

**2019 HOUSE JUDICIARY**

**HB 1234**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1234  
1/14/2019  
30733

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek by Nicole Klamam

## Explanation or reason for introduction of bill/resolution:

**Relating to the authority of federal agents.**

**Minutes:**

1, 2, 3

**Chairman K. Koppelman:** Opened the hearing on HB 1234.

**Representative Shannon Roers Jones:** Introducing the bill. It is an extension of a bill passed two years ago. This bill adds the BIA authority.

**Chairman K. Koppelman:** This would extend arresting authority from the reservation to anywhere in the state and is it reciprocal?

**Rep. Roers Jones:** I would like the people behind me to answer that question, however if they do not have the answer, I will be happy to answer.

**Jenna Clawson Huibregtser:** Trooper in ND Highway Patrol: **See Attachment #1** (5:00-7:24) Support

**Chairman K. Koppelman:** Questions?

**Representative Rick Becker:** We are redefining a term that is probably located inside our Century Code numerous times. I'd like to know what extent this is causing changes. Is this a reciprocal situation?

**Jenna:** This change, adding Bureau of Indian Affairs and Federal Law Enforcement officers is added into the definition of Federal agent under Federal enforcement officers. BIA has 2 categories of officers; agents and officers. The arrangement is receptacle if they request assistance from the BIA.

**Rep. Becker:** Federal law enforcement officers that would fall under that category?

**Jenna:** Without Federal Law Enforcement Officers in there it's only listing agencies, adding that allows us to work with more federal agencies.

**Representative Gary Paur:** Theoretically, we could have US Marshall's and FBI arresting someone for jay walking. Correct?

**Jenna:** It lays out what it will cover, but the list does not include jay walking or generalized traffic stops. BIA police live in Bismarck and drive back and forth and they cannot pull over anyone until they get to work.

**Chairman K. Koppelman:** It also does give blanket authority. Looking at the current statute it lists quite a range of agencies. Who else from the federal government typically is in ND?

**Jenna:** My neighbor is a Federal Wildlife officer in a marked patrol unit. If we were driving home at the same time and something were to occur, he would not be listed unless added under the proposed bill.

**Chairman K. Koppelman:** Thank you. This section deals with the authority to arrest, not assist.

**Jenna:** Section 2, B Federal Agent rendering assistance to a peace officer in an emergency or at request.

**Chairman K. Koppelman:** Section 1 allows them to make arrests, period?

**Jenna:** It's my understanding that it would be under Subsection 2, A, B, and C.

**Chairman K. Koppelman:** Subsection 2, A states they have the same authority and immunity as a peace officer when making an arrest for a non-federal crime if- then it defines the reasons arrests can be made. It appears they can do so under a lower level than probable cause, is that right? We are allowing a larger group of people to issue arrests. I think this is where some of the questions are coming from. In the past people's definitions have been clearly defined.

**Jenna:** They would still need probable cause to believe a felony offense has been created. This more clearly lays out the regulations when an emergency comes up.

**Representative Terry Jones:** We are specifically adding BIA police; what type of training do they have under this definition?

**Jenna:** Their curriculum is more intensive than our is within the State as well as their continued training.

**Rep. Jones:** If it's extended out and there are unintended consequences. I'd like to address possible misuse of this as my concern.

**Jenna:** I understand your concern. We would ensure the training was appropriate.

**Rep. Jones:** Was there discussion if there was someone under the definition that does abuse, how that would be handled?

**Jenna:** That would be handled internally, with their Department.

**Representative Jeffery Magrum:** Who is behind this bill and what is your role in it.

**Jenna:** I am the Dept. Cultural Liaison officer and I have been working with the BIA. I am here on behalf of my agency to form a partnership.

**Representative Steve Vetter:** What other groups wanted to be on the list?

**Jenna:** There are not groups that inquired. I talked to other State Employees and asked them what other Federal Agencies they have worked with. Those were listed.

**Representative Aaron McWilliams:** What is the impact of this bill as far as percentage would come from BIA VS. Federal Agencies?

**Jenna:** I would say BIA and US Customs and Border Patrol are policing the road ways and we are working with the most. BIA would be more like 70% or higher since we have so much shared geography with them.

