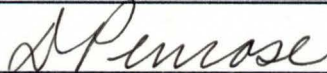**2013 HOUSE EDUCATION**

HB 1050

2013 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1050
January 14, 2013
17140

☐ Conference Committee

Committee Clerk Signature	*L Penrose*

Minutes:

Rep. Nathe: We will call the Hearing on HB 1050 to order.

Jeff Nelson, Staff Attorney with Legislative Council, Committee Counsel for the Tribal and State Relations Committee: My comments are for information and review of the bill with you and answer questions. The Tribal and State Relations Committee is somewhat different from other Interim Legislative Management Committees. It is a statutory committee. Its membership and responsibilities are established by the legislative assembly in statute. The Committee operates really under the same rules and requirements as of other interim committees; holds its hearings in the same manner and is required to report in the same manner as other interim legislative management committees. NDCC Section 54-35-23 Interim Report (see attached). If one were to view the jurisdiction of the committee, it's anything to do with state and tribal relations. That is how the committee got into the subject of education this past interim. The committee reviewed a number of issues concerning tribal and state relations, one of which is education. During the interim, the committee received testimony from representatives from the Dept. Public Instruction on the progress of a study of Indian Education Issues related to governance, success models and barriers that prevent schools and students from performing at high rates of student achievement and to develop criteria for grants to low performing schools. DPI submitted a proposal to establish a competitive pilot grant to advance two primary priorities. The first priority is to provide integrated school based and community based educational, health and social support services for identifying at-risk students and their families to aid these at-risk students in meeting the goal of post-secondary success and success in life. The second priority is to institute local government partnerships and service delivery models that enhance, support, and sustain an environment where local service providers can identify specific community needs, develop measurable plans and implement activities to aid at-risk students and their families. The proposed pilot grant program attempts to address individual, student, needs of identified at-risk American Indian students and the structure and efficiency of local services' provisions by the various public and private agencies that exist to support students and their families. The outcome hoped to be achieved by the pilot grant program is increased self-sufficiency of students and their families, and the sustainability of local collaboration efforts. Based upon this proposal submitted by the Dept. of Public Instruction, the Committee, again with the assistance of DPI, developed HB 1050. Essentially the bill authorizes the Superintendent of Public

Instruction to develop and implement a pilot grant program for at-risk American Indian students and for the support of community-based services. Section 1 contains the grant proposal, the criteria and the selection process; Section 2 does appropriate $500,000 from the General Fund to the Superintendent of Public Instruction for the purpose of making a grant in accordance with the criteria and selection process outlined in Section 1 of the bill draft. That reviews HB 1050 and concludes my comments and am ready to answer any questions concerning the bill or the Tribal and State Relations Committee or the activities of the Interim committee.

Rep. Meier: Isn't there supposed to be a fiscal note on this bill, or is it just right in the piece.

Jeff Nelson: I would think that there should have been but basically its $500,000 appropriation from the General Fund.

Rep. Meier: I think there should be a separate fiscal note.

Rep. Nathe: We'll take a look at that.

Rep. Hunskor: I understand that this is a one-time grant. Is the intent to review this at the end of the two years, and then look at further grants if necessary, if this is a successful program?

Jeff Nelson: I believe that is probably the intent. I do know that there are several representatives from DPI here and they can give specific details on how the grant will be implemented and the results reported.

Rep. Nathe: Is this being done anyplace else.

Jeff Nelson: I am not aware of that, we didn't receive testimony on that.

Rep. Nathe: Is some of this already being done on the federal level, other programs that also address these concerns.

Jeff Nelson: I would defer to the Dept. on that.

Rep. Nathe: Thank you. Further testimony in support of HB 1050.

Bob Marthaller, Asst. Superintendent, Dept. of Public Instruction: I am here to provide information and am in support of this bill (see attached). The assessment document can be found at our website. As we developed that proposal, we also worked closely with the ND Indian Education Advisory Council. About four years ago, Dr. Sanstead commissioned the ND Indian Education Advisory Council. We actually went to the 61st legislative assembly and sought an appropriation in support of that committee, which we did receive. We've been working with the NDIEA Council now for about 4 years. With that committee, we meet once a quarter. The membership does include individuals appointed by Tribal Chairmen from the various

tribes from each reservation; representatives from the BIE, Tribal community colleges, ND Indian Affairs Commission, tribal and public schools, and others appointed by the State Superintendent. We wanted to be sure that our ND Indian Education Advisory Council included representation from all of the constituency groups and so we were very careful about making all of those groups involved in having them be part of the conversation and be at the table. We worked very closely with the Indian Education Advisory Council as we developed our proposal, which has culminated in HB 1050. We did work through the Tribal State Relations Committee and that bill was proposed to them and came from Tribal State Relations with a unanimous decision to move forward with this bill. We do know, and the research does show, that national and state indications show that Indian students do tend to lag behind other subgroups. If you take a look at the four graphs at the end of the testimony, that information summarizes the ND State Assessment Data. You can see in terms of % proficient, our Native American students in ND do lag behind other subgroups. The next page is the one that shows graduation rates. In ND, our overall graduation rate is about 88-89% and you can see that with our Native American students that their graduation rate is roughly about 62%. The last two documents with assessment data of educational progress and you see both Reading and Math scores for ND. Once again, in grades 4 and 8, you will notice that our Native American students tend to lag behind other students in ND. As far as assessment data is concerned, I will share another document with you. This document is all of the assessment data that is available on the Dept.'s website. It breaks the assessment data even further into smaller subgroups.

Rep. Schatz: Do we have any data about the comparison between ND and SD, and some of the other states as far as the Native American students are doing in our state compared to SD.

Bob Marthaller: I believe we can put that together for you, I don't have it today. I'm not sure that I have a document that I can pull out of a file, but I think we can try and put together something for you. You are looking for a comparison between the ND students and SD students.

Rep. Schatz: Correct.

Bob Marthaller: We might be able to include Montana if you'd like that.

Rep. Schatz: Yes, if you can get the three surrounding states and I don't know if you can find out anything having to do with the Canadian provinces; it is probably a regional thing. I'm sure that there are only so many states that have Native American students. I don't know if there is a graph for that as well, a comparison between all of the state and where ND would rank.

Bob Marthaller: I think that's readily available with the NAPE data, but I will have the staff look into that for you, to see if we can find some additional data for you.

Rep. Heller: Is there a difference between the Indian Education Advisory Council and the Indian Affairs Commission.

Bob Marthaller: Yes. The ND Indian Affairs Commission is part of the Governor's cabinet, as I understand it. The Indian Education Advisory Council is actually a council that was put together by our former State Superintendent, Dr. Sanstead. We developed that about 4½ or 5 years ago, in conjunction with representatives of BIE (Bureau of Indian Education).

Rep. J. Kelsh: On your last graph, I was wondering about the grade 4 proficiency of white students is 52 at grade 4 and 47 at grade 8. How does that compare to what the national proficiency is.

Bob Marthaller: I can't quote the exact data, but typically ND score average and higher than average on most assessments including the NAPE assessment.

Rep. Wall: This seems like an ambitious piece of legislation and plan. How do you see it playing out once a pilot school is selected? What do you see happening?

Bob Marthaller: Should the committee support this program, and if we can get the appropriation to follow through on our plan, we would, at that point, the DPI would put together criteria in an RFP (Request for Proposal) and we would then ask for schools to apply for that. We would, of course, want to evaluate the results over the two year period, which would be, of course, part of the RFP. We would then want to bring that back to this assembly. We hope that our program and our proposal can be one that would be of high quality, show some improvement in student achievement, some improvement in students being college-career ready, improvement in motivation for students to actually go on and become better. You'll notice that I am just about done with my testimony because your questions are taking care of my testimony. You will notice that we intend and have designed this proposal to be competitive in nature. We want it to be competitive so we can actually get a very good quality program and then one that can be replicated, that we can take and say, okay, it has worked here, this proposal looks like we can make a difference in lives of students both in terms of academic achievement and self-sufficiency and then have it replicated. In our Indian Education Advisory Council, we did have discussion about whether it should be competitive or be just another funding stream award based on X number of students. There was considerable discussion about that and not always full agreement, but we did finally reach consensus with the Indian Education Advisory Council and with the Tribal State Relations Committee. We reach consensus that a competitive grant is where we felt the bill should be.

Rep. Wall: With this call for hiring for more tutors for at-risk students in the pilot study. Who is going to be hired, what is the objective. I know the overall objectives are listed here but…

Bob Marthaller: If you turn to the Flow Chart that should help answer some of those questions. Our proposal intends to develop a frame work and it is within the frame work that you can see in the flow chart. This is the design for the proposal. I believe that Mr. Nelson mentioned this as well, but HB 1050 really has two priorities which is

to provide the integrated school-community based report, services to students and their families, and also to form local government partnerships to aid students and their families. We're really talking about is a community-based, community approach, an integrated system to answer or take a look at the issues that affect both students, as well as their families. Our idea is, in the left-hand column, you can see that we have cooperating agencies. So within this community approach to providing services to students and families, we see that we want to include and focus resources and to have a similar goal or common goal for students. We believe that it is important to include many and possibly all of the agencies that we have listed there; part of this has to do with government as well. We're looking at agencies, tribal governments, tribal economic developments, public schools, Native American tribal schools, BIE schools, tribal colleges, certainly the DPI, Indian Affairs Commission, Human Services, Dept. of Commerce, juvenile systems, CTE. All of those agencies, we believe, have a role in providing service educational services and support services to families; he ND Legislature, obviously, we need support there, The Dept. of Education, BIE and BIA. We need support from all of these agencies. The idea is to take all of those groups, get them focused, share resources and then to develop the community partnerships, to look at strategies and programs in support of students and their families. We would be looking at parent-community involvement, parenting program, tutoring, educational services, using the REA system as a delivery system. Community services, health, welfare, providing staff and professional development opportunities for teachers and other staff in those particular schools. Moving to the student outcomes, we want students that are going to be motivated to do better. We want students that set goals, be able to have the skills, career and academic kinds of interests to move them forward. Student achievement - we hope that we can impact and increase high school graduation; we can get kids college and career ready. We can get them to a certain level, a high level of academic proficiency. Certainly we want students to be self-sufficient; we want to address their physical and mental health and well-being. The idea is to provide tutoring, mentoring, extended school day. It could be a number of things. The idea is that this would be designed, developed by the local community and that it would address specific needs in that particular community, whatever they might need. Obviously, we're looking for the same goals that we have for all students in ND and that's for post-secondary success and success in life. Our primary outcome is to look for an increase in self-sufficiency for students and families and also we hope that a primary outcome would be that once the grant goes away, and part of what we'd write into the RFP would be for a plan to sustain the kinds of programs that these particular funds could be used for. That would help maintain a measure of sustainability as well.

Rep. Rust: Of the $500,000, in the appropriation, how much of that would go to the Dept. for developing the program and how much of it would go to schools.

Bob Marthaller: We do not have any of those funds identified for DPI staff or administrative costs. Our intent that all of these dollars would go to schools/school districts; and not only school districts (I say school districts because we would want in the RFP, we would want the LEA (local education agency) to be a school. We

believe that it would flow best to a school. But that's not to say that some of the funding could be used in various ways; tribal colleges, supports for families, economic development, various kinds of costs; but no costs, nor do we have any design to use any of those dollars. We are going to use existing staff to design and put the full proposal together. The proposal is to get these dollars into the hands of folks that can do the most good with them for our kids.

Rep. Nathe: So how did you come up with the $500,000 amount?

Bob Marthaller: We wanted the sum to be large enough so that we had sufficient resources to at least make available to these various community action groups. Even though we've asked for $500,000, that doesn't necessarily mean that the full appropriation may or may not be spent. We want to see some results, so we don't have a design or put the actual criteria together yet in terms of the RFP.

Rep. Nathe: Do you think you could do this program for a lesser amount. I understand asking for as much as you can get, but do you think you can do this program for a lesser amount.

Bob Marthaller: We would hope that the committee would see it within their authority to support this program at the $500,000 level. However, if we only received $490,000, we would work with that and make the best use of any appropriation you, as a committee, would support. We did not, and have not, sat down and said we could use $80,000 for professional development, $80,000 for another part of the program, etc. We haven't done that. We would try to put that together during the RFP.

Rep. Schatz: I'm doing a little research here, and I'm showing 113 programs for at-risk Native Americans in the federal government. What's the difference between what they are trying to do and what you'd be doing? Their money is already appropriated. Are we having duplication here?

Bob Marthaller: Yes, there are other programs. There is one that I can think of, is Community of Promise, or Promise Communities, which is a federal program, designed primarily to reach inner city students. We did look at that program and designed ours in a similar way. The difference between programs that might already be available and ours is that our proposal would require action plans developed by local communities that address their own unique, individual and community needs. I am certain that there are similar programs that might, in partnership, or in some ways be identified that could be appropriate.

Rep. Meier: Do we have a list of the amount of grants that have gone to the BIA schools from the federal government in the last 4-5 years for student improvement.

Bob Marthaller: I don't know that we have that. I suspect that we might be able to get it. Sometimes that information is hard for us to get access to; we will do our best to see what I can find for you. I don't have a specific answer for that.

Rep. Meier: It would be great if there was some type of accumulated data that we could at least see what the BIA schools have actually received in grants in the last five years.

Bob Marthaller: We'll see what we can put together for you and for the committee.

Rep. Rohr: My question has to do with the frame work that you provided for us and the extent that the research report, or research company, Mid-Continent Research for Education and Learning, came up with this frame work or because this is a time-sensitive issue, that we've been working for 4-5 years, and you have lots of entities here that have to be involved to make this work.

Bob Marthaller: I believe that there was, in one of the documents, similar to the communities of promise and a frame work that was suggested; we took that frame work and designed it and included our own state relative information and data.

Rep. Hunskor: You're talking about a very ambitious schedule in a two year period; getting all of the entities on board, identifying at-risk students, coming up with a program within each reservation or each applicant for a grant to help these kids. At the end of the two years, it would be nice if you have gone through all of this and you have statistics to say, yes in math and reading, we can see improvement. Is that possible to accomplish that in two years, because at the end of two years, you're going to be probably asking for more money, or having to report on success for the next two years.

Bob Marthaller: We realize that a two year study proposal program is going to be difficult for us to show, as an example, that we've increased the graduation rates by 10% or 15%. We know that it is going to be longer term than that. We know that the first year probably is going to be developmental, so we may only have one year of time to actually try and make a change, whether it be with mentoring or increasing student scores or graduation rates. We know that it will need to be longer term than that, but we hope that we can show that this is a quality program and that we are making some improvements and it will probably take 2-3 years, maybe 4 years, until we can show that math scores have risen by X% and graduation rates have risen by X%. Part of what we need to design in the program, is also the sustainability of the program as well. We don't think, at this point, that we award a grant and that it's going to be an ongoing, continuing type of appropriation. We want it to be self-sustaining so that these groups and communities now have a frame work and a way to bring their resources together and their focus together so that they can sustain that with their own available resources. I don't disagree; it will be difficult for us to show actual data at the end of two years.

Rep. Nathe: What does this program do that you're currently not doing now.

Bob Marthaller: I believe this program, that we aren't currently doing, is that the competitive grant would require that it be a community approach. It would be all of the agencies, that it would look at all of the government structures and sometimes the government structures become barriers; state, Tribal and BIE, federal, we are looking at here a way to take a look at that and see which of those barriers we can

remove, that it be community, that it be supported by, not only students, but their families. To put those support structures in place. To be sure that there are health and social services supports. Those are all out there now, but we're proposing with our bill is that they actually get together, develop a community plan to address needs of individual students.

Rep. Nathe: The barriers you are talking about, are you telling me that those are the barriers that are contributing to the lower test scores right now. Is the infrastructure getting in the way of raising these test scores.

Bob Marthaller: Yes, I would say in some cases, yes. Government barriers may get in the way of just the way that we can structure programs. Just getting all those people at the same table to get them to focus resources. That's a barrier.

Rep. Nathe: Can't we do that anyway, just get together rather than having to spend a half-million dollars to talk.

Bob Marthaller: Yes, I guess we could. This provides the frame work and additional resources that may be necessary to make that a more successful program. Should we be successful in getting the appropriation, the Dept., and I want to stress that we would work with the Indian Education Advisory Council to put that RFP together.

Rep. Nathe: Thank you. Further testimony in support.

Marc Bluestone, Superintendent of New Town Public School District #1, New Town, ND: New Town is located on the Ft. Berthold Indian Reservation, which is the home of the Mandan, Hidatsa, and Arikara people (see attached).

Rep. Rohr: What is the potential number of students that would be part of this pilot.

