



Dear Tribal Leaders,

Please find attached a preliminary draft of proposed legislation aimed at streamlining the Tribal Nation Grant Fund (TNGF) process and ensuring quarterly equal distribution grants to all RSTF-eligible tribes. This draft reflects tribal leader direction to distribute most - but not all - monies for equal distribution grants while retaining some funds for large one-time grants. We invite feedback from tribal governments on this proposed language. CNIGA will discuss the draft language at its October 17 meeting. Additionally, the draft language will be discussed at the November 13 All Tribes meeting with the goal of finalizing it by year's end.

Why It Matters:

A consistent and mandatory equal distribution grant from the TNGF would help increase and stabilize funding for nongaming tribes. Depending on annual inflows into the TNGF, this could result in more than \$600,000 being distributed to RSTF eligible tribes, bringing annual totals to more than \$1.7M per eligible Tribe.

Background:

On May 23, TASIN and CNIGA hosted an All Tribes Meeting in Sacramento where funding for RSTF-eligible tribes was on the agenda. Following comprehensive presentations on the Revenue Sharing Trust Fund (RSTF) and Tribal Nation Grant Fund (TNGF), including their backgrounds and conditions, tribal leaders completed a brief survey. The vast majority expressed support for streamlining the TNGF and distributing available funds as equal distribution grants. Tribal leaders discussed possible legislation sponsored by TASIN and CNIGA to help make improvements to the TNGF.

Following the May 22 All Tribes meeting, TASIN hosted a workgroup to identify potential amendments to AB 880 (statutes of 2017) - the bill which established and set forth the grant process for the TNGF. On June 14, CNIGA hosted an RSTF Working Group Zoom meeting to further discuss recommendations and concepts.

The issue was again discussed at the June 20 CNIGA meeting, where leaders voted to support distributing most - but not all - monies for equal distribution grants while retaining some funds for large one-time grants. CNIGA members also voted to support timing the equal distribution grants with the quarterly RSTF payments. However, comments and feedback on these policies

were limited. The issue was further discussed at the August CNIGA meeting at Yocha Dehe where key provisions of proposed legislation were presented. Several questions for feedback were posed, including: (1) are the key provisions of the proposed legislation consistent with what eligible tribes want to see? (2) Are there other changes to the TNGF eligible tribes want to see? (3) What percentage of TNGF monies should be reserves for large, one-time grants?

We look forward to seeing you at one of the upcoming meetings (Oct. 17 CNIGA or Nov. 13 All Tribes) and hearing your feedback on this proposed draft language.

Thank you.

Existing law establishes the Tribal Nation Grant Fund for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of applicable tribal-state gaming compacts. Under existing law, moneys in the Tribal Nation Grant Fund are available, upon award by the Tribal Nation Grant Panel, for payment to eligible tribes. The payments to eligible tribes are made with the assistance of the Governor's Tribal Advisor, the Bureau of Gambling Control, and the California Gambling Control Commission, on a competitive application basis. Pursuant to existing law, an application for a grant from the Tribal Nation Grant Fund requires eligible tribes to provide a detailed proposal for the intended purpose or project for which the funds will be used.

This bill would create two categories of grants to be distributed by the panel, specific distribution grants and equal shares grants, each with different application and distribution requirements.

This bill would allow for [] percent of the moneys in the Tribal Nation Grant Fund to be distributed through specific distribution grants. Consistent with existing law, eligible tribes would be required to apply to receive specific distribution grant funds by submitting detailed proposals of intended fund use by a deadline set by the panel.

This bill would require that [] percent of the moneys in the Tribal Nation Grant Fund be distributed to eligible tribes, in equal amounts, through annual equal shares grants. This bill would require the panel to create a separate application form for equal shares grants wherein an eligible tribe applies for the grant and certifies that the grant funds will be used for permissible purposes. Pursuant to this bill, an eligible tribe's application for an equal shares grant would automatically renew each year for the eligible tribe to receive equal shares grants on a rolling basis, subject to the panel's annual independent verification that the applicant is an eligible tribe.

