AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

S. HRG. 112–929

SECURING EDUCATIONAL OPPORTUNITIES FOR NATIVE AMERICAN COLLEGE STUDENTS: THE NATIVE AMERICAN EDUCATION ACT OF 2012

FIELD HEARING

OF THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

ON

EXAMINING HOW WE FUND EDUCATIONAL INSTITUTIONS THAT OPERATE UNDER A MANDATE TO PROVIDE FREE TUITION FOR NATIVE AMERICAN STUDENTS, FOCUSING ON ADVANCING EDUCATIONAL OPPORTUNITIES FOR NATIVE AMERICAN STUDENTS

AUGUST 22, 2012 (Denver, CO)

Printed for the use of the Committee on Health, Education, Labor, and Pensions

Available via the World Wide Web: http://www.gpo.gov/fdsys/

U.S. GOVERNMENT PUBLISHING OFFICE

93–804 PDF WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

TOM HARKIN, Iowa, *Chairman*

BARBARA A. MIKULSKI, Maryland
JEFF BINGAMAN, New Mexico
PATTY MURRAY, Washington
BERNARD SANDERS (I), Vermont
ROBERT P. CASEY, JR., Pennsylvania
KAY R. HAGAN, North Carolina
JEFF MERKLEY, Oregon
AL FRANKEN, Minnesota
MICHAEL F. BENNET, Colorado
SHELDON WHITEHOUSE, Rhode Island
RICHARD BLUMENTHAL, Connecticut

MICHAEL B. ENZI, Wyoming
LAMAR ALEXANDER, Tennessee
RICHARD BURR, North Carolina
JOHNNY ISAKSON, Georgia
RAND PAUL, Kentucky
ORRIN G. HATCH, Utah
JOHN MCCAIN, Arizona
PAT ROBERTS, Kansas
LISA MURKOWSKI, Alaska
MARK KIRK, Illinois

PAMELA SMITH, *Staff Director, Chief Counsel*
LAUREN MCFERRAN, *Deputy Staff Director*
FRANK MACCHIAROLA, *Republican Staff Director*

C O N T E N T S

STATEMENTS

WEDNESDAY, AUGUST 22, 2012

Page

COMMITTEE MEMBER

Bennet, Hon. Michael F., Chairman, a U.S. Senator from the State of Colorado, opening statement 1

GUEST

Campbell, Hon. Ben Nighthorse, a U.S. Senator from the State of Colorado (Retired), statement 44
Prepared statement 44

WITNESSES—PANEL I

Mendoza, William, Director, White House Initiative on American Indian and Alaska Native Education, Washington, DC 3
Prepared statement 5
Garcia, Hon. Joseph A., Lieutenant Governor, State of Colorado, Denver, CO 8
Prepared statement 10

WITNESSES—PANEL II

Thomas, Dene Kay, Ph.D., President, Fort Lewis College, Durango, CO 17
Prepared statement 18
Johnson, Jacqueline R., Ph.D., Chancellor, University of Minnesota Morris, Morris, MN 20
Prepared statement 23
Echohawk, John E., Executive Director, Native American Rights Fund, Boulder, CO 27
Prepared statement 28
Tsabetsaye, Byron, Student Body President, Fort Lewis College, Durango, CO 34
Prepared statement 35

ADDITIONAL MATERIAL

Statements, articles, publications, etc.:
Lewis Wittry, Vice President, Associated Students of Fort Lewis College 52
National Congress of American Indians 53
Letters of Support:
John W. Hickenlooper, Governor, State of Colorado, Denver CO 55
Hereford Percy, Chairman, Colorado Commission on Higher Education, Denver, CO 56
Chad Smith, Principal, Chief Cherokee Nation™ 57
Hon. Joseph A. Garcia 57
John E. Echohawk 58
Alysha Guthrie 59
Noel Altaha, White Mountain Apache Tribe, Class of 2013 59

Resolutions:
National Indian Gaming Association 62
State of Colorado House Joint Resolution 65
Mescalero Apache Tribe 68
Ute Mountain Ute Tribal Council 69
National Congress of American Indians 71

SECURING EDUCATIONAL OPPORTUNITIES FOR NATIVE AMERICAN COLLEGE STUDENTS: THE NATIVE AMERICAN EDUCATION ACT OF 2012

WEDNESDAY, AUGUST 22, 2012

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Denver, Colorado.

The committee met, pursuant to notice, at 9:05 a.m., in the Old Supreme Court Chambers, Colorado State Capitol, Room 220, Hon. Michael Bennet, presiding.

Present: Senator Bennet.

OPENING STATEMENT OF SENATOR BENNET

Senator BENNET. Thank you all for being here today. I want to make two observations at the outset. I have no gavel, other than my fist. So I'm going to try not to use that. And the other is that I've never sat 4 feet above anybody that I was talking to. So let's attempt to believe that we're all sitting at the same level, which we are, and we should be.

With that, I'd like to call this field hearing of the Health, Education, Labor, and Pensions Committee to order.

Thank you, Treasurer Juanita Plentyholes, for that kind welcome on behalf of the Ute Tribe.

I want to especially thank those who have traveled a great distance to be here with us today and Chairman Harkin and Ranking Member Enzi of the HELP Committee for holding this hearing today. I look forward to working with them on both the bill we discuss today and the broader goal of advancing educational opportunities for Native American students.

I also want to acknowledge Senator Ben Nighthorse Campbell, the former chair of the Indian Affairs Committee, who is here, and I'm going to call on him later in the proceedings to make a few remarks. Thank you for being here today, Senator Campbell.

I'm going to be brief in my comments so we can hear from the real experts on this issue, what they have to say.

We're here today to discuss a matter of great importance, the successful education of the Nation's Native American youth. We're going to examine how we fund educational institutions that operate under a mandate to provide free tuition for Native American students. These schools received land from the Federal Government in exchange for the tuition waiver obligation.

The State of Minnesota through the University of Minnesota at Morris and the State of Colorado through Fort Lewis College can both be proud of what they've done through these tuition waiver programs. With the help of Colorado's tuition waiver program, in just the last 11 years, the Fort Lewis Native American Scholarship Fund has provided tuition waivers for 16,408 students from 46 States representing 269 tribes. Fort Lewis awards more undergraduate degrees to Native American students than any other 4-year institution in the Nation.

The University of Minnesota Morris has also played a critical role in higher education for Native American students with a program that has waived over $20 million of tuition since its inception in 1960. The enrollment of Native Americans at this school has doubled in the last 10 years, and in the fall of 2011, the school enrolled over 250 Native American students.

Despite great advances in overcoming grave historical injustices, Native Americans still face unemployment and poverty rates well above the national average. Our Nation clearly needs to provide more opportunities for higher education for Native Americans since only 13 percent of Native American youth hold a baccalaureate degree compared to 30 percent of all youth.

Even in the recent recession, the unemployment rate among those with a college degree in this country never exceed 4.5 percent. That's a pretty significant stress test, it seems to me, of the value we place on a college education. And that's why our work today is so important. We need to examine what we can do to ensure that these tuition waiver programs thrive into the future so that educational opportunities for Native American youth can continue to grow.

The question before us today is not whether or not the tuition waiver program should continue. The waivers clearly should continue, and all of us engaged in this issue are deeply committed to that. The question we face is how we can equitably share the responsibilities for these programs. We need to have a thorough conversation as to who should bear cost of these programs in the future to best sustain them. I hope this hearing today will shed light on these questions and explore the overall importance of higher education for the Native American community.

With that, I'm going to conclude my remarks and turn it over to the real experts who are here today. And I would like to introduce our first panel.

I'd like to welcome William Mendoza, who serves as the Director of the White House Initiative on American Indian and Alaska Native Education. Originally from the Pine Ridge and Rosebud Sioux reservations in South Dakota, Mr. Mendoza, I am very proud to say, has degrees from both Fort Lewis College and Montana State University. He has worked as both a teacher and a principal, arguably the hardest jobs there are.

I want to thank you for coming from Washington to be with us today, and I look forward to hearing your testimony.

I would also like to introduce my friend, the Hon. Joseph Garcia, who serves as Lieutenant Governor of Colorado and the executive director of the Colorado Department of Higher Education. The Lieutenant Governor also serves as the chairman of the Colorado

Commission of Indian Affairs, providing a direct link between Colorado and its Ute tribes, the Southern Ute Tribe and the Ute Mountain Ute Tribe.

The Lieutenant Governor has previously served as chair of the Western Interstate Commission for Higher Education. He has also previously served as president of both Pikes Peak Community College and Colorado State University at Pueblo.

Thank you both for being here today. I think we'll start with Mr. Mendoza.

STATEMENT OF WILLIAM MENDOZA, DIRECTOR, WHITE HOUSE INITIATIVE ON AMERICAN INDIAN AND ALASKA NATIVE EDUCATION, WASHINGTON, DC

Mr. MENDOZA. Thank you, Senator Bennet. As you mentioned, my name is William Mendoza, and I am the director for the White House Initiative on American Indian and Alaska Native Education. I'd like to acknowledge your work on S. 3504, the Native American Education Act of 2012, and I appreciate the opportunity to testify today about the work that the Administration is doing to expand educational opportunities and improve outcomes for American Indian and Alaska Native students.

At the White House Tribal Nations Conference on December 2, 2011, President Obama, joined by cabinet secretaries and other senior administration officials, met with tribal leaders from federally recognized tribes for the third consecutive year to continue to strengthen our government-to-government relationships. In reaffirming the Federal Government's commitment to ensure that tribal nations are full partners with the Federal family, the President announced the signing of Executive Order 13592 entitled "Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities."

The mission and function of the White House Initiative is to expand educational opportunities and improve educational outcomes for all American Indian and Alaska Native students. This includes helping to ensure that American Indian students have opportunities to learn their native languages, cultures, histories, and receive a complete and competitive education that prepares them for college, career, and productive and satisfying lives.

With respect to post-secondary education, the Initiative works to implement strategies to promote the expanded implementation of education reforms that have shown evidence of success in enabling American Indian students to acquire a rigorous and well-rounded education; increase access to support services that prepare them for college, careers, and civic involvement; reduce the student dropout rate and help more students who stay in high school prepare for college and careers; and increase college access and completion by strengthening the capacity of post-secondary institutions.

We know we need to do better when it comes to meeting the academic and cultural needs of our American Indian and Alaska Native students across the Nation. American Indian and Alaska Native young adults lag behind their white peers in employment and educational attainment. According to the National Center for Education Statistics, in 2010, white young adults, ages 16 to 24, had

the lowest rate of unemployment, while American Indian and Alaska Native young adults had the highest.

And according to the 2010 U.S. Census data, about 30 percent of all youth and adults in the general population held baccalaureate degrees, compared with just 13 percent of the American Indian and Alaska Native youth and adults. These statistics and, of course, many others make clear that more must be done to expand opportunities and improve outcomes.

In order to meet President Obama's goal for college attainment, there will need to be an additional 112,000 American Indian and Alaska Native students completing college by the year 2020. Working together to support TCUs is also important in achieving this goal.

Our Nation's 37 tribally controlled TCUs, which serve approximately 33,000 students and whose student body is at least 50 percent American Indian and Alaska Native students, fulfill a unique role in American Indian and Alaska Native communities by acting as safeguards and champions of tribal languages and cultures. TCUs are also public institutions, and they provide high-quality education and career-building opportunities to students of all ages, while also serving as a catalyst for economic development, particularly on reservations.

It is also important to note that more than 90 percent of American Indian and Alaska Native post-secondary students attend institutions of higher education that are not tribally controlled. These include Native American-Serving Non-Tribally Controlled Institutions, where the student body is at least 10 percent American Indian and Alaska Native students.

In addition to providing a high-quality education and career-building opportunities for these students, these Native American-Serving Non-Tribally Controlled Institutions are working to improve and expand their capacity to serve American Indian and Alaska Natives by engaging in such activities as expanding dual enrollment opportunities, improving academic and student services to support student success and retention, and increasing the number of American Indian and Alaska Native students who pursue advanced degrees.

The Federal Government, of course, plays an important role in improving the post-secondary education attainment of American Indian and Alaska Native students, not only because these students face barriers to achievement and persistence in post-secondary education, but also because the Federal Government has a trust responsibility to help these students succeed. Through the Race to the Top: College Affordability and Completion and the First in the World proposals, the Administration has offered a comprehensive approach to tackle the rising costs of college for all students, including American Indian and Alaska Native students.

In addition, the Administration has worked with Congress to take a number of steps to address the challenge of helping to keep college affordable and accessible for all students. Foremost, we have invested more than $40 billion in Pell grants, extending aid to 3 million more college students for a total of over 9 million recipients, raising the maximum award to an estimated $5,635 for

the upcoming 2013–14 academic year. This represents a $905 increase in the maximum award since 2008.

Yet the Federal commitment to post-secondary education of American Indian and Alaska Native students cannot be limited only to the work of the Administration. The Administration, Congress, post-secondary institutions, States, and tribes must all work together to keep building on our momentum to make an affordable college education accessible and available to all students who want one, and where appropriate, to continue support of historical obligations to fund that education for certain populations like American Indian and Alaska Native students.

Thousands of American Indian and Alaska Native individuals and students around the country benefit from this continued demonstration of commitment and are appreciative of States that continue to uphold their obligations. These individuals are contributing not only to their tribes, but also directly to the strength and well-being of the States in which they reside and to the Nation as a whole.

At a time when higher education is more important than ever for our shared future, States should not turn to higher education budgets as a source for cuts. Such cuts often lead to tuition spikes and higher dropout rates, particularly for vulnerable populations like American Indian and Alaska Native students. This Administration has made a strong commitment to upholding the United States' trust responsibility toward tribes and is committed to doing our part.

Senator Bennet, thank you and the other members of the HELP Committee for holding this hearing. I look forward to working with you and this committee on this and other vitally important issues facing the Indian community. I would be happy to answer any questions.

[The prepared statement of Mr. Mendoza follows:]

PREPARED STATEMENT OF WILLIAM MENDOZA

Good morning. My name is William Mendoza, and I am the director of the White House Initiative on American Indian and Alaska Native (AI/AN) Education at the U.S. Department of Education. I appreciate the opportunity to testify today about the work the Administration is doing to expand educational opportunities and improve outcomes for AI/AN students.

I would also like to acknowledge Senator Bennet's work on S. 3504, The Native American Education Act of 2012, which is the subject of this hearing.

INCREASING PARTNERSHIPS WITH STATES, TRIBES AND THE PRIVATE SECTOR TO IMPROVE STUDENT ACHIEVEMENT

This Administration has taken great strides to support self-determination and to strengthen and honor the Federal Government's government-to-government relationships with Tribal Nations. At the White House Tribal Nations Conference on December 2, 2011, President Obama, joined by Cabinet Secretaries and other senior Administration officials, met with tribal leaders from federally recognized Tribes for the third consecutive year to continue to enhance these relationships. In reaffirming the Federal Government's commitment to ensure that Tribal Nations are full partners with the Federal family, the President announced the signing of Executive Order No. 13592 entitled, "Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities." As President Obama said, "We have to prepare the next generation for the future."

The mission and function of the White House Initiative on American Indian and Alaska Native Education is to expand educational opportunities and improve educational outcomes for AI/AN students. This includes helping to ensure that AI/AN students have opportunities to learn their Native languages, cultures and histories,

and receive a complete and competitive education that prepares them for college, a career, and productive and satisfying lives.

Specifically, the Initiative works with Federal agencies, States, Tribes, and the private sector to advance these goals. With respect to post-secondary education, the Initiative works to implement strategies to promote the expanded implementation of education reforms that have shown evidence of success in enabling AI/AN students to acquire a rigorous and well-rounded education; increase access to the support services that prepare them for college, careers, and civic involvement; reduce the student dropout rate and help more students who stay in high school prepare for college and careers; increase college access and completion by strengthening the capacity of post-secondary institutions, including Tribal Colleges and Universities (TCUs); and help ensure that the unique cultural, educational, and language needs of AI/AN students are met.

AMERICAN INDIANS/ALASKA NATIVES AND HIGHER EDUCATION

We need to do better when it comes to meeting the academic and cultural needs of our American Indian and Alaska Native students across the Nation. AI/AN young adults lag behind their white peers in employment and educational attainment. According to the National Center for Education Statistics (NCES), in 2010, white young adults ages 16–24 had the lowest rate of unemployment, while AI/AN young adults had the highest.

According to 2010 U.S. Census data, about 30 percent of all youth and adults in the general population held baccalaureate degrees, compared with just 13 percent of the AI/AN youth and adults.[1] And, while across all degree granting institutions, AI/AN undergraduate enrollment increased from 70,000 to 189,000 students from 1976 to 2009, these students still accounted for only 1 percent of the total undergraduate enrollment during those years. AI/AN students entering post-secondary education also lag behind all students in timely completion of both baccalaureate degrees and certificates or associates degrees at 2-year degree granting institutions.[2] These statistics make clear that more must be done to expand opportunities and improve outcomes for AI/AN students.

In order to meet President Obama's goal for college attainment, there will need to be an additional 112,000 AI/AN students completing college by the year 2020. Working together to support TCUs is important in achieving this goal.

Our Nation's 37 tribally controlled TCUs, which serve approximately 33,000 students, and whose student body is at least 50 percent AI/AN students, fulfill a unique role in AI/AN communities by acting as safeguards and champions of tribal languages and cultures. TCUs are also public institutions and they provide high-quality education and career-building opportunities to students of all ages, while also serving as a catalyst for economic development on reservations.

It's also important to note that more than 90 percent of AI/AN post-secondary students attend institutions of higher education that are not tribally controlled. These include Native American Serving Non-Tribally Controlled Institutions (NASNTCIs), where the student body is at least 10 percent AI/AN students, but where there are few opportunities for collaboration between Tribes and States.

In addition to providing a high-quality education and career-building opportunities for AI/AN students, NASNTCIs are working to improve and expand their capacity to serve AI/AN and low-income individuals by engaging in such activities as: expanding dual enrollment opportunities for AI/AN students; assisting institutions in the development of adult education that increases the number of AI/AN students who obtain high school diplomas; improving academic and student services to support student success and retention of AI/AN students; improving the effective use of technology in academic environments; and increasing the number of AI/AN students who pursue advanced degrees.

Together, TCUs and NASNTCIs have a far-reaching impact in the communities they serve. For example, these institutions provide effective paths to academic achievement and degree completion for AI/AN students that can mitigate the risks of high poverty and unemployment that follow low educational attainment. Also, these institutions often serve as powerful engines of economic development in their communities, contributing employment, raising incomes, and directly and indirectly supporting other forms of economic development within Tribal communities. Because many of these communities tend to be located in rural and underserved communities compared to colleges and universities in the United States overall, this contribution is especially vital.

---

[1] *http://www.census.gov/prod/2012pubs/acsbr10-19.pdf.*

[2] *http://nces.ed.gov/programs/coe/indicator_pgr.asp#info.*

THE ROLE OF THE FEDERAL GOVERNMENT

The Federal Government plays an important role in improving the post-secondary education attainment of AI/AN students, not only because these students face barriers to achievement and persistence in post-secondary education, but also because the Federal Government has a trust responsibility to help these students succeed.

Through the Race to the Top: College Affordability and Completion (RTTCAC) and First in the World (FITW) proposals, the Administration has offered a comprehensive approach to tackle the rising costs of college for all students, including AI/AN students. The Federal Government, States, and Institutions of Higher Education have a shared responsibility in this endeavor and must work together to address the college affordability and completion challenge.

In addition, the Administration has worked with Congress to take a number of steps over the last 3 years to address the challenge of helping to keep college affordable and accessible for all students, including AI/AN students:

• We have invested more than $40 billion in Pell grants, extending aid to 3 million more college students for a total of over 9 million recipients and raised the maximum award to an estimated $5,635 for the 2013–14 academic year. This represents a $905 increase in the maximum award since 2008.

• We are working to make college loans more affordable through the "Pay as You Earn" proposal, which will enable an additional 1.6 million students to take advantage of a new option to cap student loan payments at 10 percent of a borrower's monthly income starting as early as this year.

• We have created the American Opportunity Tax Credit, which provides up to $10,000 for up to 4 years of education and includes benefits for low-income individuals with no tax liability. Eleven million middle class and low-income families claimed the credit in tax year 2010.

This historic investment in student aid has kept the price that families actually pay for college—the net price—essentially flat over the last few years. Thanks to our Federal investments, the College Board reports that the net price of tuition and fees at 4-year public institutions has increased by just $170 since the 2006–7 academic year, while the net price of tuition and fees at community colleges has actually decreased over the same period.

Yet this Federal Government commitment to post-secondary education of AI/AN students cannot be limited only to the work of the Administration. We need a strong partnership with Congress if we are going to improve college participation and outcomes. So thank you Senator Bennet and the other members of the HELP Committee for holding this hearing.

Of course, the Federal Government cannot singlehandedly ensure college affordability. The Administration, Congress, post-secondary institutions, and, States must all work together to keep building on our momentum in recent years to make an affordable college education accessible and available to all students who want one, and where appropriate, to continue support of historical obligations to fund that education for certain populations like AI/AN students.

Thousands of AI/AN individuals and students around the country benefit from this continued demonstration of commitment and are appreciative of States that continue to uphold their obligations. These individuals are contributing not only to their Tribes, but also directly to the strength and well-being of the States in which they reside and to the Nation as a whole. At a time when higher education is more important than ever for our shared future, States should not turn to higher education budgets as a source for cuts. Such cuts often lead to tuition spikes and higher drop-out rates, particularly for vulnerable populations like AI/AN students. This Administration has made a strong commitment to upholding the United States' trust responsibility toward Tribes and is committed to doing our part.

CONCLUSION

I look forward to working with you and this committee on this and other vitally important issues facing the AI/AN community. Thank you for your time and I would be happy to respond to any questions you may have.

Senator BENNET. Thank you, Mr. Mendoza. I'm going to turn to the Lieutenant Governor, and then I'll have questions for both of you. Thank you so much for being here.

STATEMENT OF HON. JOSEPH A. GARCIA, LIEUTENANT GOVERNOR, STATE OF COLORADO, DENVER, CO

Mr. GARCIA. Good morning, Senator, and thank you for the invitation to attend today's hearing and to speak in support of the Native American Education Act of 2012. I really want to thank you and your staff for recognizing the important responsibility that both our Federal and State leaders have in continuing to secure access for American Indians and Alaska Natives to high-quality educational opportunities at institutions of higher education.

I want to say that I agree with Mr. Mendoza's earlier comments that all of us at the Federal and State levels must do a better job of meeting the academic and cultural needs of our American Indian and Alaska Native students. We must continue to work together to make a college education affordable and accessible to all students, particularly those from underserved and low-income communities.

Now, the State of Colorado and Fort Lewis College have continued to meet for many decades now and to exceed the provisions of a unique historical agreement that enables a growing population of American Indian and Alaska Native students to obtain a post-secondary credential. We celebrate the success of the Fort Lewis Native American Scholarship Program and Fort Lewis College, which provides an exemplary education program as one of only a handful of Native American-Serving Non-Tribal colleges in the United States.

Now, as you can see from the letters of support submitted by Governor Hickenlooper and by Hereford Percy, the Chairman of the Colorado Commission of Higher Education, the State of Colorado is deeply committed to fulfilling the intent and spirit of this agreement. And along with you, we want to move forward in the best interest of the citizens of the State and the American Indian and Alaska Native students the program is meant to serve.

It is important to briefly note the historical context under which the Fort Lewis Native American Scholarship was made. As you can see in greater detail from my letter, supported along with the testimony, the Fort Lewis Native American Scholarship Program has roots that go back to 1878, when Fort Lewis, an Army outpost, was first established. And in 1891, Fort Lewis became a Federal Indian primary and secondary school for American Indian students in the nearby region.