Marc Bluestone: It would basically depend on the school district that applies for it. I can tell you that the New Town schools would not apply for this particular grant, not because we don't have these issues, because we do have these issues. I have other issues that deal with state legislature and representative funding, such as having oil royalty monies, that I am trying to preserve and will be facing the legislature later this session to ensure that we can keep those US floor royalty monies, so to start another program for us would be very difficult, at this time, for us. New Town is the 4th largest Indian school district in the state. Turtle Mtn. (Belcourt) school district, Standing Rock, and Ft. Totten, all have more students than we have. We have 670 kids; Belcourt has close to 2,000 kids. I would envision that one of those three school districts would apply for that so that they could work on developing comprehensive services center, so that they could address all of these needs. First, the dropout rates among American Indian schools (there is a difference between completion rate which was talked about through adequate yearly progress and besides completion rate) vs. actual finishing. What is actually a true dropout rate. You do get a couple of extra years for those 5th year seniors and 6th year seniors to graduate. My school district, unfortunately, with lots of supports have still about a 55% drop out rate. We base that on how many Kindergarten kids actually enter; not freshmen. If I have 100 kindergarten kids come in, I expect 100 would be 100%

graduation rate or completion rate. However, there are a lot of other social issues that impact that. There is, unfortunately, a lot of dysfunctionalism that exists between the community entities, barriers that exist between community programs. There are a lot of turf issues on reservations, lots of lip service. I can tell you that I had 6 students in our school district that missed in excess of 125 days of school last year, and their families did not once go into social services, their families did not go to juvenile court, or to adult court, to say why you don't send your kids to school. Sometimes, school districts like myself, believe that it's us against the world. We are a public school district, we are not a BIE school district, so we are no different than Mandan or Bismarck, Tioga or any school district in the state of ND. We receive state foundation aid funds and we work diligently at trying to take the money that we do have to address the different needs. It is very difficult when you have a lot of lip service that goes on between the community programs. It does take time to actually sit down and try to get them to work together and to design some kind of comprehensive model. Unfortunately, we haven't gotten to that point. There was a process several years back that I will mention that kind of worked fairly well with a certain group of at-risk kids and that was called the wrap-a-round program. The wrap-around program was a comprehensive agreement between all of these programs, where they said that they would work in the best interests of this child or the families that they worked with. They would get together on a weekly basis and discuss the different concerns that these at risk kids had, whether it be economic issues, health issues, psychological issues, and they would work on meeting those needs on a regular basis and then they would monitor those kinds of things. My understanding is that was a federally based program that was funded and when the money went away, the service agreements kind of disappeared as well. I think that is one of the issues that I think will be extremely valuable to do. I know in our school district, we have added an at-risk counselor. We've added 7-10 additional teachers. Right now I have 2 openings, so it depends on the numbers that we have at the time. We have an at-risk counselor, we have a home school coordinator and we've actually changed some of our programming so that we could offer night classes, weekend classes. Unfortunately if need be, we go and pick up kids at home when they call in from home and say that they missed the bus, because we don't want them to miss. We do have a lot of after-school programming and Saturday programs. The only program that I'm aware of, is 21st Century Funds that are operated through our Boys and Girls Club, which serves our entire reservation; all of the reservation schools receive services. I'm unaware of any other programs that are currently funded anywhere, whether for BIE (Bureau of Indian Education) schools or public schools that are successful with these kinds of things. Essentially, we did try to find a school psychologist last year and we could not get anyone to apply for the position. Those are some of the key areas that we are looking at. There are generational poverty issues. I did do a study with one family in our community and unfortunately, of the 22 of their kids, since I have been superintendent (this is my 6th year), actually during the last 8 years, only have 2 left in the district. All of the other ones have quit school, most got their GEDs, but a lot of them are working for the casino. At the casino, they are making $9.00, so with generational poverty, when you're 16 years old and you can come in with $250 every 2 weeks vs. nothing and being poor all of your life, it's kind of an easy decision for some of these families. I did ask the matriarch of that family, with the 2 students that are left with that family, and we're

doing everything we can for those two that are left, one in 9th grade and one in 7th grade, what is going on. I would like to see one of those 22 kids graduate from high school. I don't think the freshman is going to make it. She already sees what is going on with her family but the 7th grader I still have a chance. If we can keep providing supports, we've done some things with her (she is older than average), she is already 14, so we have hired her to help out with different parts of the school that are allowable under law. The idea is that sometimes the staggering poverty issues that are generational that we face, there seems to be no end in sight. Education is not a high priority. That is very difficult, specifically when you can look at it from point of view, I am an enrolled member of the 3 Affiliated Tribes that is my home. I grew up there and I am working with my family members. I am related to about 65% of all the students that walk through my building. Besides being the school administrator and long-time employee of the district, those are my relatives. We hope that whatever we do sets the stage so that later they can be successful in life. One thing that I have learned in this business, is when kids drop out at an early age, a lot of those things end up as gateway issues; whether they are social services issues for kids having kids, or they end up in jail. The recent figures that we have seen it cost $40,000 to incarcerate a female inmate and $36,000 for a male inmate. We should spend a lot more time, money, and efforts doing those kinds of things on a lower level.

Rep. Rohr: That is my concern, trying to wrap my head around this project. Where are you going to place the focus in this project. Are you going to do the assessment on the at-risk kids as they enter into the education system or are you going to wait until the end, or through the high school period, because it seems that this frame work is so large, you're going to have to pick a piece of that and actually look at where your outcomes are going to be most improved or where you are going to make the biggest difference and then move forward because you just gave a great example of how generational poverty can impact the whole community system.

Marc Bluestone: I agree with you. When you look at the staggering statistics of poverty and there doesn't seem to be any end in sight, where do you start is an excellent question because it is an economic one. I don't have any experience or knowledge with the Promise program that are coming out, but I know that, in reference to, it is a community concern across the board that starts at an early age. We have kids that start school that are 3 years behind than their peers because they haven't been exposed to parents that read to them on a daily basis. Their vocabulary is 500 words less than what the normal student has because they have a parent that talks to their kids every day. A lot of that is because their parents are working nights or they have a grandma watch them. I would venture a guess that if a school district would start working, and it may be a stretch to say this, but I could see how you could pick up a kid as they enter junior high and start tracking those kids and seeing exactly every support possible to help those families. Obviously, high school is too late. By the time you are 14 or 15, they have already made a decision. Other statistics tell us that if they are not on the reading level by the time they exit 3rd grade, the odds of them ever catching up will probably never happen. Academic failures at a low level also lead to drop outs at a later age. I could see all the support services kicking in when they get around 7th grade and do the best you can with that age. My biggest concern in our community, because we have a lack in our

community of those professionals that can deal with certain areas, such as psychological issues, physiological issues of kids that really need some kind of anger management and anger support, counseling and therapy. I am kind of on the bad side of the community and tribe over a program that they are putting money into. They are putting money into a legacy fund and they put in $25 million dollars. For $2 million dollars we could probably hire 5 licensed therapists to work on our reservation over the course of two years and to put money in so that my people (myself, my kids) can have a per capita payment down the road of a small amount, I think is very insane. As I said, when you are dealing with those kinds of poverty issues, it does tend to be a huge concern. Once again, the earlier you deal with those issues, the better it will be; especially when those social issues and hormones change and junior high kids have stress, the stress areas are a lot higher in those areas.

Rep. Meier: What is the percent of your graduation rate in the last two years.

Marc Bluestone: For the New Town schools, even though it says that we are at about a 61% completion rate, I believe that our drop-out rate is closer to 55%. We do a lot of supports in reference to kids taking classes on weekends and evenings. If we can get them close, I have not lost a senior in five years. If I can get them to their senior year, I can get them to graduate; it is a very difficult process. We lose a lot of them at the freshmen level. Unfortunately, because of the lack of community programs, compulsory attendance is to 16. On the Ft. Berthold Indian Reservation, compulsory attendance is to 18, and unfortunately, the Tribe is not enforcing their own rules and I've gotten on the bad side of the tribe once again for saying that if you're not going to enforce it, why have a law in place. We have kids that drop out at 16. We have kids that drop out at 13 and 14 and can't get those kids to come back to school and can't get any services to help them. I am not trying to destroy the bill in any manner by what I say. I'm telling you that there are lots and lots of programs that don't work together, that really need a shake-up and I don't want that to hurt the possibility of this particular funding. It will be a struggle just because of turf issues; this program doesn't want to work with that program; this is my program and I do that. A comprehensive service model that we developed from the Indian Education Advisory Council was kind of a group of educators and community members that sat down and really looked at what that perfect model look like, if we had all the stakeholders in the same place. That's kind of how it came about in working with McREL (Mid-continent Research for Education and Learning), it was because of the stakeholders. We take that in our school district to most of the high school kids that we deal with. We try to get a mentor to them that are struggling, we try and talk with parents, we try and set up time for rides to school, discussions with family, and sometimes it works and sometimes it doesn't. Unfortunately, we're about a 55% drop out rate at this point; which is strange because in the last set of state assessment figures, we have the 1st overall highest scores for any Indian school in ND, but that's still not good; 44% is not enough of our kids making that. It does get to be kind of frustrating at times. We have the highest scores but that's not comparable to Minot or Dickinson and some of their test scores.

Rep. D. Johnson: Thank you for your comments. I can understand where you are coming with the local governments, turf issues, the changeover in school board

members and the direction they want to go once you get the programs started and then they get started and get switched again. One thing about working at the casino that's in our area, is that you have to have graduated from high school or have the GED to work there. That brought a lot of students that had dropped out back to the process of getting educated, at least with a GED. That really turned a lot of students around that I personally knew; when they are 13 or 14 and going the wrong direction and I'm quite proud of what they have accomplished, because of the qualification of being able to work there.

Marc Bluestone: When you look at GED programming, it basically says that you can start working on your GED when you're 16. The federal government gives approximately $575 million dollars for GED testing throughout the country. Yet, in operating adequate yearly progress reports to determine school progress, GED's are counted as drop-outs. It's unfortunate, I've been talking to a lot of people about how in a high generational poverty area, the number of kids that have GED's, that are successful on their GED's, that if we could use those as part of our numbers for drop-outs, by the time they are 20, if they get it before they are 20 years old, that would reduce our numbers. The federal government doesn't see eye to eye on that. I have talking over the past six months to everyone who will listen, that because of these poverty issues that we are facing, that a GED would be something that would at least be a benchmark for them to have success. I talked to our staff a lot about how much money a person makes when they are a drop-out, have a GED or a high school diploma; how much more it is with the higher degrees that they have. I had two students drop out earlier this year which is unfortunate because one of them is my nephew. He got his girlfriend pregnant and both of them are honor students. They both quit school, they are both 16, got their GED tests right away. They are both working at the Casino until the baby is born. Those are two that would have completed for me, that would have graduated at some point. Now they are considered drop-outs because they have essentially gotten their GEDs and now are working in the community, which I think this needs to change at the federal level; especially if they are going to give $575 million dollars for funding at the federal level and then turn around and say GED's don't count for anything essentially.

Rep. Hunskor: You talked a little bit about some programs, where it is hard to get them to be totally successful. You talked about different entities within a reservation who don't work together for the better interests of the students as well as you would like to see. If this grant were allowed, would you see that money getting the best bang for the buck, where it would go into some new programs, is it going to be enhancing present programs, or going to entities in the reservation that maybe haven't worked to well together. We need to get the most from every dollar they we can, we need to see results, for these at-risk students. How do you see that playing out.

Marc Bluestone: I have been thinking about this a lot since I looked at the bill and we discussed it at our last education advisory committee meeting. I think the school district that applies has to look at their own backyard and ask themselves if this can work, within the current environment. New Town's schools won't be applying because that's another area that we would believe that our community could not meet those partnership agreements. The district that is able to do that, and I think if

they look at things like wraparound programming, where they are actually looking at meeting and being able to have some comprehensive service agreements, where there are no turfs, we are just trying to get this kid through; we're just trying to get these children through the best that they can, with the resources that we have, would be very successful. I know that $500,000 is a lot of money but then I go back to how much it costs to care for one year of an inmate's incarceration ($36,000-40,000/year). State foundation aid is set at about $4,000 per student; if you're looking at $4,000 per kid to educate children in our state but it costs so much more to take care of an inmate. I think there is a disconnect there for me. I think the school district that does apply, as part of the RFP, would have to have that upfront. Any program that would be able to do that and have those service agreements and would be able to work to ensure that the best interests of the children are being taken care. I think it can be successful if everyone is on the same page. Then it could be replicated based on who could try it next, but I know that for my school district that we're not there yet.

Rep. Rohr: I am trying to come up with another frame work for you. I still think this is just way too large to actually make $500,000 work. If a school is selected, they would have to determine and define what the at-risk student looks like in that school district and have a profile. Then looking at the current statistics and outcomes and then look at what interventions would be the best value for the dollars that you spend and then measure those outcomes at the end. I'm even thinking that maybe some of this money goes to mental health issues and hiring mental health professionals. I don't know if that would be appropriate based on the bill.

Marc Bluestone: There is a huge need for mental health workers on the reservations; the generational poverty and issues that have occurred over the years, historical trauma, those kinds of things, dysfunctionalism. We tried to hire a school psychologist last year and it was unsuccessful. It took us 2 years to get an at-risk counselor. There are those kinds of needs that exist and I think it would be very successful in any district that would actually be able to hire their own therapists, licensed therapists, to meet some of those needs. I totally agree.

Rep. Nathe: You said in your testimony that there might be three other districts that might be interested in applying for this.

Marc Bluestone: I was saying that New Town is the 4th largest school district, we have 670 Indian kids where 90% are Indian. The other three school districts are a lot larger; Standing Rock and Ft. Totten are a little closer to us, but Belcourt is much higher. I don't think it would limit any school district that serves a majority of Indian kids, whether they have 100 Indian kids or 50 Indian kids. I think the idea is that if they can actually make it work, and make a difference in their school district, I think that would be up to those school districts to apply, whether they have 100 kids or 700 kids.

Rep. Nathe: Didn't you say that probably three of them would apply.

Marc Bluestone: I thought that maybe they might apply; I just know that with New Town's current concerns, we cannot apply at this time. We have some other issues

that are not educationally oriented. We do have some other battles ahead of us in reference to oil royalty money and it would be crazy for us to apply for something and try to justify why we are applying when we have all this money coming in from US flood money, why would you want this money. At our last education advisory committee meeting, I think that a district that had that infrastructure in place, that should apply and do the best they can with what they can do with that $500,000 or whatever number is approved.

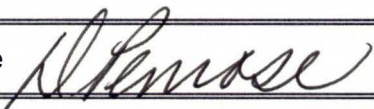Rep. Nathe: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1050
January 16, 2013
17264

☐ Conference Committee

Committee Clerk Signature	*N Penrose*

Minutes:

Rep. Nathe: Let's take a look at HB 1050. Any discussion or thoughts.

Rep. Rohr: It wasn't brought out in the testimony but Mr. Bluestone, from New Town Public School District, wasn't interested in applying for this particular grant monies. Do we know of any reservation district schools that were interested in applying.

Rep. Nathe: I do not know of any. I thought it was interesting that here was a program that could help these school districts, with their issues, and they didn't bother to show up. I really question if it isn't high on their list of priorities, should it be high on our priority list.

Rep. B. Koppelman: My impression from the testimony and the results of the questions asked, was that this program, although it may be throwing money at a problem, it didn't appear to solve a problem; they didn't appear to have a good plan.

Rep. Meier: Could we have Mr. Marthaller come to the podium and visit with us a little about if there were any BIE that had interest in applying for this program.

Bob Marthaller, Dept. of Public Instruction: I believe the question was, as I understand it, were there any specific schools, reservation schools, or public schools on reservations that were interested in the grant. I don't have a specific list of schools that would be interested. As we worked and prepared this bill, we worked with the ND Indian Education Advisory Council, which has representation from many of those schools and they were supportive. I suspect that some would apply; I can't give you a specific answer as to which one or how many.

Rep. Meier: If the money were to go out and the grant would not get awarded, what happens then, does it go back into the General Fund; what would happen if this bill were to pass.

Bob Marthaller: My understanding would be that if there were no applicants for the grant that the money would not be disbursed and I suspect it would go back to the general fund.

Rep. Rohr: Do you have a Plan B if this doesn't go through.

Bob Marthaller: We don't have a Plan B, we didn't talk about a Plan B. As always, we know there are issues with our lowest performing schools. Most of our lowest performing schools are the schools that might be assisted or identified as being potential candidates for this particular grant. Our Plan B would be to go back to the Indian Education Advisory Council and give it some more discussion.

Rep. Hunskor: I guess the thought is, anytime you have this amount of money, is it going to get to where it should get to. Is it going to do the intended job without getting used up somewhere along the pathway. Hopefully it would do what it is intended to do.

Bob Marthaller: We understand that and have the same caution and that would be our approach. As we would develop the grant criteria, we would certainly do our best to make sure that the dollars go to directly impact kids and family supports. I suspect that some of the grant applicants might want administrative funds, might want staff and I understand the concern about that and we also have that same concern. We would do our best to be sure that the dollars get to where they can do the most good.

Rep. Rust: One of the things I circled on the grant was that for the purpose of making "a grant". So "a grant" means one, is that correct.

Bob Marthaller: Yes, that's correct.

Rep. Rust: $500,000 sounds like a lot of money for "a grant". I've been involved with some grants and when you start talking about a half-million dollars, generally you are almost talking some capital type expenditures. When I look at this I see a couple of objectives, but I feel that they want the money and then they will figure out how to spend it.

Rep. Nathe: I feel that way too. Like, "give it to us and we will tailor it to our needs".

Rep. Rohr: As much as I want to help these people, because I know their outcomes are not the greatest. Truly, you look at these statistics and see there is a problem. But I was concerned after Mr. Bluestone indicated that even their graduation rates, the numbers that we have are not accurate, because some of those students have GEDs and so the numbers are inflated. So we don't know the true percentage of high school drop outs. My other thought is, that based on his testimony, that the social issues are far greater and are a direct result of why they have low education outcomes. Shouldn't we be focusing on the social issues.

Bob Marthaller: Yes, and I agree. That's why in the planned project, as we developed it, we envisioned that it would encompass the entire community. So within the framework, absolutely, you would look at the juvenile system, health care system, the whole issue of poverty and economic development. I agree, its social issues that are the problems there and having a huge impact.

Rep. Nathe: There are a lot of programs out there that address these issues already. It just seems that the bill would be used to basically do away with the turf battles and try to bring in other groups in. It seems like it is a lot of money to do something like that, that really could be done outside of the bill.

Bob Marthaller: No, I don't think you are, once again the whole governance issue, in the last two sessions and I've appeared before various committees, it seems like it always comes back to the governance kinds of issues which you're addressing. It presents various barriers and we've tried to address them for a long period of time.

Rep. Hunskor: It's hard to not want to support this when you think of kids and you want to help them. If we don't give it a try, we won't know if it will work. Maybe it will, maybe it won't. If we were to reduce that $500,000 amount, how much would it take to put together

this pilot program, could you do it for $100,000 or $200,000 to make the number less so that we can find out if it could work and it wouldn't cost a half-million dollars.

Bob Marthaller: I understand your question but it is still difficult and maybe we don't have a good enough plan yet to address that question. If we were to provide tutoring services, and there are tutoring services now available; but let's say that we partner with someone and provide tutoring services or after school programs, or if you hire one staff person to do that at a school or coordinate that, and you add benefits to that and now you're already at $50,000 and how much more can you do. It's difficult and I understand. Our plan B would be, should the committee choose not to support the bill, would be to go back to the Indian Education Advisory Council and we'll keep working on it and maybe next session we will bring you another bill with more specific guidelines and further development.

Rep. D. Johnson: My thoughts on this bill, when you start talking educational, health, and social, it's a pretty broad picture. Its generations and generations of why things are what they are. We've heard about the turf battles between the different agencies and when you start coming into money, then the battles really get going. I am very familiar with that. I would have liked to have seen a proposal where the folks from the different reservations would have come to testify as to what they could have done with the financial support. Certainly they need help out there, but I've known people who have worked for years trying to get programs going and to throw $500,000 at a program and expect results in a year is a pretty big undertaking. I support any kind of program that we can try to implement, but I think that rather than money, we need to find out what kind of help they need and hear from the folks that are on the ground trying to implement the change.

