

2009 HOUSE EDUCATION

HB 1394

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

House Education Committee

☐ Check here for Conference Committee

Hearing Date: January 27, 2009

Recorder Job Number: 7830

Committee Clerk Signature

Carmen Hart

Minutes:

Rep. Kasper appeared to introduce HB 1394. This bill will help students to continue down the path of education excellence and provides for an appropriation of \$700,000 to help defray the cost to the tribal colleges to educate nonbeneficiary students and these are students that the tribal colleges do not receive federal funding for from the federal government. He walked

through the bill briefly. He presented a minor amendment for Section 3. **(See Attachment 1.)**

The amendment provides some comfort to the tribal colleges as far as information that could be reported to the Legislative Council. As you know, the council can request any information they desire when they are getting reports, but putting those words into statute—tribal colleges receive a lot of information from the federal government and about how their funding works on issues that do not relate to this bill at all, and so they were just concerned that we might be going a little bit too far in what the legislative council might wish to request. It doesn't change the intent of the bill whatsoever.

Rep. David Rust: On page 2, Line 21, and Line 25 and 26, transfer out. Explain that again to me.

Rep. Kasper: Currently the funds are being appropriated for this bill from the Permanent Oil Trust Fund. What we are receiving into the Permanent Oil Trust Fund from the state of North Dakota are dollars from the drilling on Ft. Berthold Indian Reservation. The state has a

substantial share of those revenues. How the bill works is the money is appropriated out of the Permanent Oil Trust Fund that we currently have. The revenues that come in from the oil that is drilled on the Ft. Berthold Reservation which is really Native American dollars coming into the state of North Dakota are there to replenish the \$700,000 appropriation.

Rep. Brenda Heller: Of that tax money that is collected from those oil wells, how much do the tribes get to keep and what percentage comes to the Permanent Oil Tax Trust Fund?

Rep. Kasper: I believe the final contract the Governor signed just last year is a six percent each. I think it is an equal share that the tribes receive and the state of North Dakota receives.

Rep. Lyle Hanson: Are these funds just from Indian land on a reservation or are non Indian lands included?

Rep. Kasper: It would be any dollars generated from oil wells within the boundaries of Ft.

Berthold Reservation whether it is a fee land or a trust land.

Rep. Phillip Mueller: Are you aware of HB 1058?

Rep. Kasper: I became aware of HB 1058 once I got here. I just continued working on my bill as I had.

Rep. Phillip Mueller: Can you help me understand the difference between this bill and HB 1058?

Rep. Kasper: I am going to leave that up to your committee to determine how to reconcile those.

Vice Chair Lisa Meier: On 1058 there was an amendment that was proposed to in the wording of \$5,304. There was another amendment that was proposed to an amount equal to the annual federal appropriation for each Indian student who is enrolled in a tribally controlled community college. Would you be in agreement if we put an amendment on your bill so that it follows the federal government funding per biennium?

Rep. Kasper: We have had considerable discussion with Legislative Council about that language, and it is my understanding that language is not desirable because we are looking at federal language and federal law compared to what we do in the state of North Dakota.

Rep. Kasper made a few comments about HB 1566 with Chairman Kelsch's permission. It is a bill that requires a study by the higher education system on how the higher education system and the tribal colleges in the state of North Dakota can work more collaboratively together. They have begun that process in the last number of years, and in visiting with Chancellor Goetz about this concept to put it into a bill format, he was very supportive of this study. The highest birth rate in the state of North Dakota is on our reservations. We have a need for an educated workforce.

Senator Richard Wardner, District 37, Dickinson, appeared in support of HB 1394.

Senator Tim Flakoll, District 44, Fargo, appeared in support and sponsor of this bill. This is kind of a second generation bill from 1395 last session. HB 1394 is not only fair but I believe it is the right thing to do for the state of North Dakota. Many of these tribal college students are often times older than average than the traditional student claims to be. As a result, many of these students are place bound and live close to the tribal college that they attend, thus giving them fewer options for some of their educational opportunities. This bill will be a great help to those who are not able to achieve their earning potential due to lack of adequate education. There is a direct correlation between one's level of educational attainment and one's health which is of interest to all of us in the state of North Dakota when we look at our healthcare budgeting issues. He handed out a report that comes from the reference book provided by the North Dakota university system that lays out some of the tribal assistant grant program payments for the 2007-2008 year to consider in your deliberations. **(See Attachment 2.)**

Rep. Dennis Johnson, District 15, appeared in support. Some of the students are single parent students that have a hard time getting very far from home without the opportunity to attend college here. As they get educated, they do move on to the other higher ed. system. I think it is a win/win for all colleges in North Dakota by moving with this type of legislation.

Dr. Jim Davis, President, Turtle Mountain Community College, appeared on behalf of the North Dakota Association of Tribal Colleges in support of HB 1394. **(See Attachment 3.)** He made some comments specific to Turtle Mountain Community College. The emphasis of this bill is for nonbeneficiary students. In other words, the 8 to 10 or 12% of our students who are not enrolled tribal members of a tribe. We are accredited. Our college was established in 1972 as one of the six founding members of the tribal college movement in this country. There are 36 tribal colleges now throughout the country, and there are five located within the

boundaries of North Dakota. We will probably be moving into a master's level program sometime within the next five to ten years. This semester we have 623 students and all of those students are commuters. Our college like most tribal colleges is very affordable. Our tuition is the lowest in North Dakota of any mainstream university or college including tribal colleges. It is successful to a lot of our students who would not normally attend college. About 60% of our students would not be in college. They would not go to Minot State, UND, or any other. Once they finish a year or two at our college, the 60% I am referring to very likely do attend and enroll in these other colleges and universities in North Dakota. There is a tremendous impact that these colleges provide to our communities and to the state as a whole.

Rep. Lyle Hanson: Did you go to Turtle Mountain Community College?

Dr. Davis: No. I went to Dickinson State.

Rep. Phillip Mueller: Help me understand the difference between this bill and 1058.

Dr. Davis: There isn't a lot of difference per say. What we see in 1394 is basically the language we talked about in Section 3, page 2.

William Goetz, Chancellor, North Dakota University System, appeared in support. (See Attachment 4.)

Rep. Jerry Kelsh: Looking over the bill the money is the same and the definitions are the same. The reporting is quite a bit different. It went from State Board of Higher Education of the budget section and the legislative audit fiscal review in 1058 to the Legislative Council. This is in the Governor's budget of \$700,000. Why do we need an appropriation section in this bill and then a transfer section also? Why is that necessary in 1394?

Chancellor Goetz: My recollection is that the Governor did take \$700,000 which is the amount, and this was taken in a reduction or part of the need based grant monies that are in the university system budget. This particular bill as you know takes it from the Permanent Oil Trust Fund and thus would not impact the general fund. If that change were to take place, it would then really add back in \$700,000 into the needs based student grant program. I am not going to take a position here in terms of where that money should come from. I am here to support the \$700,000 in terms of the program of critical importance and where the money comes from is the decision of the legislature.

Rep. Jerry Kelsh: The reporting thing just happens to be a difference in the language of the bill. This is an updated requirement in 1394 from 1058 on how somebody feels the reporting should be done.

Chancellor Goetz: The reporting I think is again the judgment of the legislature in terms of the policy decision. I am as concerned as you in terms of accountability and making sure that there is good accountability and the fact that the legislature is also given that information. It matters not to me in terms of how that takes place. My bottom line is that we need to be

accountable not only to the handling of this in the university system office but also obviously you as policymakers want to be certain of the accountability aspects as well.

Chairman Kelsch: When it says to be submitted to Legislative Council, then Legislative Council can determine which committee will receive it. It could be that the higher ed. interim committee would receive this information. It could be that the education committee could receive it. It could be that the budget section could receive it. It now basically is left to the discretion of Legislative Council to determine which committee would actually receive the report. It may be of greater interest to take it to the higher education interim committee instead of the budget section based on the fact that the tribal relations and with the university system has gotten so much stronger that it would be more of interest to a committee like that rather than the budget section. It allows the flexibility. We have seen that more in the last couple of sessions.

Dr. David Gipp, President, United Tribes Technical College, appeared in support. **(See Attachment 5.)**

Dr. Clarise Baker, Vice President of Academic Affairs, Ft. Berthold Community College, New Town, appeared in support. She presented testimony from Russell Mason Jr., President of the college who was unable to attend. **(See Attachment 6.)**

There was no opposition.

The hearing was closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

House Education Committee

☐ Check here for Conference Committee

Hearing Date: January 27, 2009

Recorder Job Number: 7832

Committee Clerk Signature

Carmen Hart

Minutes:

Rep. Dennis Johnson moved to accept the amendment 90381.0301. **Rep. Corey Mock** seconded the motion.

A voice vote was taken. Motion carries.

Vice Chair Lisa Meier made a motion for a **Do Pass as Amended**. **Rep. Karen Karls** seconded the motion.

Rep. Phillip Mueller: What are we doing with 1058 versus this bill? I see that we do change some things in 1058 but certainly at some point where I don't think both of these move forward.

Chairman Kelsch: I think the funding that is in 1394 is our preferred funding mechanism.

Rep. Phillip Mueller: When we sent it over to the senate side last time, they changed the funding mechanism to come out of the Permanent Oil Tax Trust Fund?

Chairman Kelsch: Yes. It really is coming out of the first monies that are coming out of the drilling from Ft. Berthold which is the Permanent Trust Fund. That was changed and it was accepted.

Rep. Phillip Mueller: It is in the Governor's budget. Is it in the university's portion of that budget as he moved that?

Chairman Kelsch: That is correct. It is again being taken from the needs based grant line item and so it would be in the university system budget. It would be a reduction only. Michel Hillman stated that it was his understanding too.

Rep. Phillip Mueller: So they would actually be \$700,000 less in their budget because of this budget issue for this purpose?

Chairman Kelsch: That would be correct.

Rep. Jerry Kelsch: I was thinking Rep. Kasper explained it or somebody explained it differently from that. This would somehow replace that money. I guess I am a little confused.

Chairman Kelsch: The way the bill reads is it is like one of those that comes in and it goes out. It is the first \$700,000 that comes in from Ft. Berthold and that goes into the Permanent Oil Trust Fund, and then that \$700,000 is reappropriated out to State Board of Higher

Education and the State Board of Higher Education administers out to the tribal colleges once they have applied for the money.

Vice Chair Lisa Meier: So it comes from the general fund then?

Chairman Kelsch: When the monies initially come in to the state treasurer—they first come into the state and then the state treasurer transfers the first \$700,000 into the Permanent Oil Trust Fund, and then the \$700,000 is appropriated out of the Permanent Oil Trust Fund into the university system's and then they distribute the money.

Rep. David Rust: I am looking at page 2 of the bill and as I look at it from Line 18 on down, that is in current law right now? The only changes are those things that are either underlined or struck out, correct?

Chairman Kelsch: That is correct. Section 5 was the approved mechanism last legislative session.

Rep. David Rust: In 1058 there was an amendment proposed that Rep. Meier talked about? Instead of \$5,304 to replace it with an amount equal to the annual federal appropriation for each Indian student to enroll in a tribally controlled community college? Is that something that I'll want to consider for this one or not?

Chairman Kelsch: The question was asked of Rep. Kasper, and he stated they had been trying to work with Legislative Council and there is no way to put that language into state law because it was federal money. Because of the federal relationship, it cannot be put into statute. We would not consider that amendment.

