

2011 HOUSE EDUCATION

HB 1049


2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1049
01/05/11
12594

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

To provide for a superintendent of public instruction study; to provide for reports to the legislative management; and to provide an appropriation.

MINUTES:

Chairman RaeAnn Kelsch: We will open the hearing on HB 1049.

Scott Davis – NDIAC: Through the past year or so we have done a lot of in our committee to address issues between tribes and states. One of the things that has come out of our committee is education spending for tribal education. One of the things I am focused on is governance. I think governance of school boards needs to be looked at or evaluated. I also think that parental involvement is a huge issue. Parental involvement is probably the key to get our students' grades up to par. There should be ramifications for parents who don't send their students to school. Another thing is after school programs. I know there are some programs out there that are making substantial work to help. Getting the federal grant would allow for getting some federal money that would be administered through my office for interventions, children services, after school programs, and weekend programs that would tie in students, teachers, and parents. I think if we could simplify Indian education it would be more beneficial. Some towns have three or four school boards and to me that doesn't make any sense. How can we simplify that. These are some of the things that have come through my office.

Chairman RaeAnn Kelsch: Are there questions?

Rep. Phillip Mueller: This system by which you're governing schools. What's your thought on putting private schools up for (inaudible) here in North Dakota? Would that solve some of the problems that are currently out there?

Scott Davis – NDIAC: I know there'd be a lot opposition to that. I think a kind of partnership between DPI and Tribal Schools. It's my hopes that someday the tribes would take ownership of their education system.

Rep. Karen Rohr: You have identified possibly using a consultant. So at what capacity would you use that person, in other words do you already have a school that you developed to prove this study or is it through consultants?

Scott Davis – NDIAC: I'm not sure I can answer that on exactly who that consultant would be for this study. We also have an advisory council composed of two tribal education leaders that meet quarterly to strategize and discuss.

Chairman RaeAnn Kelsch: Any other questions?

Bob Marthaller: Testimony attached.

Chairman RaeAnn Kelsch: Questions?

Vice Chair Lisa Meier: How does the attendance for tribal schools compare to nontribal for required attendance?

Bob Marthaller: Attendance is usually not a huge problem. I don't have a specific number for you. The dropout rate however is pretty significant. The graduations rate is roughly fifty-five percent compared with the rest of the state which is close to eighty-eight percent.

Rep. Mike Schatz: Has there been any other studies done similar to this one? I know between the BIA and the U.S. Department of Education there have been some studies similar. I am just wondering what kind of results have been obtained by those.

Bob Marthaller: I agree with you there have been studies but I can't provide detail of their research. One of our objectives of this particular grant would be to get a handle on the research, bring it together and from that draw conclusions.

Rep. Phillip Mueller: When we look at the bill it looks like we are going to do two things. We are going to conduct a study and we are also going to provide grants for low performing schools. There is a relation here but they are also very different. Could you talk about that?

Bob Marthaller: Absolutely we are talking about two separate things here. We are emphasizing the opportunity to study the issue. From the results of the study we would bring back recommendations to the appropriate committee during the next session. As for the grants, based on the research we would establish criteria for planning the grant.

Rep. Mark Sanford: In your comments you refer to what I think are good themes to school improvement. (Inaudible) My question is what would a school's involvement be with the extended time and intervention? (Inaudible)

Bob Marthaller: Yes the interventions and the extended time part of the study might need to be looked at. Schools structure their calendar to meet certain criteria and this certainly could present an issue in the extended time.

Rep. David Rust: Can you enlighten us a little bit on the dollars per student when you compare students at tribal schools compared to students at nontribal schools. Are the dollars spent the same, higher, or lower?

Bob Marthaller: I don't have that number today. Their are funding mechanisms out there such as the state and federal money among several others.

Chairman RaeAnn Kelsch: This is clearly a complicated issue and we've talked about it many times. I truly don't think that we have any idea in the state, and I think as you talk to some of the schools themselves, they aren't exactly sure of their governance. So number one I think we have a major issue of governance. Number two the question I have when we look at this study is are we also looking at Bismarck Public Schools because they probably have the next largest Native American population. So are we also going to be looking at the schools that have large Native American population? We are looking at three totally different structures. I understand the need for the study, but exactly what is it that we want as the outcome? If we identify the issues, how do we address that with them because we don't have oversight or authority over those schools? So how do we get state money/grants to those schools when they're not part of the public education system?

