



**Testimony of Matthew Campbell
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Regarding CO HB 15-1027 A Bill Concerning In-State Tuition Classification for
American Indians from Tribes with Historical Ties to Colorado**

May 1, 2015

Good afternoon, Mr. Chair and members of the Committee. Thank you for allowing me to testify on CO HB 15-1027. My name is Ansley Sherman. I am a legal fellow at the Native American Rights Fund (“NARF”), and I am also an enrolled member of the Muscogee (Creek) Nation in Oklahoma. My supervisor, Matt Campbell, represents the Tribal Education Departments National Assembly (“TEDNA”), a non-profit organization for tribal education departments and agencies nationwide. I’d like to unequivocally thank Representative Salazar for sponsoring this bill. NARF and TEDNA are greatly appreciative of it and we support it.

Colorado has a particularly rich American Indian history, which was recently recognized by the University of Colorado’s plans to rename some of its dorms after prominent Arapaho leaders. The history, however, was not without tragedy. One of the low points for American Indians in U.S. history was the 1864 Sand Creek massacre, which occurred in Colorado where troops killed approximately 200 Cheyenne and Arapaho people composed mostly of women, children, and the elderly.¹ State boundaries were created with little regard to the way in which American Indians used the land long before states were established, and many tribes were displaced to other states.² These actions resulted in the marginalization of Colorado’s American Indian tribes, which

¹ <http://www.nps.gov/sand/historyculture/index.htm>

² See generally Sally Crum (1994). *People of the Red Earth: American Indians of Colorado*.



manifests itself today by inadvertently limiting educational opportunities for Colorado's American Indians. This bill will give American Indians from tribes with historical ties to Colorado the opportunity to improve themselves by participating more fully in the state's higher education system.

HB 15-1027 stands to benefit two categories of American Indian students: (1) those who are members of tribes with historical ties to Colorado; and (2) those who are members of Colorado tribes who live in other states. In both cases, these individuals have strong ties to the state, and the state has an interest in their education.

Historically, American Indian nations lived and roamed freely across large areas within this state.³ In fact, many of the state's higher education institutions are located on lands traditionally possessed and preserved by American Indians who the federal government relocated to reservations in other states. For example, the Treaty of Fort Laramie of 1851 set aside most of the Front Range in Colorado for the Cheyenne and Arapaho.⁴ These lands were eventually reduced through force and other treaties, and the federal government ultimately removed both tribes from Colorado. The Cheyenne were removed to Montana and Oklahoma,⁵ and the Arapaho were removed to Wyoming and Oklahoma.⁶ Members of these removed tribes with historical ties to Colorado stand to benefit from HB 15-1027 and the educational opportunities it will create for them.

³ See generally Sally Crum (1994). *People of the Red Earth: American Indians of Colorado*.

⁴ *Id.* at 106, 109, 203.

⁵ *Id.* at 222-27.

⁶ *Id.* at 201-213.



Some members of Colorado tribes live in other states, with relatives who live on other reservations, or in another part of the reservation located in another state. For example, the Ute Mountain Ute, who traditionally resided in the four corners area of Colorado, have their reservation in Towaoc, CO, and also in White Mesa, UT.⁷ The Utes from White Mesa, UT cannot attend a college or university as resident students until they first live in this state for a year.⁸ This bill will assist the first peoples of Colorado to attend a college in Colorado at a time when it is much needed.

In 2010, American Indians represented only one percent of total postsecondary enrollment nationwide.⁹ In the same year, almost half of American Indians enrolled as undergraduate students (49%) attended two year institutions, while slightly more than half (51%) attended four year institutions.¹⁰ While American Indian enrollment in undergraduate degree-granting institutions has increased from 1976 to 2010 (from 76,100 to 179,278), these students continue to struggle.¹¹ Only 13% of American Indians have earned a bachelor's degree or higher, compared to 29% of the general U.S. population.¹² Retention during college is a major problem for American Indian students - it has been as low as 15%.¹³ One of the major reasons for low retention in college is inadequate

⁷ <http://www.utemountainutetribe.com/culturemain.html>

⁸ This does not apply to Fort Lewis College, which is obligated through historical agreements to provide education to Native students tuition free.

⁹ Aud, S., Hussar, W., Johnson, F., Kena, G., Roth, E., Manning, E., Wang, X., and Zhang, J. (2012). The condition of education 2012 (NCES 2012-045). Washington, D.C.: U.S. Dep't of Education, National Center for Education Statistics. Retrieved from <http://nces.ed.gov/pubs2012/2012045.pdf>.

¹⁰ *Id.*

¹¹ *Id.*

¹² Executive Office of the President, 2014 Native Youth Report 14 (2014).

¹³ Guillory, R. & Wolverton, M. (2008). It's about family: Native American student persistence in higher education. *The Journal of Higher Education*, 79(1), 58-87.



financial resources.¹⁴ One in every four American Indians lives below the poverty line, and only five percent or less can afford to attend college without financial assistance.¹⁵

In K-12, American Indian students have similar obstacles. Graduation rates are low, and 22% of American Indians over age 25 have not finished high school.¹⁶ American Indian students are behind their peers in reading and math,¹⁷ and their performance has not improved over time compared to other major ethnic groups.¹⁸ For the 2011-2012 school year, 67% of American Indians graduated high school in four years, the lowest four-year high school graduation rate of any other racial or ethnic group.¹⁹ Only one in four American Indian graduates that took the ACT scored at the college-ready level in math, and only one third in reading.²⁰ Only 52% of American Indian students who graduated in 2004 enrolled in college immediately after high school, as compared with 74% of white students.²¹

These statistics shed light on the need for a more affordable higher education for American Indian students. The difference between in-state and out-of-state tuition for an American Indian can mean the difference between a long term career helping a community and not going to college in the first place. This bill can also help to reduce the five year double digit unemployment rate in Indian Country by providing an

¹⁴ American Indian College Fund (2012). *Fostering Success: Need and Resiliency among Tribal College Students*, at 2.