Rep. David Rust: I understood what you told us. I was just wondering if we were on the same page as he was.

Chairman Kelsch: If it is not workable and it is not something that we can put into state law, then we shouldn't consider it.

Rep. Bob Hunsakor: So what happens if there isn't \$700,000 that comes in from the oil at Ft. Berthold? Then what? Who makes up the difference?

Chairman Kelsch: Do we know how much is coming in? Does anybody know? It is my understanding that there is plenty. There may be a day that we have to look at the funding mechanism and make a change to it, but currently the funding mechanism works really well.

Rep. Brenda Heller: I have one more question on that fee and non fee land. Is that land taxed the same?

Chairman Kelsch: I am going to have someone else answer the fee and non fee question. I have my thinking on it. No one answered the question.

Rep. Lyle Hanson: Some of those wells are producing a million dollars. I don't think you have to worry about the \$700,000.

Rep. David Rust: Can you explain to me on page 2, Line 27?

Chairman Kelsch: It is just standard language that is put into the appropriation. There could be a possibility it would never be more, but there is a possibility that it could be less money.

Rep. David Rust: Still the maximum is \$700,000?

Chairman Kelsch: That is correct.

Rep. Jerry Kelsh: If there is any left, Section 6 takes care of it?

Chairman Kelsch: Right. That is correct. That would be reimbursed to the tribal colleges as well based on the number of students they have.

DO PASS AS AMENDED AND REREFERRED TO APPROPRIATIONS. 14 YEAS, 0 NAYS.

Rep. Dennis Johnson is the carrier of the bill.

YK
1/27/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1394

Page 2, line 13, after "report" insert an underscored comma

Page 2, line 14, remove ". and any"

Page 2, line 15, remove "other information requested by the council"

Renumber accordingly

Date: 1-27-09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1394

House	Education	Committee
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☐ Check here for Conference Committee

Legislative Council Amendment Number 90381 0501

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep. D. Johnson Seconded By Rep. Mock

[illegible]

Total (Yes) _____ No motion camera

Absent

Floor Assignment

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

Date: 1-27-09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1394

House Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 90381.0301

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Rep Meier Seconded By Rep. Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman RaeAnn Kelsch	✓		Rep. Lyle Hanson	✓	
Vice Chairman Lisa Meier	✓		Rep. Bob Hunsakor	✓	
Rep. Brenda Heller	✓		Rep. Jerry Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Corey Mock	✓	
Rep. Karen Karls	✓		Rep. Phillip Mueller	✓	
Rep. Mike Schatz	✓		Rep. Lee Myxter	✓	
Rep. John D. Wall	✓				
Rep. David Rust	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Johnson

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

Referred to Approp.

REPORT OF STANDING COMMITTEE

HB 1394: Education Committee (Rep. R. Kelsch, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1394 was placed on the Sixth order on the calendar.

Page 2, line 13, after "report" insert an underscored comma

Page 2, line 14, remove ", and any"

Page 2, line 15, remove "other information requested by the council"

Renumber accordingly

2009 HOUSE APPROPRIATIONS

HB 1394

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1394

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date: February 9, 2009

Recorder Job Number: 8959

Committee Clerk Signature

Shirley Branning

Minutes:

Chairman Skarphol: Called the meeting to order on HB 1394 by introducing **Rep.**

RaEann Kelsch, Dist 34. Chair of the Education Committee.

Rep. Kelsch: Provided a brief description of HB 1394, see attachment # 1, by explaining each amendment. She stated that the appropriation is the most important for this committee.

Chairman Skarphol: Is there language in the higher education bill, specifically regarding that \$700,000?

Rep. Kelsch: I have been assured by staff that it is in the higher education bill.

Sandi Deis, OMB Staff: It is in section # 7 of SB 2003, higher ed funding, provides the language for the \$700,000 for the Tribal Schools.

Chairman Skarphol: So if this bill passes and we leave the language in the Higher Education budget, there'd be double funding.

Rep. Kelsch: That's exactly how I understand it.

Rep. Wald: On P. 2, line 23 you deleted "drilled and completed". What was the rational for that?

Rep. Kelsch: "Drilled and completed after June 30, 2007" was the old language. That language was put in after the last legislative session. They have drilled and they are pumping. That language is no longer necessary.

Rep. Williams: On F. I see the \$40M. The \$700,000 isn't in the Governor's budget?

Rep. Kelsch: It is, it says \$700,000 is for grants.

Rep. Kasper, District 46: Regarding how the appropriations committee does it's work, I want to suggest that the idea behind the oil trust fund, Fort Berthold has drilling done successfully with their wells and the revenue coming to the state of North Dakota is from Native American lands. The idea in the funding is that some of those dollars could pay back the General Fund. If the Governor wants it the other way, it's fine with me so long as we pass the bill with the funding in it.

Chairman Skarphol: \$700,000 is the number you had in mind. Anyone else wishing to comment on the appropriations aspect?

Rep. Johnson, District 15: I just showed up in case Rep. Kelsch couldn't be here.

Tom Disselhorst, Attorney for United Tribes Technical College: Provided Testimony for Dr. Gibb who could not be present, see attachment # 2.

The fund was created so that the fact that it is in the budget, doesn't defeat the fund. It already is being covered by the oil and gas tax revenue fund. That might make that appropriation in the bill superfluous, because the fund is a permanent creation in the Century Code as is the authorization for the \$700,000.

Chairman Skarphol: We have to deal with the mechanics of the language and make sure it's intended.

Michel Hillman, North Dakota University System: The system does administer the program. I am here to be supportive of the program and to answer any questions.

Rep. Wald: Where is Cankdeska Cikana Community College located?

Hillman: That's formerly known as Little Hope, Devils Lake area.

Chairman Skarphol: Committee members, we need to check on that money thing. With that we're gonna close the hearing on HB 1394.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1394

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date: February 10, 2009

Recorder Job Number: 1394

Committee Clerk Signature

Shirley Branning

Minutes:

Chairman Skarphol: Called the meeting to order on Engrossed HB 1394, with regard to Tribal Colleges.

Rep. Martinson: We have the program that we grant aid to students at the private and public, and it's capped off at \$1,000 per student. And the student allocation for the tribes is \$3,663 per student. I think that we should have \$1,000 cap per student on this just like we do with the private and public schools.

Chairman Skarphol: If we were to do that, there would be a great deal more money appropriated than would be necessary.

Rep. Klein: That would be in keeping with what we are doing with the other programs.

Rep. Onstad: If we cap it like the other schools, they are in turn paying tuition to those schools up and above that, so it becomes part of the cap. I don't think they can charge a tuition to a none enrolled member.

Sandi Deis, OMB Staff: I am not certain of the \$1,000 maximum. That is for school grants. This is replacement of the state share. They are not getting any state funding such as the public institutions. They do get federal funding but that can't be applied to the non tribal member.

Chairman Skarphol: Do they get a much higher level of Federal funding?

Deis: If you look at the \$3500, they're comparing that to the amount that the state puts in for students in state public institutions.

Brady Larson, Legislative Council Staff: This is to offset the cost of enrollment of no beneficiary students in Tribal colleges. It is not technically a grant to the student.

Rep. Martinson: They aren't state supported public schools.

Chairman Skarphol: Why are they treated differently than the other private colleges?

Maybe we should ask for that discussion in full committee.

Rep. Kroeber: These are people that have a pretty high need dollar wise. And it was to give more individuals an opportunity to pursue higher education. Is the reduction of that amount gonna drastically cut down on why we are doing this thing to start with?

Chairman Skarphol: The language in this bill, if we apply it to this biennium, so the \$3,600 was actually prorated down from what was allowed. They must have had more students than what was anticipated. That amount was \$4500 and was raised in the bill to \$5,304. It is our wish that we fund this out of the Permanent Oil Trust fund as it was in the past. In the Governor's budget it is funded out of the Needs Based Program. I assume we'd still like to pass the bill. If we have further amendments that we need, we can get that in full committee, get a better explanation of the issue that you raised. Has there been any change in the higher education budget as a way of funding this?

Rep. Wald: Why is the emergency clause on here?

Chairman Skarphol: For summer school.

Rep. Klein: Wouldn't someone from the Board be able to come down and give us more information?

Chairman Skarphol: Yes, in full committee. We wanna get it out of here.

Rep. Hawken: In doing the research this morning, what they do in the Board Office is write the checks. We put it in there last time.

Rep. Wald: Is that the only oversight by the board, writing the check?

Chairman Skarphol: Distribution of grants is what it is.

Rep. Onstad: Rep. Hawken, you asked earlier that there be a reporting mechanism attached to this for any future..

Rep. Klein: I would expect that there would be a number of students attending and when they attended, that kind of information so we could trace 'em.

Chairman Skarphol: In Section # 3, first paragraph, annual information.

Rep. Wald: Are they accredited for transfer credits?

Rep. Onstad: They make agreements, so they will transfer in the state.

Rep. Hawken: For more information contact Michel Hillman.

Rep. Onstad: We have to change the language to change the funding source to come out of the

Chairman Skarphol: Funding source is OK. We just have to make sure that in the second half it hasn't been acted on, that we take the duplicate funding source out of the higher education bill.

Rep. Onstad: If you're OK with that, I'll move a **Do Pass**.

Rep. Hawken: Second.

Chairman Skarphol: Any other discussion, if not we'll vote.

Do Pass: Yes 8, No 0, Absent 0. Carrier: Rep. Onstad.

Meeting closed on HB 1394.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

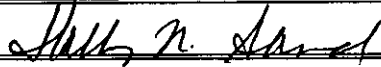
House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 13, 2009

Recorder Job Number: 9490

Committee Clerk Signature



Minutes:

Chm. Svedjan moved the discussion to HB 1394 which deals with financial assistance to tribally-owned community colleges. This bill comes out of the Education and Environment Section.

Rep. Onstad explained the bill. There are no amendments. This is a continuation from last session when we started for the non-enrolled members that attend the tribal colleges. It's a fund of \$700,000. Some basic changes were made to the bill. It describes a full-time student needs 24 credits. The second amendment is a requirement, a definition of non-beneficiary student as required by some federal higher education acts. The fourth amendment's in Section 2 that changes the dollar amount to reflect the current amount received by each college. The sixth amendment talks about a reporting that is currently done and the funding application at this point is in the last section and that is out of any monies in the Permanent Oil Tax Trust Fund. Basically it's some minor changes but it's a continuation of what we did last session for the tribal colleges.

Rep. Dosch: The appropriation is asking for \$700,000, but in the body of the bill it talks about \$400,000? Or \$5,000 . . .

Chm. Svedjan: They're changing \$4,500 to \$5,300. Is that what you're looking at?

Rep. Skarphol: Section 8 says that if the money appropriated to the state board of higher education for grant assistance is insufficient or in excess they have to do proportionate grants. In the last biennium, there were more students than there was money available so the grant was actually less than the \$4,581 to each student. We do not believe they will grant what is in here only as much as they can based on student numbers. The \$700,000 was not enough to give each student who applied for these grants the full amount last biennium, so we expect that there won't be enough this biennium. However if less students apply they could get more money. The dollars are the same. The origin of the money is the same. It is a duplicated \$700,000 because in the Governor's budget he has this funded out of the needs based assistance in higher education and we will remove that in the second half. It will not be double-funded.

