

HEARING ON STRENGTHENING THE CHILD
SUPPORT ENFORCEMENT PROGRAM
FOR STATES AND TRIBES

HEARING
BEFORE THE
SUBCOMMITTEE ON WORK & WELFARE
AND
SUBCOMMITTEE ON OVERSIGHT
OF THE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES
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United States House Committee on
Ways & Means
CHAIRMAN JASON SMITH

FOR IMMEDIATE RELEASE
November 22, 2023
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CONTACT: 202-225-3625

**Chairman Smith, Work & Welfare Subcommittee Chairman LaHood, and
Oversight Subcommittee Chairman Schweikert
Announce Joint Subcommittee Hearing on
Strengthening the Child Support Enforcement Program for States and Tribes**

House Committee on Ways and Means Chairman Jason Smith (MO-08), Work & Welfare Subcommittee Chairman Darin LaHood (IL-16), and Oversight Subcommittee Chairman David Schweikert (AZ-01) announced today that the Subcommittees on Work & Welfare and Oversight will hold a joint hearing on Child Support Enforcement and the Internal Revenue Code. The hearing will take place on **Wednesday, November 29, 2023, at 2:00PM in 1100 Longworth House Office Building.**

Members of the public may view the hearing via live webcast available at <https://waysandmeans.house.gov>. The webcast will not be available until the hearing starts.

In view of the limited time available to hear the witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

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Please ATTACH your submission as a Microsoft Word document in compliance with the formatting requirements listed below, **by the close of business on Wednesday, December 13, 2023**. For questions, or if you encounter technical problems, please call (202) 225-3625.

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All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Please indicate the title of the hearing as the subject line in your submission. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

ACCOMMODATIONS:

The Committee seeks to make its facilities accessible to persons with disabilities. If you require accommodations, please call 202-225-3625 or request via email to WMSubmission@mail.house.gov in advance of the event (four business days' notice is requested). Questions regarding accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the Committee website at <http://www.waysandmeans.house.gov/>.

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STRENGTHENING THE CHILD SUPPORT ENFORCEMENT PROGRAM FOR STATES AND TRIBES

WEDNESDAY, NOVEMBER 29, 2023

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON WORK AND WELFARE,
JOINT WITH THE SUBCOMMITTEE ON OVERSIGHT,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The Subcommittees met, pursuant to call at 2:21 p.m. in Room 1100, Longworth House Office Building, Hon. Darin LaHood [Chairman of the Subcommittee on Work and Welfare] presiding. Chairman LaHood. The committee will come to order.

Good afternoon, everyone. I want to welcome everybody today to our Joint Work and Welfare and Oversight Joint Subcommittee hearing titled, “Strengthening the Child Support Enforcement Program for States and Tribes.”

I want to thank our witnesses here today and the members for joining us. My name is Darren LaHood, and I represent Illinois’s 16th congressional district, covering much of central and northwest parts of Illinois. And I am pleased to be joined here by my colleague and fellow chairman, David Schweikert of Arizona, and our colleagues from the Oversight Subcommittee for this important discussion here today.

The purpose of today’s hearing is to ensure states and tribes have the tools necessary for effective Administration of the Child Support Enforcement Program, one of our most successful and vital support systems for millions of families across the country: 12.7 million families and 18 percent of all children in the United States receive child support from non-custodial parents through this program. Among all families eligible for child support, 24 percent have income below the Federal poverty line.

Child support enforcement is one of the most cost-effective Federal programs we have. In 2022 the program collected more than \$27 billion in payments from non-custodial parents. For every \$1 spent on enforcement, nearly \$5 was collected for families through this program. Today we are here to better understand how a recent IRS policy change could significantly disrupt state operation of this program, and how we can provide tribes with the same child support enforcement tools currently available to states.

Currently, the Social Security Act allows states to use contractors to perform different child support enforcement functions, and 42 states take advantage of this flexibility. The Social Security Act

also requires states to use the Federal Tax Refund Offset Program, run by the IRS, as a tool to intercept past-due child support for non-custodial parents. Conversely, the IRS code generally limits contractors' access to the tax offset program to protect the privacy of Federal taxpayer information. These two statutes, the Social Security Act authorizing the Child Support Enforcement Program, and the Internal Revenue Code governing access to the offset program, are therefore in conflict with each other.

For decades, the IRS dealt with this issue by holding in abeyance findings that states use contractors to collect past-due child support, in effect, really looking the other way. This past February the IRS issued a communication to all states that, beginning October 1 of 2024, the IRS will no longer permit state child support enforcement agencies to use contractors to access the State Refund Offset Program.

Both the IRS and HHS have asked Congress for legislation to harmonize these two laws and provide the formal legislative authority the IRS needs. Absent a legislative change, states and the Federal Government face hundreds of millions in new costs, and millions of families could lose their child support payments.

Finally, I want to talk about the tribal impact. Sixty federally recognized tribes administer their own child support programs. Currently, these tribes must sign contractual agreements with states to access the Tax Refund Offset Program. As a result, the same IRS policy that I referenced earlier that will prohibit the use of state contractors will simultaneously cut off tribal access. A legislative solution should also provide parity for tribes to directly access the Federal Tax Refund Offset Program necessary for effective child support enforcement.

This deserves our immediate attention, and that is why we are here today. Congressional action is needed to provide a permanent solution that recognizes states' use of contractors to collect child support for families without compromising the privacy of Federal taxpayer information.

Today we will hear from our witnesses about how they run their child support programs in their different states, and how this could impact their operations.

I am also pleased to have representatives of the Lac Courte Oreilles, or LCO Tribe, in Wisconsin to share with us their tribal perspective.

Again, I want to thank our witnesses for being here today, and I look forward to the testimony.

Chairman LAHOOD. With that, I am pleased to recognize the gentleman from Illinois, Mr. Davis, for his opening statement.

Mr. DAVIS. Thank you, Chairman LaHood, Chairman Schweikert, both of you, for calling this joint hearing. And I am pleased to be here and to be joined by Ranking Member Pascrell of the Oversight Committee.

I also want to thank all of our witnesses for coming to share your testimony with us.

Ensuring that children receive financial support from both of their parents is a powerful and cost-effective way to fight child poverty. In fiscal year 2022 the Federal Child Support Program dis-

tributed more than \$27 billion in parental support to nearly 13 million children, over 700 million of that in my home state of Illinois.

For children living in poverty, child support nearly doubles their household income. And because the support was provided by parents, for every dollar the Federal Government spent facilitating child support children received \$4.73, to be exact as we could possibly be.

Child support makes children in our country better off in many ways. Children who receive child support have fewer health problems, fewer school problems, higher grades, and more likely to finish high school and attend college than those who do not.

It is also a tool to improve racial equity. For example, Black children are nearly twice as likely to live with a single parent and need child support. Over the years we have modernized the child support program based on research and the voices of parents in our communities.

Today's child support program directs the vast majority of collections to meet the immediate needs of children. It recognizes that the primary reason for non-payment of child support is inability to pay, not lack of love. And it focuses on generating predictable income for families, in part by setting child support awards at levels non-custodial parents can afford and helping them get good jobs.

I am honored that one of our witnesses today is Vicki Turetsky, who spent her career fighting for children, and has been the linchpin of so much progress. I am particularly grateful for the work Vicki did with me and other Members of Congress to help incarcerated parents and non-custodial parents. And I might reemphasize that: to help incarcerated parents and non-custodial parents get a second chance to support their children and push for child support funds to be directed to the families who need them.

I also welcome Mr. Bryan Tribble, the administrator of the Illinois Office of Child Support Services, where my home state is doing many good things.

Tribal child support programs are especially critical because of high poverty rates among Native American children. Child support programs administered by tribes have proven to be creative and effective in using methods rooted in their culture to engage parents and increase support for children. I believe tribal child support programs should have the same tools and information access as state programs, and I am glad we have such strong bipartisan agreement on that issue.

We can still do more to improve the Federal child support program. To build trust with non-custodial parents, it is important for states to fully implement regulations requiring them to set reasonable child support award levels and pass through child support to the children, rather than retaining it for the state. It is essential that we ensure that states are not charging parents child support when their children enter foster care, a practice that delays reunification and inflicts harm on already struggling parents.

I also support allowing states to use child support funds for employment services. When parents earn more, they can provide more for their children, and I want to make sure that our child support policies do not harm kinship caregivers.

Chair LaHood, Chair Schweikert, again I thank you for holding this hearing, and look forward to working together to strengthen child support and reduce child poverty.

Mr. DAVIS. I thank you and yield back.

Chairman LAHOOD. Thank you, Mr. Davis. I yield now to the chairman of the Oversight Committee, David Schweikert of Arizona.

Chairman SCHWEIKERT. Thank you, Chairman LaHood. And look, Oversight is here because we touch the IRS, and that is part of our area of responsibility.

This is one of those occasions we are here—we want to do the right thing as—each of you as witnesses, help us understand, as the program exists today, what would you improve?

If you also have suggestions what we have to do statutorily to deal—and I am a little frustrated, the IRS did not need to put us into a fire drill, they could have—we could have actually had a conversation and done this in a different fashion, instead of just sort of dropping it on us.

But for some members who have been around policy for a while, it seems like a couple of decades ago we battled through access to this data. Being from a state with 22 tribes, 21 with, you know, land, their relationship to having to contract or sign governmental-to-governmental agreements with the state, is there a better way to do that?

But ultimately, I think for every member here on the right and the left, we care about the families, we care about the kids. Help us make sure we are doing the right thing.

Chairman SCHWEIKERT. And with that, I yield back.

Chairman LAHOOD. Thank you, Mr. Schweikert. I now yield to Mr. Pascrell of New Jersey.

Mr. PASCRELL. Thank you, Mr. Chairman. Our discussion today may seem esoteric to some, but we are talking about real people and real families. And I want to associate myself with the opening comments of the chairman of Oversight, Mr. Schweikert.

Child support lifts millions of children out of poverty, and it ensures that they have food on the table and a roof over their head. In the wealthiest nation on Earth, we still have nearly 12 million children living in poverty. That is a fact.

Child poverty reached an historic low in 2021, if you remember, when we passed the Child Tax Credit. But it more than doubled to 12.4 percent after the other side blocked the permanent extension, erasing our progress. Maybe we ought to go back to that, discuss it again. For families who live in poverty and receive child support, those payments represent roughly 40 percent of their income.

The impact of a missed support check on struggling families cannot be overstated. It is crucial America's child support programs are administered effectively, given adequate resources, and have every enforcement tool. The glaring omission from our tax code has long prevented Indian tribes from fully administering their own supporting programs. For tribal child support programs to function best, they need to access specific tax data protected by section 6103. That has become famous over the last seven years, that section. This is information that has long been available to states.

This is a matter of tribal sovereignty, in allowing tribes to address their own unique needs.

We must also understand how states and tribal governments use contractors for child support activities. It is important to understand the inner sanctums of those relationships. The recent isolated leak of sensitive data by the IRS contractor highlights the need to establish safeguards that protect taxpayers while balancing the needs of child support enforcement agencies.

Mr. PASCRELL. Thank you, Mr. Chair, and I yield back.

Chairman LAHOOD. Thank you, Mr. Pascrell, for those opening comments. We will now turn to introduction of our witnesses.

Our first witness is Vicki Turetsky, and she is the former commissioner of the child support services at the Department of Health and Human Services.

Next, we have Mr. James Fleming is the director of the child support section at the North Dakota Department of Health and Human Services.

We are next joined by my fellow Illinoisan—I should say our fellow Illinoisan—Bryan Tribble, and he is the administrator of child support services at the Illinois Department of Health Care and Family Services. I am happy to have a fellow Illinoisan with us today.

Next is Sue Smith, and she is the director of the LCO Tribal Child Support Services.

And lastly, we have Marley Corbine, and she is the mother of three, and I think she may have brought her youngest with her today.

So, we welcome you and the baby.

And she is a member of the tribal—the tribe, LCO, also.

So welcome to all of our witnesses here today. We look forward to your testimony and then the question-and-answer period.

At this time, I will represent—I will recognize you, Ms. Turetsky, for your opening statement of five minutes. Thank you.

**STATEMENT OF VICKI TURETSKY, FORMER COMMISSIONER
OF CHILD SUPPORT SERVICES, DEPARTMENT OF HEALTH
AND HUMAN SERVICES, NEW YORK, NEW YORK**

Ms. TURETSKY. Thank you, Chairman. Chairman LaHood, Chairman Schweikert, Ranking Member Davis, and Ranking Member Pascrell, and all of the members of the committee, thank you for the opportunity to testify.

My name is Vicki Turetsky. Currently I am an independent consultant, but for eight years I was the commissioner of the Federal Child Support Services Agency during the Obama Administration. In my testimony I am going to step back from the specific section 6103 discussion involved in this hearing and talk more generally about the importance of child support services to children and families, and you have touched on a number of these points.

The laws enacted by Congress over the past five decades have strengthened the child support program and established a public understanding that non-custodial parents are expected to support their children as they grow up. When I was a young attorney and low-income single mother, that expectation did not exist. So, the

body of work that Congress created over the last 50 years have made a real difference to families.

Every state and 60 tribes operate a child support program, as was mentioned. The modern child support program is really focused on increasing family income, improving family financial stability, and helping families meet—make ends meet. One in five children and their parents receive child support services. That is nearly 13 million children and both parents that are affected by what happens in the child support program. Nearly two-thirds of these children participating in the program received child support payments. Children participating in the program are significantly more likely to receive child support than those who do not.

The majority of financial support for poor children who live in custodial families comes from their parents, not from government. Child support, which is the contribution made by the non-custodial parent, can be a significant and long-term source of family income for families with limited means in particular. Income from child support has doubled in the past two decades for poor families, as was mentioned. An additional \$200 or \$300 in child support income per month can really help families meet the costs of raising their children and help prevent child welfare involvement.

As you mentioned, an extensive body of research shows that receiving child support payments supports positive child developmental outcomes. And the example you gave is that educational outcomes improve. Children who receive child support are more likely to receive higher grades, finish high school, go to college, and have fewer behavioral problems in school than kids who don't get child support. In fact, payment of regular child support seems to have a bigger impact on children's educational outcomes, dollar for dollar, than any other source of family income.

But the labor market and families have changed since Congress put together the child support program 50 years ago. The main reason for non-payment of child support is the non-custodial parent's ability to pay the full amount ordered, as Representative Davis said. About 25 percent of non-custodial parents are themselves living in poverty and barely scraping by.

Some longstanding child support practices have created additional barriers to work and parenting and have caused real harm to children. In order to increase program effectiveness and public trust, as well as equitable outcomes for all families, the child support program is incorporating evidence-based, family-centered practices to improve employment outcomes, increase the consistency of child support payments, make sure kids get all of the money that their parents provide for them, reduce child support debt, and strengthen family relationships while protecting against domestic violence.

Three-fourths of child support payments are corrected through—are collected through automatic payroll withholding. The child support program has several other statutory enforcement authorities, including offsets from Federal tax refunds. Support deducted from Federal tax refunds is one of the main ways that the child support program collects overdue child support. The Federal office has a direct role in collecting some kinds of child support, including the Federal Tax Offset Program.

As you mentioned, currently tribal child support programs do not have statutory access to the Tax Offset Program, even though tribes have operated effective, community-based child support programs for more than 25 years and have developed strong collaborative relationships with states and consortia.

OSCE also operates the Federal Parent Locator Service, including the National Directory of New Hires. The NDNH contains U.S. employee new hire, quarterly wage, and unemployment insurance data for all workers in the country. The FPLS conducts continuous data matching and returns the right data to the right jurisdiction in order to collect child support.

Although states and tribes have considerable flexibility on how to administer their child support programs, they do not operate separately. Instead, each state and tribal child support agency is part of a nationwide inter-jurisdictional program. The National Child Support Program connects Federal, state, and tribal programs to make sure we are collecting the right amount of money for the right people—from the right people.

More than 1.5 million cases involve children and non-custodial parents who live in different jurisdictions. This means that many families have child support cases that cross state and tribal lines. Through the FPLS and other services, the Federal office provides a technological bridge across state and tribal programs to enforce child support.

The core of the child support program operations is information management. I have to emphasize that the child support program, all of the child support programs at the state, local, and tribal levels, operate in a secure data environment, and have successfully managed many different sources of and kinds of sensitive data. All personal information is managed under clear Federal confidentiality and security rules that restrict data access, use, reuse, transmission, disclosure, and retention, and include family violence safeguards. These rules require Federal rule and approval of state and tribal computer systems, secure physical workspaces, workstation controls like audit trails, and administrative sanctions for personnel violations.

OCSE asks that Federal agencies and states use a combination of state employees and contractors to operate their computer systems and payment centers. These contractors are supervised like other in-house staff and are subject to the same strict confidentiality and security rules.

And with that I end my testimony. Thank you.

[The statement of Ms. Turetsky follows:]

**Written Testimony of
Vicki Turetsky**

Before the
Subcommittee on Work and Welfare and
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives

November 29, 2023

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Dear Chairman LaHood, Chairman Schweikert, Ranking Member Davis, Ranking Member
Pascrell, and Members of the Committee:

Thank you for the opportunity to testify before you at this hearing, *Strengthening Child Support Enforcement for States and Tribes*. Currently, I am an independent consultant, advising foundations, nonprofit organizations, and states about families and child support. Between 2009 and 2017, I served as the commissioner of the Office of Child Support Services (OCSS) during the Obama administration. Previously, I was the family policy director of the Center for Law and Social Policy (CLASP), and also have held positions with the Minnesota Attorney General's Office, the Minnesota Department of Human Services, and Legal Services of Union County, New Jersey. I have held legal, policy, operational, and research roles related to the child support program since 1981, and have witnessed the program's continuing evolution.

The child support program establishes and enforces child support responsibilities when parents do not live with their children.¹ Every state and 60 tribes administer a child support program. The program was established by Congress in 1975 under title IV-D of the Social Security Act in order to collect child support for families and to increase the likelihood that children are supported by both parents. In 1996, Congress extended the program to tribal governments on a voluntary basis as part of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). The laws enacted by Congress over the past five decades have generally strengthened the child support program and established a public understanding that noncustodial parents are expected to help support their children as they grow up. When I was a young attorney and single mother, that expectation did not exist.

The child support program increases income stability and reduces child poverty

In every state, parents have the legal responsibility to support their children financially. When the parents divorce, separate, or break up, the parent who lives apart from their children may be ordered to pay child support to help pay for their children's daily needs. More than one in four children, and almost one in two Black children, in the United States have a parent who lives outside of their household.² Parents who live apart from their children and pay child support are often called "noncustodial" parents, although parents are often involved in their children's upbringing and sometimes share legal and physical custody of their children with the other parent. Most children live with their mothers in their primary residence, but 20 percent of children live with their fathers.³ In recent decades, fathers have become more involved in their children's daily lives than in previous generations, with Black fathers most likely to engage with their children.⁴

The modern child support program is a family support program that increases family income, improves financial stability, and helps families make ends meet. One in five children and their custodial parents receive child support services from state or tribal child support programs, or nearly 13 million U.S. children and 8 million custodial parents in 2022. Nearly two-thirds of participating families receive child support. In 2022, the program collected over \$27 million in child support payments made by noncustodial parents, with more than 96 percent of these collections paid to families.⁵ Research shows that families who participate in the child support program have better outcomes at every step of the child support process, from paternity establishment, to setting support orders, to collecting support, compared to families who do not participate.⁶ Children who receive child support services are significantly more likely to receive child support than those who do not receive services. For families with low incomes, participating in the child support program often means the difference between receiving child support income and not receiving it.⁷

The majority of financial support for poor children who live in custodial families comes from their parents, not the government.⁸ Child support can be a significant and long-term source of family income for families with limited means, lifting almost a million families out of poverty every year.⁹ When received, child support is about 40 percent of family income for families living at or below the federal poverty level, and 65 percent of family income for deeply poor families (that is, with incomes at or below 50% of the federal poverty level).¹⁰ Child support income can help families meet the costs of raising their children, including groceries, rent, child care, clothes, and school supplies. Families with collections typically receive \$200 to \$300 per month. The University of Wisconsin found that child support payments in the state were as regular as custodial mother earnings when received, and typically higher than other sources such as cash assistance and Supplemental Nutrition Assistance Program (SNAP) benefits.¹¹ Family budgets may depend upon all of these income sources to get by. While income from child support has doubled in the past two decades for custodial parents at or below the federal poverty level, income from cash assistance has declined sharply.¹² Child support reflects the earnings of noncustodial parents, and the amount and regularity of child support payments collected for a family primarily depends upon the stability of the noncustodial parent's employment and income.

Not all families who receive child support participate in the child support program: 62 percent of all child support cases are handled by the child support program, while the remaining 38 percent are handled privately through family court, usually as part of a divorce case. Custodial parents with limited incomes are more likely to participate in the child support program than those with higher incomes.¹³ Almost two-thirds of children participating in the child support program had incomes below 200 percent of the federal poverty level, and a third of children had incomes below poverty in 2018. Nearly half of custodial parents participating in the child support program currently receive or previously received cash assistance through the Temporary Assistance to Needy Families (TANF) program.¹⁴ Among American Indian and Native Alaskan children living in tribal areas with a child support program administered by a tribe, 40 percent lived below the federal poverty level in 2015.¹⁵ The race and ethnicity of custodial parents who receive child support services is similar to custodial families who do not receive child support services: almost half of custodial parents receiving child support services are White, a quarter are Black, and a quarter are Hispanic.¹⁶

An extensive body of research shows that receiving child support payments supports positive child developmental outcomes, including stronger school performance. Children who receive child support are more likely to receive higher grades, have fewer school problems, finish high school, and attend college than children who do not receive child support.¹⁷ In fact, regular child support payments appear to have a greater impact on children's educational outcomes dollar for dollar than other types of income.¹⁸

Family-centered child support can help increase equity

The child support program is different than a number of other social welfare programs because it interacts with both parents for the benefit of their children.¹⁹ To act fairly and equitably and to maintain public support, the child support program must consider the circumstances of all family members. One of the reasons why Congress originally enacted the child support program was to improve equity between divorced mothers and fathers. Noncustodial fathers often experienced an increase in disposable income following a divorce, while custodial mothers and children were impoverished. The idea behind the child support program was to facilitate the transfer of income from noncustodial fathers to their children. This original purpose has largely been accomplished. A 2018 University of Wisconsin study found that for divorced parents, child support has the effect of equalizing income between mothers and fathers, so that children benefit from the resources of both parents. For never-married couples, fathers have a slight advantage in pre-tax/transfer income, but mothers are likely to be better off when measured by post-child support income, even after adjusting for the costs of children.²⁰ The main workhorses of the child support program include intergovernmental laws such as the Uniform Interstate Child Support Family Support Act (UIFSA), and the Full Faith and Credit for Child Support Orders Act (FFCSIA), federal and state data-matching, automated case management, voluntary parentage acknowledgement, child support guidelines, and payroll withholding.

However, the labor market and families have changed over the past fifty years. Over the past two decades extensive research has determined that the primary reason for nonpayment of child support is the noncustodial parent's inability to pay the full amount ordered. About 25 percent of noncustodial parents are themselves living in poverty and barely scraping by due to high

incarceration rates, unemployment, unstable and part-time jobs, and low wages.²¹ In Wisconsin, 90 percent of noncustodial parents who made no payment and 60 percent of parents making partial payment were incarcerated or did not have year-round employment.²² Over the program's history, child support orders have been set unrealistically high, child support debts have become insurmountable, and enforcement methods such as driver's license suspension and jail have created additional barriers to noncustodial parents trying to make a living, support their children, and co-parent their children.

Although the original cost recovery function of the child support program has diminished as the TANF caseload has declined, cost recovery policies continue to reduce family income, while discouraging child support payments and increasing the risk of child welfare involvement.²³ Overly punitive child support enforcement has helped drive noncustodial parents away from their children and employment, increased conflict between the parents, and harmed children. They have helped fuel a cycle of poverty and instability for the lowest income families and have had a disproportionate impact on Black, Hispanic, and American Indian families.²⁴ In order to increase program effectiveness, public trust, and equitable outcomes for all families, the child support program is incorporating family-centered policies and services into their child support programs. A large body of child support research tells us that evidence-based practices can improve employment outcomes, increase the consistency of child support payments, reduce child support debt, and strengthen family relationships, while protecting against domestic violence.

Family-centered child support prioritizes regular child support payments that families can rely on month after month. In turn, states and tribes can encourage consistent child support payments when (1) support orders are set based on actual income, not aspirational amounts, (2) unmanageable child support debt is reduced; (3) noncustodial parents can receive individualized case management, participate in employment programs, and get help accessing services, such as fatherhood, co-parenting, housing, and substance use programs that help them obtain jobs and maintain family ties; (4) all the support collected is paid to families and not used to recover public assistance costs; and (5) unmarried parents have the opportunity to enter into parenting time arrangements just as divorced parents do.²⁵ Using its section 1115 grant funding, OCSS has funded a number of large-scale demonstrations to test family-centered practices, including *Safe Access for Victims' Economic Security* (SAVES) in twelve states and one tribe (Colorado, Georgia, Ohio, Oklahoma, Michigan, Minnesota, Missouri, New York, Texas, Virginia, Washington, and Lac Courte Oreilles Band of Lake Superior Chippewa Indians).²⁶

For more than 25 years, tribes have operated effective, innovative, community-based child support programs that obtain support for children and have developed strong, collaborative partnerships and consortia with states. Often, states lack the jurisdiction and capabilities to reach parents who live within tribal jurisdiction. When tribal families have limited employment opportunities, tribal child support programs can provide families a way forward by prioritizing child wellbeing and incorporating traditional community-based and family-centered approaches. Under federal statutes and regulations, tribes with an approved child support plan have substantial flexibility to implement effective child support approaches. For example, a number of tribes have implemented child support guidelines that count in-kind contributions by noncustodial parents, such as wood, fish, or car repairs. Some tribal child support programs refer noncustodial parents to fatherhood employment, reentry, or wellness services. Some tribes

incorporate grandparent councils and other alternative dispute resolution approaches. Tribal programs—and tribal families—need the same tools, including access to federal tax offsets and FTI data access as state child support programs to increase family income.

How does the child support program work?

