

118TH CONGRESS
1ST SESSION

H. R. 2762

To remove administrative barriers to participation of Indian tribes in Federal child welfare programs, and increase Federal funding for tribal child welfare programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 2023

Ms. KAMLAGER-DOVE (for herself, Mr. BACON, and Ms. DAVIDS of Kansas) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To remove administrative barriers to participation of Indian tribes in Federal child welfare programs, and increase Federal funding for tribal child welfare programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tribal Family Fairness
5 Act”.

1 **SEC. 2. ADDITIONAL RESOURCES AND IMPROVEMENTS FOR**
2 **TRIBAL CHILD WELFARE PROGRAMS.**

3 (a) MINIMUM GRANT AMOUNT.—Section 433(a) of
4 the Social Security Act (42 U.S.C. 629c(a)) is amended
5 to read as follows:

6 “(a) INDIAN TRIBES OR TRIBAL CONSORTIA.—

7 “(1) INDIAN TRIBES.—

8 “(A) IN GENERAL.—From the amount re-
9 served pursuant to section 436(b)(3) for any
10 fiscal year, the Secretary shall allot to each In-
11 dian tribe with a plan approved under this sub-
12 part—

13 “(i) \$10,000; plus

14 “(ii) an amount that bears the same
15 ratio to the adjusted reserved amount as
16 the number of children in the Indian tribe
17 bears to the total number of children in all
18 Indian tribes with State plans so approved,
19 as determined by the Secretary on the
20 basis of the most current and reliable in-
21 formation available to the Secretary.

22 “(B) ADJUSTED RESERVE AMOUNT.—In
23 subparagraph (A), the term ‘adjusted reserved
24 amount’ means, with respect to a fiscal year—

25 “(i) the amount reserved pursuant to
26 section 436(b)(3) for the fiscal year; minus

1 “(ii) the product of—
2 “(I) \$10,000; and
3 “(II) the number of Indian tribes
4 to which an allotment is made under
5 this subsection for the fiscal year.

6 “(2) TRIBAL CONSORTIA.—If a consortium of
7 Indian tribes submits a plan approved under this
8 subpart, the Secretary shall allot to the consortium
9 an amount equal to the sum of the allotments deter-
10 mined for each Indian tribe that is part of the con-
11 sortium.”.

12 (b) INCREASE IN THE TRIBAL SET-ASIDE OF MAN-
13 DATORY FUNDING TO PROMOTE SAFE AND STABLE FAM-
14 ILIES FUNDING.—Section 436(b)(3) of the Social Security
15 Act (42 U.S.C. 629f(b)(3)) is amended by striking “After
16 applying paragraphs (4) and (5) (but before applying
17 paragraphs (1) or (2)), the Secretary shall reserve 3 per-
18 cent” and inserting “The Secretary shall reserve 4.5 per-
19 cent”.

20 (c) INCREASE IN MANDATORY FUNDING.—Section
21 436(a) of the Social Security Act (42 U.S.C. 629f(a)) is
22 amended by striking “\$345,000,000” and inserting
23 “\$356,000,000”.

24 (d) INCREASE IN FUNDS RESERVED FOR THE COURT
25 IMPROVEMENT PROGRAM.—Section 436(b)(2) of the So-

1 cial Security Act (42 U.S.C. 629f(b)(2)) is amended by
2 striking “\$30,000,000” and inserting “\$34,000,000”.

3 (e) AUTHORITY TO USE FUNDS TO FACILITATE AND
4 SUPPORT TRIBAL CUSTOMARY ADOPTIONS.—Section
5 432(b)(2) of the Social Security Act (42 U.S.C.
6 629b(b)(2)) is amended by adding at the end the fol-
7 lowing:

8 “(C) AUTHORITY TO USE FUNDS FOR
9 TRIBAL CUSTOMARY ADOPTIONS.—An Indian
10 tribe or tribal consortium may use amounts
11 provided under this part to facilitate and sup-
12 port tribal customary adoptions.”.

13 (f) STREAMLINING OF APPLICATION AND REPORTING
14 REQUIREMENTS.—

15 (1) APPLICATION REQUIREMENTS.—Section
16 432(b)(2)(A) of the Social Security Act (42 U.S.C.
17 629b(b)(2)(A)) is amended—

18 (A) by striking “subsection (a)(4) of this
19 section” and inserting “paragraphs (2), (4),
20 and (5) of subsection (a)”; and

21 (B) by adding at the end the following:
22 “The Secretary shall exempt a plan of an In-
23 dian tribe or tribal consortium from the re-
24 quirements of paragraphs (2) and (5) of sub-
25 section (a) for a fiscal year if the total amount

1 provided to the Indian tribe or tribal consor-
2 tium under this subpart for the fiscal year is
3 less than \$50,000. If the Secretary exempts a
4 plan of an Indian tribe or tribal consortium
5 from a requirement of paragraph (2) or (5) of
6 subsection (a), the Indian tribe or tribal consor-
7 tium may provide the Secretary with the rel-
8 evant information in a streamlined form.”.