Rep. Delzer: Do any of these courses transfer to our University System?

Rep. Skarphol: For the most part, the generals would. I suspect they do have some courses at our tribal courses that are probably not applicable. The general education courses would transfer.

Rep. Delzer: This goes to the institutions, it doesn't go to the individual?

Rep. Onstad: That's correct. It goes to the college.

Rep. Kaldor: In the Governor's budget over on the other side, do the funds that he has allocated in that area, are they applied in the same way that they would be applied here or is there a different application?

Rep. Skarphol: To my knowledge it was strictly the funding source that changed and he took it out of the needs based \$40 million that he put into the budget this time as opposed, and did not take anything out of Permanent Oil. It was strictly a revenue source change.

Rep. Onstad moved a Do Pass to HB 1394. The motion carried by a roll call vote of 21 yeas, 3 nays and 1 absent and not voting. Rep. Onstad will carry the bill.

Roll Call Vote #: /

BILL/RESOLUTION NO. 1394

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Engrassed

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep. Onstad Seconded By Rep. Hawken

[illegible]

Total Yes 8 No 0

Absent 0

Bill Carrier Rep. Onstad

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

As Engrossed

Date: 2/13/09
Roll Call Vote #: 1 of 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1394

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Onstad Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer		✓	Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert		✓	Rep. Ekstrom	✓	
Rep. Bellew		✓	Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 24 No 3

Absent 1

Floor Assignment Rep. Onstad

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

REPORT OF STANDING COMMITTEE (410)
February 13, 2009 7:08 p.m.

Module No: HR-29-2817
Carrier: Onstad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1394, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **DO PASS** (21 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1394 was placed on the Eleventh order on the calendar.

2009 SENATE EDUCATION

HB 1394

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1394

Senate Education Committee

☐ Check here for Conference Committee

Hearing Date: March 4, 2009

Recorder Job Number: 10130, 10134

Committee Clerk Signature

Minutes:

Chairman Freborg opened the hearing on HB 1394. All members were present.

Representative Kasper introduced the bill. This bill continues the tradition begun in 2007 to reach out to tribal colleges and their students. It provides \$700,000 to help defray the cost to the tribal colleges for their non-beneficiary students and renews our commitment to the tribal colleges. He walked the committee through the bill. The state now receives a portion of the dollars from oil production on the Fort Berthold Reservation so last session the legislature decided that would be a good source for the funding. He pointed out there is funding for this project in another bill now. He thinks House Appropriations has looked at it and reconciled it but we will want to monitor the other bill, we don't want to double fund. He would recommend we modify the other bill if necessary.

Senator Taylor asked if the dollars from the oil development agreement with the tribes goes to the general fund now.

Representative Kasper said yes, then it would be transferred to the Oil Tax Trust Fund. The bill it provides for the treasurer to transfer the funds.

Senator Flakoll said in section 6, with the contingency money, does that allow a payout of higher than the prescribed amount of \$5304. How do they interface?

Representative Kasper said no, it limits it to \$700,000. With the new federal definition of non beneficiary students, there are some students who no longer qualify as non beneficiary students now. If we find out some of the numbers don't equal the \$5304, we might need to appropriate more dollars because of less non beneficiary students but the overall impact would be \$350,000 per year or \$700,000 per biennium.

Representative Kelsch testified in favor of the bill as a co-sponsor of the bill and chairman of the House Education Committee. This program was enacted during the last legislative session and it has been successful and we wanted to continue it as did the Governor. She commented on section 5, with the appropriation. After the bill was passed out of House Education, it was brought to their attention that the Higher Education budget bill, which was over in the Senate, contained the \$700,000 for this bill. Currently, there is a doubling. It is up to the Senate

Education Committee as to what to do with this , it has not been reconciled yet. She also apologized for missing the hearing on the after school program yesterday. She urged the committee to keep the bill alive, there are a fair amount of monies coming to our state in the next 90 – 100 days and that is one of the pet programs.

Senator Bakke asked what amount was funded in the bill last biennium.

Representative Kelsch said it was the same amount, \$700,000 and it was very successful. It is the right amount of money.

Bill Goetz, Chancellor, North Dakota University System testified in favor of the bill. See written testimony.

Senator Flakoll asked how many dollars in oil money come in from that unique source.

Chancellor Goetz said he will find out.

Senator Bakke said we are hearing this has been a very successful program, are there plans to expand it?

Chancellor Goetz said it was an adequate amount last biennium. The bill deals with disseminating any leftover funds.

Sandy Dies, OMB, appeared to clarify the testimony of Representative Kelsch. The original SB 2003, the governor's budget for Higher Education, included \$700,000 from the general fund for financial assistance to tribally controlled community colleges. The intent language for the use of the \$700,000 was in section 7. The original request from the Board of Higher Education identified the funding source as permanent oil trust fund. The governor supports this as an ongoing program and felt that the general fund is a better source of dollars. Senate changes removed section 7, the intent language, but left the \$700,000 in the bill and that was a mistake. Appropriations supports keeping the funding in 1394.

Senator Flakoll asked how many dollars came into the general fund from these targeted funds.

Sandy Dies said she did not know.

Senator Taylor said as the bill reads now, it would be general funds dollars that would go to the oil trust fund and then to the tribal colleges.

Sandy Dies said if it is an ongoing program, the governor thinks it should be general fund money.

Senator Taylor said the agreement struck on oil development on tribal lands, is it for a certain period of time, are those dollars in lieu of oil production and extraction, are they all going into the general fund?

Sandy Dies said she can get that information.

Russell Mason, Jr., President, Fort Berthold Community College, testified in favor of the bill.

See written testimony. He also presented the written testimony of the North Dakota

Association of Tribal Colleges Board of Directors which is attached.

Senator Flakoll asked what has changed in the new definition of non beneficiary students.

Russell Mason, Jr. read the definition from the bill.

Senator Bakke asked if all the money was used last biennium and if it was enough.

Russell Mason, Jr. said no, it is never enough, compared to what the state institutions receive per student. The tribal colleges receive \$4700 per student in federal funds, historically black colleges are about 10 times that amount. They make do. It has been a successful program. They have a nursing program, Fort Berthold is part of the Dakota Nursing Network. They have non beneficiary students that travel 75 miles from Garrison daily to complete the nursing program. They make do with what they receive and they appreciate it.

Senator Bakke asked what other sources of income they have.

Russell Mason, Jr. said the tribal colleges do not participate in the student loan programs.

Many of their students receive PELL grants that are barely enough to pay for tuition, fees and books. Many have part time jobs. Most of their funds are earmarked for Native American students so that is why this program is important.

Senator Bakke asked how many students are served.

Russell Mason, Jr. said at his institution, 20% of their graduating class and 18% of their enrollment were non beneficiary students. There were 98 non beneficiary students across the state.

Jim Davis, President of Turtle Mountain Community College, testified in favor of the bill. See written testimony.

Senator Bakke asked if this is an adequate amount.

Jim Davis said no. They are supposed to receive federal support of the Native American students of \$6000/student but it never happens. Last year they received \$5304. They have 98 non beneficiary students so the \$700,000 comes out to \$3600 per student. Most of their hard money for their colleges comes from the federal government. They are underfunded for their

non native students. The other higher education institutions in the state get about \$8000 per student. Because of their many past unsuccessful attempts to get state funding, they are not going to be greedy, just a little bit needy. The need is still there.

Laurel Vermillion, President, Sitting Bull Community College, testified in favor of the bill. The funding they received was \$350,000 per year. In the bill, it referenced \$4500 per student. In reality, that number is going to change based on the number of non beneficiary students, they had 98 students and received between \$3600 and \$3700 per student. The non beneficiary student number will change from year to year.

Senator Flakoll asked how the federal definition has changed and if that will decrease the number of non beneficiary students.

Laurel Vermillion said yes, the Indian Student Count method has changed, they can now count biological child of a living or deceased member of the tribe as an Indian student.

Senator Flakoll asked how this will affect the total number of non beneficiary students.

Laurel Vermillion said at her college, 1 student will move from non beneficiary status to be counted as an Indian student.

Russell Swagger, United Tribes Technical College, testified in favor of the bill. He distributed written testimony from David Gipp, President, United Tribes Technical College, who was out of town. See written testimony. He said the spirit of the law has really made a difference and has been very meaningful to the students.

Chairman Freborg closed the hearing on HB 1394.

Later in the day, Chairman Freborg opened the discussion on the bill.

Senator Flakoll moved a Do Pass on HB 1394, seconded by Senator Lee.

Senator Bakke said she would like to increase the funding to \$1 million because they are so out of line with other institutions of higher education.

Senator Freborg said remembering his conversation with the chairman of appropriations last session when we started this program, he would not support such an increase. He thinks there would be a danger of losing the entire program or receiving less money.

Senator Flakoll said as a sponsor, he concurs it would be good to get this locked down, we are not sure what the future budget forecast will be by the end of the session. He spoke with one of the campus presidents and they are pleased with the program. A number of these students would also qualify for some other dollars we have already passed this session. We are going to get a good blend for them.

The motion passed 5 – 0. Senator Flakoll will carry the bill. (Senator Bakke originally volunteered to carry it but later in the day; they decided Senator Flakoll can carry it.)

Date: 3/4/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1394

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Re Pass and Refer to Appropriate

Motion Made By Sen. Grakoff Seconded By Sen. Yee

[illegible]

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Bakke Flakoll

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

(They changed carrier later in the day)

REPORT OF STANDING COMMITTEE

HB 1394, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1394 was rereferred to the **Appropriations Committee**.

2009 SENATE APPROPRIATIONS

HB 1394

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1394

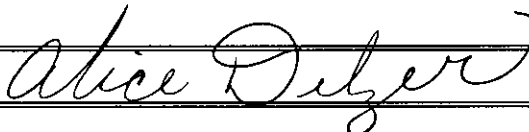
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-16-09

Recorder Job Number: 11028

Committee Clerk Signature



Minutes:

Chairman Holmberg: Opened the hearing on HB 1394, all members present.

Jim Kasper: Representative District 46, Fargo. Here to visit with you on House bill 1394. I have a minor amendment. SB 2088 by the treasurer. It repealed. I am sure the governor will sign it. We found that this committee in SB 2003 amended out the \$700K funding for the tribal colleges.

Sandy Dies: the amount remains in 2003. It is general fund. Section 7 is removed. Section 7 is still in the bill. It remains in the bill. That makes life a lot easier. Have you decided how you would like to handle it? Housekeeping amendment to put the money back in drafted by John Walstad. The bill itself has appropriations in it we have dollars coming out of permanent oil trust fund. I am here to support your passage of 1394.

Senator Warner: Referring to section 4 which requires the money, one tribe is paying for everything.

Jim Kasper: In the wisdom of your committee, I am certain you can come up with the best solution. From my perspective, I think they will agree and I think the representatives of the tribal colleges that are here today would agree that as long as the \$700K is funded, it doesn't matter where you fund it.

RaeAnn Kelsch: Representative District 34, Mandan, we had our co-sponsor as well as we go through this bill in House Education Committee and when I went to appear before the House Appropriations Committee and they said the \$700K is in the executive budget recommendation. We need to remove that section. Somehow this all has to be reconciled so we know what we are doing because the money is in SB 2003 even though I had a piece of paper stating that it wasn't. So it is in SB 2003 and it is in HB 1394.

