

Attorneys for Plaintiffs  
 \*Admitted *pro hac vice*  
 \*\**Pro hac vice* pending

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I, Robert McDonald

1. I am the former supervisor of the Get Out the Vote effort and CSKT Spokesman. I am the current Compact Implementation Officer for the Natural Resources Department. As authorized by Tribal Council Resolution, I submit this affidavit in support of Plaintiffs' Motion for a Preliminary Injunction against enforcement of HB 530 and HB 176.

2. I am a member of the Confederated Salish and Kootenai Tribes. I have been responsible for the Get Out the Vote Coordinator position. Previously I was the CSKT Communications Director whose duties include overseeing CSKT's Get Out The Vote (GOTV) efforts. I was in that position for 15 years.

3. The Confederated Salish and Kootenai Tribes of the Flathead Reservation is a federally recognized tribe with 8,020 enrolled members with approximately 5,500 members living on the Flathead Reservation. Because the Flathead Reservation was opened to homesteading against Tribal will, CSKT members became the minority population on what was to be the Tribes' exclusive homeland and make up approximately 20 percent of the population. There are also numerous Native Americans that are members of other tribes living on the reservation, with 65 different tribes represented within the reservation boundary, as indicated by Tribal Health service records. The total Native American population comprises approximately 25 percent of the reservation population. The reservation is located in western Montana and spans 1.25 million acres. The reservation is intersected by Lake, Sanders, Flathead and Missoula counties.

4. Unlike other tribes, CSKT has mail-delivery service on the reservation. However, among the Native population, there is a severe housing shortage and it is common for members to move from home to home. This "couch surfing" results in a lack of a stable mailing address. Subsequently, many tribal members use P.O. boxes to conduct their affairs.

5. CSKT members are more likely to live in the foothills and more rural parts of the reservation than non-Natives, making their travel to the post office more burdensome than for non-Natives residing on the parts of the reservation closer to amenities.

6. In the town of Hot Springs on the rural west side of the reservation, Internet access is limited and online registration is difficult if not impossible. Native voters can vote in Hot Springs, but must register through a paper registration because of the Internet issues. The nearest location to drop off a registration is the county seat in Thompson Falls 45 miles away, requiring a 90-mile trip to register. Western Native Voice provides critical registration services to these members given the difficulty travelling to Thompson Falls.

7. CSKT members suffer from poverty. For example, the rates of free and reduced lunch are higher in majority Native towns. In the largely Native town of Pablo, the free and reduced lunch rate for Native students is 100 percent. In Elmo, another largely Native town, the rate is 80 percent. 10 percent of the population lives in severe poverty. Given this poverty, members cannot always afford a tank of gas for a mail run and instead may choose to spend limited funds on necessities such as food or heating.

8. Lack of access to a vehicle, or shared vehicles is also very common on the Flathead reservation. One vehicle is often responsible for getting many members of a household to and from work or school, to all social, religious and cultural engagements, all doctor's appointments, and all errands including mail runs. Vehicle access is so low on the reservation that the number one reason given to health officials for why appointments are missed is because of a lack of transportation. Additionally, even if an individual has a vehicle, that vehicle may not be operational since many vehicles are in poor condition. What's more, especially at the end of the month, funds are depleted and there simply are no funds to purchase gas.

9. Due to poverty, road conditions, lack of vehicle access, cultural norms, necessity, and convenience, picking up and dropping off mail for family, neighbors, friends, acquaintances, and friends of friends is common on the Flathead reservation. Crowded living conditions facilitate the picking up and dropping off of mail by one person for many people at once. The limited hours of some post offices further incentivizes members to drop off and pick up mail for each other.

10. Currently, there are racial tensions between the non-Native and Native communities within the Flathead Reservation. Many tribal members do not feel comfortable traveling to majority non-Native areas given the hostility between members and non-members.

11. To my knowledge, all polling locations near the Flathead Reservation are staffed by non-tribal members and are located in majority non-Native towns. Many CSKT members do not feel comfortable going to in-person polling places. Many tribal members prefer to vote by mail rather than go to an in person polling place staffed by non-members.

12. To assist CSKT members and encourage them vote, CSKT regularly hires a temporary worker for the months leading up to the election for the sum of \$5,000. This election official is tasked with organizing voters, getting people registered, organizing rides to the polls, and getting people engaged through social media. CSKT worked in coordination with Western Native Voice and Montana Native Vote to assist with get out the vote efforts. CSKT depended on Western Native Voice and Montana Native Vote to collect and drop off ballots on the reservation. If Western Native Voice and

Montana Native Vote are unable to perform ballot collection, CSKT would have to expend additional funds to provide voters rides to the polls or to the post office to drop of their ballots that otherwise would not need them.