Bob Marthaller: If I could answer all of your questions I'd be considered a genius. It is a very complex issue. The key is to form these collaborations. We need to bring everyone to the table to decide what's important for our tribal students and students in general.

Chairman RaeAnn Kelsch: Do we have any schools in the process of becoming a part of the state system?

Bob Marthaller: I am not aware of any of the specifics on this.

Chairman RaeAnn Kelsch: Further Questions?

Jim Davis: I spent a little over four year as the Director for Indian Education Programs and four years as the Director of the North Dakota Department of Public Instruction as the Director of Indian Education in the state. There is a very complex system that we have in our K-12 system at Belcourt. At that time we had two school boards. One was advisory because of the BIE and the other was a public school board. They worked together but we still weren't making the progress we expected. After a few years the school system there became more complex. The elementary and middle school systems became primarily operated by the Bureau of Indian Education. The system is broke and has been for a lot of years. If we are going to make changes in these school systems they need to be transformational. Meaning you can't just sit and discuss these things. Decisions have to be made. Some of the areas they have two or three school boards. It has been mentioned about states taking over these schools but I don't think the tribes would allow that because they still feel that it is their responsibility/authority. Tribal councils have the authority to make changes. Throwing money at it or hiring a few more staff isn't going to work. That's happened time and time again. You have to look at governance, resources, attendance etc.

Rep. Bob Hunsakor: You talked about the system being broken. Now when you look at the other states do they have a better system because they don't resolve these issues with a manner that would be useful?

Jim Davis: As I recall there are about 150 schools that are cooperatives that are bureau funded schools. Some of those are cooperative schools. I think there are some success

stories in terms of how these schools are structured. An example comes from a school in Oregon that was being handled by the state. The students weren't succeeding so they asked the tribe if they would take over and they did. What they did was to form collaboration between that school system and its board, a community college, a successful school system, and another larger university. Amongst those four, within three or four years they were able to raise test scores above state norms. There are examples out there. I can't say there are really good examples here in North Dakota.

Chairman RaeAnn Kelsch: Any further questions? Support? Oppostion? We will close the hearing on HB 1049.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1049
02/07/11
14172

☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will open the hearing on HB 1049 and HCR 3004.

Rep. John Wall: I would like to discuss HCR 3004 first. The subcommittee was charged with HCR 3004 and HB 1049 to see if they could be combined, eliminated, etc. The subcommittee recommends a do not pass on HCR 3004 for several reasons. The issues outlined have been studied extensively before and all the major stakeholders thought HB 1049 could more readily address the issues found in HCR 3004. I'll address HB 1049. I have amendments to it. We amended it quite extensively. Basically what we did was cut out the things that would be studied. We limited the things that were decided by the input from the major stakeholders. To address the money we decided on matching funds. If it is important they should find the money from somewhere and that money can come from anyplace. The stakeholders thought they could come up with the match. At some point if the bill in the Senate does pass this would somehow or someday be merged with that. If senate bill fails, we still have HB 1049 alive. I don't know how you want to handle this. I think questions on both would be in order now.

Chairman RaeAnn Kelsch: Questions on amendments to HB 1049?

Rep. Corey Mock: Move amendment on HB 1049.

Rep. Karen Karls: Second.

Chairman RaeAnn Kelsch: Questions? We will try a voice vote. Motion carries.

Voice vote: Motion carries.

Chairman RaeAnn Kelsch: We now have amended HB 1049 before us. If this bill comes out with a do pass, then we would turn around and defeat HCR 3004?

Rep. John Wall: That is what I would like to see happen.

Rep. Mark Sanford: Motion to do pass as amended and rerefer to appropriations.

Rep. Corey Mock: Second.

Chairman RaeAnn Kelsch: Committee discussion?

Rep. Dennis Johnson: What is our goal going to be here?

Rep. John Wall: On page 1 we would be studying on line 15. This seemed to be something that definitely needs to be studied because it's difficult doing a lot with the educational system until the governance is figured out who's in control, what role DPI is going to have with a sovereign nation and how they can work together. If they hire someone to do the work which is what is suggested in the grant, they would be researching what models out there have been successful. This also seemed to be a concern on what barriers would exist that would make it difficult for DPI and the various tribes to work together to improve education.