9 (2) REPORTING REQUIREMENTS.—Section 428
10 of the Social Security Act (42 U.S.C. 628) is amend-
11 ed by adding at the end the following:

12 “(d) AUTHORITY TO STREAMLINE REPORTING RE-
13 QUIREMENTS.—The Secretary shall, in consultation with
14 the affected Indian tribes, modify any reporting require-
15 ment imposed by or under this part on an Indian tribe,
16 tribal organization, or tribal consortium if the total of the
17 amounts allotted to the Indian tribe, tribal organization,
18 or tribal consortium under this part for the fiscal year is
19 not more than \$50,000, and in a manner that limits the
20 administrative burden on any tribe to which less than
21 \$50,000 is allotted under this subpart for the fiscal year.”.

22 (g) USE OF IN-KIND EXPENDITURES TO MEET
23 TRIBAL MATCHING RATE.—

24 (1) STEPHANIE TUBBS JONES CHILD WELFARE
25 SERVICES PROGRAM.—Section 428 of the Social Se-

1 security Act (42 U.S.C. 628), as amended by sub-
2 section (f)(2) of this section, is amended by adding
3 at the end the following:

4 “(e) USE OF IN-KIND EXPENDITURES TO MEET
5 MATCHING RATE.—In determining the amount expended
6 by an Indian tribe for activities under this subpart, the
7 Secretary may take into account in-kind expenditures of
8 the Indian tribe.”.

9 (2) MARYLEE ALLEN PROMOTING SAFE AND
10 STABLE FAMILIES PROGRAM.—Section 434 of the
11 Social Security Act (42 U.S.C. 629d) is amended by
12 adding at the end the following:

13 “(e) USE OF IN-KIND EXPENDITURES TO MEET
14 MATCHING RATE.—In determining the amount expended
15 by an Indian tribe for activities under this subpart, the
16 Secretary may take into account in-kind expenditures of
17 the Indian tribe.”.

18 (h) AUTHORITY OF INDIAN TRIBAL ORGANIZATION
19 TO ELECT TO SUBSTITUTE THE FEDERAL NEGOTIATED
20 INDIRECT COST RATE FOR ADMINISTRATIVE COSTS
21 CAP.—

22 (1) STEPHANIE TUBBS JONES CHILD WELFARE
23 SERVICES PROGRAM.—Section 428 of the Social Se-
24 curity Act (42 U.S.C. 628), as amended by sub-

1 sections (f)(2) and (g)(1) of this section, is amended
2 by adding at the end the following:

3 “(f) TRIBAL AUTHORITY TO SUBSTITUTE THE FED-
4 ERAL NEGOTIATED INDIRECT COST RATE FOR ADMINIS-
5 TRATIVE COSTS CAP.—For purposes of sections
6 422(b)(14) and 424(e), an Indian tribal organization may
7 elect to have the weighted average of the indirect cost
8 rates in effect under part 225 of title 2, Code of Federal
9 Regulations (OMB Circular A–87) with respect to the ad-
10 ministrative costs of the Indian tribal organization apply
11 in lieu of the percentage specified in each such section.”.

12 (2) MARYLEE ALLEN PROMOTING SAFE AND
13 STABLE FAMILIES PROGRAM.—Section 434 of the
14 Social Security Act (42 U.S.C. 629d), as amended
15 by subsection (g)(2) of this section, is amended by
16 adding at the end the following:

17 “(f) TRIBAL AUTHORITY TO SUBSTITUTE THE FED-
18 ERAL NEGOTIATED INDIRECT COST RATE FOR ADMINIS-
19 TRATIVE COSTS CAP.—For purposes of sections 432(a)(4)
20 and 434(d), an Indian tribal organization may elect to
21 have the weighted average of the indirect cost rates in ef-
22 fect under part 225 of title 2, Code of Federal Regulations
23 (OMB Circular A–87) with respect to the administrative
24 costs of the Indian tribal organization apply in lieu of the
25 percentage specified in each such section.”.

1 (i) TECHNICAL CORRECTION.—Section 428(c) of the
2 Social Security Act (42 U.S.C. 628(c)) is amended by
3 striking “450b” and inserting “5304”.

4 (j) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by
6 this section shall take effect on October 1, 2023,
7 and shall apply to payments under part B of title IV
8 of the Social Security Act for calendar quarters be-
9 ginning on or after such date.

10 (2) DELAY PERMITTED IF STATE LEGISLATION
11 REQUIRED.—If the Secretary of Health and Human
12 Services determines that State legislation (other
13 than legislation appropriating funds) is required in
14 order for a State plan developed under part B of
15 title IV of the Social Security Act to meet the addi-
16 tional requirements imposed by the amendments
17 made by this section, the plan shall not be regarded
18 as failing to meet any of the additional requirements
19 before the 1st day of the 1st calendar quarter begin-
20 ning after the first regular session of the State legis-
21 lature that begins after the date of the enactment of
22 this Act. For purposes of the preceding sentence, if
23 the State has a 2-year legislative session, each year

1 of the session is deemed to be a separate regular
2 session of the State legislature.

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