Senator Robinson: we intend to do that. We had every intent to keep that in. We will address the issue when he returns. We have the funding with emergency. We will address the issue.

RaeAnn Kelsch: I have one side note for you, I was in here last week and visited about the after school programs, and a question came up regarding whether or not there were title monies for after school programs in the stimulus package. I want to let you know yes there are monies for after school programs in the stimulus program; however, it can only be used for Title 1 students. So if you don't qualify for Title 1 money, you don't qualify for the afterschool programs. Students who want to participate would be prohibited from doing so. I want to make sure you are clear on that.

Senator Fischer: What percentage are we looking at under Title 1?

RaeAnn Kelsch: Some school districts have a large amount some do not. It really depends on the district or it also depends on size of building.

Tom Disselhorst: An attorney representing United Tribes Tech College testified in favor of HB 1394 and provided written testimony # 1. I want to address the issue where the money is, we don't want those funds to be taken from other scholarship? As you might recall last time the difference between house and senate we had to go through conference committee. We might

end up with same result. If we can get funding through general funds in higher education, that would be ideal.

Senator Krauter: Referred question to Sandy Dies, has there been any action in SB 2003 in the House that would affect this issue?

Sandy Dies: Not that I am aware of; they are still working on it in the House Appropriation Committee and I believe this has been brought to their attention.

Jim Davis: President Turtle Mountain community College testified in support of HB 1394. TMCC has been around for 35 years. The money we received last year, we counted 32 students and received \$115K of the \$850K allotted for the first year. This year we anticipated our numbers would go down to 21 students because of the change in identifying the "Indian" students. Our funding has gone most other programs we receive. (59.45) those monies go to support all the students. The money we receive from the state is welcomed

Senator Krauter: Can you tell me what the change in definition was?

Jim Davis: Our major funding comes from the Bureau of Indian Education within the Dept. of the Interior. Last summer there was a change in the legislation defining who was an Indian for the purposes of being funded by BIE. So they determined that the eligible student would be a descendant of an enrolled member, people not enrolled, but a mother father, would be entitled to the funding. This is going to affect the money we receive from the state, by about 10 students. We will get funding for more students enrolled. It will balance out. The way you are handling the appropriation for this year, there is a change that we would not have enough students using the new definition. The first half of biennium that we wouldn't have enough students' to access the \$850K/year, that was changed where we increased it. With all the tribal colleges, we counted 98 students that took up all the funds that were available. So that was changed. We'll have about 70 students.

1.03.33)

Mike Hillman: Vice Chancellor for Academic and Student Affairs with the NDUS testified in favor of HB 1394. (See written testimony #2)

V. Chair Bowman: I have a question going back two years ago. The dollars, are they all designed like the scholarships to Indian students?

Mike Hillman: This program does not send money to the students. This bill reflects to complement that change. As the tribal colleges serve nontribal members, they don't get any federal dollars like they do for Indian students. This program was proposed as a compliment to the federal funding. The money goes directly to the tribal colleges to recognize their service to the non-tribal members.

V. Chair Bowman: What Mr. Davis was talking about then was the definition change changed the amount of students that go to the schools that are by definition "Indians", is that the right way to say that?

Mike Hillman: That is correct. Before the latest legislation at the Federal Level, only actually tribal members were reimbursed by the federal government only when they served actual enrolled tribal members. That in the past year Federal Legislation changed so that they will be reimbursed in the future for tribal members and children of tribal members. It broadened the Federal definition, therefore prior to what this legislation does, it narrows the state definition to avoid double dipping on those children could be counted both ways. The changes reflect the complimentary and not to allow double dipping.

Senator Krauter: I see this happening and being used really well in Sitting Bull College you got some farmer and ranchers down there that are not Native American. These are those individuals that this is being utilized. This is a win-win situation.

V. Chair Bowman: I remember the test two years ago all the non-Indian people go to the colleges. If all this money goes directly to the schools, it doesn't matter as long as they get the money?

V. Chair Bowman: closed the hearing on HB 1394.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1394

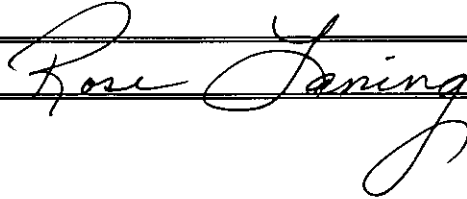
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: April 2, 2009

Recorder Job Number: 11647

Committee Clerk Signature



Minutes:

Chairman Holmberg opened discussion on HB 1394 which was financial assistance to tribally controlled community colleges.

Senator Robinson moved Do Pass.

Senator Wardner presented amendment .0402 that deals with legislative intent.

Senator Robinson withdrew his motion.

Senator Wardner explained the amendment and how it clarifies things.

Senator Wardner moved Do Pass on amendment .0402

Senator Robinson seconded.

Voice vote passed.

Senator Robinson moved Do Pass as Amended.

Senator Wardner seconded.

A Roll Call vote was taken. Yea: 11 Nay: 2 Absent: 1

V. Chair Grindberg will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1394

Page 1, line 1, after the second comma insert "and" and remove ", and"

Page 1, line 2, remove "57-51.1-07.4"

Page 1, line 3, after the first semicolon insert "to provide a statement of legislative intent;"

Page 2, replace lines 17 through 23 with:

"SECTION 4. LEGISLATIVE INTENT. The first \$700,000 of the state's share of tax revenues from oil produced from wells within the exterior boundaries of the Fort Berthold reservation after June 30, 2009, and deposited in the permanent oil tax trust fund is deemed to be revenue from which the appropriation in section 5 of this Act is funded."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1394

Page 1, line 3, after the first semicolon insert "to provide a statement of legislative intent;"

Page 3, after line 2, insert:

"SECTION 7. LEGISLATIVE INTENT. It is the intent of the sixty-first legislative assembly that the amendment of section 57-51.1-07.4 by section 4 of this Act is an independent law for purposes of section 1-02-09 and prevails over any repeal of section 57-51.1-07.4 enacted by the sixty-first legislative assembly."

Renumber accordingly

Date: 4-2-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1394

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Amendment
0402

Action Taken



Do Pass



Do Not Pass



~~Amended~~

*voice
vote
passed*

Motion Made By

Seconded By

Representatives	Yes	No	Representatives	Yes	No
Senator Fischer			Senator Warner		
Senator Christmann			Senator Robinson		
Senator Krebsbach			Senator Krauter		
Senator Bowman			Senator Lindaas		
Senator Kilzer			Senator Mathern		
Senator Grindberg			Senator Seymour		
Senator Wardner					
Chairman Holmberg					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

Date: 4-2-09Roll Call Vote # 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1394

Senate Senate Appropriations Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Ch	<input checked="" type="checkbox"/>		Sen. Tim Mathern	<input checked="" type="checkbox"/>	
Sen. Tony S. Grindberg, VCh	<input checked="" type="checkbox"/>		Sen. Aaron Krauter	<input checked="" type="checkbox"/>	
Sen. Bill Bowman, VCh		<input checked="" type="checkbox"/>	Sen. Larry J. Robinson	<input checked="" type="checkbox"/>	
Sen. Randel Christmann			Sen. John Warner	<input checked="" type="checkbox"/>	
Sen. Rich Wardner	<input checked="" type="checkbox"/>		Sen. Elroy N. Lindaas	<input checked="" type="checkbox"/>	
Sen. Ralph L. Kilzer		<input checked="" type="checkbox"/>	Sen. Tom Seymour	<input checked="" type="checkbox"/>	
Sen. Tom Fischer	<input checked="" type="checkbox"/>				
Sen. Karen K. Krebsbach	<input checked="" type="checkbox"/>				

Total Yes 11 No 2Absent 1Floor Assignment Grindberg

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

REPORT OF STANDING COMMITTEE

HB 1394, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1394 was placed on the Sixth order on the calendar.

Page 1, line 3, after the first semicolon insert "to provide a statement of legislative intent;"

Page 3, after line 2, insert:

"SECTION 7. LEGISLATIVE INTENT. It is the intent of the sixty-first legislative assembly that the amendment of section 57-51.1-07.4 by section 4 of this Act is an independent law for purposes of section 1-02-09 and prevails over any repeal of section 57-51.1-07.4 enacted by the sixty-first legislative assembly."

Renumber accordingly

2009 TESTIMONY

HB 1394

Access - General

December 2008

Tribal College Assistance Grant

The 2007 North Dakota Legislative Assembly appropriated \$700,000 (or \$350,000 for each year of the 2007-09 biennium) from the Permanent Oil Trust Fund for supplemental grant assistance to the tribal community colleges to recognize their service to nonbeneficiary students. A nonbeneficiary student is defined as a resident of North Dakota enrolled in a tribally-controlled community college but not an enrolled member of a federally recognized Indian tribe. For program management purposes a full time equivalent (FTE) student has been defined as 24 credit hours per year.

In Academic Year 2007-08, 95.54 FTE students met the definition of nonbeneficiary students, resulting in a prorated per student allocation of \$3,663. Reimbursement received under the tribal college assistance grant program may be used for such things as salaries and wages, operating expenses, equipment, capital expenditures, etc.

The following table provides a breakout of payments by institution:

Tribal College Assistance Grant Payment for 2007-08 AY			
Institution	No. of Credit Hours	FTE Students at 24 Credit Hours Per Year	Total Distribution by Campus
Fort Berthold Community College	376	15.667	\$57,392.06
Cankdeska Cikana Community College	114	4.750	\$17,400.78
Turtle Mountain Community College	758	31.583	\$115,699.96
Sitting Bull College	243	10.125	\$37,091.15
United Tribes Technical College	802	33.417	\$122,416.05
	2,293	95.542	\$350,000.00
Annual Allocation		\$350,000	
Per Student Allocation		\$3,663	

FOR MORE INFORMATION CONTACT:

Michel Hillman, Vice Chancellor for Academic and Student Affairs
701.328.2965 Michel.Hillman@ndus.edu

NORTH DAKOTA ASSOCIATION OF TRIBAL COLLEGES

Attachment 3

Written Testimony Regarding HB 1394 Technical Amendments to Tribal Colleges for Non-Beneficiary Students Before the House Education Committee

January 27, 2009

Madam Chairwoman and Members of the Committee;

On behalf of the North Dakota Association of Tribal Colleges, please accept this document as our collective support for HB 1394.

This Legislation introduced by Representative Kasper and co-sponsored by you, Madam Chairwoman, represents the continued commitment to furthering the educational resources of North Dakota students and is enthusiastically supported by the Board of Directors of the North Dakota Association of Tribal Colleges. It is our hope that the committee can incorporate these amendments into Chapter 15-70 of the North Dakota Century Code, enacted during the 60th Legislative Assembly in 2007.

We are proposing one technical amendment to the language of HB 1394. We support Rep. Kasper's request to eliminate the wording under Section 3 on page 2, lines 14 and 15, which states; "and any other information requested by the council." We believe this specific language may inadvertently provide an unnecessary avenue to request information from the tribal colleges not relevant to the reporting of grant expenditures specified in this bill.

We request that this bill be declared an emergency such that changes to the Bill passed during the 2007 Legislative Assembly can take effect prior to the next allocation of funds.

