

**A Brief Report  
on the  
Tuition Waiver  
Program**

**January 13, 1993**

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# Report on the Michigan Indian Tuition Waiver Act

## INTRODUCTION

The Indian Tuition Waiver Act (ITW), 1976 Public Act 174, codified at MCL 390.1251 and 390.1252 was one of the first statues enacted in Michigan specifically benefitting Indian people.

The program is unique in its approach to providing Native American students with access to higher education. The basic substantive provision of the ITW provides:

A public state community or public junior college, public college, or public university shall waive tuition for any North American Indian who qualifies for admission as a full time, part time, or summer school student, and is a legal resident of the state for not less than twelve consecutive months.

Originally the act required eligible Indian students to possess 1/2 Indian blood quantum; however, in 1978 the act was amended to reduce the blood quantum requirement to 1/4 blood quantum as was originally intended by the act's sponsors and supporters of P.A. 505 of 1978.

Also in 1978, a new section 2a was added which provided:

The Michigan Commission on Indian Affairs shall annually, upon application, therefore, reimburse each institution for the total amount of tuition waived during the prior fiscal year under section 1 of this act. The Commission shall report to the legislature annually the number of American Indians for whom tuition has been waived at each institution and the total amounts to be paid under this act.

MCL 390.1252a

The ITW requires public state colleges and universities to waive tuition for any "North American Indian" student who qualifies for admission. The act further requires the legislature to reimburse those institutions for the amount of tuition waived. Therefore, the level of reimbursement is not directly dependent upon appropriations but rather, on

the number of eligible students who take advantage of the program.

The Michigan Commission on Indian Affairs requested that a report be completed which would provide information explaining the purpose and uniqueness of the ITW program. It is believed that if persons reviewing the ITW could be made familiar with the purposes of the program that they would appreciate the need for the approach taken to address the educational needs of Indian students.

This report attempts to define the legislative purpose of Public Act 174 and explain why the act was written differently than other higher education legislation.

**1. What specific problem was the legislature attempting to address in enacting the ITW?**

The Michigan State legislature, in drafting P.A. 174 in 1976, provided a document to address a special need. The state legislature is empowered to create special legislation to serve all citizens or a special group of its citizens. In the case of the Indian Tuition Waiver bill, the legislators created a Public Act specifically to address the high dropout rate of Native American students, as recommended by the Michigan Commission on Indian Affairs and approved by the State Board of Education.

**2. Why was the ITW set up differently than other higher education bills?**

The Indian Tuition Waiver, P.A. 174, was written in 1976 and amended in 1978 to address the needs of a special group of citizens, sometimes referred to as a "protected group", or as a "political entity", not based on race or religion". The unique political status of North American Indians is based on the Supreme Court decision dating back to the early 1830's. This decision has never been changed. However, the state legislature did not, in fact, look upon House Bill 4130 as a

moral obligation based on a treaty. It was created specifically to address the high dropout rate of Native American students as citizens of the state in need of special assistance.

The legislators believed that HB 4130 would serve as an incentive for Native Americans to continue their education. The Governor Comstock Agreement of 1934 with the Department of the Interior was not significantly considered in the decision to provide an education to Native Americans in the state of Michigan prior to the enactment of Public Act 174. However, by 1980, the chairperson of the Hannahville Indian Community, in a letter to the State Superintendent, inferred that the agreement meant that all Indians would be educated including a college education.

## **Factual Background**

In June of 1971, the Commission on Indian Affairs, in conjunction with the Department of Social Services, selected Touche-Ross & Co. to define survey objectives, develop an inventory of data needs and conduct field research necessary "to obtain knowledge about the conditions of off-reservation Indians in Michigan".

The findings of that study were startling. The Executive Summary of that report opened with the following statement:

The findings of this survey demonstrate that socio-economic conditions for the Michigan Indian are, in many cases, tragic. In essence, conditions are so poor in so many areas that it is difficult to identify a starting point for improvement.