In 1911, however, the Federal Government transferred that land to Colorado, and Colorado, as part of that transfer agreement, agreed to maintain the school—again, at the time, a primary and secondary school—as a place of learning that Indians could attend free of charge. Now, by 1927, the school evolved from a primary and secondary school into a junior college, and by the mid-1960s, the school offered 4-year degrees. Today, Fort Lewis serves as a public liberal arts college with selective admission standards with a historic and continuing commitment to American Indian education.

Now, I want to emphasize that no one in Colorado wants to see access for American students limited in any way. This proposed legislation is focused on securing, not limiting, tuition-free access to Fort Lewis College for American Indian and Alaska Native students. American Indian students are entitled to this education,

which is not only of individual benefit to them, but also, as Mr. Mendoza's testimony pointed out, a benefit to the State and to the country as a whole.

Truly national in scope, the Fort Lewis Native American Scholarship Program provided tuition waivers, as you noted, for over 16,000 students from 46 States and 269 tribes just over the past 11 years alone, and far more as we look back over the many decades of its history. But it's also important to note that more than 84 percent of those Native American students who received tuition waivers were not from Colorado. This is not a State program, but a Federal one, a national program with national benefits and national implications.

Now, based on the requirements in State law pursuant to the agreement, Colorado has been funding these obligations, which are growing at an ever-increasing rate, during a period when State resources for public higher education have been diminishing. Just since 2008–9, that fiscal year alone, public higher education operating funding in Colorado has decreased by over 27 percent while at the same time we've seen enrollment growth of over 14 percent, with the net result being a 36 percent decrease in State funding per resident student.

Now, the Fort Lewis College Native American Tuition Waiver has also grown steadily over time, and the annual increases are becoming greater and greater on a year-to-year basis. The tremendous growth in the program is both good news, but it also creates challenges for the State. The good news is that Fort Lewis has demonstrated success in serving American Indian students from all regions of the country.

Of the American Indian student population attending Fort Lewis College, as I said earlier, about 84 percent were from outside of Colorado. But because of the differences in tuition and non-resident tuition, they represent over 95 percent of the dollars spent to support the program. That's $12.8 million in total scholarship fund allotment that goes to non-Colorado residents.

Now, the State of Colorado would like your partnership in continuing to deliver higher education opportunities to American Indian youth. And it's critically important to understand where the approximately $13 million that supports the program now comes from. It's not part of a separate pot of money that's allocated specifically to the Native American Scholarship Fund. Rather, it is part of the entire State financial aid program. Out of that pot, the Native American Scholarship Fund comes off the top.

So an escalating cost of that program has been covered by reducing funding to the State's other financial aid programs, including need-based grants and work-study programs. So using State financial aid funds to cover rising costs for the Fort Lewis Native American tuition waiver program has a demonstrable impact on American Indian students throughout Colorado.

Now, while over 800 American Indian and Alaska Native students attend Fort Lewis College, there are actually about 3,000 Native American students attending public institutions in Colorado. So about 30 percent of the total attend Fort Lewis College. The other 70 percent receive no benefit from this program. In fact,

they're impacted by the program because of the reduction in the amount of financial aid available to support them.

Now, the special and distinct circumstances that confront us today have been created by the evolution of a 100-year-old mission. That mission charged Colorado to provide students admitted to the Indian reservation school or high school with an education free of charge of tuition and on equal terms with white students.

It's important, again, to note that we do not want to limit access to Native American students at Fort Lewis or at any other institution of higher education in Colorado or nationally. And, in fact, while we're asking for Federal support to fund that mission, while serving thousands of other students, including Native American students at other State higher education institutions, we're steadfast in our commitment to securing educational opportunities for Native American students in our great State.

So I'm here to commend the great work of Fort Lewis College's administration, the leadership shown by its governing board and by its president, Dene Thomas, along with the staff and students at Fort Lewis College in making this historical agreement an educational priority. With the passage of the Native American Education Act of 2012, Colorado will be able to continue its commitment to the successful national program while also providing higher education opportunities for all students across Colorado.

Again, I want to thank you for allowing me the honor of speaking to you today. I appreciate your support of this legislation, and I would be glad to answer any questions you may have.

[The prepared statement of Mr. Garcia follows:]

STATE OF COLORADO,
OFFICE OF THE LIEUTENANT GOVERNOR,
DENVER, CO 80203,
August 17, 2012.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
U.S. Senate,
Congressional Field Hearing,
Old Supreme Court Chambers,
Colorado State Capitol,
Denver, CO 80203.

SUMMARY

DEAR SENATOR BENNET AND COMMITTEE MEMBERS: Here is a brief overview of my testimony in support of The Native American Education Act of 2012, S. 3504:

- Welcome.
- Support statement for the Native American Education Act of 2012, S. 3504.
- Introduction of Letters of Support.
- Fort Lewis Native American Scholarship Fund background and historic agreement with the State of Colorado.
- Fort Lewis Native American Scholarship Fund funding and enrollment data.
- The great work of Fort Lewis College and continued support of securing secure access for American Indians /Alaska Natives to high quality educational opportunities at institutions of higher education.
- Closing and questions.

Sincerely,

JOSEPH A. GARCIA,
Lieutenant Governor.

PREPARED STATEMENT OF HON. JOSEPH A. GARCIA

Dear Senator Bennet and committee members, good morning and thank you for the invitation to attend today's hearing and speak in support of the proposed the Native American Education Act of 2012, S. 3504. I would especially like to thank Senator Bennet and staff for recognizing the important responsibility that both our Federal and State leaders have in continuing to secure access for American Indians /Alaska Natives to high quality educational opportunities at institutions of higher education.

Attached to my testimony this morning, you will find support letters from Governor John Hickenlooper and the Colorado Commission of Higher Education Chairman Hereford Percy, representing the Colorado Department of Higher Education. As Lieutenant Governor, I also serve as Chairman of the Colorado Commission of Indian Affairs and last year the Commission submitted a letter of support for then S. 484 which is also included in your packet today.

[The letters referenced above may be found in additional material.]

The State of Colorado and Fort Lewis College have continued to meet and exceed the provisions of a unique historical agreement that enables a growing population of American Indian/Alaska Native students to attain a post-secondary credential. We celebrate both the success of the Fort Lewis Native American Scholarship Fund and this college, which provides an exemplary education program as one of only a handful of Native American-Serving Non-Tribal Colleges in the United States. Governor Hickenlooper and I are deeply committed to fulfilling the intent and spirit of this agreement, and along with you, want to move forward in the best interests of the citizens, the State, and the American Indians/Alaska Native students the program is meant to serve.

It is important to understand the historical context under which this agreement was reached. The original Fort Lewis was established as a U.S. Army post in 1878 in Pagosa Springs, CO. In 1882, the Fort Lewis Military Reservation was set aside by the Federal Government for an Indian Reservation School and moved to Hesperus, CO just west of Durango, CO.

Over a decade following its original creation as a military outpost, in 1891 Fort Lewis became a Federal Indian primary and secondary school where American Indian students from the surrounding regions attended. By 1911, the Federal Government offered the Fort Lewis land to the State of Colorado. The transfer stipulated that:

(1) ". . . said lands and building 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 of tuition and on equal terms".

At the time of the transfer in 1911, the School of Agricultural and Mechanical Arts and Household Arts was created as a high school ending in the 12th grade. By 1927, the school evolved into a junior college and by the early to mid-1960s the school offered 4-year degrees and officially retained its current moniker of Fort Lewis College.

Today, Fort Lewis College serves as a public liberal arts college with selective admission standards with a historic and continuing commitment to American Indian education. Truly national in scope, the Fort Lewis Native American Scholarship Fund provided tuition waivers for 16,408 students from 46 States and 269 tribes over the past 11 years. More than 84 percent of these American Indian/Alaska Native students who received tuition waivers were not from Colorado.

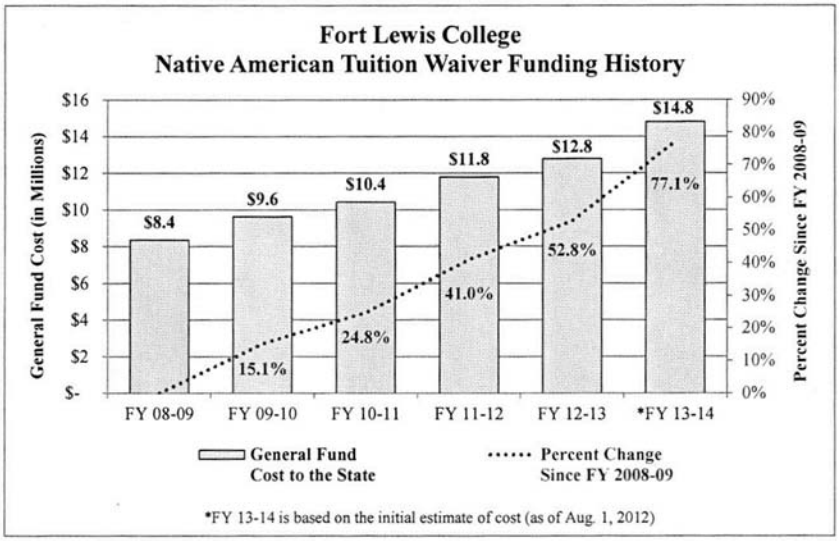
Colorado statute requires:

"*that all qualified Indian pupils shall at all times be admitted to such college free of charge for tuition and on terms of equity with other pupils. The general assembly shall appropriate from the State general fund one hundred percent of the moneys required for tuition for such qualified Indian pupils*."—Section 23-52-10 (1)(b)(I), C.R.S. (2012)

Based on the requirements in State law pursuant to the agreement associated with the original transfer of the Fort Lewis lands, Colorado has been funding these obligations which are growing at an ever-increasing rate during a period when State resources for public higher education have been diminishing. Since the State fiscal year 2008–9, public higher education operating funding in Colorado has decreased by over 27 percent. Over this same timeframe the State has experienced resident enrollment growth of over 14 percent systemwide. The net result is over a 36 percent decrease in State funding per resident student.

The Fort Lewis College Native American Tuition Waiver has grown steadily over time and the annual increases are becoming greater and greater on a year-to-year basis. Figure 1 illustrates the cost to the State since fiscal year 2008–9.

FIGURE 1



The tremendous growth in the program is in part due to Fort Lewis College's success in serving American Indian students from all regions of the country. The most recent projections suggest an increase of over $2 million going into fiscal year 2013–14, which is primarily a result of double-digit enrollment increases in the Native American student population. Of the American Indian student population attending Fort Lewis College, approximately 95 percent of the $12.8 million scholarship fund total allotment is paid on behalf of non-Colorado residents.

The State of Colorado asks for your partnership in continuing to deliver higher education opportunities to American Indian youth. Given the State's budgetary challenges, this cost has been covered by reducing funding to the State's other financial aid programs (Need-Based Grants and/or Work Study). Using State financial aid funds to cover changes in costs for the Fort Lewis Native American Tuition Waiver program has a demonstrable impact on American Indian students throughout Colorado. Approximately 3,000 American Indian/Alaska Native students attend public institution in Colorado. Consequently, reductions in the State's need-based financial aid program reduce access to State financial assistance for low-income students at every institution in the State, including American Indian/Alaska Native students enrolled at institutions other than Fort Lewis College. In spite of this, Colorado stands by its commitment to the Fort Lewis Native American Tuition Waiver program and plans to continue funding tuition for all qualifying students beyond the Federal contribution.

The special and distinct circumstance that confronts us today has been created by the evolution of a 100-year-old mission. That mission charged Colorado to provide students admitted to the Indian Reservation School—a high school—with an education free of charge of tuition and on equal terms. While we are challenged to fund that mission while serving thousands of other students (including Native American students) at other State higher education institutions, we are no less steadfast in our commitment to securing educational opportunities for Native American students in our great State.

I am here to offer our full support for The Native American Education Act of 2012 and to commend the great work of Fort Lewis College's administration, staff, and students by making this historical agreement an educational priority. With the passage of this legislation, Colorado can continue our commitment to this successful national education program while also providing higher education opportunities for all students across Colorado.

Again, thank you for allowing me this honor of speaking before you today. I would be glad to answer any questions you may have.

Senator BENNET. Thank you for your testimony. Thank you very much for being here.

I can't resist, Mr. Mendoza, since you're here and since you are a graduate of Fort Lewis—but I wanted to have the chance for you to put in the record what that education has meant to you, personally, and how it prepared you to now be working in the White House at the level that you're working. I think it's important for the students that are there to hear that.

Mr. MENDOZA. I appreciate the opportunity, Senator Bennet, and I couldn't agree more with the sentiments that are expressed in your comments and Lieutenant Governor Garcia's just about the brevity of what Fort Lewis does for this country in terms of American Indian and Alaska Native students, in particular. My personal journey to a respect and understanding of how education can be successful for me was one that was a bumpy road and involved numerous institutions of higher education, numerous supports from every step of the way, and then, certainly, challenges as well.

Fort Lewis, for me—quite frankly, I wouldn't be in the position that I am to be able to impact the needs of not only my family, but those who I also hold near and dear, my people, and, of course, the States and the country to which I hold allegiance to and value very much. My experiences there at Fort Lewis College, I think upon often. Particularly, because of this context, I really think that it is the best representative effort in the country of these types of schools, whether we are talking about Minnesota Morris, Fort Lewis College, or our Native American-Serving Non-Tribally Controlled institutions, where we really see States vesting an interest.

And, whether it's the sacred trust, as it is referred to at Fort Lewis College, or a contractual obligation, or the trust responsibility, as we see it through the Federal lands, where—and I think I can only express it in that old saying that you always hear, where you tell me where you put your money, and I'll tell you what you prioritize. What drew me to Fort Lewis was that I would be in an environment where I could engage with students that I knew, instantaneously, either didn't agree with me or didn't know anything about me and the communities that I came from.

It was especially humbling when I got there to know that the State of Colorado invested in that, that the institution itself fought for my presence there. How I was interacting with that system gave me, all the much more, empowerment to say there are bigger answers to some of these tough issues, whether we're facing them on reservations or off reservations.

So it couldn't be more important than that to me. And being here today, in a way that I can share what we hope for in protecting opportunities for American Indian and Alaska Native students and how we need to all be working together to be thinking innovatively to address these times of austerity—I'm committed to do that. I have a value in that, knowing what these degrees and what these efforts mean to communities like my home village of Pine Ridge and Rosebud. Those are the communities that I grew up in.

And we need choices. We need appropriate institutions where we can have a diverse array of offerings for us to have access to. And Fort Lewis represented that for me as a student.

Senator BENNET. That gives me an opportunity to actually ask the first question that I had for you. Since you've already answered it, I'll ask you as a representative of the White House to commit to work with us to ensure that these waiver programs are sustainable with an equitable funding stream between both the Federal and State governments.

Mr. MENDOZA. We certainly support the principles of this bill, Senator, and we want to do everything in our power to make sure that we're all putting our hands together to ensure that.

Senator BENNET. Thank you. The last question that I had for you—you talked about this in the context of the trust responsibility that we have, which I think is enormously important. That's really what brings us here today, to find a way to make sure that we can sustain this commitment that's been made.

And I wonder, in that context of the trust responsibility, if you could talk about just how important the tuition waiver program has been to increasing educational opportunities for Native American students in this country.

Mr. MENDOZA. I appreciate it, Senator. And I think our next speaker, President Thomas, certainly can speak to the contributions directly and the statistics that places them, if my memory serves me correctly, fourth in the Nation in terms of enrollment and certainly one of our highest degree producers for American Indian and Alaska Native students. There is not enough of this universe of institutions that we refer to as Native American-Serving from the Department of Education standpoint.

So in every area where those have the potential of being supported, we want to be working with them to say: What are your challenges? What are your successes? And how can we bring more resources, whether it's through the tribal context, the State context, or the Federal context, to help address the unanimously agreed challenges facing our higher education institutions?

Senator BENNET. I said that was my last question. But here's one more, and then I will stop. You talked a little bit in your opening remarks about the challenges that are facing our Native American youth in K–12 education as well. And as a former school superintendent, I know very well the challenges of getting children, particularly those living in poverty, prepared to go to college and then to persist once they're in college.

I wonder if you could say a word about what the Administration's initiatives are around K–12 education for Native American youth and what we can be doing better to support those efforts.

Mr. MENDOZA. I appreciate it, Senator. And, certainly, we are working to create pathways. We are transitioning Indian education from working from silo approaches to whether or not we are looking at that from the tribal college lens or the Native American-Serving Non-Tribal college lens or the Bureau of Indian Education system and their unique institutions.

We are trying to connect the dots with that, utilizing a lot of the levers that are in place with the Administration, a lot of the bridge programs expressed through TRiO and Gear Up and our Aid for In-

stitutional Development programs. We have a first in the world program that we want to put forth to support our minority-serving institutions—$20 million of that $55 million program will go toward these institutions really thinking innovatively about how they can buildupon and scope and scale best practices, promising practices, if you will, to be able to address the unique needs of these students, in particular, American Indian and Alaska Native students.

Senator BENNET. Thank you.

Mr. Lieutenant Governor, can you talk a little bit broadly about what the state of the higher education budget is in Colorado and what you're doing to try to manage in a very challenging environment?

Mr. GARCIA. Yes, Senator. As I said before, we know that the general fund money available for higher education has been diminishing over the last several years. And it's come at a very bad time, a time when we are encouraging more and more young people to go on to post-secondary education. The good news is that they are, but, again, the bad news is there are fewer dollars to support them.

We've been working with institutions to emphasize the importance of creating efficiencies. The institutions have done a remarkable job of doing exactly that. Colorado has the most efficient system of public higher education in the country when you look at the number of degrees produced per dollar invested. Our institutions are stretched thin and are doing a very good job.

We also try to emphasize the importance of completion, not just enrollment. We know that with certain populations, like the native population, that's a bigger challenge. They often arrive academically underprepared and under-resourced financially, and so it takes more effort and more investment by the institutions to serve those students who we most need to serve. After all, minority and low-income students are the fastest growing demographic in our both K–12 and higher education systems.

We've seen a reduction—over $706 million of general fund money invested in higher education only 4 or 5 years ago. That's down to a little more than $500 million now. So, again, we try to look for alternative ways to deliver instruction. We're trying to look for increased efficiencies. But we don't want to impact quality, and we don't want to impact output. We don't want to impact our ability to actually help these students graduate. That's our challenge right now.

And as we look at a reduction in the amount of financial aid available, which is where the Native American Scholarship dollars come from, because we're trying to serve more students, more needy students, with fewer dollars, we need the partnership with the Federal Government to help us ensure that we can provide access for all students.

Senator BENNET. And could you say a little bit about why you think it's appropriate, in the context of the facts that you talked about in your opening statement, that the Federal Government should provide funding for this program?

Mr. GARCIA. Absolutely, Senator. When the program was first established, as I said, it was focused on a primary and secondary school that served Native American students from this region. Of

course, now it is a 4-year, high-quality academic institution offering baccalaureate degrees. Over 80 percent of the students it is serving come from outside of Colorado, and over 95 percent of the cost goes to fund those out-of-state students.

Those out-of-state students come and get a great education, and they return to their communities, including tribal lands, where they make an impact, an enormous impact, in their communities. That benefits those communities. That benefits the country. And we think for that reason the Federal Government ought to help us maintain this program, that we ought to be able to cover the increasing cost with the help of the Federal Government, because the work of Fort Lewis College, the work of the Fort Lewis Native American Scholarship program doesn't just impact Colorado. It has a tremendous impact on the rest of the country.

Senator BENNET. And is it your understanding—it is my understanding, anyway, that this legislation says that if the Congress were to pass this legislation, were to fund this program, and in the future change its mind and decide not to do it, that the State's responsibility to fulfill the agreement that was made remains intact.

Mr. GARCIA. That's absolutely correct, Senator. The State's obligation would continue. If we were able to get some additional funding through this legislation, it would simply help relieve the burden. But the State is committed to this program. The State, in my view, has a legal obligation to continue this program. We're simply asking for some financial assistance.

Senator BENNET. Thank you. I appreciate your testimony very much. I'm sure everybody that's here today does. Now we'll move on to the second panel. Thank you for being here. We'll take a minute to shift.

I wish I could say that every committee hearing in Washington, DC moves as expeditiously as this one, but I can't. So I'd like to thank the second panel for joining us here today, and we'll try to keep opening remarks to about 5 minutes. I'm going to introduce each of you, and then we'll get going.

Dr. Dene Kay Thomas is the current president of Fort Lewis College. Dr. Thomas taught writing at the University of Idaho and was the president of Lewis-Clark State College. In 2010, she was selected to be the first woman to ever serve as president of Fort Lewis College.

We're delighted to have you today.

Dr. Jacqueline Johnson is the Chancellor of the University of Minnesota Morris. She is also the first woman to serve in this role. Dr. Johnson was appointed Chancellor in 2006 after serving in various positions in a number of universities. Those include serving as chief academic officer at St. Martin's College and vice president for Academic Affairs and dean of faculty at Buena Vista University.

Thank you so much for making the trip here today.

John Echohawk is the executive director of the Native American Rights Fund. John Echohawk is a member of the Pawnee Nation of Oklahoma and has served as the executive director of the Native American Rights Fund for over 30 years. Mr. Echohawk began his law career when he was the first graduate of the University of New Mexico's program to train Indian lawyers. He has since been recog-

nized as one of the 100 most influential lawyers in America by the National Law Journal.

I want to welcome you back to Colorado. We're delighted that you're here.

Byron Tsabetsaye is the president of the Associated Students of Fort Lewis College. He is a member of both the Navajo and the Zuni Pueblo tribes. He is also a member of both the Native American Honor Society and the National Society of Leadership and Success.

Thank you all for being here.

Dr. Thomas, would you like to kick it off? Then we'll go down the line here and then have some questions.

STATEMENT OF DENE KAY THOMAS, Ph.D., PRESIDENT, FORT LEWIS COLLEGE, DURANGO, CO

Ms. THOMAS. I would, indeed. Good morning, Mr. Chairman.

I will take us back to 1911, January 25th, when Governor John Shafroth signed a contract with the Federal Government which transferred 6,279 acres in southwest Colorado to the State of Colorado to be maintained as an institution of learning to which Indian students will be admitted free of tuition and on an equality with white students in perpetuity. That free tuition has benefited numerous Native American students from 46 States and 269 federally recognized Indian tribes and has, in turn, benefited the State of Colorado and the entire Nation through its investment in human capital.

No one could have foreseen the national impact such an agreement would have on all concerned. New Mexico and Arizona were territories that had not entered statehood. Modern transportation made this once isolated military fort easily accessible and centrally located in the heart of Indian country.

We now have a situation where what is of benefit to many is of cost to only one. Colorado benefits, but even more, the country benefits as societal benefits accrue from becoming more educated, productive, taxpaying citizens. Given the national benefits and the 100 years of support only from Colorado, it is time for the Nation to support what has become an unintended unfunded Federal mandate. We now have an issue of fairness. It is only fair for the Federal Government to support Senate bill 3504 and Senate bill 484.

This sense of fairness is shared by many national Native American organizations, the National Congress of the American Indian, NIGA, NARF, and every tribe that we have visited with about it—Navajo, Mescalero Apache, Cherokee, the Tri-Utes. I would note that S. 3504 does not either now or in the future restrict or cap the number of Native American students, either Colorado residents or non-Colorado residents, who can attend Fort Lewis College and receive the waiver. All Native American students from federally recognized tribes would continue to attend tuition free.

