



Understanding the Tribal Tax and Investment Reform Act (S.2022)

Section 10 of the Tribal Tax and Investment Reform Act: Ensuring Tribal Benefits does not prevent Federal Aid to Tribal Citizens

Section 10 addresses a critical gap in federal policy by ensuring Tribal general welfare benefits and Tribal minor trust assets are not treated as income or resources by the Social Security Administration (SSA) when determining eligibility for federal programs such as Supplemental Security Income (SSI) and state programs that follow similar eligibility guidelines.

Background on SSA Treatment of Tribal General Welfare Benefits and Tribal Minor Trust Assets

Tribal governments' fundamental pillars are community well-being and providing for future generations. Tribes often honor these values by administering general welfare benefits based on community-wide standards and creating trust funds for minors. Unfortunately, these practices can conflict with the current SSA expectations for federal aid.

The SSA currently classifies Tribal general welfare benefits eligible for tax-exempt status under section 139E of the Internal Revenue Code, not based on financial need, as countable income and resources for SSA programs such as SSI. The SSA also considers Tribal minor trust assets to be countable resources of the minor unless expressly exempted, as is the case for minor trusts established with gaming revenues pursuant to the Indian Gaming Regulatory Act and that adhere to an outdated IRS safe harbor.

The SSA's interpretation of countable income and resources discourages Tribal members from receiving aid from their governments.

Tribal Elders – Tribal elders who receive assistance from their Tribe for aging-related programs risk losing federal SSI and Medicaid in some instances.

Housing Assistance – SSA may deny assistance to homeless tribal citizens with clear financial need because the Tribe makes assistance available based on community need.

Minor's Trust Assets – SSA may consider minors' trust assets a resource even though they cannot access the trust until adulthood. SSA's determination harms vulnerable children. For example, foster parents of disabled Tribal children cannot receive Social Security disability benefits for these Tribal minors.

Section 10: Tribal General Welfare and Trust Programs Clarification

Section 10 amends the Social Security Act to add Tribal general welfare benefits to SSA's exclusion lists, shielding such payments from income and resource limits, paralleling the federal income tax treatment of Tribal benefits. Section 10 further excludes any Tribal grantor trust from SSA resource counting, regardless of funding source, ending the anomaly under which only gaming-funded minors' trusts can be excluded from a minor's resources.

Key Takeaways

Section 10 would prevent the disqualification of Tribal Citizens for federal aid based on their receipt of Tribal General Welfare Benefits or participation in a Minors Trust account. Section 10 would amend the Social Security Act by:

Allowing the SSA to disregard tax-exempt Tribal General Welfare Benefits from income and resource calculations for federal aid programs without imposing needs assessments not required in the Internal Revenue Code.

Exempting Tribal grantor Minors Trust assets from countable resources regardless of funding source.