Chairman RaeAnn Kelsch: The report would go to legislative management and they would determine which interim committee would receive the report. The governance issue is something we have a difficulty getting our arms around. While we don't have some of the control I think that is where the biggest issue is. What influence can we have as a state have on those schools and can we have an influence on all of them? When you take a look at the dropout rates, regardless of which school they are in the state, everyone reports their dropouts so the dropout rates whether they are a state funded school, a non-public school or a BEI school, they are all included in our dropout rates. From a state perspective it is something you'd probably want to have some influence over. We just don't know if we can or can't.

Rep. John Wall: One thing that came up in discussion quite often was a flow chart that showed us how this could be handled.

Chairman RaeAnn Kelsch: We will take the roll on a do pass as amended and rerefer to appropriations on HB 1049.

12 YEAS 3 NAYS 0 ABSENT DO PASS as Amended
CARRIER: Chairman RaeAnn Kelsch

V12
2/7/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1049

Page 1, remove lines 9 through 14

Page 1, line 15, replace "3." with "1."

Page 1, line 17, replace the period with a semicolon

Page 1, line 18, replace "4." with "2."

Page 1, line 18, replace the period with "; and"

Page 1, remove line 19

Page 1, line 20, replace "6." with "3."

Page 1, remove lines 22 and 23

Page 2, remove lines 1 and 2

Page 2, line 7, replace "\$100,000" with "\$25,000"

Page 2, line 10, after the period insert "Any amount provided to the superintendent of public instruction under this section is contingent upon the superintendent demonstrating that a matching amount has been received through gifts, grants, or donations from nonstate sources for the purposes of this Act."

Renumber accordingly

Date: 02-07-11
Roll Call Vote #: VOICE VOTE

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1049

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. MOCK Seconded By REP. KARLS

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep. Hanson		
Vice Chairman Meier			Rep. Hunsakor		
Rep. Heilman			Rep. Mock		
Rep. Heller			Rep. Mueller		
Rep. Johnson					
Rep. Karls					
Rep. Rohr					
Rep. Rust					
Rep. Sanford					
Rep. Schatz					
Rep. Wall					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

**VOICE VOTE ON AMENDMENT
MOTION CARRIES**

Date: 02-07-11
Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1049

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. SANFORD Seconded By REP. MOCK

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Heilman	X		Rep. Mock	X	
Rep. Heller		X	Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr	X				
Rep. Rust		X			
Rep. Sanford	X				
Rep. Schatz		X			
Rep. Wall	X				

Total (Yes) 12 No 3

Absent 0

Floor Assignment CHAIRMAN KELSCH

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

REPORT OF STANDING COMMITTEE

HB 1049: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1049 was placed on the Sixth order on the calendar.

Page 1, remove lines 9 through 14

Page 1, line 15, replace "3." with "1."

Page 1, line 17, replace the period with a semicolon

Page 1, line 18, replace "4." with "2."

Page 1, line 18, replace the period with "; and"

Page 1, remove line 19

Page 1, line 20, replace "6." with "3."

Page 1, remove lines 22 and 23

Page 2, remove lines 1 and 2

Page 2, line 7, replace "\$100,000" with "\$25,000"

Page 2, line 10, after the period insert "Any amount provided to the superintendent of public instruction under this section is contingent upon the superintendent demonstrating that a matching amount has been received through gifts, grants, or donations from nonstate sources for the purposes of this Act."

Renumber accordingly

2011 HOUSE APPROPRIATIONS

HB 1049

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1049

2/16/11

14635

☐ Conference Committee

Committee Clerk Signature

Meredith Truholtz

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide for a superintendent of public instruction study; to provide for reports to the legislative management; and to provide an appropriation.

Minutes:

You may make reference to "attached testimony."

Chairman Delzer: Opened discussion on HB 1049. The title was read.