Fort Lewis College owns its dual mission of Colorado's only public liberal arts college and its historic Native American education mission with pride. We are now a college of 23 percent Native American students from 138 tribes and 45 States. Our 860 Native American students benefit, and the rich cultural diversity benefits everyone at Fort Lewis College and in the Durango community.

We rank fourth in the Nation in the percent of full-time Native American undergraduates enrolled in a baccalaureate institution. Almost half of Fort Lewis College Native students are from the Navajo nation, the second largest tribe in the United States, located 84 miles from campus, and 11 percent are from Native Alaskan tribes.

Fort Lewis College awards more bachelor's degrees to Native American and Alaska Native students than any other baccalaureate institution in the Nation. From 2006 to 2010, Fort Lewis College awarded over 10 percent of the total number of baccalaureate degrees earned by Native American students in the United States.

The college's tuition waiver provides access and opportunity to the most underserved minority population, as less than 1 percent—actually, it's 0.7 percent—of American Indians attain a baccalaureate degree annually. That's compared with all other minorities—African-American, 8.9 percent; Hispanic, 7.5 percent; Asian American, 6.6 percent.

The educational attainment rate for Native American students is widening as bachelor's degrees conferred by other ethnicities has increased while the bachelor's degrees for Native Americans has remained flat at 0.7 percent. The Federal Government has provided much more assistance for far greater a time period to Hispanic-serving institutions and historically Black institutions.

Aside from tribal colleges, there is only a $5 million Federal allocation annually that was created in fiscal year 2008–9 to support Native American students outside of tribal colleges through the Native American-Serving Non-Tribal College discretionary funds at the U.S. Department of Education. We are one of a small number of the Native American-Serving Non-Tribal Colleges who focus on bachelor degree attainment for Native American students. And we are one of only two with historic mandates that date back to the days after the Indian wars.

We believe in our mission to educate Native American students, and we do it well. We have a number of partnerships with other groups, both community colleges for seamless transfer, with the Navajo nation, and a number of the other connections that we make to continue from the 2-year to a 4-year education.

We have a scope of a program that has far exceeded the expectations set forth in the 1910 agreement between the State of Colorado and the Federal Government, and it would be a travesty to be unable to provide a broader base of support for what is a successful State and national program.

I thank you, Mr. Chairman, for the opportunity to appear before you today, and I stand ready to answer any questions you may have.

[The prepared statement of Ms. Thomas follows:]

PREPARED STATEMENT OF DENE KAY THOMAS, PH.D.

SUMMARY

On January 25, 1911, Governor John Shafroth signed a contract with the Federal Government which transferred 6,279 acres in southwest Colorado to the State of Colorado "to be maintained as an institution of learning to which Indian students will be admitted free of tuition and on an equality with white students" in per-

petuity (Act of 61st Congress, 1911). That free tuition has benefited Native American students from 46 States and 269 federally recognized Indian tribes.

No one could have foreseen the national impact such an agreement would have on all concerned. Modern transportation made this once isolated military fort easily accessible and centrally located in the heart of Indian Country. We now have a situation where what is of benefit to many is of a cost to only one. Given the national benefits and the hundred years of support from only Colorado, it is time for the Nation to support what has become an unintended unfunded Federal mandate. We now have an issue of fairness.

Fort Lewis College ranks 4th in the Nation in the percent of full-time Native American undergraduates enrolled in a baccalaureate institution.[1] Almost half of FLC Native students are from the Navajo Nation (second largest tribe in the United States), located 84 miles from campus, and 11 percent are from Native Alaskan tribes. FLC awards more degrees to Native American/Alaskan Native students than any other baccalaureate institution in the Nation. From 2006–10, Fort Lewis College awarded over 10 percent (556) of the total number of baccalaureate degrees earned by Native American students in the United States. In 2010, FLC was 1st in the Nation in STEM (science, technology, engineering and math) baccalaureate degrees earned by Native Americans.

The College's tuition waiver provides access and opportunity to the most underserved minority population in higher education, as less than 1 percent (0.7 percent) of American Indians attain a baccalaureate degree annually.[2] We believe in our mission to educate Native American students and we do it well. Together, by supporting S. 3504, we have an opportunity to provide a quality educational experience for Native American students, so that they too can compete in the global market place and carry the hopes and dreams of their nation, and ours, into prosperity.

Good Morning, Mr. Chairman and members of the committee, my name is Dr. Dene Thomas, president of Fort Lewis College. On January 25, 1911, Governor John Shafroth signed a contract with the Federal Government which transferred 6,279 acres in southwest Colorado to the State of Colorado "to be maintained as an institution of learning to which Indian students will be admitted free of tuition and on an equality with white students" in perpetuity (Act of 61st Congress, 1911). That free tuition has benefited numerous Native American students from 46 States and 269 federally recognized Indian tribes, and has in turn, benefited the State of Colorado and the Nation through an investment in human capital.

No one could have foreseen the national impact such an agreement would have on all concerned. New Mexico and Arizona were territories that had not entered statehood. Modern transportation made this once isolated military fort easily accessible and centrally located in the heart of Indian Country. We now have a situation where what is of benefit to many is of a cost to only one. Colorado benefits, but even more, the country benefits, as societal benefits accrue from becoming more educated productive taxpaying citizens. Given the national benefits and the hundred years of support from only Colorado, it is time for the Nation to support what has become an unintended unfunded Federal mandate. We now have an issue of fairness. It is only fair for the Federal Government to support Senate bill 3504 and S. 484.

FLC owns its dual mission of Colorado's only public liberal arts college and historic Native American education mission with pride. We are now a college of 23 percent Native American students from 138 tribes and 45 States. Our 860 Native American students benefit and the rich cultural diversity also benefit everyone at FLC and the Durango community. FLC ranks 4th in the Nation in the percent of full-time Native American undergraduates enrolled in a baccalaureate institution (American Indian Science & Engineering Society, 2012). Almost half of FLC Native students are from the Navajo Nation (second largest tribe in the United States), located 84 miles from campus, and 11 percent are from Native Alaskan tribes. FLC awards more degrees to Native American/Alaskan Native students than any other baccalaureate institution in the Nation. From 2006–10, Fort Lewis College awarded over 10 percent (556) of the total number of baccalaureate degrees earned by Native American students in the United States. In 2010, FLC was 1st in the Nation in STEM (science, technology, engineering and math) degrees earned by Native Americans.

The College's tuition waiver provides access and opportunity to the most underserved minority population, as less than 1 percent (0.7 percent) of American Indians

---

[1] American Indian Science & Engineering Society, 2012.

[2] Kim, Young, "Minorities in Higher Education," Twenty-Fourth Status Report, 2011 Supplement, American Council on Education, October 2011.

attain a baccalaureate degree annually, as compared to all other minorities (African-American (8.9 percent), Hispanic (7.5 percent), and Asian American (6.6 percent) in the past 10 years.[2] The educational attainment rate for Native American students is widening as bachelor's degrees conferred by ethnicities has increased for every minority group, with Hispanics accelerating the highest from 5.6 percent in 1998 to 7.5 percent in 2008. Other ethnicities have also had positive percent changes, such as African-Americans (2.8 percent) and Asian Americans (3.1 percent), while Native Americans remained flat over the 10-year period at 0.7 percent.[3]

The Federal Government has provided much more assistance and for far greater a time period to Hispanic Serving Institutions and Historically Black Institutions. Aside from Tribal College funds, there is only a $5.0 million Federal allocation annually that was created in fiscal year 2008–9 to support Native American students outside of Tribal Colleges, through the Native American Serving, Non-Tribal College discretionary funds at the U.S. Department of Education. We are one of a small number (18) of Native American Serving, Non-Tribal Colleges who focus on bachelors' degree attainment for Native American students. We are only one of two with historic mandates that date back to the days after the Indian Wars; Fort Lewis College's origins as a military fort and an Indian Boarding School. Together, by supporting S. 3504 we have an opportunity to extend beyond the 2-year Tribal Colleges and provide a quality educational experience for Native American students, so that they too can compete in the global market place and carry the hopes and dreams of their nation, and ours, into prosperity.

We believe in our mission to educate Native American students and we do it well. One great example is our partnership with the Navajo Nation to bring the FLC Teacher Education program to the reservation. The positive impact of that partnership has been remarkable. In 1990, only 8 percent of certified teachers on the Navajo reservation were actually Navajo. As a result, instruction struggled as non-Navajo teachers lacked the cultural understanding to be effective with Navajo students. These struggles led to teacher retention problems for reservation schools and a further decrease in educational quality due to the high turnover rate for teachers. Today, due in large part to the Teacher Education partnership between FLC and the Navajo Nation, over 60 percent of teachers on the Navajo reservation are Navajo. Test scores are up at reservation schools and the schools are showing improved Adequate Yearly Progress (AYP). In addition, many other of our Native American alumni are doing great things, alumni like Quanah Spencer, a Seattle-area attorney; Marsha Greyeyes-Appel, owner of her own business in Maryland; Melissa Henry, filmmaker and business owner in New Mexico; and, of course, Bill Mendoza, a leader of Native American education in Washington, DC. It would be a travesty to be unable to provide a broader base of support for a successful national program. The scope of the program has far exceeded the expectations set forth in the 1911 agreement between the State of Colorado and the Federal Government.

Thank you, Mr. Chairman and committee members, for the opportunity to appear before you today in support of S. 3504 and S. 484: I stand ready to answer any questions you might have for me.

Senator BENNET. Thank you, Dr. Thomas.

Dr. Johnson.

STATEMENT OF JACQUELINE R. JOHNSON, Ph.D., CHANCELLOR, UNIVERSITY OF MINNESOTA MORRIS, MORRIS, MN

Ms. JOHNSON. Thank you. I think you will hear some similarities in our stories here.

Senator Bennet and other distinguished guests, thank you for this opportunity to speak to the importance and potential impact of the Native American Education Act of 2012. And thank you, Senator Bennet, for your leadership on this issue. We're also grateful to Minnesota Senator Franken, who I understand is a co-sponsor of this bill, even though he couldn't be with us today.

The campus of the University of Minnesota Morris sits on land that was once home to the people of the Anishinaabe and the Dakota and Lakota nations. Before Morris opened its doors as a selective public liberal arts college in 1960, two other schools made their

[3] IBID.

home on these lands, the West Central School of Agriculture from 1910 until 1963, and an American Indian Boarding School from 1887 to 1909.

The Indian Boarding School was run initially by a Catholic order of nuns and subsequently by the U.S. Government's Bureau of the Interior. When the Bureau of the Interior turned over the buildings and land of the Indian Boarding School to the State of Minnesota to establish the agricultural high school, it stipulated that American Indian students would be admitted on the same conditions as other students and tuition free.

When the Minnesota State Legislature established the Morris campus of the University of Minnesota in 1959, the same stipulation remained. These actions, as you know, are legally recorded in Federal and State laws. The University of Minnesota Morris is one of 30 schools in the country designated as a public liberal arts college. We are exclusively focused on undergraduates, residential, and serve around 1,800 students.

Morris is the most racially diverse campus in the University of Minnesota System, selective in its admission standards, serving an academically talented group of students, more than a third of whom are the first generation in their families to attend college, and many of whom come from families with financial need. Our American Indian students reflect these same patterns. In 2011, 40 percent of Morris' Native students were low-income, and 45 percent were first-generation.

Located on the edge of the Minnesota Prairie, as Garrison Keillor would say, close to the Dakotas, we are also a national leader in sustainability and clean energy initiatives. The campus is tied inextricably to the land, to the previous educational institutions that have resided here, and to all the peoples who have called this place their home.

American Indians represent, as President Thomas has said, about 1 percent of baccalaureate college attending students nationally and in the State of Minnesota. At Morris, American Indian students comprise over 15 percent of the student body this year, and today is our first day of classes. This significant native student population makes Morris 1 of some 40 schools in the country eligible for the designation by the Federal Government as a Native American-Serving Non-Tribal Institution.

Morris offers a number of programs that promote the success of students of color in general and several programs that are aimed particularly at American Indian students. A few months ago, Morris was awarded a Howard Hughes Medical Institute Grant that includes provisions to support American Indian students in summer research. Morris hosts an NSF-funded WindStep program that provides a summer immersion research experience for middle- and high-school students from reservations in the State and region.

The campus has a strong and active chapter of the American Indian Science and Engineering Society, AISES, and will host the regional AISES meeting this spring. And the AISES publication, Winds of Change, named Morris as one of the top 200 educational institutions in the country for its support of American Indian students in 2011 and again this year.

While the majority of our native students come from Minnesota, more than 50 federally recognized tribes from 14 States and Alaska Native villages are represented on the campus. In all, 25 percent of Morris' American Indian students are from out of State.

Since its founding in 1960, as you noted earlier, Senator Bennet, Morris has waived more than $20 million in tuition for American Indian students, with $6 million supporting out-of-state students during that same time period. This year alone, we anticipate that we will waive $3 million, with $750,000 of that attributable to our out-of-state students. But this cost is not fully supported by the State of Minnesota or by the University of Minnesota System, and I want to say just a little bit about that, because I think our situation is somewhat different.

In Minnesota, the State Legislature provides a direct general allocation to the University of Minnesota. The University of Minnesota System, in turn, distributes this allocation among its five separate campuses. In recent years, the University of Minnesota System has allocated directly to Morris only a portion of the unrealized revenue that results from this waiver.

In fiscal year 2012, for example, the University of Minnesota's central allocation to Morris to support the waiver was $1.65 million, approximately 65 percent of the total tuition that we waived. Over one-third of the waiver, approximately $900,000, was unfunded and absorbed by the University of Minnesota Morris. And as I noted, this year, fiscal year 2013, we anticipate that $750,000 of the total tuition waived will be attributed to out-of-state students.

We think it is right that the waiver should apply to students who are out-of-state as well as in-state. In running the American Indian Boarding School, the U.S. Federal Government's Bureau of the Interior did not restrict enrollment only to those students who were from within the State of Minnesota. It drew students from across the region, just as we do now.

In relegating American Indian people to reservations, the U.S. Federal Government did not restrict its actions to one or two tribes. It was inclusive in its disruption of the lives of native people across the country. Thus, our obligation to honor the Federal and State statutes by admitting qualified American Indian students on the same basis as other students and our practice of admitting students without respect to their State of residence follows directly from the past and is vitally important to the future.

Education matters, and it is a critical part of the American dream. The education we provide to native students on our campus is unparalleled in our region and has benefits that extend well beyond our State and local borders. The 6-year graduation rate for American Indian students at the University of Minnesota Morris is 61 percent, compared to 39 percent statewide. These graduates go on to serve in their communities, native communities, and communities in general as educators, healthcare professionals, public servants, lawyers, and business leaders. We know that achieving a bachelor's degree has a dramatic impact not only on unemployment, but also on annual earnings.

That American Indian families trust their sons and daughters to be educated on the land and in the buildings where not that long

ago a concerted effort was made to obliterate their culture and language is a matter of great significance to us. And it is a matter of great pride for the University of Minnesota Morris that we are able to move these young people along the path of education and success.

The American Indian tuition waiver and its application to all native students, regardless of their State of residence, represents an effort from the past to redress wrongs done by the Federal Government and the American people to members of our sovereign Indian nations. The Native American Education Act of 2012 acknowledges that the burden of these wrongs should not only be borne by Colorado and Minnesota. It provides an opportunity for the Federal Government to participate in this important educational endeavor and to join with us in fostering the success of the population in this country that lives with the greatest educational and economic disparity.

Thank you very much again for this opportunity, and I look forward to answering your questions.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF JACQUELINE R. JOHNSON, PH.D.

SUMMARY

The campus of the University of Minnesota, Morris (UMM) sits on land that was once home to people of the Anishinaabe (Ojibwe) and the Dakota and Lakota (Sioux) nations. Before UMM opened its doors as a selective public liberal arts college in 1960, two other schools made their home on these lands: the West Central School of Agriculture (1910–63), and an American Indian boarding school (1887–1909).

When the U.S. Bureau of the Interior turned over the building and lands of the Indian boarding school to the State of Minnesota to establish the agricultural boarding high school, it was with the stipulation that American Indian students would be admitted on the same conditions as other students and tuition free. When the Minnesota State Legislature established the Morris campus of the University of Minnesota in 1959, this same stipulation remained. These actions are legally recorded in Federal and State laws.

The legal and moral legacy reflected in Morris's campus history shapes our institutional mission today. The University of Minnesota, Morris is tied inextricably to the land, to the previous educational institutions that have resided here, and to ***all*** the peoples who have called this place their home.

Since its founding in 1960, Morris has waived more than $20M in tuition for American Indian students, with $6M supporting out-of-state students, most of them from the Dakotas and Wisconsin. The number of American Indian students attending Morris has increased dramatically in the past 5 years.

Today, Native students comprise 15 percent of the student body on this campus of 1,800. Twenty-five percent of these students are from out-of-state. Morris is the most racially and ethnically diverse campus of the University of Minnesota, (more than 22 percent students of color). Selective in its admissions standards, Morris serves a high proportion of first-generation college students from families of significant financial need. In 2011, 40 percent of Morris's American Indian students were "low income"; 45 percent were first-generation college students. There are many measures of success in the education of Native students at Morris, including a 6-year graduation rate for American Indian students of 61 percent, compared to 39 percent for Native students statewide. (2010 cohort data)

In Minnesota, the legislature provides a direct general allocation to the University of Minnesota. The University of Minnesota system, in turn, distributes this allocation among its five separate campuses. In recent years, the University of Minnesota system has allocated directly to Morris a portion of the unrealized revenue that results from this waiver. In fiscal year 2012, e.g., the University of Minnesota's central allocation to Morris to support the waiver was $1.65M, approximately 65 percent of the total tuition waived. Over one-third of the waiver, approximately $900,000, was unfunded and absorbed by the University of Minnesota, Morris. This

year, fiscal year 2013, we anticipate that $750,000 of the waiver will be attributed to out-of-state students.

The American Indian tuition waiver represents an effort from the past to redress wrongs done by the Federal Government and the American people to members of our sovereign Indian nations. That American Indian families trust their sons and daughters to be educated on the land and in the buildings where not that long ago a concerted effort was made to obliterate their culture and language is a matter of great significance to us. And it is a matter of great pride for the University of Minnesota, Morris that we are able to move these young people along the path of educational success. Senate bill 3504 distributes the cost of this endeavor more reasonably between the Federal Government and the States and provides an opportunity for the Federal Government to join with us to foster the success of the population in this country that lives with the greatest educational and economic disparity.

IN THE BEGINNING

The campus of the University of Minnesota, Morris (UMM) sits on land that was once home to people of the Anishinaabe (Ojibwe) and the Dakota and Lakota (Sioux) nations. Before the era of westward expansion, this land provided support and sustenance to the members of these Indian tribes.

In 1887, in what they saw as a well-intended effort to bring their religious beliefs and their teachings to others, members of the Catholic order of Sisters of Mercy established an American Indian Boarding School on these former Anishinaabe and Dakota/Lakota lands, which had, in 1847, become the State of Minnesota. The school removed young Indian children from their families and villages across this region and brought them to Morris to study and learn non-native ways and "industrial trades". The Sisters of Mercy ran the school until 1896, when they turned it over to the U.S. Federal Government's Bureau of Indian Affairs. The Bureau renamed the school the Morris Industrial School for American Indians and continued to run it for 10 more years.

In 1909, through Federal legislation and a Minnesota State statute, (in Laws 1909, chapter 184), the land, some 290 acres, and buildings were deeded to the State of Minnesota for the purpose of establishing an agricultural boarding high school under the auspices of the University of Minnesota.

From an "Act of Congress, March 3, 1909, the Sixtieth Congress, Session II: Chapter 268":

> Minnesota Morris School: That there is hereby granted to the State of Minnesota, upon the terms and conditions hereafter named the following described property, known as the Indian school at Morris Minnesota . . . Aggregating two hundred and ninety acres, with buildings, improvements, and other appurtenances thereon. Provided, That said lands and buildings shall be held and maintained by the State of Minnesota as an agricultural school, and 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.

The Governor of the State of Minnesota in 1909—the honorable John Johnson—expressed concern at the legislative acceptance of this offer from the Federal Government over what he perceived to be (in more contemporary language) "an unfunded mandate" about to be assumed by the State of Minnesota. In a letter to the Acting Commissioner of the Department of the Interior, he expressed his doubts:

> I find that under the act of congress authorizing the transfer of this property to the State, and under chapter 184 of the Laws of 1909 adopted by the last legislature, it is contemplated that the State should take possession of this property on the first of July, 1909, but I find that the legislature has made no appropriation for the care and maintenance of the school . . . (University of Minnesota, Morris Archives)

The transfer happened in spite of his concerns.

For more than 60 years, the West Central School of Agriculture provided secondary school opportunities from October through April—literally after harvest and before planting—for the sons and daughters of area farmers. Although our records are not perfect, it appears that only a handful of American Indian students were able to take advantage of this tuition-free educational experience during the agricultural high school era. In a sense, this was a rural version of an "exclusive" boarding school experience, but in this case with modest tuition costs and expansive educational opportunities.

Just as the American Indian Boarding School movement began to wane in the early 1900s, so too the fate of the agricultural boarding school movement—it had

run its course by the late 1950s. Community leaders in the small farming town of Morris, MN began, then, to lobby State legislators for what they imagined could be an exceptional and somewhat unusual educational opportunity for the children of residents of this region—a public liberal arts college, fashioned after the elite private liberal arts schools that were and are such an important part of the upper Midwest and the eastern coast of the United States. The citizens prevailed, and the University of Minnesota, Morris was established as a 4-year public liberal arts college of the University of Minnesota in 1959.

The original Minnesota State statute of 1909 was revised accordingly (1961), affirming the original directive regarding American Indian students. From "Minnesota state statutes: Chapter 137 (a statute which updates Minnesota Statute 184 of 1909)":

> "State Chapter 137. Section 137.16 MORRIS BRANCH; ADMISSION OF INDIANS. Subdivision 1. The University of Minnesota, Morris branch, situated in whole or in part on the lands described in laws 1909, chapter 184, shall admit Indian pupils qualified for admission at all times free of charge for tuition and on terms of equality with white pupils." (Subdivision 2 of this statute provides that subdivision 1 is a substitute for the provisions of Laws 1909 chapter 184.)

I include this brief historic account in my written testimony because the legal and moral legacy reflected in our history shapes our institutional mission today. The University of Minnesota, Morris is tied inextricably to the land and to ***all*** the peoples who have called it home. The educational institutions which have resided here are just as inextricably tied to greater social movements and initiatives in this country—from the American Indian boarding school movement to the agricultural boarding high school movement to the expansion of American higher education which occurred in the 1960s. This expansion promised to prepare a workforce for a growing American economy and it promised to open public educational opportunities to a broader array of people—those less privileged, those underrepresented in American higher education.

As the most racially and ethnically diverse campus of the University of Minnesota, (more than 22 percent are students of color in a State that is not very racially diverse), as a campus with selective admissions standards that serves a high proportion of first generation college students (nearly 40 percent in this year's entering class), and as a campus that serves many students whose families exhibit significant financial need (33 percent are Pell grant recipients; 96 percent receive financial aid), we are fulfilling that obligation and that promise. In 2011, 40 percent of Morris's American Indian students were "low-income"; 45 percent were first-generation college students.

This is our legacy. We honor it. We are proud of it.

WHY DOES THIS MATTER?

American Indians represent about 1 percent of baccalaureate college-attending students nationally and in the State of Minnesota. At Morris, on our residential, undergraduate-focused liberal arts campus of 1,800 students, more than 275 American Indian students comprise over 15 percent of the student body. This significant Native student population makes Morris 1 of some 40 schools in the country eligible for designation by the Federal Government as a Native American Serving Non-Tribal Institution (NASNTI).

