

Senate
Education and Cultural Resources Committee
Hon. Jim Peterson
63rd Montana State Legislature
Capitol Building
Helena, Montana

March 11, 2013

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

Chairman Peterson and Committee Members:

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 Indians of ¼ Indian blood and enrolled members of federally recognized tribes and state recognized tribes.

Clearly, the state makes efforts to honor tribal inherent rights of self-governance. But the following points are worth mentioning. 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 requirement for all Montana tribes and each tribe may change their membership requirements at any time.

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 language that refers only to "persons of one-fourth Indian blood" seems arbitrary. Such language creates the impression that the State does not appreciate 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 add language that refers to "enrolled members of a state-recognized tribe or federally

recognized Indian tribe.” This language defers to the right of tribes’ to define their own membership.

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 and reservation communities, as these members will become the next leaders, innovators and entrepreneurs. Ultimately leading to positive economic impacts everywhere in Montana. Please give this bill your full support and a due pass. Thank you.

Thank you,

A handwritten signature in black ink, appearing to read "Shane Morigeau". The signature is fluid and cursive, with a long horizontal stroke at the end.

Shane Morigeau
CSKT Tribal Lobbyist