Rep. Nathe: I agree. When we're talking a half-million dollars I would like to see more specifics of what that money is going to be used for. I appreciate the challenge that Bob has had in trying to learn where the best place for the money to go, but I'd like to see a line-item kind of report where we know where the money will be spent.

Rep. Rohr: I think it is a little premature, but what's really impressive and encouraging was the Day at the Capitol Memorial Hall, when they are finally talking about forgiveness, both for the white man and the Indian people. We don't have any say or control over what our ancestors did, but now they are in that forgiveness mode, maybe now these resources can get together and start talking and leave all this baggage and start moving forward to improve their outcomes.

Rep. Wall: I appreciate Bob saying that if this does not pass, they will work on another plan because I also think it needs more focus. It needs to be more specific. One of the things that I would just like to point out, having served on the Interim Education Committees and the Education Committee, we are aware that one of the fastest growing, if not the fastest growing populations in ND is the Native American population. I don't think as a state that we can afford the dropout rates that we're seeing, and we're consistently seeing. We're trying to address it; we never seem to get anywhere. It's frustrating, it seems like we never pass a bill that makes any improvement. I think we have to be cognizant. This is our future workforce. We have to get these people educated, need to get them trained, we need them in the workforce. We need them, not only for selfish reasons, to be productive members of society, but also for them to make improvement. I think that any bill that would be forthcoming, that we can see an outcome that can be measured; outcomes that we can relate to, I think this body would pass.

Rep. J. Kelsh: Bob, were you at the Tribal Relations Committee when this bill was being talked about and being developed. There must have been some reasoning, some thoughts

that went into it; reasons for it being brought up. I don't know what other programs there are that support the type of things here in the bill to bring the communities together and I know there are problems in that area. Are you aware of why this was brought forward. When Mr. Bluestone was here, he stated that he thought that there might be three groups that might apply for this pilot program. How many schools are a majority of Native Americans. He thought that there was some interest out there. Could you reiterate what happened at the meeting.

Bob Marthaller: I and other members of our staff did attend most of the Tribal State Relations Committee meetings. I would say to summarize, there was general discussion. I think their conclusion is probably similar to your conclusion here, or at least some of your thoughts here in terms of we believe there is a need. We've tried to address it in a variety of ways. During the discussion there was some about whether it should be a competitive grant or should it just flow out, similar to a funding formula; like our per people payment does. I think they, too, if they had concerns had concerns about what is the outcome. Are we actually going to see some improvement; something that we can measure. Over a two year period that would be difficult to show any kind of statistical or data really. It is going to take longer than that. We didn't get here in a short time, it's going to take a long time to pull out of that. As far as the schools, I suspect that we'd see partnerships that would come from the Standing Rock Community and probably Turtle Mtn. as well. I'm not sure about Ft. Totten, but I suspect those were the three that Mr. Bluestone was referring to. Again, we're not thinking about this grant as a grant to just one school, it is a partnership, so that all Standing Rock has 2 or 3 public schools on the reservation, so part of the design would be to make sure that it is a partnership and that it includes all of the schools.

Rep. Nathe: This would be one grant given to DPI and DPI would then distribute.

Bob Marthaller: Yes, DPI would distribute.

Rep. Nathe: I kind of question the value for the dollar, as far as the data we would get in such a short time. I don't want to fall into the old education money trap, where all we do is throw money at it and get no results, or the results don't show improvement.

Bob Marthaller: I agree with you totally. We know that we have thrown lots of dollars to these problems. There are resources available. I think it's more important than the dollars, it's what are we going to use them for. It's within that framework, within that partnership in bringing all of the folks that need to be at the table to develop a plan, to address the needs of Native American kids in this case. They need to be at the table. There needs to be a partnership, community-focused. That is our grand design and the big picture. I'm sorry that we don't have a more detailed plan for you.

Rep. Nathe: I am encouraged Bob that if this bill were not to pass out of committee, and pass out with a Do Not Pass that your Dept. is still going to take this and look at it and hopefully come up with a sharper plan and a better plan.

Bob Marthaller: One of the things that we have been able to accomplish in the Dept. in the last year or so, we did finally find a way to identify a staff person, an FTE, that we had available and now we have a Director of Indian Education and it's a unit of one, yet the idea is that we need to focus on this issue. It is an issue and if we can bring our lowest performing schools, it raises the level of all.

Rep. D. Johnson: Was the intent of the bill just for reservation schools. When I look around our area, we've got three schools with substantial Native American populations, and they are off the reservation.

Bob Marthaller: It was our intent, that these would be partnerships of schools. So it could be one school that would be the applicant, but within the guidelines, we would want partnerships in all schools on the reservation or near the reservations that are serving large populations of Indian schools, absolutely they would be included. That's what we would encourage.

Rep. Rohr: It's so overwhelming when you look at all the low outcomes that come from the reservation schools. It would seem to me that if you kind of reverse the thought process and thought of those schools with the best outcomes, and what can the other schools learn from that partnership.

Rep. J. Kelsh: I am assuming the Dept. is down here because they support the idea of the bill. Do you just feel that it would be just throwing more money at a problem that's not going to get any results or does the Dept. feel that there is a possibility of bringing these people together, getting something started that may work. The Chief who gave the address to us last Thursday, said, "I certainly hope that we are able to share in the wealth of the state of ND. I don't know what he meant exactly by that, this may be a step that will have some results. I have no idea whether this would work or not, but you must have some idea if there is any possibility that this is workable.

Bob Marthaller: Absolutely. From the Department's point of view, certainly we wouldn't be up here if we were not supportive of the bill. We feel that within that framework that there is a possibility that if we bring the community groups together, form the partnerships, address individual needs of students as well as their families, that we could start to make a difference. We need to start somewhere to do that. I believe that we had the support of all of the folks that represent the ND Indian Advisory Council. I don't know if it were the weather or the roads, or what the reason was why they weren't here. I had believed that more people would be present at the hearing to testify in favor of it.

Rep. Hunskor: Once the grant, if this were to pass and a school applied for the grant, and the grant is given, who controls how the grant is going to be used. Somebody has to come up with a program, we're going to use it for this and that. Do you have control over the funds at DPI or the grant monies go out and the school that receives it, they will decide the criteria in how that money is going to be used.

Bob Marthaller: We would design the grant in such a way that the Dept. would absolutely be monitoring the funds, to make sure that the partnership was in compliance with the criteria as we would have it developed. We would want to be in control of those dollars.

Rep. Nathe: Thank you.

Rep. B. Koppelman: I move a Do Not Pass.

Rep. Schatz: Second the motion.

Rep. Nathe: Further discussion. There seems to be too many issues here so that I'm uncomfortable; the fact that the groups didn't show, that the bill needs to be more focused. I think the intentions are wonderful, but I would like to see DPI come up with a better, focused bill.

Rep. J. Kelsh: I realize that if this bill doesn't pass, is there a reason for the Dept. to come up with something that can't be used. I don't know if they've had the time or not to develop the exact program that would have fit this, but this bill doesn't go into effect until the 1st of August. I'm sure by then they can have the program put together. When you stop and think about what is going on in those schools, I think it is imperative that we try to do something. We can't just let that go on and on. The poverty is a way of life that's going to be there forever. We have to try and change that. Just saying "no" because the program isn't totally developed and there are seven months to develop that program, I think is wrong. I feel that we should give it a chance.

Rep. Nathe: To do something just for the sake of doing something, I'm not comfortable with that, especially with the amount of money we are looking at. I would suggest that if they could do it for less than half-million dollars and Bob layed it out that you get to $100,000 pretty quickly. I would like him to come back with a more focused plan where we get the bang out of the buck. I agree that something needs to be done, but I don't think this is the right vehicle.

Rep. Schatz: I know that we've had other studies, many other studies. This wouldn't be the first time this would be done. There have been a lot of studies. I've always wanted one of those fact sheets that say what really works, because I know we have studied it before. I would like to see something like that. I don't think that another study is going to help us, because we've done it before.

Rep. J. Kelsh: I don't feel this is a study, this is action. They apply for a grant and they are going to have specific actions that need to be taken care of. It involves the whole community, not just the school; healthcare, the whole community would be involved in it. At some point, they can sit down and come up with something that will work for them. Obviously, what's been done now hasn't. I'm not saying that we just throw money at it. As Bob mentioned, they are going to come up with a specific program that they have to follow, otherwise they won't get the grant monies. I think this is totally different, it's not a study, and this is a plan of action that hasn't been completed yet, but will be before the money goes out.

Rep. B. Koppelman: When you look at the criteria of what the process would be to get the grant, what it's supposed to do, and whether it's socioeconomics, or turf battles, or other things that are involved with implementing something like this. At some point, do we get beyond the scope of what education is, too. If we were to do this and target money at a community-wide project and with a fairly loose rein. Are we even supposed to be allocating money for education that end up more widely spread into other areas that maybe do or don't have an impact, maybe we can or cannot make an impact on with this money. It may impact the quality of education indirectly, but they may not be directly being education related.

Rep. J. Kelsh: This bill could have just as well as gone to the Human Service Committee, as well as the Education Committee, because I think it deals with both areas. The Human Service part of it is definitely a big part of the at-risk Indian students and their families. It's not just about education. There's no two ways about that. If you have a dysfunctional family, you're going to have children who are dysfunctional as far as getting an education, also. Maybe it should have gone to Human Services, it's probably more about that than education in all honesty.

Rep. Nathe: I agree with you, that the social problems that we do have do translate into some serious educational issues for our students; how they are raised, their environment,

those sorts of things, I absolutely agree with you. Any further discussion, the clerk will call the roll.

12 YES 1 NO 0 ABSENT   DO NOT PASS   CARRIER: Rep. Meier

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1050

House   Education   Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass   ☑ Do Not Pass   ☐ Amended   ☐ Adopt Amendment

☐ Rerefer to Appropriations   ☐ Reconsider

Motion Made By Rep. B. Koppelman   Seconded By Rep. Schatz

Representatives	Yes	No	Representatives	Yes	No
Chairman Mike Nathe	✔		Rep. Bob Hunskor	✔	
Rep. Mike Schatz	✔		Rep. Jerry Kelsh		✔
Rep. John Wall	✔		Rep. Corey Mock	✔	
Rep. Brenda Heller	✔				
Rep. David Rust	✔				
Rep. Lisa Meier	✔				
Rep. Karen Rohr	✔				
Rep. Dennis Johnson	✔				
Rep. Joe Heilman	✔				
Rep. Ben Koppelman	✔				

Total   (Yes) _____12_____   No _____1_____

Absent _____0_____

Floor Assignment _____Rep. Meier_____

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE
HB 1050: Education Committee (Rep. Nathe, Chairman) recommends **DO NOT PASS**
(12 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1050 was placed on the
Eleventh order on the calendar. \

2013 TESTIMONY

HB 1050

TRIBAL AND STATE RELATIONS COMMITTEE

North Dakota Century Code Section 54-35-23, which expires July 31, 2013, establishes the Tribal and State Relations Committee. The committee is composed of a chairman designated by the Chairman of the Legislative Management; three members of the House of Representatives, two of whom must be selected by the leader representing the majority faction of the House of Representatives and one of whom must be selected by the leader representing the minority faction of the House of Representatives; and three members of the Senate, two of whom must be selected by the leader representing the majority faction of the Senate and one of whom must be selected by the leader representing the minority faction of the Senate.

Section 54-35-23 directs the committee to conduct joint meetings with the North Dakota Tribal Governments' Task Force to study tribal-state issues, including government-to-government relations, human services, education, corrections, and issues related to the promotion of economic development. During the 2011-12 interim, the committee also is to study whether the members of the North Dakota Tribal Governments' Task Force should be voting members of the committee. After the joint meetings have concluded, the committee is to meet to prepare a report on its findings and recommendations, together with any legislation required to implement those recommendations, to the Legislative Management.

The North Dakota Tribal Governments' Task Force is composed of six members--the Executive Director of the Indian Affairs Commission, or the Executive Director's designee; the Chairman of the Standing Rock Sioux Tribe, or the Chairman's designee; the Chairman of the Spirit Lake Tribe, or the Chairman's designee; the Chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or the Chairman's designee; the Chairman of the Turtle Mountain Band of Chippewa Indians, or the Chairman's designee; and the Chairman of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, or the Chairman's designee.

In addition to the committee's statutory responsibilities, the Legislative Management assigned to the committee responsibility under Section 57-51.2-04 to receive a report from the Governor describing the negotiations and terms of any agreement between the Governor and the Three Affiliated Tribes of the Fort Berthold Reservation relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation and thereafter receive biennial reports describing the agreement's implementation and any difficulties in its implementation.

Members of the North Dakota Tribal Governments' Task Force were Scott J. Davis, Executive Director, Indian Affairs Commission; Tex G. Hall, Chairman, Three Affiliated Tribes of the Fort Berthold Reservation; Charles Murphy, Chairman, Standing Rock Sioux Tribe; Merle St. Claire, Chairman, Turtle Mountain Band of Chippewa Indians; Robert Shepherd, Chairman, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation; and Roger Yankton Sr., Chairman, Spirit Lake Tribe.

Committee members were Senators David O'Connell (Chairman), Robert Erbele, Richard Marcellais, and Donald Schaible and Representatives Jim Kasper, Kenton Onstad, and Wayne Trottier.

The committee submitted this report to the Legislative Management at the biennial meeting of the Legislative Management in November 2012. The Legislative Management accepted the report for submission to the 63rd Legislative Assembly.

FEDERAL INDIAN LAW AND POLICY

Indian law is a very complex area of law. Due to the sovereign character of Indian tribes, most Indian law is necessarily federal in nature. Under the federal system, there have been several distinct eras of federal-tribal relations.

During the initial era of federal-tribal relations, 1789 to approximately 1820--known as the non-intercourse era--the federal government sought to minimize friction between non-Indians and Indians by limiting the contacts between these groups. This era was followed by the Indian removal era--approximately 1820 to 1850--when the federal government sought to limit friction between non-Indians and Indians by removing all Indians from east of the Mississippi River to open land in the Oklahoma Territory. This era was followed by what may be called the reservation era--1850 to 1887--when, as non-Indians continued to move westward and friction developed between non-Indians and Indians, the federal government developed a policy of restricting Indian tribes to specified reservations. This policy was implemented by treaty in which each tribe ceded much of the land it occupied to the United States and reserved a smaller portion to it. This is the origin of the term reservation.

With the enactment of the General Allotment Act of 1887, or Dawes Act, United States-Indian relations entered a new era. This era is known as the allotment era because the General Allotment Act authorized the President to allot portions of reservation land to individual Indians. Under this system, allotments of 160 acres were made to each head of a family and 80 acres to others, with double those amounts to be allotted if the land was suitable only for grazing. Title to the allotted land was to remain in the United States in trust for 25 years, after which it was to be conveyed to the Indian allotted free of all encumbrances. The General Allotment Act also authorized the Secretary of the Interior to negotiate with tribes for the disposition of all excess lands remaining after allotment for the purpose of non-Indian settlement. The General Allotment Act resulted in a decline in the total amount of Indian-held land from 138 million acres in 1887 to 48 million acres in 1934.

The allotment era was followed by the Indian reorganization era--1934 to 1953--during which the land base of the tribes was protected by extending indefinitely the trust period for existing allotments still held in trust and encouraging tribes to establish legal structures for self-government. The Indian reorganization era was followed by the termination and relocation era--1953 to 1968--when

the federal government sought to terminate tribes that were believed to be prosperous enough to become part of the American mainstream, terminate the trust responsibility of the federal government, and encourage the physical relocation of Indians from reservations to seek work in large urban centers.

The policy of termination and relocation was regarded as a failure, and the modern tribal self-determination era began with the Indian Civil Rights Act of 1968. The effect of this Act was to impose upon the tribes most of the requirements of the Bill of Rights. The Indian Civil Rights Act of 1968 also amended Public Law 280 so that states could no longer assume civil and criminal jurisdiction over Indian country unless the affected tribes consented at special elections called for this purpose. There have been a number of federal Acts since 1968 designed to enhance tribal self-determination. These include the Indian Financing Act of 1974, which established a revolving loan fund to aid in the development of Indian resources; the Indian Self-Determination and Education Assistance Act of 1975, which authorized the Secretaries of the Interior and of Health, Education, and Welfare to enter contracts under which the tribes would assume responsibility for the administration of federal Indian programs; the Indian Tribal Government Tax Status Act of 1982, which accorded the tribes many of the federal tax advantages enjoyed by states, including that of issuing tax-exempt bonds to finance governmental projects; the Tribally Controlled Schools Act of 1988, which provided grants for tribes to operate their own tribal schools; the Indian Child Welfare Act of 1978; the American Indian Religious Freedom Act of 1978; and the Indian Gaming Regulatory Act of 1988.

STATE-TRIBAL RELATIONS

Probably the most important concept in state-tribal relations is the concept of sovereignty. The states and Indian tribes are sovereigns in the federal system. In *Johnson v. McIntosh*, 21 U.S. 543 (1823), the United States Supreme Court stated "[t]he rights of the original inhabitants were, in no instance, entirely disregarded; but were necessarily, to a considerable extent, impaired. They were admitted to be the rightful occupants of the soil . . . but their rights to complete sovereignty, as independent nations, were necessarily diminished, and their power to dispose of the soil at their own will, to whomsoever they pleased, was denied by the original fundamental principle, that discovery gave exclusive title to those who made it." In *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831), the Supreme Court held that the Cherokees could not be regarded as a foreign state within the meaning of Article III of the Constitution, so as to bring them within the federal judicial power and permit them to maintain an action in the Supreme Court. However, Chief Justice John Marshall characterized Indian tribes as "domestic dependent nations." In *Worcester v. Georgia*, 31 U.S. 515 (1832), the Supreme Court further discussed the status of Indian tribes. The Court stated that "[t]he Indian nations had always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial, with the single exception of that imposed by irresistible power, which excluded them from

intercourse with any other European potentate than the first discoverer of the coast of the particular region claimed . . . ." The Court concluded that the laws of Georgia have no force in Cherokee territory. Based upon these early cases, the tribes are sovereign and free from state intrusion on their sovereignty. Thus, state laws generally have been held inapplicable within the boundaries of reservations, although exceptions have been made under the plenary power of Congress to limit tribal sovereignty.