American Indians, who are underrepresented nationally in all fields of study, find greater success at UMM than at other universities: 61 percent of UMM's Native students graduate in 6 years compared with 39 percent statewide. (2010 cohort data) National, State and regional priorities call on us to increase undergraduate participation in science, technology, engineering and mathematics (STEM) fields, particularly of students from underrepresented groups. The University of Minnesota, Morris is responding to this challenge in a number of ways.

This spring, UMM was awarded a Howard Hughes Medical Institute grant that includes provisions to support American Indian students in undergraduate summer research. Morris hosts an NSF-funded "WindStep" program that provides a summer immersion experience for middle- and high-school students from reservations in the State and region. These students live on campus and conduct real research in renewable energy both on the campus and on Indian reservations. Morris is a participant in another NSF-funded program—the Louis Stokes Alliance for Minority Participation in STEM fields (LSAMP). This program provides support for students of color, including American Indian students, to engage in undergraduate research in STEM disciplines. The campus has a strong and active chapter of the American Indian Science and Engineering Society (AISES) and will host the regional AISES meeting this spring. And the AISES publication, ***Winds of Change***, named Morris

as one of the top 200 educational institutions in the country for its support of American Indian students in 2011 and again this year.

We are also working on language revitalization on this campus, with courses in the Anishinaabe language offered as part of our regular curriculum and occasional courses offered in the Dakota/Lakota languages—one-half of Morris Native students are Anishinaabe and nearly a quarter are Dakota/Lakota. UMM has submitted a grant application to the State to provide additional funding to prepare K–12 teachers to teach these Native languages. We are working with our tribal community college partners in the region to facilitate the transfer of American Indian students who have completed associates degrees there to our baccalaureate granting school.

The tuition waiver is a major factor in promoting the attendance and success of American Indian students on this campus. These students benefit from the many programs we have established. Eighty-six percent of American Indian students who are offered admission end up enrolling compared to 38 percent of students overall. As the ***cost*** of tuition increases, so, obviously, does the ***value*** of the waiver.

This campus has demonstrated its unique and exceptional ability to promote educational experiences and opportunities for American Indian students, thus fulfilling both its legal and moral obligations. But, as Governor John Johnson recognized more than 100 years ago, there are significant challenges that come with a mandate whose funding has not been carefully thought through. With the passage of Senate bill 3504 and its companion bill in the House, the Federal Government has an opportunity to support our success by funding its fair share of the costs of the tuition waiver—that is the portion associated with out-of-State students.

WHAT IS THE FINANCIAL IMPACT OF THE WAIVER ON THE STATE OF MINNESOTA, THE UNIVERSITY OF MINNESOTA AND THE UNIVERSITY OF MINNESOTA, MORRIS?

The number of Native students has increased steadily at Morris since the University's founding in 1960, and it has grown exponentially over the course of the past 5 years.

We estimate that since the Morris campus opened as a public liberal arts college in 1960, we have waived over $20 million in tuition for American Indian students. The value of the tuition waived for out-of-State students in that same time period is estimated at over $6 million. (There is no in-state/out-of-state tuition differential for University of Minnesota, Morris students. Tuition for the 2012–13 academic year for all full-time students is just under $12,000.)

In 2010 and 2011, 25 percent of Morris's American Indian students receiving tuition waivers were from out-of-state. Fifty federally recognized American Indian tribes and Alaskan Native villages are represented on this campus, and most of our non-resident Native students are from States surrounding Minnesota—North Dakota, South Dakota, and Wisconsin. We anticipate that in addition to the $20M already waived since 1960, we will waive an additional $3 million of tuition in the current fiscal year alone, with nearly $750,000 attributable to out-of-state students (25 percent).

WHY WE ASK FOR SUPPORT FOR SENATE BILL 3504

The logic in Senate bill 3504 is sound. In running the American Indian Boarding School the U.S. Federal Government's Bureau of the Interior did not restrict enrollment only to those students who were from within the State of Minnesota. It drew students from across this region, just as we do now. In relegating American Indian people to reservations, the U.S. Federal Government did not restrict its actions to one or two tribes. It was inclusive in its disruption of the lives of Native people across the Nation. Thus, our obligation to honor the Federal and State statutes by admitting qualified American Indian students on the same basis as other students and our practice of admitting students without respect to their State of residence follows directly from the past.

And yet, in Colorado and in Minnesota, the cost associated with this mandated financial requirement is now borne entirely by the two States themselves. In Minnesota, the State legislature provides a direct general allocation to the University of Minnesota. The University of Minnesota system, in turn, distributes this allocation among its five separate campuses. In recent years, the University of Minnesota system has allocated directly to Morris a portion of the unrealized revenue that results from this waiver.

For example, in fiscal year 2012, (academic year 2011–12) the University of Minnesota's central allocation to Morris to support the tuition waived for American Indian students was $1.65M, approximately 65 percent of the total tuition waived. Over one-third of the waiver, approximately $900,000, was unfunded and absorbed by the University of Minnesota, Morris. Our campus is one of modest financial re-

sources and this growing revenue gap is a significant concern for us. We are certified by the U.S. Department of Education as eligible for title III, IV and V grant funding, with our average educational and general expenditures per full-time student falling below the 4-year public college average (title III 2011 application, 2009–10 data).

If modest growth in our American Indian student population continues over the course of this decade (2010–19), we anticipate that the total tuition waived in this decade will be more than $30 million. If the Federal Government were to assume a fair share of this mandate by funding the waiver for out-of-state students—as Senate bill 3504 suggests that it should—Morris would gain modest revenues of around $750,000 annually.

EDUCATION MATTERS

U.S. Census Bureau data (in a 2004 report) show that American workers 18 years and older with a bachelor's degree earn on average $51,000/year, compared to an annual income of $28,000 for workers with a high school diploma. Education matters and it remains a critical part of the American dream. In the United States, 28 percent of adults nationwide have earned bachelor's degrees compared to 13 percent of American Indian adults; in Minnesota, 32 percent of adults have earned bachelor's degrees compared to 12 percent of American Indian adults.

The American Indian tuition waiver represents an effort from the past to redress wrongs done by the Federal Government and the American people to members of our sovereign Indian nations. The waiver has been instrumental in promoting the success of many students over the course of the 50 years of UMM's existence. Paulette Fairbanks Molin, White Earth Band of Ojibwe, is UMM's first American Indian student graduate (UMM 1966). In 1995, she was a recipient of our Distinguished Alumni award. In receiving this award, she recounted her experience in coming to this campus.

As an honors student in high school, she noted that she was discouraged by a high school counselor who believed she was better suited for marriage or attendance at an Indian trade school in Kansas than she was for a college degree. Nevertheless, she persevered and enrolled. She recalled her mother shivering when they arrived on campus, saying it reminded her of an Indian Boarding School. Her mother would know, having herself attended the boarding school at Pipestone, MN.

Paulette went on to earn a doctorate at the University of Minnesota, Twin Cities and then became a higher education administrator, serving as assistant dean of the graduate college and director of the American Indian Educational Opportunity Program at Hampton University in Virginia.

At the end of the tribute that marks her acceptance of the distinguished alumni award, Dr. Molin says,

> "UMM exposed me to new ideas and fostered my love of reading and learning while providing me with a home away from home. UMM also introduced me to new possibilities, possibilities that could transform lives, families, communities, and, indeed, the world. I was destined to remain on campus for 4 years, confounding expectations and beating the odds to graduate. Finally, there is this. UMM was pretty young, but built upon an American Indian foundation, a perfect match for a 17-year old with the same profile."

The wrongs of the past and this contemporary effort to address them weave their way into the future in a most positive way. That American Indian families trust their sons and daughters to be educated on the land and in the buildings where not that long ago a concerted effort was made to obliterate their culture and language is a matter of great significance to us. And it is a matter of great pride for the University of Minnesota Morris that we are able to move these young people along the path of educational success. Senate bill 3504 distributes the cost of this endeavor more reasonably between the Federal Government and the States and provides an opportunity for the Federal Government to join with us to foster the success of the population in this country that lives with the greatest educational and economic disparity.

Senator BENNET. Thank you, Dr. Johnson.

Mr. Echohawk, thank you for being here.

STATEMENT OF JOHN E. ECHOHAWK, EXECUTIVE DIRECTOR, NATIVE AMERICAN RIGHTS FUND, BOULDER, CO

Mr. ECHOHAWK. Thanks for the invitation, Senator.

Over 40 years ago, I was a young lawyer starting out with the Native American Rights Fund headquartered in Boulder. We're set up to be the national Indian legal defense fund representing tribes and native organizations and individuals across the country in important issues. And, of course, educational rights are among those issues.

Even though we are a national organization with cases across the country, one of the first cases that we got involved in was this controversy over the tuition waivers at Fort Lewis in the early 1970s. As a young lawyer, I was down here at the State Capitol, watching the proceedings as the State Legislature moved to try to limit the tuition waivers to Colorado resident Indian students. Of course, that was not supported by the native community.

That basically then led to litigation, which the Native American Rights Fund helped with as Of Counsel. We were able to get the Federal Government to bring litigation to enforce the right to tuition waivers for all Indian students regardless of residency. We also assisted a private attorney in bringing a lawsuit on behalf of the Indian students themselves to enforce the State of Colorado's obligation to provide tuition waivers to all Indian students as well.

The case proceeded up to the 10th Circuit, and they ruled in 1973, affirming a lower court decision that, indeed, the State of Colorado, under the 1910 Federal law, was obligated to provide tuition waivers to all Indian students regardless of residency, and that the 1910 law and the 1911 act by the State Legislature here created a contract between the Federal Government and the State of Colorado to provide that tuition-free education to all Indian students. And, for the record, I included a copy of that 1973 decision.

So the State of Colorado complied with the law and started continuing to provide the tuition waivers. But, of course, over the years, as we've all talked about here today, the number of native students at Fort Lewis—since it's such a great institution and Native Americans are in such need of educational assistance, the number of students has grown, and the cost to the State of Colorado has grown significantly as well.

I am here to support the passage of S. 3504 because I think it's important to keep the tuition waivers going. If the State of Colorado is having difficulty doing that, as the Lieutenant Governor has talked about, then I think it's appropriate for the Federal Government under the Federal trust responsibility to come forward and assist the State of Colorado in providing those tuition waivers for all Indian students at Fort Lewis College. And I am very hopeful that the Congress will see fit to pass this legislation.

[The prepared statement of Mr. Echohawk follows:]

PREPARED STATEMENT OF JOHN E. ECHOHAWK

SUMMARY

I was involved as a lawyer with the Native American Rights Fund in successful litigation in the early 1970s on behalf of Indian students at Fort Lewis College that forced the college to comply with Federal law that required the college to admit all qualified Indians to the college free of tuition. Fort Lewis School had been a Federal property that admitted Indians tuition free and when the property was transferred to the State of Colorado in 1910 a condition was attached that required that Indians continue to be admitted to the school tuition free. Tuition waivers for all Indian students, whether Colorado residents or non-residents, are required by law.

As the number of Indian students at the College has grown over the years, the cost of the Indian tuition waivers has grown. S. 3504 would provide Federal financial assistance to the State of Colorado and Fort Lewis College to help cover the costs of the Indian tuition waivers. The Native American Rights Fund supports S. 3504 so that tuition fee education for qualified Indian students can continue.

Mr. Chairman, thank you for the invitation to testify today on S. 3504, the Native American Education Act of 2012. I am John Echohawk, a citizen of the Pawnee Nation of Oklahoma, and executive director of the Native American Rights Fund headquartered in Boulder, CO. We have served as the national Indian legal defense fund since we were founded in 1970 and have been providing legal advice and representation to Native American tribes, organizations and individuals on nationally significant Indian issues for the past 42 years.

Among the priority issues that we have always addressed is educational rights for Native Americans

As a young lawyer with the Native American Rights Fund in the early 1970s, I became involved with the controversy over Indian tuition waivers at Fort Lewis College in Durango, CO. At that time, the State of Colorado and Fort Lewis College were trying to limit the waiver of tuition for Indian students to Indian students who were Colorado residents. Prior to that time, tuition had always been waived for all Indian students pursuant to the 1910 Federal law that transferred Federal property near Durango containing Fort Lewis School which served Indian students over to the State of Colorado. The land grant was accepted by the State of Colorado and contained a condition that the land be used for a school and Indians be admitted to the school free of charge for tuition.

Litigation ensued brought by the Federal Government and Indian students at Fort Lewis to stop the State of Colorado and Fort Lewis College from limiting Indian tuition waivers. The Native American Rights Fund participated in the case in an AOf Counsel@ role. In 1973, the Tenth Circuit Court of Appeals affirmed a Federal district court decision in favor of the Federal Government and the Indian students (*Tahdooahnippah* v. *Thimmig*, 481 F.2d 438). A copy of that decision is attached to my testimony for inclusion in the record.

The Tenth Circuit Court of Appeals held that a contract existed which required the State of Colorado and Fort Lewis College to admit all Indian students tuition free who were otherwise qualified. Over the years, the number of Indian students attending Fort Lewis has increased so the cost of the tuition waivers for the State of Colorado and Fort Lewis College has increased as well. If passed, S. 3504, the Native American Education Act of 2012, would provide Federal financial assistance to the State of Colorado and Fort Lewis College in meeting the costs of tuition waivers for Indian students.

The Native American Rights Fund supports the passage of S. 3504 to authorize Federal funding to assist the State of Colorado and Fort Lewis College to meet its obligations to Indian students. The Federal Government has a trust responsibility to assist Indian students to obtain higher education. Indians are among the poorest and least educated people in the United States so the need is great. Fort Lewis College has become a great educational resource for Indian students and the United States should assist the State of Colorado to maintain that valuable educational resource for Indians.

Westlaw.

481 F.2d 438
(Cite as: 481 F.2d 438)

C

United States Court of Appeals,
Tenth Circuit.
Cornell TAHDOOAHNIPPAH et al., Plaintiffs-Appellees,
v.
John W. THIMMIG et al., Defendants-Appellants,
UNITED STATES of America, Plaintiff-Appellee,
v.
STATE OF COLORADO, Defendant-Appellant.

No. 72-1811.
Argued and Submitted May 24, 1973.
Decided July 10, 1973.

Action was brought by the United States against the State of Colorado, with relation to grant of land. The United States District Court for the District of Colorado, Alfred A. Arraj, Chief Judge, entered a judgment adverse to the State and the State appealed. The Court of Appeals, Seth, Circuit Judge, held that where United States granted land and buildings to State by Act which required that the land and buildings be held and maintained by State as an institution of learning at which Indian pupils shall be admitted free of charge and Act required express acceptance of provision by State which was done by act of legislature, there was not a grant by United States in praesenti and title did not pass until express acceptance was made by State which had obligation to maintain tuition-free school for Indians at school's new location which was not within boundaries of original grant.

Affirmed.

West Headnotes

[1] United States 393 ⚷58(3)

393 United States
393II Property
393k58 Disposition of Property
393k58(3) k. Sale of Realty, Timber, and Fixtures in General. Most Cited Cases

Where United States granted land and buildings to State by Act which required that the land and buildings should be held and maintained by State as an institution of learning at which Indian pupils shall be admitted free of charge and Act required express acceptance of provision by State which was done by act of legislature, there was not a grant by United States in praesenti and title did not pass until express acceptance was made by State Act April 4, 1910, 36 Stat. 269.

[2] United States 393 ⚷58(8)

393 United States
393II Property
393k58 Disposition of Property
393k58(8) k. Remedies and Procedure. Most Cited Cases

Where United States granted land to Colorado on condition that the land and buildings be held and maintained by State as a tuition-free institution of learning for Indians and acceptance of the provisions was required by State, there was a contractual relationship established by the grant so accepted so that the obligations arising therefrom could be enforced in action by United States following the move of the original school operated on that site to a new location not within boundaries of grant then used as an agricultural experiment station.

***438** John E. Bush, Deputy Atty. Gen. (John P. Moore, Atty. Gen., with him on the brief), for defendants-appellants.

Peter R. Steenland, Atty., Dept. of Justice (Kent Frizzell, Asst. Atty. Gen., James L. Treece, U. S. Atty., and Edmund B. Clark, Atty., Dept. of Justice, with him on the brief), for plaintiff-appellee United States.

Harris D. Sherman, Denver, Colo., for plaintiffs-appellees Cornell Tahdooahnippah, and others.

***439** Before SETH, Circuit Judge, LARAMORE, Senior Judge, United States Court of Claims[FN*], and HOLLOWAY, Circuit Judge.

© 2012 Thomson Reuters. No Claim to Orig. US Gov. Works.

FN* Sitting by designation.

SETH, Circuit Judge.

This action arises from a grant of land by the United States to Colorado in 1910 (36 Stat. 269). The Congressional Act included two tracts, one known as the Hesperus site consisting of several thousand acres near Durango, Colorado, on which was then located the Fort Lewis School; the second tract was near Grand Junction, Colorado. A condition in the grant as so made was that:

". . . [S]aid lands and buildings shall be held and maintained by the State of Colorado as an institution of learning, and 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. . . ."

The Act required express acceptance of the provisions by Colorado, and this was done by an Act of the Legislature in 1911 and by consent of the Governor.

Thereafter the state operated a school on the Hesperus site, Fort Lewis School, which was tuition free for Indian students. In 1956 the school was moved to a new campus at Durango, Colorado, about twelve miles distant. The school has there been a four-year college, and tuition free to Indian students until the Colorado Legislature by statute limited free tuition at the school to Indian students who were Colorado residents and who needed such financial assistance. This Act gave rise to this litigation. The Hesperus site from which the school was moved has since been used only by the state as an agricultural experiment station.

One suit was commenced by the United States and the other by Indian students. The trial court found in favor of the United States and enforced the grant as a contract. The trial court did not rule on the action brought by the students. The state of Colorado has taken this appeal.

Congress passed further legislation in 1916 referring to the Act granting the two tracts, and confusion arose as to whether this referred to both tracts or just to the one at Grand Junction. This legislation changed the permitted or directed uses to which the land could be put. The trial court found this referred only to Grand Junction.

The plaintiff, the United States, in its suit (No. C-3846), asserted that a contractual relationship between it and the state of Colorado arose from the acceptance by the state of the grant of land made in 1910 and known as the Hesperus site, and further that the contract could be enforced in this action. The state takes the position that instead the grant vested title in the tract subject to conditions subsequent, and in the event of breach could only be enforced by an action for reentry.

Several individuals who are Indians accepted for admission to the Fort Lewis College brought a separate suit (No. C-3265), also asserting that a contract arose from the grant. They alleged that as nonresidents of Colorado they were also entitled to free tuition. The individuals thus sought by an injunctive remedy to enforce the contract. The trial court held that its disposition of the action brought by the Government would dispose of both cases, and thus did not reach the additional questions arising from the suit by the individuals. These additional questions are, of course, not before us, and we will consider only the action by the Government.

The case brought by the United States (No. C-3846) was decided by the trial court on motions for summary judgment. The court decided that a contract did exist which could be enforced under the proof submitted; further, that under this contract the state had under-taken the obligation to admit to the Fort Lewis School, now Fort Lewis College at Durango, Colorado, all Indian students ***440** tuition free who were otherwise qualified.

The only issue therein tried by the United States or the state was whether a contract arose from the acceptance of the grant or land or instead whether a fee with conditions subsequent was created. There were no pleadings nor direct proof to raise any other issue or defense. The proof did establish a contract as the trial court concluded, and the action of the state in attempting to modify the contract unilaterally was not effective.

[1] We agree with the legal conclusions reached by the trial court as to the nature of the grant. These basic conclusions are that there was not a grant by the United States *in praesenti,* but instead title did not

© 2012 Thomson Reuters. No Claim to Orig. US Gov. Works.

pass until an express acceptance was made by the state; that there was reserved no right of reverter or right to reenter upon breach of the conditions; and that the obligation pertained also to the school at its new location not on the original grant.

The grant is somewhat unusual in that it did not purport to pass title upon its execution or delivery, although the words, ". . . there is hereby granted . . . on the . . . conditions . . ." are used. Instead it provided the grant be effective if the state filed an acceptance of the property by the Governor and the Legislature ". . . upon the terms and conditions herein prescribed, . . ." before July 1st, 1911. It provided further that if it was not so accepted it would be sold at public auction. Colorado did accept the grant as it provided. This provision for an express acceptance of conditions by the state serves to distinguish this grant from the one considered in Schulenberg v. Harriman, 21 Wall. 44, 88 U.S. 44, 22 L.Ed. 551 and in Spokane & British Columbia Ry. v. Washington & Great Northern Ry., 219 U.S. 166, 31 S.Ct. 182, 55 L.Ed. 159. The state argues that grants of land usually require acceptance, and we agree, but the acceptance here expressly required was acceptance upon the "terms and conditions" therein prescribed. This to us indicates that an express agreement by the state to be bound by the conditions was required. This is sufficiently different from a bare acceptance of the conveyance to give rise to different consequences. This factor, when combined with the absence of an express reverter or right to reenter, is sufficient reason to hold that this was not a grant *in praesenti* with conditions subsequent. See ALI Restatement of Property § 45.

[2] The Supreme Court has on occasion directed a forfeiture when a right of way acquired from the Government has not been used, and it is impossible to use it for the purpose for which it was granted. Kern River Co. v. United States, 257 U.S. 147, 42 S.Ct. 60, 66 L. Ed. 175. Application was there made for the right of way for irrigation purposes under a particular statute for such use, and under such conditions the implication was clearly warranted. However, no such basis for an implied reversion exists in the case before us. See 4 Thompson, Real Property (1961) § 1878. Thus we hold that the trial court was correct in holding that there was a contractual relationship established by the grant so accepted by the state, and further, that the obligations arising there-from could be enforced in this action by the United States.

As indicated above, the Fort Lewis School was initially operated on the Hesperus site, but was moved from the tract granted to the state to a new location about twelve miles distant about 1963. The trial court found that "moved" was the correct term, as the school near Durango, now Fort Lewis College, was essentially the same school as had been on the Hesperus site. The old site was thereafter, and is, used as an agricultural experiment station. The trial court found, and we agree, that this use of the tract granted was not shown by the state to be within the purposes of the grant.

The further argument is made by the state that legislation in 1916 changed ***441** the purposes for which it could use the Hesperus site and so modified the conditions in the 1910 Act. There is some confusion caused by references to the 1910 Act or grant which covered the tract here in issue and another at Grand Junction, Colorado. The reference does require some interpretation, but the exhibits, and especially the letters, attached to the various motions support the conclusion reached by the trial court. This conclusion was that the 1916 Act related only to the Grand Junction tract to accommodate a needed change in the permitted use. We agree.

There was no period of time for performance expressed in the grant-contract. This would, of course, not be expected, and is a factor which we have considered above on the contract vs. fee issue. However, we do not consider that this factor alone, nor with the others, leads to a different conclusion as to the nature of the relationship. It does, however, give rise to other considerations in view of the "contract" conclusion.

The apparent duration of the contract in perpetuity does not render it invalid. Such a contract may be enforced for a reasonable time viewed in the light of conditions existing when it was entered into, what could be foreseen, and as this relates to conditions prevailing at the time performance is sought to be terminated. The ordinary rules of law relating to contracts prevail as to this one, but this aspect of the case, or issue, has not been tried and apparently could not have been under the pleadings. In any event this issue was not raised, tried, nor decided since the contentions were directed only to the contract vs. fee issue.

We affirm the judgment of the trial court on the

© 2012 Thomson Reuters. No Claim to Orig. US Gov. Works.

basis of the record made, but we do not thereby hold, nor did the trial court hold, that the contract can never be terminated in accordance with the prevailing doctrines of the law of contracts, or proceedings commenced by these parties to raise such issues.