The findings concerning education found achievement levels among Indians to be "well below any acceptable standard". At the time of that survey, over 75% of the heads of household had not completed high school. Significantly, however, the survey did find some reason for optimism. The survey found that "[b]etter than 33% of the household

heads under 35 years of age graduated from high school, as compared to less than 25% of heads 35 or older". The importance of reaching the next generation of students was noted by the fact that "[i]n households with children, who have neither dropped out nor graduated[;], about eight out of ten children have yet to reach the ninth grade". Thus, a large percentage of the Indian population was young, and if incentives could be provided to keep them in school, one of the above major factors limiting the socio-economic progress of Michigan's Indian population could be addressed.

The Commission, acting on the finding and recommendations of the Touche-Ross survey urged the Department of Education to establish a position for Indian Education. About two years after the Touche-Ross survey<sup>1</sup>, the Department of Education established the position of "Coordinator of Indian Education" at the consultant level.

The Commission then requested that the Department of Education address the high dropout rate of Indian students. The Coordinator of Indian Education spearheaded efforts to have the Department of Education collect dropout data from the public schools was opposed by Black educational leaders, including the Lansing School Superintendent. The opposition to the collection of dropout data feared the information would be detrimental to them. The dropout issue was debated at Michigan State University resulting in the Department of Education collecting the dropout data every other year.

There can be no question that the legislature intended that the ITW be different from other financial aid programs. Contrary to some Department of Education officials, so-called "academic progress" and "courses of study" requirements have no applicability to the ITW program. It is clear that the legislature did not intend such eligibility

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<sup>1</sup>"Study of the Socio-Economic Status of Michigan Indians", November 1971, Touche-Ross, Inc., Detroit, Michigan

requirements to apply to Native American applicants.

The only eligibility requirements placed on Native American students by the legislature were:

1. One-half (later to be one-quarter) blood quantum North American Indian,
2. Michigan resident for 12 consecutive months,
3. Qualify for admission at public state college or university.

Thus, where the legislature intended such requirements to apply, it expressly provided so in the statute. The ITW program is also unique in that it is the only educational financial aid program which was not placed under the administration of the Michigan Higher Education Assistance Authority. Unlike those other programs, the ITW was placed under the administration of the Commission on Indian Affairs. Although the Commission has since entered into administrative agreements under which certain aspects related to the fiscal administration of the program are carried out by the Department of Education, the Commission has retained responsibility for the substantive administration of the program consistent with the statute.

### **Historical Context of the Tuition Waiver Program**

The arguments presented by proponents of the ITW demonstrated that the socio-economic conditions of Indian people in Michigan, including educational indicators, were a direct result of neglect, including policies in which the State of Michigan was a direct participant.

The Touche-Ross Survey of 1971 clearly indicated the socio-economic and educational level of Michigan's Native Americans, but it did not delve into the policies and legislation impacting Native Americans. To better understand why P.A. 174 was created it may be helpful to review the chronological events preceding enactment of Public Act 174.

### **Major Federal Legislation preceding Public Act 174**

The major events which spurred this shift in federal policy were Helen Hunt Jackson's book A Century of Dishonor, published in 1881, and the Merriam Report of 1928<sup>2</sup> which detailed the devastating impact of assimilation policies was having on the welfare of Indian people. In response to these conditions, the Indian Reorganization (Wheeler-Howard) Act of 1934 (IRA), was enacted which encouraged the support and reorganization of tribal governments. As noted above, this new policy also recognized the need for specialized educational services for Indian children. However, due in large part the threats by the state and local governments to cutoff services, most Indian tribes in the state (particularly in Lower Michigan) were denied the benefits of this new federal policy.

The actions of the state and federal government at this time denied Indian children attending public schools in Michigan the benefits of the Johnson-O'Malley program by arbitrarily defining those persons as "non-Indian". Proponents of the ITW act argued that the state had been an active participant in the policies which had denied Indian people the access to equal educational opportunities. Therefore, the socio-economic

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<sup>2</sup>Institute for Government Research, Studies in Administration, The Problem of Indian Administration (1928).



conditions of Indian people which were observed in 1971 existed partly as a result of past state policies. It was clear to many that the state had failed to live up to its obligation to educate Indian children.<sup>3</sup> The ITW was seen as one way of improving the educational achievement levels of Indian people by providing students an incentive to complete their secondary education.