Representative RaeAnn Kelsch, District 34: This bill sets up a study of Indian education issues. We have a great deal of concern, as well as confusion, when it comes to Indian education in the state of ND. When we look at the governance issues as to whether or not a school is a tribal school, a BIE school, a BIA school, a public school, a non-public school, all of these governance issues come into play. Also, there is the fact that in some situations we have a quasi-public school, a BIE school, where there are two different school boards, and what is happening is there are a great deal of issues with the native Americans that are working against them and we need to get our arms around these issues. One is whether or not there are success models out there that are working for these tribal schools. Apparently there are, there's an Oregon model, and there might be an Idaho model. When the bill came in, it had a \$100,000 appropriation. We put it into a subcommittee to make it a bit more concise, and that is what you have in front of you today. There is an appropriation of \$25,000. The subcommittee felt if there was going to be buy-in for the study, there should be a dollar-for-dollar matching for the \$25,000. What the money would be used for is to bring in consultants, bring in expertise, to talk about the issues affecting our Indian students. We typically know our Indian schools are the lower-performing schools, and that is an issue in the state, especially given the fact that the population that is growing, and the population that is growing quite rapidly, is the native American population. This is a concern because as we move into the future, a lot of the native Americans are going to be the employees that we have in the state, and we want to ensure that they are getting a good education. That is the purpose behind the study. There is also a resolution, which was defeated, and this was the vehicle that was used as the study.

Chairman Delzer: DPI is over in the Senate right now. Don't you think they could find \$25,000 in their budget to do this, especially if they had to receive matching grants?

Representative Kelsch: I don't know if there's \$25,000 in the DPI budget bill for this. My guess is, if it is a matching situation, potentially you could find it, but I don't know if there are any additional dollars in there.

Chairman Delzer: Just a few minutes ago we had a guardianship bill where we removed the money so we could look at it in the second half, when the Human Service budget comes over. Do you think your committee would be extremely upset if we removed the appropriation, and moved the policy forward?

Representative Kelsch: I think they thought it was important that the policy stay alive. That was the vote of the committee. They knew the \$25,000 was in there. It went from \$100,000 to \$25,000 because we were trying to be fiscally conservative, as well as finding a matching grant for you.

Chairman Delzer: Questions by the committee? Seeing none, thank you Representative Kelsch, on 1049.

2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1049
2/17/11
14668

☐ Conference Committee

Committee Clerk Signature

Meredith Truholtz

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide for a superintendent of public instruction study; to provide for reports to the legislative management; and to provide an appropriation.

Minutes:

You may make reference to "attached testimony."

Chairman Delzer: Opened discussion on HB 1049. We discussed this yesterday. It has to do with Indian education. They had changed it from a \$100,000 appropriation to a \$25,000 appropriation. It sits within the DPI budget, which is not a small budget. I think they might be able to find this within their budget. What are your wishes?

Representative Bellew: I'll make a motion to remove the appropriation.

Representative Dosch: Second.

Chairman Delzer: Do we have any discussion?

Representative Nelson: In the bill, it does indicate that the appropriation is leveraging other monies, so the \$25,000, and I don't know if it's a one-for-one match, if there is a more substantial grant, it may be harder to find that money within that DPI budget, if the match requirement is greater.

Chairman Delzer: Representative Bellew, was your amendment to take the money out, or section 2?

Representative Bellew: Just the \$25,000 appropriation.

Representative Skarphol: You're telling them they can't use any money from within their budget, but rather they have to use all grants?

Chairman Delzer: No, we would remove the additional funding and expect them to find the money for this within their budget, and any money they find they also have to find matching grants for. Further discussion on the motion to amend? Voice vote uncertain, we'll do a roll call. Motion carries 14-7, we have the amended bill before us.

Representative Skarphol: I move Do Pass as Amended.

Representative Klein: Second.

Chairman Delzer: Discussion. Seeing none, we'll call the roll for a Do Pass as Amended on HB 1049. Motion carries 20-0-1, Representative Skarphol will carry the bill.

VR
2/18/11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1049

Page 1, line 1, after the semicolon insert "and"

Page 1, line 2, remove "; and to provide an appropriation"

Page 1, remove lines 18 through 23

Page 2, remove lines 1 and 2

Renumber accordingly

Date: 2/17
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1049

House Appropriations Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Bellew Seconded By Rep. Dosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson		X
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol	X				
Representative Thoreson	X		Representative Glassheim		X
Representative Bellew	X		Representative Kaldor		X
Representative Brandenburg	X		Representative Kroeber		X
Representative Dahl	X		Representative Metcalf		X
Representative Dosch	X		Representative Williams		X
Representative Hawken	X				
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson		X			

Total (Yes) 14 No 7

Absent _____

Floor Assignment _____

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

remove appropriation of \$25,000

Date: 2/17
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1049

House Appropriations Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Skarphol Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson	X	
Vice Chairman Kempenich			Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol	X				
Representative Thoreson	X		Representative Glassheim	X	
Representative Bellew	X		Representative Kaldor	X	
Representative Brandenburg	X		Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch	X		Representative Williams	X	
Representative Hawken	X				
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson	X				

Total (Yes) 20 No 0

Absent 1

Floor Assignment Rep. Skarphol

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

REPORT OF STANDING COMMITTEE

HB 1049, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (20 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1049
was placed on the Sixth order on the calendar.