State and tribal courts and administrative agencies establish child support orders that set the amount of support to be paid according to child support guidelines adopted by every state.²⁷ Each parent is responsible for contributing a share of their income for their children based on each parent's earnings, income or other evidence of their ability to contribute financial support. When the parents are not married, the child support program first establishes parentage, the prerequisite to establishing legal responsibility for paying child support. Most parents affirm that they are the parents through a voluntary acknowledgement process when their children are born, but when parents do not consent, child support agencies have the authority to order genetic tests and go to court to determine parentage.²⁸

Once parentage and a payment obligation are established, the child support program then collects child support payments based on the support order amount. Three-fourths of child support payments are collected through automatic payroll withholding and other types of income withholding from Unemployment Insurance and Social Security and other income sources. The child support program has several other statutory enforcement authorities, including debt garnishments, property liens, quarterly data matching with banks and other financial institutions, offsets from federal and state tax refunds and other government payments, passport suspension, driver's license suspension, and credit bureau reporting.²⁹ Many states and tribes also provide employment services to noncustodial parents who fall behind on child support due to unemployment, part-time employment, or low wages.³⁰ Child support payments are processed automatically through state payment centers (also called "state disbursement units"), which receive payments from employers, noncustodial parents, and other sources, disburse payments to families, keep payment records, and provide parents with an accurate payment history.³¹ In most states, these payment centers are outsourced to private contractors.

OCSS also has a direct role in enforcing child support. For example, OCSS facilitates collection of child support arrears through the federal tax offset program. Federal tax offsets are a significant source of child support payments, representing about 12 percent of program collections.³² In order to submit a tax offset request to IRS, states certify the amount of arrears owed in individual cases to OCSS. OCSS, in turn, creates a data file that the IRS uses to identify which taxpayers eligible for a tax refund owe child support arrears and to offset the child support amount from the tax refund. The child support is then transferred to the state and paid to the custodial family but the source of payment is not identified, because it is protected as Federal Tax Information (FTI) under section 6103. Currently, tribal child support programs do not have statutory access to the federal tax offset program, meaning that tribal children lose out on an important income source available to other children, unless tribes are able to obtain access or partner with their state counterparts to secure payments.

In addition, OCSE facilitates passport revocation when a state certifies that a noncustodial parent owes child support arrears by transmitting the state request to the Secretary of State and then by

immediately communicating with the Department of State to restore the passport when the state has received payment.³³ OCSS conducts data comparisons with insurance companies to match insurance claim, settlements, awards, and payments with noncustodial parents who have child support arrears.³⁴ OCSS also facilitates data matching agreements between states and multistate financial institutions.³⁵

Although states and tribes have considerable flexibility on how to administer their child support programs, they do not operate separately. Instead, each state and tribal child support agency is part of a nationwide *interjurisdictional* program. The national child support program connects federal, state and tribal programs through statutes, technology, and data to make sure that we are collecting the right amount of money from the right people. Twelve percent of all child support program cases, or more than 1.5 million cases, involve children who live in one state or tribal nation, while their noncustodial parent lives in another jurisdiction.³⁶ That means that many families have child support cases that cross state lines. State and tribal child support programs work together to locate, establish, and enforce child support across state lines when parents live in different states or one parent lives within the jurisdiction of a tribal nation.

To carry out the legislative framework, the federal Office of Child Support Services (OCSS) prescribes program operating standards, computer systems requirements, data confidentiality and security protocols, and domestic violence safeguards, and conducts performance data audits to increase program effectiveness, consistency and interoperability.³⁷ OCSS manages the Federal Parent Locator Service (FPLS), a set of national data bases and data files. One component of the FPLS, called the National Directory of New Hires (NDNH), contains new hire data for U.S. employees, quarterly wage data, and Unemployment Insurance data. Another component of the FPLS, the Federal Case Registry (FCR), contains individual child support order and case information.³⁸

Each state also maintains a state-level new hire directory and case registry.³⁹ In turn, each state reports state new hire and case data to the FPLS, which conducts continuous data comparisons across states, and returns the right data matches to the right state. In 2014, Congress extended access to FPLS data to tribal child support programs.⁴⁰ Through the FPLS and other services, OCSS provides a technological bridge that assists state and tribal child support programs to locate parents, establish parentage, set child support obligations, and enforce child support orders across state lines.⁴¹ OCSS develops, manages, secures, and controls access to the FPLS; its computer systems are located behind SSA system firewalls. OCSS also developed and maintains the Model Tribal System, a modular computer system available to tribal child support programs.

The core of child support program operations is information. The child support program is highly automated, and all federal, state, and tribal child support agencies operate in a secure data environment, subject to OCSS protocols, systems and environmental controls, and audits. In addition, FFI is subject to IRS protocols, controls, and audits under section 6103. Child support programs successfully manage many different kinds of sensitive personal information, including FFI, but also confidential parentage information, genetic test results (which are not retained), domestic violence, and wage, asset, and other financial information. All personal identifying information is managed under clear federal confidentiality and security rules that restrict data access, use, reuse, transmission, disclosure, and retention and include family violence data

safeguards.⁴² These rules require federal review and approval of state computer systems, secure physical work spaces, work station controls (such as through audit trails), and administrative sanctions for personnel violations.⁴³ State and tribal data confidentiality and systems security rules also apply. OCSE and states rely on contractors for certain functions. For example, states often use a combination of state employees and contractors to develop, operate, and maintain their computer systems. States also typically use contractors to manage their payment centers. These contractors are supervised like other in-house staff and are subject to the same strict confidentiality and security rules and protocols.

¹ 42 U.S.C. §§ 654(4); 666(a)(2); 666(c).

² Timothy Grall, *Custodial Mothers and Fathers and Their Child Support: 2017*, Current Population Reports, P60-269, U.S. Census Bureau, 2020,

<https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-269.pdf>.

³ Grall, 2020. Noncustodial parents are sometimes called “nonresident” or “paying” parents. The parents living with the children are called “custodial,” “residential” or “receiving” parents.

⁴ Elaine Sorensen, The Child Support Program is a Good Investment, Office of Child Support Enforcement (OCSE), 2016, https://www.acf.hhs.gov/sites/default/files/documents/ocse/sbtn_csp_is_a_good_investment.pdf; Jo Jones and William Mosher, *Fathers' Involvement with their Children: United States 2006-2010*, National Health Statistics Reports No. 71, Centers for Disease Control, U.S. Department of Health and Human Services, 2013, <https://www.cdc.gov/nchs/data/nhsr/nhsr071.pdf>.

⁵ States hold back \$1 billion in collections to reimburse Temporary Assistance to Needy Families (TANF) and Foster Care Maintenance Payments paid under title IV-E of the Social Security Act and an additional \$73 million in fees. OCSE, *Preliminary Report FY 2022*, tables P-1 and P-2,

https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2022_preliminary_report.pdf. In 1996 and in 2006, Congress enacted distribution reform legislation to direct more child support payments to families and to begin phasing out cost recovery policies.

⁶ Sorensen, OCSE, 2016.

⁷ Sorensen, OCSE, 2016.

⁸ Sorensen, OCSE, 2016.

⁹ Sorensen, OCSE, 2016.

¹⁰ Sorensen, OCSE, 2016.

¹¹ Yoonsack Ha, Maria Cancian, and Daniel R. Meyer, “Child Support and Income Inequality,” *Poverty & Public Policy*, Vol. 10, 147-158,

2018, https://www.researchgate.net/publication/325582492_Child_Support_and_Income_Inequality.

¹¹ Elaine Sorensen, “The Child Support Program is a Good Investment,” OCSE, 2016,

https://www.acf.hhs.gov/sites/default/files/documents/ocse/sbtn_csp_is_a_good_investment.pdf.

¹² Sorensen, OCSE, 2016.

¹³ Sorensen, OCSE, 2021.

¹⁴ OCSE, *Preliminary Report FY 2022*, tables P-1 and P-2.

¹⁵ Elaine Sorensen, Exploring Tribal Demographic Data: Part One, OCSE, 2022,

<https://www.acf.hhs.gov/css/ocsedatablog/2022/11/exploring-tribal-demographic-data-part-one>.

¹⁶ Sorensen, OCSE, 2021.

¹⁷ Sorensen, OCSE, 2016; Gerry L. White, Leon Banks, Harold E. Briggs, “The Effects of Child Support Payment Factors on Satisfaction with Levels of Parental Involvement by Noncustodial Fathers,” *Research on Social Work Practice*, Vol. 31, No. 8, April 26, 2021, <https://doi.org/10.1177/10497315211004744>.

¹⁸ Burt Barnow, et al., *The Potential of the Child Support Enforcement Program to Avoid Costs to Public Programs: A Review and Synthesis of the Literature*. Report prepared for U.S. Department of Health and Human Services, 2005,

https://www.youngwilliams.com/sites/default/files/u258/the_potential_of_the_child_support_enforcement_program_to_avoid_costs_to_public_programs_-_a_review_and_synthesis_of_the_literature.pdf; Virginia Knox and Mary Jo Bane, “Child Support and Schooling,” in Garfinkel, McLanahan and Robins, 1994.

¹⁹ Sorensen, 2016.

²⁰ Ha, Cancian, and Meyer, 2018.

²¹ Sorensen, OCSE, 2016.

²² Yoonsook Ha, Maria Cancian, Daniel Meyer, and Eunhee Han, *Factors Associated with Nonpayment of Child Support*, 2014, <https://youngwilliams.com/resource-library/factors-associated-nonpayment-child-support/>.

²³ Maria Cancian, Mi Youn Yang, and Kristen Shook Slack, “The Effect of Additional Child Support Income on the Risk of Child Maltreatment,” *Social Service Review*, Vol. 87, no. 3, 2013.

²⁴ Vicki Turetsky, *Reforming Child Support to Improve Outcomes for Children and Families*, Abell Foundation, rev. 2020, <https://abell.org/publication/reforming-child-support/>.

²⁵ For a series of 7 policy briefs that detail the research behind family-centered policies and practices, see Vicki Turetsky, *An Evidence-Based Approach to Child Support*, Ascend at Aspen Institute and Good+Foundation, <https://ascend.aspeninstitute.org/an-evidence-based-approach-to-child-support/>.

²⁶ 42 U.S.C. §1315. For more information about SAVES, link to: <https://www.acf.hhs.gov/css/grants/current-grants/safe-access-victims-economic-security-saves>.

²⁷ 42 U.S.C. § 667.

²⁸ 42 U.S.C. §§ 666(a)(5).

²⁹ 42 U.S.C. §§ 654(18); 664; 666(a) and (b).

³⁰ 42 U.S.C. § 666(a)(15).

³¹ 42 U.S.C. §§ 654b.

³² OCSE, *Preliminary Report FY 2022*, tables P-1 and P-29.

³³ 42 U.S.C. § 652(k).

³⁴ 42 U.S.C. § 652(m).

³⁵ 42 U.S.C. § 652(l).

³⁶ OCSE, *Preliminary Report FY 2022*, tables P-53, P-34, P-35, P-59, P-60, P-61, P-62. See Sorensen, OCSE, 2021, figure 7.

³⁷ 42 U.S.C. §§ 654(16); 654a;

³⁸ 42 U.S.C. § 653.

³⁹ 42 U.S.C. §§ 652(d); 653a; 654(16); 654a.

⁴⁰ 42 U.S.C. § 652(c), as amended by P.L. 113-183, title III, § 301.

⁴¹ OCSS also provides data matching services to assist other federal agencies to the extent authorized by statute, including the Secretary of Treasury to administer certain tax programs. 42 U.S.C. § 653(i). OCSS has also has data relationships with the Social Security Administration (SSA), Department of Labor, the Department of Defense, the Department of Veteran’s Affairs, the U.S. Census Bureau, the General Accounting Service, and other federal agencies but only if specifically authorized by Congress. 42 U.S.C. § 653(j).

⁴² 42 U.S.C. § 653.

⁴³ 42 U.S.C. § 654a.

Chairman LAHOOD. I recognize Mr. Fleming.

STATEMENT OF JAMES FLEMING, DIRECTOR, CHILD SUPPORT SECTION, NORTH DAKOTA DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. FLEMING. Subcommittee Chairmen LaHood and Schweikert, Ranking Members Davis and Pascrell, and distinguished members of the Work and Welfare and Oversight Subcommittees, thank you for the opportunity to testify on this important issue to the economic health of American families.

My name is James Fleming. I have been the director of child support for North Dakota for the last 13 years after serving as deputy director and chief attorney for eight additional years. I have served as the policy committee co-chair and president of both the National Child Support Engagement Association and the National Child Support—or National Council of Child Support Directors. I am speaking to you today on behalf of North Dakota to address the need to expand access to FTI to tribal child support programs and the need to clarify current law regarding contractor access to FTI.

A key to reliable payments is a sustainable obligation based on the parent's actual income. This can be a challenge if the parent is not cooperative, which makes FTI very important as an independent source of income information. When an obligation is too high, the parent owing child support struggles to be self-sufficient; the family owed support cannot rely on regular payments; and the child support program consumes resources trying to collect the uncollectible.

Delivery of child support services is highly dependent on sensitive personal information, including banking and Federal tax information. Safeguarding private information is in child support's DNA. States deliver child support services through an array of public and private partnerships. Examples include state printing and mailing centers, local prosecutors, clerks of court, IT maintenance and operations, state disbursement units, call centers, and cloud service providers. These longstanding agreements are now at risk.

The Internal Revenue Code lists three pieces of FTI that can be shared with child support contractors: the name and Social Security number of the taxpayer, and the amount of any Federal offset. This list does not include taxpayer address, taxpayer income, whether the refund comes from a joint return, or the name of the joint filer.

Starting around 2009 the IRS conducted information security audits of states. There was no suggestion that FTI had been improperly disclosed to the public, but the IRS felt too much information was being shared with contractors. These early audit findings admitted there was a conflict in Federal law and agreed that any agency corrective action would be held in abeyance pending resolution of the conflicting interpretations.

In February of this year the status quo changed when the IRS notified states that the audit findings regarding contractors would no longer be held in abeyance. The original deadline was October 1 of this year, 2023. The states objected, and the IRS pushed back that deadline to October 1 of 2024. This timeframe is still far too

short. Abandoning these successful public and private partnerships will not be easy or popular among state legislatures.

The stakes are huge. Federal tax offset yielded \$2.25 billion in collections into 2022. There were 1.25 million offsets, averaging more than \$1,800 each for each offset. In my state a tax offset collection was the only collection in the year for 8.2 percent of the families receiving support. In one large eastern state that number was nearly 25 percent. Preliminary mitigation estimates from 33 states predict need for 4,500 additional public child support employees and additional annual costs of \$740 million, including \$488 million per year as the Federal share.

How is this issue connected to tribal child support programs? The Internal Revenue Code has not been updated to give tribes access to FTI. In May 2007 the Federal Office of Child Support agreed that states could submit past-due support in tribal cases for offset if there was an agreement between the state and the tribe that extended all of the IRS safeguarding requirements to the tribe. These agreements have also been identified by the IRS as sharing too much FTI, and those findings have similarly been held in abeyance until now.

For nine years North Dakota has hosted a consortium of tribes from many western states who are able to submit past-due support for offset through my state using a simple spreadsheet and a secure file transmittal process. Collections last year were nearly half a million dollars for these member tribes, and I expect them to increase as more tribes went live.

In December of 2022 the IRS directed North Dakota to immediately stop consortium operations. North Dakota has not heard from the IRS since we sent our justification in January of 2023. With tax season coming up soon, unless the IRS changes its position, tribal children will miss out on offset collections for the second year in a row.

I thank the subcommittee members for your time and attention and for your interest in strengthening child support for state and tribal families.

[The statement of Mr. Fleming follows:]



Subcommittee Chairmen LaHood and Schweikert, Ranking Members Davis and Pascrell, distinguished members of the Work and Welfare and Oversight Subcommittees, thank you for holding today's hearing on the use of federal tax information (FTI) in the Child Support program. And thank you for the opportunity to testify on this important issue to the economic health of American families.

My name is James Fleming. I have been the director of the North Dakota Child Support program for more than thirteen years, after serving as the program's deputy director and chief legal counsel for eight and a half years. Over those 21 years in child support management, I have been very active in the National Child Support Engagement Association (NCSEA) and the National Council of Child Support Directors (NCCSD), serving as policy committee co-chair, board and executive committee member, and president of both organizations. I am also a member of the board of directors for the Western Intergovernmental Child Support Engagement Council.

I am speaking to you today on behalf of the state of North Dakota to address the need to expand access to FTI to Tribal child support programs and to clarify current law regarding contractor access to FTI.

The Child Support program is mandated under Title IV-D of the Social Security Act and administered through a network of state, territorial, local, and Tribal child support agencies. The program has changed a lot since enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). PRWORA, also known as Welfare Reform, authorized many new sources of information and collection tools to improve paternity and child support establishment and enforcement. In the past, the focus of the Child Support program was on recipients of public assistance and collections were used to offset the government's cost of that assistance. Today, however, roughly 90% of collections are distributed directly to single-parent families who will hopefully remain self-sufficient with the help of reliable child support payments.

A key to reliable child support payments is a sustainable monthly obligation based on the paying parent's income or ability to earn. This can be a challenge if the paying parent is not forthcoming with his or her current address or income, which makes FTI very important as an independent source of income information. Child Support tries to avoid unrealistic obligations based on past earnings that are no longer achievable or that overlook employment barriers precluding the parent from earning full-time minimum wage or what others in the same line of work might earn who don't have the same barriers. When an obligation is too high, the parent owing child support struggles to be self-sufficient, the family receiving support cannot rely on regular payments, and the Child Support program consumes precious resources trying to collect the uncollectible.

In addition to the sources of information and tools authorized in PRWORA, federal law has also given states broad ability to partner with other state and local government agencies and private vendors to deliver child support services in the way that is most efficient and cost-

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effective for the state. This has led to wide diversity among states, ranging from a state-run program which receives and disburses collections through in-house employees to a state-supervised network of county and private child support offices supported by contracts with private vendors to receive and disburse collections and manage a customer service call center. But however diverse state programs may be, the constant is that Child Support is a very effective program as measured by the five performance measures created in the Child Support Performance and Incentive Act of 1998.

The delivery of child support services is highly dependent on personal information obtained under authority mandated in PRWORA, including banking and federal tax information. This information is highly confidential. Accordingly, interagency cooperative agreements and service contracts with private vendors contain strong privacy provisions to ensure that program data is used only for establishment and enforcement of child support and medical support. To put it simply, safeguarding private information is in Child Support's DNA.

A recent survey of the state child support directors revealed seven categories of agreements or contracts for child support services:

1. Other supporting state agencies such as data centers, auditors, and printing and mailing centers
2. State and local agencies, such as local prosecutors
3. Clerks of court
4. Information Technology operations and maintenance
5. State disbursement units
6. Private vendors including full-service offices, call centers, shredders, and attorneys
7. Hosting and cloud service providers

Many of these agreements and contracts have been in place since PRWORA implementation. These agreements and contracts meet all the requirements of IRS Publication 1075, which guides government agencies on protection of FTI, but as of February 2023 these agreements and contracts are now at risk.

In contrast to the flexibility in federal law regarding the structure of child support programs, the Internal Revenue Code lists only three pieces of FTI that can expressly be shared with child support contractors: the name and Social Security number of the taxpayer and the amount of federal tax refund offset. Other key pieces of FTI received by Child Support are not listed in the Internal Revenue Code as being allowed to be shared with contractors, including taxpayer address, income, whether the refund comes from a joint return, and the name of the joint filer.

Around 2009 or 2010, long after states created many of the public and private child support partnerships that still exist today, the Internal Revenue Service (IRS) started conducting information security audits of states. Although there was no suggestion that FTI had been

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improperly disclosed to the public, the IRS still noted in the audit findings that child support contractors had access to more than the three items of FTI listed in the Internal Revenue Code.

In issuing those early audit findings, the IRS also noted the conflict in federal law. For example, the contractor audit finding for North Dakota in 2010 said: “Agency corrective actions to remove unauthorized ... access to FTI are held in abeyance pending resolution by OCSE [the federal Child Support office] and IRS of conflicting interpretations of federal statute.” Today, according to an informal internal survey of state child support directors, more than 45 of the 54 state and territorial child support programs have similar findings that are expressly held in abeyance. It is important to note that an audit finding does not mean a breach has occurred – only that the IRS feels that its information security standards have not been fully satisfied.

The IRS and the federal Office of Child Support Services (OCSS) have been in agreement since 2002 on the need to change the Internal Revenue Code to clarify what can be shared with child support contractors. As long as corrective actions were held in abeyance pending resolution of the conflict in federal law, states could be patient while numerous Presidential budget requests recommended such changes to Congress and, in the meantime, continue working with public and private partners in the manner that was best for each state.

In February 2023, this status quo changed when the IRS sent states an email notice that effective October 1, 2023, the audit findings regarding contractors would no longer be held in abeyance. It was naïve to think that states could bring all the contracted services in-house in fewer than nine months. After states objected, the IRS issued a new notice in June 2023, pushing back the deadline to October 1, 2024, and requiring states to develop plans for mitigating contractor access. This timeframe is still far too short to terminate long-standing contracts and obtain legislative approval for the personnel and expense to bring such services in-house. Abandoning these successful and economical public and private partnerships will not be easy or popular among many state legislatures.

The exchange of FTI and federal offset collections between states and the federal government is highly automated, which leads to efficiency and cost effectiveness but also requires significant commitment to technology. Many states continue to struggle with antiquated mainframe computer systems that are difficult to modify. In many states, use of the data elements that are not listed in the Internal Revenue Code is inherently necessary to perform the contracted services. In many other states, the data elements are comingled in a data system that cannot be concealed from contractors without exorbitant expense.

Thirty-three states so far have responded to a survey sponsored by the National Council of Child Support Directors, with preliminary mitigation estimates of 4,500 additional public Child Support employees and additional annual costs of \$740 million, including more than \$488 million per year in federal costs. The efficiencies from partnering with other public or private

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service providers will be lost, and Child Support program efforts to continue to improve services to families will be on hold for years as states restructure their service delivery to resolve the IRS audit finding.

The stakes are huge. Federal law does not give states an option – submission of past-due child support for federal tax offset is mandatory. Even if participating in the federal tax offset process was optional, those offsets remain a source of significant collections for families. Of the \$27.4 billion collected in child support in Federal Year (FY) 2022,¹ federal tax offset collections totaled \$2.284 billion or 8.3% of total collections.² In FY 2022, there were 1,257,954 federal tax offsets for an average of \$1,815 per offset.³

In my state, a federal tax offset was the *only* collection during FY 2022 for 8.2% of those receiving child support. This number appears to be low compared to other states who responded to the state director survey, with one large eastern state reporting nearly 25% of offset collections were the sole collection for the family during FY 2022. Combining offsets of federal tax refunds and other federal payments, 83.8% of federal offset collections are paid to families rather than retained by the government to offset the costs of public assistance.⁴ The federal offset process is clearly an important source of collections for families – and one that makes a significant difference in meeting their basic needs.

There is a solution. [S.3154](#), the Tribal Child Support Enforcement Act, has been recently re-introduced in the Senate by Senators Thune (SD) and Wyden (OR). A similar bill passed by unanimous consent in the Senate last session. S.3154 proposes the needed changes to update the Internal Revenue Code and ensure the continued use of FTI to strengthen services under the Child Support program.

You may ask why the bill is titled “Tribal Child Support Enforcement Act.” As I explained earlier, because the IRS audit findings have been held in abeyance, the contractor issue has largely been dormant for states for many years. However, for more than ten years, the National Tribal Child Support Association (NTCSA) has advocated to expand access to FTI to Tribal child support agencies.

PRWORA authorized funding for Tribes to operate their own Title IV-D Child Support programs, but the Internal Revenue Code was not updated to give Tribal child support programs the same access to FTI that is permitted for state and local child support agencies. There are three direct-funded Tribal child support programs in North Dakota, and I can attest that the existence of these programs is critical to resolving the unique

¹ Office of Child Support Enforcement [Preliminary Data Report for FY 2022](#), Table P-1

² Office of Child Support Enforcement [Preliminary Data Report for FY 2022](#), Table P-98.

³ [Id.](#)

⁴ [Id.](#)



jurisdictional issues with Tribes as separate sovereign entities and ensuring that Tribal children receive effective child support services.

There are now more than 60 direct-funded Tribal programs, and they work every day with the same customer privacy concerns that states have. There is no reason that the families served by these programs should be denied the benefit of FTI and collections from federal tax offsets.

This is another area that is negatively impacted by the IRS audit findings regarding contractors. Recognizing that having strong Tribal child support programs also benefits states, several states including North Dakota have worked to find ways to cooperate with Tribes for offset services.

In May 2007, OCSS was asked if there were any circumstances under which a state could submit past-due support owed in Tribal IV-D cases for federal tax offset. OCSS replied: a "State may submit arrearages owed in Tribal IV-D cases for Federal tax refund offset if" there is a cooperative agreement between the state and Tribe which extends all IRS safeguarding requirements to the Tribe and the Tribal application for child support services includes notice that the parent was also applying for services from the state for the limited purpose of offsetting federal tax refunds and other federal payments.⁵ North Dakota started providing this service to a Tribe located in North Dakota in 2010.

The agreements between Tribes and states to implement the OCSS guidance have also been identified in IRS audits as involving unauthorized release of FTI, and those findings have similarly been held in abeyance until now.

The need for technology can be a particularly daunting challenge for Tribal child support agencies, which are often smaller than state programs. To overcome this barrier, based on our experience submitting Tribal obligors for offset on behalf of the Three Affiliated Tribes in North Dakota, for nine years my state has hosted a consortium of Tribes who are able to submit names of parents who owe child support for federal offset through North Dakota using a simple spreadsheet and secure file transmittal process.

North Dakota designed the consortium process to be easily replicated with a nearly unlimited number of Tribes. In fall 2022, there were nine Tribes in the consortium with one more on the way, and capacity for many more.

⁵ Office of Child Support Services [PIQ-07-02](#), Question and Response #5.



Tribe	Amount Collected in CY 2022
Lac Courte Oreilles	\$ 91,513.35
Fort Belknap	77,993.85
Three Affiliated Tribes	168,117.37
The Klamath Tribes	54,035.55
Standing Rock	47,910.04
Chippewa Cree	36,359.34
Total	\$475,929.50

In December 2022, I received a letter from the IRS directing North Dakota to immediately stop submitting Tribal parents for federal offset. We had no choice but to suspend reporting Tribal obligors pending resolution of the issue. What is particularly frustrating is that North Dakota showed the on-site IRS auditors the limited information we provide to members of the consortium, and those auditors concluded in 2016 and again in 2019 that the information North Dakota shared with Tribes was sufficiently de-identified to no longer constitute FTI.