### **Analysis of Legislative Purpose**

What is clear from the legislative history is that the legislature saw the Tuition Waiver Program as one way of reducing the high dropout rates among Indian youth. Although the Touche-Ross report was pretty grim in its outlook, the surveyors did note that there was some hope in that younger generations had a more positive outlook concerning education. Therefore, education was a very logical place to make efforts to improve the socio-economic status of Michigan's Indian population.

It is also clear that the legislature intended the Tuition Waiver Program to remedy the state's failure, as it had in the past, to educate Indian people. What the source of failure was is where different parties tended to disagree. Some saw the state's failure in Indian policies over an extended period of time.

Non-empirical evidence (discussion with persons who have utilized the Tuition Waiver) indicates that Tuition Waiver students are often "non-traditional" students - students continuing their education after working or raising children for a number of years or single parents. These students are able to continue their education at their own pace and

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<sup>3</sup>See Exhibit D, in which Governor Milliken notes that the Tuition Waiver program addresses and "recognizes that the state might not have fulfilled its obligation in the past to our North American Indians."

without the added pressure of having to do well in courses related to a specific course of study. The flexibility afforded by the Tuition Waiver Program has enabled many of these students to select and then complete their degree over a longer period of time.

## **Summary**

The (ITW) P.A. 174 that was enacted in 1976 came about as a result of the Touche-Ross Survey of 1971. The recommendation that a position for Indian Education be established at the State level was made by the Michigan Commission on Indian Affairs in 1972. The State Board of Education (SBE) established the Indian Education position in February of 1973, three years prior to the enactment of P.A. 174.

Native American Students and their parents have maintained a high interest in the Tuition Waiver program and are very grateful to the people who made the legislation of P.A. 174 happen.

In retrospect, the Touche-Ross Survey and resulting recommendations were the turning point for improving educational opportunities for the Native Americans of Michigan. The tasks faced by the Coordinator of Indian Education in 1973 were twofold. First, there was the immediate task of finding a way to identify Indian students attending Michigan Public schools. Second, there was the task of implementing Title V (formerly Title IV) of the Indian Education Act of 1972. How these tasks were accomplished is not the purpose of this report.

One has to wonder what the status of Indian Education would be in Michigan today without the Touche-Ross Survey and its far-reaching impact. The public school enrollment count improved considerably after 1973, as did the Federal census count of 1980 and 1990.

## **A CHRONOLOGY OF MAJOR EVENTS AND LEGISLATION IMPACTING INDIAN EDUCATION FROM 1881 TO 1978**

As background information, in order to understand the position on Indian people regarding the tuition waiver, it may be helpful to note the sequence of various reports, legislative acts and major policies affecting North American Indians, especially the Michigan tribes.

- 1881 Helen Hunt Jackson's report, "A Century of Dishonor", on the treatment and condition of the American Indian. This report was a condemnation of the ill treatment of Indians over the last 100 years.
- 1921 The Snyder Act addressed the federal role and responsibility to serve all North American Indians regardless of residency, whether they lived on or off the reservation.
- 1924 North American Indians were declared U.S. citizens, including those residing on trust lands, such as reservations and allotment lands.
- 1928 The Merriam Report clearly exposed the ill treatment of Native American in North America since the Helen Hunt Jackson report was written.
- 1934 The Indian Reorganization Act was adopted. This act had little impact on the Michigan tribes until much later.
- 1934 The Johnson-O'malley Act was adopted. The act at this time excluded Michigan Indian children residing on reservations.
- 1934 Governor Comstock/Bureau of Indian Affairs agreement. This agreement essentially closed the Mount Pleasant Indian school and transferred the property to the State of Michigan.
- 1934 Agreement between the State of Michigan and the Bureau of Indian Affairs to declare, "the Indians living in the Lower Peninsula are inter-married to the extent that they should no longer be considered Indians".
- 1972 Michigan received its first Johnson-O'Malley funds in the amount of \$50,000.
- 1972 The National Indian Education Act was approved.
- 1973 Michigan established its first Indian Education position at the state level.