STATE-TRIBAL COOPERATIVE AGREEMENTS

Chapter 54-40.2 provides for agreements between public agencies and tribal governments. As used in this chapter, public agency means any political subdivision, including a municipality, county, school district, and any agency or department of North Dakota. Tribal government means the officially recognized government of an Indian tribe, nation, or other organized group or community located in North Dakota exercising self-government powers and recognized as eligible for services provided by the United States. The term does not include an entity owned, organized, or chartered by a tribe that exists as a separate entity authorized by a tribe to enter agreements of any kind without further approval by the government of the tribe.

Section 54-40.2-02 provides any one or more public agencies may enter an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any dispute in accordance with Chapter 54-40.2 or any other law that authorizes a public agency to enter an agreement. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement. Section 54-40.2-03.1 provides after the parties to an agreement have agreed to its contents, the public agency involved is required to publish a notice containing a summary of the agreement in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice also must be published in any newspaper of general circulation for the benefit of any members of the tribe affected by the agreement. The notice also must be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement. The notice must state the public agency will hold a public hearing concerning the agreement upon the request of any resident of the county in which the notice is published if the request is made within 30 days of the publication of the notice.

Section 54-40.2-03.2 provides if the public agency involved receives a request pursuant to Section 54-40.2-03.1, the public agency is required to hold a public hearing, before submitting the agreement to the Governor, at which any person interested in the agreement may be heard. Notice of the time, place, and purpose of the hearing must be published before the hearing in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice must be published in a newspaper

of general circulation published for the benefit of the members of any tribe affected by the agreement. The notice must be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement. The notice also must describe the nature, scope, and purpose of the agreement and must state the times and places at which the agreement will be available to the public for inspection and copying.

Section 54-40.2-04 provides as a condition precedent to an agreement made under Chapter 54-40.2 becoming effective, the agreement must have the approval of the Governor and the governing body of the tribes involved. If the agreement so provides, it may be submitted to the Secretary of the Interior for approval.

Section 54-40.2-05 provides within 10 days after a declaration of approval by the Governor and following approval of the agreement by the tribe or tribes affected by the agreement and before commencement of its performance, the agreement must be filed with the Secretary of the Interior, the clerk of court of each county where the principal office of one of the parties is located, the Secretary of State, and the affected tribal government.

Section 54-40.2-05.1 provides upon the request of a political subdivision or any tribe affected by an approved agreement, the Indian Affairs Commission must make findings concerning the utility and effectiveness of the agreement taking into account the original intent of the parties and may make findings as to whether the parties are in substantial compliance with all provisions of the agreement. In making its findings, the commission must provide an opportunity, after public notice, for the public to submit written comments concerning the execution of the agreement. The commission is required to prepare a written report of its findings and to submit copies of the report to the affected political subdivision or public agency, the Governor, and the affected tribes. The findings of the commission are for informational purposes only. In an administrative hearing or legal proceeding in which the performance of a party to the agreement is at issue, the findings may not be introduced as evidence, or relied upon, or cited as controlling by any party, court, or reviewing agency, nor may any presumption be drawn from the findings for the benefit of any party.

Section 54-40.2-06 provides an agreement made pursuant to Chapter 54-40.2 must include provisions for revocation. Section 54-40.2-08 enumerates specific limitations on agreements between public agencies and Indian tribes. This section provides Chapter 54-40.2 may not be construed to authorize an agreement that enlarges or diminishes the jurisdiction over civil or criminal matters that may be exercised by either North Dakota or tribal governments located in North Dakota; authorize a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country; authorize a public agency or tribal government to enter an agreement except as authorized by its own organizational documents or enabling laws; nor authorize an agreement that provides for the alienation, financial encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or subject to a restriction against alienation imposed by the United States. Finally, Section 54-40.2-09 provides Chapter 54-40.2 does not affect the validity of any agreement entered between a tribe and a public agency before August 1, 1999.

2011 LEGISLATION

The 62nd Legislative Assembly enacted several bills relating to Indian issues.

House Bill No. 1049 required the Superintendent of Public Instruction to conduct a study of Indian education issues between July 1, 2011, and July 1, 2013, to develop criteria for grants to low-performing schools. In conducting this study, the Superintendent was to determine the extent to which the governance and collaborative models, including agreements with tribal governments, the Bureau of Indian Education, and the state, have in improving student achievement; whether success models are available and what makes these models effective; and whether federal, state, or local barriers exist that prevent schools and students from performing at high rates of student achievement. The Superintendent was authorized to utilize a consultant in conducting the study. The Superintendent was to report periodically to a Legislative Management interim committee on the study conducted under this section. The Legislative Management assigned this responsibility to the Education Funding and Taxation Committee.

House Bill No. 1263 provided the intercollegiate athletic team sponsored by the University of North Dakota must be known as the University of North Dakota Fighting Sioux. The bill provided neither the university nor the State Board of Higher Education may take any action to discontinue the use of the Fighting Sioux nickname or the Fighting Sioux logo in use on January 1, 2011. The bill provided any actions taken by the State Board of Higher Education and the university before the effective date of the Act to discontinue the use of the Fighting Sioux nickname and logo were preempted by the Act, and if the National Collegiate Athletic Association took any action to penalize the university for using the Fighting Sioux nickname or logo, the Attorney General was to consider filing a federal antitrust claim against the association. This provision was repealed by Senate Bill No. 2370. This bill also provided neither the State Board of Higher Education nor the university may adopt or implement an athletic nickname or corresponding logo before January 1, 2015.

Senate Bill No. 2053 extended the expiration date of the committee from July 31, 2011, to July 31, 2013. The bill replaced the Chairman of the Legislative Management, or the Chairman's designee, as Chairman of the committee, with a chairman designated by the Chairman of the Legislative Management. The bill changed the name of the Native American Tribal Citizens' Task Force to the North Dakota Tribal Governments' Task Force and expanded the scope of the committee from the study of the delivery of services, case management services, and child support enforcement to human services. In addition, the bill required the committee to study whether the

members of the task force should be voting members of the committee.

Senate Bill No. 2208 made clear the income of an enrolled member of a federally recognized Indian tribe who resides within the boundaries of a reservation in this state or in this state and an adjoining state is exempt from tax if the income is from activities or sources within the boundaries of the reservation.

Senate Concurrent Resolution No. 4012 directed the Legislative Management to study the feasibility and desirability of placing the entire Fort Berthold Reservation in a single public health unit. The Legislative Management assigned this study to the Health Services Committee.

CORRECTIONS ISSUES

The committee discussed corrections issues. The committee learned approximately 24 percent of the state's prison population and 16 percent of the state's probation and parole population are comprised of American Indian men and women with the largest group identifying themselves as Sioux--42 percent. According to the 2012 United States census, American Indians make up 5.4 percent of the state's population. Thus, the state's criminal justice system is prosecuting and incarcerating American Indians at 4.4 times the state's general American Indian population and has 3.2 times American Indians on probation and parole compared to the state's general population. The committee learned the Department of Corrections and Rehabilitation has initiated the Read Right program to improve reading comprehension abilities among its inmate population in order to support their learning ability as much of learning hinges on reading comprehension. Also, the committee learned the department is focusing on chemical and sexual offender treatment as well as mental health services. In addition, the committee learned the department has taken action to improve outcomes by having American Indian leaders speak to American Indian inmates to educate and serve as quasi-mentors.

TAXATION IN INDIAN COUNTRY

The committee reviewed state and tribal tax agreements. The committee learned the Tax Commissioner's office has developed several key attributes for state and tribal tax agreements. These include an identical tax for each tribe based upon tribal ordinances, be census-based, uniform, and efficient.

The committee reviewed motor fuel tax guidelines for tribal agreements. The state has entered motor fuel tax agreements with several Native American tribes. These agreements provide for the single administration of the collection and distribution of motor fuel taxes on behalf of the state and tribes for fuel sales within the boundaries of the reservation. The tax rates for motor fuel sales are consistent both on and off the reservation. The distribution of the tax is based on the official United States census of Native Americans who are enrolled tribal members, Native Americans who are not enrolled, and non-Native Americans residing on the reservation. For the purpose of the agreements, it is assumed Native Americans enrolled on the reservation where fuel is

purchased are paying the tribal tax, and Native Americans who are not enrolled on the reservation where fuel is purchased are paying the state tax, and non-Native Americans are paying the state tax.

Motor fuel tax collected on fuel sales at a retail station on a reservation is distributed between the state and the respective tribe based on the population census. Bulk sales delivered to a consumer on a participating reservation are subject to the appropriate tax based on a member or nonmember status.

Motor fuel taxes subject to agreements are administered by the Tax Commissioner's office. All fuel dealers conducting business on the reservation must apply for a tribal motor fuel license with the Tax Commissioner, in addition to the requirements for a state motor fuel license. Retail stations located on a reservation, fuel dealers located either on or off the reservation supplying retail locations located on the reservation, and fuel dealers located either on or off the reservation supplying bulk sales to consumers on the reservation who are enrolled tribal members must have a tribal motor fuel tax license.

North Dakota motor fuel taxes apply to all consumer sales unless tribal tax or an exemption is applicable. The tax rate for both motor vehicle fuel and special fuel used in a licensed vehicle is 23 cents per gallon. Special fuel or dyed fuel used in equipment for agricultural or industrial purposes is taxed at 4 cents per gallon. Special fuel or dyed fuel used for heating fuel is tax-free. Tribal tax applies to all retail sales on the reservation. The tax rate for both motor vehicle fuel and special fuel used in a licensed vehicle is 23 cents per gallon. Dyed fuel is not subject to tribal tax.

The Tax Commissioner reported state tribal tax agreements demonstrate the effective collaboration between tribal governments, and the state and the agreements result in much-needed revenue for the tribes and ensure tax fairness for both the consumers and the retailers involved.

INDIAN EDUCATION ISSUES

Representatives of the Department of Public Instruction reported on the progress on a study of Indian education issues related to governance, success models, and barriers that prevent schools and students from performing at high rates of student achievement and to develop criteria for grants to low-performing schools throughout the interim. Representatives of the Department of Public Instruction submitted a proposal to establish a competitive pilot grant to advance two primary priorities. The first priority is to provide integrated school-based and community-based educational, health, and social support services for identifying at-risk students and their families to aid these at-risk students in meeting the goal of postsecondary success and success in life. The second priority is to institute local governance partnerships and service delivery models that enhance, support, and sustain an environment where local service providers can identify specific community needs, develop measurable plans, and implement activities to aid at-risk students and their families. The proposed pilot grant program attempts to address both individual student

needs of identified at-risk American Indian students and the structure and efficiency of local services provision by the various public and private agencies that exist to support students and their families. The primary outcome hoped to be achieved by the pilot grant program is increased self-sufficiency of students and their families and the sustainability of local collaboration efforts.

Committee Consideration

The committee considered a bill draft to authorize the Superintendent of Public Instruction to develop and implement a pilot grant program for at-risk American Indian students and for the support of community-based services. Under the bill draft, the Superintendent is required to develop and implement a competitive pilot grant program to aid integrated community services that support identified at-risk American Indian students and their families and support collaboration among community-based services. The grant must be used to provide integrated school-based and community-based educational, health, and social support services for identified at-risk students and their families and to aid these at-risk students in meeting the goal of postsecondary success and success in life and institute local governance partnerships and service delivery models that enhance, support, and sustain an environment in which local service providers can identify specific community needs, develop measurable plans, and implement activities to aid at-risk students and their families. The purpose of the grant program is to develop and adopt a school-level and community-level plan for envelopment of local supports for identified at-risk students and the overall improvement of a school's and community's capacity to deliver and sustain this effort. The bill draft appropriates $500,000 from the general fund to the Superintendent for the purpose of making the grant.

Recommendation

The committee recommends House Bill No. 1050 to authorize the Superintendent of Public Instruction to develop and implement a pilot grant program for at-risk American Indian students and for the support of community-based services.

COMMISSION TO STUDY RACIAL AND ETHNIC BIAS IN THE COURTS

The committee received updates throughout the interim from representatives of the Commission to Study Racial and Ethnic Bias in the Courts. The North Dakota Supreme Court established the commission to study whether racial and ethnic bias exists in the courts, and if so, potential solutions. The committee reviewed the interim report of the commission in September 2011 and the final report in October 2012. The final report contains a number of recommendations, including general recommendations, and findings and recommendations concerning juries, interpreters, crimes, juveniles, civil actions, and attorneys and court employees.

HERITAGE CENTER EXPANSION

The committee received reports throughout the interim from representatives of the State Historical Society concerning expansion of the Heritage Center. The Heritage Center staff is working with the Indian Affairs Commission to identify tribal advisers to assist the State Historical Society staff in developing appropriate exhibits for the expanded Heritage Center.

INDIAN HUMAN SERVICES ISSUES

The committee reviewed the Medicaid and children's health insurance program (CHIP) tribal consultation policy. Representatives of the Department of Human Services reported that the department acknowledges there are legal and stakeholder partnerships with the Indian tribes in North Dakota. These partnerships have grown throughout the years and will continue to be an integral part of implementing the revisions set forth by the federal American Recovery and Reinvestment Act of 2009 and the federal Patient Protection and Affordable Care Act. Representatives of the department reported it is the intent of the department to consult on a regular basis with the Indian tribes established in North Dakota on matters relating to Medicaid and CHIP eligibility and services, which are likely to have a direct impact on the Indian population. This consultation process will ensure tribal governments are included in the decisionmaking process when changes in Medicaid and CHIP will affect items, such as cost or reductions and additions to the program. The department is committed to engaging tribal consultation with a state plan amendment, waiver proposal or amendment, or a demonstration project proposal when any of these items will likely have a direct impact on North Dakota tribes or tribal members.

CHILD SUPPORT ENFORCEMENT IN INDIAN COUNTRY

The Director of the Child Support Enforcement Division of the Department of Human Services briefed the committee throughout the interim concerning child support enforcement in Indian country. The Director reported the total program caseload as of September 1, 2011, was 39,610. Of this total, 2,042 cases were identified as being unable to move forward for jurisdictional reasons. This compares to 4,177 cases out of 41,142 three years previously. The Director identified three primary reasons for this significant success. First, each case is reviewed at six-month intervals with the department looking carefully to determine whether some enforcement actions can occur, such as suspension of state-issued driver's licenses. In addition, each new decision of the North Dakota Supreme Court in this area allows the department to provide more guidance to staff on analyzing the jurisdictional issues in these cases. Second, during the last three years, the Three Affiliated Tribes has begun operating its own federally funded child support enforcement program. Finally, the department has worked with tribal courts in North Dakota to allow department attorneys to appear and request tribal court orders establishing and enforcing tribal court obligations.

TRANSPORTATION IN INDIAN COUNTRY

Representatives of the Department of Transportation briefed the committee throughout the interim on transportation projects on the state's reservations. The department has invested $180.1 million in federal funds and state matching funds for various road projects within the state's Indian reservations during the 2011-12 construction seasons. There are transportation projects on each of the state's reservations as well as traffic safety projects. Recent safety projects include rumble strips, implementation of the Traffic and Criminal Software (TraCS) program, and a National Highway Traffic Safety Administration grant for safety campaigns specific to each tribe.

INDIAN VETERANS

The Commissioner of Veterans' Affairs briefed the committee on services available from the Department of Veterans' Affairs for Indian veterans. A member of the committee urged the Commissioner to consider placing Indian veterans' service representatives on each of the state's reservations. The committee member said Indian veterans may feel more comfortable interacting with Indian veterans' service representatives to access veterans' services.

TOURISM ISSUES

The Director of the Tourism Division of the Department of Commerce briefed the committee on tourism initiatives in Indian country. The division has partnered with tribal tourism representatives, Indian Affairs Commission staff, and the United Tribes Technical College on a number of projects and initiatives. These initiatives include the Lewis and Clark Bicentennial, international marketing, product development, and general marketing.

NATIVE AMERICAN COMMISSION

The committee received information concerning the Fargo Native American Commission. The commission is designed to improve local residents' perception and awareness of Native Americans and Native American issues. A mission of the commission is to work together to strengthen the Native American community in order to promote understanding, recognition, and respect for Native American cultures and enrich the whole community. The commission has four goals--define the role and responsibilities of the commission, define the funding priorities for Native American programs and services, determine the services that might be provided by a facility to serve the Native American community, and recommend an effective antiracism education model and to facilitate city and community participation in training.

ECONOMIC DEVELOPMENT INITIATIVES IN INDIAN COUNTRY

The committee received reports from the American Indian Business Development Office of the Department of Commerce throughout the interim. The office is facilitating relations between Indian and non-Indian businesses, facilitating economic development on each of the state's reservations, working to enhance tourism, facilitating community and economic development both on and off the reservation, and providing a link to public and private economic development resources. One new initiative developed by the office is to support Native American-owned businesses by creating independence in the spirit of entrepreneurship. This initiative is the Indian Business Alliance of North Dakota which is designed to help create new Native American-owned businesses and support existing Native American-owned businesses both on and off the reservation. A prime initiative of the Indian Business Alliance is to identify existing Indian businesses as many off-reservation businesses would like to partner with Native American-owned businesses on the reservations which will ultimately benefit both the state's reservations and the state as a whole.

ENVIRONMENTAL ISSUES IN INDIAN COUNTRY

The committee reviewed water availability for oil and gas development in North Dakota, the status of water depot permit applications, and issues with the Corps of Engineers for access to Lake Sakakawea water. The committee also reviewed the status of water permits and applications for western North Dakota and the oil and gas industry and the impact the availability of water permits may have on the Fort Berthold Reservation.

OIL AND GAS EXPLORATION, PRODUCTION, AND TAXATION IN INDIAN COUNTRY
Oil and Gas Tax Agreement

The committee reviewed the operation and effect of the oil and gas tax agreement with the Three Affiliated Tribes. The agreement establishes a uniform taxation system for oil and gas production within the boundaries of the reservation.

Under the agreement, the Tax Commissioner establishes for each reservation well the mineral acres of trust land and non-trust land. The wells are subject to a gross production tax of 5 percent and an oil extraction tax of 6.5 percent; however, non-trust land is exempt for 60 months from the extraction tax. The agreement calls for oil and gas tax revenue sharing from production on trust lands. Fifty percent of the total is allocated and paid to the tribe, and 50 percent of the total is allocated and paid to the state and political subdivisions based on statutory distribution formulas. Concerning oil and gas tax revenue sharing from production on non-trust land, 20 percent of gross production taxes are allocated and paid to the tribe, and 80 percent of gross production taxes and 100 percent of oil extraction taxes are allocated and paid to the state and political subdivisions based on statutory distribution formulas. The agreement provides for a one-time $60,000 tribal employment rights office fee and a $40,000 tribal application fee per well. These fees are payable to the tribe and are not collected or administered by the Tax Commissioner. The fees are applicable if the well spacing unit is composed of a majority of trust land.

