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May 13, 2003 Joint Committee on Finance Paper #866

Federal Child Support Incentive Payments (DWD -- Child Support)

[LFB 2003-05 Budget Summary: Page 511, #4 (Part)]

CURRENT LAW

Under current law, the federal government distributes incentive payments to the states in order to encourage and reward child support programs that perform in a cost-effective and efficient manner. The federal incentives are based on five measures of performance: (a) paternity establishment; (b) establishment of support orders; (c) collection of current child support due; (d) collection of child support arrearages; and (e) cost-effectiveness. This incentive system was phased in over three years [federal fiscal year (FFY) 2000 through 2002], and replaced the previous system, which was based primarily on the ratio of each state's support collections to administrative costs and the amount of support collected on behalf of public assistance recipients.

In Wisconsin, the federal incentive funds are distributed to county child support agencies. In addition, under state law, Wisconsin provides incentive payments to county child support agencies to supplement the federal incentive payments. State law provides that the total of federal incentive payments and state supplemental payments cannot exceed $12,340,000 annually, with the state supplemental payments capped at $5,690,000 per year. Under this structure, the amount available for distribution to the counties will fall below $12,340,000 if federal incentive payments are less than $6,650,000. Conversely, state supplemental payments will be less than $5,690,000 if federal incentive payments exceed $6,650,000. The state supplemental payments are funded with program revenue from child support assigned to the state by certain public assistance recipients. Funding from assigned support payments in excess of the amount needed for state incentive payments is used to help fund the W-2 program.

The statutes require the Department of Workforce Development (DWD), in consultation with county representatives, to promulgate a rule that specifies the formula for distributing the incentive payments to the counties. Under the rule, the federal and state incentives are distributed based on each county's performance in establishing paternity and support orders and collecting support. Counties may only use federal and state incentive payments to defray the costs of their child support program and may not receive incentive payments that exceed their child support program costs. The rule also specifies that counties must use the incentive payments to supplement, rather than supplant, county child support enforcement expenditures. However, the non-supplant provision may be waived if the Department determines that the state is in compliance with the federal child support maintenance-of-effort (MOE) requirement.

GOVERNOR

Provide that any federal child support incentive payments that exceed $12,340,000 annually would be divided evenly between DWD and county child support agencies. The half of excess federal incentives paid to counties would be allocated according to the existing formula for distributing incentive payments to the counties and would be subject to the current requirements that: (a) the excess could be used only to defray the costs of a county's child support program; and (b) a county could not receive incentive payments that exceed its child support program costs. The other half of the incentive-award overage would be retained by DWD to pay the costs of the Department's child support enforcement activities.

Because of the new federal system of awarding incentive payments to the states and Wisconsin's relatively strong performance (compared to the other states) in child support enforcement, DWD expects federal incentive payments to this state to exceed the $12,340,000 cap by a total of $3,180,000 for federal fiscal years 2003 through 2005 ($1,460,000 in FFY 2003, $760,000 in FFY 2004, and $960,000 in FFY 2005). Under the bill, half of the excess funding ($1,590,000) would be distributed to counties and half would be retained by the Department during the 2003-05 biennium. As under current law, all of the first $12,340,000 in annual federal incentives would be distributed to county child support agencies. With the federal incentive award in excess of $12,340,000, moreover, no state dollars would be needed to supplement the federal incentive dollars. As current law provides, these dollars would be used to support the W-2 program instead of being awarded to counties to help fund child support enforcement efforts.

The new provisions would first apply to incentive payments awarded for 2002.

Under the bill, it is estimated that county child support agencies would receive additional incentive payments of $745,000 FED in 2003-04 and $845,000 FED in 2004-05. In addition, the federal incentive payments can be used to claim federal child support matching funds at a 34/66 state/federal matching rate. Therefore, the counties would also receive additional matching funds of $1,446,200 FED in 2003-04 and $1,640,300 FED in 2004-05.