As stated above, the trial court did not consider the issues raised in the suit brought by the individuals (No. C-3265), and, of course, we do not.

The judgment in United States v. State of Colorado (No. C-3846 in the District Court) is affirmed.

C.A.10, 1973
Tahdooahnippah v. Thimmig
481 F.2d 438

END OF DOCUMENT

© 2012 Thomson Reuters. No Claim to Orig. US Gov. Works.

Senator BENNET. Thank you. Thank you for being here. Mr. Tsabetsaye, we'd love to hear your testimony.

STATEMENT OF BYRON TSABETSAYE, STUDENT BODY PRESIDENT, FORT LEWIS COLLEGE, DURANGO, CO

Mr. TSABETSAYE. Thank you, Senator. Good morning,

Mr. Chairman and members of the Senate Committee on Health, Education, Labor, and Pensions. My name is Byron Tsabetsaye. I am the president of the Associated Students of Fort Lewis College.

When I was a very young boy just beginning to truly grasp the concept of education, I sat at the kitchen table with my father before a piece of paper. The piece of paper contained a lesson of counting money, particularly with coins. I was posed with the task of combining coins so they matched given odd amounts.

Though counting change was the lesson, my imagination grasped a far different lesson. I presented to my father the solution to one of the exercises only to witness the disappointment on his face. Rather than using the traditional coins, pennies, nickels, dimes, and quarters, I decided to make my own coins by creating one with the value of 2 cents. Though I didn't see it then, it was my first exposure to my dreams and reality.

Last November, I had the opportunity to speak at an event called "Toast to Leadership" at Fort Lewis College. The event was created by students to give students a chance to improve on their public speaking skills via experience and evaluation. I was asked to speak at the event on my topic of choice. The topic I chose to speak about was education, specifically my understanding of education.

I grew up in the capital of the Navajo Reservation, a nation inside a nation where people strive to live in widespread poverty and little opportunities. It's not easy to believe that in the year 2012 there are people that live in our country with no electricity and running water. It's not comfortable to know that children have the capacity to dream big but dream with limits due to lack of opportunity and exposure. It's unsettling to witness such great potential dwindle in high school graduates that don't have the resources to obtain a college education, even after surpassing the level of their parents' education.

I find comfort in knowing that at Fort Lewis College, there is a huge opportunity for Native Americans to achieve a college education. I have no doubt that all Native American students at Fort Lewis College hold their education with a very high value if not priceless. I have great respect for those individuals who fought their limiting beliefs and saw the feasibility of achieving a college education.

My friend, Jessica Stewart, a Navajo student who served as the president of Beta Alpha Psi, an international honors organization for accounting and business majors, created opportunities for all students on campus, organizing trips to businesses and accounting firms. Jessica connected students with achieving their career goals. She also served as a student senator and made substantial progress holistically at Fort Lewis College.

I shared joy with Jessica as she achieved her dream of obtaining a job from one of the top accounting firms in the world. Jessica is just one of many Native American students at Fort Lewis College that is truly making a positive difference for students on campus.

When choosing Fort Lewis College, I saw a window of opportunity. It was a window that opened more windows for me in the

realm of higher education. My involvement and participation on campus has been dense. I am incredibly grateful for my college education at Fort Lewis College, and I am inspired to give back to the college and community.

I served as the vice president of our college's chapter of the National Society of Leadership and Success. I created and facilitated success networking teams on campus that allowed students to convene and share their goals. It was an opportunity for students to help one another reach their goals. I give back to our admissions department as a student Ambassador. I welcome and help new students lay a foundation for their college years at Fort Lewis College as a new student orientation leader.

In a recent jog in the park, I saw a very young boy climbing up a pillar made of uneven rocks, and he was nearly at the top. The adult of the boy sat on a bench close to him unwary, as she didn't provide any resistance to his ambition. The boy, also unwary, used the pillar as a climbing wall because he saw a challenge without limits.

I will soon begin my senior year at Fort Lewis College. I've never been more eager to begin an academic year. I have been envisioning all my possibilities since I was elected student body president. I stand in confidence not only representing the 138 tribes of Native Americans at my college, but all students of Fort Lewis College.

Though I now know there is a difference in dreams and reality, I am not afraid to dream unrealistically. Without the Native American tuition waiver, many possibilities and dreams will be ceased.

Thank you for your time, Mr. Chairman and committee members, and for the opportunity to appear before you today in support of Senate bill 3504 and Senate bill 484. I stand ready to answer any questions that you may have for me.

[The prepared statement of Mr. Tsabetsaye follows:]

PREPARED STATEMENT OF BYRON TSABETSAYE

SUMMARY

NATIVE AMERICAN EDUCATION

An education is unique to any individual considering the characteristics, privilege, and demographics of the individual. My testimony shines the light on the education of Native Americans, particularly in higher education. There is an unfortunate reality for Native Americans because they lack the resources and understating of higher education. My self-realization of school being mandatory in my K–12 years and a privilege/possibility in college has prompted me to think substantially of the importance of Native American Education.

I found it hard for us as Native Americans to overcome the limiting beliefs that came face to face with us throughout our upbringing. Many young children live in rural places on the Navajo Reservation; far from schools and the little resources our communities had. Unfortunately, some of us get stuck believing that a college education is not an option. I can understand why the agreement was made at Fort Lewis College for Native Americans to receive an opportunity at education at no cost.

At Fort Lewis College, Native Americans see a possibility in challenging their limiting beliefs. My testimony contains an underlying theme: dream vs. reality. When given the resources and opportunities, one's possibilities become infinite. I have overcome my limiting beliefs and my success has proven to make considerable positive changes in the realm of higher education at Fort Lewis College. I am one of many successful Native American Students at Fort Lewis College. We need Fort Lewis College and the college needs us.

Good Morning Mr. Chairman and members of the Senate Committee on Health, Education, Labor, and Pensions, my name is Bryon Tsabetsaye and I am the president of the Associated Students at Fort Lewis College.

When I was a very young boy just beginning to truly grasp the concept of education, I sat at the kitchen table with my father before a piece of paper. The piece of paper contained the lesson of counting money, particularly with coins. I was posed with the task of combining coins so they matched given odd amounts. Though counting change was the lesson, my imagination grasped a far different lesson. I presented to my father, the solution to one of the exercises only to witness the disappointment on his face. Rather than using the traditional coins: pennies, nickels, dimes and quarters, I decided to make my own coins by creating one with the value of two cents. Though I didn't see it then, it was my first exposure to my dreams and reality.

Last November, I had the opportunity to speak at an event called "Toast to Leadership" at Fort Lewis College. The event was created by students to give students a chance to improve on their public speaking skills via experience and evaluation. I was asked to speak at the event on my topic of choice. The topic I chose to speak about was education, specifically my understanding of education.

I grew up in the capital of the Navajo Reservation, a nation inside a nation where people strive to live in widespread poverty and little opportunities. It's not easy to believe that in the year 2012 there are people that live in our country with no electricity and running water. It's not comfortable to know that children have the capacity to dream big but dream with limits due to lack of opportunity and exposure. It's unsettling to witness such great potential dwindle in high school graduates that don't have the resources to obtain a college education, even after surpassing the level of their parent's education.

I find comfort in knowing that at Fort Lewis College, there is a huge opportunity for Native Americans to achieve a college education. I have no doubt that all Native American students at Fort Lewis College hold their education with a very high value if not priceless. I have great respect for those individuals who fought their limiting beliefs and saw the feasibility of achieving a college education.

My friend, Jessica Stewart, a Navajo student who served as the president of Beta Alpha Psi, an international honors organization for accounting and business majors. Jessica created opportunities for all students on campus organizing trips to businesses and accounting firms. Jessica connected students with achieving their career goals. Jessica also served as a student senator and made a substantial progress holistically at Fort Lewis College. I shared joy with Jessica as she achieved her dream of obtaining a job from one of the top accounting firms in the world. Jessica is just one of many Native American students at Fort Lewis College that is truly making a positive difference for students on campus.

When choosing Fort Lewis College, I saw a window of opportunity. It was a window that opened more windows for me in the realm of higher education. My involvement and participation on campus has been dense. I am incredibly grateful for my college education at Fort Lewis College that I am inspired to give back to the college and community. I served as the vice president of our college's chapter of the National Society of Leadership and Success. I created and facilitated successful networking teams on campus that allowed students to convene and share their goals. It was an opportunity for students to help one another reach their goals. I give back to our admissions department as a student Ambassador. I welcome and help new students lay a foundation for their college years at Fort Lewis College as new student orientation leader.

In a recent jog in the park, I saw a very young boy climbing up a pillar made of uneven rocks and he was nearly at the top. The adult of the boy sat on a bench close to him unwary as she didn't provide any resistance to his ambition. The boy, also unwary, used the pillar as a climbing wall because he saw a challenge without limits.

I will soon begin my senior year at Fort Lewis College. I've never been more eager to begin an academic year. I have been envisioning all my possibilities since I was elected student body president. I stand in confidence not only representing the 138 tribes of Native Americans at my college, but all students of Fort Lewis College. Though I now know there is a difference in dreams and reality, I'm not afraid to dream unrealistically. Without the Native American Tuition Waiver, many possibilities and dreams will be ceased.

Thank you for your time Mr. Chairman and committee members for the opportunity to appear before you today in support of S. 3504 and S. 484: I stand ready to answer any questions that you may have for me.

Senator BENNET. Thank you. Thank you very much for your testimony.

I'll just start here and come across.

Dr. Thomas, could you say a little bit about how the tuition waiver program has provided benefits to the entire country, particularly with respect to STEM education?

Ms. THOMAS. I would be happy to. Fort Lewis College is No. 1 in STEM degrees awarded to Native American students. We have about $8 million in Federal grants right now. We are doing the best we can to pull ourselves up by our own boot straps. We have a National Institute of Health grant for $2 million over 5 years called MARC—Minority Access to Research Careers. And these are to assist our graduates to go on for health-related Ph.D.s.

We are identifying talented students and supporting and training them for the next step after their bachelor's degree. We have a National Science Foundation STEM talent expansion program, which is $800,000 over 5 years, to help with science classes, tutoring, and research projects, and it's in partnership with San Juan College, moving students from their 2-year degree to us for their transfer to a bachelor's degree.

We have a Department of Education Title III Native American-Serving Non-Tribal Institution award of $2 million, which provides equipment, facilities, and curricular support for Native American students. We have another Department of Education title III grant for math foundations and STEM success. That's another $2 million. And we've created a great deal of help there for math instructors, for changes in course materials. We have an Algebra alcove, so we're really working on the math fundamentals and calculus moving through. We have two Department of Education Student Support Services TRiO grants of $2 million.

In addition to these programs, we have a very active and well-supported Native American Center with five people who help with enrichment advertising. We have academic counseling and math and science support there as well. So we have a strong infrastructure to help our students move not just through the bachelor's, but on into graduate degrees.

I would comment, when you asked about the Nation, that we have a partnership with the Navajo nation to bring Fort Lewis College teacher education to the reservation. The positive impact of that partnership has been remarkable. In 1990, only 8 percent of certified teachers on the Navajo reservation were actually Navajo. As a result, instruction struggled as non-Navajo teachers lacked the cultural understanding to be effective with Navajo students. These struggles led to teacher retention problems for reservation schools and a further decrease in educational quality due to the high turnover rate of teachers.

Now, due in large part to the teacher education partnership with Fort Lewis College, over 60 percent of the teachers on the Navajo reservation are Navajo. Test scores are up at reservation schools, and they're showing improved adequate yearly progress.

In addition, I would cite anecdotal evidence of many of our Native American alums who are doing great things. Quanah Spencer is a Seattle area attorney. Marsha Greyeyes-Appel owns her own business in Maryland. Melissa Henry is a filmmaker and business

owner in New Mexico. And, of course, you just heard from Bill Mendoza, part of President Obama's diversity initiative.

Senator BENNET. In the context of all of that, maybe you could elaborate a little bit on the particular responsibilities from your point of view to this Nation that come with being a Non-Tribal Native American-Serving College.

Ms. THOMAS. The responsibilities are, of course, contractual with the State of Colorado. In addition to that, we go back to the fact that our country has done much more to help African-Americans and Hispanics than they have done to help Native Americans with higher education.

While we come with a rather peculiar route from a 100-year-old contract that no one could have foreseen to turn into this, both the University of Minnesota Morris and Fort Lewis College have ended up as magnets, as centers, who welcome their charge, their mission, for Native American education and who also are the baccalaureate institutions for the 2-year tribal colleges, encouraging students to go on and seek the 4-year degree. So we become, in effect, a type of historically native institution, with responsibilities far beyond that of the respective States of Minnesota and Colorado.

Senator BENNET. Dr. Johnson, do you have anything you'd like to add?

Ms. JOHNSON. Just more of the same. I was thinking, President Thomas, as you were speaking about the particular mission of our institutions along with the 30 in the country that were public liberal arts colleges, our campus is much more like the private liberal arts schools that are really important in the Midwest and especially on the East Coast.

We offer that kind of education that was once reserved for privileged, was once reserved for elites, and we offer that same quality of education in a residential-focused undergraduate experience. We are able to serve and proud to serve native students in that kind of special education environment, I think, is an extraordinary mission, and it's an honor to be part of an organization like that.

Like the students at Fort Lewis College, we want our students, when they graduate, to stay in Morris. We're a small town, and so there aren't a lot of opportunities. We'd love it if they would stay in the State of Minnesota. But the truth is that our students are going around the country, and they're serving, and they're contributing to the essential qualities of democratic society in the kind of education that we provide. That includes civic engagement and service and a sense of citizenship.

That's the particular mission of public liberal arts colleges. And that we're able to serve a large percentage of students who represent under-represented groups is a really special thing. I would just add that piece.

Senator BENNET. President Thomas, could you talk a little bit about what you're doing to improve graduation rates for Native American students at Fort Lewis?

Ms. THOMAS. I would be happy to. Many of our students have the bumpy road that Bill Mendoza talked about. We have worked very hard in the last 10 years to increase our retention rates, and they have gone in that period from 37 percent to 54 percent. Our graduation rates spread out further, and in 6 years, we're at 23 percent,

at 10 years, we're 28. Our Native American students very often take longer. They will come in and out, or they will simply not take as large a load. Sometimes it takes longer to choose a major. And we are working very hard with the complete college——

Senator BENNET. I'm sorry. Is that for economic reasons?

Ms. THOMAS. Often it is for economic reasons. Even with the waiver, they still have room and board and fees to pay—and with the need for Pell grants and to take loans. They sometimes drop out and work, or they will go home, and then they will come back. So we see a lot more of the bumpy roads.

We're working really hard, and the whole initiative of Complete College America and, particularly, Complete College Colorado, for the Finish in Four—and we're working very hard to help students explore, but explore more quickly and try to move through to their degree a little faster than they have done. We would love it if it was quite a lot faster. So the whole Complete College Colorado movement has really given us the inspiration to focus on that and push for that.

Senator BENNET. Chancellor, could you talk about—if we were able to get this passed, and the Federal Government were able to help with the responsibility here that we all want to fulfill—how that might improve the quality of your program or help you improve the quality of your program for Native American students, in particular?

Ms. JOHNSON. Thank you. I appreciate the question, and I want to come back just for a minute and revisit the difference in how the funding formulas work in our two States, because I think it's important for the record to note that we forego just under $1 million a year now in tuition revenue that is not funded through the University of Minnesota System because of the way in which the allocation happens, and, again, $750,000 this year coming from out-of-state students.

Like Fort Lewis College, we've been the recipients of a number of grants that have assisted all of our students, but, in particular, Native American students. But we need to do more. We would use the additional funding in particular ways.

Following the lines of an answer to the question that you just posed, for the Regents of the University of Minnesota, for the legislators in the State of Minnesota, graduation rates and retention rates are really, really important. If we're investing money in education, we want to see the outcomes. We want to see that students are moving their way through the system. We would continue to invest in the programs that we have and to enhance them to speed the graduation and the quality of the experience for our undergraduate students.

I mentioned in my testimony that our native students have a 61 percent 6-year graduation rate at our university. That's a product, I think, of our size and some of the selectivity indicators. But it's also a product of the programs and the staff that we have to support those students. We support students through a WindStep program, so it's the step program that you also mentioned, bringing the middle and high school students to our campus.

More than 50 percent of our students participate in undergraduate research—all of our students. We have several programs

that are specifically geared toward American Indian students participating in undergraduate research. We know that students who are engaged year-round and students who are engaged as you are in so many different aspects of campus life are the students who are most likely to persist.

Principally, our dollars are invested in our undergraduate students—maybe not as much as we would like sometimes in faculty and staff salaries, things like that. But we think that's the most important investment we could make, and that would be the impacts that we would look to.

Senator BENNET. Actually, while we have you here, and since you've come all the way from Minnesota, if there are two or three things that you're doing that you think are particularly useful that ought to be replicated in other places, for the record, would you like to tell us what those would be?

Ms. JOHNSON. I would. I think some of the same things that President Thomas has talked about—we participate in the Federal Government's LSAMP program, in the NSF WindStep program. We are a campus that has really set some standards across the country in terms of renewable energy and sustainability, and we're using that as a platform for undergraduate research.

The WindStep program that serves middle and high school students actually has those students engaged in doing real research on the reservation. Last summer, they worked on the White Earth reservation and scoped out the possibilities of wind turbines. Our campus is powered by wind. Some days, we're 100 percent off the grid.

I mentioned that we are active in the American Indian Engineering Society. We are in the process of leveraging our relationship with the University of Minnesota System this year to develop a program with the graduate program in nursing on the Twin Cities campus that will prepare graduate students in nursing, particularly for rural communities and American Indian communities. We're using that sense of legacy and mission to really better the lives, we hope, of people not only on our campus and in our State, but around the country.

Senator BENNET. Thank you. Finally, if you also could help us understand how the program at your school is benefiting the Nation as a whole, I think that helps give context to why we're having the discussion that we're having here today.

Ms. JOHNSON. You have heard some differences. As I mentioned earlier, 25 percent of our students are from out-of-state. That's been a pretty consistent number. But we also represent 50 tribes. I just want to reinforce this, that I think in the original boarding school, students who were served were not just from Minnesota. In fact, more of our students in the boarding school were from the Dakotas. We're in western Minnesota. We're very close to the Dakota boundaries.

I think the legacy and the impact of this American Indian tuition waiver is intended not just to be limited by State boundaries, but is really intended to redress some of the wrongs that were part of this Nation's history. And we are doing that in really important ways.

Students from Minnesota are in Washington, DC. They're all across the country—our students who have graduated—in terms of the work that they're doing. So it's really wrong to think about this waiver as something that is just limited by State boundaries, both in terms of the students that we serve and in terms of where those students go. They are serving this country in important ways and contributing to the democratic fabric of this society.

Senator BENNET. That brings me to Mr. Echohawk for some legal help on this. You are the expert in many ways on this, and your work is so well-known over many decades. I wanted to ask whether you thought the bill changes the terms of the original 1911 agreement between the State and the Federal Government, or do you feel it simply allows the Federal Government to pay a portion of the cost of the tuition waiver program?

Mr. ECHOHAWK. I don't think that it would change the provisions of the original contract. I think it's just a way for the Federal Government to come in and assist with the execution of the obligations by the State of Colorado of those provisions that are in the contract and pursuant to the Federal trust responsibility, which I think is what the Federal Government was doing in 1910 when it had the school, and its intent to make sure that Indians could be educated there. I think it would just basically be assisting the State of Colorado to do that, even though Colorado has the obligation under the contract to do that as well.

Senator BENNET. Could you, while you're here, say a little more about what the nature of that trust responsibility is and what the cases that you've been involved with—how they inform your understanding of that trust responsibility and how it's being fulfilled through this contract that we have as the State of Colorado and will help support if we're able to pass this legislation at the Federal level?

Mr. ECHOHAWK. Under the U.S. Constitution, the Federal Government entered into, basically, a government-to-government relationship with tribal nations. Tribal affairs are the exclusive province of the Federal Government, and pursuant to that constitutional provision, many treaties were made, and the Federal Government has always dealt with tribes on a nation-to-nation basis. Part of that relationship has been assisting Indian nations to continue their existence as sovereign governments and to do the things that governments need to do for their people.

As part of that relationship, the Federal Government has provided money for many different services for tribal citizens, and among those things that they have assisted with has been education, not only at the K–12 level, but at the college level. My own law school education was funded by the Federal Government as part of this Federal trust responsibility to assist Indians broadly, including in the area of education.

I think it's very appropriate for the Federal Government to see what's happened at Fort Lewis. As we've talked about here, it's the most popular 4-year college in America in terms of the number of Indian graduates it produces. And it's certainly within the Federal Government's realm to recognize that and to do what it can to continue that success story for native students.

Senator BENNET. Thank you. Thank you again for being here today.

Mr. Tsabetsaye, could you talk about how important the tuition waiver is for students at Fort Lewis College, in your view? What difference would it make if it went away?

Mr. TSABETSAYE. A huge difference. It would be the difference in my education, the reason for me sitting here today. I believe that my education is my core, and it's what makes me—and I think that a lot of the students at Fort Lewis College that are Native American would agree that because of their education, they are able to achieve such success and opportunities in their lives, compared to a lot of the students that drop out and a lot of the students that don't have other opportunities in their lives and remain on the reservation or in other areas where they're not able to achieve success.

The Native American tuition waiver at my school, quite frankly, is the one opportunity for everyone, for Native Americans to get their education. I've been asked that many times, and I know with many students, an education is unique to their own selves. So when I say that it makes me, I know that a lot of students still have the same feelings, however, they have their own beliefs and thoughts on how their education has benefited them and how they can achieve success in their lives, not just in college, but also in their careers for after college.

Senator BENNET. I appreciate very much your use of the word, unique. So I'm going to ask a second question about that. Tell us what has been unique about your experience at Fort Lewis College and your impression about your experience there versus other choices that you might have made to go to other universities. What's been particularly special for you about Fort Lewis?

Mr. TSABETSAYE. How my education is unique to me is because, as I mentioned in my testimony, there are many students on the reservation that don't see the opportunities and don't pass their limited beliefs. It's unique to me because I was able to overcome my limiting beliefs. Graduating high school was really a big deal for me, even though I had no immediate plans for college after high school until the month before August, after graduating high school.

I enrolled in college at the very last minute, registered for classes at the very last minute, and from there, I saw an opportunity of achieving an education. Prior to that, it was hard for me to believe—and a lot of the students that I graduated high school with—that it was even a possibility. For me to understand that, it really helped me lay a foundation for what could be my career in college and professionally.

At Fort Lewis College, I was able to hop on with so many opportunities and organizations and clubs and things on campus that have helped me achieve those goals and overcome more limiting beliefs that I faced and hurdles and, as they have mentioned, "bumpy roads," which I too experienced. I felt that at Fort Lewis College, I've had those clubs and organizations to rely on to help me succeed, as well as mentors and professional staff who consider me as a colleague, as opposed to a student.

Senator BENNET. I can't resist to ask how you went from graduating from high school, obviously, to prepare to go to college and

concluding that you were going to go to college in that month. How did that happen in the summer?

And then this is not the topic, necessarily, of this hearing, but for the record and for the benefit of the committee and for the work that we need to do on Native American education, generally, I wonder if you could share your own impressions about your K–12 experience, what room for improvement there is and what we ought to be doing to deliver a higher quality education and make sure more people are ready when they graduate from high school to go to college. I'm sorry to ask you for that dissertation, but since you're here, I'd like it in the record.

