

# CRS Report for Congress

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## Indian Tribes and Welfare Reform

-name redacted-  
Domestic Social Policy Division

### Summary

The 1996 welfare law (P.L. 104-193) gives federally recognized Indian tribes (defined to include certain Alaska Native organizations) the option to design and operate their own cash welfare programs for needy children with funds subtracted from their state's block grant for Temporary Assistance to Needy Families (TANF). As of September 15, 2004, 45 tribal TANF plans were in operation in 16 states. Their annual rate of federal funding totaled \$134.2 million. The 1996 law also appropriated \$7.6 million annually for work and training activities to tribes in 24 states that operated a pre-TANF work and training program (now named Native Employment Works — NEW), authorized direct federal funding to Indian tribes for operation of child support enforcement programs, and set aside a share of child care funds for them. The original TANF law was scheduled to expire September 30, 2002, but Congress extended funding through several laws, most recently through September 30, 2004. Pending are two major TANF reauthorization bills: H.R. 4, as passed by the House, and H.R. 4, as approved by the Senate Finance Committee. Both bills would renew tribal TANF grants through FY2008 and make tribal organizations eligible for new marriage promotion grants. In addition, the Senate Committee bill would authorize some new funding (tribal improvement fund). This report will be updated for significant developments.

### Background

Before enactment of TANF, American Indians or Alaska Natives (Indians, Inuit [Eskimos], or Aleuts) received family cash welfare on the same terms as other families in their state, with benefits and income eligibility rules of the program of Aid to Families with Dependent Children (AFDC) set by the state and costs shared by the state. The law had no provision for administration of cash aid by tribes. However, some Wisconsin tribes subcontracted with the state to provide AFDC independently on their reservations. In FY1994, 1.3% of the national AFDC caseload (about 68,000 families) were American Indians and Alaska Natives. In addition, more than 65,000 needy Indians who were not in categories eligible for AFDC received cash aid based on their state's AFDC benefit standards, but paid by the Bureau of Indian Affairs (BIA). Under pre-TANF law, more than 80 tribes and tribal organizations exercised an option to run their own work and training programs, called Job Opportunities and Basic Skills Training (JOBS) programs, with 100% federal funds.

Under TANF, which provides fixed annual state grants through FY2002, numerous Indian tribes and Alaska Native Villages in 16 states (see **Table 1**) are operating their own tribal family assistance programs. Tribes that operated their own JOBS program also receive annual appropriations under TANF law of \$7.6 million (their FY1984 funding for JOBS) for work and training activities (renamed Native Employment Works — NEW). Finally, \$28.6 million in Welfare-to-Work (WtW) grants was awarded for FY1998 and 1999 by the Labor Department to Indian and Native American tribal governments (86 grantees in FY1998, 91 in FY1999). Standard TANF work participation rates and time limit rules do not apply to tribal assistance programs. Their rules are set by the Health and Human Services (HHS) Secretary with tribal participation.

## Tribal Assistance Programs

Eligible for tribal assistance grants are the more than 330 federally recognized tribes in the contiguous 48 states and 13 Alaska entities. As of September 15, 2004, 45 tribal TANF grants were approved for 230 tribes plus some non-reservation Indians in Alaska, Arizona, California, Idaho, Minnesota, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming. Annual federal funding, deducted from the basic TANF grant of their state(s), totals \$134.2 million (for funding by tribal plan, see **Table 1**). Grantees estimated their monthly caseload at 33,510 families. According to the fifth annual TANF report, the average number of Indian families served by state governments under regular TANF programs was about 35,000 in FY2000, down 50% from the corresponding FY1996 figure (a part of the decline represented persons who moved from the regular state program to a tribal program). Some features of tribal programs follow.

- Recognized tribes and tribal organizations may operate family assistance programs in their service areas. A tribe's TANF grant equals federal AFDC payments to the state for FY1994 attributable to Indians in its service area; the tribal grant is subtracted from the state's TANF grant.
- Tribal TANF plans are for three years (rather than 2, as for states) and contain many fewer required elements than state plans. However, regular TANF data collection and reporting rules apply to tribal plans.
- The HHS Secretary, with participation of the tribe, establishes work participation rules, time limits for benefits, and penalties for each tribal family assistance program. In general, Indian tribes in Alaska must operate plans in accordance with rules adopted by the state for TANF. (The National Congress of American Indians has asked for removal of this provision, and for the restrictive definition immediately below, saying that it wants Alaskan tribes to be treated like other tribes.)
- TANF law generally defines an Indian tribe as in Section 4 of the Indian Self-Determination and Education Assistance Act, but it specifies that an "eligible Indian tribe" in Alaska means one of 12 specified regional nonprofit corporations plus a reservation.
- Tribal TANF regulations permit 35% of a tribal grant to be used for administrative costs in the first year, 30% in the second year, and 25% thereafter. State TANF programs, however, generally may spend no more than 15% of their grants on administration.