Page 1, line 1, after the semicolon insert "and"

Page 1, line 2, remove "; and to provide an appropriation"

Page 1, remove lines 18 through 23

Page 2, remove lines 1 and 2

Renumber accordingly

2011 SENATE EDUCATION

HB 1049

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

HB 1049
March 21, 2011
15712

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide for a superintendent of public instruction study; and to provide for reports to the legislative management regarding Indian education.

Minutes:

See "attached testimony."

Chairman Freborg opened the hearing on HB 1049; no fiscal note attached.

Jeff Nelson, Legislative Council staff attorney & committee counsel for the Tribal and State Relations committee, introduced the bill. His comments are not in favor or against the proposal, but purpose is to review the proposal with this committee and answer questions. Background—the Tribal and State Relations committee is statutory committee; established by the legislative assembly in statute. Members and duties are set in statute; Century Code section 54.35-23 establishes the committee and directs the committee to conduct joint meetings with the Native American Tribal Citizens Task Force to study tribal state issues, including government to government relations, the delivery of services, case management services, child support enforcement, and issues related to the promotion of economic development. They really have jurisdiction purview over any issue affecting tribal and state relations in North Dakota. Have been in effect for three interims and any issue that comes up involving the tribes or Native Americans in North Dakota the committee views that as being in its jurisdiction. The Native American Tribal Citizens Task Force is comprised of six members—Executive Director of Indian Affairs commission and the chairman of each of the tribes in North Dakota. There is a process where those members can appoint a designee to serve on the Task Force; have joint meetings and at the end of the interim the Tribal and State Relations committee has one final meeting to make recommendations to the legislative management.

HB 1049 as developed by the committee and introduced would have appropriated \$100,000 from the general fund to the Superintendent of Public Instruction to conduct an Indian Education issues study. The re-engrossed bill has been substantially amended by the House, both by the House Education committee and the Appropriations committee. That is why the bill is re-engrossed as it was amended twice. It is a bill for an Act to provide for a superintendent of public instruction study; and to provide for reports to the legislative management regarding Indian education. The bill provides that between July 1, 2011 and June 1, 2013 the Superintendent of Public Instruction is required to conduct a study of Indian Education issues and to develop criteria for grants to low performing schools.

Lines 9-14 the legislative assembly sets out that in conducting the study, the Superintendent is to determine (see attachment #1) The bill authorizes the Supt to utilize a consultant in conducting the study and requires the Supt to report periodically to a legislative management interim committee on the study conducted—committee to be determined most appropriate.

The appropriation was removed on the House side; anticipated that once the study is completed, the results will be reported and if grants are to be made that the Supt will request an appropriation next session to fund these grants to low performing schools based upon the criteria that is going to be developed in the study conducted under the bill.

Senator Gary Lee: Language starting on line 6 “shall conduct a study” – is it a foregone conclusion that there are going to be grants to these students, and the study is just to determine criteria; how much and where they are expended? **Jeff Nelson:** Doesn't believe it is a foregone conclusion; perception exists that there certainly are low performing schools and it's anticipated that the criteria will be developed. The study might reveal that maybe this isn't appropriate and there is no need for grants so that is a possibility. Don't think that is the expectation and that is really why the study is being done—to develop these criteria, see what the result is.

Senator Flakoll: Are there things that the bill requires that DPI can do on their own? There is no money in it—are they not able to do this on their own if they wish to? **Jeff Nelson:** Yes, they could but this provides a directive to the Supt that the legislative assembly would like to see the Supt do this study, develop the criteria, and shows the importance that the legislative assembly places on this.

Senator Flakoll: Does it allow that some schools have a per student cost of \$25,000-40,000; might part of it be that they reallocate some of those resources to areas that have a better and more proven performance record? **Jeff Nelson:** Yes, believe it certainly is a possibility. **Senator Flakoll:** Line 15 talks about a consultant; if they were to engage a consultant they would use existing funds within their budget for this session? **Jeff Nelson:** Yes.

