

House of Representatives
Education Committee
Hon. Kris Hansen
63rd Montana State Legislature
Capitol Building
Helena, Montana

February 13, 2013

RE: House Bill 286 "Allowing Board of Regents to Waive Tuition and Fees for Certain Students"

Madam Chair and Committee Members:

Hello, my name is Shane Morigeau. I am a member of the Confederated Salish and Kootenai Tribes (CSKT) and I am here today on behalf of The Confederated Salish and Kootenai Tribes to support the passage of House Bill 286, a bill that provides educational opportunities for all enrolled members of federally recognized tribes and state recognized tribes.

Now I'm not here to lecture the committee on federal law and policy in recognizing tribal sovereignty and tribal membership. Clearly, the state makes efforts to honor tribal inherent rights of self-governance. But the following points are worth restating. First, I want the committee to be aware that in order to be an enrolled CSKT member you must meet the one-fourth degree blood quantum requirement. This happens to conform to the current provision in § 20-25-421, MCA that allows for tuition waivers for persons "of one-fourth Indian blood or more." However, the one-fourth blood quantum enrollment requirement that CSKT requires, is not the same for all Montana tribes.

I am here today because the CSKT fully support the right of tribes to define their own membership. The U.S. Supreme Court has repeatedly affirmed that tribes have an inherent right to determine their own membership. Specifically, in the 1978 case of *Santa Clara Pueblo v. Martinez*, the Supreme Court noted that "[a] tribe's right to define its own membership for tribal purposes has long been recognized as central to its existence as an independent political community." *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 72 n.32 (1978) (emphasis added) (citing *Roff v. Burney*, 168 U.S. 218 (1897)).

With this in mind, the current statutory reference to "persons of one-fourth Indian blood" seems arbitrary. Such language creates the impression that the State does not respect tribes' right to define their own membership and is instead endeavoring, on its own, to determine what is "Indian enough." Accordingly, it would be proper under history, law, and policy to eliminate the language referring

to "one-fourth Indian blood" and instead to defer to tribes' right to define their own membership by referring only to enrollment.

The CSKT believe that this change will have a more positive impact on tribes in Montana as well. All enrolled members will be eligible to acquire educational opportunities. This in turn will have positive impacts in the state of Montana as these members will become the next leaders, innovators and entrepreneurs. Ultimately leading to positive economic impacts everywhere in Montana. This really is a win-win for Tribes and the State.

Thank you,

A handwritten signature in cursive script, appearing to read "Shane Morigeau".

Shane Morigeau