This bill would dismiss any requirement that eligible tribes expend the entirety of the grant funds within a designated time period.

Article 2.3. Tribal Nation Grant Fund Program

§ 12019.30. Definitions

Unless the context requires otherwise, for purposes of this article, the following terms shall have the following meanings:

- (a) "Advisor" means the Governor's Tribal Advisor.
- (b) "Bureau" means the Bureau of Gambling Control within the Department of Justice.
- (c) "Commission" means the California Gambling Control Commission.

(d) "Eligible tribe" means a nongaming or limited-gaming federally recognized tribe in California as defined in applicable tribal-state gaming compacts.

~~(d)~~(e) "Equal shares grant" means an annual grant awarded by the panel to an eligible tribe in an amount that is equal to that which is awarded to other eligible tribes pursuant to this article.

~~(e)~~(f) "Fund" means the Tribal Nation Grant Fund established by Section 12019.35.

~~(f)~~(g) "Grant" means an amount of money paid to an eligible tribe from the fund awarded by the panel ~~through a competitive process~~ pursuant to this article.

~~(g)~~(h) "Panel" means the Tribal Nation Grant Panel established by Section 12019.60.

(i) "Program" means the Tribal Nation Grant Fund Program established by this article.

~~(b)(i)~~ "Specific distribution grant" means a grant awarded by the panel to an eligible tribe for a specific purpose or project pursuant to this article.

§ 12019.35. Tribal Nation Grant Fund; establishment; administration; use of moneys; deposit money into fund

(a) There is in the State Treasury the Tribal Nation Grant Fund for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of tribal-state gaming compacts. The fund reflects a vision of facilitating tribal self-governance and improving the quality of life of tribal people throughout the state.

(b) The Tribal Nation Grant Fund shall be administered by the California Gambling Control Commission, which shall act as the limited trustee as provided under the terms of applicable tribal-state gaming compacts and shall not be subject to the duties and liabilities provided in the Probate Code, common law, or equitable principles. Moneys in the fund shall be available, upon appropriation by the Legislature, for the discretionary distribution of funds to nongaming tribes and limited-gaming tribes upon application of those tribes for purposes related to effective self-governance, self-determined community, and economic development.

(c) The California Gambling Control Commission shall deposit money into the fund only after it determines there are sufficient moneys in the Indian Gaming Revenue Sharing Trust Fund to distribute the quarterly payments described in Section 12012.90.

§ 12019.40. Tribal Nation Grant Fund Program; grant types; application for grant; eligible purposes or projects; prohibited uses

(a) There is in state government the Tribal Nation Grant Fund Program whereby the panel is authorized to award grants from available moneys within the fund and make other distributions from the fund to eligible tribes as set forth in this article.

~~(a)(b)~~ Grants may be made as specific distribution grants to fund a specifically described purpose or project, or as equal shares grants for distribution to eligible tribes in equal amounts. An eligible tribe may apply for both types of grants.

(c) Specific Distribution Grant.

(1) A request for a specific distribution grant shall be made by submitting a specific distribution grant application ~~to the commission~~ on a form approved-developed by the panel pursuant to Section 12019.45(a) and (b)-and provided by the commission.

(2) Unless prohibited by a tribal-state gaming compact or the panel, an eligible tribe may apply for more than one specific distribution grant, but shall submit a separate specific distribution grant application for each grant proposal. Two or more eligible tribes may apply for one specific distribution grant by submitting a joint application.

~~(b)~~ —

(3) A specific distribution grant shall be used to fund a specifically described purpose or project generally relating to self-governance, ~~developing a~~ self-determined community, and economic development ~~in the application~~. Eligible purposes or projects for specific distribution grants may include, but are not limited to, development of curricula in a tribal language or culture, housing, support for compliance with the federal Indian Child Welfare Act, vocational training, community development, investments in tribal schools and colleges, support of tribal government institutions and tribal courts,

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nongaming economic diversification, or investment in public health, information technology, renewable energy, water conservation, cultural preservation or awareness, educational programs, or scholarships.