**Chairman K. Koppelman:** Who has authority now on the reservation?

**Jenna:** BIA and Tribal police have authority over enrolled members. Sheriff officers that work within those boundaries and Highway Patrol for non-enrolled members. Higher level crimes with an enrolled and non-enrolled BIA or FBI will have authority due to enrolled member.

**Chairman K. Koppelman:** This grants blanket authority when you are anywhere in the state for any of these entities to ask. It will not change the sovereign nation we would be granting authority to BIA.

**Jenna:** You are right.

**Chairman K. Koppelman:** So the carte blanche authority we would be giving here would not be reciprocated. Does that concern you at all in terms of making things work more smoothly?

**Jenna:** No we already have a collaboration. We do assist already on tribal lands. This just grants them more authority

**Chairman K. Koppelman:** Is that the reason for this bill? Because the concern is not being able to collaborate on non-tribal land?

**Rep. Roers Jones:** The next person to testify may

**Rep. Jones:** Subsection 2 says a federal agency without a warrant if all of the following circumstances exist. Was it the intent that this was going to have to include all of these or 1?

**Jenna:** Intent was to allow them to arrest or assist on those felony offenses and also participate in task forces.

**Rep. Jones:** It appears we need to look at that then, because it currently states only if “all” the listed are present. Subsection 2

**Rep. Roers Jones:** Explained how the bill works.

**Representative Luke Simons:** Have you talked to tribal leadership?

**Jenna:** Yes I have worked with tribal leadership on this and BIA law enforcement.

**Erica Thunder;** Judicial Systems Administrator for the NDIAC: **See Attachment #2**

**Chairman K. Koppelman:** What about something that authorizes cooperative authority?

**Erica:** I think that would be wonderful.

**Erica Thunder:** Went over testimony. Because of the government shutdown other people are not here to testify. (41:45 – 55:00)

**Rep. Becker:** When you discuss that this would help with retention is that BIA or local agents. If you are cross deputized, then they are getting a bonus? How does one in a task force come to these bonuses?

**Erica Thunder:** It could be BIA or local agents. A county law enforcement agent cross deputized FBI could work alongside BIA. It’s a simple application process through the FBI.

**Rep. Becker:** Where does the money come from?

**Erica Thunder:** It comes from the FBI directly. It is their own Safe Trails program. It is being used mostly on reservations now.

**Rep. McWilliams:** Is there an opportunity to create a borderline? The purpose would be the Federal or BIA agent can be within 5 miles, for example. Just reassurance they are there if needed but won’t encroach. Does that make any sense?

**Erica Thunder:** Yes that does make sense. We could outline that border within our cooperative agreement. We are trying to achieve, while respecting each other’s boundaries details for jurisdiction issue.

**Chairman K. Koppelman:** Jenna and Erica, could you leave your contact information with the clerk?

**Chairman K. Koppelman:** Any further support? Opposition? Seeing none.

**Chairman K. Koppelman** closes meeting

Testimony received Via email providing **Mr. Jamie S Azure**; Tribal Chairman of Turtle Mountain Band Chippewa Indians: **See Attachment 3**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1234  
1/16/2019  
30928

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek by Nicole Klamam

## **Explanation or reason for introduction of bill/resolution:**

Relating to the authority of federal agents.

## **Minutes:**

**Chairman K. Koppelman:** reopened the meeting on HB 1234. Discussed expansion of the definition of federal agent and change in law for arrest authority to include federal agent. Most of the discussion had to do with inclusion of BIA agents. Look at current law on page 1 line 15, that lists the circumstances having to do with an arrest without a warrant. Later in the bill we are adding to 29.06.15 arrest without a warrant. It looks like current law has a conflict. Is there a difference between a peace officer and a law enforcement officer? Do they already have the recommended authority? There may be some clean up that needs to happen.

Rep. Roers Jones: I don't think these are in conflict with one another. The second page does limit their authority when they are working alone. Arrest without a warrant, if offense committed in their presence, reasonable belief the crime committed, ETC... Discussion on how to distinguish the statute.

Chairman K. Koppelman: Last session amended Border Patrol. If we insert federal agent, we are doing a whole lot more than adding BIA.

