

108TH CONGRESS  
1ST SESSION

# S. 331

To amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2003

Mr. DASCHLE (for himself, Mr. McCAIN, Mr. INOUE, Mr. BAUCUS, Mr. JOHNSON, Mr. DOMENICI, Mr. BINGAMAN, Mr. COCHRAN, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas.

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 “Indian and Alaska Na-  
5       tive Foster Care and Adoption Services Amendments of  
6       2003”.

1 **SEC. 2. AUTHORITY OF INDIAN TRIBES TO RECEIVE FED-**  
2 **ERAL FUNDS FOR FOSTER CARE AND ADOP-**  
3 **TION ASSISTANCE.**

4 (a) CHILDREN PLACED IN TRIBAL CUSTODY ELIGI-  
5 BLE FOR FOSTER CARE FUNDING.—Section 472(a)(2) of  
6 the Social Security Act (42 U.S.C. 672(a)(2)) is amend-  
7 ed—

8 (1) by striking “or (B)” and inserting “(B)”;  
9 and

10 (2) by inserting before the semicolon the fol-  
11 lowing: “, or (C) an Indian tribe (as defined in sec-  
12 tion 479B(e)) or an intertribal consortium if the In-  
13 dian tribe or consortium is not operating a program  
14 pursuant to section 479B and (i) has a cooperative  
15 agreement with a State pursuant to section 479B(c)  
16 or (ii) submits to the Secretary a description of the  
17 arrangements (jointly developed or developed in con-  
18 sultation with the State) made by the Indian tribe  
19 or consortium for the payment of funds and the pro-  
20 vision of the child welfare services and protections  
21 required by this title”.

22 (b) PROGRAMS OPERATED BY INDIAN TRIBAL ORGA-  
23 NIZATIONS.—Part E of title IV of the Social Security Act  
24 (42 U.S.C. 670 et seq.) is amended by adding at the end  
25 the following:

1 **“SEC. 479B. PROGRAMS OPERATED BY INDIAN TRIBAL OR-**  
2 **GANIZATIONS.**

3 “(a) APPLICATION.—Except as provided in sub-  
4 section (b), this part shall apply to an Indian tribe that  
5 elects to operate a program under this part in the same  
6 manner as this part applies to a State.

7 “(b) MODIFICATION OF PLAN REQUIREMENTS.—

8 “(1) IN GENERAL.—In the case of an Indian  
9 tribe submitting a plan for approval under section  
10 471, the plan shall—

11 “(A) in lieu of the requirement of section  
12 471(a)(3), identify the service area or areas and  
13 population to be served by the Indian tribe; and

14 “(B) in lieu of the requirement of section  
15 471(a)(10), provide for the approval of foster  
16 homes pursuant to tribal standards and in a  
17 manner that ensures the safety of, and account-  
18 ability for, children placed in foster care.

19 “(2) DETERMINATION OF FEDERAL SHARE.—

20 “(A) PER CAPITA INCOME.—

21 “(i) IN GENERAL.—For purposes of  
22 determining the Federal medical assistance  
23 percentage applicable to an Indian tribe  
24 under paragraphs (1) and (2) of section  
25 474(a), the calculation of an Indian tribe’s  
26 per capita income shall be based upon the

1 service population of the Indian tribe as  
2 defined in its plan in accordance with  
3 paragraph (1)(A).

4 “(ii) CONSIDERATION OF OTHER IN-  
5 FORMATION.—An Indian tribe may submit  
6 to the Secretary such information as the  
7 Indian tribe considers relevant to the cal-  
8 culation of the per capita income of the In-  
9 dian tribe, and the Secretary shall consider  
10 such information before making the cal-  
11 culation.

12 “(B) ADMINISTRATIVE EXPENDITURES.—  
13 The Secretary shall, by regulation, determine  
14 the proportions to be paid to Indian tribes pur-  
15 suant to section 474(a)(3), except that in no  
16 case shall an Indian tribe receive a lesser pro-  
17 portion than the corresponding amount speci-  
18 fied for a State in that section.

19 “(C) SOURCES OF NON-FEDERAL  
20 SHARE.—An Indian tribe may use Federal or  
21 State funds to match payments for which the  
22 Indian tribe is eligible under section 474.

23 “(3) MODIFICATION OF OTHER REQUIRE-  
24 MENTS.—Upon the request of an Indian tribe or  
25 tribes, the Secretary may modify any requirement

1 under this part if, after consulting with the Indian  
2 tribe or tribes, the Secretary determines that modi-  
3 fication of the requirement would advance the best  
4 interests and the safety of children served by the In-  
5 dian tribe or tribes.

6 “(4) CONSORTIUM.—The participating Indian  
7 tribes of an intertribal consortium may develop and  
8 submit a single plan under section 471 that meets  
9 the requirements of this section.

10 “(c) COOPERATIVE AGREEMENTS.—An Indian tribe  
11 or intertribal consortium and a State may enter into a  
12 cooperative agreement for the administration or payment  
13 of funds pursuant to this part. In any case where an In-  
14 dian tribe or intertribal consortium and a State enter into  
15 a cooperative agreement that incorporates any of the pro-  
16 visions of this section, those provisions shall be valid and  
17 enforceable. Any such cooperative agreement that is in ef-  
18 fect as of the date of enactment of this section, shall re-  
19 main in full force and effect subject to the right of either  
20 party to the agreement to revoke or modify the agreement  
21 pursuant to the terms of the agreement.

22 “(d) REGULATIONS.—Not later than 1 year after the  
23 date of enactment of this section, the Secretary shall, in  
24 full consultation with Indian tribes and tribal organiza-  
25 tions, promulgate regulations to carry out this section.

1       “(e) DEFINITIONS OF INDIAN TRIBE; TRIBAL ORGA-  
2 NIZATIONS.—In this section, the terms ‘Indian tribe’ and  
3 ‘tribal organization’ have the meanings given those terms  
4 in subsections (e) and (l) of section 4 of the Indian Self-  
5 Determination and Education Assistance Act (25 U.S.C.  
6 450b), respectively.”.

7       (c) EFFECTIVE DATE.—The amendments made by  
8 this section take effect on the date of enactment of this  
9 Act without regard to regulations to implement such  
10 amendments being promulgated by such date.

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