Mr. TSABETSAYE. My decision to go to college was, like I said, last minute. But it was also because of someone in my life, a family member, who knew of the opportunity and who saw potential that I didn't see and offered me a place to stay and help in getting into college. So when I saw that help, I took it, even though I didn't know—I wasn't 100 percent about it at the time.

In my K–12 years, I lived—there are many towns on the reservation that are rural, and when I'm talking rural, I mean one or two houses. That is considered your own community. I lived far from my school, and every day, I actually passed the border, because, technically, we lived very close to the New Mexico border. The road that took me to school went into the New Mexico border and then back into the Arizona border, and so every day was quite a challenge to get to school.

Even today, with my little sister, who is in the seventh grade, my parents have to drive her about 10 miles for her to get to the bus that will take her to school. So when I say that the towns are rural, that also gives you other challenges to being involved in school and seeing opportunities.

I know that there were many things in school that I could have gotten involved with, but I couldn't because I lived far from the school that I attended. And I know that there are a lot of kids on the reservation still that probably see those hurdles of being far from the school. But even if not the distance, they don't have the motivation or they don't see the possibility.

Senator BENNET. What is the plan after you graduate?

Mr. TSABETSAYE. After I graduate Fort Lewis, I will continue my education, and within the next couple of weeks, I will start applying to graduate school. I will be majoring in higher education and student affairs. A lot of what I do at Fort Lewis College is in the realm of student affairs and higher education. As I stated in my testimony, I help a lot of students with their college careers and help them build a foundation for their professional career.

I plan to do that professionally, and I really have a passion for what I do at the college and the people that I work with who are in those careers. I think that my help to them and for the college has been substantial, and I know that in the future, it's going to be even greater.

Senator BENNET. Thank you very much for your testimony. It has been inspirational. I'm very grateful that you came here.

And to everybody on the second panel, thank you very much for your efforts getting us to this point. We'll be back in touch. Thank you.

We're going to take 1 second here. You guys can go, and let me figure out what we're doing. Thank you.

Senator Campbell.

I don't have an introduction for Senator Ben Nighthorse Campbell. But if there was ever anybody that didn't need an introduction, it is him.

We are grateful that you're here to share a few words with the committee, and we thank you.

STATEMENT OF SENATOR BEN NIGHTHORSE CAMPBELL (RETIRED)

Senator CAMPBELL. Thank you, Mr. Chairman. I found that testimony really, really interesting and enlightening, and I harken back to 30 years ago when I was kind of a fixture in this building long before I went to Congress. And I was impressed then, as I am now, about the positive relationship with Native Americans and the State of Colorado. We've had some, as you know in the history of Colorado, some bleak and black days, and the Sand Creek Massacre is an example of one of them.

But if you look around this beautiful room—I was just sitting in my seat in the third or fourth row there—the stained glass windows, four of the five, have Native Americans portrayed in the stain glass windows. I think that's an example—as those windows are also in other rooms here—that people in the State of Colorado and certainly the legislature recognize the positive important influence that the Indian people have had to the growth of the State.

I have some written testimony. With your permission, I'd like to enter it into the record.

Senator BENNET. Without objection.

[The prepared statement of Senator Campbell follows:]

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR, RETIRED, FORMER CHAIRMAN, SENATE COMMITTEE ON INDIAN AFFAIRS, NORTHERN CHEYENNE

Mr. Chairman, thank you for your legislative efforts under S. 484 and S. 3504 and what they mean to American Indian education. I am happy to have the opportunity to provide some insight today regarding two very successful education programs for American Indians, and the unintended financial consequences on the States that entered into agreement with the Federal Government to offer these programs.

My wife, Linda, and I live just east of Durango, CO, home of Fort Lewis College. My family has a long history at Fort Lewis College. Long before I was involved in politics, I taught at Fort Lewis College, Linda later served as a member of the board of trustees at the college, and both of our children are graduates of Fort Lewis. Fort Lewis College is recognized by the U.S. Department of Education as a Native American Serving, Non-Tribal College.

Fort Lewis College is central to this discussion, because it is one of two institutions in the Nation, the other being the University of Minnesota—Morris, that offer a waiver of tuition for all American Indian students, under legislative agreements between the Federal Government and their respective States. I am sure that you will

hear the genesis of these programs from others testifying today, but I feel the history cannot be emphasized enough.

In the early 1900s, Fort Lewis was a former military fort, a remnant of the old Indian wars. It was no longer used for military purposes, but was instead used to educate American Indian youngsters. Reports from this period indicate that the number of students being educated at the time numbered in the single digits. Given the lack of long-range transportation at the time, these youngsters were likely Navajo or Ute children from the area. In 1911, the U.S. Government, in an effort to divest themselves of far flung, decommissioned outposts, made an offer to the State of Colorado to give ownership of Fort Lewis, and over 6,000 acres of surrounding land, to the State in exchange for an agreement to continue to educate American Indian students, tuition-free, on par with white students. The State agreed and Federal legislation was enacted codifying that agreement. During the same time period, a very similar legislative agreement was also struck with the State of Minnesota to educate Indian kids in exchange for land.

The old Fort and adjacent land in Colorado, near the town of Hesperus, eventually became Fort Lewis College. In the 1950s, Fort Lewis College moved to its current location in Durango, CO and the State Land Board assumed oversight and control of the Hesperus land. After the move, Fort Lewis continued its mission to educate American Indian students.

Fort Lewis College does an outstanding job on behalf of all in their student body. But, they do an especially noteworthy job in the area of American Indian Higher Education, awarding more baccalaureate degrees to American Indian students than any 4-year college or university in the United States. They also award more Science, Technology, Engineering and Math degrees to American Indian students than any other 4-year institution.

There are 564 federally recognized American Indian tribal governments in the country. Another 300 or so are desperately seeking recognition that was stripped of them decades ago. For the most part, American Indians have been an overlooked, often ignored people, who long ago were driven from their homelands and hunting grounds onto postage stamp-sized reservations to make room for American progress, cloaked in terms such as Westward Expansion or Manifest Destiny. Indian people did not reap the benefits of the "progress", instead they became forcibly dependent on a government that promised to feed them and care for them as long as they stayed out of the way. The lands they were given were often not fit for habitation, let alone economic development. Their dependency increased and their work ethic diminished.

When I sat as Chairman of the Senate Committee on Indian Affairs, I often asked Tribal Leaders about their plans for economic development. Many times I was told that their plan consisted of getting a government grant to pay for a program to provide a few jobs. For too many tribes, government assistance is all they know. But, even that is not enough. My tribe, the Northern Cheyenne in Lame Deer, MT, has an unemployment rate of 78 percent that IMPROVES to 60 percent during the summer months when some tribal members get work on fire crews for the BLM and Forest Service. The Rosebud Sioux Tribe in South Dakota has the highest teen sui-

cide rate in the WORLD. Indian Country has scores of reservations whose people still live in Third World conditions. They have the highest drug and alcohol abuse rates, the highest welfare rates, the highest suicide rates and the lowest mortality of any group in America.

Decades of dependency, and a litany of social ills cannot be cured by government programs. It cannot be cured by well-meaning charitable donations. While these well-meaning programs help, the only answer to healing what is wrong with so much of Indian Country is EDUCATION! Education allows young Indian people to see the possibilities in the world. It allows them to bring skills back to the reservation to help develop their economies, assist tribal governments, and mentor the next generation of young people, thus lessening the overall burden on stretched Federal resources. Today, most Indian youngsters still look at the leaders of centuries ago, Sitting Bull, Geronimo, Crazy Horse and others for inspiration. Education creates modern heroes they can identify with and be inspired by. That is why the work of Fort Lewis College is so important. Fort Lewis graduates are already making a name for themselves in business, engineering, and even in government, as evidenced by Bill Mendoza, who is testifying today, and is a valued member of President Obama's administration.

One hundred years ago, the State of Colorado entered into an agreement that, at the time, sounded like a pretty good deal: Educate a handful of Indian kids each year, in exchange for a piece of land. Neither the State, nor the Federal Government could have possibly foreseen what the future would hold:

> Today, the Fort Lewis College Native American Tuition Waiver is assisting nearly 900 American Indian students in obtaining a college degree. Nearly 700 of those students come from out-of-State. In fact, in the last 10 years alone, students attending Fort Lewis under the Native American Tuition Waiver represent 46 States, 191 congressional districts, and 269 tribal governments.

This has truly become a program of national scope. The college has embraced its mission and exceeded all expectations. They have done an exceptional job of educating thousands of American Indian students and word of their accomplishments has spread throughout Indian Country. However, success does have a price. The State of Colorado could never have foreseen that their agreement to provide education to Indian students in their region would become a national program with a cost to the State of over $13 million per year. In fact, the Native American Tuition Waiver has cost the State of Colorado over $120 million in the last 25 years alone, yet the value to the land from the Old Fort property is estimated at less than $20 million. This deficit puts this very successful education program at risk. Nobody ever foresaw the rapid expansion of this program and thus the State and the college were unable to fully prepare for the rapidly rising costs.

Thus, your bills, S. 484 and S. 3504, allow the State of Colorado to hold true to the original intent of the 1911 legislation by providing tuition-free education to the area, in-State, Native students, while providing funding for the out-of-State students, frozen at the levels at the time of passage, with the State being responsible for

the continued future growth of the program. This gives the State a degree of relief from the Federal Government for this national scale program, without relieving the State of its long-term obligation, while allowing the State government a planning window to address the future costs and growth of the program. Though the out-of-State student participation at University of Minnesota Morris is much smaller, it would also provide the State of Minnesota similar relief.

As the affected States and institutions are limited and the annual cost is capped, passage of this legislation will not allow these limited costs to grow beyond enactment. Also, it should be noted that this legislation is inclusive of more than one State and institution.

Mr. Chairman, your legislation will not only provide relief to two States who have operated in good faith for more than 100 years under terms of an agreement that has grown in scope beyond anyone's reasonable expectations, but it will also protect programs that are providing valuable educational opportunities where it is needed most. Every dollar spent on Indian education is multiplied in dollars saved in welfare and dependency. It raises a generation of people up to break the cycle of dependency. Fort Lewis College and the University of Minnesota Morris are teaching men and women to fish, not merely giving them a fish, and that is money well-spent.

Thank you, Mr. Chairman, for your efforts to protect and enhance Indian education.

Senator CAMPBELL. And, also, if you would, pass on our thanks to Chairman Harkin and Ranking Member Enzi for allowing us to hold this hearing. I certainly appreciate their help and support in this.

I was jotting some little ad lib notes on a piece of paper back there as I heard the testimony. And I don't know of anyone, Mr. Chairman, that wants to get out of the deal. Certainly, some errant people here in the legislature in the past—a couple of them have tried that, as you know. As John Echohawk testified, the courts slapped their fingers and said, "No, no. A deal is a deal. You're not going to get out of that."

But I know of nobody that wants to do that now. In fact, I don't know of any citizen in Colorado that wants to get out of the deal. They know that we have that obligation, that the State of Colorado signed that, and it should go on.

But I'd like to just maybe broaden my comments a little bit, too, since even though it's common knowledge in Indian country, maybe not so much for the people that do support the waiver to recognize what they're supporting from a human standpoint. My friend, Bill Mendoza, comes from what we call a hard core reservation, Pine Ridge, SD. The highest unemployment in the Nation is in Pine Ridge, SD. The highest suicide rate in the Nation, to my understanding, is also Pine Ridge, SD, where in some years, one out of every three girls has tried suicide before they got out of their teenage years, and one out of every four boys.

There are many other places the same. Most of us recognize that dependency on the Federal Government has not worked. Otherwise, we would not have the highest high school dropout rate, the highest unemployment rate, the highest suicide rate, the highest

substance abuse rate. All the other devastating things that have happened to Indian people are 10 times worse than on the outside.

You talk about an unemployment rate nationwide now of roughly 9 percent. Try 70 or 80 or 90 percent in the cases of some Native Alaskan communities. In Pine Ridge, I believe it's probably 70, maybe 80. Bill was a speaker at our little tribal college in Montana—Lame Deer, MT. It's called Dull Knife Community College. The unemployment there is 78 percent in the winter—a little lower in the summer because some people, through their courage, get jobs fighting forest fires, and there's a number of them that had firefighting experience over the years.

But from a broader standpoint, most people recognize that education is the key, that if government dependency worked, why the heck are we in such bad shape now after 150 years of government dependency? There's got to be an alternative, and that alternative, many of us believe, is education. Now, if you look at what's happened to our youngsters who are getting out of college, whether it's the University of Minnesota Morris, whether it's Fort Lewis, whether it's any institution in America—University of New Mexico, University of Arizona, Northern Arizona—they graduate many Native American students.

Now they are productive people. They haven't forgotten their old ways. They participate in their religions, beliefs, their ceremonies. They've really hung onto that, and I certainly commend them for that. But they've learned how to function in 21st century America in business, in medicine, in government, in literally every facet. Native Americans have the highest enlistment rate of any ethnic group in America in our military. That says something.

It's nice to know that after years and years of silence, the Navajo code talkers were, in the last 15 years, really recognized by the president. That was President Bush. Most Americans recognize the contribution they've made to keeping this country safe. There were also Comanche code talkers and Lakota code talkers and others, too. But we have paid our dues.

I have a real close connection with Fort Lewis, because I was kind of an accidental politician. Before I ran for office, I taught part-time at Fort Lewis in the Art Department. Both of our youngsters graduated from Fort Lewis. My wife was on the board of trustees. We've had a really close relationship with it. And I have seen firsthand the benefits, that a good education helps not only Indian kids, but all youngsters. But because of the problem we have in Indian country, it's helped, I believe, Indian youngsters even more.

This bill, your bill, and the corresponding House bill, which has probably 8 or 10 co-sponsors on the House side now, as I understand it—it doesn't answer all the problems. But it certainly alleviates some of the problems that the State of Colorado is having now paying for the deal that they signed 100 years ago.

Lieutenant Governor Garcia mentioned—in some of my scribbling, if I can remember—that, in fact, the money that goes to Fort Lewis and the State comes from the financial aid fund. But that's not the only money that comes out of the financial aid fund. And with every increase that the State financial aid fund must give to Fort Lewis pursuant to the deal with the Federal Government,

they have to decrease it to other colleges or to other entities that are also needed.

And if you'll give me a little latitude, let me just be the devil's advocate and ask this rhetorical question. What happens if we don't do something? What happens, since we have twice the national birth rate of the Federal numbers at large and, on some reservations, four times the national average? Many more Native American youngsters are being born. What happens when the roughly 300 Indian tribes that are now seeking Federal recognition get it? Many tribes, as you know, in our history, were taken away from them in the 1950s under the misguided actions of the Federal Government when they, by virtue of their wisdom in Washington, said to tribes, "You are no longer a tribe."

That was obviously a way to get out of the Federal Government's responsibility to tribes because the old treaties weren't signed between individual Indian people and the Federal Government. They were signed between tribes and the Federal Government. So some wise person back there said, "Oh, I'll tell you what. What happens if we de-recognize the tribes and no longer recognize them as Federal entities? We don't owe the Indians anything." And that's how they got out of a lot of the responsibilities of the old agreements and the old treaties.

Well, that's beginning to change. So, as I continue as the devil's advocate, what happens when many of the tribes who are seeking recognition now are re-recognized and then can avail themselves of the tuition waivers at Fort Lewis or Minnesota Morris? What happens when the number that's now, I think, roughly 850 Native American kids at Fort Lewis becomes 8,500 instead of 850? That is certainly in the realm of possibility if you look at the last 2 years, where they've grown 10 percent per year, 10 percent last year and 10 percent this year, in the number of Native American youngsters, but also the corresponding amount of money the State of Colorado has to put in.

Last year, it was $2 million more than the year before. This year, it'll be $2 million more than last year, in other words, $4 million more just in the time that this bill has been moving around, people talking about it, trying to find a solution, and so on. It's been several years, 3 years or so. It's gone up to about a $4 million cost to the State of Colorado, and I don't know how much to the State of Minnesota.

We know that if we don't do something, we're on an unsustainable course somewhere along the line. Nobody wants to wait until that train wreck happens. Most of us believe we've got to take some kind of a positive action and do something before the fact so that we don't get to that doomsday scenario, and that's what this hearing is all about.

I think that it is certainly incumbent on the Federal, since that was part of the deal. Nobody in those days knew that maybe six students would turn into 600, or some day in the future maybe 6,000. So we think the Federal Government has some responsibility under what has been defined as the trust responsibility.

I thank you for this hearing. I might also add that I chaired hundreds of hearings back there in the dozens of committees I was in-

volved with. None of mine ever went this smooth. So you've got the right touch, I'll tell you.

Senator BENNET. Thank you for that. I want to just see if I can respond a little bit to what you said. First of all, on behalf of the committee, thank you for your leadership on this issue and also on issues that have been of concern to Native Americans over many years, and issues of concern to many people, whether Native Americans or not, all across the country.

You've been respected and admired as a leader for many years, and I, for one, continue to appreciate your continued active involvement in all of this. I hope that you'll let us know how we can move this forward. I'd like to get us to a place where we're marking up the bill and we're not just talking about it.

To respond to your last point, I work in a town 4 days a week where people consistently let matters get worse before they're actually addressed. And in this context, it seems that that would be enormously unfair to the students that are at Fort Lewis College today and to the students that are coming in the future. That's why we have to get on with this, so let's get this done.

The other thing I want to respond to are your comments about education, because, unfortunately, these issues don't receive the attention that they need in our national political debate. You can listen to this Presidential campaign that's going on right now, and you wouldn't think that education mattered very much at all to the American people, and it matters an incredible amount to the people that I represent.

I mentioned earlier at the outset that the worst the unemployment rate ever got for people with a college degree in this recession was 4.5 percent. That's the worst that it got. But if you're a child living in poverty in the United States, your chances of getting a college degree are 9 in 100. We've heard testimony today that that's even tougher in Indian country.

If you take the changing demographics in the United States and just extrapolate those out over time, we know what those are going to be. It's completely predictable. And if the achievement rates and the graduation rates and the college attendance and completion rates don't change, we're not going to recognize ourselves as an economy or as a democracy.

I think this is the central question that we face in this land of opportunity. I can't think of anything that is more at war with who we are as Americans than those college completion numbers and our high school graduation rates for children that are living in poverty, whether they're living in Indian country or whether they're not.

We have to get after this, and we have to make this our single most important domestic priority. Otherwise, we're going to continue to see income inequality rise. We're going to continue to see opportunity shut off for millions of people in this country.

Thank you for giving me that opportunity to say that. I want to thank all the witnesses who gave testimony today. I deeply appreciate your traveling here to do it. In addition to that great testimony, I also have a collection of resolutions and letters of support to introduce into the record at this hearing, which I will do now,

including the letter that the Lieutenant Governor referenced from our own Governor, John Hickenlooper.

[The information referred to may be found in additional material.]

Throughout this hearing, we've heard about the important role the tuition waiver program plays in the education of Native American students throughout the country. Moving forward, I hope that we can work together to preserve these tuition waiver programs while also providing some degree of budgetary relief to the States of Colorado and Minnesota.

The hearing record will remain open for 10 working days for any additional questions or statements. Once again, I want to thank the witnesses for traveling here today. Thank all of you for your interest and for being here.

And with that, the hearing is adjourned.

[Additional material follows.]

ADDITIONAL MATERIAL

PREPARED STATEMENT OF LEWIS WITTRY, VICE PRESIDENT, ASSOCIATED STUDENTS OF FORT LEWIS COLLEGE

Mr. Chairman and members of the committee, my name is Lewis Wittry and I am vice president of the student body at Fort Lewis College:

I believe that Federal funding should be provided to support the Native American Tuition Waiver mandated by the Federal Government in 1911 because the conditions under which that agreement was made have changed dramatically since that time. The agreement was originally made that the State of Colorado would be granted the Old Fort Hesperus property on the condition that they would provide free tuition for all Native American students at a school on the site. At the time this was reasonable for the State because there was presumed to be only a handful of Native students to educate. In the 100 years since that agreement was made, an increasing amount of Native students have begun to take advantage of this opportunity for a free education. Today, Fort Lewis College's native population consists of about 860 Native American students from a variety of different tribes across the country, an 85 percent majority of which are non-resident students who are receiving free tuition paid for by the State of Colorado, a total allocation of $13.7 million last year. While this means amazing things for the Native communities that are able to take advantage of this opportunity, it is a much bigger financial burden on the State budget than could ever have been foreseen at the time the original agreement was made. Since a large portion of Colorado taxpayer's money is and has for the last 100 years been going to pay for the education of non-resident students, I believe that it is a reasonable request for the Federal Government to contribute a significant portion of the total cost of the waiver. State governments are supposed to provide resources for the residents of their State, and national governments are supposed to provide resources for the residents of the Nation at large. Since we are currently in a situation where the State of Colorado is providing a significant resource for students of the Nation at large, I think you should support the passage of S. 3504 to create a more fair situation where the State and Federal Government are providing for their fair share of the cost of educating Native American students across the country.

In trying to formulate an opinion about this subject I kept coming back to the original agreement made in 1911 and what that meant about our State's obligation to pay for the cost of the tuition waiver. For a while I had a very hard time getting behind this bill because I kept seeing it as a way for the State to shirk it's responsibility to hold up its end of the agreement to educate Native students free of charge. And in some sense this is exactly what is being done. However, the more I looked at the original agreement made the more I began to think, "Well that's just a terrible and unrealistic agreement by today's standards, so we should just change the agreement." It was explained to me later that this is not technically possible because the agreement was made in perpetuity. That is where this bill comes in. In light of the fact that we cannot change the original agreement made, I think this bill should be passed because it solves the problem without changing the agreement. Essentially this bill will still require that tuition-free education be provided for Native students at the two non-tribal, Native American serving institutions listed in the bill. However, added on to that agreement is the agreement that the Federal Government will help cover the increasing cost of this tuition waiver by providing the funds for all non-resident Native students up to $15 million. As I stated above, the circumstances around the tuition waiver have changed since 1911 and the original agreement no longer makes sense for the State of Colorado or the State of Minnesota. This is why we need to alter the agreement, and it seems to me that S. 3504 is a reasonable way of doing that.

The other reason I think this bill should be supported has little to do with any agreements made between State and country, but has more to do with the overall obligation I feel we as a country have to the Native American community. I was reading an article in our local newspaper sent to me by one of the administrators at our college regarding the tuition waiver at Fort Lewis College. A man quoted in the article put it very well when he talked about the tuition waiver as being one small victory in a long history of defeats for the Native American community. I think that he is right. We should not be allowing for this one small victory to be taken away from them, and it seems as though that is what might happen if the State is unable to receive help in funding the tuition waiver. For all of the horrors and subjugation that Native Americans have been put through since Europeans began to migrate to this land, I believe it is the moral responsibility of our country to make it possible to continue to honor one of the few trusts that has been made

between the Native and non-native community. It has become an immense burden for our State to try and hold themselves to this agreement alone, and it is not a burden we should have to carry alone anymore. We are asking for help from the rest of the country so that we may continue to help the Native American community in this small way by offering them a free college education. A free education will by no means ever repay them for what their people have been and continue to be put through. However, it is at least a small trust that we have been engaged in for the last 101 years, and the mission of educating Native American students is one of the only sustainable ways to try and break the destructive cycle that the subjugation of their people has caused for their communities.

Please try and see these bills not only from a purely budgetary and legally based standpoint, but also from a morally based standpoint. In forming my own opinion about this issue I have tried to ask myself, "Do these bills hold up according to previous legal agreements?" But I have also tried to ask myself, "Is it the right thing to do?" I go back and forth as to whether or not they hold up to the original agreement. However, I am firmly convinced that the passage of these bills is the right thing to do. I encourage you to think about these questions in your deliberations about where you stand.

