



Center for Native American Studies
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Michigan Indian Tuition Waiver

An historical overview

The **Michigan Indian Tuition Waiver (MITW)** traces its history back to treaties signed between Indian Tribes and the United States federal government.

There are over 147 treaties and/or treaty supplements between the U.S. and tribes with educational provisions. Of the treaties signed between the U.S. and the Anishinaabeg Three Fires Confederacy, 29 contain educational provisions.

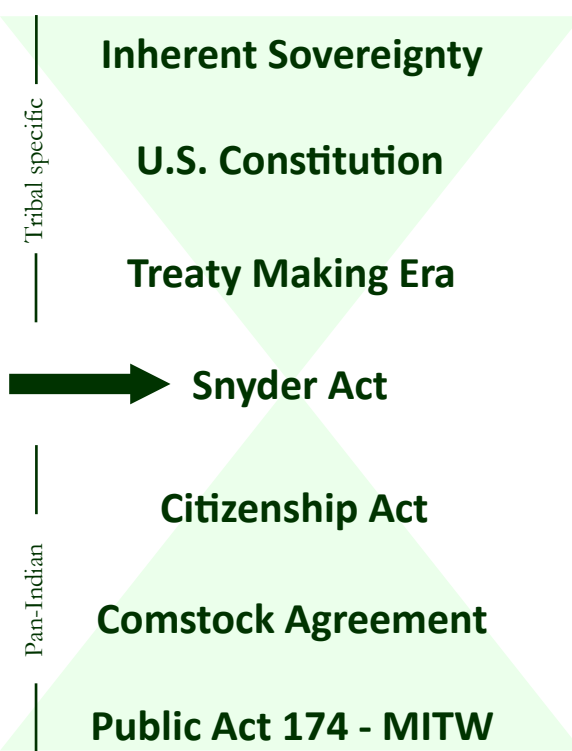
The 1934 Comstock Agreement transferred the responsibility of educating Indians living in Michigan to the State Government at no cost to the federal government with the state fulfilling federal obligations.

Gov. William Milliken commented "... it [MITW] provides a segment of our society with an opportunity and recognizes that the state might not have fulfilled its obligation in the past to our North American Indians." (*Detroit News*, June 30, 1976).



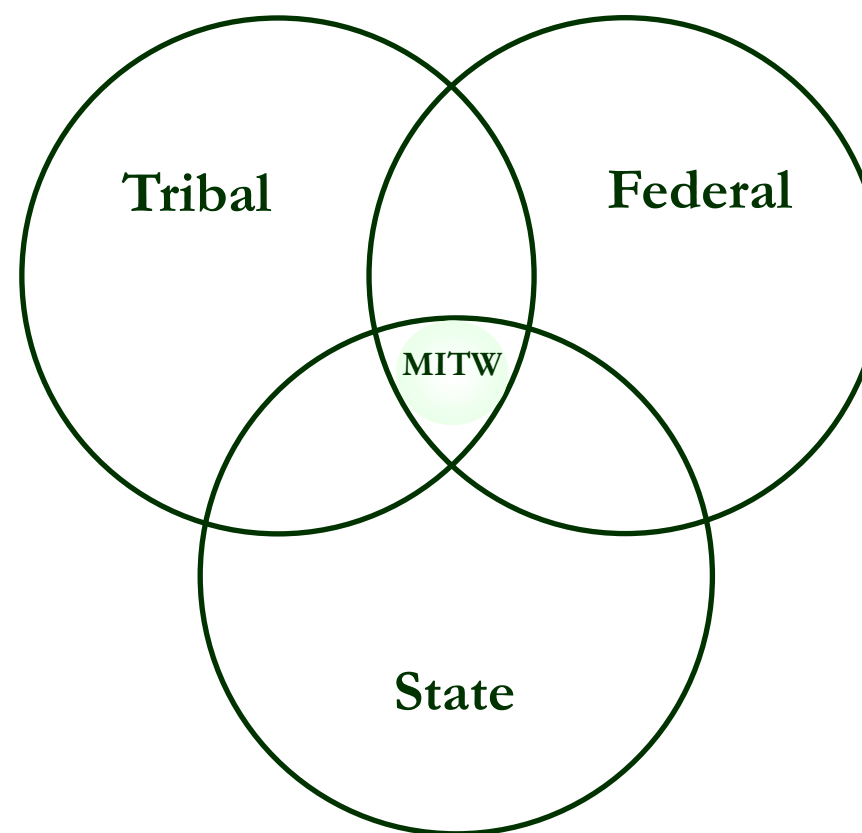
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Tribes have inherent rights of sovereignty and treaty rights that are protected by the United States Constitution under the Supremacy Clause, and further embodied within the trust relationship and subsequent legislation. This brochure shows how the Michigan Indian Tuition Waiver is a product of the tri-lateral relationship between tribal governments, federal government and the state government.