(d) Equal Shares Grant.

(1) A request for an equal shares grant shall initially be made by submitting an equal shares grant application on a form developed by the panel pursuant to Section 12019.45(a) and (c). Each year thereafter, the eligible tribe's equal shares grant application shall automatically renew for the eligible tribe to receive equal shares grants on a rolling basis, subject to the panel's annual independent verification that the applicant is an eligible tribe as of the application deadline set by the panel.

~~(e)~~(2) An equal shares grant shall be used for purposes generally related to self-governance, developing or sustaining a self-determined community, and economic development.

~~(d)~~(e) A grant shall not be used to pay a per capita distribution to tribal members or an investment in a purpose or project related to any gaming operation or activity.

§ 12019.45. Application forms; contents

(a) The adviser and panel, with administrative support from the commission and in consultation with federally recognized tribes in California, shall develop ~~a~~-concise application forms for one or more eligible tribes to apply for a grant.

(b) The application form developed for specific distribution grants pursuant to subdivision (a) shall include, but not be limited to, all of the following:

- (1) An identification of every eligible tribe applying for the grant and the name, signature, and contact information of every individual who is authorized by each eligible tribe's governing body to apply for the grant.
- (2) A description of the purpose or project for which the grant is intended to be used.
- (3) An assessment of the nature and extent of the potential benefits from the described purpose or project to each applying eligible tribe.
- (4) The safeguards in place to ensure that the grant would be applied only to the described purpose or project.
- (5) The amount and source of other moneys or in-kind services or goods, if any, that are available to be additionally applied to the described purpose or project and when those moneys or in-kind services or goods are intended to be applied.
- (6) A list of every grant awarded or other distribution from the fund previously awarded or distributed to each eligible tribe applying for the grant and the results achieved as a result of those prior awards or distributions.
- (7) A strategy for how the benefits from the described purpose or project will be sustainably maintained.
- (8) A signed acceptance of the terms described in Section 12019.75 from an authorized representative of every eligible tribe applying in the application.
- (9) Identification of the information provided in the application that each eligible tribe proposes is confidential and not subject to public disclosure pursuant to subdivision (a) of

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Section 12019.55, and a statement, in bold, that the panel may consider, but is not required to comply with, an eligible tribe's identification of information as confidential when responding to a request for public records pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(10) Any other information the adviser and panel deem valuable to evaluating the merits of awarding a grant.

(c) The application form developed for equal shares grants shall include the following:

(1) Information necessary to establish that the applicant is an eligible tribe.

~~(49)(2)~~ A certification from the eligible tribe that the funds will be used for self-governance, developing or sustaining a self-determined community, or economic development and will not be used for purposes prohibited by Section 12019.40(e).

§ 12019.50. Duties of staff; prohibited activities

(a) The staff of the commission shall provide all of the following services:

(1) Assistance to the individuals applying for a grant on behalf of every eligible tribe in understanding the application process. This assistance shall not include completing an application for a grant on behalf of an eligible tribe.

(2) All administrative support necessary to implement this article, including, but not limited to, processing applications for grants, administrative services to the advisor, the panel, and technical experts retained by the panel, if any, and administrative assistance to the panel allocating and disbursing grants and making other distributions from the fund to eligible tribes.

(b) To the extent prohibited by applicable tribal-state gaming compacts, the commission and its staff shall not exercise discretion or control over the approval or disapproval of grant applications or the use of grants or other distributions from the fund by eligible tribes.

§ 12019.55. Preventing disclosure of confidential information; closed sessions

(a) All information relating to the administration of this article that describes, directly or indirectly, the internal affairs of an eligible tribe, including, but not limited to, the finances and competitive business plans of an eligible tribe, is confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(b) The panel shall comply with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1), and shall do so in a manner that prevents the disclosure of information described in subdivision (a), including, but not limited to, holding, when necessary in a closed session, as authorized by Section 11126.4.5.

