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HOUSE JOINT MEMORIAL 8

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Ray Begaye

FOR THE INDIAN AFFAIRS COMMITTEE

A JOINT MEMORIAL

REQUESTING THAT THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT,
THE HUMAN SERVICES DEPARTMENT AND THE INDIAN AFFAIRS DEPARTMENT
SUPPORT THE NAVAJO NATION IN DEVELOPING A NAVAJO NATION FOSTER
CARE AND SUBSIDIZED ADOPTION PROGRAM PLAN PURSUANT TO
TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT AND THAT THE
DEPARTMENT OF FINANCE AND ADMINISTRATION STUDY THE FISCAL
IMPACT OF IMPLEMENTING THAT PLAN.

WHEREAS, the federal Fostering Connections to Success and
Increasing Adoptions Act of 2008 was signed into law on October
7, 2008 as Public Law 110-351; and

WHEREAS, Public Law 110-351 amends the federal Social
Security Act to provide federally recognized Indian tribes with
the option to operate a foster care and subsidized adoption
program and seek federal reimbursement for a share of allowable

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1 tribal expenditures made pursuant to an approved plan; and

2 WHEREAS, a tribe administering a foster care and
3 subsidized adoption program must meet the same requirements as
4 a state; and

5 WHEREAS, federal law requires a written plan that
6 designates a specific state agency to administer the program;
7 that provides supporting documentation of the law or codes,
8 regulation or policy in effect that complies with each of the
9 plan requirements; that provides a description of the foster
10 care maintenance program; that provides for the payment of
11 foster care maintenance payments on behalf of each eligible
12 child; and that provides for a program of adoption assistance
13 subsidies and reimbursement of the nonrecurring costs of
14 adoption for eligible children; and

15 WHEREAS, tribes must comply with mandatory federal
16 reporting of data to the adoption and foster care analysis and
17 reporting system; and

18 WHEREAS, the adoption and foster care analysis and
19 reporting system requires case-level data on children in foster
20 care under the placement and care of the federally recognized
21 tribe, on children who were placed for adoption and on
22 individuals who receive adoption assistance from the tribe; and

23 WHEREAS, federal law requires tribes seeking reimbursement
24 to identify and claim certain training and administrative costs
25 for administrative expenditures necessary for the proper and

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1 efficient administration of the foster care and subsidized
2 adoption program; and

3 WHEREAS, federal law requires specified matching
4 contributions for reimbursable expenditures and notes that
5 tribes may receive federal funds specifically authorized by
6 other federal statutes to be used as matching contributions for
7 other federal programs, including foster care and subsidized
8 adoption programs; and

9 WHEREAS, unlike a state, tribes are able to use in-kind
10 expenditures from certain third-party sources as a source of
11 matching contributions for administrative and training costs
12 for certain fiscal years; and

13 WHEREAS, tribes are required to capture fiscal information
14 and to submit to the federal administration for children and
15 families shortly after each fiscal quarter a financial report
16 of actual expenditures, such as payments for and the training
17 and administrative costs of, the foster care and subsidized
18 adoption program in order to receive reimbursement; and

19 WHEREAS, the financial report must include necessary
20 adjustments for additional claims or reduced claims for prior
21 fiscal quarters; and

22 WHEREAS, tribes must also provide to the federal
23 administration for children and families a projection of
24 estimated expenditures for the current fiscal year and the
25 subsequent two fiscal years; and

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1 WHEREAS, federal law requires a public assistance cost
2 allocation plan that must specifically identify how the tribe
3 will allocate and claim administrative costs under Title IV of
4 the Social Security Act; and

5 WHEREAS, Public Law 110-351 authorizes the federal
6 administration for children and families to award a one-time
7 grant of up to three hundred thousand dollars (\$300,000) to a
8 tribe for the purpose of plan development; and

9 WHEREAS, a tribe receiving such a grant must develop and
10 submit a plan for direct funding within twenty-four months of
11 receipt of the grant or must repay the total grant amount; and

12 WHEREAS, the Navajo Nation has applied for and received
13 such a grant; and

14 WHEREAS, the children, youth and families department is
15 the state agency designated to administer the foster care and
16 subsidized adoption program, and it has successfully managed
17 and administered the program, as demonstrated by the successful
18 completion of the first and second rounds of the federal child
19 and family services reviews; and

20 WHEREAS, the children, youth and families department is a
21 vital resource that can assist the Navajo Nation in the
22 development of a foster care and subsidized adoption program
23 plan; and

24 WHEREAS, the human services department is the designated
25 administrator of the state medicaid plan, and categorical

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1 eligibility for medicaid is a plan requirement; and

2 WHEREAS, the Indian affairs department is the lead
3 coordinating agency for ensuring effective interagency and
4 state-tribal government-to-government relations, and the
5 department facilitates ways to increase and leverage state
6 resources to benefit Native Americans and successfully promotes
7 collaboration among national, tribal, state and local agencies,
8 entities and organizations; and

9 WHEREAS, cabinet-level agencies are subject to the
10 State-Tribal Collaboration Act, signed into law on March 19,
11 2009; and

12 WHEREAS, the Navajo Nation has approached the state for
13 technical assistance and support in developing the foster care
14 and subsidized adoption program;

15 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
16 STATE OF NEW MEXICO that the children, youth and families
17 department, the human services department and the Indian
18 affairs department be requested to identify key staff persons
19 to provide technical assistance and support to the Navajo
20 Nation in developing a foster care and subsidized adoption
21 program plan and, in cooperation with the Navajo Nation,
22 present on the progress of developing that plan before the
23 appropriate interim committee by August 2011; and

24 BE IT FURTHER RESOLVED that the department of finance and
25 administration, in cooperation with the children, youth and

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1 families department and the Navajo Nation, be requested to
2 study the financial impact on the state of implementing that
3 plan and present before the appropriate interim committee by
4 November 2011; and

5 BE IT FURTHER RESOLVED that copies of this memorial be
6 transmitted to the secretaries of children, youth and families,
7 human services, Indian affairs and finance and administration
8 and to the tribal leadership of the Navajo Nation.