- The state governor must certify equitable access from the TANF program to Indians not eligible for help from a tribal family assistance plan.
- The law gives explicit permission for state TANF programs to use money from the TANF loan fund for aid to Indian families that have moved out of the service area of a tribe with a tribal family assistance plan.
- A special rule exempts from the 60-month TANF benefit time limit any month in which the recipient lives in Indian country or an Alaskan native village with an adult unemployment rate of at least 50%.
- The law makes tribes eligible for TANF loans, but not for bonuses offered to states for high performance or for cutting non-marital births.
- HHS has ruled that state funds contributed to an approved tribal assistance plan may be counted toward the spending level (maintenance-of-effort) that a state must achieve to qualify for a full TANF grant.
- A 1999 amendment permits tribes, like states, to reserve TANF grants for assistance (ongoing needs and supportive services for the unemployed) in any future year. Since July 1, 2001, tribes also have been allowed to reserve unobligated NEW funds for assistance in any future year.

## Pending Legislation

The House-passed TANF reauthorization bill (H.R. 4) and the Senate Finance Committee substitute version of H.R. 4 (PRIDE) renew tribal grants at their current level and make Indian tribal organizations eligible for proposed marriage promotion grants and the proposed employment achievement bonus. Both bills require tribal family assistance plans to provide assurance that tribes have consulted with their state(s) regarding the plan's design. The Senate Committee bill also authorizes appropriation of \$100 million annually for five years for a tribal TANF improvement fund, which could be used to provide technical assistance to tribes, fund competitive grants, and conduct research. The American Indian Welfare Reform Act (S. 751 /H.R. 2770) proposes many changes. They include federal payments to states that contribute (with TANF MOE funds) to costs of Indian tribal assistance programs, increased tribal funding from the Child Care and Development Block Grant (CCDBG), authority for tribes to receive federal funds for foster care and adoption assistance, and (on a demonstration basis) to determine eligibility for food stamps, Medicaid, and SCHIP.

## Child Care and Child Support

The 1996 law reserves between 1% and 2% of its child care funds for payments to Indian tribes and tribal organizations, to be subtracted from national totals. Previously no AFDC-related child care funds were earmarked for Indians. In FY2002, \$96 million was allocated to tribes, 2% each of mandatory and discretionary funds. (Discretionary funds are provided under the Child Care and Development Block Grant [CCDBG].) The law also allows Indian tribes, subject to HHS approval, to use CCDBG funds for construction. The 1996 welfare law authorizes direct federal funding for child support operations to Indian tribes (and, again, Alaska Native organizations) with approved child support plans. By regulation, tribes receive 90% federal funding for the first three years, 80% for later years. As of March, 2004, 9 tribes received direct federal funding and handled more than 21,000 cases. Final regulations replaced interim rules in March.

## Characteristics of Tribal TANF Plans

Data compiled by the Division of Tribal Services show that most tribal TANF plans have adopted the 60-month lifetime time limit for federally funded TANF to an adult. The two Oregon tribes (Klamath tribes and Confederated Tribes of Siletz Indians) adopted a limit of 24 months within an 84-month period (similar to Oregon state plan limit). Work activities shown in most tribal plans are the same as those specified in TANF law, but several tribes make additions. Thus, two Washington tribes list as additional work activities: “teaching cultural activities” and “barrier removal, including counseling, and chemical dependency treatment.” The Tanana Chiefs Conference, in Alaska, includes as work activities “approved subsistence hunting, fishing, gathering.” Most two tribal plans limit the “service population” to Indians. However, the Red Cliff Band of Lake Superior Chippewa Indians in Wisconsin says it will serve all families, including non-Indians, on the reservation (and tribal member families in Bayfield County); and the White Mountain Apache Tribe in Arizona also says it will serve all families on the reservation. The Sisseton-Wahpeton Sioux Tribe serves only one-parent families with its tribal plan; its 2-parent families are aided by BIA’s General Assistance program.