PREPARED STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

INTRODUCTION

The National Congress of American Indians (NCAI) is the oldest and largest American Indian organization in the United States. Tribal leaders created NCAI in 1944 as a response to termination and assimilation policies that threatened the existence of American Indian and Alaska Native tribes. Since then, NCAI has fought to preserve the treaty rights and sovereign status of tribal governments, while also ensuring that Indian people may fully participate in the political system. As the most representative organization of American Indian tribes, NCAI serves the broad interests of tribal governments across the Nation.

Ensuring access to higher education for American Indian and Alaska Native students is a top priority for tribes, and federally mandated Native tuition waivers at two institutions—Fort Lewis College in Durango, CO, and University of Minnesota-Morris—play a vital role in making this important goal a reality. For the past 100 years, both schools have provided tuition-free college education to American Indian and Alaska Native students. As a result, Fort Lewis College graduates some of the highest numbers of Native students per year in the country,[1] and University of Minnesota-Morris enrolls more Native students than any other college in Minnesota.[2] Despite this success, the waivers are at risk of being terminated due to severe State budget constraints. The Native American Education Act of 2012 (S. 3504) creates a Federal funding stream to ensure sustained support for these Native tuition waivers. Because the waivers have enabled thousands of Native students to become college graduates, and their continuance is critical to maintaining and growing that legacy, NCAI urges Congress to enact S. 3504 into law.

BACKGROUND

The Native student tuition waivers stem from both institutions' roots as Indian boarding schools. In 1911, Colorado accepted title to the Fort Lewis Indian School, previously operated by the U.S. Department of the Interior. In exchange for the 6,279-acre property, the State agreed to maintain the school and admit Native students "free of charge for tuition and on terms of equality with white pupils."[3] University of Minnesota-Morris shares this history. When the Federal Government transferred the campus of Morris American Indian Boarding School to the State of Minnesota in 1909, it stipulated that "Indian pupils shall at all times be admitted to such school free of charge for tuition."[4] Today, the waivers guarantee free tuition at either school to all qualified members of federally recognized tribes, regardless of State residency.

Largely thanks to the tuition waiver, Fort Lewis College has become a flagship institution for American Indian and Alaska Native students. Native students com-

---

[1] U.S. Department of Education. Institute of Education Sciences, National Center for Education Statistics, 2011 Bachelor's Degree Completion Rates.

[2] University of Minnesota-Morris, "American Indian Tuition Waiver and Student Success." *http://www.morris.umn.edu/ . . . /UMMAmericanIndianTuitionWaiver.pdf.*

[3] Appropriations Act of April, 4, 1910, 36 Stat. 274.

[4] University of Minnesota-Morris, "American Indian Tuition Waiver and Student Success." *http://www.morris.umn.edu/ . . . /UMMAmericanIndianTuitionWaiver.pdf.*

prise about 20 percent—or one in five—of the college's 3,900-person student body,[5] and in 2010, it enrolled approximately 800 Native students representing 122 tribes from 30 different States.[6] Each year, Fort Lewis College awards some of the highest numbers of undergraduate degrees to Native students in the country.[7]

University of Minnesota-Morris has experienced similar success with Native students because of its tuition waiver. With a Native student population of more than 10 percent, it is the only university in the upper Midwest that qualifies for designation as a Native American Serving Non-Tribal Institution.[8] This large Native student body has enabled University of Minnesota-Morris to build a robust American Indian program and community, and consequently, the school's graduation rates for Native students lead the University of Minnesota system.[9]

NEED FOR THE NATIVE AMERICAN EDUCATION ACT OF 2012 (S. 3504)

Funded entirely by each respective State, Fort Lewis College's Native tuition waiver costs Colorado approximately $13 million per year,[10] and the University of Minnesota-Morris waiver costs Minnesota about $1.5 million per year.[11] However, shrinking State revenues as a result of the recession, coupled with rising Native enrollment, have made it increasingly untenable for these States to shoulder the cost of the waivers alone. At Fort Lewis College in particular, about 85 percent of the college's Native population is from outside Colorado, which means that the State must reimburse the college at the nonresident tuition rate of $16,072 for those students.[12] Since the majority of the waiver expense comes from these out-of-state students, there have been several attempts to significantly cut reimbursements by limiting the waiver to Native students who are Colorado residents and, even more drastically, to terminate the program altogether.[13]

Instead of reneging on a century-old contract and denying out-of-state Native students access to a quality, tuition-free college education, S. 3504 offers a better solution: shifting some of the waiver's cost to the Federal Government and the country as a whole. Sharing this responsibility makes sense in light of the fact that the tuition waivers benefit Native students from every corner of the United States—in other words, they have become national programs. At Fort Lewis College, for example, the five tribes with the highest number of students enrolled in 2011 were not from Colorado, but were Navajo (Arizona), Cherokee (Oklahoma), Choctaw (Oklahoma), Tlingit/Haida (Alaska), and Chickasaw (Oklahoma).[14] S. 3504 directs the Secretary of Education to reimburse Fort Lewis College and University of Minnesota-Morris for the tuition of these nonresident Native students.

By putting the waivers on more stable financial ground, Federal funding through S. 3504 will help guarantee the programs' continuance—as well as their tremendous benefits to Indian Country. The experience of NCAI's executive director, Jacqueline Pata, attests to the transformative power of the Native student tuition waiver. Three of Ms. Pata's four children attended Fort Lewis College. As a single parent with four kids just a few years apart in age—and who were thus ready to attend college at about the same time—college would have been out of the question for her family without the tuition waiver. With the large cost of tuition taken care of, they were able to find scholarships—from their tribe and other sources—to cover other expenses. Now that Ms. Pata's children are grown and have graduated, they are

---

[5] U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, College Navigator, Fort Lewis College (2010).

[6] Fort Lewis College, "Fact Sheet 2010." *http://explore.fortlewis.edu/images/FLC__Facts.pdf*.

[7] U.S. Department of Education. Institute of Education Sciences, National Center for Education Statistics, 2011 Bachelor's Degree Completion Rates.

[8] Elaine Simonds-Jaradat, "New Native American Garden Planted on the Morris Campus" (July 8, 2011): *http://www.morris.umn.edu/newsevents/view.php?itemID=11784*.

[9] University of Minnesota-Morris, "American Indian Tuition Waiver and Student Success." *http://www.morris.umn.edu/ . . . /UMMAmericanIndianTuitionWaiver.pdf*.

[10] Emery Cowan, "A Historic Promise." *Durango Herald* (June 3, 2012): *http://www.durangoherald.com/article/20120603/NEWS01/706039897/0/FRONTPAGE/A-historic-promise*.

[11] University of Minnesota-Morris, "American Indian Tuition Waiver and Student Success." *http://www.morris.umn.edu/ . . . /UMMAmericanIndianTuitionWaiver.pdf*.

[12] Emery Cowan, "Seeking Stability in FLC Tuition Waiver." *Durango Herald* (June 4, 2012): *http://durangoherald.com/article/20120605/NEWS01/706059914/0/s/Seeking-stability-in-FLC-tuition-waiver*.

[13] For example, see Colorado House bill 10–1067: *http://www.leg.state.co.us/CLICS/CLICS2010A/csl.nsf/fsbillcont3/AD316F1CAE9F98BF872576A80026AF1B?Open&fil=1067__01.pdf*.

[14] Fort Lewis College, "An Introduction to Federal Efforts to Protect the Native American Tuition Waiver." *http://www.fortlewis.edu/tuitionwaiver/Home.aspx*.

raising their own families and using their degrees to meaningfully contribute to their communities.

The story of Ms. Pata's family is not unique in Indian Country. The tuition waivers at Fort Lewis College and University of Minnesota-Morris have been a boon to thousands of Native students who could not otherwise afford higher education. But the waivers have had profound benefits not just for individual Native students, but also for American Indian and Alaska Native tribes. All around Indian Country, you will find Fort Lewis College and University of Minnesota-Morris alumni utilizing their college educations to improve tribal communities—as tribal leaders, teachers, entrepreneurs, lawyers, and engineers. As the statistics referenced above indicate, the tuition waivers have enabled Fort Lewis College and University of Minnesota-Morris to become a vital source of college graduates for tribes who need an educated citizenry to lead their governments, develop reservation economies, and sustain Native cultures.

Furthermore, investing in the education of American Indian and Alaska Native students—and by extension, the capacity and well-being of tribes—is one of the most important cornerstones of the Federal trust responsibility. Supporting the Native tuition waivers through Federal funding in S. 3504 helps to fulfill this sacred duty.

CONCLUSION

Because the Native tuition waivers at Fort Lewis College and University of Minnesota-Morris have played such a critical role in expanding access to higher education for Native students, NCAI urges Congress to pass S. 3504.

Thank you for your consideration of this testimony. NCAI looks forward to partnering with the committee to move this important piece of legislation forward. If you have any questions, please contact Ahniwake Rose, NCAI director of Human Service Policy, at arose@ncai.org.

LETTERS OF SUPPORT

STATE OF COLORADO,
OFFICE OF THE GOVERNOR,
DENVER, CO 80203,
August 17, 2012.

Hon. MICHAEL BENNET,
458 Russell Senate Office Building,
Washington, DC 20510.

DEAR SENATOR BENNET: On behalf of the State of Colorado, we offer our support of two pieces of pending Federal legislation, S. 3504 and its companion, H.R. 3040. These bills represent a prudent legislative effort that will enhance educational opportunities in Indian Country and Colorado, as well as similarly impacted States.

In 1910, the U.S. Congress created a unique connection between Fort Lewis College and Indian Country by giving the State of Colorado title to over 6,200 acres located in the southwest corner of Colorado that was being operated as a military fort and an Indian boarding school under the U.S. Department of the Interior, on condition that the school be "held and maintained by Colorado as a school where Indians are admitted free of charge for tuition and on terms of equality with white pupils" (Act of April 4, 1910, 36 Stat. 274).

The tuition waiver program funded by the State of Colorado has enabled many American Indian and Alaska Native students to have high-quality educational opportunities that they might not otherwise have been able to access. One hundred years ago, the originators of this agreement had no way to anticipate how this *Federal mandate in perpetuity* would affect the State of Colorado a century later, particularly with the advent of modern day transportation. The once desolate military fort on the border of what then were the "Territories" and are now more commonly referred to as the States of New Mexico and Arizona, would place southwestern Colorado in a central location to Indian Country. Today the College is located within a 150-mile radius of 25 Indian reservations or Pueblos, making it an accessible and affordable option to many students in Indian Country. At the time of the 1910 agreement, Indian students at Fort Lewis numbered in the single digits. The composition of the fall 2011 class numbered 860 American Indian and Alaska Native students, 725 of which represent 138 different tribes and 35 States outside of Colorado.

For the past 100 years, Colorado has had the unique distinction of supporting high-quality educational opportunities in Indian Country and far surpassing the ex-

pectations set forth in the original agreement. Indeed, Fort Lewis College awards more undergraduate degrees to American Indian and Alaska Native students than any other 4-year institution in the Nation, graduates approximately 16 percent of all American Indian and Alaska Native students nationally, and last year awarded 13.5 percent of all baccalaureate science, technology, engineering, and mathematics (STEM) degrees earned by American Indian students (NSF WebCaspar).

Today, many do not realize that despite the economic success of a small handful of tribes, American Indians still face poverty rates, substance abuse rates, suicide rates and teenage birth rates that far exceed the national average. The unemployment rate on many Indian reservations still far exceeds 50 percent. The key to ending this cycle is education, and Colorado is proud of our efforts to enhance educational opportunities for Native Americans; we simply need some assistance in carrying out this tremendously successful national program. To that end, I thank Senator Michael Bennet and Congressman Scott Tipton for their leadership, and the entire Colorado congressional delegation, as well as many Members of Congress for their support of this effort.

S. 3504 and H.R. 3040 have my full support and endorsement, and I request that Congress assist in funding the Federal mandate upon the State of Colorado for reimbursement of the out-of-state students in Fort Lewis College Native American tuition Waiver program so that the program may be maintained for the continued betterment of all American Indian and Alaska Native people. It is the right thing to do.

Sincerely,

JOHN W. HICKENLOOPER,
Governor.

STATE OF COLORADO, DEPARTMENT OF HIGHER EDUCATION,
COLORADO COMMISSION ON HIGHER EDUCATION,
DENVER, CO 80202,
August 17, 2012.

Hon. MICHAEL F. BENNET,
458 Russell Senate Office Building,
Washington, DC 20510.

DEAR SENATOR BENNET: The Colorado Commission on Higher Education (CCHE) is writing to express our board's support of the Federal legislation which aims to fund a portion of the cost for American Indian students attending Fort Lewis College in Durango, CO. The CCHE is the central policy and statewide coordinating board for higher education in Colorado overseeing 31 public institutions of higher education. The CCHE embraces and supports all of these institutions as well as their unique role and mission in providing a quality post-secondary education in the State. Fort Lewis College is unique not only to Colorado but to the Nation in being one of only two public institutions of higher education (University of Minnesota—Morris as the other) with the specific duty of serving and educating American Indians students as part of its overall role and mission.

Given Colorado's State budgetary challenges, the cost for the Fort Lewis College Native American Tuition Waiver has been typically covered by reducing funding to the State's other financial aid programs. The transfers of funding from existing programs reduces the availability of financial aid to qualifying American Indian students—over 80 percent of all American Indian enrollments in the public system of higher education in Colorado are in institutions other than Fort Lewis College—as well as other students attending other institutions of higher education in Colorado.

The CCHE believes that the current prospects of some Federal funding to mitigate these costs at the State level are an effective and reasonable course of action that will provide a financially sustainable solution to help ensure that Fort Lewis College remains accessible to all American Indian students from all regions of the country. The CCHE reiterates its strong support of Fort Lewis College and celebrates its ever increasing success in educating American Indian students across the Nation.

Sincerely,

HEREFORD PERCY, *Chairman,*
Colorado Commission on Higher Education.

CHEROKEE NATION™,
TAHLEQUAH, OK 74465–0948,
May 11, 2011.

Hon. DALE KILDEE, *Co-Chairman,*
House Native American Caucus.

Hon. TOM COLE, *Co-Chairman,*
House Native American Caucus.

Re: Support for Fort Lewis College Legislation

DEAR CHAIRMAN KILDEE AND CHAIRMAN COLE: On behalf of the Cherokee Nation, I am writing to express our support for the proposed legislation offered by Congressman Tipton for the Fort Lewis College Native American Tuition Waiver Program. For the past century, the institution has provided Native Americans who qualify with tuition-free education as mandated by the U.S. Congress. By covering tuition costs for Native American students, the State of Colorado has given tribal citizens access to a first-rate education and opportunity for success.

Because the Colorado school currently provides higher education to Native American students from 124 different tribes (including the Cherokee Nation) and 34 States, Cherokee students would also be affected by funding cuts to the program. If this legislation does not pass, Colorado leaders might try again to cut the Native tuition waiver program due to State budget constraints. As introduced, the Tipton bill would use Federal dollars to reimburse Colorado for the cost of out-of-state Native American students' tuition—helping to guarantee that all qualified Native American students receive tuition waivers regardless of State residence.

Therefore, this Bill is especially pertinent to the Cherokee Nation because many of our students at Fort Lewis are from out-of-state and need the funding protection guaranteed by this legislation:

- Over the past 10 years, 1,179 free tuition waivers were granted to members of the Cherokee Nation, of which only 449 were Colorado residents.
- On average, 118 tuition waivers are granted per year to members of the Cherokee Nation.
- The average GPA for Cherokee Nation students is 3.20.
- 38 percent of Cherokee Nation students graduated with honors (Cum Laude, Magna Cum Laude, or Summa Cum Laude).
- 29 percent of Cherokee Nation graduates were first-generation college students, meaning neither parent attended college.

I respectfully urge that Congress fully fund the State of Colorado's Federal mandate for reimbursement of the Fort Lewis College Native American Tuition Waiver Program so that our tribal citizens and children will continue to receive a first-class education. Tribes have witnessed disparities in Native American education services for too long; therefore, we must protect successful institutions like Fort Lewis College.

Once again, it is my desire that you support Congressman Tipton's legislation and stand with the Cherokee Nation by promoting Native American education. Educated Americans, including tribal citizens, strengthen the United States by providing a skilled, diversified workforce that fuels the economy. For further information, please contact our Washington Office Legislative Officer, Clint Bowers, at 202–393–7007 or at clint-bowers@cherokee.org.

Sincerely,

CHAD SMITH,
Principal Chief, Cherokee Nation.

STATE OF COLORADO,
COLORADO COMMISSION OF INDIAN AFFAIRS,
DENVER, CO 80203,
May 9, 2011.

President DENE KAY THOMAS,
Fort Lewis College,
1000 Rim Drive,
Durango, CO 81301.

DEAR PRESIDENT THOMAS: The U.S. Congress created in 1910 a unique connection between Fort Lewis College and Indian Country by giving the State of Colorado title to the Fort Lewis Indian School, previously operated by the U.S. Department of the Interior, on condition that the school be "held and maintained" by Colorado as a

school where Indians are admitted "free of charge for tuition and on terms of equality with white pupils" (Appropriations Act of April 4, 1910, 36 Stat. 274).

Today Fort Lewis College is Colorado's Public Liberal Arts College that has for the past 100 years provided a tuition-free education to qualifying American Indian and Alaska Native students and was the educational home to 786 American Indian and Alaska Native students from 124 tribes and 34 States in 2010.

The State of Colorado has for the past 100 years had the distinction of supporting one of only two colleges in the Nation that offers American Indian and Alaska Native students from any federally recognized tribe a tuition waiver and, in fall 2010, has provided the tuition for 668 of its 786 American Indian and Alaska Native students who are residents from 33 other States.

Fort Lewis College awards more undergraduate degrees to American Indian and Alaska Native students than any other 4-year institution in the Nation, graduates approximately 16 percent of all American Indian and Alaska Native students nationally, and last year awarded 13.5 percent of all baccalaureate science, technology, engineering and math (STEM) degrees earned by Indian people (NSF WebCASPAR 2009).

The Fort Lewis College Native American Tuition Waiver has enabled American Indian and Alaska Native students to access top-quality educational opportunities and academic success, which they might not otherwise have been able to enjoy, and these many students have used this education provided for the betterment of their tribes and Indian Country as a whole (indeed, many of today's Indian leaders are Fort Lewis College graduates or have a Fort Lewis student or alumni in their family).

Nothing in Senate bill 484 would relieve Colorado of its responsibility to reimburse Fort Lewis College the cost of tuition for American Indian and Alaska Native students who are residents of Colorado or any cost of tuition that exceeds the Federal funding proposed in S. 484 for American Indian and Alaska Native students who are not residents of Colorado.

Therefore, the Colorado Commission of Indian Affairs, which includes representatives from the Southern Ute Indian Tribe and Ute Mountain Ute Tribe as voting members, does unanimously support Senate bill 484 and request that Congress fund the Federal mandate upon the State of Colorado for reimbursement of the Fort Lewis College Native American Tuition Waiver program so that this program may be maintained for the continued betterment of all American Indian and Alaska Native people.

Sincerely,

JOSEPH A. GARCIA, *Lieutenant Governor*,
Chair, Colorado Commission of Indian Affairs.

NATIVE AMERICAN RIGHTS FUND,
BOULDER, CO 80302–6296,
April 20, 2011.

TO WHOM IT MAY CONCERN: As executive director of the Native American Rights Fund, I have met with representatives of Fort Lewis College about S. 484, a bill sponsored by Senators Bennet and Udall of Colorado, which would direct the Secretary of the Department of Education to pay the Fort Lewis College in the State of Colorado an amount equal to the tuition charges for Indian students who are not residents of the State of Colorado. The Native American Rights Fund is in full support of S. 484 and hopes that it is passed by Congress and signed by the President as soon as possible.

The Native American Rights Fund, having been involved in the litigation in the 1970s enforcing the Indian tuition waiver, is aware of the importance of the Indian tuition waiver to Indian students across the country and the outstanding record of Fort Lewis College in graduating Indian students over the years. We believe that the Indian tuition waiver needs to be continued and that Federal funding for Fort Lewis College to cover tuition charges for non-resident Indian students as provided in S. 484 would ensure that the Indian tuition waiver continues.

Sincerely,

JOHN E. ECHOHAWK.

Hon. MICHAEL BENNET,
U.S. Senate,
458 Russell Senate Office Building,
Washington, DC 20510.

Re: S. 484 & S. 3504

DEAR SENATOR BENNET: The Native American Tuition Waiver is definitely a controversial issue, and I feel it necessary to express my sentiments.

I am a non-traditional, first-generation, Native American student. I come from a small community in Southeast Alaska where most of my friends and peers are Alaskan Native. I grew up where my cultural values were a solid, integrated part of my life; where higher education was not necessarily an expectation. I say this only to prove the necessity of the Native American Tuition Waiver, particularly at Fort Lewis College.

Generations of Native American students are still willing to further their education because of their homelands and families; these students want to make a difference. They represent a significant part of not only our history, but of our future.

The Native American Tuition Waiver serves more than just a few purposes. Perhaps one of the greatest purposes that goes overlooked is that it brings us together. For those of us who wish to further our education and have an impact in life, having other like-minded people with similar life experiences only serves to benefit our educational goals. At Fort Lewis College, 120 different tribes, villages, bands, and corporations are represented. This allows us to be diverse, yet similar. Our Native American population adds a great dimension to the diversity at our school.

At Fort Lewis College, the Native American Center offers itself as an excellent resource for any campus needs. With several first-generation students, they are there to offer academic support as well as cultural, and social. This is yet one more reason to reiterate the necessity of Native American Tuition Waiver. It is bringing minority students together and allowing us to succeed.

American Indian Business Leaders (AIBL) and American Indian Science and Engineering Society (AISES) have both won awards for Fort Lewis College; Wanbli Ota, who puts on the largest student run event every year for our campus, and Miss Hozhoni who serves as an ambassador for the Native American students highlight meaningful pieces of our Native American student body. The Native American Honor Society, Pejuta Tipi Society, and Native American and Indigenous Leadership Forum (NAILF) are all great initiatives taken by our successful Native American students who want to make a difference.

Looking at the poverty statistics and the drop-out rates of American Indian and Alaskan Native students can be heart-wrenching as an indigenous person. Because of the Native American Tuition Waiver I have been a successful student at Fort Lewis College.

I support the continuation of the Native American Tuition Waiver.

Sincerely,

ALYSHA GUTHRIE.

AUGUST 16, 2012.

Hon. MICHAEL BENNET,
U.S. Senate,
458 Russell Senate Office Building,
Washington, DC 20510.

Re: S. 484 & S. 3504

Da Go Te GREETINGS SENATOR BENNET: Fort Lewis College is more than an institute of Higher Education; it's a place of hope for many American Indian students. Historically this institute represented a State of civilizing the Indian by washing the students of their traditional cultures. Fortunately over time great efforts have been made and continue to be implemented so that all individual backgrounds, beliefs and lifestyles are respected. The tuition waiver for Native Americans at Fort Lewis College has provided generations of American Indians to succeed and for many it may not have been possible without the unique opportunity promised by the agreement between our Indigenous ancestors and the U.S. Government.

According to social psychologist and Native American scholar, Dr. Fryberg, only .4 percent of doctoral degrees are awarded to American Indians and only .5 percent of university faculty are American Indian (Fryberg & Stephens, 2010). This study goes on to state that if students have the ability to bring positive academic social representations to mind (i.e., people they know who went to college) it impacts their feelings of belonging.

At Fort Lewis College, I have experienced positive feelings of belonging and enhanced self-esteem because the environment encourages individuality and interdependency, as well as diversity. I would credit this positive change to my fellow colleagues and classmates, the faculty and professors as well as the administrators.

