

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

912R0523

## HOUSE CONCURRENT RESOLUTION NO. 1007

Introduced by: Representatives Killer, Elliott, Faehn, Fargen, Frerichs, Hunhoff (Bernie), Hunt, Iron Cloud III, Juhnke, Lucas, McLaughlin, Olson (Ryan), Pitts, Schlekeway, Sly, Sorenson, Thompson, and Wink and Senators Bradford, Ahlers, Maher, and Tieszen

1 A CONCURRENT RESOLUTION, Urging the Bureau of Indian Education and other federal  
2 and state agencies to provide for the design and implementation of appropriate measures of  
3 adequate yearly progress for Native American students under the No Child Left Behind Act.

4 WHEREAS, under the federal No Child Left Behind Act, schools are required to track test  
5 scores and adequate yearly progress (AYP) for their students, including minority students and  
6 other subgroups; and

7 WHEREAS, the No Child Left Behind Act requires states and the Department of the  
8 Interior's Bureau of Indian Education (BIE) to define and determine whether schools are making  
9 adequate yearly progress toward meeting the goal of one hundred percent academic proficiency.  
10 As part of this effort, the BIE has directed that each tribe must work with the state to establish  
11 appropriate benchmarks for Native American students; and

12 WHEREAS, measuring Native American student progress is a complex process. There are  
13 currently twenty-three different state definitions of AYP being applied throughout the BIE  
14 school system. The BIE has entered into agreements with eleven states to address AYP issues,



1 leaving twelve more states that have not yet signed a memorandum of understanding; and

2 WHEREAS, only one-third of the 174 schools within the Bureau of Indian Education are  
3 meeting AYP standards, according to the Government Accounting Office; and

4 WHEREAS, to address tribes' needs for cultural preservation, the No Child Left Behind Act  
5 allows tribal groups to waive all or part of BIE's definition of AYP and propose an alternative,  
6 with technical assistance from BIE and the Department of Education. However, the process  
7 requires a significant amount of time and resources to successfully submit an application.  
8 Nationwide, only two tribes and one tribal education consortium are developing programs to fit  
9 their needs, which means all of the other BIE schools must comply with state AYP standards;  
10 and

11 WHEREAS, in South Dakota, Native Americans make up eleven percent of the state's  
12 public school students and constitute South Dakota's largest single minority group; and

13 WHEREAS, BIE and other reservation schools in South Dakota were not considered when  
14 the South Dakota AYP cutoff benchmarks were established, resulting in a lack of validity and  
15 reliability of the Dakota Step for minority students, as the Native American students living on  
16 the reservations in South Dakota were not part of the testing population when the increasing  
17 benchmark cutoff score system was established; and

18 WHEREAS, because the Dakota Step difficulty levels automatically increase with grade  
19 level and the cutoff benchmarks for proficiency in making AYP also increase, Native American  
20 students must take a more difficult test each year and at the same time must get higher scores  
21 to be proficient and meet AYP requirements. The current assessment does not allow for a  
22 growth model for each individual student, which conflicts with BIE recommendations to "treat  
23 each child as an individual person"; and

24 WHEREAS, there is no parity in AYP across the nation when southern states versus

1 northern states reading benchmarks are compared, as follows: North Dakota (85%), South  
2 Dakota (84.7%), Arizona (46%), New Mexico (43%). However, BIE-funded schools must  
3 follow their state's benchmarks, which leaves Native American schools and students in South  
4 Dakota at a serious disadvantage:

5 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-  
6 fifth Legislature of the State of South Dakota, the Senate concurring therein, that the South  
7 Dakota Legislature urges the Bureau of Indian Education and other appropriate federal and state  
8 agencies to consider an alternative Adequate Yearly Progress model for Native American  
9 Students in South Dakota Indian reservation schools that addresses the following considerations:

- 10 (1) Development of a valid and reliable state standardized assessment for Native  
11 American students, an assessment that considers their needs and circumstances in  
12 its design;
- 13 (2) Use of benchmark cutoff score systems that address the lifestyle, culture, and  
14 language diversity of Native American students;
- 15 (3) Use of a growth model for BIE and grant schools located on South Dakota  
16 reservations, and;
- 17 (4) Waiver by the BIE and the State of South Dakota of current assessment methods,  
18 allowing South Dakota tribes to research and identify a standardized performance  
19 assessment; and

20 BE IT FURTHER RESOLVED, that the Legislature urges collaboration between the BIE  
21 and other appropriate federal and state agencies to provide technical assistance to tribes to  
22 develop alternate definitions of Adequate Yearly Progress. The BIE should provide guidelines  
23 and training on the process for seeking and approving alternatives to all tribal governments,  
24 tribal school boards, and education line offices.