**Table 1** shows that most of the tribal TANF plans have set work participation rates below the all-family rate of 50% and the 2-parent family rate of 90% specified for state TANF programs in FY2002. The table also shows that 36 of the 45 tribal grantees (including the Navajo Nation in Arizona and Utah) receive state funds — claimed as TANF MOE amounts — to help pay for their programs. The tribes that do not receive state funding are located in Wisconsin (8 tribes), South Dakota (1 tribe) and New Mexico (part of the Navajo Nation).

**Table 1. TANF Grants for Tribal Family Assistance Programs  
(as of September 15, 2004) and Their Work Rules**

Tribe	Start date	TANF grant	Work Rules		State funds ?
			Participation rate	Weekly hours	
1. Forest County Potawatomi Community, Wisconsin <sup>a</sup>	7/1/97	\$115,793	50%	30	No
2. Klamath Tribe, Oregon	7/1/97	464,259	(all) 30% <sup>b</sup> (2-parent) 50% <sup>b</sup>	(all) 20 <sup>b</sup> (2-parent) 25 <sup>b</sup>	Yes
3. Confederated Tribe of Siletz Indians, Oregon	10/1/97	661,625	(all) 25% <sup>b</sup> (2-parent) 40% <sup>b</sup>	20 <sup>b</sup>	Yes
4. Red Cliff Band of Lake Superior Chippewa Indians, Wisconsin	10/1/97	347,120	50%	30	No
5. Sisseton-Wahpeton Sioux Tribe, South Dakota <sup>a</sup>	10/1/97	613,868	(1-parent) 25% <sup>b</sup>	(1-parent) 25 <sup>b</sup>	No
6. Sokaogon Chippewa Community, Mole Lake Band, Wisconsin <sup>a</sup>	10/1/97	77,195	50%	30	No
7. Stockbridge-Munsee Band of Mohican Indians, Wisconsin	10/1/97	143,122	50%	30	No
8. Pascua Yaqui Tribe, Arizona <sup>a</sup>	11/1/97	1,729,965	(1-parent) 30% <sup>c</sup> (2-parent) 60% <sup>c</sup>	(1-parent) 25 <sup>c</sup> (2-parent) 35 <sup>c</sup>	Yes
9. Southern California Tribal Chairmen’s Association, Calif. — 18 tribe consortium	3/1/98 enlarged 5/1/99	3,653,904	(1-parent) 35% <sup>c</sup> (2-parent) 50% <sup>c</sup>	(1-parent) 30 <sup>c</sup> (2-parent) 35 <sup>c</sup>	Yes

Tribe	Start date	TANF grant	Work Rules		State funds ?
			Participation rate	Weekly hours	
10. White Mountain Apache Tribe, Arizona	4/1/98	1,914,669	25%	16 <sup>c</sup>	Yes
11. Osage Tribe of Oklahoma	5/4/98	419,328	(all) 30% <sup>b</sup> (2-parent) 65% <sup>b</sup>	(all) 20 (2-parent) 35	No
12. Northern Arapaho Tribe, Wind River Reservation, Wyoming <sup>a</sup>	7/1/98	1,640,458	25% <sup>b</sup>	30 <sup>b</sup>	Yes
13. Port Gamble S'Klallam Tribe, Washington	10/1/98	516,580	25% <sup>c</sup>	20 <sup>c</sup>	Yes
14. Lower Elwha Klallam Tribe, Washington	10/1/98	501,343	25% <sup>c</sup>	20 <sup>c</sup>	Yes
15. Tanana Chiefs' Conference, Alaska (37 village consortium) <sup>a</sup>	10/1/98	2,443,973	35% <sup>c</sup>	30 <sup>c</sup>	Yes
16. Nez Perce Tribe, Idaho <sup>a</sup>	1/1/99	504,990	30%	20	Yes
17. Mille Lacs Band of Ojibwe Tribe, Minnesota <sup>a</sup>	1/1/99	823,539	(1-parent) 40% (2-parent) 55%	(1-parent) 25 (2-parent) 30 (50 in combined hours)	Yes
18. Confederated Salish and Kootenai Tribes, Montana <sup>a</sup>	1/1/99	1,599,224	20% <sup>c</sup>	30 <sup>c</sup>	Yes
19. Salt River Pima — Maricopa Indian Community, Arizona <sup>a</sup>	6/1/99	710,340	(1-parent) 25% <sup>c</sup> (2-parent) 25% <sup>c</sup>	(1-parent) 20 <sup>c</sup> (2-parent) 40 <sup>c</sup>	Yes
20. Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho	7/1/99	858,781	(1-parent) 30% (2-parent) 45%	20	Yes
21. Lac du Flambeau Band of Lake Superior Chippewa, Wisconsin	1/01/00	610,124	35%	(1-parent) 30 (2-parent) 40	No
22. Central Council of Tlingit and Haida Indians of Alaska, <sup>a</sup>	7/1/00	2,367,150	35%	25	Yes
23. Coeur d'Alene Tribe, Idaho <sup>a</sup>	7/1/00	161,719	(all) 5% (2-parent) 40%	20	No
24. Eastern Shoshone Tribe of the Wind River Reservation, Wyoming <sup>a</sup>	10/1/00	1,640,458	15%	15	No
25. Fort Belknap Community Council, Montana	10/1/00	958,012	15%	20	Yes
26. Association of Village Council Presidents, Inc., Alaska <sup>a</sup>	10/1/00	5,420,841	25%	25	Yes
27. Navajo Nation, Arizona, New Mexico, and Utah <sup>a</sup>	10/1/00 (1/1/01 in NM)	31,174,026	15%	20	Yes except NM
28. Hopi Tribe, Arizona	4/1/01	628,740	(all) 15% (2-parent) 20%	(All) 16 (2-parent) 25	Yes
29. Pueblo of Zuni, New Mexico <sup>a</sup>	4/1/01	801,389	(1-parent) 5% (2-parent) 10%	10	Yes
30. Winnebago Tribe, Nebraska <sup>a</sup>	4/1/01	259,197	(1-parent) 15% (2-parent) 20%	(1-parent) 20 (2-parent) 40	Yes
31. Quinalt Indian Nation (QIN), Washington	4/1/01	1,695,135	20%	20	Yes
32. Quileute Tribe, Washington (service population includes some members of the Hoh Tribe)	5/1/01	749,462	25%	(1-parent) 25 (2-parent) 30 for first parent; 20 for second	Yes