North Dakota offered this explanation to the IRS in January 2023 and has not heard anything since then. We will be trying to work again with IRS with tax season coming up soon, but unless IRS changes its position, Tribal children will miss out on offset collections for the second tax season in a row. Importantly, even though the IRS agreed until December 2022 that North Dakota was not sharing FTI with the Tribes, the agreements with each consortium Tribe have always included the contract language required in IRS Publication 1075.

The consortium documents specify that it is an interim process until Tribes can obtain direct access to FTI. Nevertheless, if some day direct access to FTI for Tribes is allowed, the consortium process will continue to be a simple and efficient way for Tribes to access the federal offset process without investing in expensive technology. North Dakota remains hopeful that the IRS will be open to learning more about the consortium and we will be able to resume our partnership with these Tribes soon.

Conclusion

With encouragement from Congress, states and Tribes have formed unique, effective partnerships with public and private agencies to collect reliable child support for families. FTI and the federal offset process are critical components of this success. Congress needs to be aware that if action is not taken, states will be forced to abandon these partnerships and assume hundreds of millions of dollars per year in additional expense, of which the federal government will be responsible for 66%.

The IRS and OCSS have agreed federal law needs to be changed. The three national child support organizations (NCSEA, NTCSA, and NCCSD) have adopted a [joint resolution](#) in support for changing federal law.



I thank the subcommittees for their time and attention to this important issue and for their interest in strengthening state and Tribal child support programs.

Chairman LAHOOD. Thank you, Mr. Fleming. We will now recognize Mr. Tribble.

STATEMENT OF BRYAN TRIBBLE, ADMINISTRATOR, CHILD SUPPORT SERVICES, ILLINOIS DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Mr. TRIBBLE. Subcommittee Chairs LaHood and Schweikert, Ranking Members Davis and Pascrell, members of the Work and Welfare and Oversight Subcommittees, thank you for holding today's hearing, and thank you for the opportunity to testify on this very important issue.

My name is Bryan Tribble. I have been fortunate to work for the State of Illinois Department of Health Care and Family Services, Child Support Services, and serve the families of Illinois from 2001 to present. In January of 2021 I was named the administrator of our program, a role in which I continue to serve today. Today I am speaking to you on behalf of the State of Illinois to address the need to clarify current law regarding contractor access to FTI, and to expand the access to tribal child support programs.

My colleagues, Ms. Turetsky and Mr. Fleming, have done a wonderful job of providing the background, history, and context around this issue, in my opinion, which I greatly appreciate. This allows me to jump right in and speak to the real-world impact access to FTI and the ability to offset Federal tax returns for those who owe past-due support for the benefit of the family has on the families of my state.

I want to provide just a little bit of background and some data around our program in Illinois. We serve nearly 360,000 families with over 500,000 children. In regard to children served, it is the third largest government program, behind only Medicaid and SNAP. One of the most cost-effective government programs, as both Representative LaHood and Representative Davis pointed out, with nearly \$5 per \$1 invested. We also—in Illinois we collected more than \$1.1 billion for families in Federal fiscal year 2023.

The Federal offset program makes a real difference in families' lives. Sometimes, as Mr. Fleming also pointed out, it is the only support that some families may receive. In Illinois \$65 million annually is offset and provided to the families of individuals who have a past-due child support debt. These payments are paid on behalf of more than 44,000 families. For approximately 18,000 Illinois families, this represents the only collection they will receive during the course of the year. This is critical.

Child support programs simply cannot operate without access to FTI. As has been pointed out, states are mandated to submit past-due child support debt for collection via Federal tax return offset. Even if it were possible for child support programs to operate without this asset—or this access, the impact to the families we serve would be disastrous. As I stated, this would remove more than \$65 million from the families of Illinois.

Most child support programs cannot operate without the assistance from contractors in certain years, and it has been that way for many, many years. There has been a longstanding conflict of regulations between the IRS and child support services that everyone has pointed out that will no longer be held in abeyance. What

would be ideal would be a legislative fix to maintain the status quo that has been in place, not throw a new door wide open, but merely retain the status quo. As I have said, there have been—this has been in place for quite some time, nearly 20 years, and there have been no known breaches of taxpayer FTI.

I wanted to also make mention of the fact that when we talk about an IRS finding or something like that, that does not mean that there was any type of a breach. What that does mean is that the auditors found that this was something that was—this was an action that was being taken that does not align with section 6103.

Forty programs, or child support programs, operate within highly regulated work areas that are subject to many safeguarding requirements in order to have access to FTI. Ms. Turetsky went through some examples of this.

Illinois has a 10-page policy memo that distills the 216-page IRS Publication 1075 rules, requirements, and guidelines down to those to which all with FTI access must adhere. It also cross-references eight other security-related policy memos.

All individuals with FTI access complete training related to FTI before they are ever granted any type of a system access, and they must re-certify this annually. All individuals with FTI access are subject to rigorous background checks that must include FBI fingerprinting, review of local law enforcement where the individual has lived, worked, and/or attended school over the course of the last five years to ensure that there were not any issues that may have occurred that did not rise to the level of the FBI that might preclude the individual having this access. They undergo citizenship and residency reviews, and all must be completed again every five years.

Contractors are held to the absolute same standards with oversight. Not only do we, as child support agencies, protect FTI, privacy and confidentiality are at the heart of our business, and it always has been. We have robust safeguards for identities of individuals and all of their personal identifiable information, not to mention that of their children.

If legislation isn't passed to resolve the conflict, the costs of mitigation cure are large in dollar amounts and would be a very big lift for many states, limiting our access to experts to assist government. The scope of mitigation is difficult to determine, but at minimum, in Illinois alone, this would be hundreds of millions of dollars.

We are more than halfway through a system modernization project where we are adopting a federally certified system from another state. And if this isn't fixed, we would be all the way back at square one, meaning every penny that we have invested in state and Federal funding would have been for naught.

And with that, I will go ahead and turn it over to Ms. Smith.

[The statement of Mr. Tribble follows:]



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Subcommittee Chairs LaHood and Schweikert, Ranking Members Davis and Pascrell, distinguished members of the Work and Welfare and Oversight Subcommittees, thank you for holding today's hearing on the use of federal tax information (FTI) in the Child Support program. Additionally, thank you for the opportunity to testify on this issue that is of the utmost importance to the economic health of American families.

My name is Bryan Tribble. I have been fortunate to work for the State of Illinois, Department of Healthcare and Family Services-Child Support Services, and serve the families of Illinois, from 2001 to present. In January of 2021, I was named the administrator of the Illinois Child Support program, a role in which I continue to serve to date. Today, I am speaking to you on behalf of the State of Illinois to address the need to clarify current law regarding contractor access to FTI and to expand this access to Tribal child support programs.

My colleagues are providing background, history, and context around this issue, so I will be speaking to the real-world impact access to FTI, and the ability to offset federal tax returns for those who owe past-due support for the benefit of their family, has on the families of my state.

The Illinois Child Support Services program serves nearly 360,000 families, which include over a half a million children. Regarding children served, child support is the third largest government program, behind only Medicaid and SNAP. Nationally, child support is one of the most cost-effective programs, and this is certainly the case in Illinois where our program collects \$4.43 for every dollar invested. In federal fiscal year 2023, we collected more than \$1.1billion on behalf of the families of our state.

The federal offset program makes a real difference in the lives of the families we serve in Illinois. In some cases, this may be the only support a family receives during the course of any given year. On average, we collect more than \$65million annually via the offset of federal tax returns of those who are behind in their payment of support. This \$65million is paid on behalf of more than 44,000 families. Finally, for approximately 18,000 Illinois families, this represents the only collection they may receive in any given year. Without access to FTI, all of these families would be negatively impacted and this important element of those family's economic stability would cease to exist.

Simply, child support programs cannot operate without this critical access to FTI. As others will provide, in accordance with [45 CFR 302.60](#), [45 CFR 303.72](#), and [464 of the Social Security Act](#), states are mandated to submit past-due child support debt for collection via federal tax return offset. Even if it were possible for child support programs to operate without access to FTI, as stated previously, the impact to the families we serve would be disastrous in that it would be removing, on average, more than \$65million from the homes of Illinois families.

Additionally, contractors are a necessity in the operation of child support programs across the nation, and they have been for many years. The issue prompting my testimony today is not a new issue, as there has been a long-standing conflict of regulations between the IRS and the federal Office of Child Support Services (OCSS). What is new is that this issue and the finding related to the issue will no longer be held in abeyance. A proposed legislative fix that has recently been introduced in the Senate, [S.3154](#), by Senators Thune (SD) and Wyden (OR). This bill would not expand access but would maintain status quo. Of note, this practice has been in place for nearly 20 years and there have been no known breaches of taxpayer FTI. I specifically wanted to make mention of this fact, due to the possible misunderstanding of the word, “finding” in routine audits of child support programs. A “finding” does not denote a breach occurred or any taxpayer FTI was compromised.

Child support programs operate within a highly regulated work area subject to many safeguarding requirements in order to have access to FTI. Illinois has a ten-page policy memo that distills the 216-page [IRS Publication 1075](#) rules, requirements, and guidelines down to those to which all with FTI access must adhere. Also, our policy memo cross-references eight other security-related policy memos and procedural documents. All individuals with FTI access completed training related to this access, specifically, in addition to other confidentiality related trainings, prior to ever receiving FTI access. Further, all those who have FTI access must recertify annually by again completing this training. Finally, all individuals with FTI access are subject to a rigorous background check that must include:

- FBI fingerprinting;
- Review of local law enforcement where the individual has lived, worked, and/or attended school over the course of the last 5 years to ensure there were not any issues that may have occurred that did not rise to the level of the FBI having knowledge, but may, nonetheless, preclude the individual from FTI access;
- Citizenship/residency review;
- All must be completed again every 5 years; and
- Contractors are held to the absolute same standards, with oversight.

It is not only FTI that child support programs safeguard. Privacy and confidentiality is at the heart of our business and always has been a major component of our programs. As such, we have developed robust safeguards for personal identifying information (PII) of individual, not to mention that of their children.

If legislation is not passed to resolve the existing issue, in addition to the detrimental impact to the families we serve, as previously provided, the costs of mitigation would be enormous in dollar amounts, would be a large-scale endeavor, and would limit access to experts to assist government.

The totality of the scope of mitigation is difficult to determine at present; however, at minimum, in Illinois, this would be in the hundreds of millions of dollars. We are more than halfway through a system modernization project where we are adopting the system of another state that is already federally certified. Our new system is SAP based, meaning that it can only be maintained and upgraded via SAP contractors. If this is not addressed, then we would have to start our modernization process completely over from the beginning.

If we had to restart our system modernization efforts, it would introduce the possibility of catastrophic risk to the families we serve, as our legacy system is COBOL-based and is being maintained by programmers who are beyond the age of retirement. Most of these programmers are only continuing to work to help us bridge the period until our new system is up and running. Restarting from the beginning would likely lead to most, if not all, of our existing programmers to move toward retirement as the process of designing and implementing a new system is laborious and time consuming. Our losing these programmers is not something that could be easily remedied. We would need to start over from the beginning and create a system that could be 100% operated, maintained, and upgraded without the use of any contractors. This, endeavor would cost hundreds of millions of dollars, including the finds that have already been spent toward design and development of our modernized system. Additionally, we would need numerous full-time state staff to do this work with an annual cost of more than \$6million.

Next, we would have to maintain our practice of processing payments outside of our federally required State Disbursement Unit (SDU). In accordance with Illinois law, the SDU must be administered by a contractor. So, we would have to maintain separate payment processing devoted to just FTAX offset. Our continuing to maintain this antiquated structure in a new system would cost an estimated \$1.5million annually.

With insight and encouragement from Congress, the federal government and state governments have created incredibly successful partnerships with public and private agencies to make child support a reliable source of income for those who receive it. FTI and the federal offset process are critical components of this success. Congress needs to be aware that if action is not taken, states will be forced to abandon these partnerships and assume hundreds of millions of dollars per year in additional expense, of which the federal government will be responsible for 66%

Again, this does not need to be an eventuality and can be avoided. S.3154, the Tribal Child Support Enforcement Act, would address all of these issues and ensure the continuity of services child support programs provide to the families we serve. A similar bill passed by unanimous consent in the Senate in the previous session. S.3154 would maintain the status quo and the very narrow and unique way in which child support programs around the nation use FTI to provide services to the families of our states.

On behalf of the families of Illinois whom we serve, I thank the subcommittees for their time and attention to this important issue and for their interest in strengthening state and Tribal child support programs.

Chairman LAHOOD. Thank you, Mr. Tribble.
We will now recognize Ms. Smith for your five minutes.

**STATEMENT OF SUSAN SMITH, DIRECTOR, LAC COURTE
OREILLES TRIBAL CHILD SUPPORT SERVICES**

Ms. Smith. First, I want to thank you. Thank you, Chairman LaHood and Ranking Member Davis, Chairman Schweikert, and Ranking Member Pascrell, as well as—okay, should I start over? Okay. And also, I would like to take the opportunity to express how grateful we are for the professional staff that serves the committees.

As the director of Lac Courte Oreilles Child Support Services, I have been with the agency for 13 years since the agency opened its first case. I am a member of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians in northern Wisconsin. I currently serve as a member of the National Tribal Child Support Association board of directors, and I am a past president of the National Tribal Child Support Directors Association and am chair of the IRS Legislation Committee from the board. I continue to serve on several committees and projects related to tribal child support.

Of the 574 federally recognized tribes in the United States, 60 currently operate their own child support agency. Lac Courte Oreilles Child Support Services is one of nine tribal child support programs within the State of Wisconsin. I appreciate the opportunity to share information about the Lac Courte Oreilles Child Support Program and tribal child support.

Lac Courte Oreilles has a wonderful relationship with our state partners, specifically Wisconsin and the State of North Dakota. The challenge to tribal child support agencies lies with the current lack of direct access to the Federal Tax Offset Program.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PRWORA, authorized funding for tribes to operate their own Title IV–D child support programs, but the Internal Revenue Code was not updated to give tribal child support programs the same access to FTI that is permitted for state and local child support agencies at that time.

We have heard from—you have heard from my colleague, Mr. Jim Fleming, about the North Dakota Tribal Offset Program. Our first offset through this partnership was in February of 2016, and our final offset was received in 2022. During this time period, Lac Courte Oreilles was able to collect over \$800,000 in past-due child support and disburse all of those funds to Native American families on our caseload. Of 40 percent of those on our caseload who receive a tax offset, it was the only payment that they received that year.

We are now left at a point where Native American families on our caseload receive absolutely nothing from the paying parent's Federal tax offset. Due to proximity of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians' reservation to the local State of Wisconsin's county-run child support agency, our tribal child support agency and local county child support agency have cases with the same parent ordered to make payments, support payments. Discouragingly, many of the families on our tribal caseload are aware that the family on the child support case received

an offset from the common parent. This leads to anger, frustration, and furthers the notion of disparity.

At the current time, without direct access to the Federal tax offsets, our office is left with the difficult job of trying to explain why our Native American families cannot receive these funds, while families on the state child support cases can.

More importantly, families on the Tribal Child Support Agency caseload do not have parity with state or county child support agencies.

In conclusion, we all want and work for the best interest of children and families, and I thank you for your time.

[The statement of Ms. Smith follows:]

**Written Testimony of
Sue Smith, Director Lac Courte Oreilles Child Support**

Before the
Subcommittee on Work and Welfare and
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
“Strengthening the Child Support Enforcement Program for States and Tribes”

November 29, 2023

Thank you Chairman LaHood and Ranking Member Davis; Chairman Schweikert and Ranking Member Pascrell; as well as Representatives on the subcommittees. We would also like to take the opportunity to express how grateful we are for the professional staff that serves the subcommittees as well.

My name is Sue Smith and I am the Director for Lac Courte Oreilles Child Support Services. I have been with the agency for thirteen years, since the agency opened its first case. I am a member of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Reservation in northern Wisconsin. I currently serve as a member of the National Tribal Child Support Association Board of Directors, have been the past Director of the National Tribal Child Support Director’s Association, am Chair of the IRS Legislation Committee, and I continue to serve on several committees and projects related to Tribal Child Support.

Of the 574 Federally Recognized Tribes in the United States, 60 currently operate their own child support agency. Lac Courte Oreilles Child Support Services is one of nine Tribal child support programs within the state of Wisconsin.

I appreciate the opportunity to share information about our program, tribal child support, and most importantly to Lac Courte Oreilles and our case participants, TOP – which stands for Tribal Offset Program. Lac Courte Oreilles has a wonderful relationship with our state partners, specifically Wisconsin and the State of North Dakota. The challenge to Tribal child support

agencies lies with the current lack of direct access to the federal tax offset program. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 PRWORA authorized funding for Tribes to operate their own Title IV-D Child Support programs, but the Internal Revenue Code was not updated to give Tribal child support programs the same access to FTI that is permitted for state and local child support agencies.

Our agency has served over 2,000 individuals and currently has approximately 500 open child support cases. The majority of our child support cases are opened pursuant to a TANF or out of home placement referral. Because public funds are being disbursed through TANF or for an out of home placement referral, the child support agency is tasked with establishing paternity when needed and establishing a child support order for the absent parent or parent; as a means of recouping the public assistance funds, holding absent parents financially accountable for their children, and in TANF cases, reduce the need for families to receive these funds in an effort to lift them from poverty.

Limiting the Tribe's ability to have direct access to federal tax offsets not only severs Native American families access to these funds, but it also severs the child support agency's opportunity to recoup public assistance dollars.

In 2015, the State of North Dakota and Lac Courte Oreilles entered into a simple, effective and straight forward agreement that allowed Lac Courte Oreilles to submit information to North Dakota for those individuals who met the requirements of the Treasury Offset Program. Our first offset through this partnership was in February 2016 and our final offset was received in 2022. During this time period, Lac Courte Oreilles was able to collect over \$800,000 in past due child support and disburse all of those funds to Native American families on our case load. For 40% of those on our caseload who received a federal intercept, it was the only payment they received that year.

In late 2022, the partnership that Lac Courte Oreilles and North Dakota had for nearly 7 years abruptly ended due to the IRS notifying the State of North Dakota that essentially, the partnership was cited in violation of Federal Tax Information safeguarding because they felt Lac Courte Oreilles was receiving Federal Tax Information.

As the Director of Lac Courte Oreilles Child Support, I can say that our agency was well positioned to process all of the \$800,000 + dollars we received from federal offsets, that we had no data breaches and that all of our staff receive annual IRS Disclosure Awareness & Safeguarding training. In addition, our office meets all security points required in the IRS 1075 Publication.

We are now left at a point where Native American families on our case load receive absolutely nothing from the paying parents federal tax intercept. Due to the proximity of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians Reservation to the local state of Wisconsin's county run child support agency, our Tribal Child Support agency and the local county child support agency have cases with the same parent ordered to pay support. Discouragingly, many of the families on our Tribal caseload are aware that the family on the county child support case received an offset from the common parent. This leads to anger, frustration and further the notion of disparity.

In conclusion, we all want and work for the best interest of children and families.

At the current time, without direct access to Federal tax offsets, our office is left with the difficult job of trying to explain why our Native American families cannot receive these funds while families on state child support cases can. More importantly, families on the Tribal Child Support Agency caseload do not have parity with State or County Child Support agencies.

I am painfully aware that our agency may be a real time example of what could happen to our state counterparts if they too are restricted from accomplishing tax offsets through the use of partnerships. Again, up to 40% of our caseload may have lost the only payment they would have received this year. We know from our own state that just the area of Milwaukee has close to 40% of the child support cases in all of Wisconsin; I cannot imagine the hardship to families if that large a caseload would be unable to access tax offsets for their families. The amount of money we have collected for our families is far less than the millions Milwaukee County collects on an annual basis; but is no less important or impactful to a family here, on the LCO Reservation, than the city of Milwaukee, Chicago, Bismark, or any other community each of you as a Members of Congress who serve on these subcommittees represent. Thank you for your time.

Chairman LAHOOD. Thank you, Ms. Smith. I now recognize Ms. Corbine.

STATEMENT OF MARLEY CORBINE, PARENT AND TRIBAL MEMBER OF THE LAC COURTE OREILLES, BAND OF LAKE SUPERIOR OJIBWE

Ms. CORBINE. Thank you, Chairman LaHood, Ranking Member Davis, Chairman Schweikert, Ranking Member Pascrell, and honorable members of the subcommittee. I am honored by the invitation to share my testimony here today.

My name is Marley Corbine. I am a Lac Courte Oreilles tribal member and mother of three. My oldest daughter is Nyla, who is eight years old, and my youngest daughter, Stella, is four years old. My son, David, is three months old and sitting right behind me with my sister, Tiera Corbine. I work as a deputy clerk of court for the Lac Courte Oreilles Tribal Court, where I have worked for almost four years. Two of my three children received child support through the LCO Child Support Office.

I earned my Associate's from the Lac Courte Oreilles University, and now working towards my undergrad degree at the University of Minnesota Duluth. I am studying tribal administration and governance, a program that is unique to UMD. It is important for my children to see my example of working and studying for my goals I set for myself. I plan on going to law school within the next five years, because I want to help people.

As important as it is to me to set a good example for my children, I believe that I am not the only one who should support them.

I am here to speak especially about my eldest daughter, who has wonderful interests and talents. She is a powwow dancer and takes classes at the local dance school in the town where near I live. Her father has a child support order to assist in her care, but due to his employment schedule he is an inconsistent payer. Because of this, the only child support I received for the care of our daughter was through intercept of his annual tax refund. Each time it came at an important time, when fees are due for dance, or her dance outfits need to be made.

I have heard people say that babies are really expensive, but I disagree. Growing children with interests and activities are even more expensive. My daughter's regalia for powwow takes time and material. Even though I enjoy doing this, making her regalia, it takes money to buy supplies.

The tax return intercept payments are important. Even though I cannot count on her dad for monthly payments through the tax—monthly payments, the tax intercept program—he has routinely contributed to her care. In the past my daughter's dad used to call me and tell me I would be getting a tax payment. He would never be angry about it. He knew that I would always use this for the care of our daughter. In many ways, I believe he was glad that his taxes were intercepted because it wasn't money from a paycheck and wasn't something he ever saw.

Sadly, I was recently told by the LCO Child Support that the program to get the child support for us by tax intercept has been suspended. In the past those payments were managed by the State

of North Dakota for our tribe. I don't know the details as to why this program is being suspended, but I do know that not receiving these payments is going to make it very difficult for my daughter to participate in her dance class next year. Each week I skip my lunch break, so I am able to have enough time built up to take my daughter to dance in town. This was something he was able to help with, as well, with his taxes. I don't believe it is fair that the—that it should stop.

I understand that Congress has to keep the safety of everyone's tax information in mind. My hope is that you understand how important these payments are to families like mine, all across the reservation and America. Thank you for listening to my story, and I hope you are able to act quickly to find a solution and help our families continue to receive this vital support.

[The statement of Ms. Corbine follows:]

**Testimony of
Marley Corbine**

Before the
Subcommittee on Work and Welfare and
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives

November 29, 2023

Thank you, Chairman LaHood, Ranking Member Davis; Chairman Schweikert, Ranking Member Pascrell; and honorable members of the Subcommittees; I am honored by the invitation to share my testimony here today.

My name is Marley Corbine, I am a Lac Courte Oreilles tribal member and mother of three. My oldest daughter, Nyla, is eight years year old; my youngest daughter, Stella, is four years old; and my son, David, is three months old and sitting right behind me with my sister, Tiera Corbine. I work as Deputy Clerk of Court for the Lac Courte Oreilles Tribal Court where I have worked for almost four years. Two of my three children receive child support through the LCO Child Support office.

I earned my associates from Lac Courte Oreilles University and am now working toward my undergraduate degree at the University of Minnesota Duluth. I am studying Tribal Administration and Governance, a program that is unique to UMD. It's important for my children to see my example of working and studying for goals that I set for myself. I plan on going to law school within the next five years because I want to help people.

As important as it is for me to set a good example for my children, I believe that I am not the only one who should support them. I am here to speak especially about my eldest daughter who has wonderful interests and talents. She is a pow wow dancer and takes classes at the local dance school in the town near where we live. Her father has a child support order to assist in her care, but due to his employment schedule he is an inconsistent payer. Because of this the only child support I received for the care of our daughter was through an intercept of his annual tax refund.

Each time it came at an important time when fees for dance were due, or her dance outfits needed to be made. I have heard people say that babies are really expensive, but I disagree. Growing children with interests and activities are even more expensive! My daughter's regalia for pow wow takes time and materials; and even though I do the beading for her regalia, it takes money to buy supplies. The tax return intercept payments are important. Even though I cannot count on her dad for monthly payments, through the tax intercept program he has routinely contributed to her care.

In the past, my daughter's dad used to call and tell me that I would be getting a tax payment. He was never angry about it; he knew that I always use it for the care of our daughter. In many ways I believe he was glad that his taxes were intercepted because it wasn't money from a paycheck and wasn't something he ever saw.

Sadly, I was recently told by LCO Child Support that the program to get child support for us by tax intercept has been suspended. In the past those payments were managed by the State of North Dakota for our Tribe. I don't know the details as to why this program is being suspended, but I do know that not receiving these payments is going to make it very difficult for my daughter to participate in her dance classes next year. Each week I skip my lunch so that I will have enough time built up to take my daughter to dance class in town. This was something that he was able to help with as well with his taxes; I don't believe it is fair that it should stop.

I understand that Congress has to keep the safety of everyone's tax information in mind, but my hope is that you understand how important these payments are to families like mine, all across our reservation and America. Thank you for listening to my story and I hope that you are able to act quickly to find a solution and help our families continue to receive this vital support.

Chairman LAHOOD. Thank you, Ms. Corbine, for being here today and for bringing your son with you and sharing your touching story. We are grateful, and we wish you much success.

We will now turn to the question-and-answer portion of our hearing. I want to thank all of our witnesses for your statements, and now we will turn to questions. And for this joint hearing we will alternate by seniority, Republican and Democrat, for each subcommittee. And I will begin by recognizing myself.

In accordance with the recently released IRS guidance, my home state of Illinois has until October 2024 to come into compliance and halt using contractors to manage its Federal Tax Refund Offset Program. And Mr. Tribble, you pointed out in your testimony this is a vital part of the Child Support Enforcement Program serving families and non-custodial parents who are behind on their child support payment or might have the regular employment necessary for normal collections.

Pursuant to your testimony—you touched on this a little bit—if Illinois cannot come into compliance by October of 2024, our state could be cut off from the Tax Refund Offset Program. And you mentioned that 44,000 families in Illinois receive support from the Tax Refund Offset Program, and this program is the only support for approximately 18,000 of these families in which they receive these payments each year.

