



A Confederation of the Salish,  
Pend d'Oreille,  
and Kootenai Tribes

THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD NATION

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A People of Vision

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July 18, 2023

The Honorable Jon Tester  
United States Senate  
311 Hart Senate Office Building  
Washington, DC 20510

The Honorable Steve Daines  
United States Senate  
320 Hart Senate Office Building  
Washington, DC 20510

RE: Request to Introduce the Tribal Border Crossing Parity Act

Dear Senators Tester and Daines,

On behalf of the Confederated Salish and Kootenai Tribes, we write to solicit your support for the introduction of a Senate companion to the Tribal Border Crossing Parity Act. This critical legislation advocates for a modernization in policy regarding the border crossing rights of American Indians born in Canada.

Historically, our people navigated freely across the region now recognized as the US-Canada border, with these rights initially upheld by the 1794 Treaty of Amity, Commerce, and Navigation (Jay Treaty). Regrettably, in 1952, the Immigration and Nationality Act codified border crossing rights for indigenous people but limited such rights to individuals with at least 50% American Indian blood quantum, as noted in 8 U.S.C. § 1359.

The usage of blood quantum as a determinant of tribal affiliation under 8 U.S.C. § 1359, rather than proof of enrollment in a federally recognized tribe, contradicts federal law and policy. We find that this measure is both outdated and discordant with present laws and policies, as the language of 8 U.S.C. § 1359 disregards the inherent rights of Tribal nations to determine their own tribal membership, a right recognized under federal law. *See Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978).

In addition, as held in *Morton v. Mancari*, 417 U.S. 535 (1974), federal laws specifically benefitting Tribal nations and Indians are not racial classifications but are instead based upon the political status of these communities. Accordingly, the Immigration and Nationality Act's reliance on blood quantum should be revised to depend on enrollment in a federally recognized Tribe.

The proposed Tribal Border Crossing Parity Act seeks to rectify these issues by eliminating the reference to blood quantum, extending border crossing rights to "members, or those eligible to be members, of a Federally recognized Indian tribe in the United States or Canada." This is not an immigration issue; it is an Indian issue that speaks towards acknowledging the rights of Tribal nations, who have resided on these lands for millennia.

We urge you to champion the modernization of this law by introducing the Tribal Border Crossing Parity Act. If you require any further information or wish to discuss this matter further, please feel free to contact us. We sincerely appreciate your attention to this important issue.

Sincerely,

CONFEDERATED SALISH AND KOOTENAI TRIBES



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Tom McDonald, Chairman