¹⁵ *Id.* (citing U.S. Census Bureau. (2010). *American Fact Finder*. [Data File] Retrieved from <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml>).

¹⁶ Executive Office of the President, 2014 Native Youth Report 14 (2014).

¹⁷ The Education Trust (2013). *The State of Education for Native Students*, at 5.

¹⁸ *Id.* at 6.

¹⁹ Executive Office of the President, 2014 Native Youth Report 16 (2014).

²⁰ *The Education Trust (2013). The State of Education for Native Students*, at 9.

²¹ *Id.* at 10.



affordable education that can lead to a long term career.²² In addition, permitting tribal members to be residents for fee paying purposes will assist the state's colleges and universities to diversify their student bodies. Other states have already addressed this issue with complete tuition waivers,²³ in-state tuition for American Indians with historical ties,²⁴ and other programs.²⁵ Colorado should follow suit.

Although Fort Lewis College already offers a *full* tuition waiver to qualified Native American students, this should not be the only option for American Indians with historical ties to Colorado. The Native American tuition waiver at Fort Lewis stems from a controversial history between the federal government and Native Americans in the area.²⁶ Fort Lewis operated first as a federal military post and then later as an Indian boarding school until 1910.²⁷ In 1910, the United States offered the land to Colorado.²⁸

²² Economic Policy Institute (2013), *Native Americans are Still Waiting for an Economic Recovery*, retrieved from <http://www.epi.org/publication/native-americans-are-still-waiting-for-an-economic-recovery/>

²³ See, e.g., Maine has a tuition waiver and scholarship for members of historical Maine tribes or a resident of Maine that is from any federally recognized or Canadian tribe, see <http://usm.maine.edu/mcsa/north-american-indian-tuition-waiver-scholarship-program>; Massachusetts has a tuition waiver for any American Indian that lives in Massachusetts, see <http://www.mass.gov/hed/economic/eohed/dhcd/indian-affairs.html>; Mich. Comp. Laws § 390.1251 (providing a complete tuition waiver “for any North American Indian who qualifies for admission as a full-time, part-time, or summer school student, and is a legal resident of the state for not less than 12 consecutive months”); Montana has a tuition waiver for in state Native Americans, see http://mus.edu/Prepare/Pay/Tuition_and_Fee_Waivers.asp.

²⁴ See, e.g., Iowa Admin. Code 681 -1.4(2)(a)(8) (providing for in-state tuition for Native Americans with historical ties).

²⁵ See, e.g., Utah Code Ann. § 53B-8-102(resident status any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah); Wash. Rev. Code Ann. § 28B.15.0131 (in state tuition for residents of WA or adjacent state and member of federally recognized tribe).

²⁶ *A Brief History of the Native American Tuition Waiver at Fort Lewis College*, Fort Lewis College, <http://www.fortlewis.edu/protect-the-tuition-waiver/TuitionWaiverHistory.aspx> (last visited January 13, 2015).

²⁷ *Id.*



Colorado accepted the United States offer to own the land under two conditions: (1) “...That said lands and buildings shall be held and maintained by the State of Colorado as an institution of learning...” and (2) “...that Indian pupils shall at all times be admitted to such school free of charge for tuition and on terms of equality with white pupils...”²⁹

Attending Fort Lewis College should be one of many options for American Indians with historical ties to Colorado. The diverse colleges of this state offer a wide variety of academic curricula, disciplines of study, and athletic and social programs. For example, while the University of Colorado at Boulder offers over 50 graduate programs ranging from Neuroscience to Political Science,³⁰ Fort Lewis offers only one graduate program in Education.³¹ Each Colorado school has something different to offer, and students should be able to apply to Colorado colleges that fit with their individual interests and academic aspirations. This bill would make it so American Indians with historical ties to Colorado would have the same educational opportunities as residents, and these aspiring students would no longer be limited to the academic options available at a single school.

Colorado already has exceptions to the domicile requirement for in-state tuition. For instance, an Olympic athlete may be considered a resident for tuition purposes even though they may not be a resident.³² Canadian military and Chinese and Russian students may be classified as residents under certain circumstances even though they are not

²⁸ *Id.*; see also *Tahdooahnippah v. Thimmig*, 481 F.2d 438, 439 (10th Cir. 1973).

²⁹ *Id.*

³⁰ *Graduate Programs*, University of Colorado at Boulder, <http://www.colorado.edu/academics/majors-academic-programs/graduate-programs> (last visited January 13, 2015).

³¹ *Graduate Studies*, Fort Lewis College, <http://graduate.fortlewis.edu/teacher-leadership/> (last visited January 13, 2015).

³² See Colo. Rev. Stat. § 23-7-105.



actual residents.³³ Another exception grants resident student status to veteran military personnel or their spouse and dependents.³⁴ Based on history and the need for more affordable higher education, American Indian students from tribes with historical ties to Colorado should receive similar treatment.

In conclusion, NARF and TEDNA support CO HB 15-1027. We are happy to help address any concerns or questions regarding HB 15-1027, and to ultimately see it through the legislative process and become law. Thank you for the opportunity to address the Committee today.

³³ *Id.* at §§ 23-7-106; 23-7-107.

³⁴ *Id.* at §§ 23-7-108.5; 23-7-108.7.