Rep. Roers Jones: The top section doesn't apply to the changes at all. The Main heading, Arrest without a warrant; peace officer. Change custom border agents, subheading 1 applies to law enforcement officer. Sub 2. This is where we would add federal agent.

Chairman K. Koppelman: We are opening it up to all these other agents?

Rep. Roers Jones: Correct, but it is with limited authority.

Chairman K. Koppelman: Samantha Cramer can you step in?

Rep. Roers Jones: I wanted to add, where we are asking to add federal agents, this is where the highway patrol and BIA wanted to be prospective so we didn't have to keep revisiting this. If there are concerns, we could always do what we did last session and just add BIA.

Chairman K. Koppelman: They want it easy, we need it legal.

Rep McWilliams: Remove the underlined language and then remove the overstrike from the overstruck.

Chairman K. Koppelman: Samantha Cramer can you step in? Reciprocity issue, this would make this work for BIA on nonreservation property.

Samantha Cramer: Peace officer and law enforcement officer is both defined in that part of the law. I will provide that.

Chairman K. Koppelman: The federal agent definition and it also talks about a law enforcement agent and their authorities

Rep. Roers Jones: I'd just like to know what the questions is to make sure we are having the right conversation.

Rep. Paur: Page 2, line 6 the officer's senses reasonably indicate crime and now it states "reasonable cause". I just found it interesting

Chairman K. Koppelman: We focus greatly on definitions

Rep. Paur: Conversation surrounding another bill.

Chairman Koppelman Closed meeting



# 2019 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee  
Prairie Room, State Capitol

HB 1234  
2/11/2019  
31517

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek

## Explanation or reason for introduction of bill/resolution:

Relating to the authority of federal agents.

## Minutes:

1

**Chairman Koppelman:** Opened the meeting on HB 1234. (Attachment #1) Proposed amendment handed out.

**Rep. Roers Jones:** The first concern was what is the authority of the BIA changed? Item #2 a-c in the bill says what the limitations are. They have the ability to make an arrest for a non-federal crime if they have reasonable grounds to believe that a felony offense was committed and the individual arrested committed the offense; they are rendering assistance to a peace officer in an emergency or at the request of the peace officer or the federal agent is working as part of a task force comprised of ND peace officers and federal law enforcement officers. There was a concern if we added BIA agents to this section that they would have the ability to site people for traffic offenses; and they would be coming into people's homes etc. The authority that they have is very limited to these three things. The other question was what is the definition of a federal agent versus a law enforcement officer versus a peace officer. Peace officer is defined in the POST board section of the code. They are a sworn officer and they are issued a license by the POST board. Law enforcement officer is primarily the same, but it includes states attorneys and they are not POST licensed. Federal agent; there are multiple types and their authority extends from the agency that defines them and their authority comes from that agency. I would suggest for the comfort level of the committee on page 1, line 10 that we remove the federal law enforcement officers. This is something that was handed in to be proactive so that in the future we did not have to continue to come back and add other types of law enforcement to this bill. It was clear the committee was not comfortable with this. That is the only amendment I would like to see to this.

Motion Made to amend to remove federal law enforcement officers on page 1, line 10 by Rep. Roers Jones; Seconded by Rep. Satrom

Discussion:

**Voice vote carried.**

**Chairman K. Koppelman:** The other amendment that was prepared in January were that other law enforcement officers of the state do not have authority on reservations and this would allow BIA officials to have authority off the reservation. What this does is say when some kind of a reciprocal arrangement between the tribes and others in the state goes into effect. You want to explain that.

**Motion Made to Move the amendment 19.0490.03001 by Rep. Vetter; Seconded by Rep. Satrom**

Discussion:

**Rep. Paur:** The BIA police is deleted also?

**Chairman K. Koppelman:** The BIA police is deleted from line 10, but on line 14 does not include BIA police unless an agreement is in affect between the state and the BIA relating the receptacle jurisdiction of state and BIA law enforcement officers. Now I don't think it will make a different in the terms of the effect of the bill.