## MICHIGAN INDIAN TUITION WAIVER PROGRAM BY YEAR SUMMARY

2,101

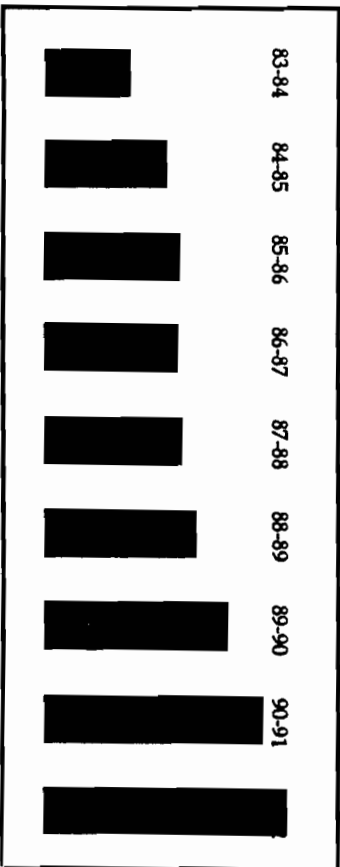
Fiscal Year	Amount Appropriated	Amount of Tuition Paid	Amount of Increase	Percent of Increase	Average Grant	Number of Students
1983-84*	692,000.00	\$675,827.19	—	—	—	N/A
1984-85	957,300.00	\$957,260.04	\$281,432.85	41.64%	—	N/A
1985-86	1,072,300.00	\$1,072,264.75	\$115,004.71	12.01%	—	N/A
1986-87	1,072,300.00	\$1,051,401.85	(20,862.90)	(1.95%)	—	N/A
1987-88**	1,170,700.00	\$1,085,763.26	\$34,361.41	3.27%	\$794.84	1,448
1988-89***	1,192,400.00	\$1,189,594.32	\$103,831.06	9.56%	\$751.96	1,562
1989-90***	1,217,872.00	\$1,426,225.41	\$236,631.09	19.89%	\$807.15	1,767
1990-91**	1,700,721.00	\$1,700,440.00	\$274,214.59	19.23%	\$850.65	1,999
1991-92	1,930,681.00	\$1,877,075.42	\$176,635.42	10.39%	\$893.42	2,101
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\* The Michigan Department of Education took fiscal responsibility for payments in 1983-84.

\*\* The appropriation figure for 1987-88 reflects a legislative budget cut of 0.74%; 1990-91 a 1.0% budget cut.

\*\*\* The 1988-89 appropriation figure includes a supplemental appropriation of \$10,000 (8/28/89). The 1989-90 payments required a transfer of \$208,800 from the MWS program.

### PROGRAM TUITION PAID



1991-92 amount paid	\$ 1,877,075.42
1983-84 amount paid	675,827.19
Increase	\$ 1,201,248.23
Percent of Increase:	178%

- 1973 The National Indian Education Act was implemented.
- 1973 In *Milliken vs. Green*, 380 Mich. 1, 203 NW2d.457 (1974), the Michigan Supreme Court found that "public education is a state matter and the financing of public schools is a state responsibility." It also found that the state public school finance system unconstitutionally discriminated against minorities, including Indian children.
- 1976 P.A. 174 was approved by Governor Milliken.
- 1978 P.A. 174 was amended to read; Sec 2, North American Indian means a person who is not less than 1/4 quantum Indian blood as certified by the person's tribal association and verified by the Michigan Commission on Indian Affairs.

Mr. Lester Gemmill  
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Former Indian Affairs Commissioner

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