This winter 2014 academic service learning project was produced by Northern Michigan University students enrolled in NAS 486 American Indian Educational Law and Leadership course included Jason Ayres, Tammy Heinz, April Lindala, Lorraine Pitawanakwat and Levi Tadgerson, under the direction of faculty member Dr. Martin Reinhardt, professor of Native American Studies. For more information, visit the NMU Center for Native American Studies website at www.nmu.edu/nativeamericans.



The Michigan Indian Tuition Waiver is a product of tri-lateral relationships between Indian Tribes, the United States, and the State of Michigan.

Enclosed is a timeline of events that demonstrates the progression from historical treaties between tribes and the federal government to subsequent state law.

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Michigan Indian Tuition Waiver

Prior to the existence of the United States, and subsequently the State of Michigan, American Indian tribes existed as sovereign nations. They entered into agreements with foreign governments and the United States. Today tribes still exercise their inherent sovereignty drawing on aboriginal and treaty rights as protected by the U.S. Constitution.

1778-1871

Treaty Making Era

1817

First Anishinaabe Treaty with Educational Provisions

1871

Indian Appropriation Act

1891

Public Act 74

1921

Snyder Act

1934

Howard-Wheeler Act
Johnson-O'Malley Act
Comstock Agreement

1957 and 1968

Riley Comments

1969

“National Tragedy” Report

1972

Indian Education Act

1974

University of Michigan Lawsuit

1975

Indian Self Determination Act

1976

Public Act 174

1978

MITW Amended

1981

Bill introduced to repeal MITW

1993

Public Act 106

1995

Public Act 312

1996

Executive Reorganization Order

2006

Proposition 2 Passes in Michigan

2010

MITW Eligibility Criteria Changes

The Constitution of the United States Article VI: 2 states that ... all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. The 1871 Indian Appropriations Act ended the Treaty Making Era.

The Snyder Act granted the Bureau of Indian Affairs the authority to direct, supervise, and expend money allocated by congress on behalf of American Indian tribes under the supervision of the Secretary of Interior. The Snyder Act set precedent for the federal government to deal with tribal obligations under pan-Indian legislation. Pan-Indianism is the grouping of multiple tribal cultures into one ethnic identity.

Minutes from the Wheeler-Howard Bill Conference (Indian Reorganization Act), April 23, 1934, at Hayward, Wisconsin between Indian delegates of Wisconsin, Minnesota and Michigan (4 from L'Anse, 3 from Swan River and Black Creek), and Officials from Office of Indian Affairs, Washington, D.C. Meeting opened by William Zimmerman, Jr. (Assistant to Commissioner John Collier). A resolution created by The Oneida Indians of the Oneida Indian reservation in Wisconsin, assembled in Council at the Parish Hall, Oneida, Wisconsin, March 14, 1934, determined: we understand the aims and substance of the Indian Rights Bill to be as follows... #9—Education of Indians as lawyers, doctors, nurses, teachers, clerks, engineers, and other professions at the leading universities, colleges and schools. #12—U.S. to provide funds and assistance to Indians in building up self government again.

The 1934 Comstock agreement is a product of negotiations between the State of Michigan and the federal government regarding the transfer of the Mt. Pleasant Indian Boarding School. “As Governor of the State, in accepting this grant, I acknowledge the condition that the State of Michigan will receive and care for in State institutions Indians resident within the state on entire equality with persons of other races and without cost to the Federal government.” - William A. Comstock, Governor of the State of Michigan.

In 1957 the Superintendent of the Great Lakes Indian Agency, Emmett Riley states, “there [had] been no federal services [including education] rendered to Indians in Michigan since 1932, except to keep their lands in restricted areas.” (*See Evening News*, Jun. 19, 1957). In other states, Indian people received federal benefits for education based on their Indian status. “Since about 1932, we have been phasing out our activities in the states, because at the time Gov. William A Comstock indicated the state would shoulder a larger share of caring for its Indians...Our job in this state for the past several decades had been little more than custodian of lands making up the four reservations in the state (EN, Sep 17, 1965). In 1968 at a Michigan Commission on Indian Affairs meeting, Emmett J. Riley made suggestions for the “support and organization in college education” (EN, Aug. 13, 1968) for Michigan Indian students. He compared Michigan, with only 23 Indian college students, to the other states located in the Great Lakes area, and suggested, “that it was the only state that doesn’t come in on education” (EN, Aug. 13, 1968).

In 1971 Paul Johnson, a graduate student the University of Michigan, filed suit against the States government by the Ottawa, Chippewa and Potawatomi tribes was intended to be used by the College at Detroit in exchange for educational provisions for the children of the Tribes who signed the Treaty of 1817.