**Rep. Roers Jones:** I would ask that we do not pass the last amendment. Most of the jurisdiction on the tribal lands is federal jurisdiction I think we will have trouble getting a reciprocity agreement so effectively this will just kill the ability of the BIA police to work with our local peace officers. The State Highway Patrol is asking them to allow them to have this reciprocity. This is not a BIA request. This amendment is requiring the reciprocity before either one can take effect would be a problem.

**Representative Simons:** Last year we had issues where sheriffs had border cities and I am against that. do we have borders or do we not? Counties have border's and an elected sheriff is a walking god in that county. The reservation is its own county and has powers but if we start giving powers away this is a bad day. I urge caution here.

**Rep. Bob Paulson:** They have a good working relationship now. Does current law prohibit them from working together?

**Rep. Hanson:** There is a lack of clarity on authority and liability.

**Representative Simons:** I don't like this bill as it is now. We need more of a common zone that we work together in.

**Chairman K. Koppelman:** The concept here with law enforcement working together is now new.

**Rep. Paur:** Is this counter to last sessions bill having campus police patrolling cities streets? That is a note I put on my bill.

**Rep. Roers Jones:** I don't think it would be an extension to that affect because we are not talking about patrolling; or siting for traffic offenses or misdemeanors. We are talking about reasonable grounds to believe that a felony was committed and the individual that they are arrest is the person that committed the felony. There is a certain comfort whether a law

enforcement officer is on or off the reservation. If they observe a felony being committed with their own senses, then they have the ability to stop and make an arrest in that instant.

**Chairman K. Koppelman:** Sense we are debating the amendment the question is whether that authority would only be granted to BIA agents off the reservation or also granted to law enforcement officer agents of another capacity on the reservation.

**Representative Simons:** That is a very valid point and that is how it is. People from ND police do the same thing. I called the sheriff's around where I live and not one of them are for this bill.

Rep. Jones: On the amendment unless an agreement is in affect; this amendment does a good thing for the bill. It allows them to extend an authority both ways and they can continue the pursuit if they need to. That can be put into place and taken out.

Voice Vote Carried.

**Do Not Pass as amended Motion Made by Rep. Magrum; Seconded by Rep. McWilliams**

**Roll Call Vote: 5 Yes 9 No 0 Absent Motion Failed for Do Not Pass as amended on HB 1234.**

**Do Pass as amended Motion Made by Rep. Jones; Seconded by Rep. Paur**

Discussion:

**Roll Call Vote: 9 Yes 5 No 0 Absent Carrier: Rep. Roers Jones**

**Chairman K. Koppelman:** We did adopt the entire amendment as written so if there is confusion about that first whether or not to remove the BIA the affect is the same either way. I think BIA could remain in on the first part of the bill.

**Rep. Roers Jones Moved that we Reconsider our action by which we pass HB 1234 as 2 amendments for the specific purpose of offering in 3<sup>rd</sup> amendment which would reinstate the language BIA; the underscore language on line 10, which was removed in that second amendment. This is a technical thing for clarity. Seconded by Vice Chairman Karls.**

**Chairman K. Koppelman:** Counted hand votes and was 7-7 so it remains as is. Motion failed for lack of a majority.

Closed.

19.0490.03001  
Title.

Prepared by the Legislative Council staff for  
House Judiciary Committee  
January 22, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1234

Page 1, line 10, remove "the bureau of Indian affairs police;"

Page 1, line 14, after the period insert "The term does not include the bureau of Indian affairs police unless an agreement is in effect between the state and the bureau of Indian affairs relating to the reciprocal jurisdiction of state and bureau of Indian affairs law enforcement officers."

Renumber accordingly

19.0490.03002  
Title.04000

Prepared by the Legislative Council staff for  
the House Judiciary Committee  
February 11, 2019

DP 2/11/19

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1234

Page 1, line 10, remove "the bureau of Indian affairs police; federal law enforcement officers;"

Page 1, line 14, after the period insert "The term does not include the bureau of Indian affairs police unless an agreement is in effect between the state and the bureau of Indian affairs relating to the reciprocal jurisdiction of state and bureau of Indian affairs law enforcement officers."