We are greatly encouraged by the continued commitment, effort and support of the legislative body, the North Dakota University System, and specifically the leadership of Rep. Kasper, as we move this legislation through fruition. We would like to sincerely thank Representative Kasper, you, Madam Chairwoman, and members of the House Education Committee for your careful consideration of this amendment to HB 1394. Furthermore, we respectfully request that HB 1394 receive a "Do Pass" from this committee.

Sincerely and Respectfully;

The North Dakota Association of Tribal Colleges Board of Directors;

Mr. Russell Mason; Fort Berthold Community College – President
Dr. Laurel Vermillion; Sitting Bull College – Vice President
Dr. David Gipp; United Tribes Technical College - Secretary
Ms. Diana Canku; Sisseton Wahpeton College - Treasurer
Dr. James Davis; Turtle Mountain Community College – Member at Large
Dr. Cynthia Lindquist Mala; Cankdeska Cikana Community College – Member at Large

North Dakota Association of Tribal Colleges President and Chief Executive Officer;

Dr. T. M. Bull Bennett

Attachment 4
HB 1394

North Dakota University System

HB 1394 – House Education

January 27, 2009

William Goetz, Chancellor

Madame Chair, members of the House Education Committee. Good morning. For the record, my name is William Goetz, Chancellor, North Dakota University System.

The 2007 Legislative Assembly passed HB 1395 which was landmark legislation providing funding to tribal colleges in the state in recognition of their service to non-tribal members. The North Dakota University System supported that bill and was asked to administer the new program. The system supports continued funding of the program utilizing the source of funds addressed in the bill. Attached to my testimony is the information on state funding per student for NDUS institutions which you requested during the hearing on HB 1058.

As background to your discussion I can report that the North Dakota University System has strong and growing relationships with tribal colleges in the state. Examples of these relationships include:

- Participation by all tribal colleges in the system general education transfer and common course numbering initiatives
- Tribal college participation in the Dakota Nursing Program
- Tribal college participation in P-20, STEM pipeline and research activities
- Tribal college participation in the Interactive Video Network

On December 3, 2008 the Chancellor's Cabinet met with the North Dakota Tribal College Association on the United Tribes Technical College campus. This meeting provided an opportunity for president to president interactions on topics of common interest. As a result of that discussion we are planning more regular joint meetings of the two groups to develop a common vision and a blueprint to attain that vision. As chancellor I have expectations for system institution presidents to model appropriate leadership for their institutions through demonstrated interest, awareness, and support for Native American education issues and respect for their tribal college colleagues.

Madame Chair and members of the committee, thank you for the opportunity to testify in support of this important initiative. Please let me know if you have any questions.

2007-09 Per Student Appropriation

	(1)	(2)	(3)	(4)	(5)		(6)		(7)		(8)	
					2007-09 Adj GF Operating Appropriation		Per Student Appropriation, Based on 15 cr hrs per FTE		Per Student Appropriation, Based on 12 cr hrs per FTE			
					07-09 GF Operating, Excluding Assets	Permanent Allocations from Board Pools	07-09 Adj GF Operating, Excluding One-time Appropriations	Total Fall 2007 & 2008 FTE	Per Student Appropriation, Based on 15 cr hrs per FTE	Total Fall 2007 & 2008 FTE	Per Student Appropriation, Based on 12 cr hrs per FTE	
UND	107,211,830	342,600	(200,000)	107,354,430								
Med School	34,488,501		(460,800)	34,027,701								
Total UND/Med	141,700,331	342,600	(660,800)	141,382,131				22,104	6,396	26,747	5,286	
NDSU	89,593,630			89,593,630				23,015	3,893	28,112	3,187	
UND/NDSU Average	231,293,961	342,600	(660,800)	230,975,761				45,119	5,119	54,859	4,210	
DSU	17,006,110		(150,000)	16,856,110				4,452	3,786	5,565	3,029	
MaSU	10,115,065			10,115,065				1,149	8,803	1,436	7,044	
MiSU	30,095,122			30,095,122				5,450	5,522	6,724	4,476	
VCSU	13,350,137			13,350,137				1,630	8,190	2,017	6,620	
4-Year Average	70,566,434		(150,000)	70,416,434				12,681	5,553	15,741	4,473	
BSC	19,733,680			19,733,680				5,729	3,445	7,162	2,755	
LRSC	6,511,348			6,511,348				1,548	4,206	1,936	3,364	
WSC	6,422,504			6,422,504				1,113	5,770	1,392	4,615	
NDSCS	27,740,368		(350,000)	27,390,368				4,138	6,619	5,172	5,296	
MISU-BC	4,759,548	98,500		4,858,048				842	5,770	1,052	4,619	
2-Year Average	65,167,448	98,500	(350,000)	64,915,948				13,370	4,855	16,713	3,884	
2-Year Average, Excluding NDSCS	37,427,080	98,500		37,525,580				9,232	4,065	11,541	3,251	
NDUS Total Average	367,027,843	441,100	(1,160,800)	366,308,143				71,170	5,147	87,314	4,195	

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C:\DOCUME~1\mhillman\LOCALS~1\Temp\Per Student Appropriation-1-2.xlsx[Summary

Fall FTE, Based on 15 Cr Hrs per FTE

Based on Table 8 of Fall Enrollment Reports, Which assumes 15 cr hrs per FTE for Undergraduates

	Fall 2007 FTE	Fall 2008 FTE	Total FTE
UND	10,967	11,137	22,104
NDSU	11,221	11,794	23,015
UND/NDSU Total	22,188	22,931	45,119
DSU	2,158	2,294	4,452
MaSU	586	563	1,149
MiSU	2,730	2,720	5,450
VCSU	807	823	1,630
4-Year Total	6,281	6,400	12,681
BSC	2,792	2,937	5,729
LRSC	764	784	1,548
WSC	551	562	1,113
NDSCS	2,097	2,041	4,138
MiSU-BC	402	440	842
2-Year Total	6,606	6,764	13,370
2-Year Total, Excluding NDSCS	4,509	4,723	9,232
NDUS Total	35,075	36,095	71,170

Fall FTE, Based on 12 Cr Hrs per FTE
Based on Table 6 of Fall Enrollment Reports, Converted to 12 cr hrs per FTE for Undergraduates

	Fall 2007						Fall 2008						Total Fall 2007 & 2008 FTE
	Undergrad cr			Undergrad FTE			Undergrad cr			Undergrad FTE			
	hrs	Col 1 / 12	Grad FTE	Prof FTE	Total FTE	hrs	Col 1 / 12	Grad FTE	Prof FTE	Total FTE			
UND	139,425	11,619	1,183	489	13,291	139,181	11,598	1,374	484	13,456	26,747		
NDSU	148,497	12,375	974	348	13,697	157,204	13,100	966	349	14,415	28,112		
UND/NDSU Total	287,922	23,994	2,157	837	26,988	296,385	24,699	2,340	833	27,872	54,859		
DSU	32,375	2,698	-	-	2,698	34,403	2,867	-	-	2,867	5,565		
MaSU	8,794	733	-	-	733	8,438	703	-	-	703	1,436		
MISU	38,165	3,180	185	-	3,365	38,283	3,190	168	-	3,358	6,724		
VCSU	11,607	967	33	-	1,000	11,572	964	52	-	1,016	2,017		
4-Year Total	90,941	7,578	218	-	7,796	92,696	7,725	220	-	7,945	15,741		
BSC	41,890	3,491	-	-	3,491	44,053	3,671	-	-	3,671	7,162		
LRSC	11,465	955	-	-	955	11,764	980	-	-	980	1,936		
WSC	8,263	689	-	-	689	8,437	703	-	-	703	1,392		
NDSCS	31,451	2,621	-	-	2,621	30,616	2,551	-	-	2,551	5,172		
MISU-BC	6,018	502	-	-	502	6,604	550	-	-	550	1,052		
2-Year Total	99,087	8,257	-	-	8,257	101,474	8,456	-	-	8,456	16,713		
2-Year Total, Excluding NDSCS	67,636	5,636	-	-	5,636	70,858	5,905	-	-	5,905	11,541		
NDUS Total	477,950	39,829	2,375	837	43,041	490,555	40,880	2,560	833	44,273	87,314		

**Testimony on HB 1394
Regarding Technical Amendments to
Tribal College Assistance for Non-Beneficiary Students
Before the North Dakota House Education Committee**

January 27, 2009

**David M. Gipp, President
United Tribes Technical College**

Madam Chairwoman and members of the Committee:

The bill you have before you today is a substitute for HB 1058. United Tribes Technical College (UTTC) has provided favorable testimony on HB 1058 on January 7, 2009. We certainly support the efforts of Representative Kasper to put together a bill, HB 1394, that is more likely to be enacted by the legislature.

As we noted regarding HB 1058, most of HB 1394 are technical amendments to Chapter 15-70 of the North Dakota Century Code. Many of these amendments arise out of the effort by the Board of Higher Education to both interpret the legislation and distribute the funding appropriated by the last legislature, and also are made necessary from a change in federal law.

While we support HB 1394, we still would like to make the appropriation for Tribal colleges a continuing one, and we believe that the existing funding mechanism for the funds (which is state oil and gas tax revenue derived from wells within the Fort Berthold Indian Reservation), coupled with the authorization contained in Chapter 15-70 of the North Dakota Century Code, in fact does that.

We have one additional amendment that we would like to make to HB 1394, as set forth in the accompanying page. This amendment would eliminate the language "and any other information requested by the council." We believe that sufficient information is being provided as outlined in the legislation, and that other information is not needed.

For your information, we are repeating, in part, the information provided in our previous testimony on HB 1058 regarding the major technical amendments, as follows:

- 1) The first amendment adds a definition of "full time", to mean a student who is taking at least 24 credit hours in an academic year;
- 2) The second amendment clarifies who is a "non-beneficiary" student by adding the phrase "nor a biological child of a member, living or deceased, of an Indian tribe. This change was made because of the change including this phrase in the definition of "Indian student" in the recently

enacted federal Higher Education Act, P.L. 110-315. The specific change in the legislation is now encoded at Title 25, United States Code, Section 1801(a)(7), which defines an Indian student as:

“(7) ‘Indian student’ means a student who is—
“(A) a member of an Indian tribe; or
“(B) a biological child of a member of an Indian tribe,
living or deceased”

Therefore, since each tribal college (including United Tribes) now includes children of tribal members and receives funding for these students, these students are excluded from the definition of non-beneficiary student.

- 3) The third amendment, in Section 2 of the bill, Line 24, page 1 to Line 1 of page 2, requires additional information on each application for assistance under the law regarding the enrollment status of each non-beneficiary student.
- 4) The fourth amendment, also in Section 2 of the bill, changes the dollar amount to reflect the current amount (as of 2007) received by each Tribal college from Congress for each Indian student attending a Tribal college. This is an average across all Tribal colleges in the United States. We understand that legislative counsel has determined that a formula to recognize this amount on a continuing basis is not possible. The language we would propose that provides a formula has been provided to the Committee before and is attached to our testimony for HB 1058. Also in Section 2 of the bill is language conforming the allocation to the new definition of the words “full time”.
- 5) The fifth amendment, in Section 3 of the bill (page 2), requires that audit information and a statement of expenditures under this statute will be provided to the legislative council, rather than the board of higher education. This section is consistent with the amendment to Chapter 15-70 that would have designated the specific committees of the Legislative Council to whom these items would be submitted.
- 6) Also contained within Section 3 is an amendment (not contained in HB 1058) that would require the Tribal colleges to submit “any other information as may be requested by the council.” It is not clear what kind of “other information” might be required, so we are proposing an amendment to eliminate that language, mentioned above, which is attached to this testimony.
- 7) The seventh amendment is a sentence that states that if a tribal college fails to provide information as required, it is ineligible for further grants until the information is provided. While this is understandable, this language makes it important to clarify what “other information” might be requested by the council, or, as we have suggested, to eliminate the language about “other information”.

