SENATE BILL 21-029

SENATE SPONSORSHIP
Fenberg,

HOUSE SPONSORSHIP
Garnett and Benavidez,

Senators Fenberg, Garnett, and Benavidez present:

A BILL FOR AN ACT

CONCERNING IN-STATE TUITION CLASSIFICATION FOR MEMBERS OF
AMERICAN INDIAN TRIBES WITH HISTORICAL TIES TO
COLORADO.

Bill Summary

(Note: This summary applies to this bill as introduced and does
not reflect any amendments that may be subsequently adopted. If this bill
passes third reading in the house of introduction, a bill summary that
applies to the reengrossed version of this bill will be available at
http://leg.colorado.gov.)

The bill requires a state institution of higher education (institution)
to offer in-state tuition classification to students who would not otherwise
qualify for in-state tuition if the student is a member of an American
Indian tribe with historical ties to Colorado.

The institution shall not count the student as a resident student for
any other purpose. The student is eligible for the Colorado opportunity fund stipend and may be eligible for state-funded and private financial aid programs.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) States may enact laws beneficial to American Indians in exercise of the federal government's trust power pursuant to implied congressional authorization;

(b) The United States supreme court, in Morton v. Mancari, 417 U.S. 535 (1974), has recognized that classifications based on membership in federally recognized American Indian tribes are not racial classifications but rather classifications based on membership to quasi-sovereign tribal entities;

(c) The state of Colorado maintains a list of federally recognized American Indian tribes that have historical ties to the land now called Colorado for purposes of the federal "Native American Graves Protection and Repatriation Act", 25 U.S.C. sec. 3001 et seq., as amended, and the state unmarked human burial process pursuant to part 13 of article 80 of title 24, Colorado Revised Statutes; and

(d) Postsecondary educational institutions of the state of Colorado seek to achieve a diverse student population, ensuring the rich interchange of ideas.

SECTION 2. In Colorado Revised Statutes, add 23-7-112 as follows:

23-7-112. Tuition classification for members of American Indian tribes with historical ties to Colorado - legislative declaration.
(a) The General Assembly finds and declares that:

(I) Often due to circumstances beyond their control, many American Indian tribes and members of American Indian tribes have been forced to relocate across state lines, far from their historical home places. As a consequence, American Indian high school students often only receive in-state tuition eligibility in their state of current residence rather than the state their tribes traditionally called their ancestral home.

(II) Colorado includes the ancestral home places of at least forty-eight American Indian tribes;

(III) According to the United States Census Bureau current population survey, in 2016, only approximately nineteen percent of college-aged American Indian tribe members were enrolled in college, compared to approximately forty-one percent of the total college-aged population, the lowest percentage of all race and ethnicity groups surveyed; and

(IV) Further, in 2016, over twenty-six percent of American Indian people lived in poverty, the highest rate of any race group surveyed, with thirty-three percent of American Indian children under eighteen years of age living in poverty.

(b) Therefore, the General Assembly declares that Colorado public universities and colleges should extend in-state tuition classification to American Indian students who are registered members of a federally recognized American Indian tribe with historical ties to Colorado.

(2) Notwithstanding any other provision of this article 7 to the contrary, beginning with the 2021-22 academic year, the
GOVERNING BOARD OF EACH INSTITUTION SHALL ADOPT A POLICY TO
GRANT IN-STATE TUITION CLASSIFICATION TO A STUDENT WHO IS A
REGISTERED MEMBER OF A FEDERALLY RECOGNIZED AMERICAN INDIAN
TRIBE WITH HISTORICAL TIES TO COLORADO, AS DESIGNATED BY THE
COLORADO COMMISSION OF INDIAN AFFAIRS, ESTABLISHED PURSUANT TO
ARTICLE 44 OF TITLE 24, IN PARTNERSHIP WITH HISTORY COLORADO.

(3) BEGINNING WITH THE FALL SEMESTER OF THE 2021-22
ACADEMIC YEAR, A STUDENT CLASSIFIED AS AN IN-STATE STUDENT
PURSUANT TO THIS SECTION:

(a) MAY BE COUNTED AS A RESIDENT STUDENT FOR ANY PURPOSE
PURSUANT TO THIS ARTICLE 7;

(b) MAY BE COUNTED AS A RESIDENT STUDENT FOR PURPOSES OF
SECTION 23-1-113.5; AND

(c) IS ELIGIBLE TO PARTICIPATE IN THE COLLEGE OPPORTUNITY
FUND STIPEND PURSUANT TO PART 2 OF ARTICLE 18 OF THIS TITLE 23 AND
STATE-FUNDED STUDENT FINANCIAL ASSISTANCE PROGRAMS PURSUANT TO
ARTICLE 3.3 OF THIS TITLE 23, AND MAY BE ELIGIBLE FOR PRIVATE
FINANCIAL AID PROGRAMS.

(4) THIS SECTION DOES NOT APPLY TO FORT LEWIS COLLEGE DUE
TO ITS HISTORIC COMMITMENT TO AMERICAN INDIAN EDUCATION.
FURTHERMORE, NOTHING IN THIS SECTION MODIFIES OR AFFECTS THE
AMERICAN INDIAN PUPIL TUITION WAIVER PURSUANT TO SECTION
23-52-105 (1)(b)(I).

SECTION 3. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, or safety.