The bill would appropriate $472,900 FED in 2003-04 and $1,117,500 FED in 2004-05 in additional federal incentive funds to DWD's Bureau of Child Support (BCS). In addition, BCS would receive additional matching funds of $918,000 FED in the first year and $2,169,300 FED in the second year. These revenues would be used to support ongoing state child support enforcement activities.

DISCUSSION POINTS

1. The distribution of federal child support incentive payments is outlined in s. 49.24 of the statutes. As noted, that provision specifies that the amount of supplemental state incentive funding provided to counties may not exceed $5,690,000 per year and the total of federal and state incentive payments may not exceed $12,340,000 per year. Historically, federal incentive payments have been below the $12,340,000 threshold each year, and the current statute does not specify how federal incentive payments in excess of $12,340,000 are to be used. The Governor's proposal would specify that any excess federal incentives would be split evenly between DWD and the counties. Since the federal incentives are likely to be greater than $12,340,000 in future years, it would be desirable to clarify how the excess funds are to be used. Although the relevant statutes are not precise on this issue, it appears that if the current provisions were maintained, DWD could credit excess incentive payments to its federal program operations appropriation [renamed "child support state operations; federal funds" under the bill] and use these funds for its child support enforcement activities. It also appears that DWD would be prohibited from distributing any excess funds to counties.

2. Under SB 44, as drafted, the new provisions would first apply to incentive payments awarded for 2002. The administration's intent was for these provisions to first apply to federal incentive funds awarded to the state for federal fiscal year 2002. These funds would actually be received by the state in calendar year 2003 and distributed to counties under contracts for calendar year 2004. In order to clarify that these funds would not be available to counties as part of the calendar year 2002 or 2003 contracts, the administration has requested that an amendment be adopted to clarify that the new provisions would first apply to incentive payments awarded *to the state* for *federal fiscal year* 2002.

3. The following table shows the contract amounts for county child support incentive payments for the past several years. As shown in the table, the county contract amounts have ranged from $11.1 million in calendar year 2000 to $12.3 million in calendar years 2002 and 2003. Under the budget provision, the amount available to be distributed to counties would increase to an estimated $13,085,000 in the 2003-04 state fiscal year and to $13,185,000 in the 2004-05 state fiscal year. The Department has not yet determined how the county incentives would be allocated between calendar years 2004 and 2005.

County Child Support Incentive Contract Amounts*

Calendar Year	Contract Amount
1999	$11,569,600
2000	11,089,400
2001	11,846,600
2002	12,333,600
2003	12,340,000

*Excludes a small amount for tribal contracts.

4. The estimated federal incentive payments under the bill assume that Wisconsin will be eligible to receive incentive funding for four of the five performance measures used by the federal government. The measure that Wisconsin will likely not be eligible for is collection of child support arrearages. Prior to FFY 2003, Wisconsin received federal incentives on only three of the five federal measures, and was not eligible to receive incentives on: (a) the collection of current child support due measure; and (b) the collection of child support arrearages measure. Wisconsin was not eligible for these measures because of its previous use of percentage-expressed child support orders (PEOs). With these types of orders, the amount of support due was expressed as a percentage of the noncustodial parent's income, rather than as a fixed dollar amount. The federal government maintained that, with PEOs, it was unable to accurately measure Wisconsin's performance on collecting current support and arrearages, because it was not possible to reliably determine how much support was actually owed. Wisconsin was the only state in the nation allowing the use of PEOs.

5. In the 2001-03 budget (2001 Wisconsin Act 16), the statutes were modified to generally disallow PEOs, and $2.9 million ($1,000,000 GPR and $1,941,200 in federal matching funds) was provided in 2001-02 to county child support agencies to convert existing PEOs to fixed-sum orders. Following completion of the order conversion process, Wisconsin is now able to receive incentive funds based on the collection of current child support due measure.