In June 2008 before the agreement was in place, there were 75 rigs operating in North Dakota but none on the

Fort Berthold Reservation and none on trust lands. As of October 2012, 190 rigs were operating in North Dakota with 26 on the Fort Berthold Reservation and all 26 on trust lands. As of October 1, 2012, there were 706 producing wells on the Fort Berthold Reservation. Of these wells, 112 were drilled before the agreement and 594 were drilled since the agreement. Of the 259 locations approved to drill on the Fort Berthold Reservation, 244 are located on trust lands. The committee learned that based upon Department of Mineral Resources' projections, 1,426 of the 1,566 future wells expected in approved spacing units on the Fort Berthold Reservation will be drilled on trust land. Based upon Department of Mineral Resources' projections, under the current agreement, the tribe will recognize $9,574 million from all postagreement activity while the state will recognize $10,362 million from all postagreement activity.

Representatives of the Tax Department reported that from fiscal year 2009 to the present, $345,951,301 has been realized from gross production and oil extraction taxes from oil production on the reservation. Of this total, approximately $129 million has gone to the tribe and $217 million to the state.

Representatives of the Three Affiliated Tribes testified the agreement is not equitable and should be revised. Representatives of the tribe noted that for 2011, trust lands produced 59 percent of tax revenues while the tribe only realized 38 percent of the tax revenues from oil and gas produced on the Fort Berthold Reservation. For 2012, 68 percent of tax revenues have been generated from trust lands while the tribe only realized 40 percent of tax revenues.

Biennial Report on the Implementation of the Oil and Gas Tax Agreement With the Three Affiliated Tribes

A representative of the Governor's office presented the biennial report on the implementation of the oil and gas tax agreement with the Three Affiliated Tribes. The representative reported that the state's agreement with the Three Affiliated Tribes has been a great success in terms of providing a stable, predictable tax environment in order to encourage development of oil and gas resources within the reservation. The trend going forward is toward a much higher percentage of wells within the reservation being drilled on trust land. Tribal oil and gas tax revenues have grown steadily since the agreement was signed, and the distribution of production and extraction tax revenue to the tribe recently reached $7 million per month with total revenues distributed to the tribe in excess of $115 million.

The representative of the Governor's office reported the agreement has worked well and the revenue projected to both the state and the tribe continues to increase. By creating a more predictable tax environment within the reservation, the agreement has removed significant barriers to oil and gas development and helped to spread the activity and prosperity found across the rest of the Bakken Formation into the Fort Berthold Reservation. The tribal government has been a good partner in implementing the agreement, and the state looks forward to a continued positive working relationship.

Committee Consideration

The committee considered a bill draft to change the allocation of revenues from oil and gas gross production and oil extraction tax attributable to production from wells drilled on trust lands of the Fort Berthold Reservation from 50 percent to the tribe and 50 percent to the state to 80 percent to the tribe and 20 percent to the state.

Recommendation

The committee recommends the 63rd Legislative Assembly review the operation and effect of the oil and gas tax agreement with the Three Affiliated Tribes of the Fort Berthold Reservation.

COMMITTEE ON TRIBAL AND STATE RELATIONS

The Committee on Tribal and State Relations is effective through July 31, 2013. The committee discussed whether the committee should be allowed to expire, be extended, or made a permanent interim committee of the Legislative Management and whether the North Dakota Tribal Governments' Task Force should be voting members of the committee. The Executive Director of the Indian Affairs Commission testified it is very important the Tribal and State Relations Committee continue. The committee is very important for tribes and is a good exercise in government-to-government relations and strengthens relations between the state and the tribes.

Committee Consideration

The committee considered a bill draft to extend the Committee on Tribal and State Relations through July 31, 2015. The bill draft also deletes the requirement the committee study whether the members of the North Dakota Tribal Governments' Task Force should be voting members of the committee as this study has been completed.

Recommendation

The committee recommends Senate Bill No. 2047 to extend the Committee on Tribal and State Relations through July 31, 2015.

TESTIMONY ON HB 1050
HOUSE EDUCATION COMMITTEE
January 14, 2013
By: Bob Marthaller, Assistant Superintendent
701-328-2267
Department of Public Instruction

Mr. Chairman and Members of the Committee:

My name is Bob Marthaller and I am an assistant superintendent with the Department of Public Instruction. I am here to speak in favor of and present information regarding HB 1050 which provides for a pilot program for at-risk American Indian Students and for the support of community-based services.

Provisions of HB 1049, passed by the 62nd Legislative Assembly, required the Department of Public Instruction to conduct a study of Indian education issues and then to develop criteria for grants to low-performing schools. Background research compiled by Mid-continent Research for Education and Learning (McREL), regarding (1) the generally lower academic standing of American Indian students, especially students on the state's Indian Reservations, and (2) the unique socio-economic factors that challenge any quick solutions was presented to the interim Tribal and State Relations Committee. Consequently, the Department in collaboration with the North Dakota Indian Education Advisory Council (NDIEAC), presented a proposal to the interim Tribal and State Relations Committee that would provide a policy and practice response to the research

findings and the apparent achievement gap among the State's American Indian students in order to address both the student- and community-level deficiencies that must be faced to ensure optimal improvements in student academic, health, and self-sufficiency among our American Indian students.

Data indicates that within the American Indian subgroup statewide, with specific attention to the state's Indian Reservations, an academic achievement gap exists compared to other demographic subgroups and appears to be directly related to socio-economic factors present in communities where these students live and attend school.

Research gathered nationwide suggests that with appropriate differentiated practices and community level supports, economically disadvantaged students, including American Indian students, can and do reach state-defined achievement standards at high levels of overall student performance.

HB 1050 proposes to establish a competitive pilot grant project that first, aids integrated community services that support identified at-risk American Indian students and their families and second, supports collaboration among community-based services. This framework advances school- and community-based solutions to raise the level of American Indian students' academic achievement and overall well-being.

HB 1050 and the supporting appropriation request will advance two primary priorities:

1. to provide integrated school- and community-based educational, health, and social support services for identified at-risk students and their families to assist at-risk students in meeting the goal of post-secondary success and success in life; and

2. to form local governance partnerships and service delivery models that enhance, support, and sustain an environment where local service providers can identify specific community needs, develop measurable plans, and implement activities to aid at-risk students and their families.

This single pilot grant will aid local education agency efforts to develop and adopt a school- and community-level plan for local supports for identified at-risk students and the overall improvement of a school's and community's capacity to deliver and sustain this effort . Such school and community supports might include

- a means of identifying students who are evidencing deficiencies in school attendance, academic achievement, social connections with peers or family members, physical or mental health indicators, or general indicators of concern;

- a means of working closely with families and local service agencies to provide meaningful intervention or remediation services that are designed to

further advance positive gains, correct or rehabilitate deficient patterns of behavior or health, provide dedicated academic and career guidance, and provide mentorships or community involvement to actively engage students;

- a means of providing structured case management to advance overall gains in specified student academic, health, social and emotional, and long-term college and career indicators;

- a means to address family and community social or economic conditions that impede individuals' efforts at self-sustaining improvements, and

- a means to establish a system of school- and community-level improvements in the provision of integrated support services to students who are at risk and to their families and to advance longer term investments into community improvements, infrastructure, or economic development initiatives that will likely ensure sustainability.

This proposed pilot grant attempts to address both the individual student needs of identified at-risk American Indian students and the structure and efficiency of local service provision by the various public and private agencies that exist to support students and their families. As a primary outcome, the grant seeks increased self-sufficiency of students and their families and the sustainability of local collaboration efforts.
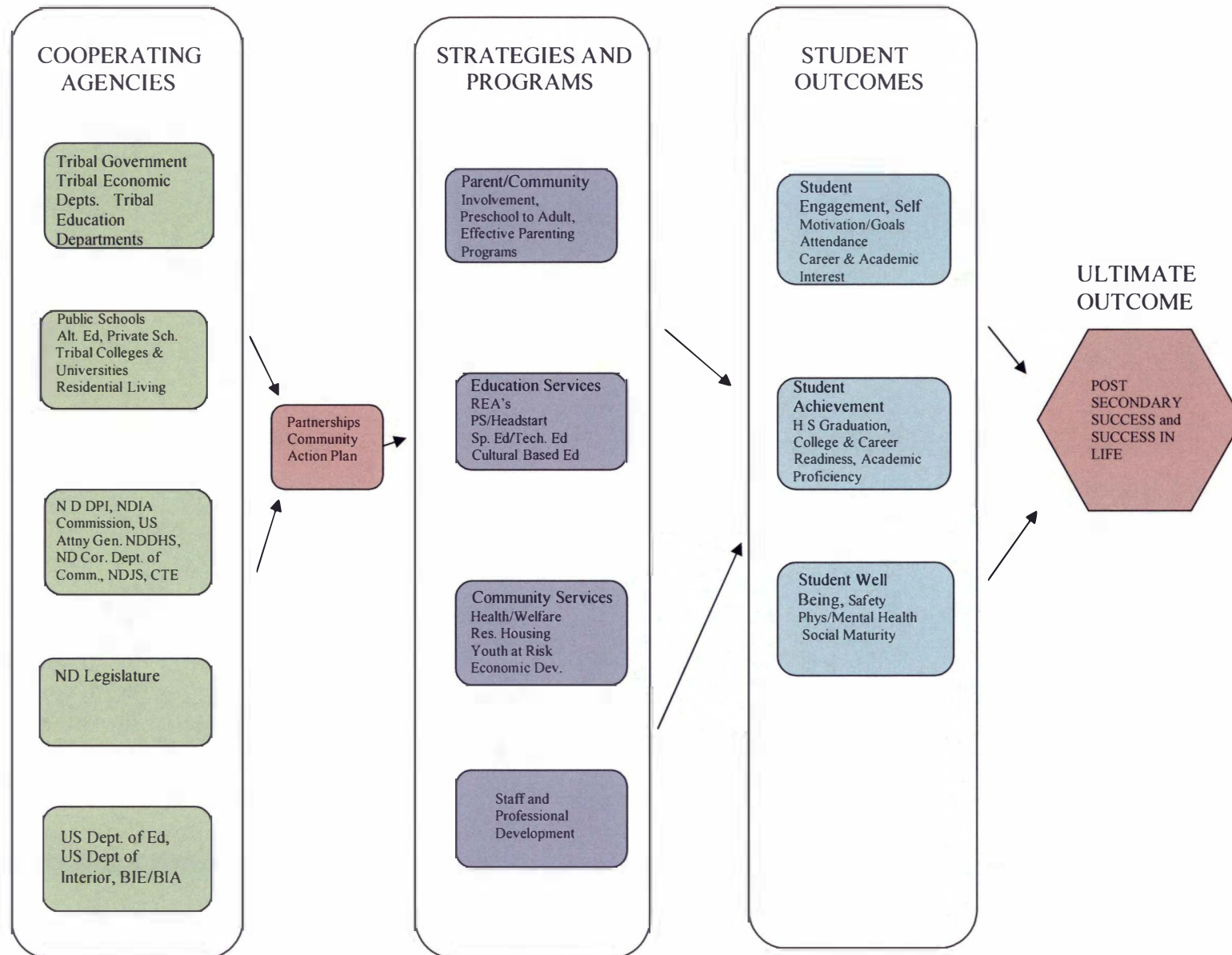
This grant opportunity, if determined successful following an evaluation of its overall operations, may prove to be worthy of expanding to additional grant locations, pending legislative review and approval.
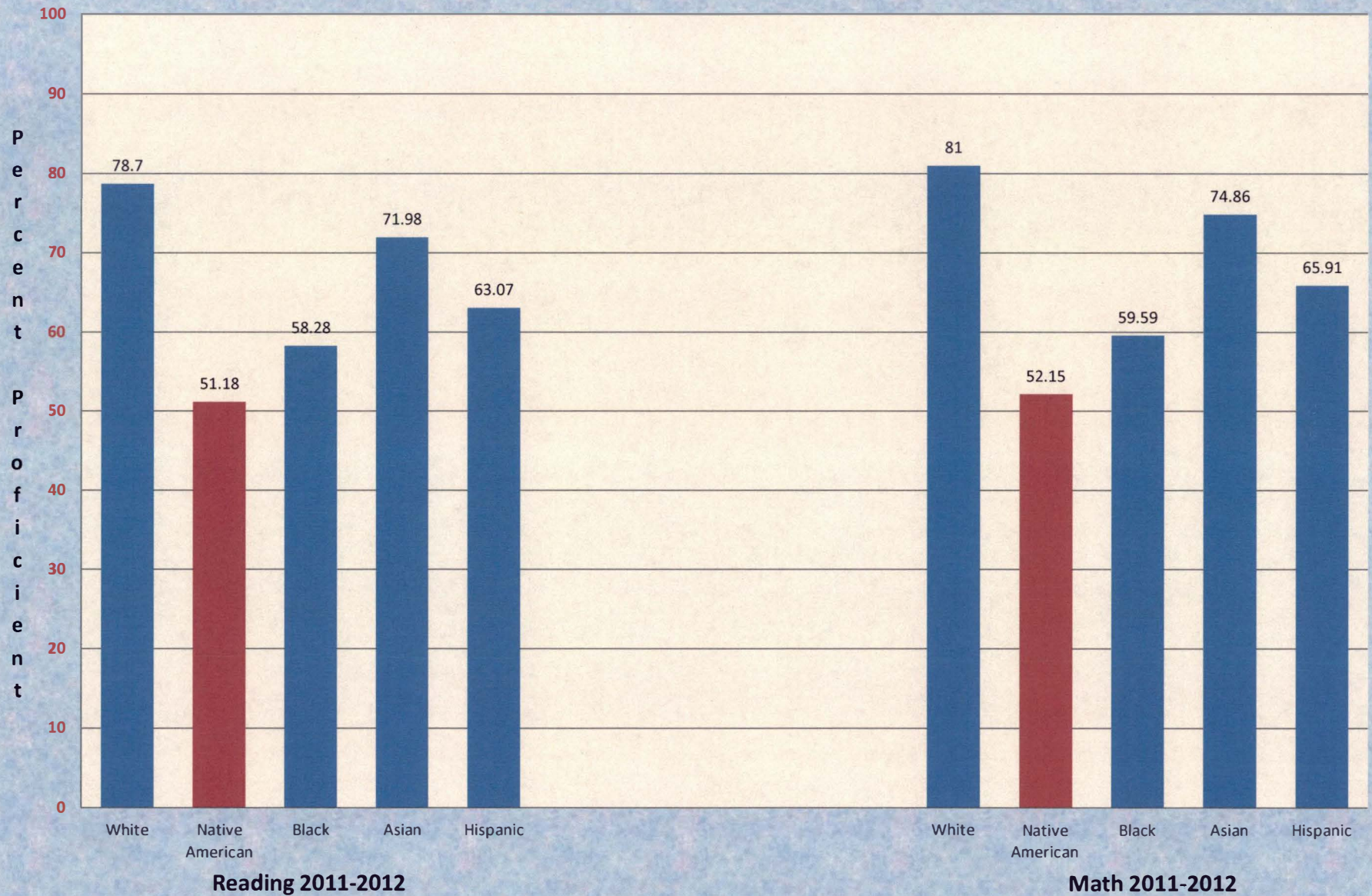
Section 2 of HB 1050 requests an appropriation of $500,000 for the purpose of funding a grant in accordance with Section 1.

Mr. Chairman and Members of the Committee that concludes my prepared testimony and I will answer any questions that you may have.
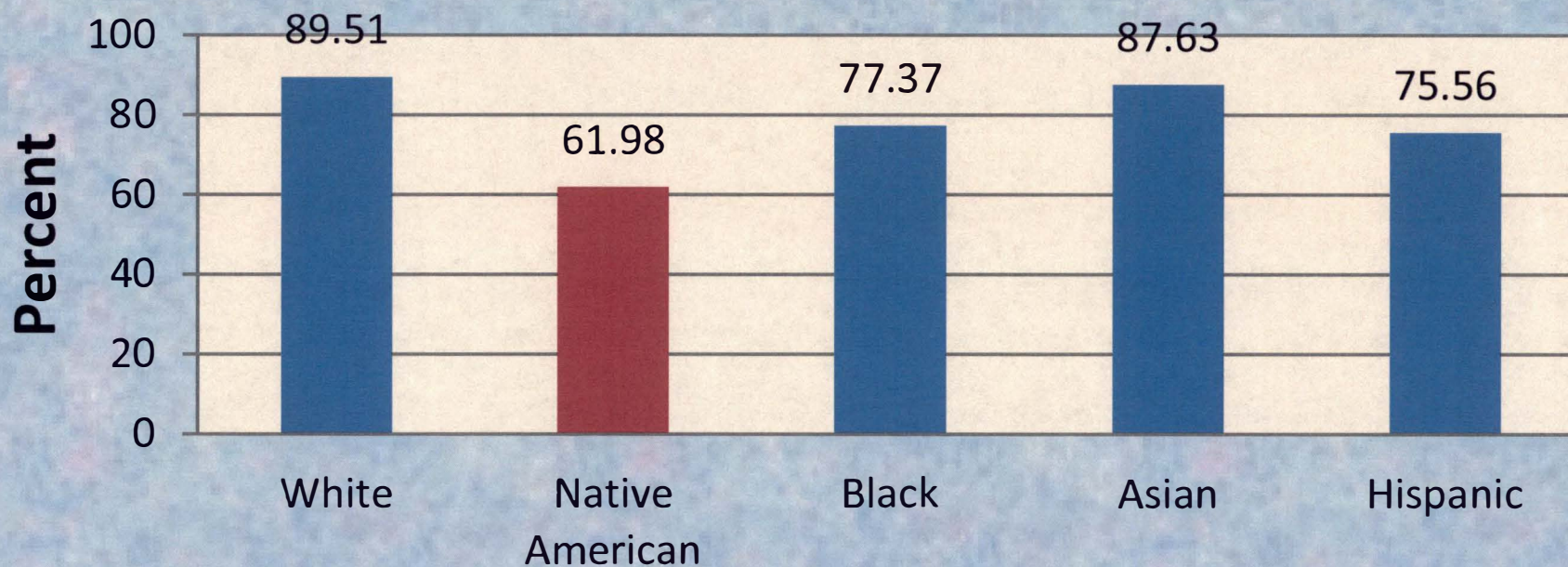
Community Framework in Support of Native Youth

COOPERATING AGENCIES

Tribal Government
Tribal Economic
Depts. Tribal
Education
Departments

Public Schools
Alt. Ed, Private Sch.
Tribal Colleges &
Universities
Residential Living

N D DPI, NDIA
Commission, US
Attny Gen. NDDHS,
ND Cor. Dept. of
Comm., NDJS, CTE

ND Legislature

US Dept. of Ed,
US Dept of
Interior, BIE/BIA

Partnerships
Community
Action Plan

STRATEGIES AND PROGRAMS

Parent/Community
Involvement,
Preschool to Adult,
Effective Parenting
Programs

Education Services
REA's
PS/Headstart
Sp. Ed/Tech. Ed
Cultural Based Ed

Community Services
Health/Welfare
Res. Housing
Youth at Risk
Economic Dev.