§ 12019.60. Tribal Nation Grant Panel; members; appointment; advisor's duties; compensation

(a) There is in state government the Tribal Nation Grant Panel.

(b) (1) The panel shall be composed of nine total members, of which seven are voting members and two are alternate nonvoting members.

(2) Four members who are authorized to vote are required to establish a quorum for the transaction of business of the panel. The panel may take an action by a majority vote of a quorum, except that the panel shall only award a grant or approve a distribution from

the fund by an approval vote of four or more members who are authorized to vote.

(3) A member may voluntarily recuse the member's own self from the consideration of a grant application or a particular agenda item.

(4) If one or two of the seven voting members recuse themselves from the consideration of or voting on a grant application or a particular agenda item, or do not attend a meeting of the panel, the adviser may select an alternate nonvoting member to act in the place of the recused or absent voting member for the consideration of and voting on the grant application or agenda item, or for that meeting.

(c) (1) Before January 1, 2020, all members shall be appointed by the adviser for a term of one year. The adviser may extend the term of a member for up to one year or fill a vacancy by appointing a new member. Applicable to an appointment made pursuant to this paragraph, the adviser shall only appoint an individual who is an elected tribal leader from a federally recognized tribe in California and shall endeavor to establish a panel that represents the diversity of tribes in California. No member appointed pursuant to this paragraph shall serve on the panel on or after January 1, 2020, unless separately appointed pursuant to a process authorized in paragraph (2).

(2) The adviser and panel, as comprised before January 1, 2020, in consultation with federally recognized tribes in California, shall determine how members of the panel are appointed on and after January 1, 2020. The adviser and panel, as comprised on and after January 1, 2020, in consultation with federally recognized tribes in California, may, from time to time, amend how members of the panel are appointed as they jointly determine is necessary to fairly and equitably achieve the purposes for which the fund was created.

(d) The adviser is not a member of the panel but shall preside over the meetings of the panel in an administrative capacity. The adviser shall advise the panel on procedures for the business of the panel and encourage the use of procedures that allow for a fair process to evaluate grant applications and consider other distributions from the fund that best serves all eligible tribes.

(e) A member of the panel who attends a meeting, regardless of whether the member votes, shall be compensated a one-hundred-dollar (\$100) per diem for each day a meeting is held and the actual, reasonable travel expenses to attend that meeting.

§ 12019.65. Duties of panel; annual meetings; distribution of available moneys; determination if moneys used in manner inconsistent with described purpose or project; use of technical experts

(a) The panel shall meet to consider grant applications at least annually. To the extent required by applicable tribal-state gaming compacts, the panel shall award grants on a competitive application basis, meaning the panel and shall consider ~~at a meeting all~~ completed grant applications that were submitted or automatically renewed by a deadline established by the panel.

~~(a)~~(b) The panel may distribute as specific distribution grants [] percent (%) of the available moneys in the fund to eligible tribes that submitted a completed specific distribution grant application that is approved by the panel. The panel may award a specific distribution grant in an amount less than requested in an application.

~~(b)~~(c) The panel ~~may shall~~ distribute as equal shares grants, in equal amounts, a portion at least [] percent (%) of the available moneys in the fund to all eligible tribes that submitted

a completed grant application ~~within the deadline established~~that is approved by the panel. ~~Amounts awarded as annual equal shares grants shall be distributed in quarterly distributions. The panel shall not distribute all available moneys in the fund through an equal distribution pursuant to this subdivision.~~

~~(e)~~(d) The panel may decline to award future grants or distributions to an eligible tribe for a specified period of time if the panel, in its sole discretion, determines that the eligible tribe had previously received and used a grant in a manner inconsistent with the described purpose or project set forth in the grant application or in compliance with conditions and limitations imposed by the panel.

~~(d)~~(e) The advisor and panel, with administrative support from the commission and in consultation with federally recognized tribes in California, shall develop an appropriate process to reasonably ensure that grants are used in a manner consistent with this article, applicable tribal-state gaming compacts, the application, and the conditions and limitation imposed on the award of a grant, if any. The process shall be respectful and promotive of tribal sovereignty.

