

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

- WHEREAS, the Whiteriver School District is located within the boundaries of the Fort Apache Indian Reservation; and
- WHEREAS, substantially all of the students enrolled in the Whiteriver School District No. 20 and their parents are members of the White Mountain Apache Tribe and reside on the Fort Apache Indian Reservation; and
- WHEREAS, the Whiteriver School District No. 20 receives funding from the State of Arizona ("State Funding") and from the federal government pursuant to Public Law 81-874, 20 U.S.C. § 236-246 ("Federal Impact Aid"); and
- WHEREAS, effective July 1, 1992, the State of Arizona enacted a law, codified as A.R.S. §15-991.02 which required the Whiteriver School District No. 20 and other school districts to return to the state certain percentages of any cash balances remaining in the district budgets at the end of the fiscal year (June 30) known as a Cash Balance Reversion; and
- WHEREAS, for purposes of maintaining accounts for funds and calculating the Cash Balance Reversion, monies from State Funding and Federal Impact Aid are commingled in the same account; and
- WHEREAS, the Whiteriver School District No. 20 was required to remit to the State a Cash Balance Reversion of in excess of Eight Hundred Thousand Dollars (\$800,000.00) for the fiscal year ending June 30, 1992 and anticipates having to remit a significant Cash Balance Reversion for the fiscal year ending June 30, 1993; and
- WHEREAS, the effect of the State law on Cash Balance Reversions is to impermissibly revert to State use Federal Impact Aid monies and to equivalently reduce the amount of funds needed by the Whiteriver School District No. 20 to complete school construction projects and to meet other capital needs such as textbooks and school buses; and
- WHEREAS, the State law in question operates to materially infringe on the White Mountain Apache Tribe's rights of self-government, particularly with respect to serving the educational interests of White Mountain Apache children essential to protect their health, safety and welfare; and

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WHEREAS, the Tribal Council of the White Mountain Apache Tribe concludes that the following action is necessary to protect the fundamental interests of the people of the White Mountain Apache Tribe and, in particular, its children.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that:

1. It hereby authorizes participation by the White Mountain Apache Tribe in a lawsuit or other proceedings before any court or governmental body of competent jurisdiction for the purpose of seeking (a) a declaration that the State law on Cash Balance Reversions, as applied to the Whiteriver School District No. 20 and other Indian school districts, is unlawful and unenforceable, (b) a permanent injunction against enforcement of the law against the Whiteriver School District No. 20, (c) restitution of Cash Balance Reversions remitted by the Whiteriver School District No. 20 to the State of Arizona, and (d) such other relief as may be appropriate.
2. The Tribal Attorney of the White Mountain Apache Tribe is authorized and directed to represent the White Mountain Apache Tribe in the foregoing proceedings.

The foregoing resolution was on August 30, 1993, duly adopted by a vote of seven for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (a) (i) (t) (u) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).


Chairman of the Tribal Council


Secretary of the Tribal Council