

1 HOUSE BILL NO. 768
 2 INTRODUCED BY Phillip Conway James J. Johnson
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO RECOGNIZE AND
 5 DECLARE ELIGIBLE FOR STATE AID INDIAN CONTROLLED PUBLIC
 6 SCHOOLS AND TRIBAL EDUCATION SYSTEMS OPERATED BY THE TRIBES
 7 OF MONTANA AND TO PROVIDE FOR HEARINGS WHEN A STUDENT HAS
 8 BEEN DISCRIMINATED AGAINST IN REGARD TO SUCH SCHOOL OR
 9 SYSTEM."

10 WHEREAS:

11 (1) The purpose of this act is to clarify existing
 12 laws and to further implement Article X, section 1(2), of
 13 The Constitution of the State of Montana.

14 (2) It is and has been the policy of the United States
 15 government and the desire of the state of Montana to have
 16 the Indian people of Montana assume more responsibility and
 17 control over the education of their children so that the
 18 problems of Indian people can be more directly dealt with by
 19 them, this being their responsibility and right.

20 (3) The treaties with the Indian tribes and laws
 21 enacted by the congress of the United States recognize the
 22 right of Indian people to exist as a separate and distinct
 23 class of people, unlike other people in the United States of
 24 America who do not have the status and recognition of this
 25 singular group of people.

1 (4) The laws of the sovereign state of Montana allow
 2 its government to pass laws and to enter into agreements and
 3 contracts to fulfill special governmental purposes.

4 (5) The Montana constitution, Article X, section 1(2),
 5 approved by the people of Montana, specifically allows
 6 American Indian people to be protected against the whims and
 7 pressures of the dominant society that might be detrimental
 8 to their continued existence as a tribe and permits the
 9 Indian people to pursue their own educational philosophy and
 10 goals within the structure of the state of Montana's public
 11 school system.

12 (6) It is not the invidious intent of this legislature
 13 or the Indian people to seek the racial segregation of the
 14 Indian people by the passage of this law, as shown by the
 15 Indian people's own testimony before enactment of this law,
 16 but to continue to guarantee the enrollment of all persons
 17 who wish to attend Indian controlled public schools or
 18 tribally operated education systems in the state of Montana.

19 (7) Passage of this act will assist and guide the
 20 state of Montana toward compliance with the law as enacted
 21 by the congress of the United States of America and toward
 22 compliance with the law as interpreted by the United States
 23 supreme court.

24
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

INTRODUCED BILL

HB 768

1 Section 1. Definitions. As used in this act, the
2 following definitions apply unless the context clearly
3 indicates otherwise:

4 (1) "Indian controlled public school" means a public
5 school in an elementary or high school district in which a
6 majority of the members of the board of trustees are Indian.

7 (2) "Indian" means an enrolled member of a recognized
8 Indian tribe or a descendant of a member of a recognized
9 Indian tribe, as determined by the tribe itself or by the
10 Indian community.

11 (3) "Recognized Indian tribe" means an Indian tribe
12 recognized by the secretary of the interior.

13 (4) "Tribal education system" means an educational
14 program operated by a tribe as an alternative to an
15 established public school.

16 Section 2. Indian controlled public schools and tribal
17 education systems. The state of Montana hereby recognizes
18 the existence and allows the creation of additional Indian
19 controlled public schools and tribal education systems which
20 are open for enrollment of the public and operated by the
21 tribes of Montana.

22 Section 3. Pupil attendance and state equalization aid
23 funds. (1) Attendance at an Indian controlled public school
24 or tribal education system satisfies the requirements for
25 attendance provided in 75-6303.

1 (2) Indian controlled public schools and tribal
2 education systems are eligible for state equalization aid on
3 the same basis as all public schools.

4 Section 4. Curriculum of Indian controlled public
5 schools and tribal education systems. The curriculum of
6 Indian controlled public schools and tribal education
7 systems may include Indian languages, culture, and
8 ceremonies and other subjects as a required part of the
9 curriculum.