What would it mean to these families if this program were to be suspended or halted?

And would these families potentially fall into poverty and increase the number of children and families dependent on our other government-provided services instead of their own families?

Mr. TRIBBLE. Thank you for the question.

They absolutely would become more dependent on other government programs. There is no two ways about it. The needs of the children aren't going to change. They are still going to have the exact same needs that they do. What is different is, because of this change in October 2024, they will no longer be able to get those needs met by their own parents.

Chairman LAHOOD. And is there a cost associated with that?

I mean, has the—have you or the state calculated a cost related to that?

Mr. TRIBBLE. At this point we have not calculated that cost. I would have to get back to you on that, as far as what the actual cost would be.

Chairman LAHOOD. And is—what about contingency measures that the state would have to put in place if, in fact, this went into effect?

Mr. TRIBBLE. We know that this—we know that the overall number is the \$65 million that I shared. So, we know that a portion of that, you know, especially for at least those 18,000 families, those would have to be put in place. At this point we do not have a contingency that is in place.

Chairman LAHOOD. Thank you for that. I will next turn to Ms. Corbine.

You mentioned your daughter's father is happy to pay child support, and how paying through the Tax Refund Offset Program is best for him. Can you comment on what you expect to receive,

whether you expect to expect to receive any child support from him if the Tax Refund Offset Program is suspended?

Ms. CORBINE. I don't believe I would. The only time I really get any payments from him is through the tax intercept.

Chairman LAHOOD. And so, you would be directly affected by that?

Ms. CORBINE. Yes.

Chairman LAHOOD. And Mr. Fleming, even though the IRS extended their initial deadline from October 2023 to October 2024, this still seems like a very aggressive timeline to come into compliance by the different states. Could you share with the committee some of the nationwide estimates of costs and time it would take states to comply with these—with the new guidance?

And are there specific state examples you could share?

Mr. FLEMING. Mr. Chairman, the state directors like myself are currently trying to assemble as much information as they can. These are very preliminary estimates. As Bryan alluded to, it is really hard to come up with a mitigation plan. When you compare different state findings and audits, you find that there are different definitions of "contractor," which really builds a—it is not a sure foundation, and even understanding what we are going to be mitigating for.

But as I indicated in my testimony, even the 33 states who have responded so far are estimating 4,500 new public employees and \$748 million a year. Now, if that is 33 states, you can multiply that to a 54 response, 54-state response, and get an idea of the magnitude of the upheaval that this is going to cause child support. This is going to rock child support's world in terms of changing business practices. We are going to go through procurements. My own legislature doesn't even meet until January 25, so good luck to us trying to meet that deadline of 2024. It is going to be very daunting to states.

There are some aspects of this that we don't even feel are mitigatable. For the IT hosting, it is not like each state can become their own cloud service provider, or that they can provide, you know, specialized technology support for these products that states are using now. The public sector just can't draw those kinds of candidates, because their pay scale is not going to match what the private side is.

So, it will be very, very difficult even with additional years attached to it.

Chairman LAHOOD. Well, thank you for sharing those challenges. We appreciate that.

That concludes my questions. I will turn to Mr. Davis for his questions.

Mr. DAVIS. Thank you, Mr. Chairman, and let me thank all of the witnesses for their testimonies.

Administrator Tribble, I know that Illinois is leading the nation in terms of efforts to pass through child support to families and to strengthen employment opportunities for non-custodial parents to help them meet their child support obligations. And I must add that I am extremely proud of that fact, that Illinois is indeed leading the nation in those efforts. Could you talk about that a little bit?

Mr. TRIBBLE. Absolutely. Thank you for the question.

By following the available research and actively engaging with the families we serve, there has been a fundamental shift in the way that we do business in our program in Illinois. Most recently—all states are required every four years to do a review of their child support guidelines. Most recently we finished ours at the end of last year, and the first thing that we did is we had 27 open forum town halls to talk to all of the families that we serve to say, how could we better serve you, how could the guidelines work better for you in our state?

By actively engaging with them, we are now working through several different legislative initiatives, ones that have already passed. As you mentioned, Representative Davis, was—Illinois in July, on July 1 of 2024, Illinois will begin passing through all child support to the families. No longer will the state retain a nickel of the money that a parent is paying for the care and support of their child.

Additionally, just this past legislative year, and what will be effective on January 1, we had a program that is going to be started that is going to allow us to serve as a conduit through which families can have access to career training for state jobs through our central management services, and then also through our Department of Employment Security. So, we are going to serve as that conduit through which—because we can identify the families who are not making payments, individuals who don't have jobs, and we can perform that outreach and then make those connections to those.

So that is just a couple of the things that we have going on right now, and what business looks like in Illinois. So, thank you, sir.

Mr. DAVIS. Thank you so much.

Ms. Turetsky, when children are in foster care, of course our primary goal is to stabilize their families so that they can return home as quickly as possible. I understand that some states actually are sending parents a bill for child support when their children are in foster care. Are you aware of that? And if so, would you comment?

Ms. TURETSKY. Yes, I am, Representative Davis. The Children's Bureau recently issued guidance interpreting Federal statute on who—which parents need to be—are required to be referred to the child support program. And there is a good deal of flexibility in the Federal statute.

And the Children's Bureau effectively, I think, communicated to state child welfare agencies that they can—they do not need to send all of their parents over to child support, that in fact, many parents in the child welfare system are in no position to pay additional child support, much less incur child support debt. They are trying to keep body and soul together, and trying to bring their kids home, and money that gets pulled away from that focus and instead is used to reimburse, you know, foster care benefits is not the best use of their strained resources.

So, the Children's Bureau has put that policy out. It was—there were prior policies that we issued on the child support side in my day that also encouraged states to really take a close look at families before they send a child support case over to child welfare. Any

case that gets sent to child welfare; the money is not used for the child. The money is used to—you know, for public reimbursement of the benefits.

Mr. DAVIS. Well, thank you very much. You answered the next question I was going to ask, and I agree with you wholeheartedly, and hope that states will find a way to change that policy.

Thank you, Mr. Chairman. My time is expired, and I yield back.

Chairman LaHOOD. Thank you, Mr. Davis. I recognize Chairman Schweikert.

Chairman SCHWEIKERT. Thank you, Mr. Chairman. I will try to do this fairly quickly.

Ms. Corbine, your little person is adorable, but I don't actually have a question for you.

Ms. CORBINE. Oh, thank you. [Laughter.]

Chairman SCHWEIKERT. Ms. Smith, okay, I want to make sure I am understanding some of the mechanisms. Being from a state with a number of tribes, from very, very small to very big, so my tribe wants to do—you know, they have a number of non-custodial parents, we are trying to take care of the kids. Right now, they would contract through the state, and then use the state's designated contractors for these services? Is it the two-step process? How does the tribe end up getting the contractor, the services?

Ms. Smith?

Ms. SMITH. For a tribe who contracts through the state?

Chairman SCHWEIKERT. Yes, is that how the law is set up right now?

Ms. SMITH. For Lac Courte Oreilles, we have direct funding from the Federal.

Chairman SCHWEIKERT. Okay, so you have your direct funding. And are you doing the actual collection services?

Ms. SMITH. Yes, we are. We have—we—some tribes will contract with the state to do their financial and case management on their distribution system. We do not. We have—we use the model tribal system that was developed.

Chairman SCHWEIKERT. Okay, so you are able to act as your own contractor.

Ms. SMITH. Right.

Chairman SCHWEIKERT. Okay. And of the 60-some tribes that do that, are those 60 operating on their own, as their own payment collection, you know, service? And are—

Ms. SMITH. They have—some have agreements. A number have agreements with the state to use their systems.

Chairman SCHWEIKERT. Okay. My reason for the curiosity is I am familiar with a couple of my tribes using actually through the state, and that seemed to be more common. So, I am trying to learn of those who can operate [sic].

In your particular community, you are able to gain access to the IRS information?

Ms. SMITH. We—the Federal Offset Program?

Chairman SCHWEIKERT. Correct.

Ms. SMITH. We have an agreement with North Dakota.

Chairman SCHWEIKERT. So, you—

Ms. SMITH. Through the top, and I think—

Chairman SCHWEIKERT. So, you manage the process, but you—but then, through the state, they provide you some of the information.

Ms. SMITH. The process for the offset that we submit for certification through the State of North Dakota.

Chairman SCHWEIKERT. Okay. Mr. Fleming, am I going the right direction, or—

Mr. FLEMING. Well, Mr. Chairman, close. By the way, you gave me an idea of where I need to go to round up new members of the consortium if we get the permission to start again. [Laughter.]

Mr. FLEMING. The tribes are not able to access FTI.

Chairman SCHWEIKERT. That is what—

Mr. FLEMING. With regard to states around the country, some are able to partner with their state in order to leverage the state system to get to offsets. In most states, their technology does not support that process. They maintain a running list of parents—or past due that needs to be updated regularly, and they are just not set up to do that with tribes.

My state uniquely sends a brand-new file, complete file, every week. And so, for us to add the LCO arrears onto our file is easier for us to do.

Chairman SCHWEIKERT. See, that would make absolute sense in, you know, particularly in a dynamic society, particularly a state like yours, where employment opportunities bounce around.

Last thing—

Ms. TURETSKY. Chair?

Chairman SCHWEIKERT. Oh, sorry, please.

Ms. TURETSKY. Chairman, I am sorry for interrupting. If I could just jump in from the Federal perspective, every one of the 60 tribes that is an authorized child support program has to meet a set of—a lengthy set of requirements, and run a comprehensive child support program, and be a child support program in all respects except the tax offset.

Chairman SCHWEIKERT. How often does that get audited?

Ms. TURETSKY. How often do tribes get audited? Well, they get audited—

Chairman SCHWEIKERT. Their compliance. Is it—

Ms. TURETSKY. The IRS audits tribes.

Chairman SCHWEIKERT. Yes, but is that once a year? Is that every five years? What do you think?

Ms. TURETSKY. Every three years or so.

Chairman SCHWEIKERT. I heard somewhere in the testimony someone said three at one point. So that is—okay.

Ms. TURETSKY. Yes.

Chairman SCHWEIKERT. It is just a curiosity for me.

Ms. TURETSKY. Three years, yes.

Chairman SCHWEIKERT. Mr. Fleming, the last thing and I will stop rambling. If I was to understand the amount of—population of non-custodial parents who have obligations for children, if I had 100, is this affecting 15 percent, 5 percent? What percentage of support payments are going through this type of system?

Mr. FLEMING. Well, Mr. Chairman, the number of cases—the commissioner might know better the number of total cases that get payments—tax offset collections are a significant source of collec-

tions. They are about eight, a little over eight percent of the annual total.

Chairman SCHWEIKERT. Say that number again.

Mr. FLEMING. Eight—a little—more than eight percent of the total annual collections come from offset. The state figures vary, but many of those do get their exclusive collection from tax offset. Our experience running the tribal consortium, interestingly, is that the percentage of tribal parents for whom offset is the only annual collection is actually greater than the state average.

Chairman SCHWEIKERT. Yes, that—

Mr. FLEMING. And I think that may be because of all the tools you have given us on the state side. But—

Chairman SCHWEIKERT. That is what I have heard from a couple of my tribes. So that is why the question.

Mr. FLEMING. Right.

Chairman SCHWEIKERT. All right. With that, Mr. Chairman, I will yield back.

Chairman LaHOOD. Thank you.

Mr. Pascrell.

Mr. PASCRELL. Mr. Chairman, like many states, New Jersey has seen a reduction in state and county employees and contractors administering its child support program. Still, our program has consistently performed better than average, collecting a significant amount of money for families relative to its caseload size.

Ms. Turetsky, Jersey to Jersey, in your view, why has New Jersey's program continued to perform so well, despite a decline in employees?

And what can other states learn from New Jersey about cost-effective administration?

Ms. TURETSKY. Thank you for that question. And employees and contractors have declined steadily for 20 years across states. So, it is something that all states have had to cope with. I think there are two—a couple of things about New Jersey that I would hold up.

One is that New Jersey has a modern child support system, modular with data analytics. Some states have not been able to afford to replace their old systems. So, they have re-platformed them, or patched them, or, you know, added components, but they have not been able to do a whole gut replacement. And New Jersey was able to do that and adopt the most modern technology for case analysis, so that is a big, big advantage that New Jersey has.

In addition, New Jersey, you know New Jersey collects more per case than many states. And one of the reasons for that is that it has a lower TANF caseload. But you can also say the other way around, that the amount of money that New Jersey is able to collect for families helps prevent families from entering—you know, having the need for public assistance in the first place. So, New Jersey has created an environment where its services are accessible, and where a variety of families participate.

Mr. PASCRELL. Thank you. And it is vital that we provide our nation's child support programs with adequate resources.

Ms. Turetsky, how much money do we deliver to children for every dollar we invest in support programs?

And how do kids benefit when they receive child support?

Ms. TURETSKY. Yes, I am not—I can't remember the cost of—I mean, I have been out of the child support business for seven years now. What is the current cost effectiveness ratio?

Mr. FLEMING. Just under five now.

Ms. TURETSKY. Yes. So, there you go, \$5 in child support payments to \$1 of Federal and state expenditures. And of course, the Federal share—thank you—the Federal share is 66 percent of the dollar. So, 66 percent comes from the Federal Government, 34 from the state.

Mr. PASCRELL. As our panel discussed, most child support programs are administered by a mix of government employees and contractors. Mr. Tribble, and Mr. Fleming, Ms. Smith, how many contractors are employed by the each of your respective child support programs, and how are these contractors supervised to ensure the protection of sensitive data?

Mr. FLEMING. Representative Pascrell, in North Dakota our contractors in the—as defined by the IRS are limited to state agencies. When we need to write a refund check to a joint filer and the joint filer spouse because we have had other collections since we submitted for offset, that goes through our office of management and budget and then is issued by the statewide elected county—or state treasurer.

We also receive IT services from our state IT department, and we are audited by the elected auditor's office.

For purposes of those agreements and just out of sound business practices, we have all of those agencies agree to the IRS contractor requirements. I don't look at them as contractors, because a contract means that you have got an element of choice on the two parties, and somebody is paying each other money. We don't pay OMB and the treasurer for this service. This is something that the law requires them to do anyway.

So, in my state, Representative, they are all government, and they all have the same language in the agreement that the IRS would require of a private vendor.

Mr. PASCRELL. Mr. Tribble.

Mr. TRIBBLE. Let's see. In my state I want to focus on—at the end of my testimony or my opening remarks, I talked about the fact that we were going into a new, modernized system. Right now, we have an old COBOL-based system. We are one of the states Ms. Turetsky talked about that has not been able to transition to a modern, modular system such as New Jersey.

So right now, hours would be minimal. But what we are doing with our new system, it is going to be a proprietary system, it is going to be SAP-based. And as I said, it is already federally certified. It is another state system. In that to be we will have 70 contractors who would have access potentially to FTI, and they would be audited every three years. As per the IRS audits, they would be audited—OCSS audits annually with either a review or a full audit, and so that is what it would look like in Illinois.

Mr. PASCRELL. Thank you.

Ms. SMITH. And for Lac Courte Oreilles, all are tribal government employees, our tribal IT, legal counsel, and accounting.

Mr. PASCRELL. Thank you.

Thank you, Mr. Chairman.

Chairman LAHOOD. Thank you, Mr. Pascrell. Consistent with committee practice, we will now move to two-to-one questioning, starting with Dr. Wenstrup.

Mr. WENSTRUP. Thank you, Mr. Chairman, and I want to thank our witnesses for your time this afternoon and for being here.

The Child Support Enforcement Program is a vital support system that serves 12.7 million families in the United States. The CSE program successfully reimburses states and the Federal Government for the cash assistance payments they have provided families, and helps vulnerable families obtain consistent child support payments from their non-custodial parent.

I have often said that we should be focused on moving Americans from welfare to work by providing them the tools that they need to be able to rise out of poverty. It can't just happen with the snap of a finger. The CSE program does this by helping families stay off of cash assistance by ensuring that they have consistent and ongoing child support, and these payments are coming from their non-custodial parent. We have heard from the witness here today—thank you very much—we have heard just how vital these resources are for custodial parents and their families.

I am concerned that a conflict between two Federal laws will threaten states' abilities to run their CSE program, and tribes' ability to administer their own CSE programs.

So, Ms. Corbine, it is clear that the child support program is vital for your family's budget and resources, but could you also share how important it is to help maintain a connection with and build your children's relationship with their biological fathers?

Ms. CORBINE. I believe her having a relationship with her father is always important. And he is in her life, but you know.

Mr. WENSTRUP. And do you find that this program helps facilitate that?

Ms. CORBINE. Yes, it does.

Mr. WENSTRUP. Thank you.

Ms. Smith, the LCO tribe and 59 other tribes across the country have provided child support services to thousands of families. Could you share with the committee why privacy and security are so important in the program, and some of the security protocols your office follows to ensure this privacy is protected?

Ms. SMITH. Yes. Confidentiality is number number one in our trainings. We do the—follow the 1075, all the security measures. We have a required training every year that is put out, I believe, by—is it IRS, the IRS training?

And like our IT, anyone from the legal counsel, all the government employees that are involved with child support, they go through that training.

And I am sorry, I forgot the rest of your question.

Mr. WENSTRUP. Well, the question was about privacy and security, and why it is so important, and what protocols do you have in place—

Ms. SMITH. Oh, yes, to protect our families' information. And we do—we have—where there is—our files are double—behind—they are required to be under double lock, and access into our—even our offices, there is no access, no public access into our offices.

Mr. WENSTRUP. Thank you.

Ms. Turetsky, the child support program, it is one of the most cost-effective Federal programs to establishing parentage and obtaining child support for custodial parents. In your experience, what makes the Child Support Enforcement Program such a vital program for millions of families?

Ms. TURETSKY. At the heart, the child support program is about families. And child support is a little different from some of the other social programs in that the child support program works with both parents for the benefit of the child. We see both parents.

And, you know, over time we have come to understand that the role—that the parents and the children have relationships, and that we can help support those relationships or we can create barriers to those relationships, depending upon the type of, you know, child support practices we use.

And so, family-centered child support focuses very clearly on the relationship between both parents co-parenting and the child and understands that action taken against one parent is going to ripple through the family, and that child support itself is not only money, but it is a very powerful indicator of parental involvement and parental concern. And so, keeping that money away, or putting the father in jail can all have negative effects on families.

Mr. WENSTRUP. Thank you—

Ms. TURETSKY. And it—

Mr. WENSTRUP. I appreciate it.

Chairman LAHOOD. Thank you, Dr. Wenstrup. I now recognize Mr. Steube of Florida.

Mr. STEUBE. Thank you, Mr. Chairman, and thank Chairman LaHood and Chairman Schweikert for holding this joint hearing together today.

It was also a privilege to be waived onto the Work and Welfare Subcommittee recently to discuss the Care for Children Act, led by myself and Mr. Dunn. As the Work and Welfare Subcommittee works to advance important legislative reforms to protect and enhance child welfare in our nation, I hope that we can work together to advance legislation that fixes the issue with the IRS before us today, along with bills like my Care for Children Act.

The reversal of policy by the IRS earlier this year puts at serious risk the ability for states to have the necessary tools for proper child support enforcement. The limitation for states to use contractors to obtain child support collections from the Federal Tax Refund Offset Program would be devastating to our nation's children. These serious concerns helped push the IRS to delay the change until October of next year. And during this window of time, we must develop a solution here in Congress.

A conflict between two Federal laws is threatening the ability for states to run their child enforcement programs, where a non-compliance decision by the IRS could mean hundreds of millions of dollars in costs to state and the Federal Government, and suspend child support payments to millions of families.

This decision by the IRS is just one in a series that illustrates why the IRS doesn't need more funding, it needs reform. Perhaps if child support was occurring through Venmo transactions, the IRS would be paying closer attention to the welfare of children, or per-

haps armed IRS agents who were hired from the inflation increasing act last year would be used to enforce child support payments.

The point is the IRS is not the agency we should put our faith or trust or money in to do what is right. We need a legislative fix, not choosing to be at the mercy of the IRS, asking them to do the right thing.

Mr. Tribble, as I said earlier and spoken by others, this abrupt change in longstanding policy by the IRS has not only placed the millions of families at risk of losing much-needed support, but also puts the state agencies responsible for administering the Federal tax refund offset program at risk, as well. Can you speak to the impact this would have on your state program, as well as the children and families who rely on it if this issue is not addressed by Congress?

Mr. TRIBBLE. Thank you for the question. I can.

It is—it would be—this would be polling \$65 million out of the homes of Illinois families. This would be 18,000 families who today are receiving support, and the only type of support that they will receive during the course of the year now will receive nothing. This is huge. This would be, you know, a huge detriment to every family in our state who is a part of the child support program.

Mr. STEUBE. So, Mr. Fleming, it has been mentioned throughout the hearing the IRS's sudden shift mandating the termination of contractor access to data necessary for the administration of Title 40 child support programs put millions of families and even more children at risk.

While we are worried about increasing unauthorized access to Federal taxpayer information, I also recognize the need to clean up the problem caused by the decades of IRS decisions. As you know, there are several proposals being floated to alleviate the situation and ensure child support programs can operate as usual. Can you talk through your thoughts on what Congress should do to fix the issue?

Mr. FLEMING. Thank you, Representative Steube.

The only way to solve this conflict in law is for you to pass laws that clarify how it is going to go. You can either make states bring all of this in house—and we talked about the significant costs and additional employees that that is talking about—or you can recognize that these agreements have been in place long before the IRS identified this as an issue—it has not been chronically plagued with breaches of information—and recognize that captured within the child support field, used exclusively for establishing or enforcing obligations, subject to all of the safeguards that we have for other secure data that we have, that that is the way to clarify the law.

And so, we are hoping that the situation can be clarified with—even with the 2024 deadline, that is just entirely too short to come up with mitigation plans. And so, just as the IRS felt it had the authority to delay that for a year, it would sure be helpful if you all could lean on the IRS to give yourselves time to fix this properly through legislation and push that date back another couple of years.

Mr. STEUBE. Mr. Tribble, do you have anything to add to that?

Mr. TRIBBLE. No, I do not.

Mr. STEUBE. Ideas like as to what legislative fix Congress should do to fix this problem?

Mr. TRIBBLE. I agree with everything that Jim just said. That is exactly what needs to happen is, you know, this conflict that has existed needs to be remedied. And the only way that that is going to be fully remedied is through legislative action.

Mr. STEUBE. Thank you to the witnesses for being here today. I yield back.

Chairman LAHOOD. Thank you, Mr. Steube. I now recognize Ms. Moore of Wisconsin.

Ms. MOORE of Wisconsin. Well, thank you, Mr. Chairman, and I want to thank both the chairmen and the ranking members for calling this what I think is an extremely important hearing. And we could cover a lot of ground here, but I do want to try to stick to the topic at hand. And if I stray a little bit, forgive me.

I just want to go back to a point that Mr. Schweikert was making questioning you, Ms. Smith. And I am really happy, even though he is not here at the moment, to know that he is interested in the tribal topic.

I just want the panel here to be clear about what it means if we don't put this fix in. Is it the case you described a situation where you weren't able to take advantage of the tax offset provisions to get the tax interception for that one big payment because you don't have parity with the state.

So, it is not—so this is a two-step bill because not only do we need to fix this problem so that you can use contractors or other people and give them FTI, but in particular the tribes who are supposed to be sovereign, if this is not passed, they would not be able to administer their own programs. Is that correct?

Ms. SMITH. The tax offset for our tribe, it is a very important tool, enforcement tool, that we are able to provide those families with funds through that offset program. And it affects just so many—like we say, 40 percent of those families, of our families would not receive that offset.

Ms. MOORE of Wisconsin. Thank you so much for sharing that.

No, I just want to share with the committee, and again, I want to look forward to working toward this fix, but I am also leading bills that we have here and have had in Ways and Means for years that create parity between the tribes and states so that tribes can, in effect, not only get the Federal offset so that, you know, you don't find they would be able to get it, but also to safeguard them as well as other sort of vendors or contractors that might be doing it.

Now, Ms. Turetsky, You seem to have done a lot of research in Wisconsin. I just so happen to like Wisconsin. [Laughter.]

Ms. TURETSKY. I was born in Wisconsin, and I—

Ms. MOORE of Wisconsin. Okay, I knew. And I was really interested in your finding that kids who receive child support are better educated, with better educational outcomes.

Ms. TURETSKY. Yes.

Ms. MOORE of Wisconsin. Is that true? How can—

Ms. TURETSKY. It is true. It is not my research, but it is research that I am citing from others, including the IRP, the University of Wisconsin. There is a large body of research that shows that

children have—do better in school. They get better outcomes when they get child support. And that is partly connected to the income, having more income, but it is partly, I believe, connected to the fact that it comes from their parent. It is their parents' support, and the kids know it.

And so having your parents care for you sends a very powerful message and makes the kids, you know, feel more supported.

Ms. MOORE of Wisconsin. Let me ask you this. It is Nevada? We have a couple of states here that talked about that 100 percent of this money goes toward the non-custodial parent. There is no Federal law, is there, to say that you couldn't shave some off for administrative fees or costs?

What is your experience, and why have your states elected to pass through 100 percent of the childcare to the family?

Ms. TURETSKY. Are you asking me, or are you asking—

Ms. MOORE of Wisconsin. I am asking anybody, yes.

Ms. TURETSKY. If I can just set a stage, and then maybe—

Ms. MOORE of Wisconsin. Yes.

Ms. TURETSKY [continuing]. Turn it over to Bryan, there—in 2006 Congress passed a law giving states the option to pay some or all of the money to families. And this is part of a—the work started in 1996 to start moving some of the money to families when the program used to be—back 50 years ago it used to be primarily a cost recovery program.

And so, these two laws that Congress passed in 1996 and 2006 gave states the authority to not use the money for cost recovery, but instead pay that money to families. Illinois is a wonderful example, first in the country. California is following suit. There are more than half of states that are under that options law providing—directing, redirecting more of that money to families.

Ms. MOORE of Wisconsin. Right. Well, the former chair of this committee, Paul Ryan, and I are from Wisconsin—

Ms. TURETSKY. Yes.

Ms. MOORE of Wisconsin [continuing]. Sort of initiated that—

Ms. TURETSKY. Yes.

Ms. MOORE of Wisconsin [continuing]. Conversation. We had one amendment in the Budget Committee that was a bipartisan bill every year, and that was to have 100 percent pass-through for child support.

Ms. TURETSKY. I remember that Representative. I do remember that.