Tribe	Start date	TANF grant	Work Rules		State funds ?
			Participation rate	Weekly hours	
33. Torres Martinez Desert Cahuilla Indians, California, enlarged — 9 tribes and some non-reservation Indians	5/1/01 — enlarged 11/1/01	21, 854,626	30%	30	Yes
34. Owens Valley Career Development Center, California, — 8 tribes plus some non-reservation Indians	6/1/01 — enlarged 12/1/01	14,861,308	25%	20	Yes
35. Confederated Tribes of Colville Reservation, Washington	11/01/01	3,396,965	25%	20	Yes
36. Bad River Band of the Lake Superior Tribe of Chippewa Indians, Wisconsin	1/1/02	291,848	25%	(1-parent) 20 (2-parent) 35	No
37. Washoe Tribe of Nevada and California, 2 tribes plus some non-reservation Indians	1/1/03	4,420,544	20%	24	Yes
38. Spokane Tribe of Indians, Washington	3/1/03	8,403,229	20%	(1-parent) 20 (2-parent) 30	Yes
39. Oneida Tribe of Wisconsin	3/1/03	835,924	25% (2004) 30% (2005)	32 (2004) 40 (2005)	No
40. California tribal TANF Partnership (19 tribes plus non-reservation Indians)	7/1/03	1,362,191	25%	24 (2004) 30 (2005).	Yes
41. North Fork, California	10/1/03	787,882	15% (2004) 20% (2005).	24 (2004) 26 (2005)	Yes
42. Menominee Indian Tribe of Wisconsin	4/1/04	1,212,239	20% (2004-05) 22% (2006) 25% (2007)	(1-parent) 25 (2-Parent) 30	No
43. South Puget Inter-tribal Planning Agency, Washington (3 tribes)	9/1/04	4,743,962	15% (2004-05) 25% (2006) 30% (2007)	(1-parent) 20 (2-parent) 30	Yes
44. Hoopa Valley Tribe, California (some non-reservation Indians)	10/1/04	1,212,239	20% (2005) 25% (2006) 30% (2007)	(1-parent) 18-24 <sup>d</sup> (2-parent) 20-28 <sup>d</sup>	Yes
45. Chippewa Cree Tribe of the Rocky Boy's Reservation (Montana)	9/1/04	1,292,289	15% (2004-05) 25% (2006) 30% (2007)	(all) 20-24	Yes
<b>Total TANF grants</b>		<b>\$134,156,751</b>			

- a. These tribes also receive federal funds for the Native Employment Works (NEW) employment and training program.  
b. For FY2000  
c. For FY2001  
d. Increased progressively over the three years 2005-07.

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