

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 21-0539.01 Brita Darling x2241

SENATE BILL 21-029

SENATE SPONSORSHIP

Fenberg,

HOUSE SPONSORSHIP

Garnett and Benavidez,

Senate Committees

Education
Appropriations

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.*

SENATE
Amended 2nd Reading
April 23, 2021

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 for purposes of the federal "Native American Graves Protection
15 and Repatriation Act", 25 U.S.C. sec. 3001 et seq., as amended, and the
16 state unmarked human burial process pursuant to part 13 of article 80 of
17 title 24, Colorado Revised Statutes; and

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

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

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

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

2 (I) OFTEN DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL,
3 MANY AMERICAN INDIAN TRIBES AND MEMBERS OF AMERICAN INDIAN
4 TRIBES HAVE BEEN FORCED TO RELOCATE ACROSS STATE LINES, FAR FROM
5 THEIR HISTORICAL HOME PLACES. AS A CONSEQUENCE, AMERICAN INDIAN
6 HIGH SCHOOL STUDENTS OFTEN ONLY RECEIVE IN-STATE TUITION
7 ELIGIBILITY IN THEIR STATE OF CURRENT RESIDENCE RATHER THAN THE
8 STATE THEIR TRIBES TRADITIONALLY CALLED THEIR ANCESTRAL HOME.

9 (II) COLORADO INCLUDES THE ANCESTRAL HOME PLACES OF AT
10 LEAST FORTY-EIGHT AMERICAN INDIAN TRIBES;

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

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

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

26 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 7
27 TO THE CONTRARY, BEGINNING WITH THE 2021-22 ACADEMIC YEAR, THE

1 GOVERNING BOARD OF EACH INSTITUTION SHALL ADOPT A POLICY TO
2 GRANT IN-STATE TUITION CLASSIFICATION TO A STUDENT WHO IS A
3 REGISTERED MEMBER OF A FEDERALLY RECOGNIZED AMERICAN INDIAN
4 TRIBE WITH HISTORICAL TIES TO COLORADO, AS DESIGNATED BY THE
5 COLORADO COMMISSION OF INDIAN AFFAIRS, ESTABLISHED PURSUANT TO
6 ARTICLE 44 OF TITLE 24, IN PARTNERSHIP WITH HISTORY COLORADO.

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

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

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

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

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

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