Ms. MOORE of Wisconsin. I wish I could ask you more questions, but the chairman is rolling his eyes at me already. [Laughter.]

Ms. MOORE of Wisconsin. So, I will yield back and just thank you all for coming.

And Brad Schneider and I are up here talking about how good a baby felt up against your breast. But anyway.

Chairman LAHOOD. Thank you, Ms. Moore. I now recognize Mr. Carey of Ohio.

Mr. CAREY. I want to thank both the chairman and the ranking member of the Work and Welfare and Oversight Subcommittee for bringing together our two subcommittees to discuss how to strengthen child support enforcement program for the states and the tribes.

As our witnesses and many of my colleagues have pointed out, the Child Support Enforcement Program is a successful, cost-effective Federal program. It provides vital support for millions of families and children.

I know that it was probably touched on earlier—and I apologize, I had another committee—but child support laws were enacted basically in the 1950s by states, and it wasn't until 1975, if I am correct, that we actually had a Federal law, and that was actually signed into law by Gerald Ford, who—his father was an absentee parent, and did not meet those child support payments, and was forced to—his mother was forced to work very hard in order to support their family.

In Ohio about one in three children are affected by Ohio's child support program, which is about one million children in Ohio. In the 1970s I was one of those children, so I can see how a lot of the issues that we are talking about today have been fixed, and we have got a little glitch that we really need to fix.

Research has shown that consistent child support and payments create an environment where parents, caretakers can be more involved with their children's lives, leading to better outcomes for their future. Ms. Corbine, I read your testimony. I didn't get to hear your testimony, but I read it. But having that consistency, knowing that you are going to get X amount of dollars at one given time or another, it gives you the ability to plan. It is an awful experience for a parent to—not being able to know whether they are going to be able to pay for the tennis shoes or the piano lessons, or basic food.

And so again, I go back to this fix that we must get done, and I will ask those questions here in a minute.

Currently, states do a great job of effectively running their child support enforcement programs, and current actions by the IRS threaten the states' ability to continue to administrate this vital program. You know, I can blame the IRS, but they are reading what they have in the law, and we have to do our job in Congress and fix that.

Mr. Fleming, as the former president of the National Council of Child Support Directors and the National Child Support Enforcement Association, could you share with the committee how many states utilize contracts to run and manage their child support programs?

Just briefly. I am sure you did it before.

Mr. FLEMING. Thank you, Representative Carey. Ohio runs a great program. I am not surprised that you are proud of it.

Mr. CAREY. Yes.

Mr. FLEMING. States vary a lot in terms of the extent to which they contract. What you frequently see are customer service call centers that are privatized. Each state needs to have what we call a state disbursement unit, which is just the in-house name for how you receive collections from parents, you properly ledger it for the case, and then you disburse that money to families. Those are frequently handled by private vendors, as well.

And when I was thinking about explaining that state agencies are not generally in a habit of buying and selling goods. We are not the Amazons—and not to give them a plug—we are not online mer-

chants. But having call centers and having disbursement units, that is very much a marketplace kind of specialty. And so, you see a lot of states that are privatized—or that have private contracts for those services.

The other thing that is huge is the IT area. You know, whether you have got an old system like mine, where nobody remembers how to program in that language so you have got to find a contractor, or you have got a newer system where it is built on software that is licensed from people who need to be licensed to manage that software, you have got to get your IT stuff outside. You can't host it. I mean, you can't cloud hosting at a state level.

So those are the main areas.

Mr. CAREY. Well, I just want to again thank the chair and the ranking member for bringing this to this body, and I want to thank all of you that came from many distances to talk about this very important issue. It is very important, and I think that we can work in a bipartisan way to make sure that we get the fix done.

So, with that, Mr. Chairman, I yield back.

Chairman LAHOOD. Thank you, Mr. Carey. I now recognize Ms. Tenney of New York.

Ms. TENNEY. Thank you, Mr. Chairman, and thank you, Ranking Member, and thank you to the witnesses. This is a really important issue, especially, obviously, we see so many single parents out there. I was one of them who was dependent on child support, as well, to raise my son.

I have got so many—I understand, I totally understand the viewpoint of protecting privacy under the IRS. It is extremely important, especially to everyone. And—but my question and my understanding of this is when we are talking about Federal—or contractors, I want to address maybe to Mr. Fleming first.

My question on the contractors is, does this include inter-agency contracting, like contracts between, say, the state and their attorney general's office and other enforcement agencies that get involved?

Is that—did the IRS just cut them off, in terms—and when they created this rule, without coming up with some kind of harmony between the rules and the conflict?

Mr. FLEMING. Representative Tenney, in some ways the literal answer to your question is it depends on which auditor you got. The auditors—

Ms. TENNEY. Let's start with New York State, where I represent.

Mr. FLEMING. The auditors are—I can't speak to New York's, in particular, I am sorry.

Auditors are humans, like the rest, and they do their best as they understand the rules to be. But you get two auditors, they are not going to line up precisely on all aspects of what is allowed or not.

You have states that, yes, for their intra-agency agreements, have been told those are contracts and you can't do it more than the three data elements. You have other states that are state-supervised and county-administered. I think New York is one of those states. And in those states many auditors recognize, well, yes, they

are local child support agency, it is specifically listed in the Internal Revenue Code, so they can see all the data elements. So—

Ms. TENNEY. Well, let me ask you this. So, New York is county-run. And I used to do family court as a lawyer, and I was involved in child support proceedings. Are they going to cut off our local DAs, district attorneys, and others who are involved in enforcing the child support—these child support actions because of the privacy laws and the ability to get the FOP, you know, to get the referral on that?

Mr. FLEMING. Representative Tenney, so far, when the states have acknowledged this lack of consistency, there has been confirmation that local child support agencies will not be affected.

Ms. TENNEY. So, do you have a concern about the job that the contractors are doing?

It seems that they had an awful lot of money that was coming in, 27 billion in, you know, fiscal year 2022 that went back in child support collections that we—have just gone up in smoke now, because we are not able to get that money. So why would the IRS make such a ruling, knowing that it is so harmful to different parents, single parents, and people dependent on child support without an alternative?

And I question—I know I am asking you to speculate, but for what reason would you do such a thing?

I get Congress has to act, but why would you do something, knowing that it would cause immediate harm—or, I should say, soon to cause harm without a solution?

Mr. FLEMING. Representative Tenney, that—boy, that is—we have asked ourselves—we, being the state directors—have asked ourselves the same question. Why now? Why this?

And what we have gathered, a little bit of information, is some new, smaller law changes that have required directors to submit an annual certification that they are not revealing FTI inappropriately. And the IRS doesn't want us to falsely certify when the IRS feels that, yes, we are sharing too much with contractors. So, I think that might be part of it, is that they don't want us to falsely certify. And the certification was a new requirement—

Ms. TENNEY. Why was there a presumption that you would falsely certify? You make it sound like there is a presumption of certification—

Mr. FLEMING. Well, I think they are looking at it as saying, well, in the—the IRS feels that the states are sharing too much, so they don't want to ask directors to falsely certify that they are obeying the IRS when the IRS knows, and we are—that they are holding in abeyance these findings that we are sharing too much.

Ms. TURETSKY. Representative, if I can jump in from a Federal perspective, we manage—the Federal office manages the FPLS, the large set of databases, including employment information about all U.S. employees. And like the IRS, we, the former commissioner were very concerned about protecting the confidentiality, the privacy, the integrity of the NDNH data. And you know, and other actors wanted to use the data. There is a tension. When you are managing confidential data, there is a tension about how much you share and—

Ms. TENNEY. But let me get back to this. What is the—I was trying to find the motivation for the IRS. Is the motivation to really cause centralization and control with the agency to the detriment of some of these contractors, who, as you say, could be certified, and certified through a program from the IRS?

Because we have data that shows that the IRS is not necessarily adequately certifying these contractors. And if they did, maybe it is the IRS that needs to certify better so that we can allow this money to come through and actually work through the states. Because, as you implied earlier, Mr. Fleming, it is very costly for the states to have to adopt this program, and that the contractors have been doing an adequate job.

That is my question. I know I have run out of time, but maybe—would—Mr. Chairman, we could either have more time, or you could answer it in the next round. Thank you.

Chairman LAHOOD. If you can, quickly answer that, Mr. Fleming.

Mr. FLEMING. Representative Tenney, we are curious what led to this, but the meetings we have had with the IRS suggest that they are just trying to follow the laws that Congress has passed.

What has changed now versus before is a little hard to tell, but it is not—it doesn't appear to be motivated in any way of driving the market to in-house people or to—away from private. They are just feeling like they are applying the law as it reads.

Chairman LAHOOD. Thank you.

Ms. TENNEY. Thank you, I yield.

Chairman LAHOOD. Thank you, Ms. Tenney. I now recognize Ms. DelBene for five minutes.

Ms. DELBENE. Thank you, Mr. Chairman, and thanks to all of our witnesses for being with us today. I greatly appreciate it.

I wanted to talk a little bit about child support programs run by tribes. They don't have access to all the tools and—that state-run programs have. And so maybe I will start with you, Ms. Turetsky. I wondered if you could explain more about why it is important to have tribal-run child support programs that can access the same tools that state programs have.

Ms. TURETSKY. Well, certainly, we support full parity—"we," meaning the Federal office; "we," meaning me individually—the Federal office and the states all support the importance of full parity.

Some of the reasons for tribal child support program's effectiveness is that it is working with a community of people with a set of—with its own culture, its own expectations, its own traditions. And working at a community level by—with some—you know, with a caseworker who understands your situation can go a long way to opening up trust on the part of the parents.

And in addition, you know, tribal child support programs are closer to the money. They know the circumstances of the families that they are serving in a way that a large, you know, systems-driven state really can't have that same personal touch across all cases, and certainly not across tribal-state lines.

Just to add that the tribes also have some special flexibilities under the law.

Ms. DELBENE. Thank you. Tribal child support programs are very, very important in my state of Washington. I think we are tied with Oklahoma for the most tribal child support programs in the nation.

But also, less than a third of the tribes in Washington have an established child support program. So, I was wondering, Ms. Smith, if you could maybe talk about what the barriers are for tribes in establishing these programs, and what Congress could do to better help.

[Pause.]

Ms. SMITH. Part of it is—and I—actually, there is a rule that is coming out that—well, that is going to help tribes, more tribes, access the funding.

And part of the previous—kind of stopped some tribes was the match part and coming up with that match for the—it is 80/20. Coming up with that 20 percent was really, really hard, and that did—that was a barrier for many tribes to move forward. And it is—it was difficult for the tribes that did have programs to accumulate that match for the 80/20 match.

Ms. DELBENE. So funding, primarily—

Ms. SMITH. Yes.

Ms. DELBENE [continuing]. You think is number one. Okay.

We were talking a little bit about taxpayer data a second ago, and I wondered. Is there any difference between the way that tribes handle and protect personal taxpayer information than what state programs do?

Ms. SMITH. No.

Ms. DELBENE. Do you know?

Ms. SMITH. We follow all the same—we are obligated to follow all those same guidelines. We do all the—put—we put in all the same safeguards, all those requirements, the same as states.

Ms. DELBENE. Thank you. And then I wondered also if you could, Ms. Smith, if you could share your perspective—Ms. Turetsky talked about this a little bit, but your perspective on being able to provide culturally specific approaches to these services.

Ms. SMITH. It is very important to have that. I get—I—the face-to-face conversations so that you—the trust, what Ms. Turetsky had mentioned. Trust is so important to build. And having the community's understanding and support of child support, and our agency, and being able to help families actually see those outcomes within the community is so—well, it is personally rewarding, but it also helps the individual. The child especially.

I mean, you can support the child much better when you are able to help the parents have a better relationship, be able to do that co-parenting together, and be able to provide those avenues for them, and support those avenues for them to co-parent and provide physically, spiritually for the child, financially.

And we do—because we are a tribal program, we are able to reach out on the cultural side and be able to provide those cultural aspects within the program that helps the family and supports the family.

Ms. DELBENE. Thank you.

Thank you, Mr. Chairman, I yield back.

Mr. FEENSTRA [presiding]. I now recognize Mrs. Steel from California for five minutes.

Mrs. STEEL. Thank you, Mr. Chairman, and thank you, Mr. Chairman, for holding this hearing, and all the ranking—two ranking members, too. And thank you for all the witnesses coming today and staying long time with us.

I am hopeful that we can work in a bipartisan way to ensure states and tribes have the tools necessary for effective child support enforcement. With the recent IRS ruling on contractors, Congress must work together to find a permanent solution.

Mr. Fleming, since 2009 the IRS has made audit findings in 48 states related to unauthorized disclosure of Federal tax information beyond the three approved elements to contractors providing support service to the CSE, Child Support Enforcement, agencies. To your knowledge, have any of these findings led to an information breach or leak of taxpayer information?

Mr. FLEMING. Representative Steel, the answer is no, they have not.

Mrs. STEEL. So that is just very simple, and they never really find it. That is a very simple answer. So, thank you so much.

I want to actually ask Ms. Corbine, but she has gone to feed the baby. But she is a true hero, raising three children. In her testimony she mentioned her other children also depend on child support and payments. Having said that, she is not here, so I am going to ask Ms. Smith about the question.

In Ms. Corbine's testimony she stated how the LCO Child Support Office recently informed her that the Tax Refund Offset Program her family depends on is now suspended. Why is this vital program being suspended after many years working with the State of North Dakota, and what is needed to ensure your tribe doesn't have to suspend this program, and can run and manage your own tax offset refund program?

Ms. SMITH. I think the most simple answer to that is the legislative fix that is needed in order to clarify the—how the contractor language is interpreted, and also that tribes have parity.

Mrs. STEEL. So, what you are saying is that Congress must work together to find a permanent solution and clear things up.

Ms. SMITH. Yes.

Mrs. STEEL. Okay, thank you.

Mr. Fleming.

Mr. FLEMING. Representative Steel, if I could also respond to that, since North Dakota, my state, is the host of the consortium, it is a different issue than the contractor issue.

The contractor issue, we have been warned, is going—you are going to have to do something by October 1 of 2024.

The consortium hosted by North Dakota was stopped immediately for two reasons. One was that the audit found that we were—that even though we were de-identifying the collections that we provided to tribes, that that was still a release of FTL. That was a change in IRS interpretation from two prior audits that we had. The second grounds are that the IRS did not understand why North Dakota would be serving children in Wisconsin.

And so, we hope to continue working with IRS leadership to revisit those questions. There is no residency requirement for child

support. A person in California can apply for services from North Dakota. North Dakota has to provide them, whether a parent lives there or not.

So, when other tribes are saying, “We have checked with our state,” their technology won’t let them partner with us, “would you help,” that is—we are geared up to help other child support programs when they ask us. So that is where it is unique, and the status quo doesn’t really work for that tribal consortium. It is unplugged right now. And really, time is fleeting if we are going to get it back in place in time for the upcoming tax season.

Ms. MOORE of Wisconsin. Will the gentlelady yield? Will the gentlelady yield?

Mr. FEENSTRA. Will you yield?

Mrs. STEEL. Yes.

Ms. MOORE of Wisconsin. Thank you so much. I just—a point, he is making a point that I have been trying to make. I have got a bill that we all need to work on that fixes the other part of this problem, and to give tribes some parity so that they can get the financial information. It is a matter of tribal sovereignty.

And I would thank the lady for yielding, and I would yield back.

Mrs. STEEL. Thanks, Mr. Chairman, I yield back, too.

Mr. FEENSTRA. Thank you, both of you. I now recognize Ms. Van Dyne from Texas for five minutes.

Ms. VAN DUYNE. Thank you very much, Mr. Chairman, and thank you to our witnesses for taking the time to be here today.

And the Child Support Enforcement programs play a vital role for millions of families across the country, providing resources to the most vulnerable members of our communities when parents shirk their legal and most critical responsibility. Over 1.6 million children benefit from these programs in Texas alone. And in 2020 my home state led the nation in total child support collections for Texas children, more than 27 other states and territories combined.

And once again, we see that this IRS is pushing counterproductive and harmful policies. The IRS’s sudden policy reversal to effectively terminate the use of contractors in these programs would result in significant compliance costs to states and put millions of families at risk.

It is crucial that we balance the efficient administration of these vital programs with the protection of confidential Federal taxpayer information, but the Child Support Enforcement program is one of the most cost-effective Federal programs, and we owe it to the American families to advance a permanent solution that accomplishes both of these goals.

In the wake of the IRS’s abrupt shift in policy, my home state of Texas’s attorney general filed suit to reverse this policy shift, claiming that the IRS decision was arbitrary and capricious in violation of the law. In his complaint, the attorney general noted that the IRS did not take into account the serious reliance engendered by the IRS’s non-enforcement of this policy since at least 2009.

And Mr. Fleming, I appreciate your testimony here today. And while this case is still ongoing, I do think that states’ reliance on the IRS’s non-enforcement of this policy for years is worth noting. So, can you please speak to the states’ reliance on the IRS not enforcing this policy, historically?

Mr. FLEMING. Thank you, Representative Van Duyne. A state your size, I can't imagine how many dollars are attached to the mitigation plans.

The state agreements with these private sources pre-dates the audit findings. The contracts came first. The audit findings came later. And you are right, the states have relied on this. When those audit findings were issued, it went to the heart of how those services were delivered. And they can look at it and say, you have got to be crazy if you think we are going to be able to pull this off, bringing it within public employees. It is just not going to happen.

So, with the findings being held in abeyance, with two Federal agencies recognizing that the law was unclear, then the states said, well, okay, until this—you said it is going to be held in abeyance until the conflicting interpretations can be resolved. That resolution has not happened. What has happened this year is they said, yes, you need to stop by October of 2024.

Ms. VAN DUYNE. So, it is not getting any better. In fact, it is potentially getting much worse.

Mr. FLEMING. Well, Representative, I don't know that it is going to get worse, because states have always done business the way that they have. Texas, for example, I suspect, has always outsourced a good chunk of its IT work. So it is not going to get—I mean, it is not like they are going to contract with more IT people, they are just going to—

Ms. VAN DUYNE. No, no, no, no. But if they are prevented from doing that, the results are going to be catastrophic.

Mr. FLEMING. They very well could be, yes.

Ms. VAN DUYNE. So, what are the far-reaching consequences of the IRS's policy change that—what do you think it will have on states and families going forward?

Mr. FLEMING. Well, based on the surveys so far for the states, the 33 responses, if we extrapolated that, you are talking about 6,000 new public employees across the country, probably \$1 billion a year of state mitigation costs, a billion a year with Federal match being 66 percent of that.

If the states are required to change how they deliver services, that is pretty much going to be all they do for the next several years. They are going to have a lot of blowbacks from legislators who are not happy about being asked to fund, in your case, probably several hundred million dollars of additional costs. And really, the program effectiveness is going to be diminished. I mean, states are going to be struggling to keep their core functions running. That is going to have an impact on collections.

Ms. VAN DUYNE. Thank you.

There are a number of existing tools at the government's disposal to incentivize parents to pay child support. While I recognize that these are state programs, we have seen people flee across, as you mentioned, state lines, creating interstate problems. Our approach should include carrots and sticks to ensure parents pay their support. Ms. Turetsky, are there other ways that the Federal Government can impose penalties?

And are the existing tools being fully utilized?

Ms. TURETSKY. The most important Federal enforcement tool is payroll withholding, with three-fourths of collections coming that way.

There are—I would say Congress has done a good job giving the child support program a range of other tools like passport denial, like driver's license suspension, like bank account matching and liens. And all of these tools in the right case can make the difference between having a collection or not.

Ms. VAN DUYNE. And I appreciate that. I have run out of time, but I thank you for your answer.

And I yield back.

Mr. FEENSTRA. Thank you. I now recognize Mr. Evans from Pennsylvania for five minutes.

Mr. EVANS. Thank you, Mr. Chairman and Ranking Member. I am glad to hear—to discuss ways we can improve the nation's child support system. The issue is of vital importance, as nearly 24 million children live in single parent—or nearly 30 percent of all single parents live in poverty. In fact, in Pennsylvania 33.1 families headed by a single parent live in poverty, which is above the national average.

As we know, children of color are disproportionately likely to be single parents. In Pennsylvania alone, 200,000 African American children and 185,000 Hispanic children live with single parents. That is why I am glad to see why—to see many states, including Pennsylvania, starting to modernize their child support programs in the family-centered approach. This has been proven to strengthen family relationships, reduce child support debt, and increase the consistency of child support. It is vital that this committee continue to support family-centered child support policy, ensuring that we put the child's well-being at the center of our policy.

Ms. Turetsky, I want to make sure I get your name right.

Ms. TURETSKY. That is close enough.

Mr. EVANS. Okay. At a recent subcommittee hearing, a grandparent caregiver spoke about the requirement for grandparents to refer their children to child support, risk safety of the grandchild, and bring childcare. What can Congress do to help protect these children and grandparent caregivers?

What other improvements to Federal child support do you see that would be helpful?

Ms. TURETSKY. Well, grandparents who are raising their grandchildren deserve a lot of support from the child support program and other programs.

The Federal law called the Cooperation Law, TANF Cooperation Law, has the flexibility to permit states to not require grandparents to cooperate or participate in the child support program, and the Federal law also requires states—does require states to look at the safety of the family members if there is family violence.

What Congress could do is take a look at that cooperation provision in the TANF program, and exclude grandparents from its reach, or otherwise look at how effective the cooperation provision is, generally. What happens now is that families who participate in TANF are required to participate, and families who do not receive TANF can voluntarily sign up for services.

I think there is quite a bit Congress could do to take a look at that pathway, see how effective it is, and see what changes might be made. But the current law does allow states to not send over grandparents for child support.

Mr. EVANS. Does anybody want—you—any comments to add?

Mr. TRIBBLE. Thank you, Representative Evans. Yes, I did want to say, because we—in Illinois we actually leverage this. We do not do that. We put that choice in the hands of the family. The family can make the decision as to whether they want to pursue child support in those cases because, ultimately, the family is the one that is impacted positively or negatively by that.

Further, we have also created a group of all of the social service agencies that will serve the grandparents who are caring for their grandchildren to where they can connect each other, and then they can also connect those grandparents to the host of services that that family might need to not merely survive, but to thrive. Thank you.

Mr. FLEMING. And Representative, I would add that there is a workgroup right now between the directors and APHSA and TANF directors to further develop the understanding of the parameters states have for not referring cases if good cause exists because the grandparents simply don't want the services.

Mr. EVANS. Thank you, Mr. Chairman.

Mr. FEENSTRA. Thank you. I now recognize Mr. Smith from Nebraska for five minutes.

Mr. SMITH of Nebraska. Way over here. [Laughter.]

Mr. SMITH of Nebraska. Thank you to all of our witnesses. I certainly thank you to committee leadership, as well, for having this hearing. It is timely, it is relevant. Unfortunately, we have to look into this. But I think it is important, as I mentioned, ensuring parents have the support they need while also ensuring that state agencies continue to protect and respect private taxpayer information.

You know, instances of unauthorized access to information, these leaks have happened. I think it is important that we note that. Now, not only is it concerning to me that it happened, that these leaks have happened, but I believe it takes more than 400 days, on average, for the IRS to conclude an investigation related to these unauthorized points of access. But the leaks themselves and the amount of time it takes to complete this unauthorized access investigation, I think, is simply unacceptable.

I would also like to add, though, and note that IRS directive 1075 could affect more than just child support collection in my home state of Nebraska. I have also heard from our state's department of labor that the directive will have a similar impact on their efforts to make collections in our state's unemployment program related to overpayment of UI benefits and delinquent UI tax payments from employers, as well.

Like other states, removing the ability of the Nebraska department of labor to utilize contractors would be cost prohibitive. This is quite obvious. I hope our subcommittees can look further into these concerns as we do continue to address this very important issue.

Mr. Fleming, I am curious if you heard from other agencies, as well, with concerns surrounding directive 1075.

Mr. FLEMING. Representative Smith, I have not heard from other agencies. What you are saying is interesting to me because, when you parse out 6103 and you look at different agencies at the state level who can get FTI, my recollection is that state tax department language is much more forgiving in the contractor or agent area than the child support language. So, what you described was news to me.

Mr. SMITH of Nebraska. Okay. Well, these are the state officials who have reached out to me on their own, proactively on their part. And so, I hope that we can continue to work on this.

I know some of these issues have been touched on, but, you know, certainly, Mr. Fleming, I commend your efforts in North Dakota as a leader on this issue. I think it is especially interesting that in 2007 the Office of Child Support Services at HHS specifically endorsed and encouraged states like yours to partner with tribal child support agencies to deliver these payments. So, have you been told why the service your state provides to the tribe are being suspended?

Mr. FLEMING. Representative Smith, that 2007 document was the script that North Dakota followed.

And I do want to be clear. This is the tribes' consortium. Whether a tribe joins or not is completely up to the tribes. North Dakota comes to that as the service provider. They call the shots. We make it happen as a good service provider, but they come to us, we check with the state that they are in, and the state confirms they are not in a position to help. And then we will say, well then, we will be glad to help.

We design these processes to be replicable, so it is easy for states to join or tribes to join. There is one three-page agreement that governs the consortium. There is a two-and-a-half-page memorandum of understanding with each tribe. That is it. Then you have got one attachment, which is all the IRS safeguarding stuff, which is probably as long as the rest of the agreement combined. But it is important that that is part of it.

But over time, in 2016 and 2019, the IRS came to North Dakota. They did the site check. In 2016 I sat down with the lead auditor, and I showed them all the consortium documents. I showed them the extent to which we de-identified. When we get collections and tax offset, we send it to LCO, we say, "Here is a check from the State of North Dakota." Then you got a remittal that says this is this person and they get this amount.

Now, if you intercepted that in the mail, you wouldn't know it was FTI. It was de-identified. Up to this year, that—or 2022, in December—that had been previously blessed by two auditors who agreed that that is not sharing FTI. So technically, LCO would not have even had to have audits because they were not recipients of FTI. The IRS had agreed to that. It was December 22 when that changed. And that is why this is unique from the contractor issue that is delayed. It was immediate go-stop.

And the other challenge is, as we know, tribes are separate sovereigns. To suggest that North Dakota can help tribal children in North Dakota as opposed to those in Wyoming or Montana or

Oregon or Wisconsin, that doesn't make any sense. But we are still going to work with the IRS on that. I am still going to be optimistic that, with the new administrators there, that we can work through the understanding of how intergovernmental cases are created, we can resume the idea that de-identification is possible, and make it happen.

But, Representative, this committee could really give us a shot in the arm in that if it was to observe to the IRS that it didn't appreciate the inconsistent audit findings.