6. However, the federal government still will not permit Wisconsin to receive incentive funding on the collection of support arrearages measure, because the converted percentage-expressed orders have not been reconciled to establish an accurate determination of past-due support. In general, this process involves determining the noncustodial parent's total income since the support order was established, calculating the amount of support due based on that income, and then comparing the amount due to the amount actually paid.

7. The federal Office of Child Support Enforcement (OCSE) has approved a plan to allow Wisconsin to reconcile arrearages on former PEOs over a five-year period (by September 30, 2007). When the reconciliation process is completed, the state will be able to earn federal incentives on all five of the performance measures. In addition, these orders must be reconciled in order for the KIDS computer system to receive final certification from OCSE (currently, the system has been conditionally certified). The Governor's recommendation to share the excess amount of federal incentive payments with counties is intended, in part, to provide additional funding to counties for the reconciliation process.

Option to Expedite the PEO Reconciliation Process

8. Representatives of the county child support agencies have suggested that the order-reconciliation process could be completed by the end of FFY 2004 (September 30, 2004) if additional state funding of $1.0 million were provided in the 2003-05 biennium, along with $1.9 million in federal matching funds. If this occurred, the state potentially could earn incentive payments on all five of the federal performance measures beginning in FFY 2005. Compared to the amounts assumed in the bill, federal incentive payments would increase by an estimated $3.4 million in 2004-05 (from $13.3 million to $16.7 million), according to estimates prepared by DWD.

9. If the Committee wished to expedite the reconciliation process, an alternative would be to provide $1,000,000 GPR in 2003-04 in a new, continuing appropriation to DWD for distribution to the counties for reconciliation of the former percentage-expressed child support orders. In the second year of the biennium, the amount of federal incentive payments would increase by an estimated $3,400,000. Half of this ($1,700,000) would be retained by DWD and half would be distributed to counties. Of the half retained by DWD, $1,000,000 could be used to replace GPR funding appropriated to the Bureau of Child Support to offset the $1,000,000 provided to counties in the first year for the expedited order reconciliation process. The remaining $700,000 (along with $1,358,800 in federal matching funds) could be retained by the Department to help offset anticipated deficits in its child support enforcement program.

10. Assuming that the reconciliation process is completed by September 30, 2004, and that DWD's estimates of the additional incentive payments associated with the fifth performance measure are correct, this option would provide a significant amount of additional funding to counties and DWD in the 2003-05 biennium. In future years, both the state and counties would receive additional federal incentive payments more quickly.

11. On the other hand, a serious drawback of this alternative is that neither of the assumptions identified above is certain. From the counties' perspective, there would be no additional risk under this alternative, because they would receive additional funding compared to the amounts in the bill, regardless of whether the reconciliation process was completed on time or whether the projected additional incentive payments materialized. However, from DWD's view, this uncertainty would represent a considerable risk, since the Department's GPR funding would be reduced in 2004-05 to pay for the expedited reconciliation costs. Therefore, if the increased incentive payments were not realized in the second year, the Department would be facing a significant funding shortfall. For example, if the reconciliation process were not completed on time and only four measures could be used in FFY 2005, the Department would lose $2,941,200 in 2004-05 under this option ($1,000,000 GPR and $1,941,200 in federal matching funds), compared to the funding in the bill.

12. It should also be noted that county expenditures are counted in determining whether the state has met the federal child support maintenance-of-effort requirement (discussed in more detail below). Therefore, if an alternative to provide additional funds for the PEO reconciliation process is approved, the Committee may wish to specify that these funds could only be used for the reconciliation process and could not be used to supplant current local expenditures for child support enforcement.

Options to Have DWD Retain More than 50% of "Excess" Federal Incentives

13. The Committee could also consider an option to have the state retain all federal incentive payments in excess of $12,340,000 per year. The additional funds retained by the state under this alternative ($745,000 in 2003-04 and $845,000 in 2004-05) could be appropriated to BCS and used to replace GPR that is currently appropriated to the Bureau. This would save $1,590,000 GPR over the biennium.

