

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0539.01 Brita Darling x2241

SENATE BILL 21-029

SENATE SPONSORSHIP

Fenberg,

HOUSE SPONSORSHIP

Garnett and Benavidez,

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 CONCERNING IN-STATE TUITION CLASSIFICATION FOR MEMBERS OF
102 AMERICAN INDIAN TRIBES WITH HISTORICAL TIES TO
103 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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

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.

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

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

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

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

12 (c) The state of Colorado maintains a list of federally recognized
13 American Indian tribes that have historical ties to the land now called
14 Colorado; and

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

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

20 **23-7-112. Tuition classification for members of American**
21 **Indian tribes with historical ties to Colorado - legislative declaration.**

22 (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

23 (I) OFTEN DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL,
24 MANY AMERICAN INDIAN TRIBES AND MEMBERS OF AMERICAN INDIAN

1 TRIBES HAVE BEEN FORCED TO RELOCATE ACROSS STATE LINES, FAR FROM
2 THEIR HISTORICAL HOME PLACES. AS A CONSEQUENCE, AMERICAN INDIAN
3 HIGH SCHOOL STUDENTS OFTEN ONLY RECEIVE IN-STATE TUITION
4 ELIGIBILITY IN THEIR STATE OF CURRENT RESIDENCE RATHER THAN THE
5 STATE THEIR TRIBES TRADITIONALLY CALLED THEIR ANCESTRAL HOME.

6 (II) COLORADO INCLUDES THE ANCESTRAL HOME PLACES OF
7 SEVERAL AMERICAN INDIAN TRIBES;

8 (III) ACCORDING TO THE UNITED STATES CENSUS BUREAU
9 CURRENT POPULATION SURVEY, IN 2016, ONLY APPROXIMATELY NINETEEN
10 PERCENT OF COLLEGE-AGED AMERICAN INDIAN TRIBE MEMBERS WERE
11 ENROLLED IN COLLEGE, COMPARED TO APPROXIMATELY FORTY-ONE
12 PERCENT OF THE TOTAL COLLEGE-AGED POPULATION, THE LOWEST
13 PERCENTAGE OF ALL RACE AND ETHNICITY GROUPS SURVEYED; AND

14 (IV) FURTHER, IN 2016, OVER TWENTY-SIX PERCENT OF AMERICAN
15 INDIAN PEOPLE LIVED IN POVERTY, THE HIGHEST RATE OF ANY RACE
16 GROUP SURVEYED, WITH THIRTY-THREE PERCENT OF AMERICAN INDIAN
17 CHILDREN UNDER EIGHTEEN YEARS OF AGE LIVING IN POVERTY.

18 (b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT
19 COLORADO PUBLIC UNIVERSITIES AND COLLEGES SHOULD EXTEND
20 IN-STATE TUITION CLASSIFICATION TO AMERICAN INDIAN STUDENTS WHO
21 ARE REGISTERED MEMBERS OF A FEDERALLY RECOGNIZED AMERICAN
22 INDIAN TRIBE WITH HISTORICAL TIES TO COLORADO.

23 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 7
24 TO THE CONTRARY, BEGINNING WITH THE 2021-22 ACADEMIC YEAR, THE
25 GOVERNING BOARD OF EACH INSTITUTION SHALL ADOPT A POLICY TO
26 GRANT IN-STATE TUITION CLASSIFICATION TO A STUDENT WHO IS A
27 REGISTERED MEMBER OF A FEDERALLY RECOGNIZED AMERICAN INDIAN

1 TRIBE WITH HISTORICAL TIES TO COLORADO, AS DESIGNATED BY THE
2 COLORADO COMMISSION OF INDIAN AFFAIRS, ESTABLISHED PURSUANT TO
3 ARTICLE 44 OF TITLE 24, IN CONSULTATION AND PARTNERSHIP WITH THE
4 OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION AT HISTORY
5 COLORADO, OR ITS SUCCESSOR OFFICE.

6 (3) THE INSTITUTION SHALL NOT COUNT A STUDENT GRANTED
7 IN-STATE TUITION CLASSIFICATION SOLELY PURSUANT TO SUBSECTION (2)
8 OF THIS SECTION AS A RESIDENT FOR ANY PURPOSE OTHER THAN TUITION
9 CLASSIFICATION; EXCEPT THAT THE STUDENT IS ELIGIBLE TO PARTICIPATE
10 IN THE COLLEGE OPPORTUNITY FUND STIPEND PURSUANT TO PART 2 OF
11 ARTICLE 18 OF THIS TITLE 23 AND STATE-FUNDED STUDENT FINANCIAL
12 ASSISTANCE PROGRAMS PURSUANT TO ARTICLE 3.3 OF THIS TITLE 23, AND
13 MAY BE ELIGIBLE FOR PRIVATE FINANCIAL AID PROGRAMS.

14 (4) THIS SECTION DOES NOT APPLY TO FORT LEWIS COLLEGE DUE
15 TO ITS HISTORIC COMMITMENT TO AMERICAN INDIAN EDUCATION.
16 FURTHERMORE, NOTHING IN THIS SECTION MODIFIES OR AFFECTS THE
17 AMERICAN INDIAN PUPIL TUITION WAIVER PURSUANT TO SECTION
18 23-52-105 (1)(b)(I).

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