~~(e)~~(f) The advisor and panel, with administrative support from the commission and in consultation with federally recognized tribes in California, may develop a process to use technical experts with relevant experience to review and score applications. The technical experts may be compensated up to a one-hundred-dollar (\$100) per diem for each day spent reviewing and scoring applications.

~~(f)~~(g) (1) The advisor and panel, with administrative support from the commission and in consultation with federally recognized tribes in California, shall develop procedures to govern the business of the panel, including, but not limited to, the procedures for meetings, a process for evaluating and resolving potential conflicts of interest of members of the panel, the process for auditing the use of grants, and all other processes that may be required to award grants or make other distributions from the fund.

(2) Only the bureau shall conduct audits of the use of grant funds.

~~(g)~~(h) All activities of the advisor, panel, bureau, and commission pursuant to this article are exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

§ 12019.70. Deadline established for use of grant

~~(a) The panel may, in its discretion and based upon the purpose or project set forth in the application, require an eligible tribe to encumber or expend any or all of a grant within a specified period of time from the date that the panel awarded the grant.~~

~~(b)~~(a) The panel may, in its discretion, modify any deadline it established for the use of a grant.

§ 12019.75. Applicants' duties

By applying for a grant, each eligible tribe and each individual applying on behalf of each eligible tribe shall agree to all of the following:

(a) The terms and conditions the panel imposes as a condition of awarding the grant, including the limitations set forth in this section and article.

(b) To cooperate with the panel, advisor, commission, bureau, or other state entity designated by the Governor to ensure that the grant is used in a manner consistent with the assertions in the application and any condition or limitations imposed on the award of the grant.

(c) To provide access to the panel, advisor, commission, bureau, or other state entity designated by the Governor to all documents relevant to the use of the grant to allow a comprehensive audit, to ensure a grant is used for the purpose or project set forth in the application, in compliance with the conditions or limitations on the grant, and applicable tribal-state gaming compacts.

(d) To return to the fund any amount of a grant not encumbered or expended in compliance with Section 12019.70. Any returned funds shall be provided to the commission for deposit into the fund.

§ 12019.80. Annual report on Internet Web site

On or before July 15, 2020, and annually thereafter, the commission shall prepare and post on its Internet Web site a report detailing the status of grants and other distributions made from the fund for the previous fiscal year. In preparing the report, the commission shall not provide information prohibited from public disclosure pursuant to Section 12019.55, unless the eligible tribe that is the subject of the information authorizes the commission to include that information in the report as evidenced in a writing signed by an authorized representative of the eligible tribe.

§ 12019.81. Annual report to Legislature; contents

(a) The advisor shall provide an annual report to the Senate and Assembly Committees on Governmental Organization on the status of the program relating to the program's activities and resources needed to implement and maintain the program.

(b) This report shall include all of the following:

- (1) An update and summary of the program, including recent developments, strategic priorities, and upcoming milestones.
- (2) An annual fiscal report for the prior fiscal year summarizing proceeds to the fund and expenditures and grants distributed out of the fund.
- (3) A general evaluation to understand and strengthen the performance and effectiveness of the program.

§ 12019.85. Activities authorized and required by this article funded by Indian Gaming Special Distribution Fund

The activities authorized and required by this article, including, but not limited to, the administrative and procedural support services provided by the commission, its staff, and the advisor, the costs and compensation of members of the panel, and the costs of audits, are regulatory costs in connection with the implementation and administration of responsibilities imposed by tribal-state gaming compacts, and shall be funded by moneys in the Indian Gaming Special Distribution Fund, and shall not be funded from the Indian Gaming Revenue Sharing Trust Fund or the fund.

§ 12019.90. Application of tribal-state gaming compacts

Actions taken under this article shall be consistent with the provisions of tribal-state gaming compacts.

Title 9, Chapter 7

Article 3. Conflict of Interest Codes

§ 87300. Agency; adoption and promulgation; effect of violation

Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.