14. This option would not reduce the amount of incentive funding provided to counties from the amounts received in recent years. The $12,340,000 maximum amount would still be available for distribution to the counties.

15. However, compared to the bill, this option would result in a significant funding reduction for county child support agencies. In order to cover the local child support enforcement expenditures implicitly assumed under the bill, additional county revenues of $745,000 in the first year and $845,000 in the second year would have to be provided. If no additional county funds were provided, local expenditures would have to be reduced by $2,191,200 in the first year and $2,485,300 in the second year, because the 66% federal matching funds would also be forgone. These amounts are also compared to the bill. As noted above, compared to recent years, counties would be held harmless under this option.

16. According to the administration, the decision to divide the excess federal incentive payments with the counties is intended to reflect the fact that both the state Bureau of Child Support and the county agencies contribute to the state's relatively high performance on the federal child support measures that are used to determine the incentive payments. Therefore, both the state and counties should share in the excess incentive payments that are anticipated. However, even if the state retained all of the excess federal incentives, the counties would still receive the vast majority of total federal incentive funding, since they would continue to receive the first $12,340,000 annually. For example, for federal fiscal year 2003, the federal incentives are estimated at $13,800,000. If the state retained all of the $1,460,000 excess over $12,340,000, the counties would still receive over 89% of the total ($12,340,000 divided by $13,800,000) and the state would retain about 11%.

17. Another reason to share the excess funds with county child support agencies is that counties have been contributing local funds of $8 million to $8.5 million annually for child support enforcement activities in recent years. The additional federal incentive payments would help offset a portion of these local costs in future years. Also, as noted above, the additional federal incentive payments are intended to provide additional funding for the PEO reconciliation process. If these funds were not provided, it would be more difficult for the counties to complete the reconciliation process within the five-year timeframe required by OCSE.

18. The Committee's options are not limited to either a 50% or 100% state share of excess federal incentive payments. If the Committee wishes to increase the amount of excess federal incentive payments retained by BCS and reduce the amount distributed to counties from the amounts in the bill, any state percentage between 50% and 100% could be selected. The fiscal effect would depend upon which percentage was chosen. For each 10% increment over the 50% state share under the bill, $318,000 in biennial GPR savings could be realized. For example, a 60% state share would save $318,000, a 70% share would save $636,000, an 80% state share would save $954,000 and a 90% state share would save $1,272,000. As noted, a 100% state share would save $1,590,000.

19. Regarding these options, it should be noted that the federal incentive payments would be a more uncertain source of revenue for the Bureau of Child Support than state GPR, since the federal awards may vary depending upon Wisconsin's performance and the performance of

other states on the federal child support enforcement measures.

20. The federal child support maintenance-of-effort (MOE) requirement should also be noted. In order for the state to receive incentive payments, federal law requires that state and local child support expenditures must equal at least $17.5 million annually. Using the most recent estimates of state child support expenditures under the bill, it is projected that state expenditures that can be counted toward the MOE requirement would total $12.3 million in 2003-04 and 2004-05. Therefore, in order to meet the MOE requirement, local expenditures would have to total approximately $5.2 million in each year. According to DWD, over the three most recent years (calendar years 2000 through 2002), local child support expenditures that are counted toward the MOE requirement have been $8 million to $8.5 million per year. Therefore, although there may be some risk of not meeting the MOE requirement if GPR funding were replaced with federal incentive revenues, it appears that there would still be sufficient state and local expenditures to cover the maintenance-of-effort obligation.

21. Also, as mentioned above, DWD's rule regarding the distribution of child support incentive funding to the counties specifies that the incentive payments must be used to supplement, rather than supplant, county child support enforcement expenditures. The minimum county spending requirement is based on the three-year average of expenditures in calendar years 1996 through 1998. This amount is estimated at $8 million annually statewide. Therefore, it appears that DWD's current rule contains sufficient safeguards against the state not meeting the MOE requirement in future years (either because of additional incentive payments being available to counties or because of GPR reductions to BCS's budget). As noted, the non-supplant provision in the rule may be waived if DWD determines that the state is in compliance with the federal MOE requirement.