Staff and
Professional
Development

STUDENT OUTCOMES

Student
Engagement, Self
Motivation/Goals
Attendance
Career & Academic
Interest

Student
Achievement
H S Graduation,
College & Career
Readiness, Academic
Proficiency

Student Well
Being, Safety
Phys/Mental Health
 Social Maturity

ULTIMATE OUTCOME

POST
SECONDARY
SUCCESS and
SUCCESS IN
LIFE

North Dakota State Assessment 2011-2012

Percent Proficient

Reading 2011-2012

White 78.7
Native American 51.18
Black 58.28
Asian 71.98
Hispanic 63.07

Math 2011-2012

White 81
Native American 52.15
Black 59.59
Asian 74.86
Hispanic 65.91

2011 NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS - ND READING

2011 NAEP Reading

Scores for North Dakota and Surrounding States

% Proficient and above

Legend: White, American Indian

	ND	SD	Montana	Minnesota
White	39	41	47	48
American Indian	15	14	25	30

2011 NAEP Mathematics

Bar chart titled "2011 NAEP Mathematics" showing % Proficient and Above for White and Native American students. Values: ND — White 56, Native American 17; SD — White 57, Native American 16; Montana — White 61, Native American 24; Minnesota — White 71, Native American 15. X-axis label: Scores for North Dakota and Surrounding States. Legend: White, Native American.

2011 NAEP Reading and Math

Bar chart titled "2011 NAEP Reading and Math" showing Scale Scores on the y-axis (250 to 310) and State Results on the x-axis (ND, SD, MT, MN).

State	Reading	Mathematics
ND	272	296
SD	273	295
MT	275	297
MN	274	302

Review of Studies on
The Education of American Indian Students

The North Dakota Department of Public Instruction
600 E. Boulevard Ave., Dept. 201
Bismarck, North Dakota 58505-0440
with

REL Central
at
Mid-continent Research for Education and Learning
4601 DTC Blvd., Ste. 500
Denver, CO 80237

November 2011

REL
CENTRAL
Regional Educational Laboratory
at
McREL

Regional Educational Laboratory
for the Central Region

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Introduction

The North Dakota Department of Public Instruction requested a review of research on factors that influence American Indian[1] student achievement. This review builds on a compilation of abstracts recently developed in conjunction with The National Indian Education Association (NIEA), a collaborating partner. The original compilation of abstracts focused on multiple topics specific to American Indian student achievement. For this review, we selected the four topics for which research studies had been found: Family and Community Involvement, Alternative Instructional Techniques, Culturally Responsive Education, and Language Needs of Native Students. For the current review, we searched the literature and reviewed the articles found to update the list in the four areas examined.

Background

As a subgroup, American Indian students struggle with high dropout rates (Faircloth & Tippeconnic, 2010; Freeman & Fox, 2005; National Caucus of Native American State Legislators, 2008); high rates of absenteeism, suspension, and expulsion (Freeman & Fox, 2005); and low academic performance (Freeman & Fox, 2005; Grigg, Moran, & Kuang, 2010; National Caucus of Native American State Legislators, 2008; Nelson, Greenough, & Sage, 2009). A growing body of American Indian education literature suggests that educational interventions, including teaching, should be congruent with American Indian cultures, values, and belief systems (Buly & Ohana, 2004; Castagno & Brayboy, 2008; Demmert & Towner, 2003; Hermes, 2007; Lambe, 2003; Lipka, Sharp, Brenner, Yanez, & Sharp, 2005; Lomawaima & McCarty, 2006; McCarty, 2002; Oakes & Maday, 2009; Pewewardy & Hammer, 2003; Powers, 2006; Yazzie-Mintz, 2007).

According to the literature, interventions to improve American Indian student academic performance should focus on nurturing resilience (Strand & Peacock, 2002) or self-esteem (Gilliland, 1999) among American Indian students; teaching to American Indian learning styles (Hilberg & Tharp, 2002; Pewewardy, 2002); and using strategies such as one-on-one tutoring and small-group settings (Sorkness & Kelting-Gibson, 2006). Other interventions stress the importance of building strong positive relationships between teachers and their American Indian students (Cleary & Peacock, 1998; Powers, Potthoff, Bearinger, & Resnick, 2003), although these relationships alone may not be enough to produce positive educational outcomes if teachers do not know how to incorporate American Indian culture into classroom instruction (Agbo, 2001).

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[1] In this review, we use American Indian and Native American interchangeably to refer to the indigenous people of North America. The term Indigenous is used to refer to Native populations around the world.

Literature Search Results

A literature search conducted in May 2011 using a variety of search terms related to American Indian education resulted in 3,274 articles, books, and other documents, such as theses, conference proceedings, and electronic articles. Initial review of the items for relevancy to the broader focus of the compilation resulted in 482 possible articles for review. After omitting duplicate sources, certain publication types (e.g., newsletters), and sources that did not meet the selection criteria, 128 items remained in the original compilation of abstracts.

REL Central researchers separately reviewed and coded each of the retained abstracts according to their primary topic: the effect of family and community involvement, alternative instructional techniques, culturally responsive schooling, and language needs of Native speakers. The 128 abstracts were reviewed and 34 complete articles were obtained for articles that appeared to be research studies. Of the 34 articles, 21 were studies that were relevant to the topic, in which data was collected and a systematic method was used to analyze and interpret findings. The same searches were conducted in September 2011 to update the list of studies for the four topic areas. Nine new studies were added to the 21 studies previously identified, resulting in a total of 30 studies in this review.

Organization of the Review

The studies examined range from analyses of broad issues—for example, parent perceptions of their involvement in their students' education—to studies of strategies or programs, such as the evaluation of a comprehensive family involvement program. Although the studies could be focused either on one aspect of improving American Indian student achievement or could include several areas, each study was assigned a primary topic designation for inclusion in this review. This resulted in the following number of studies per topic: family and community involvement (4), alternative instructional techniques (11), culturally responsive schooling (11), or language needs of Native students (4).

Criteria for Inclusion

Articles were included in the review if systematic methods were used for investigating supporting strategies or student outcomes for any of the four identified topics. Different criteria were applied to characterize articles as either descriptive studies or outcome studies. To be included, descriptive studies must have employed systematic methods of collection and analysis of qualitative data (e.g., statistical analysis of survey data, grounded theory, comparative case study analysis, or ethnographic analysis). For outcome studies to be included, they must have employed experimental designs (random assignment to group) or quasi-experimental designs with pre- and post-test data on both treatment and control groups.

Family and Community Involvement

Parent and community involvement has been identified as a key factor in academic achievement (Gutman & Midgley, 2000). For American Indian students, interconnections between school and community practices are critical for ensuring that approaches to classroom instruction reflect student values and norms, and support students in ways that they learn best. Instruction that reflects students' culture and values has been shown to have a positive effect on the academic achievement of American Indian students (Rickard, 2005; Whitbeck, Hoyt, Stubben, & LaFramboise, 2001). However, there continues to be limited parent and community involvement in American Indian schools (Mackety & Linder-VanBerschot, 2008).

Research Studies Reviewed

Four articles on family and community involvement met the criteria for inclusion in the review. The first three are qualitative studies: one based on parent focus groups, one on interviews and a survey, and the third on survey data as compared to longitudinal data. The fourth study is a randomized controlled trial of the Families and Schools Together (FAST) program.

Mackety and Linder-VanBerschot (2008) conducted focus groups among American Indian parents in two districts in North Dakota. Parents from five elementary schools in each district were invited to participate. A protocol, including questions about barriers to and facilitators for involving parents, was systematically followed in each focus group. A variety of barriers were reported as being discouraging to American Indian parents' involvement, including unwelcoming environments, previous negative experiences with education, perceptions of a school's lack of cultural sensitivity, and differences in interpersonal communication styles. Factors perceived to encourage parent involvement included a caring, supportive, and communicative school staff; a culturally respectful environment; access to American Indian programs, resource centers, after-school activities, and clubs; and the presence of an advocate or liaison in each school.

A 2006 study by Rivera and Tharp, studying community involvement, investigated American Indian values, beliefs, and opinions about schooling and other education issues in order to inform the reform efforts of the Zuni Public School District in New Mexico. Two hundred randomly chosen Zuni individuals were surveyed about their community values and their beliefs and opinions about education. Results of the survey indicated agreement within the community on the type of curriculum, educational activities, and development path desired for their children. Findings also indicated that community members support instruction that is contextualized in Zuni culture. Participants believed that Zuni community members should be more involved in schools and that non-Zuni teachers would benefit from participation in community activities. In sum, the community supports curriculum that includes teaching Zuni cultural values and traditions, including the Zuni language. Community members also encouraged specific teaching strategies, such as allowing for alternative or different opinions, and hands-on activities, with teachers providing support only as needed.

In a longitudinal study conducted by Sheldon and Epstein (2004), data were collected from 39 schools on rates of chronic absenteeism and on specific family and community involvement activities implemented to counteract the problem. Study results indicated that school, family, and community partnership practices can significantly decrease chronic absenteeism, even after school level and prior rates of absenteeism are taken into account. Specifically, communicating with families about attendance, celebrating good attendance with students and families, and connecting chronically absent students with community mentors measurably reduced students' chronic absenteeism from one year to the next. Also, schools that conducted a greater total number of attendance-focused activities were more likely to decrease the percentage of students who missed 20 or more days of school each year.

An experimental study of an adaptation of the Families and Schools Together (FAST) program (Kratochwill, McDonald, Young Bear-Tibbitts, & Levin, 2001), conducted in partnership with the Menominee Nation, examined academic performance of American Indian children in grades K–3 and classroom behavior problems correlated with school dropout. FAST is designed to promote positive classroom behavior using a collaborative parent involvement program. One thousand American Indian students from three schools were paired and then randomly assigned to the FAST or the control condition. Multiple outcome measures were used to evaluate the program, including measures of social performance and academic performance. The FAST program was more effective than the control condition on measures of social performance. No effects were found regarding school achievement. However, the FAST program does not traditionally target school achievement; improvements in academic performance may lag behind improvements in social functioning (Demmert & Towner, 2003). They suggest that the evidence presented indicates at least a moderate effect of a systematic home-school program such as FAST on the social behavior of young American Indian children. Additionally, the FAST program appears to be adaptable to a variety of groups and cultural settings.

Alternative Instructional Techniques

Alternative instructional techniques include activity-based instruction, instruction based on small student groups working together, teacher modeling of learning, student-centered dialogue, attention to whole-student needs, and technology-based methods. Current instructional techniques for American Indian students include both conventional instruction and these alternative instructional strategies. Conventional instruction, in this case, refers to textbook-based methods traditionally used in public schools. Comparative studies often use classrooms with conventional approaches to evaluate the effects of alternative instructional techniques, as in Zwick and Miller's (1996) study examining elementary classrooms with American Indian and non-American-Indian students. They selected two fourth grade classrooms and assigned one to the alternative program and one to the conventional program. Their analysis of science test scores showed a statistically significant improvement for both American Indian and non-American-Indian students in the treatment (or alternative, activity-based) classroom.

Research Studies Reviewed

Of the 11 research studies, 10, including Zwick and Miller (1996), were quantitative. Using a secondary analysis of NAEP data, Akiba, Chiu, Zhuang, and Mueller (2008) found that American Indian middle school students were least likely, of all ethnic groups, to be taught by teachers who reported that they were knowledgeable about mathematics standards and who participated in standards-based professional development. Nonetheless, the mathematics achievement scores of the American Indian middle school students, taught by teachers who reported that they were knowledgeable, were lower than scores of American Indian middle school students taught by teachers reporting no knowledge of mathematics standards or participation in standards-based professional development activities. If the standards-based activities reported by teachers did not focus on integrating American Indian culture into teaching, the authors believed it could have a negative effect on student achievement. The authors concluded that the level of affirmation and support of student culture reflected in school curriculum, instructional materials, and student-teacher interaction influences how effectively students learn.

A quasiexperimental study of mathematics instruction by Hilberg, Tharp, and DeGeest (2000) examined the use of the instructional standards from the Center for Research on Education, Diversity, and Excellence (CREDE) in mathematics for middle school American Indian students. Teachers used small-group learning and content-related dialogue methods to create culturally meaningful mathematics experiences. Results showed greater achievement by the treatment group relative to the nontreatment group, but it was not statistically significant. The treatment group did show significantly greater retention of concepts and improvement of attitude.

Buly's (2005) descriptive study of fourth grade American Indian students examined student reading scores to identify students' reading rate, accuracy, vocabulary, and comprehension. The study found that the students tended to need improvement in text comprehension and reading rate, and that they would benefit from teacher modeling, think-aloud strategies, and ongoing monitoring.

In a quasiexperimental study, Fayden (1997) examined American Indian kindergarten students with limited book exposure. The study found that active engagement of students through the use of Shared Reading methods—in the Shared Reading model, there are multiple readings of the books over several days—had a positive effect on developing the reading skills of emerging readers.

Marley, Levin, and Glenberg's 2007 experimental study of elementary and middle school American Indian students found a positive effect on the treatment group's ability to remember aspects of stories that were orally presented and accompanied with text-related motor activities, in comparison to the text-only control group. A comparable degree of memory facilitation was produced by asking students to create concrete visual representations of story events. Two subsequent experiments, included in an article by Marley, Levin, and Glenberg (2010), examined the memory retention of second- and third-grade American Indian students of a narrative that utilized three reading strategies: a visual strategy, a text-only strategy, or an activity-based strategy. For the second-grade students, the authors found a significant improvement in students' memories of narrative passages

using activity-based reading strategies, as compared to the effects on memory of visual and text-only strategies. For the third-grade students, improvements in memory were modest and statistically not significant.

Ngai and Koehn (2010) studied the effects of Place-Based education on skill and knowledge development in various disciplines through surveying students longitudinally. Place-Based education involves learning through experiencing the cultural and physical context of the students' lives. Relative to a comparison group from a nearby school that was not equivalent to the treatment group (and therefore comparisons may be biased), results for the Place-Based group showed an increase in knowledge and an improvement in attitudes related to other Indian tribes and cultures.

Cothran, Kulinna, and Garn (2010) conducted a case study that examined factors that encourage or inhibit teachers in integrating a physical activity program into the instruction of K–12 American Indian students. Findings indicated that factors that encourage integration include the students' physical and mental needs and the teachers' interest in health, as well as their perspectives on the program. Inhibiting factors are institutional, such as school-day scheduling and the requirements of academic standardized assessments.

Heath, Burns, Dimock, Burniske, Menchaca, and Ravitz (2000) conducted a mixed-methods study with a sample of K–12 schools, including five schools where American Indian students comprised two-thirds of the student body. Similar to Akiba et al. (2008), this study focused on constructivist learning methods, and examined the use of technology and the effects of professional development and administrative support on teachers' instruction. Results indicated that teachers did not change their instructional approaches until they were confident in using technology. They would then adapt constructivist methods to create new instructional practices. Without professional development and administrative support, however, teachers did not change their practices.

Culturally Responsive Education

Culturally responsive education is a philosophically based approach to teaching not only American Indian students, but also students of other ethnicities. For American Indians, it involves alternative instructional techniques and includes various teaching methods and programs that base curriculum and instruction on the values, learning styles, and dynamics of the students' particular tribal cultures. Culturally responsive teaching is a key topic in the literature on American Indian education; however, as observed by the Northwest Regional Educational Laboratory's 2003 review of culturally based educational strategies, "the availability of quantitative research literature on culturally based education programs for Native American children is severely limited" (Demmert & Towner, p. iii). Our review found that this continues to be the case for research in general, including qualitative studies. We found only 11 studies from the literature review for this section of the report. A study was included in this section and not in Alternative Instructional Techniques if its primary focus was on culturally responsive teaching.

Research Studies Reviewed

Four of the eleven research studies were quantitative. Bock (2008) studied fourth- through eighth-grade classrooms with student populations of two-thirds Euro-American and one-third American Indian, and compared the two ethnic groups' comprehension of moral themes in stories based in Western culture using a nonequivalent group design. Generally, results indicated that the Euro-American students had greater thematic comprehension of these stories than American Indian students, even with no difference between the groups' reading comprehension. The gap narrowed and disappeared in higher grades, where American Indian students reported receiving more teacher support. Euro-American students did not report more teacher support in higher grades. Peer support had no noticeable effect. The author concluded that differences in thematic comprehension may be due to differences in culture-based knowledge and values, suggesting that teachers should use a culturally relevant pedagogy that includes appropriate stories and a more collaborative and supportive teacher-student relationship.

Lipka and Adams (2004) examined the effects of a culturally based math curriculum, *Building a Fish Rack: Investigations into Proof, Properties, Perimeter, and Area*, on sixth-grade American Indian students. The curriculum connected a common Yup'ik task with learning the physical proofs of a rectangle's properties. Using a quasiexperimental design, they found that the rural American Indian treatment group did not fall as far behind the urban control group than did the rural American Indian control group. However, the interpretation of these positive effects was limited due to incomplete knowledge of how well the teachers followed culturally based and text-based methods of instruction of the mathematics curriculum.

Lippitt (1991) used a survey to compare American Indian learning styles to national learning style norms based on categorization of learning styles of the National Association of Secondary School Principals. No significant differences were found between American Indian and national learning styles with regard to tribal language groups or age difference (between seventh and twelfth grades). The result for one survey question was notable: two-thirds of the American Indian students preferred small-group learning.

Whitbeck, Hoyt, Stubben, and LaFramboise (2001) surveyed 212 students to examine the effect of enculturation on academic achievement. Enculturation included involvement in traditional American Indian activities, identification with American Indian culture, and traditional spiritual involvement. Results of the study suggested that enculturation could have a positive effect on academic achievement independent of variables such as family support, maternal warmth, extracurricular activities, and self-esteem.