Mr. SMITH of Nebraska. Well, thank you again. My time has expired, but I hope we can continue to work on this in the interest of many, many, many individuals. And so, thank you to our entire panel, and everyone who is working on this.

I yield back.

Mr. FEENSTRA. Thank you. I now recognize myself for five minutes. I am the last one, and I just do want to thank our committee, our subcommittees for putting this all together.

And specifically, I want to thank each of you as witnesses. Listening to you is very impressive. You have done a great job.

There is a balancing act. And when we look at protecting the information of American taxpayers versus what needs to be collected and what needs to be done, you think of section 6103, the section of the internal code that protects the confidentiality of Federal tax returns, and it does make exceptions. But we need to be careful with those exceptions.

We saw on the GAO report on September 11 that the IRS needs to address some of these security issues. In this case, however, contractors in question have had access of taxpayer information for over decades, and they have exposed a lot of unnecessary information, which is a concern.

So, Mr. Tribble and Mr. Fleming, based on how this program has been administered so far, do you believe this exception should continue?

And if not, how do these programs continue to be administered?

Mr. FLEMING. Representative Feenstra, I do think they should continue the way that they are.

I am sitting here thinking, as well, about the medical area and how the transfer of very sensitive medical information still needs to happen with various providers, but it is always in encircled in this careful, many-layered confidentiality. And that is how child support operates, is we are continually tested. There is nothing like a grandma in a child support case who calls up the call center, wants to know why we are picking on her son, or we are not delivering money for her daughter.

Mr. FEENSTRA. Sure.

Mr. FLEMING. And without a release, we can't talk to them. And so, we are regularly tested, the boundaries of what we can share and not share.

And just like the banking information we get, just like the new hire data we get, the moment we get it we do our very, very best to protect it from any hacking, to protect it from inadvertent release. We track the footprints of people who see that information and make sure it is always a work-related reason. So, we are really

doing, I think, a really good job of protecting that data, but we make good use of it.

And so that is why my encouragement would be for this—for the arrangement to continue to be the way it is, and not to force states to revisit all these successful partnerships.

Mr. FEENSTRA. Very good.

Mr. Tribble.

Mr. TRIBBLE. I would agree wholeheartedly with Mr. Fleming. I think that the—everything should continue as it has been.

The entirety of our systems have been built on this. We talked earlier, I spoke briefly on the modernization project that we have in Illinois that is ongoing and the fact that we are adopting another state's federally certified system. That federally certified system is reliant upon contractors, and cloud services, and everything that we are talking about so that we can see, you know, the benefit of a modern child support program, as opposed to our COBOL-based program. So that is—

Mr. FEENSTRA. That is—

Mr. TRIBBLE. Yes.

Mr. FEENSTRA [continuing].—Scary stuff.

Mr. TRIBBLE. Yes, absolutely. So yes. And just simply, you know, making—you know, legislating what has been the practice for the past, you know, couple of decades would get us there.

Mr. FEENSTRA. Right. So, do you think other states could follow your models? And probably more importantly, let's look at training. I mean, you know, now we know what is behind us. We can look forward. Between you two, I mean, how do we look to the rest of the country and say how do we train and how do we make sure this happens in every state?

Mr. FLEMING. Representative Feenstra, I would say that that training is already occurring.

Mr. FEENSTRA. Okay.

Mr. FLEMING. One of the very first things that happens when a new employee joins a program is to have the required safeguarding training from the IRS. We can—we have watch parties in my office every year in January. We do that same video. But for new hires it happens immediately because they are not allowed to see production data until they have the adequate security. The IRS provides the video, OCSE—or OCSS also provides a video. All of that training is happening, and all of that same training is required of any contractor who is going to see FTI.

Mr. FEENSTRA. Wow. And Mr. Tribble?

Mr. TRIBBLE. We don't have watch parties in Illinois. [Laughter.]

Mr. TRIBBLE. But we do have very robust training that occurs very similar to Mr. Fleming's in that, you know, that we are going through to the point where our training that we have, it actually times people. How long are you on each page? Is it possible for you to have not read that completely? I mean, that is the extent that we are going to, because this is serious. This is—

Mr. FEENSTRA. It is.

Mr. TRIBBLE. As we have all said, this is at the heart of what we do as child support.

Mr. FEENSTRA. Right.

Mr. TRIBBLE. It is all about confidentiality and protection of personal identifiable information, and, you know, also Federal tax information.

Mr. FEENSTRA. Well, thank you to everyone. And now I would like to close. I think we are done with all our questions. So, I would like to thank our witnesses, each one of you, for appearing before us today and sharing your experience and on-the-ground perspectives.

As we have seen, there is a pressing issue that deserves our immediate attention. I hope that we can work together to find permanent solutions to this disconnect between the Social Security Act and the Internal Revenue Code, and ensure our states and tribes have the tools necessary to administer and deliver this vital support system for millions of Americans, families, and children.

Please be advised that members have two weeks to submit written questions to be answered later in writing. Those questions and your answers will be part of the formal hearing record.

With that, again, thank you, and the committee now stands adjourned.

[Whereupon, at 4:29 p.m., the subcommittees were adjourned.]

MEMBER QUESTIONS FOR THE RECORD

DANNY DAVIS

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Congress of the United States
House of Representatives

COMMITTEE ON
WAYS AND MEANSRANKING MEMBER:
WORKER AND FAMILY SUPPORT SUBCOMMITTEEMEMBER:
HEALTH SUBCOMMITTEE

December 13, 2023

Vicki Turetsky, Esq.
Independent Consultant
558 East 87th Street
New York, NY 10128

Dear Ms. Turetsky:

Thank you for sharing your time and expertise with the Ways and Means Committee during the hearing on November 29, 2023, focused on Strengthening Child Support Enforcement for States and Tribes. I have a few additional questions for you that could help inform our policy efforts related to child support services.

In your testimony, you talked about how collecting more child support reduces child poverty. Parents can pay more if they have better jobs. This is why my Responsible Fatherhood Act would create a program to allow child support offices to offer employment services.

1. What are the advantages to having the child support office offer employment services directly rather than referring parents to other agencies?

In addition, your testimony described the history of the child support program. I think many people who are not as familiar with the program incorrectly believe it is a part of the Temporary Assistance for Needy Families law.

2. Can you discuss how the child support program is a universal program with the vast majority of child support cases coming from the child support office directly and voluntarily because child support is helpful to these households in meeting their children's needs?

Sincerely,

Danny K. Davis
Member of Congress

Responses to Questions for the Record

Strengthening the Child Support Enforcement Program for States and Tribes
November 29, 2023 hearing

Subcommittee on Work and Welfare and Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives

Submitted by Vicki Turetsky, Esq.
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December 28, 2023

Thank you for this opportunity to respond to questions for the record.

1. What are the advantages to having the child support office offer employment services directly, rather than referring parents to other agencies?

Most employment programs for noncustodial parents are child support-led, which means that the child support agency is the lead agency and is accountable for employment outcomes within the state.¹ More than half of state child support agencies have active partnerships with other agencies to fund and provide employment services to noncustodial parents. However, very few of these states operate statewide programs.²

Existing child support partnerships typically draw on Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), or Workforce Innovation and Opportunity Act (WIOA) funds to pay for employment services for noncustodial parents. Currently, Federal Child Support program matching funds are not available to pay for

¹ In 2014, only three states operated statewide programs (Georgia, Maryland, and North Dakota). Office of Child Support Services (OCSS), *Map and Description of Work-Oriented Programs for Noncustodial Parents*, DCL-14-10 (May 27, 2014), <https://www.acf.hhs.gov/archive/css/policy-guidance/work-oriented-programs-noncustodial-parents>.

² As of 2014, 30 states and the District of Columbia had 77 employment programs for noncustodial parents. Eight years later, in 2022, 32 states operated child support-led employment programs. OCSS, *Child Support-Led Employment Programs by State* (July 22, 2022), <https://www.acf.hhs.gov/css/training-technical-assistance/child-support-led-employment-programs-state>; OCSS, DCL-14-10.

employment services, although states may use limited grant and incentive funds to help pay for the services.³

Three decades of research, including multi-state federal demonstration projects, have found that child support-led employment services offered as an alternative to traditional child support enforcement have the potential to improve the outcomes of noncustodial parents with a limited ability to pay child support.⁴ About 25 percent of noncustodial parents participating in the child support program have incomes below the federal poverty threshold.⁵ Most noncustodial parents who fail to make regular child support payments lack full-time employment or sufficient wages to comply with their child support orders. Some are incarcerated or have a history of incarceration, creating additional barriers to stable employment, housing, and child support payment. Although noncustodial parents with low earnings have diverse needs, there is some evidence that employment services may make the biggest difference for noncustodial parents with no recent work history.

Research suggests that child support agencies are especially well-positioned to manage employment programs tailored for unemployed and underemployed noncustodial parents participating in the child support program. Child support agencies are focused on improving parental employment and earnings in order to increase their ability to support their children, and they are measured on child support outcomes. In addition, child support-led programs can uniquely address parenting responsibilities, such as fatherhood and co-parenting components, and child support-related barriers to employment, such as driver's license suspension, unrealistically high child support orders, and unmanageable child support debt. Tight coordination between employment and child support services is critical for the success of employment programs serving noncustodial parents because child support obligations themselves can be barriers to employment.

Although there is no magic formula, there is consistent evidence that employment services offered in combination with responsive child support services, case management, and other supportive services can improve the employment, earnings, and child support compliance and payments of noncustodial parents who are unemployed or have low earnings and owe child support. In addition, research finds that child support-led employment programs can result in noncustodial parents gaining an increased sense of responsibility toward their children, increased father-child contact, and improvements in noncustodial parents' attitude toward the child support program. Child support agencies have demonstrated that they can effectively partner with other service providers, overcome recruitment challenges, and gain the trust of parents.⁶

However, the central problem with referral and partnership arrangements is the lack of stable funding available to deliver sustained employment services to noncustodial parents at scale and

³ 42 U.S.C. §§ 655; 658a; 1315.

⁴ See extensive research cited in Vicki Turetsky, "Providing Employment and Income Supports When Noncustodial Parents Have Barriers to Payment," *An Evidence-Based Approach to Child Support* toolkit, policy brief no. 4, Ascend at Aspen Institute and Good+Foundation, 2023, <https://ascend.aspeninstitute.org/an-evidence-based-approach-to-child-support/>.

⁵ Elaine Sorensen, *The Child Support Program is a Good Investment*, OCSS, 2016, https://www.acf.hhs.gov/sites/default/files/documents/ocse/sbtn_csp_is_a_good_investment.pdf.

⁶ Studies cited in Turetsky, 2023.

over time.⁷ This is because other partnering agencies have different and competing funding priorities. Often these priorities are established by law. Unless the employment programs are child support-led, they often do not serve parents with the same level of disadvantage in the labor market or they lack integrated supports for the participants' parenting roles and responsibilities. On the other hand, child support-led employment programs for unemployed and low-earning noncustodial parents are usually small and do not address the need because they lack sufficient and sustained funding. For the most part, these employment programs are limited to one or a few counties within a state. Usually, parents lack any access to these services, especially those living in rural counties. Experience shows that employment programs launched with federal research grant funds sometimes end when the grant funding ends.

2. Can you discuss how the child support program is a universal program with the vast majority of child support cases coming from the child support office directly and voluntarily because child support is helpful to these households in meeting their children's needs?

Most financial support for children living in families with low incomes is provided by their parents, not the government. Child support is a significant and long-term income supplement that improves the financial stability of families, pays for the day-to-day needs of children, and improves their wellbeing and developmental outcomes, especially for families with modest means. In fact, a large body of research finds that regular child support payments have a greater impact on children's educational outcomes dollar for dollar than any other type of income.⁸

Almost two-thirds (61 percent) of children receiving child support services are living in or near poverty.⁹ When families with incomes below the federal poverty threshold receive it, the child support represents 41 percent of their total family income. When deeply poor families (those with incomes that are 50 percent of the poverty threshold) receive it, the child support represents 65 percent of family income.¹⁰

Under 42 U.S.C. § 654(4), states provide child support services to any child who lives apart from a parent, regardless of income, based on a voluntary application for services. This includes children of separated and divorced parents, for example, or parents who never married and are no longer together. The vast majority of families participating in the child support program do so voluntarily in order to receive child support income.

Children receiving TANF cash assistance (or under a state option, SNAP benefits) are required to participate in the child support program when they live apart from a parent. In addition, children placed out of home and receiving foster care maintenance payments funded under title IV-E of the Social Security Act may be referred to the child support program in appropriate

⁷ 42 U.S.C. § 666(a)(15) requires noncustodial parents to participate in work activities in appropriate circumstances if they owe overdue child support with respect to a child receiving TANF, but this provision does not specify a funding source.

⁸ Sorensen, 2016.

⁹ Elaine Sorensen, *Characteristics of Custodial Parents and Their Children*, OCSS, 2021, https://www.acf.hhs.gov/sites/default/files/documents/ocse/characteristics_cps_and_their_children.pdf.

¹⁰ Sorensen, 2016.

cases.¹¹ Eight (8) percent of child support cases involve families receiving assistance and required to participate.

In all, the child support program collected \$27.4 billion in 12.3 million child support cases in 2022. More than half (53 percent), or 6.5 million cases, involved families who never received cash assistance and voluntarily applied for child support services in order to obtain child support income. In 2022, the child support program collected \$19.2 billion for these families. This translates to \$4,381 in annual child support income for families in cases with payments.

In addition, 39 percent, or 4.8 million cases, involved families who formerly received cash assistance. Although families can stop receiving child support services once they leave TANF, these families continued to voluntarily participate in the program. In 2022, the child support program collected \$7.6 billion for families who formerly received assistance, or \$2,580 per paying case. Families received \$6.9 billion, or 91 percent of collections in former assistance cases. Even though these families no longer receive assistance, states kept \$757 million, or 9 percent, to reimburse the cash assistance the families previously received according to federal distribution rules.¹²

Finally, 944,762 cases (8 percent of the total caseload, as mentioned), involve children receiving TANF or foster care maintenance payments. Families who currently receive assistance are required to assign to the state their rights to support payments owed during the assistance period, and they do not benefit from most of the support collections made on their behalf. In 2022, the child support program collected \$616 million for families who currently receive assistance, or \$1,824 per paying case. States kept two-thirds of these collections, or \$404 million, to reimburse cash assistance, with the remainder paid to families.

¹¹ Children receiving Medicaid may be referred to the child support program to obtain medical support (in the form of private health insurance, public health coverage, reimbursement for out-of-pocket expenses, or Medicaid reimbursement). Medical support is ordered separately from regular child support payments.

¹² 42 U.S.C. § 657.

PUBLIC SUBMISSIONS FOR THE RECORD



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Date: December 13, 2023

To: Joint Ways and Means Oversight Subcommittee and Work and Welfare Subcommittee

From: Margaret Diamond, Executive Director Lac Courte Oreilles Tribal Governing Board

RE: Comments for the Joint Ways and Means Oversight Subcommittee and Work and Welfare Subcommittee Hearing on Strengthening the Child Support Enforcement Program for States and Tribes

At the November 29, 2023 Joint Subcommittee Hearing guided by Work and Welfare Chairman LaHood and Ranking Member Davis; and by Oversight Subcommittee Chairman Schweikert and Ranking Member Pascrell; Lac Courte Oreilles Tribal Governing Board is proud to note that two of our Tribal members spoke before the Subcommittees. Sue Smith, Director of Lac Courte Oreilles Child Support Services (LCOCSS) was joined by parent and fellow Tribal member, Marley Corbine to speak about the impact of the loss of access to tax offset as well as the barriers to directly accessing this support for families.

LCOCSS as one of nine Tribal child support programs within the State of Wisconsin, operates its own system for case management for cases. Our child support program and Tribe work well with the State of Wisconsin and value our partnerships to provide services to our shared populations. Written testimony was submitted by Director Sue Smith prior to her appearance before the Joint Subcommittee Hearing on November 29, 2023. I would like to speak to the journey our Tribe has supported over the years to access enforcement tools for LCOCSS.

When LCOCSS applied to operate a Title IV-D Child Support Program in 2011, it became clear that access to tax offset would be important and necessary to support the families in our caseload. From the date LCOCSS became comprehensive and began providing direct

services to families in 2013, our Tribe has supported the efforts of staff to work with national child support organizations in this effort to change language to meet the needs of our Tribe and others to serve historically underserved families. To that end, our staff has participated on the National Tribal Child Support Association committee working on this for the past ten years. Our leadership has worked with the National Congress of American Indians and supported the very first resolution in 2012 #SAC-12-009 “Support for Tribal Child Support Programs Having Direct Access to the Federal Parent Locator Service and Federal Income Tax Refund Offset Program”.

One of the very important aspects of LCOCSS is the focus our agency has on meeting all the requirements for safeguarding and security of Federal Taxpayer Information (FTI). Staff complete yearly training regardless of how long they have worked for LCOCSS, and new employees are required to immediately complete training; all based upon the IRS Publication 1075 rules. The offices of LCOCSS are secure and meet the Minimum Protection Standards (MPS) safeguarding requirements of the IRS Publication 1075. As staff met with members of Congress over the last ten years, this level of attention to safeguarding FTI has been emphasized as well as the need for a vehicle to address the changes needed to gain direct access to Tax Offset.

Over time, some bills have been drafted to include direct access to Tax Offset for Tribes, most recently in July of 2021, S.534 passed the Senate on unanimous consent. Previously, Ways and Means member Representative Ron Kind consistently included Tribal Child Support parity in legislative vehicles; which upon his retirement are now being sponsored by Ways and Means member Representative Gwen Moore. All of these proposed pieces of legislation have had bipartisan support over the years.

As Director Smith testified at the Joint Hearing, LCOCSS has worked with the State of North Dakota since 2016 to process tax offsets for families within our caseload because the State of Wisconsin was unable to assist due to the age of their system. From 2016 to 2022 our families received over \$800,000 in past due support with the help of the State of North Dakota through a consortium of Tribes working with the State called the Tribal Offset Program (TOP). Ending abruptly in December of 2022, the hardship to our Tribal families has been immediate. As there is no direct access for Tribes to tax offset, and TOP was an interim measure to serve families, we have had no where to turn. It was a hard day to learn that a successful partnership working as States and Tribes was suspended immediately based upon IRS determinations that we have been

seeking to remedy for over ten years. Over the years as many as 40% of the families we serve receive their only child support payment through a tax offset, and many more have a substantial portion of their child support owed offset in this manner. These are real families with real needs, as our own Marley Corbine testified to at the Joint Hearing.

The Joint Hearing has given us hope and we all appreciate that the Subcommittee Members clearly have an interest in resolving these legislative challenges for Tribes and States. Our government and our staff look forward to the Committee on Ways and Means taking on the challenge to Strengthening the Child Support Program for States and Tribes.



December 12, 2023

U.S. House Committee on Ways and Means
Congressman Jason Smith, Chairman
1139 Longworth HOB
Washington D.C. 20515

Sent via email to: WMSubmission@mail.house.gov

Re: Joint Subcommittee Hearing on Strengthening the Child Support Enforcement
Program for States and Tribes

Dear Chairman Smith,

The Eastern Shoshone Tribe and the State of Wyoming jointly write this letter to express the need for urgent action addressing the Internal Revenue Service's (IRS) recent policy change on child support enforcement programs and those programs' access to needed federal tax information (FTI). This abrupt policy change could unduly disrupt the State and the Tribe's ability to effectively collect and distribute critical child support to families, limiting the State's authority to share needed tax information with child support contractors and Tribal child support enforcement programs. Notably, the IRS has stated that a legislative fix could cure the legal issues driving its recent policy change, clarifying the sharing of FTI for use in child support enforcement consistent with federal statutes. As a result, we jointly ask this committee to consider legislative action to address this recent IRS policy change, including by considering the statutory changes proposed by the recently introduced Senate bill, S.3152 Tribal Child Support Enforcement Act.

On February 15, 2023, the IRS sent an alert memorandum to child support enforcement programs, warning them to develop plans to mitigate contractor access to certain FTI obtained through States, from the IRS, for the collection of child support. Up until 2023, the IRS had held a 2009 finding in abeyance for over ten years that current federal statutes do not permit most States' existing practices of sharing FTI with service contractors hired to help carry out child support enforcement. States and Tribes have relied on this position to continue their use of service contractors, as contractor support plays a crucial role in carrying the heavy administrative load associated with child support administration. Since Tribal child support programs do not have direct access to FTI absent agreements with State agencies, the IRS' change of position will affect those programs as well, potentially cutting off their access to FTI. Much of this FTI is used in the federal Tax Offset Program, in which the IRS, Office of Child Support Services, and State child support programs partner to offset delinquent parents' tax returns against outstanding child support balances. The alert set a deadline of October 1, 2023 for compliance, stating that programs that did not comply could risk losing access to IRS data. This alert reversed over a

U.S. House Committee on Ways and Means
 Congressman Jason Smith, Chairman

Re: Joint Subcommittee Hearing on Strengthening the Child Support Enforcement Program for States and Tribes
 December 12, 2023
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decade of prior policy effectively allowing such disclosure of FTI for the sole purpose of child support enforcement, thrusting both States and Tribes into the precarious limbo of attempting to overhaul their child support enforcement mechanisms in a matter of months. While this original compliance deadline was eventually extended to October 1, 2024, next Fall is rapidly approaching, and there is a critical need for action now.

This recent policy change by the IRS could have several negative effects on Tribes and States. For example, it could effectively shut out Tribal child support programs' ability to access FTI needed to collect significant amounts of child support. This is because Tribal child support programs do not have direct access to the IRS' systems absent agreements with State agencies. For context, the federal Tax Refund Offset Program has, in the past, accounted for approximately 8 percent of total annual child support collections, or more than five billion dollars nationally. It could also hamper the State's ability to enforce and carry out its own collection procedures day to day as Wyoming, like most other states, relies on an extensive network of contract service providers to support the numerous responsibilities necessary for child support enforcement and collection. Importantly, the State's efforts perform exceptionally well, as Wyoming's child support program, including its collaboration with Tribes, has consistently scored first in the nation for its performance for the last 10 consecutive years.

Rather than hamper this exemplary performance through unilateral policy changes, a better approach would be legislation that addresses three main points: (1) specifically authorize Tribal child support enforcement programs to have access to federal tax information either directly or through an agreement with a state child support agency; (2) modernize the disclosure provisions in the Internal Revenue Code so all elements of federal taxpayer information that are provided to state, local, and tribal child support agencies may be shared with contractors of those agencies for the sole purposes of establishing and enforcing child support obligations; and (3) reconfirm that all federal taxpayer information that is shared with government child support agencies and their contractors must remain confidential and may not be further disclosed.

Fortunately, a bill was recently introduced in the United States Senate that would address all three of these goals, S.3152 Tribal Child Support Enforcement Act. This bill is not new, as previous, substantially similar or identical versions have been introduced in past Congresses, with one version unanimously passing the Senate before stalling in the House of Representatives in 2021. Among other objectives, it would allow direct access to needed FTI for Tribal programs, allow States to continue their use of needed service contractors, and appropriately protect taxpayer privacy in the process. We respectfully urge that you seriously consider this bill moving forward as you look at potential legislative solutions to this important policy matter.

Should you require any testimony or further input on our support for this and similar legislation in the future, please feel free to reach out to the following representatives at our respective offices:

U.S. House Committee on Ways and Means
Congressman Jason Smith, Chairman
Re: Joint Subcommittee Hearing on Strengthening the Child Support Enforcement Program for States and Tribes
December 12, 2023
Page 3

Eastern Shoshone Tribe
John St. Clair, Chairman
jstclair@easternshoshone.org

Wyoming Governor's Office

Kit Wendtland, Special Counsel
Kit.wendtland@wyo.gov

James Sorrels, Tribal Liaison
James.sorrels@wyo.gov

Sincerely,


Mark Gordon, Governor

Date: 12 Dec 2023


Eastern Shoshone Business Council Chairman

Date: 12.13.23

cc: U.S. Senator John Barrasso
U.S. Senator Cynthia Lummis
Congresswoman Harriet Hageman



December 13, 2023

Chairman Jason Smith
House Committee on Ways and Means
1139 Longworth HOB
Washington D.C. 20515

Chairman David Schweikert
Oversight Subcommittee
1139 Longworth HOB
Washington D.C. 20515

Chairman Darin LaHood
Work & Welfare Subcommittee
1139 Longworth HOB
Washington D.C. 20515

Submitted via Email: WMSubmission@mail.house.gov

RE: Strengthening the Child Support Enforcement Program for States and Tribes

Dear Honorable Chairs:

The Child Support Directors Association of California (CSDA) writes to provide comments as part of the official hearing record for the Joint Subcommittee Hearing on Strengthening the Child Support Enforcement Program for States and Tribes, held on November 29, 2023. Thank you for the opportunity to provide comments on this important issue.

CSDA is a nonprofit organization comprised of local child support directors representing the 58 counties throughout California, with the mission of advocating, educating, and collaborating on behalf of local child support agencies (LCSAs) to advance the child support program as a safety net service leading to family financial stability.

Title IV-D of the Social Security Act provides states and tribes with the flexibility and authority to deliver child support services to help meet the financial, medical, and emotional needs of families and children. These services rely heavily on inter-agency and private partnerships. In addition to the state child support programs implemented by Local Child Support Agencies, there are also currently more than 60 federally funded tribal child support agencies that deliver critical services to families nationwide, 2 of which operate in California.

Federal law requires child support agencies to access federal tax information (FTI) for enforcement and establishment purposes including the federal tax refund offset program, which collects millions in current and past-due support due to families each year. All taxpayer information shared with governments, child support agencies and their contractors remain highly confidential and protected.

However, the Internal Revenue Service (IRS) has recently interpreted the law to prohibit the direct access of FTI by tribal child support programs and to limit FTI access by contractors who provide critical services for child support programs.

The IRS and the federal Office of Child Support Services agree that the federal law must be amended to address the use of FTI by child support agency contactors and tribal child support agencies. Absent a statutory amendment, as time passes and tribal child support agencies are impeded from utilizing the tools that FTI access provides, more children and families will go without the critical support they need.

A legislative fix, as proposed with S. 3154, is essential to ensure the ongoing success of state and tribal child support agencies. For these reasons, CSDA urges Congress to act immediately to amend the appropriate provisions of the IRS Code and Title IV-D of the Social Security Act to provide the necessary level of access to FTI within the child support program.