Summary of Alternatives

22. The following section outlines a number of alternatives for dividing the anticipated excess federal incentive payments, and associated federal matching funds, between DWD and county child support agencies. The first option would approve the Governor's recommendation with the change to the initial applicability provision requested by the administration. The second alternative would provide additional funding in the first year to expedite the PEO reconciliation process. Alternatives 3 and 4 would increase the share of excess federal incentive funding to be retained by DWD from the 50% share under the bill, and reduce GPR funding appropriated to BCS. Alternatives 2 through 4 would also adopt the requested change to the initial applicability provision. Alternative 5 would maintain current law.

23 Any number of other alternatives could also be crafted. For example, the county share of excess incentive revenues could be increased from the 50% share under the bill, or the state share could be increased without deleting GPR funding in BCS. The resulting fiscal effects would depend upon the specific state/county split of federal incentive payments selected and how much GPR, if any, were deleted from BCS.

ALTERNATIVES

1. Adopt the Governor's recommendation with a modification to specify that the new provisions would first apply to incentive payments awarded to the state for federal fiscal year 2002. As drafted, the bill's initial applicability provision does not include the phrases "to the state" or "federal fiscal year."

2. In addition to Alternative 1, provide $1,000,000 GPR in 2003-04 to DWD in a newly-created, continuing appropriation for distribution to county child support agencies for reconciliation of percentage-expressed support orders, along with $1,941,200 FED in child support matching funds. Specify that counties could only use these funds for the purpose of completing the PEO reconciliation process by September 30, 2004, and not to supplant current local child support enforcement expenditures. In 2004-05, provide $1,700,000 FED in additional incentive payments to BCS and reduce GPR funding in BCS by $1,000,000. In addition, provide additional FED matching funds to BCS of $1,358,800 in 2004-05 on the $700,000 difference between the $1,700,000 in higher incentive payments and the $1,000,000 GPR reduction. Further provide counties with $1,700,000 FED in additional incentive payments and $3,300,000 FED in additional matching funds in 2004-05.

Alternative 2	FED
2003-05 FUNDING (Change to Bill)	$10,000,000

3. Authorize DWD to retain 100% of the amount of federal child support incentive payments in excess of $12,340,000 annually. Specify that this provision would first apply to incentive payments awarded to the state for federal fiscal year 2002. Provide additional funding of $745,000 FED in 2003-04 and $845,000 FED in 2004-05 in the Bureau of Child Support and decrease GPR funding in BCS by the same amounts. Reduce federal incentive payments to county child support agencies by $745,000 FED in 2003-04 and $845,000 FED in 2004-05 and decrease matching funds provided to counties by $1,446,200 FED in 2003-04 and $1,640,300 FED in 2004-05. Under this alternative, GPR funding would be replaced with federal incentive payments in BCS, but the Bureau's total budget would be unchanged from the bill. Compared to the bill, funding for county child support agencies would be reduced by $2,191,200 in the first year and $2,485,300 in the second year. Unless additional county revenues are provided, the matching funds that would otherwise be claimed by the counties would be forgone.

Alternative 3	GPR	FED	TOTAL
2003-05 FUNDING (Change to Bill)	- $1,590,000	- $3,086,500	- $4,676,500

4. Authorize DWD to retain one of the following percentages of the amount of federal child support incentive payments in excess of $12,340,000 annually and distribute the remaining excess funds to county child support agencies. Specify that this provision would first apply to incentive payments awarded to the state for federal fiscal year 2002. Reduce GPR funding in BCS in amounts equal to the additional federal incentive funds over the 50% share in the bill. These

options would reduce county funding and replace GPR in the Bureau of Child Support with additional incentive payments retained by the state. The attachment provides additional detail regarding the fiscal effects of these alternatives.

