child support. The match inquiry would report back: 1) there is no match and the individual does not owe past due child support; 2) the individual owes past due child support which exceeds the amount of the individual's winnings, therefore, the entire amount of winnings should be retained; or 3) the individual owes child support but the amount does not exceed the amount of winnings; therefore, only the amount of child support owed should be retained.

(3) Require only reporting from tribes and nontribal gaming establishments. Have gaming establishments collect and report to the federal child support database the gambling winner's name, social security number, home address and possibly his employer's name and address.

Pros: Likely to generate less opposition from gambling establishments, because it would require them only to report winnings, not collect child support. Allows us to minimize opposition without abandoning the proposal altogether.

Cons: Unlikely to generate information the child support office doesn't already have, and thus is unlikely to result in more child support collections or federal revenues. For example, the child support office will already have access to the home address on the individual's drivers license, and in this process will only get a more up-to-date address if the individual volunteers it to the gambling establishment. If employer's name and address are also collected, this will require gambling establishments to collect more information than they generally do for the W2G and will increase opposition to the proposal.

Also impinges on tribal sovereignty by having the federal government impose a requirement on tribes (the proposal builds on current law, requiring tribes to report and in some cases withhold funds for federal income taxes, which also impinges on tribal sovereignty).

(4) Require only reporting from nontribal gaming, with optional reporting from tribes. Have nontribal gaming establishments collect and report to the federal child support database the gambling winner's name, social security number, home address and possibly his employer's name and address; create optional reporting for tribes.

Pros: Likely to generate less opposition from gambling establishments, because it would require them only to report winnings, not to collect child support, but non-tribal establishments would dislike exemption for tribal establishments. Allows us to minimize opposition without abandoning the proposal altogether.

Cons: Unlikely to generate information the child support office doesn't already have, and thus is unlikely to result in more child support collections or federal revenues. For example, the child support office will already have access to the home address on the individual's drivers license, and in this process will only get a more up-to-date address if the individual volunteers it to the gambling establishment. If employer's name and address are also collected, this will require gambling establishments to collect more information than they generally do for the W2G and will increase opposition to the proposal.

(5) Make collecting optional for tribal and non-tribal gaming. Seek out industry leaders to voluntarily agree to collect child support from winners, and ask others to follow suit.

Pros: Eliminates opposition from tribal and non-tribal gaming establishments.

Cons: Voluntary cooperation may be difficult to achieve, and thus this proposal may generate little or no child support collections or federal revenues.