Seven qualitative studies were identified for this topic, including three case studies: one of a single student, one of a magnet school, and one of a teacher and her class. In a single case study of an American Indian female student, Hogan (2008) used a sociopolitical critical theory to frame questions and interpret the effects across two years of a sixth-grade, culturally relevant math class and a seventh-grade, text-based math class. The author concluded that in the former class, with its

student-centered, hands-on instruction, the student performed as an *active* learner with the female teacher as a collaborative guide. In the latter class, with its structured text centered on the male teacher's instruction, the same student performed as a *passive* learner.

A case study by Hollowell and Jefferies (2004) used a sociopolitical critical theory to frame questions and interpret results of the study. The subject of the case study was a K–8 American Indian magnet public school that used culturally relevant curriculum and instruction in cross-disciplinary programs. The study described the "problem-posing education" approach in terms of teaching the sociopolitical perspective, and also noted the lack of academic assessments to measure that perspective.

In a case study, Rickard (2005) investigated a sixth-grade teacher and her students who were engaged in a hands-on, activity-based math instruction called Math in Cultural Context (MCC). MCC included student sharing, testing, and revising of geometrical concepts and skills. The class as a whole, as well as the six Alaskan Native students within the class, outperformed the control group class (using a textbook approach) on achievement tests in perimeter, area, and proof. The control group achievement results came from a larger research study of MCC.

Vallines-Mira (2008) examined beliefs of elementary- and high-school math teachers regarding models of research-based strategies for teaching American Indian students. Vallines-Mira studied how those beliefs agreed or disagreed with the details of the strategies' models by conducting classroom observations and interviews with four teachers (two elementary and two high school) teaching mathematics in two Montana schools. The results showed that although the teachers generally agreed with the research-based strategies, the teachers' perspectives on group work differed from the research-based strategies' definitions, and the teachers' implementations of the research-based strategies were customized by the teachers. The conclusion of this study was that there is a disconnect between research and practice and that there needs to be more "bi-directional communication" between researchers and practitioners.

Powers, Potthoff, Bearinger, and Resnick (2003) examined the effects of cultural programming on American Indian school outcomes by administering a survey to 240 American Indian students. The influences of cultural programming—independent of other proven indicators to success in school, such as motivation, ability and prior achievement, quality of instruction, parental involvement, school climate, and family income—were examined. The results of the study indicated that cultural programming moderately, and to a great extent indirectly, influences student outcomes. Further, the results indicated that the strength of Native-based programming appears to reside in parent involvement, quality of instruction, and school climate. Without these components, cultural-based education programs may not increase educational outcomes for American Indian students.

Kanu (2007) studied aspects of Native cultural knowledge and perspectives that were integrated into ninth-grade social studies curriculum in order to appraise the impact of academic achievement, class attendance, and school retention among specific groups of Native students. Thirty-one American

Indian students in two classrooms were included in this study, and extant data on their academic achievement, class attendance, and school retention were analyzed. One classroom infused Native cultural knowledge into the curriculum, while the other did not. The results of the study suggested cautious optimism regarding increasing academic achievement by integrating Native perspectives. However, the study also suggested that culturally responsive curriculum and pedagogy alone cannot reverse achievement trends among Native students. An approach that also includes the larger social, economic, and political variables impacting schooling may provide a more long-lasting intervention and improved outcomes such as higher test scores, better conceptual understanding, higher-level thinking, and improved self-confidence.

One additional study (Stancavage, Mitchell, de Mello, Gaertner, Spain, & Rahal, 2006) provides background information related to effective teaching of American Indian students. The authors analyzed the results from a national survey conducted in 2005 that examined the educational experiences of American Indian/Alaskan Native (AI/AN) students in grades 4 and 8. The survey was given to students, teachers, and school principals. Descriptive information for students and schools was reported, and some comparisons were made to non-AI/AN students using NAEP scores. Through the teacher surveys, there is information on AI/AN culture and language used in the curriculum of the teachers who responded. One notable finding was that culturally responsive instruction was more prevalent in schools with a high proportion (greater than 75%) of AI/AN students than schools with a low proportion (5% or less) of AI/AN students.

Language Needs of Indigenous Students

Indigenous students present a wide variety of language needs as they enter school. There are estimated to be 175 indigenous languages still spoken in the United States (Krauss, 1998). Some indigenous students are proficient in English; some are bilingual, as they are also proficient in their indigenous language; and some have no English background. Within each of these groups, there is a continuum of literacy. Research on second-language learners in a variety of home languages has found that, for most students, schooling in the indigenous language for at least four to seven years has been the most powerful predictor of academic success (Thomas & Collier, 1997). Studies of students with a home language of Spanish or French have indicated that teaching these students in their home language for several years enables them to close the achievement gap in comparison to nonindigenous students (McCarty, 2003). For American Indian populations, the lack of language proficiency is largely a result of the history of forcing indigenous speakers to abandon their languages in favor of English (McCarty, 2003). Some students entering school have no exposure to the tribal language; some were taught the language by parents at home, but not in school; and a few have had a more regular exposure to the indigenous language. Language immersion schools or projects are a more recent attempt to support American Indian students' education (Pease-Pretty On Top, n.d.).

Few rigorous studies have been conducted with indigenous students. Early efforts to create programs that incorporated indigenous languages have been documented primarily through case

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studies. "In each of these cases, the benefits to students correspond directly to the development and use of curricula grounded in local languages and knowledges, and to the cultivation of a critical mass of Native educational practitioners" (McCarty, 2003, p. 152). A beginning body of research reported below exists around language immersion interventions for indigenous language–speaking students.

Research Studies Reviewed

The four articles below include one needs assessment and three case studies of language immersion programs. No rigorous studies were found examining the incorporation of indigenous languages in the education of indigenous children. The issue of the revitalization of indigenous languages is sufficiently important to American Indian writers (Romero Little & McCarty, 2006) that the case studies, a first attempt to document the results of language immersion programs, are included in this review.

The Hawaiian immersion family run preschools, begun in 1983, are designed to strengthen the Hawaiian *mauli*—culture, worldview, spirituality, morality, social relations, and "other central features of a person's life and the life of a people" (Wilson & Kamana‾, 2001, p. 161). The original concept of the Pu nana Leo program co-founders William H. Wilson and Kauanoe Kamana‾ was not "academic achievement for its own sake," but rather the re-creation of an environment "where Hawaiian language and culture were conveyed and developed in much the same way that they were in the home in earlier generations" (2001, p. 151). Although the program has emphasized language revitalization as opposed to academic achievement, Hawaiian immersion schooling has yielded academic benefits. Even though the results are compromised by unknown threats to validity, immersion students have garnered prestigious scholarships, enrolled in college courses while still in high school, and passed the state university's English composition assessments, despite receiving the majority of their English, science, and mathematics instruction in Hawaiian. Student achievement on standardized tests has equaled, and in some cases surpassed, that of Native Hawaiian children enrolled in English-medium schools, even in English language arts (Wilson & Kamana‾, 2001).

Lipka (1999) conducted a case study that examined reform efforts underway in New Stuyahok, a community of 440 people in southwestern Alaska. The population was almost entirely Yup'ik Eskimo. The K–12 school enrolled about 150 students. In 1992, the bilingual education program was targeted for improvement. From 1993 to the present, student achievement showed a positive trend, with improvements in postsecondary attendance, standardized test scores, and writing assessments. However, increased student proficiency in Yup'ik, and the use of Yup'ik, remains an unmet goal. A major problem is high teacher turnover, which works against building a stable school culture or maintaining reforms. Recommendations are offered in the areas of site-based decision making, training for leadership teams, integration of Yup'ik cultural knowledge, teacher education, and state policy.

Romero Little and McCarty (2006) report on four case studies. In each case study, heritage-language immersion was employed as a primary strategy to cultivate heritage-language proficiency among

youth. The Pueblos of the Southwest and the Blackfeet of Montana illustrated community-based approaches to language revitalization; Indigenous Hawaiian and Navajo immersion represented school-based approaches. These programs had salutary effects on both language revitalization and academic achievement. In particular, data from school-based, heritage-language immersion indicates that children acquire the heritage language as a second language without "cost" to their English language development or academic achievement, as measured by local and national (standardized) tests. Conversely, comparable students in English mainstream programs perform less well than immersion students in some subject areas, including English writing and mathematics. They also tend to lose whatever heritage-language ability they had upon entering school (Johnson & Wilson, 2004).

Platero (2001) conducted observations and interviews with staff at approximately 40 Navajo Head Start preschools in 1992 in a needs assessment as part of a formative evaluation. The results included several recommendations to strengthen the language immersion program in these sites. The impetus for the study came from the Navajo Division of Education and Head Start for a needs analysis to support a training program for Navajo teachers. The preschools included Navajo-speaking-only children, bilingual children, and English-speaking-only children. A longitudinal study was called for in order to more accurately identify language needs of Navajo preschoolers.

Discussion

The body of research focused on improving educational outcomes for American Indian students is sparse, especially for studies designed to provide educators, parents, and policymakers with evidence of effective strategies or programs. The 30 studies in this review included only four studies with a design that could result in such evidence, and three of these were variations of grade level for the same strategy. The fourth was a program evaluation of a parent-involvement program. Three studies were quasiexperimental in design, making an attempt to result in reliable findings, but limited by threats to validity. These three studied particular interventions that could provide a foundation for teacher practice and a basis for future experimental research on each. Two were mathematics interventions, and one was a reading intervention. In addition, a case study that was a spin-off from one of the two math studies was able to compare results for the class it studied to the control group of the larger study.

Eleven studies made comparisons of the treatment condition to nonequivalent groups. Thus, the results are hard to interpret. Four of these were longitudinal studies showing change across time, but factors other than the strategy being studied could have influenced these results. Six compared results to a neighboring classroom, school, or other group with no knowledge of how that group differed at the beginning. One reported teachers' and students' own perspectives on changes. The remaining 12 studies were purely descriptive, not drawing conclusions about improvement or effectiveness. These may set the groundwork for future experimental studies in the same area of interest.

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There is not a body of reliable research to guide work intended to improve American Indian education. The challenge remains to identify researchers and funding for research to address this lack.

Limitations

There are two primary limitations to this review. First, while we made every effort to locate appropriate literature on the education of American Indian students in the four topics identified in the original compilation of abstracts, some of what is known on this topic may not be documented in the literature. Second, the scope of literature was limited with respect to systematic research studies, since most research studies involving American Indian students have usually lacked a control group, or have sample sizes too small to show statistically significant results. In sum, more research studies employing randomized control trials with American Indian populations are needed to augment the existing body of research literature on the education of American Indian students.

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REVIEW OF STUDIES ON
THE EDUCATION OF AMERICAN INDIAN STUDENTS

January 12, 2012

Prepared
by
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for
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Introduction

The North Dakota Department of Public Instruction requested a review of research on factors that influence American Indian[1] student achievement. This review builds on a compilation of abstracts recently developed in conjunction with The National Indian Education Association (NIEA), a collaborating partner. The original compilation of abstracts focused on multiple topics specific to American Indian student achievement. For this review, we selected the four topics for which research studies had been found: Family and Community Involvement, Alternative Instructional Techniques, Culturally Responsive Education, and Language Needs of Native Students. For the current review, we searched the literature and reviewed the articles found to update the list in the four areas examined.

Background

As a subgroup, American Indian students struggle with high dropout rates (Faircloth & Tippeconnic, 2010; Freeman & Fox, 2005; National Caucus of Native American State Legislators, 2008); high rates of absenteeism, suspension, and expulsion (Freeman & Fox, 2005); and low academic performance (Freeman & Fox, 2005; Grigg, Moran, & Kuang, 2010; National Caucus of Native American State Legislators, 2008; Nelson, Greenough, & Sage, 2009). A growing body of American Indian education literature suggests that educational interventions, including teaching, should be congruent with American Indian cultures, values, and belief systems (Buly & Ohana, 2004; Castagno & Brayboy, 2008; Demmert & Towner, 2003; Hermes, 2007; Lambe, 2003; Lipka, Sharp, Brenner, Yanez, & Sharp, 2005; Lomawaima & McCarty, 2006; McCarty, 2002; Oakes & Maday, 2009; Pewewardy & Hammer, 2003; Powers, 2006; Yazzie-Mintz, 2007).

According to the literature, interventions to improve American Indian student academic performance should focus on nurturing resilience (Strand & Peacock, 2002) or self-esteem (Gilliland, 1999) among American Indian students; teaching to American Indian learning styles (Hilberg & Tharp, 2002; Pewewardy, 2002); and using strategies such as one-on-one tutoring and small-group settings (Sorkness & Kelting-Gibson, 2006). Other interventions stress the importance of building strong positive relationships between teachers and their American Indian students (Cleary & Peacock, 1998; Powers, Potthoff, Bearinger, & Resnick, 2003), although these relationships alone may not be enough to produce positive educational outcomes if teachers do not know how to incorporate American Indian culture into classroom instruction (Agbo, 2001).

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[1] In this review, we use American Indian and Native American interchangeably to refer to the indigenous people of North America. The term Indigenous is used to refer to Native populations around the world.

Literature Search Results

A literature search conducted in May 2011 using a variety of search terms related to American Indian education resulted in 3,274 articles, books, and other documents, such as theses, conference proceedings, and electronic articles. Initial review of the items for relevancy to the broader focus of the compilation resulted in 482 possible articles for review. After omitting duplicate sources, certain publication types (e.g., newsletters), and sources that did not meet the selection criteria, 128 items remained in the original compilation of abstracts.

REL Central researchers separately reviewed and coded each of the retained abstracts according to their primary topic: the effect of family and community involvement, alternative instructional techniques, culturally responsive schooling, and language needs of Native speakers. The 128 abstracts were reviewed and 34 complete articles were obtained for articles that appeared to be research studies. Of the 34 articles, 21 were studies that were relevant to the topic, in which data was collected and a systematic method was used to analyze and interpret findings. The same searches were conducted in September 2011 to update the list of studies for the four topic areas. Nine new studies were added to the 21 studies previously identified, resulting in a total of 30 studies in this review.

Organization of the Review

The studies examined range from analyses of broad issues—for example, parent perceptions of their involvement in their students' education—to studies of strategies or programs, such as the evaluation of a comprehensive family involvement program. Although the studies could be focused either on one aspect of improving American Indian student achievement or could include several areas, each study was assigned a primary topic designation for inclusion in this review. This resulted in the following number of studies per topic: family and community involvement (4), alternative instructional techniques (11), culturally responsive schooling (11), or language needs of Native students (4).

Criteria for Inclusion

Articles were included in the review if systematic methods were used for investigating supporting strategies or student outcomes for any of the four identified topics. Different criteria were applied to characterize articles as either descriptive studies or outcome studies. To be included, descriptive studies must have employed systematic methods of collection and analysis of qualitative data (e.g., statistical analysis of survey data, grounded theory, comparative case study analysis, or ethnographic analysis). For outcome studies to be included, they must have employed experimental designs (random assignment to group) or quasi-experimental designs with pre- and post-test data on both treatment and control groups.

Family and Community Involvement

Parent and community involvement has been identified as a key factor in academic achievement (Gutman & Midgley, 2000). For American Indian students, interconnections between school and community practices are critical for ensuring that approaches to classroom instruction reflect student values and norms, and support students in ways that they learn best. Instruction that reflects students' culture and values has been shown to have a positive effect on the academic achievement of American Indian students (Rickard, 2005; Whitbeck, Hoyt, Stubben, & LaFramboise, 2001). However, there continues to be limited parent and community involvement in American Indian schools (Mackety & Linder-VanBerschot, 2008).

Research Studies Reviewed

Four articles on family and community involvement met the criteria for inclusion in the review. The first three are qualitative studies: one based on parent focus groups, one on interviews and a survey, and the third on survey data as compared to longitudinal data. The fourth study is a randomized controlled trial of the Families and Schools Together (FAST) program.

Mackety and Linder-VanBerschot (2008) conducted focus groups among American Indian parents in two districts in North Dakota. Parents from five elementary schools in each district were invited to participate. A protocol, including questions about barriers to and facilitators for involving parents, was systematically followed in each focus group. A variety of barriers were reported as being discouraging to American Indian parents' involvement, including unwelcoming environments, previous negative experiences with education, perceptions of a school's lack of cultural sensitivity, and differences in interpersonal communication styles. Factors perceived to encourage parent involvement included a caring, supportive, and communicative school staff; a culturally respectful environment; access to American Indian programs, resource centers, after-school activities, and clubs; and the presence of an advocate or liaison in each school.

A 2006 study by Rivera and Tharp, studying community involvement, investigated American Indian values, beliefs, and opinions about schooling and other education issues in order to inform the reform efforts of the Zuni Public School District in New Mexico. Two hundred randomly chosen Zuni individuals were surveyed about their community values and their beliefs and opinions about education. Results of the survey indicated agreement within the community on the type of curriculum, educational activities, and development path desired for their children. Findings also indicated that community members support instruction that is contextualized in Zuni culture. Participants believed that Zuni community members should be more involved in schools and that non-Zuni teachers would benefit from participation in community activities. In sum, the community supports curriculum that includes teaching Zuni cultural values and traditions, including the Zuni language. Community members also encouraged specific teaching strategies, such as allowing for alternative or different opinions, and hands-on activities, with teachers providing support only as needed.

In a longitudinal study conducted by Sheldon and Epstein (2004), secondary data were collected from 39 schools on rates of chronic absenteeism; students who missed 20 or more days of school were considered chronically absent. Data were also collected on family and community involvement activities implemented to counteract chronic absenteeism. Study results indicated that school, family, and community involvement practices can decrease chronic absenteeism. Specific family and community involvement activities that measurably reduced students' chronic absenteeism during the course of one year included: communicating with families about attendance, celebrating good attendance with students and families, and connecting chronically absent students with community mentors. These results are not specific to Native American students.