Representative Wall, District 25 testified in support of the bill. The bill originally called for a general fund appropriation for \$100,000. The House Education committee amended it to study three areas, reduced the appropriation to \$25,000 and required that it be matched from other sources. They were in the process of seeking those matching funds when the House Appropriations committee took out the \$25,000. Considering the fact that there are over 10,000 Indian students or 11% of the total in the state, there are performance problems in the schools with AYP, high dropout rates, etc. Something needs to be done, and he personally doesn't think \$25,000 is unrealistic. SB 2130 which called for funding a director of Indian Education in DPI was defeated; in the House they defeated HCR 3004 which would have studied many of these issues and reported back next session. His fear is if there is no money up front nothing is going to happen; this is their last best chance this session to make progress. All should agree this is an area that something needs to be done. Cannot afford things to continue status quo; he thinks it's time something is passed that has some merit to get the job done.

Bob Marthaller, Assistant Superintendent, DPI testified in support of the bill (#2 Testimony) This bill began in the North Dakota Indian Education Advisory Council where it was put together. The original bill was much more comprehensive; the House Education committee provided a more focused study area (three currently in the bill). They believe it is a good bill; \$25,000 would be helpful if a match could be found. DPI does support the bill and will conduct the study. \$25,000 would allow them to hire a consultant. The initial intent was to do a much broader study, looking at issues of parental involvement, structures of the school day, poverty issues; many of those issues that surround Indian education. Know that the graduation rate in North Dakota for these students is about 57%; for other students across the state it is 87%. Know there are barriers, issues, problems—intent would be to identify them and the second part of the bill allows/requires putting together criteria for grants. Want to clarify that it is not necessarily conclusive that it is a money issue; in some cases it is not a money issue. There should be dollars for the grants that may be appropriate.

Senator Luick: What areas are specifically being looked at? **Bob Marthaller:** The first one that is described in the bill is the whole governance issue; thinks it is the most significant study area—it's sometimes difficult to know which agency, body, who has the authority to make those appropriate educational decisions for those kids. Have federal government involvement, state involvement, public school boards, tribal boards, etc. Sometimes difficult to determine who makes the decisions; probably the most critical area that needs to be looked at. Clarify those issues and funding issues that surround that governance topic; might even increase relationships between all entities.

Second would be barriers to success in some of these schools; state laws, statute, federal law, some kind of barrier preventing achievement. The third thing would be to see what success models are currently available that could be adopted and put into process. The original bill had the following removed; still going to have to take a look at to make a difference—parental involvement, professional development for teachers, funding may or may not be an issue, etc.

Senator Flakoll: SB 2150 puts an at-risk factor with the intent to solve problems such as this and those similar. Did we get the money out ahead of the list of solutions? Don't have 2150 here anymore but maybe put too much at-risk money in there if there aren't solutions available at this point. We could peel back the at-risk factor by two ten hundredths and provide the \$25,000 to accomplish this so have solutions in place before start sending the money out in a somewhat liberal fashion. **Bob Marthaller:** Guess you are accurate in saying to use the at-risk factor to provide this funding. Don't have the solution specifically when talking about this issue; have some ideas, have some thoughts. Know that parental involvement is part of the issue; know that poverty is part of the issue. Don't have the design, program, grant that can be set up in "X" school and say if we do these things, we believe that we are going to see increases in AYP, graduation rates, etc. Will take some time to show that. The solution is not necessarily there yet; not sure how school districts would look at it those funds were used.

Scott J. Davis, Executive Director, North Dakota Indian Affairs Commission supports the bill. Their stake in this bill is governance and the models, agreements that could be potentially created through the study. That is kind of the basis for the work he does;

creating a type of partnership—MOU's, MOA's between state agencies and tribal governments. Governance is a challenging issue; maximizing the work the schools do to increase AYP, graduation rates, retention. There is a politicalness with school boards out there; not sure how effective tribal school boards are and are interested in finding out and creating some type of oversight on that. Thinks that there is a great potential for the school boards to be more effective in their role as far as what they can and cannot do with tribal education.

His father is a doctorate of education and been in every system in the state from DPI to BIE and tribal schools; they talk a lot about the effectiveness of the school boards. The reality of the politics of some school boards—good and bad of how they control school functions. Also has talked with the BIE Head Superintendent out in Washington DC, Keith Moore, about this bill; they were doing some leg work on securing the matching funds with him. Talked about collaboration between all of these entities in the state; for this to work BIE needs to be involved. He said he would mandate the line offices to participate in the study.