In 1971, State Representative Michael Dively submitted suggestions to the Michigan Commission on Indian Affairs in an effort to “strengthen the Indian Affairs Commission; guarantee Indian control and broad Indian representation on the commission; and launch and intensive program of quality education for our Indian citizens.” (EN, Aug. 3, 1971). He explained that in his opinion “Indian influence and Indian education have been woefully neglected and must be given urgent attention.” (EN, Aug. 3, 1971). Dively continued, “We have ignored and avoided our responsibilities and obligations for decades” (EN Aug. 3, 1971).

The Waiver of Tuition for North American Indians, Act 174 of 1976, codified at MCL 390.1251 to 390.1253, modified in 1978 to reduce the residency requirements from 18 to 12 months and the blood quantum requirement from half to one-quarter and again in 1993 to extend reimbursement to tribally chartered community colleges in the state (Michigan Legislative Services Bureau, 2000) provides that: “A Michigan public community college or public university or a federal tribally controlled community college described in subsection (2) 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 12 consecutive months.” Gov. William Milliken commented “the Legislature has taken a positive action to provide North American Indians with a mechanism to increase their ability to achieve access to college education... it provides a segment of our society with an opportunity and recognizes that the state might not have fulfilled its obligation in the past to our North American Indians.” (*Detroit News*, June 30, 1976).

In 1995, in response to the Michigan Office of the Auditor General’s 1994 audit of the Commission’s “effective” management of the program, Gov. Engler announced that the FY1995/1996 would be the last year that specific appropriations funding the program would appear in the state budget. The House and Senate Subcommittees on Higher Education recommended continuation of the program for FY 1995/1996. Engler promised to veto the next higher education budget containing a line item for the program.

In 1996, Engler ordered the Commission on Indian Affairs to develop a plan to discontinue the program. Senator John J. H. Schwarz, chair of the Higher Education Appropriations Subcommittee supported elimination of the program so long as waiver amounts were inserted into higher education base per-pupil funding. In FY 1996/1997 single line item appropriations for the program ceased to exist and costs to cover the program were rolled into base allocations of individual schools. In 1999, by Executive Reorganization Order (1999-6), Engler had again transferred responsibility of the program, this time transferring the powers and duties of the Commission to the Michigan Civil Rights Department.

In a March 2007 report, “One Michigan” at the Crossroads: *An Assessment of the Impact of Proposal 06-02*, by the Michigan Civil Rights Commission to Governor Jennifer Granholm, statutes dealing with members of federally recognized tribes “are not based on impermissible classifications of race.” But instead, are based on the legal and political status of American Indian tribes with a trust relationship with the United States.

As of July of 2010, the Michigan Department of Civil Rights established new criteria for who is eligible for the MITW. You must be 1) enrolled at one of Michigan’s public colleges or universities; 2) one-quarter or more Native American blood quantum as certified by your Tribal Enrollment Department; 3) an enrolled member of a U.S. Federally recognized Tribe as certified by your Tribal Enrollment Department and 4) a legal resident of the state of Michigan for not less than 12 consecutive months. Previous incarnations of the MITW recognized tribal citizens of Michigan State Historic tribes and Michigan residents with status within a First Nations band.

Public Act 60 of 2013 acknowledges the intention of the Michigan legislature to appropriate funds towards the MITW for the fiscal year.

An historical overview

WAIVER OF TUITION

FOR NORTH AMERICAN INDIANS

Act 174 of 1976

An act to provide free tuition for state resident North American Indians in Michigan public community colleges, public universities, and certain federal tribally controlled community colleges; and to prescribe certain powers and duties of certain state departments, commissions, and agencies.

390.1251 Waiver of tuition for North American Indians; qualifications; participation of federal tribally controlled community college; eligibility for reimbursement.

Sec. 1.

(1) A Michigan public community college or public university or a federal tribally controlled community college described in subsection (2) 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 12 consecutive months.

(2) A federal tribally controlled community college may participate in the tuition waiver program under this act and be eligible for reimbursement under section 2a if it meets all of the following:

(a) Is recognized under the tribally controlled community college assistance act of 1978, Public Law 95-471, 92 Stat. 1325.

(b) Is determined by the department of education to meet the requirements for accreditation by a recognized regional accrediting body.

390.1252 “North American Indian” defined.

Sec. 2.

For the purposes of this act, “North American Indian”

means a person who is not less than 1/4 quantum blood Indian as certified by the person’s tribal association and verified by the Michigan commission on Indian Affairs.

390.1252a Reimbursement of tuition waived; report.

Sec. 2a.

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.

390.1253 Effective date.

Sec. 3.

This act shall take effect on August 1, 1976.

History: 1976, Act 174, Eff. Aug. 1, 1976;— Am. 1978, Act 505, Imd. Eff. Dec. 13, 1978;— Am. 1993, Act 106, Imd. Eff. July 15, 1993

Bibliography and Further Reading

Visit the Center for Native American Studies website and search for NAS 486 Winter 2014.

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