- 8) The eighth amendment , in Section 4, amends the funding source for allocations under Chapter 15-70 by allowing all state oil and gas tax revenue from the Fort Berthold Indian Reservation from producing wells after June 30, 2009 to be used to fund the grants authorized under the Chapter.
- 9) The ninth amendment, contained in Section 6 on pages 2 and 3, ensures that all of the funding appropriated by the legislature can be used to assist non-beneficiary students attending the Tribal colleges.

We also want to tell you more about the benefits of this funding to our institution. UTTC has primarily used this funding to strengthen the College's infrastructure in areas where non-beneficiary students have been chronically underserved. The College hired a full time financial aid staff person to increase capacity to provide non-beneficiary students with more complete financial aid advising and expanded funding opportunities. A portion of the funds was used to open the college's institutional work-study program to non-beneficiary students as well as a small amount of direct financial assistance to North Dakota non-beneficiary students with the highest unmet need.

Additionally, UTTC has used this funding to address the educational opportunities created by having a more diverse student body, by developing a college-wide annual conference for diversity education. This year's event was held concurrently with the Martin Luther King Jr. Day observance at UTTC . This educational effort contributes to the goal of the college to provide an educational experience that enhances students understanding of their own culture and others.

With the suggested amendment we have provided, we urge the House Education Committee to give HB 1394 a "DO PASS" recommendation.

North Dakota State Legislature
62nd Legislative Assembly

House of Representatives
Education Committee

Hearing on HB 1394

January 27, 2009

Testimony of Russell Mason Jr.
President
Fort Berthold Community College

Madam Chairwoman: Today, as President of Fort Berthold Community College (FBCC), I am offering this testimony (letter) in support of HB 1394. We are in complete agreement with the testimony provided by the North Dakota Association of Tribal Colleges. This bill provides support for the non-Tribal members who are attending our Tribal colleges. Fort Berthold Community College is a public institution of higher learning serving the Fort Berthold Indian Reservation and surrounding area. Although we are a tribal college, we have an open admissions policy: we grant admission to all individuals, regardless of ethnicity.

We have been an accredited institution since 1987, and we received 10 year continued accreditation status on July 12, 2006. I have been President a little over 4 years. I have worked for Fort Berthold Community College for over 22 years in different capacities: Admissions Director, Registrar, Financial Aid Director, Dean of Students, and President. I believe that I have first-hand knowledge on the effects that this bill would have on our institution and our non-Indian students.

On the average FBCC expends 8.3% of its annual budget on non-Indian students. Between 1996 and 2006, 33% of our graduates were non-Indian. Between 2007 and 2008, 63% of our students were non-Indian and 16% of our graduates were non-Indian. Last year 100% of our graduating nursing class was non-Indian. Of that percentage, 100% continue to reside in the state of North Dakota. Most of our 2 year graduates transfer to 4 year state institutions. In the past 2 years FBCC has signed partnership agreements with Minot State University, Williston State College, and Wahpeton State College, benefiting both state and tribal institutions. We are also full partners with the Dakota Nursing Program, which includes five institutions: Bismarck State College, Lake Region State College, MSU-Bottineau; and Williston State College. If this bill is passed we would be able to continue providing scholarships for non-Indian students. Let me tell you why this is important.

Prior to the passage of HB 1395 (now HB 1394), scholarships for non-Indian students were virtually non-existent. Most of the scholarships awarded to our institution are specifically earmarked by the grantor for Native American students. Currently none of the tribal colleges in the state offer student loans. This leaves the Federal PELL grant or SEOG to cover the cost of tuition, books, fees, room and board. The maximum PELL award for eligible students is \$2365 per semester, and maximum PELL is only awarded to those individuals that are borderline poverty level. With the average cost of attendance around \$5770 per semester, little or nothing of PELL remains for our students to survive. Passing this bill would continue to provide an equitable financial aid package for our non-Indian students and encourage all other students, regardless of ethnicity, to attend our tribal colleges and continue on with their education within the state of North Dakota. As evidence of the FBCC's educational contributions to our non-native students, I have attached a copy of a news article reporting on the successes of a non-native student who attended the FBCC.

Thank you for your time.



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Nurse to graduate in spite of cerebral palsy

By KATINA TENGESDAL, Staff Writer ktengesdal@minotdailynews.com

POSTED: December 31, 2008

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Carla Pease always wanted to be a nurse. Now, she is one - but it hasn't been easy.

At age three, she was diagnosed with cerebral palsy. She admired the nurses who took care of her.

"I was never one of those kids that said I wanted to be a doctor or a lawyer. I always knew I wanted to be a nurse," said Pease, of Garrison. "When I was three, I was diagnosed with cerebral palsy, and I spent a lot of time in the hospital having surgeries. The nurses were the ones who took care of me.

"I knew I wouldn't be happy being anything other than a nurse," she added.

On top of her many surgeries beginning at a young age, Pease recalls developing reflex sympathetic dystrophy (RSD) - a condition that attacks the nervous system after a surgery or some type of trauma - when she was 16.

Yet she still held on to the hope that she could be a nurse one day.

"When I was 16, I made a deal with God. When they told me I had RSD, I prayed so hard that I would push wheelchairs every day of my life, so long as it wasn't mine. If I do have to push my own wheelchair some day, everything up to that point was worth it," Pease said.

"It has been brought to my attention that physically, nursing isn't the best career for me to go into, but I would rather have 10 seconds of something meaningful than a lifetime of doing nothing special," she added.

Pease finished her LPN degree through the Dakota Nursing Program this past July, and she'll finish the RN program in May. She hopes to continue on to get her masters in nursing. She credits the help of the Dakota Nursing Program and the students in it for her success.

"Everybody in the Dakota Nursing Program was really wonderful. They didn't wait to see me struggle with something. They always offered me help if I needed it. They never treated me any differently with my cerebral palsy. They never gave me the easy patient to take care of or anything," Pease said.

"I never felt like I was a second-class nursing student because of my cerebral palsy," she added.

When Pease needed to have a joint repair surgery done on her foot during spring break, those in the nursing program were supportive, as was the community. Pease received braces nearly free of charge through a program called Jerene's Wish, a program in Garrison supplying free orthotics to children who need them. Jerene's Wish made an exception in Pease's case, though she was over 18, and offered her braces for a fraction of the normal cost.

"The day I had taken my state boards for my LPN degree, I had received braces from Jerene's Wish. They put the braces on me nearly free of cost. I was getting them for nearly a tenth of what they would be. It was amazing for a struggling college student," Pease said.

Article Photos



Submitted Photo •

Carla Pease is pictured with classmates after graduation in May at Fort Berthold Community College. Pictured from left to right: Pease, Amanda Diffely, Shannon Sweldman, nursing instructor Janet Johnson, Jenna Locken and Brenda Nielson.

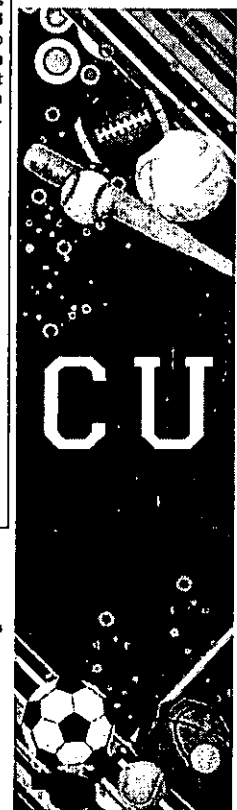
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The Dakota Nursing Program has supported her all along. She began her schooling with the program through Williston State College, and has attended classes at the Fort Berthold Community College site and at the Minot State site.

Fort Berthold Community College is sponsoring her in her latest venture - a preceptorship at a Tampa, Fla., Shriner's Hospital, where she will be exploring one of her areas of interest in the nursing field. Pease will be at that hospital from Jan. 5-9.

Pease is no stranger to the Shriner's Hospital. She had many surgeries and therapies at a Shriner's Hospital in Minneapolis, from the time she was three until she turned 21. She's excited to return to one to work.

"I have the opportunity to work in what is called the motion analysis lab. There are very few of them in the U.S., probably 20 or less. It's a state-of-the-art facility at Shriner's that studies how children move with joint and muscle problems. I will be taking care of surgical patients that have cerebral palsy," Pease said.

Pease likes to focus on preventive care, and she encouraged parents to be proactive.

"With kids that are young, if you're noticing they have trouble walking, or they're walking on their tip toes, don't ignore it. Parents think that if they ignore it, it will go away, and that's not the case. Any child that has trouble walking or with balance, they need to take them to a specialist," Pease said.

Another area of interest for her is geriatrics, where she hopes to stress the importance of preventive care as well.

"I really want to focus on preventive health care in the elderly. They don't really seek medical attention until there is multiple health problems. We (health care providers) suggest having a physical at an earlier age instead of waiting until your cholesterol is out of control or you've already had the heart attack," Pease said.

"Health maintenance is really important. I was in physical therapy a lot when I was younger, to prevent complications from developing. That's something I learned from Shriner's and the Dakota Nursing Program - it's important to stop problems before they start," she added.

Pease is looking forward to her career, and she hopes to extend the same care to others that she has received.

"I've been in the hospital, depending on people to do every little thing for me. I want to be there for my patients like that," Pease said.

"Ultimately, in every patient situation, I want to be the nurse that makes the bad things seem not so bad, and the good things seem a little bit better," she added.

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HB 1394

Chairman Skarphol, Members of the Education and Environment sub-committee:

For the record, my name is Rae Ann Kelsch and I appear before you today as Chairman of the House Education Committee.

HB 1394 provides support for the non-Tribal members who are attending North Dakota Tribal colleges. Currently, none of the Tribal colleges in the state offer student loans. This leaves the Federal PELL grant or SEOG to cover cost of tuition, books, fees, room and board. The maximum PELL award for eligible students is \$2365 per semester and maximum PELL is only awarded to those individuals that are borderline poverty level. With the average cost of attendance around \$5770 per semester, not much of the PELL remains for other expenses associated with college, thus the need to continue this program that was started last session.

Many of the changes in this bill are technical in nature

The first amendment adds a definition of "full time", to mean a student that is taking at least 24 credit hours in an academic year.

The second amendment clarifies who is a "non-beneficiary" student by adding the phrase "nor a biological child of a member, living or deceased, of an Indian tribe. This change was made because of the change including this phrase in the definition of "Indian student" in the recently enacted federal Higher Education Act, P.L. 110-315.

The third amendment requires additional information on each application for assistance under the law regarding the enrollment status of each non-beneficiary student.

The fourth amendment, also in Section 2 of the bill, changes the dollar amount to reflect the current amount (as of 2007) received by each Tribal college from Congress for each Indian student attending a Tribal college. This is an average across all Tribal colleges in the US.

The fifth amendment in Section 3 of the bill requires that audit information and a statement of expenditures under this statute will be provided to the legislative council, rather than the board of higher education. This section is consistent with the amendment to Chapter 15-70 that would have designated the specific committees of the Legislative Council to whom these items would be sent.