The reporting systems that are used by the state of North Dakota (Power School) and BIE (Native STARS) are another barrier; the schools have to punch a lot of data in between the two programs. How can we come up to a solution to that—knows that from an ITD standpoint it is a coding issue? Some codes are compatible and some are not. The complexity of BIE, tribal schools and grant schools, public schools; to create that roadmap of governance, funding, reporting. Who has the last say on issues; would hope the study could create some recommendations for solutions to that. There are models that exist out there to simplify the complexity of Indian education.

Senator Heckaman: If we re-establish the Director of Indian Education position, would that take care of a lot of this? **Scott Davis:** Believes it would; look at the numbers of students in tribal and public schools and feels there needs to be a presence in DPI. They need a voice in DPI that has some teeth; his office is a recommending liaison and has no true say in the matters. Looks at some programs in DPI and they have several staff members, but not one dedicated to Indian education.

Senator Luick: Do you feel there is a way to encourage BIE to guarantee the matching \$25,000? **Scott Davis:** That was his question to Mr. Moore; he is looking into it. Not sure if they can use funding that way. Really believe they should and recommended it to them.

Senator Luick: Think that is important; need to have some skin in the game also. If they don't, he doesn't think the incentive is going to be helpful. **Scott Davis:** Totally agree with you; BIE has to buy in and must commit to participate. Working on making that happen. There are two line officers in the state: Bob Parisien and Rosemary Davis; their participation is key to the success of the study.

No further testimony in support; no opposition. Hearing closed.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

Committee Work on HB 1049
March 28, 2011
16037

☐ Conference Committee

Committee Clerk Signature



Minutes:

No "attached testimony."

Senator Heckaman sought amendments for this bill; her group decided not to pursue any amendments to the bill. They would like to see it continue to go through and felt if they added any amendments it may jeopardize the bill passing. See this as an important issue at this time and would like to see the bill pass through the way it came to the Senate. Move a Do Pass to re-engrossed HB 1049; second by **Senator Marcellais**.

Senator Flakoll: Does the Superintendent of Public Instruction need our permission to do this? **Senator Heckaman:** Not sure what we need to grant and not grant as permission. When there is a directive like this, thinks the information that we are looking for will get forwarded back. Thinks there are some working groups out there now that could cooperate and get information back to the legislature. If we don't do it as a request, probably won't get what we are looking for. **Chairman Freborg:** Don't think we need to give them permission, but think if we want it done it needs to be direct it. The bill says they "shall".

Senator Flakoll: Testimony by Representative Wall that they would find grants to achieve this, so if they don't find grants then there will be less of a study? We are mandating a study and had \$100,000 fiscal note on the House side which he guesses was a terminal amount. It will take someone to do this; so what happens? **Senator Heckaman:** She visited with the Department of Public Instruction and Indian Affairs Commissioner and they feel there is a mechanism out there that they can jointly cooperate on this and work through it over the interim. Don't know that they will look at doing a consultant; didn't sound like it but through the Indian Education Advisory Commission; the Indian Affairs Commissioner said he had visited with the BIE head consultant and will commit the two line officers that work with education in the state of North Dakota to cooperate. We may use their time in pursuing the study. There is a need for this and the provisions for the funding mechanism to roll through another entity right now. The Indian Education Advisory Commission has a lot of education consultants from the tribes across the state and was interesting visiting with Scott Davis; he stated that he doesn't even understand why some are funded the way they are and the governance of them. This may clarify things for a lot of people.

Motion carried 7-0-0; **Senator Marcellais** will carry the bill.