In order to learn one must feel safe. I am a senior majoring in psychology with a minor in Native American Indigenous Studies. My tribes are White Mountain Apache and San Carlos Apache from Arizona. In my research of Native American historical trauma and compassion, I have come to the conclusion that when the brain, spirit, and body experience trauma they cannot learn until they feel safe again. Coming from a reservation of despair; staggering unemployment, suicide, and teen pregnancy rates, there is little hope. When I left home for college I did not realize how my experiences would bring a new perspective in the classroom and help "outsiders" understand. I also didn't understand that I needed to feel safe in order to express, share, and learn. Fortunately my professors and classmates provide a culture on campus that allows for reciprocal learning.

I have had incredible opportunities to share my stories and Apache culture with the outside world. I have been blessed to have the support system from departments, faculty, students and mentors. The campus has allowed for many students to feel safe and comfortable with who they are and where they come from. Personally, I have found hope and it gives me courage. Courage to take advantage of opportunities offered at Fort Lewis. A few experiences stand out; after being elected a student senator (ASFLC 2010–11) I had the privilege of writing the resolution, "Striving for Common Ground," which promotes open-mindedness of all backgrounds. This passed during the centennial year of Fort Lewis College, 1911–11. I have also been blessed to meet with a political activist and Tibetan nun. Her friends invited me to speak annually at a Tibetan camp in New York where I share my Apache language, tradition and culture. I share the message of my elders; we need to balance ones American identity and ones Indigenous identity in order to sustain who we are. I love the simple yet powerful statement, I am because we are. I have been blessed to be a research assistant for an NIH (National Institute of Health) grant that allows me to study Native American Historical trauma and compassion. This grant has prepared me for graduate school and the hopes of becoming the first social psychologist with a doctorate of my tribe. I also plan to become the first Native American professor in the psychology department at Fort Lewis College. All of these experiences would not have been possible without the fabric of people, the tuition waiver, and the environment at Fort Lewis College.

Support and encouragement of students is seen and heard throughout Indian country. Our elders, leaders and family members tell us to use education as a way of being successful and more importantly as a way to help our families, clan kinship, and tribal communities. In order to prepare for the next generation, Indigenous students must honor their responsibilities and create positive relationships with American education systems. Traditionally college is a place for white students to find themselves and express their independence and individuality. This tends to be different for most Indigenous students because most tribes and clanship exist on interdependent relationships. For Natives like myself, college is a time when we leave our reservations, and interact in an entirely different social context. Statistically the odds may be against me and yet I feel hopeful and motivated every semester.

As I approach my senior year, I look back on my time at Fort Lewis and have feelings of gratitude and hope. I am grateful for the many opportunities that only a unique place like Fort Lewis can offer both Native and non-Native students. Students like me that identify as a single parent raising my two sisters; as a first generation college student; as an Apache woman; as a Native American determined to make a positive difference in her community. I am also incredibly grateful to my Indigenous ancestors that prepared for my future. The Southern Ute and Ute Mountain Ute tribes committed an act of complete selflessness when they humbly requested that in return for their ancestral lands the U.S. Government must allow all Indian students to attend tuition waivered and to be treated equal to their white pupils. I honor this sacred trust by sharing my experiences at Fort Lewis and by identifying as a proud Native American student and soon to be alumni.

Ashook. Thank you for your time,

NOEL ALTAHA,
White Mountain Apache Tribe,
Class of 2013.

REFERENCE

Fryberg, S.A., & Stephens, N.M. (2010). When the world is colorblind, American Indians are invisible: A diversity science approach. Psychological Inquiry, 21, 115–119. doi: 10.1080/1047840X.2010.483847.

Rank Order of States With the Highest Number of American Indian Tuition Waiver Recipients From 2000–2010

State	Number of tuition waivers received
New Mexico	4,163
Arizona	3,205
Colorado	2,513
Alaska	1,449
Oklahoma	1,014
Utah	368
South Dakota	249
California	230
Texas	227
Washington	222
Montana	125
Nevada	97
Wyoming	92
Oregon	76
Kansas	65
Idaho	63
Nebraska	58
Wisconsin	54
Missouri	49
Virginia	45
Minnesota	39
North Carolina	38
North Dakota	33
Illinois	32
Arkansas	30
Ohio	26
New York	23
Massachusetts	22
Michigan	21
Tennessee	21
Grand Total	14,763

NATIONAL INDIAN GAMING ASSOCIATION RESOLUTION
NIGA 2010 Mid-Year-EC-001

Support the Protection of a Premier National Native American Higher Education Program at Fort Lewis College in Durango, CO

WHEREAS, the National Indian Gaming Association (NIGA) is an intertribal association of 184 federally recognized Indian Tribes established to support Indian gaming and defend Indian sovereignty; and

WHEREAS, Indian Tribes are sovereigns that pre-date the United States, with prior and treaty protected rights to self-government and to our Indian lands, and

WHEREAS, the Constitution of the United States, through the Treaty, Commerce, and Apportionment Clauses and the 14th Amendment, recognizes the sovereign status of Indian Tribes as Native nations established prior to the United States; and

WHEREAS, the Indian Gaming Regulatory Act (the "IGRA") acknowledged and confirmed the inherent sovereign powers of Tribal Governments; and

WHEREAS, Indian tribes are governments that pre-date the United States and, through the Indian Commerce Clause and the Treaty Clause, the Constitution of the United States recognizes the status of Indian tribes as sovereigns; and

WHEREAS, Fort Lewis College is a public liberal arts college in Durango, CO, which for the past 100 years has provided tuition-free college education to qualifying American Indian and Alaska Native students, and this year is the educational home to 786 American Indian and Alaska Native students, representing 126 tribes from 30 different states, and Fort Lewis College is one of only six Native American-Serving Non-Tribal Colleges in the United States; and

WHEREAS, Fort Lewis College awards more undergraduate degrees to American Indian and Alaska Native students than any other baccalaureate college, and graduates approximately 16.4% of all American Indian and Alaska Native graduates nationally, and last year Fort Lewis College awarded 13.5% of all science, technology, engineering and math (STEM) degrees earned by Indian people, more than any other baccalaureate college; and

WHEREAS, Fort Lewis College has a unique connection to Indian Country as it began as an Indian school, whereupon, in 1910 the U.S. Congress gave the State of Colorado title to the Fort Lewis Indian School, previously operated by the U.S. Department of the Interior, on condition that the school be "held and maintained" by Colorado as a school where Indians are admitted "free of charge for tuition and on terms of equality with white pupils." (Appropriations Act of April 4, 1910, 36 Stat. 274); and

WHEREAS, Fort Lewis College's Native American Tuition Waiver has enabled Native American students to access top-quality educational opportunities and academic success, which they might not otherwise been able to enjoy, and Native American students have used this education to provide for the betterment of their tribes and Indian Country as a whole; and

WHEREAS, earlier this year, the Colorado legislature introduced a measure, at the direction of the Colorado Department of Higher Education, to significantly cut reimbursement for Native American, out of state students, citing that the number of out of state Native students has grown by 87% in the last 20 years and the State can no longer afford the rates of reimbursement; and although this measure was withdrawn, it has ignited a debate over how much longer Colorado will honor its obligation to the United States for transfer of federal property 100 years ago; and

WHEREAS, for the past 100 years, the State of Colorado has carried this unfunded federal mandate, paying tuition for all qualifying American Indian and Alaska Native students from every corner of the United States, and in the past 25 years alone has expended well over $110 million for Native students from 44 states and 185 congressional districts, and noting that the land deeded to the State has a current market value of less than $19 million, the time has come for the federal government to help fund this federal mandate; and

WHEREAS, on July 29, 2010, Congressman Salazar introduced H.R. 5974 in the House, and Senator Bennet introduced S. 3724 in the Senate, to require the United States to reimburse Fort Lewis College for the tuition charges related to Indian students who are not residents of the State of Colorado.

WHEREAS, Fort Lewis College's signature Native American Tuition Waiver Program currently benefits Native people from 30 states and 95 Congressional Districts and qualifies for funding under the Native American Serving Non-Tribal Institutions account at the U.S. Department of Education; and H.R. 5974 and S. 3724 are an opportunity to provide legislative relief through recurring grants to Fort Lewis College through this program, without reduction to any other American Indian and Alaska Native educational programs.

NOW THEREFORE BE IT RESOLVED, that the NIGA does hereby request Congress to pass H.R. 5974 and S. 3724 in order to fund the federal mandate upon the State of Colorado for Reimbursement of the Fort Lewis College Native American Tuition Waiver program so that Fort Lewis College can maintain this national Native American higher education program for the continued betterment of all Native American people; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NIGA until it is withdrawn or modified by subsequent resolution.

2012

HOUSE JOINT RESOLUTION 12-1016

BY REPRESENTATIVE(S) Gerou, Becker, Levy, Barker, Brown, Coram, Ferrandino, Hamner, Holbert, Joshi, Kerr A., Kerr J., Massey, McNulty, Murray, Pace, Peniston, Priola, Schafer S., Solano, Stephens, Summers, Swerdfeger, Todd, Acree, Baumgardner, Bradford, Conti, Court, Duran, Fields, Fischer, Gardner B., Kagan, Kefalas, Labuda, Lee, Looper, McKinley, Nikkel, Pabon, Ryden, Scott, Singer, Sonnenberg, Soper, Swalm, Szabo, Tyler, Vaad, Vigil, Wilson, Young;
also SENATOR(S) Hodge, Lambert, Steadman, Brophy, Cadman, Grantham, Roberts, Aguilar, Bacon, Boyd, Carroll, Foster, Giron, Guzman, Harvey, Heath, Hudak, Jahn, Johnston, King K., King S., Lundberg, Morse, Neville, Newell, Nicholson, Renfroe, Scheffel, Schwartz, Spence, Tochtrop, White, Williams S., Shaffer B.

CONCERNING SUPPORT FOR FEDERAL LEGISLATION (S. 484 AND H.R. 3040) TO REIMBURSE COLORADO FOR COSTS OF FEDERAL MANDATES ASSOCIATED WITH THE FORT LEWIS COLLEGE NATIVE AMERICAN TUITION WAIVER PROGRAM.

WHEREAS, In 1910, the United States Congress created a unique connection between Fort Lewis College and Indian Country by giving the State of Colorado title to the Fort Lewis Indian School, previously operated by the U.S. Department of the Interior, on the condition that the school be "held and maintained" by Colorado as a school where Indians are admitted "free of charge for tuition and on terms of equality with white pupils" (Appropriations Act of April 4, 1910, 36 Stat. 274); and

WHEREAS, Today, Fort Lewis College is Colorado's public liberal arts college that has, for the past 100 years, provided a tuition-free education to qualifying American Indian and Alaska Native students and was the educational home to 860 American Indian and Alaska Native students from 138 tribes and many states in 2011; and

WHEREAS, The State of Colorado has, for the past century, had the distinction of supporting one of only two colleges in the nation that offers to American Indian and Alaska Native students from any federally recognized tribe a tuition waiver and, in the fall of 2011, provided the tuition of 725 American Indian and Alaska Native students who are residents of 35 other states; and

WHEREAS, Fort Lewis College awards more undergraduate degrees to American Indian and Alaska Native students than any other four-year institution in the nation, graduates approximately 16% of all American Indian and Alaska Native students nationally, and last year awarded 13.5% of all baccalaureate science, technology, engineering, and mathematics degrees earned by American Indian people; and

WHEREAS, The Fort Lewis College Native American Tuition Waiver Program has enabled American Indian and Alaska Native students to access top-quality educational opportunities and academic success, which they might not otherwise have been able to enjoy, and these many students have used this education provided to them for the betterment of their tribes and Indian Country as a whole; indeed, many of today's American Indian leaders are Fort Lewis College graduates or have Fort Lewis College students or alumni in their family; and

WHEREAS, Proposed federal legislation, Senate Bill 484 and House of Representatives Bill 3040, would provide funding to help pay for the costs of the federally mandated Native American Tuition Waiver Program only for those American Indian and Alaska Native students who are not residents of the state in which their college is located; and

WHEREAS, Nothing in Senate Bill 484 or House of Representatives Bill 3040 would relieve the State of Colorado of its responsibility to reimburse Fort Lewis College for tuition costs for those American Indian and Alaska Native students who are residents of Colorado nor for any tuition costs that exceed the proposed federal funding for American Indian and Alaska Native students who are not residents of Colorado; now, therefore,

Be It Resolved by the House of Representatives of the Sixty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

That, in order to properly and fairly support the Fort Lewis College Native American Tuition Waiver Program and to provide for the continued betterment of all American Indian and Alaska Native people, we, the members of the Colorado General Assembly, hereby:

(1) Encourage Congress to pass Senate Bill 484 and House of Representatives Bill 3040, which would assist the State of Colorado in funding its federal mandate to reimburse the Fort Lewis College Native American Tuition Waiver Program for tuition costs for out-of-state American Indian and Alaska Native students; and

(2) Recognize the State of Colorado's responsibility to reimburse Fort Lewis College for tuition costs for those American Indian and Alaska Native students who are residents of the state.

Be It Further Resolved, That copies of this Joint Resolution be sent to the Honorable Ken Salazar, Secretary of the United States Department of the Interior; the Honorable Arne Duncan, Secretary of the United States Department of Education; Senator Tom Harkin, Chairman of the Senate Committee on Health, Education, Labor, and Pensions; Representative Ron Kline, Chairman of the House Committee on Education and the Workforce; and to each member of Colorado's Congressional delegation.

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi Markwell
SECRETARY OF
THE SENATE

MESCALERO APACHE TRIBE
MESCALERO, NEW MEXICO

RESOLUTION 11-22

WHEREAS, the Mescalero Apache Tribe, an Indian Tribe organized under the Indian Reorganization Act of June 18, 1934, (25 U.S.C. § 476) and under its Revised Constitution has full power to act for the Tribe; and

WHEREAS, the Mescalero Apache Tribal Council has the power to represent the Tribe and act in all matters that concern the welfare of the Tribe pursuant to Article XI, Section 1(i) of the Revised Constitution ; and

WHEREAS, the Mescalero Apache Tribal Council wishes to encourage its members to obtain higher education and it is within the trust responsibility of the federal government to provide financial support for such youth; and

WHEREAS, recently, Senator Bennet and Senator Udall introduced Senate Bill 484 which would require the federal government to pay tuition for Indian students at Fort Lewis College, thereby funding the long-standing federal mandate that Fort Lewis waive tuition for Indian students; and

WHEREAS, Fort Lewis College graduates more Indian students than any other baccalaureate institution in the United States; and

WHEREAS, in addition, as of the academic year ending in 2011, students from 124 different tribes attended Fort Lewis and Mescalero Apache Tribal members have benefited from the tuition waiver program; and

WHEREAS, the tuition waivers program is at risk of being reduced by the severe budget constraints of the State of Colorado.

NOW, THEREFORE BE IT RESOLVED, that the Mescalero Apache Tribal Council strongly supports Senate Bill 484.

DATE: February 22, 2012 RESOLUTION: 2012 - 008

RESOLUTION
UTE MOUNTAIN UTE TRIBAL COUNCIL

REFERENCE: Support of Senate Bill 484 and House Resolution 3040 authorizing Federal Funds to reimburse Fort Lewis College's Native American Tuition Wavier Program

WHEREAS, the Constitution and By-Laws of the Ute Mountain Ute Tribe, approved June 6, 1940 and subsequently amended provides in Article III that the governing body of the Ute Mountain Ute Tribe is the Ute Mountain Ute Tribal Council and sets forth in Article V the powers of the Tribal Council exercised in this Resolution; and

WHEREAS, the Ute Mountain Ute Tribal Council is committed to programs that benefit the social and public well-being of the Ute Mountain Ute Tribal Members; and

WHEREAS, the U.S. Congress created in 1910 a unique connection between Fort Lewis College and Indian Country by giving the State of Colorado title to the Fort Lewis Indian School, previously operated by the U.S. Department of the Interior, on condition that the school be "held and maintained" by Colorado as a school where Indians are admitted "free of charge for tuition and on terms of equality with white pupils" (Appropriations Act of April 4, 1910, 36 Stat. 274); and

WHEREAS, today Fort Lewis College is Colorado's Public Liberal Arts College that has for the past 100 years provided a tuition-free education to qualifying American Indian and Alaska Native students and was the educational home to 860 American Indian and Alaska Native students from 138 tribes and 35 states in 2011; and

WHEREAS, the State of Colorado has for the past 100 years had the distinction of supporting one of only two colleges in the nation that offers American Indian and Alaska Native students a tuition waiver from any federally-recognized tribe and, in fall 2011, has provided the tuition of 725 of its 860 American Indian and Alaska Native students who are residents from 35 other states; and

WHEREAS, Fort Lewis College awards more undergraduate degrees to American Indian and Alaska Native students than any other four-year institution in the nation, graduates approximately 16 percent of all American Indian and Alaska Native students nationally, and last year awarded 13.5 percent of all baccalaureate science, technology, engineering and math (STEM) degrees earned by Indian people, (NSF WebCASPAR 2010); and

WHEREAS, the Fort Lewis College Native American Tuition Waiver has enabled

American Indian and Alaska Native students to access top-quality educational opportunities and academic success, which they might not otherwise have been able to enjoy, and these many students have used this education provided for the betterment of their tribes and Indian Country as a whole (indeed, many of today's Indian leaders are Fort Lewis College graduates or have a Fort Lewis student or alumni in their family); and

WHEREAS, nothing in Senate Bill 484 or House Resolution 3040 would relieve Colorado of its responsibility to reimburse Fort Lewis College the cost of tuition for American Indian and Alaska Native students who are residents of Colorado or any cost of tuition that exceeds the federal funding proposed in S.B. 484 and H.R. 3040 for American Indian and Alaska Native students who are not residents of Colorado.

NOW THEREFORE BE IT RESOLVED, that the Ute Mountain Ute Tribe through action of the Tribal Council, does unanimously support Senate Bill 484 and House Resolution 3040 and request that Congress fund the federal mandate upon the State of Colorado for reimbursement of the Fort Lewis College Native American Tuition Waiver program so that this program may be maintained for the continued betterment of all American Indian and Alaska Native people.

BE IT FINALLY RESOLVED that the Ute Mountain Tribal Council authorizes the Chairman to sign the Resolution and any other legal documents as may be necessary to carry out the intent of this Resolution.

The foregoing Resolution was **APPROVED AND ADOPTED** this the 22nd day of February, 2012.

Gary Hayes, Chairman
Ute Mountain Ute Tribal Council

CERTIFICATION

This is to certify that there was a quorum of _7_ Tribal Council Members present at the official meeting of the Ute Mountain Ute Tribal Council held February 22, 2012, that _6_ voted for this Resolution and that _0_ opposed and that this Resolution was, therefore, duly adopted.

Pepper D. Noyes, Recording Secretary
Ute Mountain Ute Tribal Council

NATIONAL CONGRESS OF AMERICAN INDIANS

EXECUTIVE COMMITTEE

PRESIDENT
Jefferson Keel
Chickasaw Nation

FIRST VICE-PRESIDENT
Juana Majel Dixon
Pauma Band – Mission Indians

RECORDING SECRETARY
Theresa Two Bulls
Oglala Sioux Tribe

TREASURER
W. Ron Allen
Jamestown S'Klallam Tribe

REGIONAL VICE-PRESIDENTS

ALASKA
William Martin
Central Council Tlingit & Haida

EASTERN OKLAHOMA
Cara Cowan Watts
Cherokee Nation

GREAT PLAINS
Marcus D. Levings
Mandan, Arikara and Hidatsa Nation

MIDWEST
Matthew Wesaw
Pokagon Band of Potawatomie

NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Brian Cladoosby
Swinomish Tribal Community

PACIFIC
Don Arnold
Scotts Valley Band of Pomo Indians

ROCKY MOUNTAIN
Scott Russell
Crow Tribe

SOUTHEAST
Archie Lynch
Haliwa-Saponi Indian Tribe

SOUTHERN PLAINS
Robert Tippeconnic
Comanche Nation

SOUTHWEST
Joe Garcia
ONkay Owingeh

WESTERN
Irene Cuch
Ute Indian Tribe

EXECUTIVE DIRECTOR
Jacqueline Johnson Pata
Tlingit

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

The National Congress of American Indians
Resolution #RAP-10-041

TITLE: Support the Protection of a Premier National Native American Higher Education Program at Fort Lewis College in Durango, CO

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety, and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, Fort Lewis College is a public liberal arts college in Durango, CO, which for the past 100 years has provided tuition-free college education to qualifying American Indian and Alaska Native students, and this past year was the educational home to 758 American Indian and Alaska Native students, representing 122 tribes from 30 different states, and Fort Lewis College is one of only five Native American-Serving Non-Tribal Colleges in the United States; and

WHEREAS, Fort Lewis College awards more undergraduate degrees to American Indian and Alaska Native students than any other college, and graduates approximately 16.4% of all American Indian and Alaska Native graduates nationally, and last year Fort Lewis College awarded 13.5% of all science, technology, engineering and math (STEM) degrees earned by Indian people, more than any other college (NSF Web CASPAR 2009); and

WHEREAS, Fort Lewis College has a unique connection to Indian Country as it began as an Indian school, whereupon, in 1910 the U.S. Congress gave the State of Colorado title to the Fort Lewis Indian School, previously operated by the U.S. Department of the Interior, on condition that the school be "held and maintained" by Colorado as a school where Indians are admitted "free of charge for tuition and on terms of equality with white pupils." (Appropriations Act of April 4, 1910, 36 Stat. 274); and

WHEREAS, Fort Lewis College's Native American Tuition Waiver has enabled American Indian and Alaska Native students to access top-quality educational opportunities and academic success, which they might not otherwise been able to enjoy, and these many students have used this education provided for the betterment of their tribes and Indian Country as a whole, indeed, many of today's Indian leaders are Fort Lewis graduates, or have a Fort Lewis student or alumni in their family; and

NCAI 2010 Midyear Session **Resolution RAP-10-041**

WHEREAS, earlier this year, the Colorado legislature introduced a measure, at the direction of the Colorado Department of Higher Education, to significantly cut reimbursement for Native American, out of state students, citing that the number of out of state Native students has grown by 87% in the last 20 years and the State can no longer afford the rates of reimbursement, and although this measure was withdrawn, it has ignited a debate over how much longer Colorado will honor its obligation to the United States for transfer of property 100 years ago; and

WHEREAS, for the past 100 years, the State of Colorado has carried this unfunded federal mandate, paying tuition for all qualifying American Indian and Alaska Native students from every corner of the United States, and in the past 25 years alone has expended well over $110 million for Native students from 44 states and 185 congressional districts, and noting that the land deeded to the State has a current market value of less than $19 million, the time has come for the federal government to help fund this federal mandate; and

WHEREAS, Fort Lewis College's signature Native American Tuition Waiver Program has benefitted Native people throughout the United States and qualifies for funding under the Native American Serving Non-Tribal Institutions account at the U.S. Department of Education, and given that there is an opportunity to provide legislative relief through recurring grants to Fort Lewis College through this program, without reduction to any other American Indian and Alaska Native educational programs.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby request Congress to fund the federal mandate upon the State of Colorado for Reimbursement of the Fort Lewis College Native American Tuition Waiver program so that we can maintain this national Native American higher education program for the continued betterment of all Native American people; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2010 Mid-Year Session of the National Congress of American Indians, held at the Rushmore Plaza Civic Center in Rapid City, South Dakota on June 20-23, 2010, with a quorum present.

President

ATTEST:

Recording Secretary

[Whereupon, at 10:47 a.m., the hearing was adjourned.]

○