Sincerely,

Shauna Day
Executive Director
CSDA

cc: Honorable Members, House Committee on Ways and Means
Honorable Members, Oversight Subcommittee
Honorable Members, Work & Welfare Subcommittee

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December 7, 2023

House Committee on Ways and Means Chairman Jason Smith,
Work & Welfare Subcommittee Chairman Darin La Hood, &
Oversight Subcommittee Chairman David Schweikert

RE: Joint Subcommittee Hearing on Strengthening the Child Support Enforcement Program for
States and Tribes

Dear Committee Members:

Informatix has been a supporter of the national child support program for 37 years. We are in
support of this effort to strengthen the child support program for both state and tribal programs.

Sincerely,

Raul Ocazonez
President



Statement for the Record

from the

National Association of Counties

National Conference of State Legislatures

American Public Human Services Association

and

National Association of County Human Services Administrators

for the

Joint Ways and Means Work & Welfare and Oversight Subcommittee Hearing

on

Strengthening the Child Support Enforcement Program for States and Tribes

December 13, 2023

The National Association of Counties, National Conference of State Legislatures, American Public Human Services Association and the National Association of County Human Services Administrators welcome the opportunity to submit a joint statement for the record for the Joint Work & Welfare and Oversight Subcommittee Hearing on *Strengthening the Child Support Enforcement Program for States and Tribes* held on November 29, 2023.

Background

Together, our national associations represent elected officials and human services professionals who work to ensure that our nation's families and children receive the support they need to thrive. The child support program is among the many federal programs administered at the state and local level. Members of our associations also craft legislation, provide administrative direction to human services staff and partner with the federal government in funding programs, including child support.

The federal child support program reaches nearly one in five children in the United States. According to the federal Office of Child Support Services (OCSS), the 12.8 million children who receive support is exceeded only by Medicaid (35.2 million) and the Supplemental Nutrition Assistance Program (SNAP) (15.3 million). Unlike Medicaid and SNAP where the benefit is provided by the government, under child support the financial support comes from the earnings of the non-custodial parent. The federal government, states, localities and tribes all play a financial and/or administrative role in ensuring that those private dollars are collected and reach the family. [According to OCSS](#), in 2022, 96 percent of the \$30.5 billion in total child support collections were sent directly to families.

Tax Refund Offset Program

The tax refund offset program is a critical tool used by child support agencies to support families. Given that tax information is highly personal, securing and safeguarding financial information is a core tenet of the program. Child support agencies take significant steps to protect that sensitive information, much like they do when working with employers to initiate wage withholding from paychecks, which generates about 72 percent of the support each year.

OCSS data show that the federal tax refund offset program yielded over \$2.28 billion in collections in 2022. There were approximately 1.25 million offsets averaging more than \$1,800 each. Depending on the state, those were the only payments received during the year for as many as 25 percent of child support recipients.

The Issue

The recent Internal Revenue Service guidance to severely restrict the use of contractors in accessing data to facilitate offsets of tax refunds jeopardizes the effective and efficient operation of this bipartisan program. In at least 48 states, contractors, through the state's secure systems, may access a limited set of sensitive financial data to assist

the public agency in delivering financial support to families, including offsetting tax refunds.

Under the IRS Code, Section 6103(l)(6)(B) authorizes three (3) data elements of federal tax information (FTI) to be re-disclosed to contractors for the purposes of, and to the extent necessary for, establishing and collecting child support obligations from, and locating, individuals owing such obligations:

- 1) The taxpayer address;
- 2) The taxpayer social security account number, and
- 3) The amount of any offset against a tax refund otherwise payable to the taxpayer.

The IRS guidance states that effective October 1, 2024, contractors shall no longer have access to more than those three data elements.

To operate the program effectively and adequately support families, however, contractors working through the child support agency have in some cases been accessing additional data, such as the taxpayer's income, whether the refund comes from a joint return and the name of the joint filer. Both IRS and OCSS have acknowledged the utilization of this practice, which has never resulted in breaches of that information. This supplementary information can be critical for determining the parents' actual income and ensuring the family receives the appropriate level of support based on the non-custodial parent's ability to pay.

IRS interprets the definition of "contractor" differently depending on the state and the IRS auditor who reviews the program. According to information collected by the National Council of Child Support Directors, private and public agencies have been defined in various ways including state printing and mailing centers, local prosecutors, clerks of court, IT maintenance and operations, state disbursement units, call centers and cloud services. Depending upon the auditor reviewing a particular state, a "contractor" can even include public agency employees who are not sole employees of the child support agency. All these agreements and contracts adhere to stringent IRS privacy safeguards described below.

Security of Tax Information is Foundational to the Child Support Program

All child support programs nationwide operate in highly secure environments. The IRS regularly audits child support programs to ensure that the security of FTI is maintained. During those audits, the IRS has found that agencies were allowing contractors to access more FTI data elements than allowed under the IRS Code. Those early audit findings noted the conflict in federal law between the IRS Code and OCSS administration of the program with respect to services that can be provided by contractors, and have consistently and continually agreed that agency corrective action would be held in abeyance until there was a federal legislative remedy resolving the issue. In fact, the recent IRS guidance noted that conflict and called for legislation to address it.

However, breaches of sensitive data have never been noted in any of these audit findings. While agencies engaged in public-private partnerships with contractors have granted access to data not enumerated in the IRS Code, they have never failed to protect the information.

The employees of child support agencies and contractors assisting in program administration undergo mandatory, rigorous and frequent training on safeguarding FTI. Not only is there IRS and OCSS training and certification annually, but each individual given access to FTI is subjected to FBI fingerprinting and local law enforcement background checks. Agencies extend this commitment to confidentiality by protecting personal identifying information of parents and children alike.

The Impact of the Current IRS Guidance

If Congress does not provide a legislative remedy allowing agency contractors to access additional information as detailed above, the child support program will be severely harmed. The impacts go much further than administering the tax refund offset program. Depending on the state, agency contractors have been integral to payment processing, customer service call centers, and maintenance of electronic case management systems. Often, contractors' expertise saves taxpayer dollars since public agencies do not always have the staff knowledge or updated technology to manage cases and operate the system on their own.

The data that public agencies allow contractors to access in a highly secure environment would be difficult if not impossible to disaggregate into specific elements. Perhaps over time such comingled data could be separated, but this would come at huge public expense to federal, state, local and tribal governments and to the detriment of the families who depend upon the billions of dollars in support collected annually. Alternatively, states may need to terminate contracts and bring work "in-house" at even greater cost. Those investments to 'fix' a system that has not proven to be broken, along with the severing of many private sector relationships, would come at the immense figurative and literal cost of serving families.

Impact on Tribal Partners

The potential upheaval to state and local programs would also affect tribes within states. Separate but now tied to the IRS-FTI issue, NACo, NCSL, APHSA and NACHSA support federal legislation giving tribal governments direct access to the federal tax refund offset program, a policy consistent with the long-standing support of the National Child Support Engagement Association, the National Council of Child Support Directors and the National Tribal Child Support Association.

As with state programs, no tribe that has accessed the program through a state has been found by the IRS to have had breaches of FTI.

Without congressional action, child support agencies will be spending enormous time and expense over the coming years to undo a successful and efficient public-private system that has of resulted in collecting \$5 in support for every \$1 invested.

Earlier this year, NCSL adopted a [resolution](#) supporting direct access to FTI by tribal child support agencies and permanent access to FTI by state and tribal child support contractors at state option.

Conclusion

NACo, NCSL, APHSA and NACHSA urge you to draft and pass legislation to resolve the issues outlined above. During the November 28 hearing, we appreciated the statements on both sides of the aisle to find a solution. Our organizations stand ready to support the Ways and Means Committee in those efforts.

Thank you for the opportunity to provide a statement.

**Statement for the Record**

from the

National Council of Child Support Directors (NCCSD)

for the

Joint Ways and Means Work & Welfare and Oversight Subcommittee Hearing

on

Strengthening the Child Support Enforcement Program for States and Tribes**December 13, 2023**

The National Council of Child Support Directors (NCCSD) is a nonpartisan organization composed of the fifty-four public child support agency directors who administer the federal child support program in each state and territory. On behalf of our members, we appreciate the opportunity to provide a statement for the record for the joint hearing of the Work & Welfare and the Oversight Subcommittees on *Strengthening the Child Support Enforcement Program for States and Tribes* held on November 29, 2023.

All fifty-four public child support agency directors represented by NCCSD are on the front line of this critical issue as discussed at the November 29, 2023, joint hearing before the Ways and Means Work & Welfare and Oversight Subcommittees.

Summary of NCCSD's Position

NCCSD's statement includes detailed information about the child support program, its prudent, successful use of limited federal tax information, the relevant conflict in federal expectations related to that federal tax information, and the impact of not resolving the issue through a legislative solution.

Without a legislative solution, families could lose \$2.75 billion annually in needed past-due child support collected through the federal tax refund offset program. Based on

conservative preliminary partial estimates, 41 state child support programs could face \$968,220,944 in mitigation costs—66% of which would be borne by the federal government. And Tribal child support programs would be left without parity to the offset program. NCCSD respectfully requests amendment to Section 6103 of the Internal Revenue Code to codify current state practice and to provide parity to Tribal programs. Further, we ask the Committee to urge the IRS to keep its relevant finding in abeyance—as it has for many years—until Congress acts.

Background – The Child Support Program

The Child Support program is mandated under Title IV-D of the Social Security Act and administered through a network of state, territorial, and Tribal child support agencies. The program establishes parentage and establishes, modifies, and enforces child support obligations on behalf of about 13 million children nationwide. The Child Support program is the third largest federal program serving children, behind only Medicaid and SNAP. It is one of the most cost-effective government programs, consistently collecting around \$5 in child support for every \$1 spent on the program. In Federal Fiscal Year 2022, the Child Support program collected \$30.5 billion, 96% of which went directly to families. The program is a critical tool in lifting families out of poverty and assisting families to remain self-sufficient.

In addition to the 54 states and jurisdictions, 60 federally recognized Tribes operate child support programs under Title IV-D that provide services to Native American families consistent with tribal values and cultures. The existence of tribal programs is critical to resolving the unique jurisdictional issues with Tribes as separate sovereign entities and to ensuring that Tribal children receive effective child support services.

Federal law places operational requirements on state and Tribal child support programs, and these programs operate under federal oversight by the federal Office of Child Support Services (OCSS) in HHS's Administration for Children and Families. Federal law grants states the flexibility to organize their respective programs and deliver child support services in a manner consistent with their state government structure through efficient and cost-effective programs. Consequently, to varying degrees, states use a combination of public entities and private companies to provide critical services to families and to meet federal requirements.

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Child support programs use public entities and private companies in various ways:

Public Entities

- **State Entity:** Includes state-managed resources such as data centers, disaster recovery location, print and mailing services. May also include state treasury/comptrollers.
- **State/County Subrecipients:** Includes state managed legal service providers such as district/county attorneys, and state attorneys. Legal service providers are required to establish paternity, support, and enforce support obligations through judicial proceedings. May also include hearing officers for administrative actions and other county administrative offices.
- **Clerk of Courts:** Includes county offices responsible for managing aspects of judicial proceedings, like judicial filings, court dockets, and in some states, the official record for child support obligations.

Private Companies

- **Operations and Maintenance:** States are federally required to implement and maintain statewide computer systems that support the child support program. The state systems must comply with federal requirements and NIST standards to be a federally certified system. Due to the complexity of current technology, most states procure technical expertise to provide support for system development and maintenance.
- **State Disbursement Unit:** States are federally required to have a single remittance and disbursement entity. Most states have private companies complete this service.
- **Private Vendors:** States use private companies that provide all or a portion of federally required direct service delivery to families including paternity and support establishment, order enforcement, call centers, print and mailing services, confidential shred contractors, and attorney services.
- **Hosting and Cloud Service Providers:** States leverage providers of both data center and cloud services to host their federally required statewide computer system.

Background – Child Support Information

The delivery of child support services is highly dependent on personal information obtained from parents and from a wide variety of sources, including federal tax information (FTI), under authority mandated by federal law. All personal information is highly confidential and state programs take significant steps to safeguard that information. It is of utmost importance and one of the highest priorities of state programs. All state programs must meet data security requirements outlined by OCSS and the IRS.

All child support program staff undergo background checks (including fingerprinting), participate in extensive training regarding confidentiality and safeguarding of personal information, and must adhere to all federal and state requirements regarding privacy and safeguarding. These training requirements and mandates extend to any staff from other public entities or private companies that deliver child support services. The training requirements and mandates also extend to all public and private entities under interagency cooperative agreements, or in the case of private entities, service contracts. Those agreements and contracts must contain prescribed security and privacy provisions to ensure that program data is used in

accordance with all federal and state laws. The training, mandates, agreements, and contracts meet all the requirements of IRS Publication 1075, which guides government agencies on protection of federal tax information.

Additionally, states must make annual certifications to OCSS that: (1) they meet all security requirements established by the Social Security Act; (2) they are using the Federal Parent Locator Service (FPLS) and confidential child support program information only for authorized purposes under federal law and regulations; and (3) they are protecting that information against unauthorized access. In addition, all states must submit an IRS Safeguard Review Report annually and undergo an IRS Safeguard Review (audit) every three years. States must notify the IRS 45 days in advance of onboarding any contractor that may have access to FTI, and states are required to include IRS safeguarding language in all contracts. The periodic IRS reviews have shown that child support agencies are protecting FTI; in fact, states have had no reported security breaches or FTI disclosure incidents in the two decades since they have been receiving FTI.

Background – Use of Federal Tax Information

Federal law requires all state child support agencies to have a State Plan. 42 USC § 654. One of the State Plan requirements is to have procedures for obtaining payments of past-due support from individuals' federal income tax refunds. 42 USC §§ 654(18); 664. As a result of this State Plan requirement, child support agencies necessarily receive and maintain information about federal income tax refunds in their systems and use that information to carry out the requirement to conduct offsets of federal income tax refunds.

IRC 6103(l)(6), (l)(8) and (l)(10) authorize the IRS to disclose to child support agencies FTI for purposes of establishing and enforcing child support obligations and locating individuals owing such obligations or to whom such obligations are owed. The FTI that state child support agencies receive is limited. The IRS is authorized to disclose a taxpayer's name, address, Social Security number, wage information (W-2), and self-employment earnings (Annual Wage Records 1099). In addition, child support agencies are authorized to receive information about a taxpayer's income tax refund offset/adjustment amount and date, whether the taxpayer filed a joint return, the identity of the joint filer, and "injured spouse" information.

State child support agencies receive FTI from the IRS via a secure electronic file exchange with OCSS. State programs provide a file of parents with child support obligations who meet the criteria for federal tax refund offset to OCSS. OCSS provides that information through another secure electronic file exchange to the Treasury's Bureau of Fiscal Service, which coordinates with the IRS to match the file with taxpayers. Some FTI, including offset information, is returned to OCSS via the Treasury's Bureau of Fiscal Service and then sent back to states via the secure exchange. All FTI elements are maintained under strict restrictions, and the limited access by a state employee, or by a public entity or private company under cooperative agreement or contract with the child support agency, is on a "need to know" basis. Neither the states, nor any of their partners, have access to copies of full tax returns.

Federal tax information is integral for child support programs to establish and enforce child support obligations and to ensure consistent financial support to families. FTI can be critical in providing location information for a parent for whom the program needs to establish, modify, or enforce an obligation. FTI also provides reliable income information that will assist in the determination of the amount of a child support obligation. The most important use of FTI is to ensure that the family can receive financial support from an annual federal tax refund. The federal tax refund offset program is highly successful and a significant source of collections for families. In FFY22, federal tax offset collections reached \$2.3 billion. Thirty-seven Tribes use the federal tax offset program through some state programs and reported \$4.5 million in federal tax refund offset collections in FFY22. For many families, a federal tax offset collection is the only collection that will be received in a given year. In a survey of 14 states, that was the case for 73,594 families in 2022, about nine percent of the total families receiving tax refund offsets in those states.

Federal law authorized funding for Tribes to operate their own child support programs under Title IV-D, but the Internal Revenue Code was not updated to give Tribal child support programs the same access to FTI that is permitted for state child support agencies. Tribes have the same customer privacy concerns that states have and safeguard their data in the same way that states do. However, Tribes cannot access FTI directly. OCSS has allowed Tribes to enter into a cooperative agreement with a state so the state can submit their cases for federal tax refund offset.

Current Issue

Although child support agencies are authorized to receive FTI as noted above, the IRS interprets 26 USC 6103(l)(6)(B) to restrict disclosure of federal tax information to child support contractors to only three elements: the taxpayer's address and Social Security number and the amount of federal tax refund offset/adjustment. Due to the nature of the work of the child support program, those elements are too limited. OCSS and the IRS have long had conflicting interpretations of federal statute regarding the disclosure of FTI and the individuals or entities who should be authorized to receive and use FTI. OCSS and the IRS have agreed that the statute needs clarification about what information can be shared with child support contractors.

A resolution of that conflict has been put forward in the President's Budget of each administration over the last 15–20 years. In the meantime, at least 42 states have a finding from the IRS regarding unauthorized disclosure to contractors. Because OCSS and the IRS were working to resolve their conflicting interpretations of the federal statutes, the IRS has held the finding in abeyance since at least 2009 and has not required any corrective action on the part of an agency for this finding. Any cooperative agreement between Tribes and states to implement federal tax refund offset have also been identified in IRS audits as involving unauthorized release of FTI, and those findings have similarly been held in abeyance. During that period, states and their contractors have demonstrated strict and successful safeguarding of FTI, shown their commitment to taxpayer privacy concerns, and revealed the low risk and high return of use of the limited FTI elements.

On February 16, 2023, the IRS issued a Security and Privacy Alert Memo stating that as of October 1, 2023, it would no longer hold the findings in abeyance. Any child support agency with this finding on its most recent security review still showing the finding as open would receive a Warning Letter requiring an action plan to resolve the finding in 30 days or face potential suspension of receipt of FTI data from the IRS. On June 9, 2023, the IRS issued a Security and Privacy Alert Memo that superseded the February 16, 2023, memo that extended the timeframe to October 1, 2024, and required states with findings—nearly all the states—to submit a mitigation plan to eliminate contractor access.

Impact on States and Tribes

Despite the extended timeframe, the impact on states and tribes is very significant. Without a resolution to this issue, there are only two potential outcomes for states:

- Limit contractor access to only the three authorized elements of FTI – SSN, taxpayer address and offset amount, which may require termination of cooperative agreements with public entities and contracts with private companies that have been providing child support services. Instead, the services will need to be delivered directly by the child support agency, for which resources and staffing are not available.
- Receive critical findings from the IRS and lose access to all FTI (thus stopping the states' federal tax refund offset program, which could result in State Plan disallowance and potential penalties to states' TANF block grant funding).

State child support programs are left in an untenable position. The vast majority of states to some degree use contractors who require access to the same FTI elements as states. The costs and time to limit the use of contractors is enormous and, in some instances, it would be virtually impossible for the state to limit access and continue to effectively run a child support program.

These costs reflect the tremendous level of effort states must take to limit access including system infrastructure changes across many platforms, termination of contracts and contractor staff and replacement with state resources (if skilled resources can be found), loss of skilled and experienced personnel and training and re-training of new or existing staff, purchasing duplicative hardware or other equipment, and much more.

As highlighted above, if states must take action to resolve this issue (and could in fact take the action to resolve), it will be done with significant cost and take considerable time. States would need to terminate contracts, seek funding from their legislatures, identify, hire, and train additional staff, plan for migration—essentially launch large-scale projects. An October 1, 2024, deadline is not sufficient time for states to create mitigation plans.

In a preliminary survey of 41 states, if child support programs had to move every function and service in-house, they anticipate needing to hire a total of 5,188 additional FTE. Project and ongoing costs are estimated at nearly at \$968,220,944—nearly a billion dollars—66% of which would be federal funds.

Impact on Families – Loss of Federal Tax Refund Offset Program

Child support programs exist to support families. Many of the families the program serves are lower income and child support is critical to their self-sufficiency and reduces or avoids their need for government benefits. Families will be seriously impacted if states can no longer run a federal tax refund offset program. As mentioned above, federal tax refund offset collections average about \$2 billion a year for families – in FFY22, \$2.3 billion was collected, and \$4.5 million for Tribes. There were approximately 1.25 million offsets averaging more than \$1,800 each—a vital payment for families meeting the needs of their children. For many families, that payment is one that they rely on annually, and for some families, that payment is the only child support they receive each year.

Even developing a mitigation plan would pull considerable state resources away from direct child support services to families—all to maintain a federal tax refund offset program that has worked successfully for many years. In the end, without a resolution, it is the families receiving child support that bear the greatest cost.

What's Needed

A legislative solution is clearly necessary to update the Internal Revenue Code to allow contractors to access the same elements of FTI to which states have access, *which would codify—not expand—the successful status quo of the last two decades*. It is also essential to ensure that Tribal child support programs have direct access to the Federal Tax Refund Offset Program and the same tools as state programs to support Tribal families.

NCCSD respectfully requests a swift legislative solution that allows child support programs to disclose to its contractors, if necessary to administer the child support program, the same elements of FTI they are authorized to access and to allow Tribal child support programs direct access to the Federal Tax Refund Offset Program. NCCSD recognizes that a legislative solution will take time and that the Committee will need to determine the most optimal way to amend Section 6103. NCCSD also respectfully requests that the Committee urge the IRS to remove the October 1, 2024, deadline and instead hold the findings in abeyance to allow Congress to take action on a legislative solution.

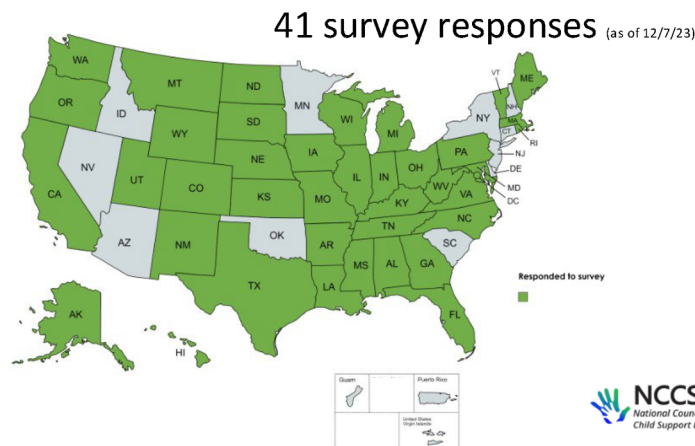
NCCSD very much appreciates the opportunity to provide comments on this vitally important issue. NCCSD also appreciates the support of both Subcommittees in holding this hearing.



State/Territory Survey of IV-D Child Support Programs

Preliminary and Partial – 41 states only

Costs Estimates to Mitigate or Cure
IRS Finding for Contractor Access to FTI
as of December 10, 2023



Most states have IRS finding “held in abeyance”

42–52 of 54 states/territories

- All 54 states/territories use the IRS federal offset for child support arrears
- 42 states/territories affirmed their finding
- 2 states/territories do not have a finding
- 10 states/territories unconfirmed —but expect at least 4 have finding



State entities as “contractors”

e.g., state-managed resources such as data centers, disaster recovery, print and mailing services, or state treasury or comptroller

- 36 of 41 states – yes, use other state resources
- 24 states indicate FTI access for some other state entities
- 17 states currently have a “contractor” finding for state entities
- 5 states anticipate a “contractor” finding for state entities
- 19 states need additional staff/appropriations to cure or mitigate
- For 14 states total:
 - 931 employees
 - \$177,743,977 – most annually



State or county subrecipients as “contractors”

e.g., district/county attorneys and state attorneys, hearings officers, county child support services offices

- 25 of 36 states – yes, use these resources
- 13 states indicate FTI access
- 8 states currently have a “contractor” finding for subrecipients
- 5 states anticipate a “contractor” finding for subrecipients
- 11 states need additional staff/appropriations to cure or mitigate
- For 6 states total:
 - 2,204 employees
 - \$292,610,545 – most annually



County clerks of court as “contractors”

e.g., county offices responsible for managing aspects of judicial proceedings, like judicial filings, court dockets, official record for child support obligations

- 23 of 35 states – yes, use these resources
- 5 states indicate FTI access
- 4 states currently have a “contractor” finding for county clerks of court
- 3 states anticipate a “contractor” finding for county clerks of court
- 4 states need additional staff/appropriations to cure or mitigate
- For 5 states total:
 - 342 employees
 - \$5,100,000 – most annually



Private contractors for State Disbursement Unit

e.g., receipt and disbursement of child support, spousal support, and fee payments

- 22 of 34 states – yes, use these resources
- 11 states indicate FTI access
- 12 states currently have a contractor finding for SDU
- 3 states anticipate a contractor finding for SDU
- 10 states need additional staff/appropriations to cure or mitigate
- For 9 states total:
 - 589 employees
 - \$230,374,000
 - At least \$87 million annually



Private contractors for technology services

e.g., child support system operations and maintenance, design, development, and implementation

- 24 of 34 states – yes, use these resources
- 21 states indicate FTI access
- 20 states currently have a contractor finding for technology services
- 3 states anticipate a contractor finding for technology services
- 20 states need additional staff/appropriations to cure or mitigate
- For 13 states total:
 - 1,011 employees
 - \$237,110,005
 - At least \$99 million annually



Private contractors for hosting services

e.g., child support system hosting, on servers or in the cloud

- 14 of 34 states – yes, use these resources
- 7 states indicate FTI access
- 5 states currently have a contractor finding for hosting services
- 1 state anticipates a contractor finding for hosting services
- 6 states need additional staff/appropriations to cure or mitigate
- For 3 states total:
 - 8 employees
 - \$7,748,000
 - At least \$1.3 million annually



Private contractors for full services

e.g., privatized local or state child support offices

- 12 of 34 states – yes, use these resources
- 8 states indicate FTI access
- 6 states currently have a contractor finding for full services
- 1 state anticipates a contractor finding for full services
- 4 states need additional staff/appropriations to cure or mitigate
- For 3 states total:
 - 103 employees
 - \$17,534,417 – annually



Total mitigation cost estimates

- 41 states (partial)
- 5,188 additional FTE
- \$968,220,944 (66% federal – \$639,025,823)
- Statutory changes (and one constitutional amendment)
- Opportunity costs (loss of other program improvements)
- Years to implement





Resolution In Support of Access to Federal Tax Information for Child Support Purposes

Title IV-D of the Social Security Act provides authority and flexibility to states and tribes in delivering publicly funded child support services, including through inter-agency and private partnerships.