Date: 3/28/
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1049

Senate 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 Sen. Heckaman Seconded By Sen. Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	<input checked="" type="checkbox"/>		Senator Joan Heckaman	<input checked="" type="checkbox"/>	
Vice Chair Donald Schaible	<input checked="" type="checkbox"/>		Senator Richard Marcellais	<input checked="" type="checkbox"/>	
Senator Tim Flakoll	<input checked="" type="checkbox"/>				
Senator Gary A. Lee	<input checked="" type="checkbox"/>				
Senator Larry Luick	<input checked="" type="checkbox"/>				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Marcellais

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

REPORT OF STANDING COMMITTEE

HB 1049, as reengrossed: Education Committee (Sen. Freborg, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Reengrossed HB 1049 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1049

**TESTIMONY ON HB 1049
EDUCATION COMMITTEE**

January 5, 2011

by Robert V. Marthaller, Assistant Superintendent

701-328-2267

Department of Public Instruction

Madam Chairman and Members of the Committee:

My name is Bob Marthaller and I am an Assistant Superintendent for the Department of Public Instruction. I am here to speak in favor of HB 1049. HB 1049 is a planning grant opportunity to study Indian education issues with the expected outcome to develop criteria for grants to low performing schools.

Madam Chair and Members of the Committee, there are approximately 10,650 American Indian students attending schools in the state of North Dakota. In general, these students rank lower by percentage of students at or above the proficient level on the National Assessment of Education Progress in Math, Reading and Science. We also know that many of our schools with high population of Native American students are also the schools that are many times our lowest performing schools. Favorable action and passage of this bill will provide a two-fold opportunity;

1. An opportunity to study in depth the barriers that prevent Indian students from reaching high levels of achievement, and

2. An opportunity to develop qualifying criteria in order to provide grants to our lowest-performing schools.

There may be many contributing factors bearing upon low performance, limited success and low proficiency levels. Though the number of issues to be studied may be unlimited, the specific issues to be researched and examined are included in the bill draft.

- Factors that define effective “parental involvement” and the extent and influence that effective parental involvement has on improving student achievement.
- The extent to which “school structure” and “extended learning time,” including extended school day, extended school year, year-round school, summer school, after school programs, student and staff support systems, have on improving student achievement.
- The extent to which governance and “collaborative models” including agreements with Tribal Governments, Bureau of Indian Education, and States have on improving student achievement.
- What “success models” are available and what makes these models effective?
- The extent that poverty negatively effects student achievement.

- What federal, state and local barriers exist that prevent schools and students from performing at high rates of student achievement?
- The extent that lack of funding and/or clearly established funding priorities prevent or inhibit efforts toward higher proficiency levels.
- What level of professional development is necessary and what components are missing?

Approval of HB 1049 will provide the resources to contract with experts and consultants to assist our study efforts.

From the results of the study, conclusions will be reached to determine what makes a successful student and what makes a successful school. Then, in partnership with all stakeholders, qualifying criteria and funding requirements will be established. It is our intent to report the results of our study with recommendations to the appropriate legislative committee during the next interim session.

The primary outcome of this planning grant opportunity is to increase proficiency and academic performance for Indian students and schools serving Indian students. However, most important, this grant opportunity has great potential to positively impact the lives of North Dakota American Indian students.

Madam Chairman and Members of the Committee, it is my recommendation that you act in favor of this bill. This bill grew from the work of the North Dakota

Indian Education Advisory Council and I know that there may be others who would like to provide supporting testimony. I will remain available to answer any questions that you may have.

**TESTIMONY ON HB 1049
SENATE EDUCATION COMMITTEE**

March 21, 2011

**Robert V. 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 for the Department of Public Instruction. I am here to speak in favor of re-engrossed HB 1049 (11.0244.0400). HB 1049 provides an opportunity to study Indian education issues with the expected outcome to develop criteria for grants to low performing schools.

Mr. Chairman and Members of the Committee, there are approximately 10,650 American Indian students attending schools in the state of North Dakota. In general, these students rank lower by percentage of students at or above the proficient level on the National Assessment of Education Progress in Math, Reading and Science. We also know that many of our schools with high population of Native American students are also the schools that are many times our lowest performing schools. The graduation rate for Indian students is about 57% as compared to approximately 87% for all other students.

#2 HB 1049

As introduced, the bill provided for an opportunity to study in depth many of the issues that prevent Indian students from reaching high levels of achievement and then develop criteria for grants (if necessary) to our lowest performing schools.

As first introduced, this bill included a request for an appropriation of \$100,000 to study a broad range of issues. The House Education Committee narrowed the focus of the study to three specific areas remaining in the bill and reduced the funding to \$25,000 to be accessed contingent upon a matching amount of non-state sources be received for purpose of the grant.

The House Appropriations Committee further amended the bill by removing the \$25,000 appropriation.

The Department remains in support of the bill, as amended. I will try to answer any questions that you may have.

#2 HB1049