The sixth amendment is a sentence that states that if a Tribal college fails to provide information as required, it is ineligible for further grants until the information is provided.

The seventh amendment is the funding source for allocation under Chapter 15-70 by allowing all state oil and gas revenue from the Fort Berthold Indian Reservation from producing wells after June 30, 2009 to be used to fund the grants authorized under the Chapter. This funding allocation was in this bill as proposed by Rep. Kasper. ***In the Governor's Higher Education budget recommendation, and in the red book, page F-1, the governor recommends \$40,000,000 for the student financial assistance grant***

program. Of the \$40,000,000, general fund appropriation, \$700,000 is designated for grants to tribally controlled community colleges.

NORTH DAKOTA ASSOCIATION OF TRIBAL COLLEGES

HB 1394
attachment #3
Feb. 9, 2009

Written Testimony in Support Regarding HB 1394 Financial Assistance to Tribal Colleges for Non-Beneficiary Students Before the House Appropriations Committee

February 9, 2009

Honorable Chairman Svedjan and Members of the House Appropriations Committee;

On behalf of the North Dakota Association of Tribal Colleges, please accept this document as our collective testimony in support of HB 1394.

Representatives Kasper, Johnson and Kelsch; along with Senators Flakoll, Freborg and Wardner and other members of the House Education Committee, demonstrated their dedication to furthering higher education in North Dakota by unanimously passing this bill, and its amendments, through the House Education Committee. If signed into law, this legislation represents the continued commitment to furthering the educational resources for students that are educated in North Dakota. We, the Board of Directors for the North Dakota Association of Tribal Colleges and Presidents of our own tribal colleges, recognize the importance and impact this piece of legislation has had in strengthening North Dakota higher education and the partnership between the North Dakota Association of Tribal Colleges and the North Dakota University System. We are encouraged by the teamwork and effort that has gone into making this legislation a reality.

Specifically, we would like to acknowledge Chancellor Goetz, and the North Dakota University system, Representatives Kasper and Kelsch for their leadership in championing this effort, and you, members of the Appropriations Committee for your careful consideration of this important legislation. We enthusiastically support the passage of this bill into law. It is our hope that the Committee can incorporate the recommended amendments into Chapter 15-70 of the North Dakota Century Code, enacted during the 60th Legislative Assembly in 2007.

Furthermore, we request that this bill be declared an emergency such that changes to the Bill passed during the 2007 Legislative Assembly can take effect prior to the next allocation of funds.

We are greatly encouraged by the continued commitment, effort and support of the legislative body, the North Dakota University System, and specifically the leadership of Rep. Kasper, as we move this legislation through fruition. We respectfully request that HB 1394 receive a "Do Pass" from this committee.

Sincerely and Respectfully;

The North Dakota Association of Tribal Colleges Board of Directors;

Mr. Russell Mason: Fort Berthold Community College – President
Dr. Laurel Vermillion; Sitting Bull College – Vice President
Dr. David Gipp; United Tribes Technical College - Secretary
Ms. Diana Canku; Sisseton Wahpeton College - Treasurer
Dr. James Davis; Turtle Mountain Community College – Member at Large
Dr. Cynthia Lindquist Mala; Cankdeska Cikana Community College – Member at Large

North Dakota Association of Tribal Colleges President and Chief Executive Officer;

Dr. T. M. Bull Bennett

*HB 1394
attachment # 4
Feb 9, 2009*

**TESTIMONY
HB-1394**

**House Appropriations Committee
Monday, February 9, 2009 - 10:00 am
Bismarck, ND**

Testimony provided by: Jim Davis, President, TMCC

Honorable Chairman Skarphol and members of the House Appropriations Committee, good morning. My name is Jim Davis and I am the President of the Turtle Mountain Community College, Belcourt, ND. Our college is member of the North Dakota Association of Tribal Colleges. TMCC has been in existence since 1972 and currently has an enrollment of 630 students of which about 6-8 percent are non-beneficiary students, non-tribal members.

- * I am here to testify on behalf of and in support of HB-1394.**
- * TMCC is a fully accredited institution with one, two-year and four-year programs. Our four year programs are in elementary education and in secondary science teacher education.**
- * Non-beneficiary students have always been a part of our enrollment at TMCC.**
- * We provide high quality education and career and technical education programs for all of our students.**
- * We have and still today collaborate with ND's higher education institutions and do that quite well.**
- * The majority of our students transfer to NDUS's four year institutions.**
- * As a result of TMCC, our students have acquired degrees in MD, psychology, teaching, law, nursing, environmental sciences, etc; and masters and doctoral level degrees in many of these areas.**
- * Our students who have completed degrees are employed within our community, throughout the state, and throughout the country.**
- * The majority of our students who graduate choose to reside in ND as compared to mainstream students who mostly choose to leave ND for employment.**
- * About 60 percent of our students who attend TMCC would not choose to attend college; TMCC provides that link to the opportunities for acquiring a higher education experience.**
- * TMCC is affordable, accessible, and provides a friendly environment. We take pride in meeting the unique educational needs of our students.**

I ask this Committee for a "Do Pass" on HB-1394. Thank you, and I appreciate the opportunity to provide this testimony. Any questions?

HB 1394
attachment #5
February 9, 2009

**Written Testimony in Support Regarding HB 1394
Financial Assistance to Tribal Colleges for Non-Beneficiary Students
Before the House Appropriations Committee**

February 9, 2009

Honorable Chairman Svedjan and Members of the House Appropriations Committee;

On behalf of Sitting Bull College, please accept this document as my testimony in support of HB 1394.

I regret that I am unable to attend today's hearing on HB 1394. In my absence, I have asked Ron Walters, our Resource Director, to provide testimony in behalf of Sitting Bull College. This legislation represents the continued commitment to furthering the educational resources for non-beneficiary students that are attending our College. These students, like other students, have a passion for learning and this funding assists in providing the resources necessary to make this learning and teaching possible on our campus.

I would like to thank Chancellor Goetz, and the North Dakota University system, Representatives Kasper and Kelsch for their leadership in championing this effort. I earnestly support the passage of this bill into law. I would also request that the Committee incorporate the recommended amendments into Chapter 15-70 of the North Dakota Century Code, enacted during the 60th Legislative Assembly in 2007.

In addition, I request that this bill be declared an emergency such that changes to the Bill passed during the 2007 Legislative Assembly can take effect prior to the next allocation of funds.

I am greatly encouraged by the continued commitment, effort and support of the legislative body and the North Dakota University System. I respectfully request that HB 1394 receive a "Do Pass" from this committee.

Respectfully;

Dr. Laurel Vermillion, President
Sitting Bull College

NORTH DAKOTA ASSOCIATION OF TRIBAL COLLEGES

Written Testimony in Support Regarding HB 1394 Financial Assistance to Tribal Colleges for Non-Beneficiary Students Before the Senate Education Committee

March 4, 2009

Honorable Chairman Freborg and Members of the Senate Education Committee;

On behalf of the North Dakota Association of Tribal Colleges, please accept this document as our collective testimony in support of HB 1394.

Representatives Kasper, Johnson and Kelsch; along with you Chairman Freborg and Senator Flakoll, Senators Freborg and Wardner continue to demonstrate your dedication to furthering higher education in North Dakota by passing this bill, and its amendments, through the House of Representatives. If signed into law, this legislation represents the continued commitment to furthering the educational resources for students educated in North Dakota. We, the Board of Directors for the North Dakota Association of Tribal Colleges and Presidents of our own tribal colleges, recognize the importance and impact this piece of legislation has had in strengthening North Dakota higher education and the partnership between the North Dakota Association of Tribal Colleges and the North Dakota University System. We are encouraged by the teamwork and effort that has gone into making this legislation a reality, and look forward to continuing to meet the goals this critical legislation has accomplished.

We would also like to acknowledge Chancellor Goetz, and the North Dakota University system, Representatives Kasper and Kelsch for their leadership in championing this effort, and you, members of the Senate Education Committee for your careful consideration of this important legislation. We enthusiastically support the passage of this bill into law. It is our hope that the Committee can incorporate the recommended amendments into Chapter 15-70 of the North Dakota Century Code, enacted during the 60th Legislative Assembly in 2007.

Furthermore, we request that this bill be declared an emergency such that changes to the Bill passed during the 2007 Legislative Assembly can take effect prior to the next allocation of funds.

We are greatly encouraged by the continued commitment, effort and support of the legislative body, the North Dakota University System, and specifically the leadership of Rep. Kasper, as we move this legislation through fruition. We respectfully request that HB 1394 receive a "Do Pass" from the Senate Education committee.

Sincerely and Respectfully;

The North Dakota Association of Tribal Colleges Board of Directors;

Mr. Russell Mason; Fort Berthold Community College – President
Dr. Laurel Vermillion; Sitting Bull College – Vice President
Dr. David Gipp; United Tribes Technical College - Secretary
Ms. Diana Canku; Sisseton Wahpeton College - Treasurer
Dr. James Davis; Turtle Mountain Community College – Member at Large
Dr. Cynthia Lindquist Mala; Cankdeska Cikana Community College – Member at Large

North Dakota Association of Tribal Colleges President and Chief Executive Officer;

Dr. T. M. Bull Bennett

North Dakota University System

HB 1394 – Senate Education

March 4, 2009

William Goetz, Chancellor

Mr. Chairman and members of the Senate Education Committee. Good morning. For the record, my name is William Goetz, Chancellor, North Dakota University System.

The 2007 Legislative Assembly passed HB 1395 which was landmark legislation providing funding to tribal colleges in the state in recognition of their service to non-tribal members. The North Dakota University System supported that bill and was asked to administer the new program. The system supports continued funding of the program utilizing the source of funds addressed in the bill.

As background to your discussion I can report that the North Dakota University System has strong and growing relationships with tribal colleges in the state. Examples of these relationships include:

- Participation by all tribal colleges in the system general education transfer and common course numbering initiatives
- Tribal college participation in the Dakota Nursing Program
- Tribal college participation in P-20, STEM pipeline and research activities
- Tribal college participation in the Interactive Video Network

On December 3, 2008 the Chancellor's Cabinet met with the North Dakota Tribal College Association on the United Tribes Technical College campus. This meeting provided an opportunity for president to president interactions on topics of common interest. As a result of that discussion we are planning more regular joint meetings of the two groups to develop a common vision and a blueprint to attain that vision. As chancellor I have expectations for system institution presidents to model appropriate leadership for their institutions through demonstrated interest, awareness, and support for Native American education issues and respect for their tribal college colleagues.

Mr. Chairman and members of the committee, thank you for the opportunity to testify in support of this important initiative. Please let me know if you have any questions.

North Dakota State Legislature
61th Legislative Assembly

Senate
Education Committee

Hearing on HB 1394

March 4, 2009

Testimony of Russell Mason Jr.
President
Fort Berthold Community College

Chairman Freborg, as President of Fort Berthold Community College I am offering this testimony (letter) in support of HB 1394. This bill provides support for the non-Tribal members that are attending our Tribal colleges. Fort Berthold Community College is a public institution of higher learning that serves the Fort Berthold Indian Reservation and surrounding area. Although we are a tribal college, we have an open admissions policy that grants admissions to all individuals regardless of ethnicity.