13. CSKT also regularly assists members with registration in the month leading up to the election. Election Day is by far the busiest day for registration. Due to the lack of vehicle access, on Election Day CSKT usually provides rides to the county seats to assist with voter registration and voting.

14. For the 2020 Election CSKT's GOTV efforts were altered by the coronavirus pandemic. CSKT spent approximately \$14,000 on GOTV. Instead of providing rides or encouraging registration and voting in person, CSKT hired several people to increase social media encouraging members to register and vote and CSKT also set up taco feeds. CSKT conducted a total of five taco feeds in Hot Springs, Arlee, St. Ignatius, Pablo, and Elmo. These feeds were conducted in tents where community members could drive through and obtain information about voting, drop off their ballot if they wanted, and collect an Indian taco. These taco feeds were open to voters and non-voters alike. CSKT provided approximately \$1,000 to set up tents and purchase unprepared food supplies as well as pay for the cooks that attended.

15. Volunteers from WNV assisted with ballot collection and drop off of ballots.

16. Based on my experience, I believe HB 530 banning organizational ballot collection and HB 176 banning same day voter registration will make it more difficult for CSKT to conduct GOTV and will make it more difficult for CSKT members to register and vote.

Signed:

Robert McDonald

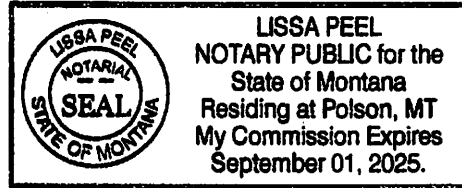
CONFEDERATED SALISH AND KOOTENAI TRIBES

Robert McDonald

Compact Implementation Officer

Date:

January 4, 2022



State of Montana County of

Lake

This instrument was signed or

acknowledged before me on

January 5, 2022 by Robert  
McDonald

# EXHIBIT A

**RESOLUTION  
OF THE GOVERNING BODY OF  
THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION**

**A RESOLUTION AUTHORIZING ROBERT MCDONALD TO PROVIDE AN  
AFFIDAVIT ON BEHALF OF THE CONFEDERATED SALISH AND KOOTENAI  
TRIBES**

**BE IT RESOLVED BY THE COUNCIL OF THE CONFEDERATED SALISH AND  
KOOTENAI TRIBES THAT:**

WHEREAS, on behalf of its members, the Tribes' own interests, and in the name of protecting the Tribes' political power in the federal system, the Confederated Salish and Kootenai Tribes of the Flathead Reservation brought suit challenging HB 530, banning organizational ballot collection, and HB 176, banning same day voter registration;

WHEREAS, the Tribes regularly assists members register to vote on Election Day and HB 176 will make it more difficult for CSKT to register voters and will make it more difficult for CSKT Tribal members to register to vote;

WHEREAS, organizations such as Western Native Voice provide assistance picking up and dropping off ballots on the Flathead reservation and HB 530 will make it more difficult for WNV to provide that assistance;

WHEREAS, because HB 530 fails to adequately define the scope of its government exemption, CSKT is likely to be confused about who is restricted from picking up and dropping off ballots and the lack of clarity makes it difficult for CSKT to know whether it would run afoul of the law;

WHEREAS, HB 530 and HB 176 make participation in elections by CSKT Tribal members substantially more difficult and disproportionately burdens Native American voters compared to non-Native voters due to disproportionate rates of poverty, lack of vehicle access, reliance on post offices, and reliance on same day registration;

WHEREAS, due to these disproportionate barriers placed on CSKT, Tribal members' attempts to register and vote are more likely to be unsuccessful and CSKT's political power and ability to advocate for CSKT's needs would be reduced by HB 530 and HB 176;

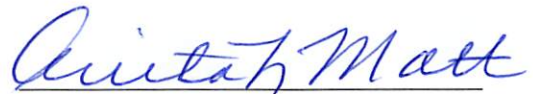


WHEREAS, the CSKT Tribal Council is concerned CSKT will be denied full participation in the federal system through its diminished political power;

NOW, THEREFORE BE IT RESOLVED THAT, that the Tribal Council authorizes Robert McDonald to be briefed and provide a Tribal affidavit in support of the litigation challenging HB 530 and HB 176 and authorizes him to attach the foregoing tribal resolution.

### **CERTIFICATION**

The foregoing resolution was adopted by the Tribal Council on January 4, 2022, with a vote of 8 for, 0 opposed, and 1 not voting, pursuant to authority vested in it by Article VI, Section 1 (a) and (u) of the Tribes' Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

A handwritten signature in blue ink, reading "Ainitah Matt", written over a horizontal line.

Chairwoman, Tribal Council

ATTEST:

A handwritten signature in blue ink, reading "Ellie Bundy McLeal", written over a horizontal line.

Tribal Council Secretary