10 Section 5. Denial of state aid. Any tribal education
11 system or Indian controlled public school found guilty of
12 denying any student entry into the school or system or
13 participation in its curriculum on the basis of race,
14 religion, sex, or national origin shall be denied state
15 equalization aid funds.

16 Section 6. Determination of discrimination. (1) Any
17 person who feels he has been denied the opportunity to
18 enroll or participate in an Indian controlled public school
19 or tribal education system may file a complaint with the
20 superintendent of public instruction.

21 (2) Within 10 days after receipt of the complaint by
22 the superintendent, an investigatory board shall hold a
23 hearing on the complaint.

24 (3) The investigatory board shall be composed of the
25 superintendent of public instruction as an ex officio

1 member, two non-Indian persons appointed by the district
2 judge from the residents of the judicial district nearest
3 the school district named in the complaint, and two Indians
4 appointed by the tribal court from among the resident
5 members of the tribe nearest such school district. The
6 superintendent of public instruction may vote only in the
7 case of a tie among the other members.

8 (4) The investigatory board shall deliver its findings
9 of fact and render a decision within 60 days after the
10 conclusion of the hearing.

-End-

STATE OF MONTANA

REQUEST NO. 517-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 14, 19 77, there is hereby submitted a Fiscal Note for House Bill 768 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 768 recognizes and declares eligible for state aid Indian controlled public schools and tribal educational systems and provides for hearings when a student has been discriminated against.

ASSUMPTIONS:

1. Recognition that a Montana public school is an "Indian controlled public school" will not alter its status under existing school finance laws.
2. No school so designated will be found guilty of discrimination or subjected to penalty.

FISCAL IMPACT:

None.

Richard L. Stroup

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-18-77

STATE OF MONTANA

REQUEST NO. 517-77

FISCAL NOTE

Revised

Form BD-15

In compliance with a written request received February 14, 19 77, there is hereby submitted a Fiscal Note for House Bill 768 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

THIS FISCAL NOTE REVISES THE ORIGINAL FISCAL NOTE ON HOUSE BILL 768.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 768 recognizes and declares eligible for state aid Indian controlled public schools and tribal educational systems and provides for hearings when a student has been discriminated against.

ASSUMPTIONS:

1. Six (6) schools presently operated by Tribes and not currently eligible for state funds would be eligible: Pretty Eagle, Dixon, Browning, St. Labre, Busby, and Kinsman.
2. School population of affected schools will remain constant.
3. The current Foundation Program levels are assumed.
4. There is no taxable property in the affected school districts so the maximum budget without a vote would be funded from state sources.
5. No school so designated will be found guilty of discrimination or subjected to penalty.

FISCAL IMPACT - STATE:

	<u>FY 78</u>	<u>FY 79</u>
Foundation program	\$ 834,022	\$ 834,022
Permissive levy	<u>208,506</u>	<u>208,506</u>
Total	<u>\$1,042,528</u>	<u>\$1,042,528</u>

NOTE: Potentially, other public and private schools could become tribal educational systems and thus eligible for state funding but exempt from state laws and Board of Public Education policies.

Richard L. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-27-77

Education

Without recommendation
as Amended

Objection Raised to
Adverse Committee Report

HOUSE BILL NO. 768

INTRODUCED BY KIMBLE, CONROY, KENNERLY, JOHNSTON

A BILL FOR AN ACT ENTITLED: "AN ACT TO RECOGNIZE AND
DECLARE ELIGIBLE FOR STATE AID INDIAN CONTROLLED PUBLIC
SCHOOLS AND TRIBAL EDUCATION SYSTEMS OPERATED BY THE TRIBES
OF MONTANA AND TO PROVIDE FOR HEARINGS WHEN A STUDENT HAS
BEEN DISCRIMINATED AGAINST IN REGARD TO SUCH SCHOOL OR
SYSTEM."