More than 20 years have passed since the Internal Revenue Code (IRC) provisions have been amended on access to federal taxpayer information (FTI) for purposes of establishing and enforcing paternity and child support. During that time, in addition to other modernizations, reforms, and family-focused changes, the federal government started funding tribal child support programs. Today, there are more than 60 federally funded tribal child support agencies.

Child support agencies also contract with other government agencies and private partners for a variety of critical services. This includes management of state disbursement units, which are responsible for the disbursement of all child support funds collected in a state; and technology services related to the maintenance and development of child support case management systems.

Title IV-D requires child support agencies to access FTI for establishment and enforcement purposes, including the federal tax refund offset program, which collects tens of millions in current and past-due child support every year. In many cases, FTI related to a parent's income and address can be vital to maintaining contact with the parent, to ensuring the ongoing appropriateness of income-based child support obligations, or to collecting consistent payments via income withholding. The name and address of a joint filer is often necessary to avoid offsetting the portion of a refund owed to the joint filer or to returning a portion of those funds to the joint filer.

The Internal Revenue Service (IRS) has taken the position that direct access to FTI by tribal child support programs is prohibited under current law, and that re-disclosure of FTI to contractors who provide services to those programs is authorized, but limited under IRC section 6103 to three elements: Taxpayer SSN, taxpayer address, and the amount of a tax offset.

Since 2002, the IRS and the federal Office of Child Support Services (OCSS) in the Administration for Children & Families (ACF) have been in agreement on the need to amend federal law regarding use of FTI by tribal child support agencies and contractors of government child support agencies. In [May 2007](#), OCSS specifically endorsed and encouraged states to partner with tribal child support agencies for purposes of offsetting federal tax refunds.

Legislation to modernize the IRC, including direct access to FTI by tribal child support agencies (S. 534), was passed by the United States Senate in July 2021 by unanimous consent. However, the House did not act on S. 534 before the end of the 117th Congress.

In audits conducted over the last decade or more, the IRS has made findings in nearly every state related to "unauthorized" access or re-disclosure of FTI to contractors. However, the IRS has acknowledged the ambiguity in federal law regarding disclosure of FTI to tribes and contractors and has held these findings and any corrective action "in abeyance" pending Congressional action reconciling the ambiguity.

In February 2023, without prior notice or indication of a pending change in position, the IRS alerted states that these audit findings would no longer be held in abeyance effective October 1, 2023. Instead, states would be expected to limit access to FTI to the three data elements listed in the IRC or lose access to FTI. In June 2023, the IRS announced an extension until October 1, 2024. Regardless of the timeframe, this change to limit access to FTI will detrimentally impact families receiving child support services from states, tribes, and local governments across the nation.

THEREFORE, the National Tribal Child Support Association, the National Council of Child Support Directors, and the National Child Support Enforcement Association jointly resolve to encourage Congress to act immediately to amend the appropriate provisions in the Internal Revenue Code and Title IV-D of the Social Security Act to:

1. Specifically authorize tribal child support programs to have access to federal tax information either directly or through an agreement with a state child support agency;
2. Modernize the disclosure provisions in the Internal Revenue Code so all elements of federal taxpayer information that are provided to state, local, and tribal child support agencies may be shared with contractors of those agencies for the sole purposes of establishing and enforcing child support obligations; and
3. Reconfirm that all federal taxpayer information that is shared with government child support agencies and their contractors must remain confidential and may not be further disclosed.

Approved June 13, 2023



Statement for the Record

From the National Child Support Engagement Association

for the

Joint Ways and Means Work & Welfare and Oversight Subcommittee Hearing

on

Strengthening the Child Support Enforcement Program for States and Tribes

December 13, 2023

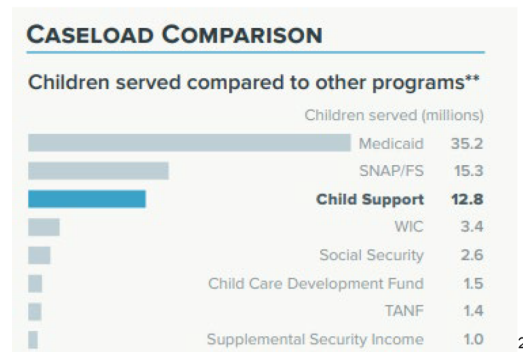
The National Child Support Engagement Association (NCSEA) welcomes the opportunity to provide a statement for the record for the Joint Work & Welfare and Oversight Subcommittee Hearing on Strengthening the Child Support Enforcement Program for States and Tribes held on November 29, 2023.

Background

NCSEA's members are from public, non-profit, and private sectors - including local, state, and tribal child support agencies and national and international jurisdictions. NCSEA works to promote policies and services that support both parents so that their children have financial and emotional support.

The Child Support program is the third largest federal program serving families, after the Medicaid and the Supplemental Nutrition Assistance Program, yet it is not a public benefit program. The program has evolved over the years from its origin as a program designed to recover the costs of other federal programs. The program is now focused on providing parents' financial support directly to their families, serving millions of children across the country, and reducing families' need for government benefits.

In 2022, 12.8 million children - one in five nationwide - were served by the program, with 96% of the \$30.5 billion in collections going directly to families.¹ The Child Support program is also one of the most effective and efficient federal programs, consistently collecting approximately \$5 in support for every \$1 spent administratively.



In 2022, the federal Tax Refund Offset program yielded \$2.284 billion in collections.³ In that year, there were approximately 1.25 million offsets averaging more than \$1,800 each – offsets that resulted in child support critical to assisting struggling families to

¹ https://www.acf.hhs.gov/sites/default/files/documents/ocse/2022_infographic_national.pdf

² Ibid.

³ https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2022_preliminary_report.pdf

meet the needs of their children. For many families, that payment is the only child support they may receive that year.

There are stringent data privacy and confidentiality protocols that are strictly adhered to by states and localities, and closely monitored by the federal Office of Child Support Services (OCSS) and IRS. Because of the sensitivity of personal and financial information needed to administer the program, public and private agencies and their staff safeguard that private information unequivocally. Maintaining the security of the information is foundational to the program's operation. The success and bipartisan support of the program would not exist if there were reports of families' private information being breached.

The Issue

The Internal Revenue Service (IRS) and the federal Office of Child Support Services (OCSS) have agreed since 2002 that federal legislation is required to amend the Internal Revenue Code (IRC) regarding the use of FTI by tribal child support agencies and contractors of government child support agencies. IRC 6103(l)(6)(B) authorizes three (3) data elements of federal tax information (FTI) that may be re-disclosed to contractors for the purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. These are:

- 1) The taxpayer address,
- 2) The taxpayer social security account number, and
- 3) The amount of any offset against a tax refund otherwise payable to the taxpayer.

State and local Child Support agencies have used contractors across their programs for years including contractors administering child support disbursement units, field offices and information systems support. Because these entities are performing integral child support program functions, they may have access to the additional IRS data available to the program including information related to taxpayer income, whether the refund comes from a joint return, and the name of the joint filer. These additional pieces of data and more, depending on the case, can be essential in helping agencies establish and administer child support orders to provide reliable and sustainable financial support to the child, based on the parents' actual income.

Additionally, there are more than 60 federally funded tribal child support agencies since the last time the IRC was amended. The IRS has taken the position that direct access to FTI by tribal child support programs is prohibited and re-disclosure of FTI to contractors who provide services to those programs is authorized but limited to no more than the three data elements in IR 6103(1)(6)(B).

The IRS regularly conducts child support program audits to ensure that all federal requirements related to the security of FTI are being met. Around 2009, the IRS began

issuing audit findings that contractors were accessing more FTI data elements than the IRC allowed. Those early audit findings were held in abeyance pending resolution of the conflicting interpretations of federal law. Until the recent change to IRS guidance, those findings have continued to be held in abeyance over the years. We note, however, that since the audits began over two decades ago, there has never been an IRS finding that the child support program or their contractors failed to protect the information, including any data not specifically enumerated in the IRC. OCSS has been aware of the IRS findings and the integral role of contractors in supporting the mission of the child support program to provide non-governmental financial assistance to families. OCSS also conducts audits of state agencies. It is clear that they understand and support the public-private relationships necessary to use every tool available to support families.

The Impact

The program and the families it serves face a crisis due to recent guidance from the IRS. That guidance to state, local and tribal child support agencies on restricting tribal and contractor access to FTI will have dire effects on the ability of our public and private sector partners to operate critical aspects of the program currently performed by contractors, including, but not limited to, payment processing, customer service call centers, and maintenance of electronic case management systems. If the IRS no longer holds findings related to tribal and contractor access to FTI in abeyance, it will uniquely and detrimentally impact the ability of the child support program to collect and distribute federal income tax refunds to millions of families across the nation. It will also have a significant impact for many states who are presently updating the legacy systems they use to manage their caseloads, as these states use contractors to design and develop new systems.

Federal Income Tax Offset collections are a reliable and independent source of income to ensure that the family receives support, especially in those cases where no other support is paid during the year. The FTI associated with such collections is also vital to ensuring the Federal Income Tax Offset program does not retain the portion of refunds owed to "injured" (non-obligated) spouses, avoids mistaken identity, and prevents or uncovers fraud.

Without federal legislation to remedy the conflict in federal law, there are at least forty-two states that will face severe disruptions in their programs as soon as October 1, 2024. Those states use contractors to administer certain aspects of their child support programs and to access the Federal Tax Refund Offset Program. In jeopardy are agreements and partnerships with an array of public and private agencies, including, but not limited to state printing and mailing centers; local prosecutors; clerks of court; IT maintenance and operations; state disbursement units; call centers; and platform hosting service providers. All of these agreements and contracts adhere to the stringent IRS privacy safeguards.

In addition to Federal Income Tax Offset collections, the child support program relies on collections from the automatic child support income withholding program. These collections comprise 72% of support payments. Together, these collections depend on highly automated state systems. That reliance on technology is fundamental to the program's cost-effectiveness and efficiency. If the IRS-FTI guidance goes into effect, it will be extremely difficult and costly to separate the comingled data so that it is concealed from contractors.

The scope of mitigation is difficult to determine because the IRS has applied an inconsistent and often expansive definition to "contractor." Preliminary mitigation estimates from 33 states predict the need for 4,500 additional public child support employees and additional costs of \$740 million annually, including more than \$488 million per year in federal costs. Those costs would persist since it will take a number of years and investments by state legislatures to create new systems and practices to relaunch the Federal Income Tax Refund Offset Program.

Unless Congress acts soon, the program and the families it serves face enormous consequences, including the loss of support described above.

Impact on Tribal Partners

The disruption to state and local programs would also affect our tribal partners. The IRC has never been updated to give federally funded tribal child support agencies access to FTI. In May 2007, OCSS agreed that states could submit arrears owed in tribal cases for federal tax offset on behalf of tribes if there was an agreement between the state and tribe that extended all IRS safeguarding requirements to the tribe. These agreements have also been identified by the IRS as sharing too much FTI, and those findings have similarly been held in abeyance.

There is a legislative solution, the *Tribal Child Support Enforcement Act* (TCSEA; S. 3154). Long supported by NCSEA, the legislation would provide parity for tribal child support programs by giving them the same tools available to their state partners when pursuing and collecting financial support for children. The bill would provide tribes with direct access to the Federal Income Tax Refund Offset Program to collect past-due support. That provision is critical to ensuring that tribal agencies have the same array of collection tools available to state agencies.

Federally-funded tribal child support programs adhere to the same privacy safeguards as state programs. Given the relatively small nature of many of the tribal programs, they also depend heavily on contractors to support families.

The TCSEA also resolves the IRS-FTI issue. It would allow child support agencies and their contractors to continue to use their current safeguarding practices to use FTI to secure support for families. The contractor amendments in the TCSEA would be vital to tribal, state and local child support agencies to continue to make appropriate

confidential use of FTI to establish and enforce child support obligations without bringing costly functions into the agency itself.

Conclusion

NCSEA has joined the two other national child support organizations – the National Tribal Child Support Association and the National Council of Child Support Directors – in adopting a [joint resolution](#) earlier this year to support federal legislation to address this issue. NCSEA stands ready to provide additional information and support to advance the consideration of legislation in the House. The success of the child support program has been thanks to our long-standing partnership with contractors. The use of contractors is woven into the fabric of our service delivery, including legal representation, payment processing, systems maintenance, or other critical functions.

Thank you for the opportunity to provide a statement.



Oregon Department of Justice

Oregon Child Support Program

Supporting Parents to Support Children

Division of Child Support

1162 Court St NE

Salem OR 97301

Telephone: (503) 947-4388

OregonChildSupport.gov

Statement for the Record

**Kate Cooper Richardson, Director
Oregon Child Support Program**

**for the
Joint Ways and Means Work & Welfare and Oversight Subcommittees Hearing
on
Strengthening the Child Support Enforcement Program for States and Tribes**

Submitted December 13, 2023

The Oregon Child Support Program, administered by the Oregon Department of Justice, supports the testimony presented at the joint hearing on “strengthening the child support enforcement program for states and Tribes” on November 29, 2023. There is a critical need for Congress to clarify current law regarding contractor access to limited elements of FTI for child support purposes and to permit access to federal tax information (FTI) to Tribal child support programs. Since 2002, the Internal Revenue Service (IRS) and the federal Office of Child Support Services (OCSS) have agreed on the need to change a provision in the Internal Revenue Code in order to clarify what elements of FTI child support agencies can share with child support contractors. Now is the time for Congress to resolve a long-standing issue that has become acutely time sensitive.

Oregon’s child support program is subject to a federal State Plan requirement to have procedures for obtaining payments of past-due support from individuals’ federal income tax refunds. Oregon’s federal tax refund offset procedures—and those of all the 54 state and territory Title IV-D (child support) programs—have worked smoothly for decades. Federal law, regulated by OCSS, also has long permitted states to structure and administer their child support programs as individual states determine is most appropriate, including with contracted assistance to varying degrees. Over the past two decades, Oregon’s program has been working with public and private partners in the manner that was effective for the families we serve and efficient for our state. The Oregon Child Support Program and those with whom we contract rigorously protect FTI and have never experienced a breach of this information. Oregon follows all safeguarding requirements for training, practice, and contracts provided in IRS Publication 1075 for both employees and contractors.

That said, there is a distinction between the specific limited FTI elements that child support agencies are permitted to access and those that agencies' contracted partners may access—setting up a practical problem and conflict for child support agencies with respect to the federal tax refund offset program. The IRS and OCSS recognized that conflict when it arose, and numerous administrations have included a fix in the President's annual budget proposal. Awaiting that legislative solution, the IRS issued to a child support agency a "finding held in abeyance" if, in its judgment, it determined that a child support "contractor" had access to more than the very limited FTI elements.

Oregon's such finding held in abeyance has varied slightly over the years—and the Oregon Child Support Program did not always agree with the IRS's interpretation of "contractor" or of "access." However, because the finding was held in abeyance pending a legislative solution, it was not prudent to expend taxpayer resources to formally challenge that finding or parts of that finding. Further, the program has not suffered breaches or significant disclosures of FTI and has been diligently applying all the extensive safeguarding measures, both in physical and electronic security.

On a side note, in the intervening years, the Oregon Child Support Program had been monitoring and supporting Congressional action on this matter through Oregon Senator Ron Wyden. Senator Wyden was a co-lead sponsor of the Tribal Child Support Enforcement Act that passed out of the Senate by unanimous consent in an earlier Congress (S.534 – 117th Congress). He and Senator Thune have re-introduced that legislation in this Congress, S. 3154.

The stable status quo changed when the IRS Office of Safeguards notified states in February of this year that effective October 1, 2023, the audit findings regarding contractors would no longer be held in abeyance and they would be noted as "critical findings." The IRS subsequently extended the deadline to October 1, 2024, requiring states to submit plans and timelines for mitigating contractor access. It is already taking an enormous level of effort for most states even to develop such a plan and prepare to execute it. The IRS Office of Safeguards, in its conversations with state child support programs (Oregon included) admits that those efforts will be unnecessary if the Internal Revenue Code relative to FTI access and child support programs is amended as has been proposed and has expressed to the directors of child support programs that it supports such a change.

If Congress does not act to resolve the conflict between the IRS child support contractor and OCSS requirements for child support tax refund offset, the Oregon Child Support Program is at risk of either (1) losing access to the federal tax refund offsets for past-due child support, putting the program out of compliance with its State Plan and leaving families without much-needed child support payments, or (2) expending great effort and

millions of dollars over a period of years to take corrective action to mitigate for the IRS finding held in abeyance:

Negative impact to Oregon families

- \$16,516,409 collected from tax refund offsets in federal fiscal year 2022 for Oregon—at risk.
- 8,192 Oregon families received a tax refund offset for past-due child support in 2022—at risk.
- 635 Oregon families received a tax refund offset as their *only* child support payment during 2022—at risk.

Existing contracts to be cancelled and mitigation efforts:

- Hosting services, disaster recovery services, and cloud storage:
 - Oregon's federally required and certified child support system is hosted at a state-contracted data center due to limitations of state data center capacity.
 - Oregon's finding held in abeyance by the IRS names this data center as a contractor with unauthorized "access" to FTI because the data sitting in the server racks contain FTI, and therefore, theoretically, it could be accessed by someone with knowledge how to identify and extract that information.
 - There will be significant costs and diverted energy and resources to migrate Oregon's system to the state-owned and operated data center, especially without the assistance of a migration vendor (contractor support).
 - Oregon's program will need legislative approval and budget authority to hire additional full-time employees. Oregon, like many other states, struggles to compete with private sector technology firms when hiring the talent necessary to support these large, complex child support systems. Assuming recruitments are successful, and after additional staff are onboarded and up to speed, the migration project is estimated to take approximately 15 to 18 months, including procurement of the necessary hardware.
 - During that time period, the program will be unable to perform any other child support projects, and agency-level projects also will be negatively affected due to staff resource constraints.
- System operations and maintenance – contractor staff augmentation
 - Because the Oregon Child Support Program does not have an adequate number of employees to support the child support system in operations and maintenance, we have had to augment our own staff by contracting for vendor support to keep Oregon's child support system running.

- These contracted employees—fewer than a dozen—work alongside state public employees on Oregon’s child support system, performing various maintenance and operational tasks. Oregon’s finding held in abeyance by the IRS names these contracted staff.
- Legislative approval is needed to increase the total number of full-time employees. Again, we struggle to compete with the private sector when hiring the requisite technology talent. Without the adequate number of sufficiently trained staff, and without contractor support, Oregon will struggle to keep the system updated and to meet the needs of the families we serve.

The Oregon Child Support Program also urges Congress to enact access to federal tax information for Tribal child support programs to have parity with state child support programs. We work closely with all the federally recognized Tribes in Oregon, especially with the two Tribes that currently have Title IV-D child support programs—the Klamath Tribes and the Confederated Tribes of the Umatilla Indian Reservation. Without access to FTI, hundreds of Tribal families are missing out on federal refund offset as an important child support payment source.

The Oregon Child Support Program encourages Congress to follow the [recommendation](#) in the joint resolution of the three national child support organizations (NCSEA – National Child Support Engagement Association, NTCSA – National Tribal Child Support Association, and NCCSD – National Council of Child Support Directors):

We ask Congress to amend the appropriate provisions in the Internal Revenue Code and Title IV-D of the Social Security Act to:

1. Specifically authorize Tribal child support programs to have access to federal tax information either directly or through an agreement with a state child support agency;
2. Modernize the disclosure provisions in the Internal Revenue Code so all elements of federal taxpayer information that are provided to state, local, and tribal child support agencies may be shared with contractors of those agencies for the sole purposes of establishing and enforcing child support obligations; and
3. Reconfirm that all federal taxpayer information that is shared with government child support agencies and their contractors must remain confidential and may not be further disclosed.



Governor Tony Evers
Secretary Emilie Amundson
dcf.wisconsin.gov

Date: December 13, 2023

To: Joint Ways and Means Work & Welfare and Oversight Subcommittee

From: Emilie Amundson, Secretary

Re: Comments for the Joint Ways and Means Work & Welfare and Oversight Subcommittee Hearing on Strengthening the Child Support Enforcement Program for States and Tribes.

Wisconsin welcomes the opportunity to provide comments in response to the Joint Work & Welfare and Oversight Subcommittee Hearing on Strengthening the Child Support. We urge Congress to enact legislation to amend the Internal Revenue Code (IRC) to specifically authorize full access to federal tax information (FTI) to tribal child support programs and to provide that all elements of FTI that are provided to state, local, and tribal child support agencies may be shared with contractors of those agencies for the sole purposes of establishing and enforcing child support obligations.

Wisconsin operates one of the most cost-effective child support programs in the country, collecting nearly \$6 in support for every \$1 spent administratively and serving over 343,000 children. Over 98% of the \$864 million collected in FFY 2022 went directly to families.

The success of our child support program has been due in large part to our long-standing partnership with contractors. Wisconsin uses a contractor to manage the receipt and disbursement of nearly \$1 billion annually in child support collections, including federal tax refund offsets. Many of our county agencies contract for legal services and our state agency hires contractors to perform system maintenance.

Wisconsin takes very seriously the need to safeguard FTI. All staff who have access to FTI are required to annually complete extensive training on IRS Publication 1075 rules, requirements, and guidelines securing the safeguarding and security of FTI. Additionally, all staff are required to undergo rigorous background checks, including FBI fingerprinting and local law enforcement reviews of the person's education, employment, and residences over the past five years.

The IRS regularly conducts child support program audits to ensure that all federal requirements related to the security of FTI are being met. For the past decade, the IRS has been making findings that contractors were accessing more FTI data elements than the IRC allowed. Those early audit findings noted the conflict in federal law and agreed that any agency corrective action would be held in abeyance pending resolution of the

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conflicting interpretations. Those findings have continued to be held in abeyance and during that period, there has never been a finding either the state or a contractor failed to protect FTI.

In February of this year, the IRS issued guidance indicating that these findings would no longer be held in abeyance effective October 1, 2023. That date was later revised to October 1, 2024. Restricting contractors' access to FTI will have dire effects for the administration of Wisconsin's child support program.

Wisconsin collected over \$47.4 million through the federal tax refund offset program 2022. For many families, that payment is the only child support they receive in a year.

The management of over 600,000 cases depends on highly automated state systems. If the IRS-FTI guidance goes into effect, it will be extremely difficult and costly to separate the comingled data so that it is concealed from contractors and the ability of contractors to accurately manage payment processing will be severely compromised. Wisconsin estimates mitigation costs in excess of \$3 million annually. In addition, Wisconsin is in the middle of a ten-year redesign of its automated case management system. Significant staff resources and funding have already been devoted to this project which is dependent on the assistance of contractors. If the IRS guidance goes into effect, work on this project will cease and any future redesign efforts will require starting over.

The disruption to state and local programs would also affect our tribal partners. The IRC has never been updated to give federally funded tribal child support agencies access to FTI. In Wisconsin, 7 of our 9 tribal child support agencies use the state's automated case management system. Implementation of the IRS guidance would necessitate terminating tribal access to the state system.

Additionally, since 2007, the Federal Office of Child Support Services has agreed that states could submit arrears owed in tribal cases for federal tax offset if there was an agreement that extended all IRS safeguarding requirements to the tribe. These agreements have also been identified by the IRS as sharing too much FTI, and those findings have similarly been held in abeyance.

There is a legislative solution. The *Tribal Child Support Enforcement Act* (TCSEA; S. 3154) would provide parity for tribal child support programs by giving them the same tools available to their state partners when pursuing and collecting financial support for children. The bill would provide tribes with direct access to the Federal Tax Refund Offset Program to collect past-due support.

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The TCSEA also resolves the IRS-FTI issue. It would allow child support agencies and their contractors to continue to use their current safeguarding practices to use FTI to secure support for families.

I urge you to adopt this legislation to ensure that children and families continue to receive vital services from our state and tribal child support programs.

**Comments for the Record
United States House of Representatives
Committee on Ways and Means
Joint Work and Welfare and Oversight Subcommittees
Hearing on Strengthening the Child Support Enforcement
Program for States and Tribes
Wednesday, November 24, 2023**

By Michael G. Bindner
The Center for Fiscal Equity

Chairmen LaHood and Schweikert and Ranking Members Davis and Pascrell, thank you for the opportunity to submit these comments for the record to this joint Subcommittee hearing on this topic.

The question of child support magnifies the issue that causes most divorces, the financial stress faced by most families. Rather than using governmental hard power to force such support on largely poor families, use soft power to provide higher incomes to both existing and broken families, ending the cycle of poverty.

In May and October, we discussed raising minimum wages, reforming TANF and increasing the child tax credit. We will continue our comments to the last point.

An adequate and fully refundable child tax credit ends the need for child support enforcement, Supplemental Aid to Needy Families, dependent care benefits under Social Security survivors and disabled benefits programs, thus securing the program's long term health, and the paperwork intensive Earned Income Tax Credit.

The President's Budget proposes that the Child Tax Credits enacted as part of the American Recovery Plan Act be restored. During that period, payment of the child tax credit was in advance of the annual tax filing. This is appropriate and will change the culture of such credits, which should be for continuing support, not an annual bonus.

We agree with increasing the CTC to at least American Rescue Plan Act levels and refundability. We would make it \$1,000 per month and phase it out from the median income to the 90th percentile. During the pandemic, the IRS managed payments. This had the "stink of welfare" that even some Democratic Senators objected to, which led to its discontinuance.

I submit that, over the long-term, it would be more acceptable to distribute them either through other government subsidies, such as Unemployment Insurance, Disability Insurance, or a training stipend OR through wages.

For middle income taxpayers whose increased credits are less than their annual tax obligation, a simple change in withholding tables is adequate. Procedures are already in place to deliver refundable credits to larger families.

Employers can work with their bankers to increase funds for payroll throughout the year while requiring less money for their quarterly tax payments (or estimated taxes) to the IRS. The main issue is working out those situations where employers owe less than they pay out. This is especially

true for labor intensive industries and even more so for low wage employers. A higher minimum wage would make negative quarterly tax bills less likely.

Tax reform can be used to facilitate this process. Instead of having each family file to collect their child tax credits and EITC (as an end of the year bonus), enact an employer paid subtraction value added tax and make child tax credits and health insurance tax benefits an offset to the payment of this tax and remove most families from having to file at all. Tax offsets could also be created to fund paid family medical leave, sick leave and childcare provided through employers.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

Contact Sheet

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**Committee on Ways and Means
Joint Work and Welfare and Oversight Subcommittees
Hearing on Strengthening the Child Support Enforcement Program for States and
Tribes
Wednesday, November 24, 2023**

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears:

This testimony is not submitted on behalf of any client, person or organization other than the Center itself, which is so far unfunded by any donations.

