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An act to add Section 11461.4 of the Welfare and Institutions Code,
relating to public social services.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11461.4 is added to the Welfare and Institutions Code, to read:

11461.4. (a) Notwithstanding any other law, a tribe that has entered into an agreement pursuant to Section 10553.1 may, subject to the provisions of this section, elect to participate in the Tribal Approved Relative Caregiver Funding Option Program.

(b) (1) In return for the care and supervision of a child placed with an approved relative caregiver, a participating tribe shall pay the approved relative caregiver a per child per month rate that, when added to the tribal Temporary Aid to Needy Families (tribal TANF) benefit received by the approved relative caregiver on behalf of the child, shall equal the basic rate paid to a foster care provider pursuant to subdivision (g) of Section 11461.

(2) Payments under paragraph (1) shall be made only if all of the following conditions exist:

(A) The tribe has notified the department in writing of its decision to participate in the program, consistent with subdivision (c).

(B) The child has been removed from the parent or guardian and has been placed into the placement and care responsibility of the tribal child welfare agency pursuant to a voluntary placement agreement or by the tribal court, consistent with the tribe's Title IV-E agreement.

(C) The child resides within California.

(D) The caregiver is receiving tribal TANF payments, or an application for tribal TANF has been made, on behalf of the child.



(E) The child is not eligible for AFDC-FC while placed with the relative caregiver because the child is not eligible for federal financial participation in the AFDC-FC program.

(3) Any income or benefits received by an eligible child, or by the approved relative caregiver on behalf of an eligible child, which would be offset against a payment made to a foster care provider, shall be offset from the amount paid by the tribe under the program. This paragraph shall not apply to any tribal TANF payments received on behalf of an eligible child.

(4) An approved relative caregiver receiving payments on behalf of a child pursuant to this section shall not be eligible to receive CalWORKs payments on behalf of the same child under Section 11450.

(5) To the extent permitted by federal law, payments received by the approved relative caregiver from the program shall not be considered income for the purpose of determining other public benefits.

(c) (1) (A) A tribe electing to participate in the program in the 2016–17 fiscal year shall notify the department on or before October 1, 2016, that it intends to begin participation. Failure to make timely notification, without good cause as determined by the department, shall preclude the tribe from participating in the program for the 2016–17 fiscal year.

(B) In any fiscal year thereafter, a tribe electing to participate in the program shall notify the department on or before January 1 that it intends to begin participation on or after the following July 1. Failure to make timely notification, without good cause



as determined by the department, shall preclude the tribe from participating in the program for the upcoming fiscal year.

(2) As a condition of opting into the program, the tribe shall do all of the following:

(A) Provide to the department the tribal TANF maximum aid payment (MAP) rate in effect at the time that the tribe elects to participate in the program, consistent with the tribe's approved tribal TANF plan.

(B) Provide data necessary, as determined by the department in consultation with the tribe, to determine the base caseload for the tribe as of July 1, 2016, consistent with subdivision (d).

(C) Agree to recoup overpayments to an approved relative caregiver utilizing the standards for determining whether an overpayment is recoupable, and the processes for overpayment recoupment, that are applicable to overpayments as described in the tribe's Title IV-E agreement entered into pursuant to Section 10553.1.

(D) Agree that the tribe shall be solely responsible for any additional costs incurred in making payments under this section in the event that the funds allocated to a tribe from the appropriation made by the Legislature for the tribe's participation in the program are not sufficient to fully fund all payments specified in paragraph (1) of subdivision (b).

(E) Agree to make child support referrals for program cases, consistent with processes applied by the tribe to Title IV-E program cases.



(3) The participating tribe shall provide the information specified in subparagraphs (A) and (B) of paragraph (2) at least 60 days prior to the date the tribe will begin participating in the program.

(d) (1) In consultation with the participating tribe, the department shall determine the initial base caseload of the participating tribe using the most recent available data provided by the tribe.

(2) The department shall determine the amount necessary to fund the base caseload of the participating tribe. The allocation methodology shall consider the tribal TANF rate of the participating tribe in effect on July 1, 2016.

(e) (1) A tribe electing to opt out of the program shall provide at least 120 days' prior written notice of that election to the department and at least 90 days' prior written notice to all approved relative caregivers to whom the tribe is making payments under the program. The notice to caregivers shall specify the date on which the per child per month payment will be reduced and the date the tribe's participation in the program will cease.

(2) If the Legislature, for any given fiscal year, appropriates an amount less than that specified in paragraph (2) of subdivision (f), the department shall presume that all participating tribes have opted out of the program for that fiscal year unless a tribe notifies the department in writing of its intent to opt in within 60 days of the enactment of the annual Budget Act. A tribe that does not elect to continue participating in the program shall provide the notice to caregivers specified in paragraph (1).