WHEREAS:

(1) The purpose of this act is to clarify existing
laws and to further implement Article X, section 1(2), of
The Constitution of the State of Montana.

(2) It is and has been the policy of the United States
government and the desire of the state of Montana to have
the Indian people of Montana assume more responsibility and
control over the education of their children so that the
problems of Indian people can be more directly dealt with by
them, this being their responsibility and right.

(3) The treaties with the Indian tribes and laws
enacted by the congress of the United States recognize the
right of Indian people to exist as a separate and distinct
class of people, unlike other people in the United States of
America who do not have the status and recognition of this
singular group of people.

(4) The laws of the sovereign state of Montana allow
its government to pass laws and to enter into agreements and
contracts to fulfill special governmental purposes.

(5) The Montana constitution, Article X, section 1(2),
approved by the people of Montana, specifically allows
American Indian people to be protected against the whims and
pressures of the dominant society that might be detrimental
to their continued existence as a tribe and permits the
Indian people to pursue their own educational philosophy and
goals within the structure of the state of Montana's public
school system.

(6) It is not the invidious intent of this legislature
or the Indian people to seek the racial segregation of the
Indian people by the passage of this law, as shown by the
Indian people's own testimony before enactment of this law,
but to continue to guarantee the enrollment of all persons
who wish to attend Indian controlled public schools or
tribally operated education systems in the state of Montana.

(7) Passage of this act will assist and guide the
state of Montana toward compliance with the law as enacted
by the congress of the United States of America and toward
compliance with the law as interpreted by the United States
supreme court.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECOND READING

1 Section 1. Definitions. As used in this act, the
 2 following definitions apply unless the context clearly
 3 indicates otherwise:

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 5 school in an elementary or high school district in which a
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 15 established public school.

16 Section 2. Indian controlled public schools and tribal
 17 education systems. The state of Montana hereby recognizes
 18 the existence and allows the creation of additional Indian
 19 controlled public schools and tribal education systems ON
 20 INDIAN RESERVATIONS which are open for enrollment of the
 21 public and operated by the tribes of Montana.

22 Section 3. Pupil attendance and state equalization aid
 23 funds. (1) Attendance at an Indian controlled public school
 24 or tribal education system satisfies the requirements for
 25 attendance provided in 75-6303.

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10 Section 5. Denial of state aid. Any tribal education
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 12 denying any student entry into the school or system or
 13 participation in its curriculum on the basis of race,
 14 religion, sex, or national origin shall be denied state
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16 Section 6. Determination of discrimination. (1) Any
 17 person who feels he has been denied the opportunity to
 18 enroll or participate in an Indian controlled public school
 19 or tribal education system may file a complaint with the
 20 superintendent of public instruction.

21 (2) Within 10 days after receipt of the complaint by
 22 the superintendent, an investigatory board shall hold a
 23 hearing on the complaint.

24 (3) The investigatory board shall be composed of the
 25 superintendent of public instruction as an ex officio

1 member, two non-Indian persons appointed by the district
2 judge from the residents of the judicial district nearest
3 the school district named in the complaint, and two Indians
4 appointed by the tribal court from among the resident
5 members of the tribe nearest such school district. The
6 superintendent of public instruction may vote only in the
7 case of a tie among the other members.

8 (4) The investigatory board shall deliver its findings
9 of fact and render a decision within 60 days after the
10 conclusion of the hearing.

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 10 Indian community.

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 12 recognized by the secretary of the interior.

13 (4) "Tribal education system" means an educational
 14 program operated by a tribe as an alternative to an
 15 established public school. IN ORDER TO QUALIFY FOR STATE
 16 EQUALIZATION AID, THE TRIBAL EDUCATION SYSTEM SHALL MEET THE
 17 ACCREDITATION STANDARDS OF PUBLIC SCHOOLS IN MONTANA AND
 18 SHALL BE APPROVED BY THE BOARD OF PUBLIC EDUCATION.

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