We have been an accredited institution since 1987 and received 10 year continued accreditation status on July 12, 2006. I have been President a little over 4 years. I have worked for Fort Berthold Community College for over 23 years. I have been the Admissions Director, Registrar, Financial Aid Director and Dean of Students. I believe that I have first hand knowledge on the effects that this bill would have on our institution and our non-Indian students.

The average FBCC expends 8% of its annual budget on non-Indian students. Between 1996 and 2008, 33% of graduates were non-Indian. Last year 20% of our graduating class was non-Indian the majority of whom graduate in the Nursing Program. Of that percentage 100% continue to reside in the state of North Dakota. Most of our 2 year graduates transfer to 4 year state institutions. In the past 2 years FBCC has signed partnership agreements with Minot State University and Williston State College. These partnerships benefit both state and tribal institutions. Fort Berthold Community College is a full partner in the Dakota Nursing Program.

If this bill is passed we would be able to provide student support services for non-Indian students. Let tell you why this is important.

Scholarships for non-Indian students are virtually zero. Most of the scholarships awarded to our institution are specifically earmarked by the grantor for Native American students. Currently none of the tribal colleges in the state offer student loans. This leaves the Federal PELL grant or SEOG to cover the cost of tuition, books, fees, room and board. The maximum PELL award for eligible students is \$2365 per semester and maximum PELL is only awarded to those individuals that are borderline poverty level. Although Fort Berthold Community College has not increased tuition rates for over ten years, the average cost of attendance around \$5000 per semester. This leaves little or no funding for our students to survive. The passing of this bill would provide equitable services for our non-Indian students and encourage all other students regardless of ethnicity to attend our tribal colleges and continue on with their education within the state of North Dakota.

Thank you for your time.

HOUSE BILL 1394

61st Legislative Assembly of ND

Senate Education Committee - Layton Freborg, Chairman

Wednesday, March 4, 2009 - Missouri River Room

Testimony Provided by: Jim Davis, President, TMCC

Good morning! Chairman Layton Freborg and members of the Senate Education Committee, my name is Jim Davis and I am the President of the Turtle Mountain Community College (TMCC), Belcourt, ND. I thank you for giving me the opportunity to provide testimony on HB-1394, a bill for an act to amend and reenact certain sections relating to the provision of financial assistance to tribally controlled community colleges; to provide an appropriation; and to declare an emergency.

As most or all of you know, in the 2007 legislature a bill was passed to provide financial assistance to tribally controlled community colleges for non-beneficiary students, namely non-Indian students who are enrolled students at our respective tribal colleges in ND. The bill provided an appropriation of \$700,000 for the biennium to be divided amongst the five tribal colleges.

With the passage of HB-1395 in the 2007 legislature, a few technical amendments needed to be made, and over the past few months we as Tribal College Presidents, the North Dakota University System (Dr. Goetz and Dr. Hillman), and other various individuals including Rep. Kasper have worked to get the correct language inserted. I fully support the new language. The new language includes: (1) A change in the definition of non-beneficiary student as it relates to the definition of Indian students under the laws of the federal government for purposes of funding Indian students at tribal colleges; (2) documentation of enrollment status; and (3) a change in the dollar amount for each full time equivalent (non-beneficiary) student.

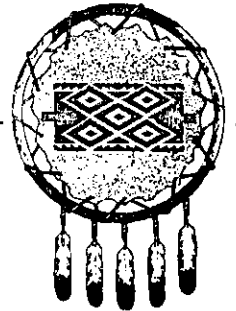
TMCC is a fully accredited college and was founded in 1972 via a tribal charter by the Turtle Mountain Band of Chippewa Indians. It was founded on the basis that local Native American students needed better and improved access to higher education opportunities. Accessibility and affordability into mainstream two or four year colleges and universities were not available for a large number of students who had a desire to acquire higher education certificates, associate and 4-year degrees.

What was seen as a great vision in the early 1970's has now provided higher education opportunities for over 10,000 of our tribal members including those non-tribal members who wished to enroll in our institution because it was and still is today more accessible and affordable. Today, TMCC has 34 non-tribal and 756 tribal students enrolled. The funding TMCC has received for non-beneficiary students in the past year has gone to the general operation of the college.

I recommend a "do pass" by this Committee. Thank you and I will entertain any questions you have at this time.



UNITED TRIBES TECHNICAL COLLEGE
3315 UNIVERSITY DRIVE
BISMARCK, NORTH DAKOTA 58504 • PHONE 701-255-3285 • FAX 701-530-0605



**Testimony on HB 1394
Regarding Technical Amendments to
Tribal College Assistance for Non-Beneficiary Students**

**Before the Senate Education Committee
61st Legislative Assembly, State of North Dakota**

March 4, 2009

*Senate
House
Gipp's*

**David M. Gipp, President
United Tribes Technical College**

Mr. Chairman and members of the Committee:

I apologize that I cannot be present today, as I am necessarily out of town on business for United Tribes Technical College. One of our Vice-Presidents is here and will deliver this testimony to you.

The bill you have before you today provides financial support to the Tribal colleges who educate students attending Tribal colleges who are not enrolled in a federally recognized Indian tribe and who cannot be counted as Indian students under Federal law. Many of these students are non-Indians who live and work near the reservations on which most of the Tribal colleges in North Dakota are located.

This bill is very similar to the bill that was enacted during the last session of the legislative assembly in 2007. What is different is that the bill before you, S 1394, enacts some technical amendments to the previously enacted legislation, now Chapter 15-70 of the North Dakota Century Code, that were made necessary by a change in the underlying federal law that supports Tribal colleges at the federal level, and that also reflect changes that will help make the administration of the grant process more understandable and appropriate for the North Dakota board of higher education and the Tribal colleges. One change enhances the funding source for the bill, which is the state's share of taxes that are derived from producing oil and gas wells within the Fort Berthold Indian Reservation. We want to thank Representative Kasper for brining this important legislation forward again.

We also want to tell you more about the benefits of this funding to our institution. UTTC has primarily used this funding to strengthen the College's infrastructure in areas where non-beneficiary students have been chronically underserved. The College hired a full time financial aid staff person to increase capacity to provide non-beneficiary students with more complete financial aid advising and expanded funding opportunities. A portion of the funds was used to open the college's institutional work-study program to non-beneficiary students as well as a small amount of direct financial assistance to North Dakota non-beneficiary students with the highest unmet need.

Additionally, UTTC has used this funding to address the educational opportunities created by having a more diverse student body, by developing a college-wide annual conference for diversity education. This year's event was held concurrently with the Martin Luther King Jr. Day observance at UTTC. This educational effort contributes to the goal of the college to provide an educational experience that enhances students understanding of their own culture and others.

A description of the major technical amendments to the legislation previously enacted by the legislature in the 2007 legislative assembly are as follows:

- 1) The first amendment adds a definition of "full time", to mean a student who is taking at least 24 credit hours in an academic year;
- 2) The second amendment clarifies who is a "non-beneficiary" student by adding the phrase "nor a biological child of a member, living or deceased, of an Indian tribe. This change was made because of the change including this phrase in the definition of "Indian student" in the recently enacted federal Higher Education Act, P.L. 110-315. The specific change in the legislation is now encoded at Title 25, United States Code, Section 1801(a)(7), which defines an Indian student as:


"(7) 'Indian student' means a student who is—

"(A) a member of an Indian tribe; or


"(B) a biological child of a member of an Indian tribe, living or deceased"

Therefore, since each tribal college (including United Tribes Technical College) now includes children of tribal members and receives funding for these students, these students are excluded from the definition of non-beneficiary student.

- 3) The third amendment, in Section 2 of the bill, Line 24, page 1 to Line 1 of page 2, requires additional information on each application for assistance under the law regarding the enrollment status of each non-beneficiary student.
- 4) The fourth amendment, also in Section 2 of the bill, changes the dollar amount to reflect the current amount (as of 2007) received by each Tribal college from Congress for each Indian student attending a Tribal college. This is an average across all Tribal colleges in the United States. Also in Section 2 of the bill is language conforming the allocation to the new definition of the words "full time".
- 5) The fifth amendment, in Section 3 of the bill (page 2), requires that audit information and a statement of expenditures under this statute will be provided to the legislative council, rather than the board of higher education. The reason for this change is that it is the legislature and its



interim legislative council that can take action regarding any deficiencies that are brought to light by submission of the required information, not the board of higher education.

- 7) The sixth amendment is a sentence that states that if a tribal college fails to provide the required information as required, it is ineligible for further grants until the information is provided. This change puts additional teeth in the legislation regarding the information required from the Tribal colleges.
 - 8) The seventh amendment , in Section 4, amends the funding source for allocations under Chapter 15-70 by allowing all state oil and gas tax revenue from the Fort Berthold Indian Reservation from producing wells after June 30, 2009 to be used to fund the grants authorized under the Chapter.
 - 9) The eighth amendment, contained in Section 6 on pages 2 and 3, ensures that all of the funding appropriated by the legislature can be used by the Tribal colleges receiving grants under Chapter 15-70 to assist non-beneficiary students attending the Tribal colleges.
 - 10) This bill also contains an appropriation of the same amount as provided in 2007 of \$700,000.
 - 11) Finally, this bill carries an emergency clause. The reason for this is that the change in the definition of Indian student referred to above went into effect on October 1, 2008, and the second distribution of funds under Chapter 15-70 during the present 2007-2009 biennium will take place in April, 2009. Because of the change in the definition of Indian student, some students who were counted as "non-beneficiary" students under the previous version of the legislation that resulted in the first distribution of funds will not be able to be counted as "non-beneficiary" students during this grant cycle. Therefore, the emergency clause is necessary in order to prevent the Tribal colleges from receiving a similar amount of funding for these students from two different sources during the 2007-2009 biennium.
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As stated above, the grants to the tribal colleges provided by Chapter 15-70 have been very valuable for us at United Tribes. We therefore urge the House Appropriations Committee, and its appropriate Education Division, to give HB 1394 a "DO PASS" recommendation.

North Dakota University System

HB 1394 – Senate Appropriations

March 16, 2009

Michel Hillman

Good afternoon Mr. Chairman and members of the Senate Appropriations Committee. For the record, my name is Mike Hillman, Vice Chancellor for Academic and Student Affairs with the North Dakota University System.

The 2007 Legislative Assembly passed HB 1395 which was landmark legislation providing funding to tribal colleges in the state in recognition of their service to non-tribal members. The North Dakota University System supported that bill and was asked to administer the new program. The system supports continuation of the program as currently described in the bill.

As background to your discussion I can report that the North Dakota University System has strong and growing relationships with tribal colleges in the state. Examples of these relationships include:

- Participation by all tribal colleges in the system general education transfer and common course numbering initiatives
- Tribal college participation in the Dakota Nursing Program
- Tribal college participation in P-20, STEM pipeline and research activities
- Tribal college participation in the Interactive Video Network

On December 3, 2008 the Chancellor's Cabinet met with the North Dakota Tribal College Association on the United Tribes Technical College campus. This meeting provided an opportunity for president to president interactions on topics of common interest. As a result of that discussion we are planning more regular joint meetings of the two groups to develop a common vision and a blueprint to attain that vision. The chancellor has expectations for system institution presidents to model appropriate leadership for their institutions through demonstrated interest, awareness, and support for Native American education issues and respect for their tribal college colleagues.

Mr. Chairman and members of the committee, thank you for the opportunity to testify in support of this important initiative. Please let me know if you have any questions.