(3) A tribe that has opted out of the program for any reason may resume participating in the program on July 1 of any year upon providing the department with written notice on or before the preceding March 1 of its intent to resume participation.

(f) (1) (A) The following funding shall be used for the program:

(i) The tribe's applicable per-child tribal TANF grant at the MAP rate in effect on July 1, 2016.

(ii) General Fund resources, as specified in paragraph (2).

(iii) Tribal funds only to the extent required under subparagraph (D) of paragraph (2) of subdivision (c).

(B) Funding described in clauses (i) and (ii) of subparagraph (A) is intended to fully fund the base caseload of approved relative caregivers, which is defined as the number of approved relative caregivers caring for a child who is not eligible to receive AFDC-FC payments as of July 1, 2016.

(2) Subject to appropriation by the Legislature in the annual Budget Act, the program shall be funded with the following amounts from the General Fund:

(A) For the 2016–17 fiscal year, the sum sufficient to fund the initial base caseload, as determined in subdivision (d), for tribes eligible for participation as of July 1, 2016.

(B) For the 2017–18 fiscal year, and every fiscal year thereafter, the sum of the following:

(i) The total General Fund amount appropriated for the purposes of this section for the previous fiscal year.



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(ii) The additional amount necessary to fully fund the base caseload described in subparagraph (B) of paragraph (1), reflective of the annual California Necessities Index increase to the basic rate paid to foster care providers pursuant to subdivision (g) of Section 11461.

(3) The department shall allocate funds specified in paragraph (2) to participating tribes proportionate to their number of approved relative caregiver placements, using a methodology and timing developed by the department, following consultation with participating tribes.

(4) Notwithstanding subdivision (c), if in any fiscal year the entire amount of funding appropriated by the Legislature for the program has not been fully allocated to, or utilized by, participating tribes, a participating tribe that has paid any funds pursuant to subparagraph (D) of paragraph (2) of subdivision (c) may request reimbursement for those funds from the department. The authority of the department to approve the requests shall be limited by the amount of available unallocated funds.

(g) If more than two eligible tribes elect to participate in the program and, as a result, the funding specified in subdivision (f) is insufficient to fully fund the base caseload of approved relative caregivers, as jointly determined by the department and the participating tribes and approved by the Department of Finance, the amount specified in subdivision (f) shall be increased by the amount necessary to fully fund that base caseload.

(h) For the purposes of this section, the following definitions apply:

(1) "Program" means the Tribal Approved Relative Caregiver Funding Option Program established in this section.



(2) "Tribe" means a federally recognized Indian tribe, consortium of tribes, or tribal organization with an agreement pursuant to Section 10553.1.

(3) "Relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of these persons even if the marriage was terminated by death or dissolution, or as otherwise established consistent with the tribe's Title IV-E agreement.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Tribal Approved Relative Caregiver Funding Option Program.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program under which counties provide payments to foster care providers on behalf of qualified children in foster care. Under existing law, a child who is placed in the home of a relative is eligible for AFDC-FC only if he or she is eligible for federal financial participation in the AFDC-FC payment.

Existing law authorizes the Director of Social Services to enter into an agreement with a tribe, consortium of tribes, or tribal organization, regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, under specified circumstances. Existing law requires these agreements to provide for the delegation to the tribe, consortium of tribes, or tribal organization the responsibility that would otherwise be the responsibility of the county for the provision of child welfare services or assistance payments under the AFDC-FC program, or both. Existing



law requires the State Department of Social Services to annually allocate appropriated funds to each federally recognized American Indian tribe with reservation lands or rancherias in the state that administers a federal tribal Temporary Assistance for Needy Families (TANF) program.

Existing law establishes the Approved Relative Caregiver Funding Option Program, in counties that choose to participate, for the purpose of making the amount paid to relative caregivers for the in-home care of children placed with them who are ineligible for AFDC-FC payments equal to the amount paid on behalf of children who are eligible for AFDC-FC payments.

This bill would establish the Tribal Approved Relative Caregiver Funding Option Program and would require participating tribes that opt to participate in the program to pay an approved relative caregiver a per child per month rate, as specified, in return for the care and supervision of an AFDC-FC ineligible child placed with the approved relative caregiver if the participating tribe has notified the department of its decision to participate in the program and certain requirements are met, including that the child resides in California. The bill would require the department, in consultation with the participating tribe, to determine the initial base caseload of the tribe and to determine the amount necessary to fund the base caseload. The bill would require, subject to appropriation by the Legislature in the annual Budget Act, the program to be funded with specified amounts from the General Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