a. 60% State, 40% County

Alternative 4a	**GPR**	**FED**	**TOTAL**
2003-05 FUNDING (Change to Bill)	- $318,000	- $617,400	- $935,400

b. 70% State, 30% County

Alternative 4b	**GPR**	**FED**	**TOTAL**
2003-05 FUNDING (Change to Bill)	- $636,000	- $1,234,600	- $1,870,600

c. 80% State, 20% County

Alternative 4c	**GPR**	**FED**	**TOTAL**
2003-05 FUNDING (Change to Bill)	- $954,000	- $1,851,900	- $2,805,900

d. 90% State, 10% County

Alternative 4d	**GPR**	**FED**	**TOTAL**
2003-05 FUNDING (Change to Bill)	- $1,272,000	- $2,469,200	- $3,741,200

5. Delete provision. Under this alternative, the child support statutes would not specify how federal incentive payments in excess of $12,340,000 per year would be treated. However, it appears that DWD could credit any excess incentive payments to its appropriation for federal program operations [renamed "child support state operations; federal funds" under the bill] and use these funds, along with the associated federal matching revenues, for its child support enforcement activities. It also appears that the Department would be prohibited from distributing any excess funds to counties. Under this alternative, compared to the bill, potential federal revenues of $2,191,200 in 2003-04 and $2,485,300 would be shifted from county child support agencies to BCS.

Prepared by: Rob Reinhardt
Attachment

ATTACHMENT

Fiscal Effect of Alternatives to Increase the State Share of Excess Federal Child Support Incentive Payments and Reduce GPR Funding in the Bureau of Child Support

	Change to Bill			
	2003-04	2004-05	Biennium	Fund
Alternative 3a--60% State Share				
County Incentives	-$149,000	-$169,000	-$318,000	FED
County Matching Funds	-289,300	-328,100	-617,400	FED
BCS Incentive Funds	149,000	169,000	318,000	FED
BCS GPR	-149,000	-169,000	-318,000	GPR
Net Change--FED	-289,300	-328,100	-617,400	FED
Net Change--GPR	-149,000	-169,000	-318,000	GPR
Net Change--Total	-$438,300	-$497,100	-$935,400	TOTAL
Alternative 3b--70% State Share				
County Incentives	-$298,000	-$338,000	-$636,000	FED
County Matching Funds	-578,500	-656,100	-1,234,600	FED
BCS Incentive Funds	298,000	338,000	636,000	FED
BCS GPR	-298,000	-338,000	-636,000	GPR
Net Change--FED	-578,500	-656,100	-1,234,600	FED
Net Change--GPR	-298,000	-338,000	-636,000	GPR
Net Change--Total	-$876,500	-$994,100	-$1,870,600	TOTAL
Alternative 3c--80% State Share				
County Incentives	-$447,000	-$507,000	-$954,000	FED
County Matching Funds	-867,700	-984,200	-1,851,900	FED
BCS Incentive Funds	447,000	507,000	954,000	FED
BCS GPR	-447,000	-507,000	-954,000	GPR
Net Change--FED	-867,700	-984,200	-1,851,900	FED
Net Change--GPR	-447,000	-507,000	-954,000	GPR
Net Change--Total	-$1,314,700	-$1,491,200	-$2,805,900	TOTAL
Alternative 3d--90% State Share				
County Incentives	-$596,000	-$676,000	-$1,272,000	FED
County Matching Funds	-1,157,000	-1,312,200	-2,469,200	FED
BCS Incentive Funds	596,000	676,000	1,272,000	FED
BCS GPR	-596,000	-676,000	-1,272,000	GPR
Net Change--FED	-1,157,000	-1,312,200	-2,469,200	FED
Net Change--GPR	-596,000	-676,000	-1,272,000	GPR
Net Change--Total	-$1,753,000	-$1,988,200	-$3,741,200	TOTAL