An experimental study of an adaptation of the Families and Schools Together (FAST) program (Kratochwill, McDonald, Young Bear-Tibbitts, & Levin, 2001), conducted in partnership with the Menominee Nation, examined academic performance of American Indian children in grades K–3 and classroom behavior problems correlated with school dropout. FAST is designed to promote positive classroom behavior using a collaborative parent involvement program. One thousand American Indian students from three schools were paired and then randomly assigned to the FAST or the control condition. Multiple outcome measures were used to evaluate the program, including measures of social performance and academic performance. The FAST program was more effective than the control condition on measures of social performance. No effects were found regarding school achievement. However, the FAST program does not traditionally target school achievement; improvements in academic performance may lag behind improvements in social functioning (Demmert & Towner, 2003). They suggest that the evidence presented indicates at least a moderate effect of a systematic home-school program such as FAST on the social behavior of young American Indian children. Additionally, the FAST program appears to be adaptable to a variety of groups and cultural settings.

Alternative Instructional Techniques

Alternative instructional techniques include activity-based instruction, instruction based on small student groups working together, teacher modeling of learning, student-centered dialogue, attention to whole-student needs, and technology-based methods. Current instructional techniques for American Indian students include both conventional instruction and these alternative instructional strategies. Conventional instruction, in this case, refers to textbook-based methods traditionally used in public schools. Comparative studies often use classrooms with conventional approaches to evaluate the effects of alternative instructional techniques, as in Zwick and Miller's (1996) study examining elementary classrooms with American Indian and non-American-Indian students. They selected two fourth grade classrooms and assigned one to the alternative program and one to the conventional program. Their analysis of science test scores showed a statistically significant improvement for both American Indian and non-American-Indian students in the treatment (or alternative, activity-based) classroom.

Research Studies Reviewed

Of the 11 research studies, 10, including Zwick and Miller (1996), were quantitative. Using a secondary analysis of NAEP data, Akiba, Chiu, Zhuang, and Mueller (2008) found that American Indian middle school students were least likely, of all ethnic groups, to be taught by teachers who reported that they were knowledgeable about mathematics standards and who participated in standards-based professional development. Nonetheless, the mathematics achievement scores of the American Indian middle school students, taught by teachers who reported that they were knowledgeable, were lower than scores of American Indian middle school students taught by teachers reporting no knowledge of mathematics standards or participation in standards-based professional development activities. If the standards-based activities reported by teachers did not focus on integrating American Indian culture into teaching, the authors believed it could have a negative effect on student achievement. The authors concluded that the level of affirmation and support of student culture reflected in school curriculum, instructional materials, and student-teacher interaction influences how effectively students learn.

A quasiexperimental study of mathematics instruction by Hilberg, Tharp, and DeGeest (2000) examined the use of the instructional standards from the Center for Research on Education, Diversity, and Excellence (CREDE) in mathematics for middle school American Indian students. Teachers used small-group learning and content-related dialogue methods to create culturally meaningful mathematics experiences. Results showed greater achievement by the treatment group relative to the nontreatment group, but it was not statistically significant. The treatment group did show significantly greater retention of concepts and improvement of attitude.

Buly's (2005) descriptive study of fourth grade American Indian students examined student reading scores to identify students' reading rate, accuracy, vocabulary, and comprehension. The study found that the students tended to need improvement in text comprehension and reading rate, and that they would benefit from teacher modeling, think-aloud strategies, and ongoing monitoring.

In a quasiexperimental study, Fayden (1997) examined American Indian kindergarten students with limited book exposure. The study found that active engagement of students through the use of Shared Reading methods—in the Shared Reading model, there are multiple readings of the books over several days—had a positive effect on developing the reading skills of emerging readers.

Marley, Levin, and Glenberg's 2007 experimental study of elementary and middle school American Indian students found a positive effect on the treatment group's ability to remember aspects of stories that were orally presented and accompanied with text-related motor activities, in comparison to the text-only control group. A comparable degree of memory facilitation was produced by asking students to create concrete visual representations of story events. Two subsequent experiments, included in an article by Marley, Levin, and Glenberg (2010), examined the memory retention of second- and third-grade American Indian students of a narrative that utilized three reading strategies: a visual strategy, a text-only strategy, or an activity-based strategy. For the second-grade students, the authors found a significant improvement in students' memories of narrative passages

using activity-based reading strategies, as compared to the effects on memory of visual and text-only strategies. For the third-grade students, improvements in memory were modest and statistically not significant.

Ngai and Koehn (2010) studied the effects of Place-Based education on skill and knowledge development in various disciplines through surveying students longitudinally. Place-Based education involves learning through experiencing the cultural and physical context of the students' lives. Relative to a comparison group from a nearby school that was not equivalent to the treatment group (and therefore comparisons may be biased), results for the Place-Based group showed an increase in knowledge and an improvement in attitudes related to other Indian tribes and cultures.

Cothran, Kulinna, and Garn (2010) conducted a case study that examined factors that encourage or inhibit teachers in integrating a physical activity program into the instruction of K–12 American Indian students. Findings indicated that factors that encourage integration include the students' physical and mental needs and the teachers' interest in health, as well as their perspectives on the program. Inhibiting factors are institutional, such as school-day scheduling and the requirements of academic standardized assessments.

Heath, Burns, Dimock, Burniske, Menchaca, and Ravitz (2000) conducted a mixed-methods study with a sample of K–12 schools, including five schools where American Indian students comprised two-thirds of the student body. Similar to Akiba et al. (2008), this study focused on constructivist learning methods, and examined the use of technology and the effects of professional development and administrative support on teachers' instruction. Results indicated that teachers did not change their instructional approaches until they were confident in using technology. They would then adapt constructivist methods to create new instructional practices. Without professional development and administrative support, however, teachers did not change their practices.

Culturally Responsive Education

Culturally responsive education is a philosophically based approach to teaching not only American Indian students, but also students of other ethnicities. For American Indians, it involves alternative instructional techniques and includes various teaching methods and programs that base curriculum and instruction on the values, learning styles, and dynamics of the students' particular tribal cultures. Culturally responsive teaching is a key topic in the literature on American Indian education; however, as observed by the Northwest Regional Educational Laboratory's 2003 review of culturally based educational strategies, "the availability of quantitative research literature on culturally based education programs for Native American children is severely limited" (Demmert & Towner, p. iii). Our review found that this continues to be the case for research in general, including qualitative studies. We found only 11 studies from the literature review for this section of the report. A study was included in this section and not in Alternative Instructional Techniques if its primary focus was on culturally responsive teaching.

Research Studies Reviewed

Four of the eleven research studies were quantitative. Bock (2008) studied fourth- through eighth-grade classrooms with student populations of two-thirds Euro-American and one-third American Indian, and compared the two ethnic groups' comprehension of moral themes in stories based in Western culture using a nonequivalent group design. Generally, results indicated that the Euro-American students had greater thematic comprehension of these stories than American Indian students, even with no difference between the groups' reading comprehension. The gap narrowed and disappeared in higher grades, where American Indian students reported receiving more teacher support. Euro-American students did not report more teacher support in higher grades. Peer support had no noticeable effect. The author concluded that differences in thematic comprehension may be due to differences in culture-based knowledge and values, suggesting that teachers should use a culturally relevant pedagogy that includes appropriate stories and a more collaborative and supportive teacher-student relationship.

Lipka and Adams (2004) examined the effects of a culturally based math curriculum, *Building a Fish Rack: Investigations into Proof, Properties, Perimeter, and Area*, on sixth-grade American Indian students. The curriculum connected a common Yup'ik task with learning the physical proofs of a rectangle's properties. Using a quasiexperimental design, they found that the rural American Indian treatment group did not fall as far behind the urban control group than did the rural American Indian control group. However, the interpretation of these positive effects was limited due to incomplete knowledge of how well the teachers followed culturally based and text-based methods of instruction of the mathematics curriculum.

Lippitt (1991) used a survey to compare American Indian learning styles to national learning style norms based on categorization of learning styles of the National Association of Secondary School Principals. No significant differences were found between American Indian and national learning styles with regard to tribal language groups or age difference (between seventh and twelfth grades). The result for one survey question was notable: two-thirds of the American Indian students preferred small-group learning.

Whitbeck, Hoyt, Stubben, and LaFramboise (2001) surveyed 212 students to examine the effect of enculturation on academic achievement. Enculturation included involvement in traditional American Indian activities, identification with American Indian culture, and traditional spiritual involvement. Results of the study suggested that enculturation could have a positive effect on academic achievement independent of variables such as family support, maternal warmth, extracurricular activities, and self-esteem.

Seven qualitative studies were identified for this topic, including three case studies: one of a single student, one of a magnet school, and one of a teacher and her class. In a single case study of an American Indian female student, Hogan (2008) used a sociopolitical critical theory to frame questions and interpret the effects across two years of a sixth-grade, culturally relevant math class and a seventh-grade, text-based math class. The author concluded that in the former class, with its

student-centered, hands-on instruction, the student performed as an *active* learner with the female teacher as a collaborative guide. In the latter class, with its structured text centered on the male teacher's instruction, the same student performed as a *passive* learner.

A case study by Hollowell and Jefferies (2004) used a sociopolitical critical theory to frame questions and interpret results of the study. The subject of the case study was a K–8 American Indian magnet public school that used culturally relevant curriculum and instruction in cross-disciplinary programs. The study described the "problem-posing education" approach in terms of teaching the sociopolitical perspective, and also noted the lack of academic assessments to measure that perspective.

In a case study, Rickard (2005) investigated a sixth-grade teacher and her students who were engaged in a hands-on, activity-based math instruction called Math in Cultural Context (MCC). MCC included student sharing, testing, and revising of geometrical concepts and skills. The class as a whole, as well as the six Alaskan Native students within the class, outperformed the control group class (using a textbook approach) on achievement tests in perimeter, area, and proof. The control group achievement results came from a larger research study of MCC.

Vallines-Mira (2008) examined beliefs of elementary- and high-school math teachers regarding models of research-based strategies for teaching American Indian students. Vallines-Mira studied how those beliefs agreed or disagreed with the details of the strategies' models by conducting classroom observations and interviews with four teachers (two elementary and two high school) teaching mathematics in two Montana schools. The results showed that although the teachers generally agreed with the research-based strategies, the teachers' perspectives on group work differed from the research-based strategies' definitions, and the teachers' implementations of the research-based strategies were customized by the teachers. The conclusion of this study was that there is a disconnect between research and practice and that there needs to be more "bi-directional communication" between researchers and practitioners.

Powers, Potthoff, Bearinger, and Resnick (2003) examined the effects of cultural programming on American Indian school outcomes by administering a survey to 240 American Indian students. The influences of cultural programming—independent of other proven indicators to success in school, such as motivation, ability and prior achievement, quality of instruction, parental involvement, school climate, and family income—were examined. The results of the study indicated that cultural programming moderately, and to a great extent indirectly, influences student outcomes. Further, the results indicated that the strength of Native-based programming appears to reside in parent involvement, quality of instruction, and school climate. Without these components, cultural-based education programs may not increase educational outcomes for American Indian students.

Kanu (2007) studied two 9th grade social studies classrooms that incorporated Native American cultural knowledge and perspectives into the curriculum: one classroom with cultural knowledge and perspectives integrated into the curriculum with the other classroom using the traditional

Indian students in two classrooms were included in this study, and extant data on their academic achievement, class attendance, and school retention were analyzed. One classroom infused Native cultural knowledge into the curriculum, while the other did not. The results of the study suggested cautious optimism regarding increasing academic achievement by integrating Native perspectives. However, the study also suggested that culturally responsive curriculum and pedagogy alone cannot reverse achievement trends among Native students. An approach that also includes the larger social, economic, and political variables impacting schooling may provide a more long-lasting intervention and improved outcomes such as higher test scores, better conceptual understanding, higher-level thinking, and improved self-confidence.

One additional study (Stancavage, Mitchell, de Mello, Gaertner, Spain, & Rahal, 2006) provides background information related to effective teaching of American Indian students. The authors analyzed the results from a national survey conducted in 2005 that examined the educational experiences of American Indian/Alaskan Native (AI/AN) students in grades 4 and 8. The survey was given to students, teachers, and school principals. Descriptive information for students and schools was reported, and some comparisons were made to non-AI/AN students using NAEP scores. Through the teacher surveys, there is information on AI/AN culture and language used in the curriculum of the teachers who responded. One notable finding was that culturally responsive instruction was more prevalent in schools with a high proportion (greater than 75%) of AI/AN students than schools with a low proportion (5% or less) of AI/AN students.

Language Needs of Indigenous Students

Indigenous students present a wide variety of language needs as they enter school. There are estimated to be 175 indigenous languages still spoken in the United States (Krauss, 1998). Some indigenous students are proficient in English; some are bilingual, as they are also proficient in their indigenous language; and some have no English background. Within each of these groups, there is a continuum of literacy. Research on second-language learners in a variety of home languages has found that, for most students, schooling in the indigenous language for at least four to seven years has been the most powerful predictor of academic success (Thomas & Collier, 1997). Studies of students with a home language of Spanish or French have indicated that teaching these students in their home language for several years enables them to close the achievement gap in comparison to nonindigenous students (McCarty, 2003). For American Indian populations, the lack of language proficiency is largely a result of the history of forcing indigenous speakers to abandon their languages in favor of English (McCarty, 2003). Some students entering school have no exposure to the tribal language; some were taught the language by parents at home, but not in school; and a few have had a more regular exposure to the indigenous language. Language immersion schools or projects are a more recent attempt to support American Indian students' education (Pease-Pretty On Top, n.d.).

Few rigorous studies have been conducted with indigenous students. Early efforts to create programs that incorporated indigenous languages have been documented primarily through case

Few rigorous studies have been conducted with indigenous students. Early efforts to create programs that incorporated indigenous languages have been documented primarily through case studies. "In each of these cases, the benefits to students correspond directly to the development and use of curricula grounded in local languages and knowledges, and to the cultivation of a critical mass of Native educational practitioners" (McCarty, 2003, p. 152). A beginning body of research reported below exists around language immersion interventions for indigenous language–speaking students.

Research Studies Reviewed

The four articles below include one needs assessment and three case studies of language immersion programs. No rigorous studies were found examining the incorporation of indigenous languages in the education of indigenous children. The issue of the revitalization of indigenous languages is sufficiently important to American Indian writers (Romero Little & McCarty, 2006) that the case studies, a first attempt to document the results of language immersion programs, are included in this review.

The Hawaiian immersion family run preschools, begun in 1983, are designed to strengthen the Hawaiian *mauli*—culture, worldview, spirituality, morality, social relations, and "other central features of a person's life and the life of a people" (Wilson & Kamana¯, 2001, p. 161). The original concept of the Pu nana Leo program co-founders William H. Wilson and Kauanoe Kamana¯ was not "academic achievement for its own sake," but rather the re-creation of an environment "where Hawaiian language and culture were conveyed and developed in much the same way that they were in the home in earlier generations" (2001, p. 151). Although the program has emphasized language revitalization as opposed to academic achievement, Hawaiian immersion schooling has yielded academic benefits. Even though the results are compromised by unknown threats to validity, immersion students have garnered prestigious scholarships, enrolled in college courses while still in high school, and passed the state university's English composition assessments, despite receiving the majority of their English, science, and mathematics instruction in Hawaiian. Student achievement on standardized tests has equaled, and in some cases surpassed, that of Native Hawaiian children enrolled in English-medium schools, even in English language arts (Wilson & Kamana¯, 2001).

Lipka (1999) conducted a case study that examined reform efforts underway in a small Native community in southwestern Alaska. In the early 1990s, the bilingual education program was improved. Increased student proficiency in the Native language and the use of the Native language was not achieved as intended. High teacher turnover was a barrier to meeting the objectives. The authors provided recommendations for reform efforts including site-based decision making, training for leadership teams, and the integration of the Native cultural knowledge, teacher education, and state policy.

Romero Little and McCarty (2006) report on four case studies. In each case study, heritage-language immersion was employed as a primary strategy to cultivate heritage-language proficiency among youth. The Pueblos of the Southwest and the Blackfeet of Montana illustrated community-based

youth. The Pueblos of the Southwest and the Blackfeet of Montana illustrated community-based approaches to language revitalization; Indigenous Hawaiian and Navajo immersion represented school-based approaches. These programs had salutary effects on both language revitalization and academic achievement. In particular, data from school-based, heritage-language immersion indicates that children acquire the heritage language as a second language without "cost" to their English language development or academic achievement, as measured by local and national (standardized) tests. Conversely, comparable students in English mainstream programs perform less well than immersion students in some subject areas, including English writing and mathematics. They also tend to lose whatever heritage-language ability they had upon entering school (Johnson & Wilson, 2004).

Platero (2001) conducted observations and interviews with staff at approximately 40 Navajo Head Start preschools in 1992 in a needs assessment as part of a formative evaluation. The results included several recommendations to strengthen the language immersion program in these sites. The impetus for the study came from the Navajo Division of Education and Head Start for a needs analysis to support a training program for Navajo teachers. The preschools included Navajo-speaking-only children, bilingual children, and English-speaking-only children. A longitudinal study was called for in order to more accurately identify language needs of Navajo preschoolers.

Discussion

The body of research focused on improving educational outcomes for American Indian students is sparse, especially for studies designed to provide educators, parents, and policymakers with evidence of effective strategies or programs. The 30 studies in this review included only four studies with a design that could result in such evidence, and three of these were variations of grade level for the same strategy. The fourth was a program evaluation of a parent-involvement program. Three studies were quasiexperimental in design, making an attempt to result in reliable findings, but limited by threats to validity. These three studied particular interventions that could provide a foundation for teacher practice and a basis for future experimental research on each. Two were mathematics interventions, and one was a reading intervention. In addition, a case study that was a spin-off from one of the two math studies was able to compare results for the class it studied to the control group of the larger study.

Eleven studies made comparisons of the treatment condition to nonequivalent groups. Thus, the results are hard to interpret. Four of these were longitudinal studies showing change across time, but factors other than the strategy being studied could have influenced these results. Six compared results to a neighboring classroom, school, or other group with no knowledge of how that group differed at the beginning. One reported teachers' and students' own perspectives on changes. The remaining 12 studies were purely descriptive, not drawing conclusions about improvement or effectiveness. These may set the groundwork for future experimental studies in the same area of interest.

There is not a body of reliable research to guide work intended to improve American Indian education. The challenge remains to identify researchers and funding for research to address this lack.

Limitations

There are two primary limitations to this review. First, while we made every effort to locate appropriate literature on the education of American Indian students in the four topics identified in the original compilation of abstracts, some of what is known on this topic may not be documented in the literature. Second, the scope of literature was limited with respect to systematic research studies, since most research studies involving American Indian students have usually lacked a control group, or have sample sizes too small to show statistically significant results. In sum, more research studies employing randomized control trials with American Indian populations are needed to augment the existing body of research literature on the education of American Indian students.

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