Renumber accordingly

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 HB 1234**

House   Judiciary   Committee

Subcommittee

Amendment LC# or Description:   Remove federal law enforcement officers on page 1, line 10  

Recommendation:    Adopt Amendment  
                            Do Pass    Do Not Pass    Without Committee Recommendation  
                            As Amended                            Rerefer to Appropriations  
                            Place on Consent Calendar

Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. Roers Jones   Seconded By   Rep. Rep. Satrom  

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total   (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Voice Vote Carried.

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 HB 1234**

House   Judiciary   Committee

Subcommittee

Amendment LC# or Description:   19.0490.03001  

Recommendation:    Adopt Amendment  
                            Do Pass    Do Not Pass    Without Committee Recommendation  
                            As Amended                            Rerefer to Appropriations  
                            Place on Consent Calendar

Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. Vetter                             Seconded By   Rep. Rep. Satrom  

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total   (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Voice Vote Carried.

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
HB 1234**

House   Judiciary   Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass    Do Not Pass    Without Committee Recommendation  
 As Amended    Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider    \_\_\_\_\_

Motion Made By   Rep. Magrum     Seconded By   Rep. Rep. McWilliams  

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman		X	Rep. Buffalo		X
Vice Chairman Karls		X	Rep. Karla Rose Hanson		X
Rep. Becker	X				
Rep. Terry Jones		X			
Rep. Magrum	X				
Rep. McWilliams	X				
Rep. B. Paulson	X				
Rep. Paur		X			
Rep. Roers Jones		X			
Rep. Satrom		X			
Rep. Simons	X				
Rep. Vetter		X			

Total   (Yes)   5     No   9  

Absent   0  

Floor Assignment \_\_\_\_\_

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

Failed.



**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 HB 1234**

House   Judiciary   Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:    Adopt Amendment  
                            Do Pass    Do Not Pass    Without Committee Recommendation  
                            As Amended                            Rerefer to Appropriations  
                            Place on Consent Calendar  
 Other Actions:        Reconsider                            \_\_\_\_\_

Motion Made By   Rep. Jones   Seconded By   Rep. Paur  

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	X		Rep. Buffalo	X	
Vice Chairman Karls	X		Rep. Karla Rose Hanson	X	
Rep. Becker		X			
Rep. Terry Jones	X				
Rep. Magrum		X			
Rep. McWilliams		X			
Rep. B. Paulson		X			
Rep. Paur	X				
Rep. Roers Jones	X				
Rep. Satrom	X				
Rep. Simons		X			
Rep. Vetter	X				

Total   (Yes)   9                             No   5  

Absent   0  

Floor Assignment   Rep. Roers Jones  

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

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
HB 1234**

House   Judiciary   Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By   Rep. Roers Jones   Seconded By   Rep. Karls  

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Chairman Koppelman			Rep. Buffalo		
Vice Chairman Karls			Rep. Karla Rose Hanson		
Rep. Becker					
Rep. Terry Jones					
Rep. Magrum					
Rep. McWilliams					
Rep. B. Paulson					
Rep. Paur					
Rep. Roers Jones					
Rep. Satrom					
Rep. Simons					
Rep. Vetter					

Total (Yes)   7   No   7  

Absent   0  

Floor Assignment   Rep. Roers Jones  

If the vote is on an amendment, briefly indicate intent: **TOOK A RAISED HAND VOTE.**

**Failed**

**REPORT OF STANDING COMMITTEE**

**HB 1234: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1234 was placed on the Sixth order on the calendar.

Page 1, line 10, remove "the bureau of Indian affairs police; federal law enforcement officers;  
"

Page 1, line 14, after the period insert "The term does not include the bureau of Indian affairs police unless an agreement is in effect between the state and the bureau of Indian affairs relating to the reciprocal jurisdiction of state and bureau of Indian affairs law enforcement officers."

Renumber accordingly

**2019 SENATE JUDICIARY**

**HB 1234**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB 1234  
3/6/2019  
#33320 (53:20)

- Subcommittee  
 Conference Committee

Committee Clerk: Meghan Pegel
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## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota Century Code, relating to the authority of federal agents.

## Minutes:

5 Attachments
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**Chair Larson** opens the hearing on HB 1234.

**Chair Larson:** We have an amendment from Representative K. Koppelman as a correction to add the bureau of Indian affairs police where it was inadvertently removed. **(see attachment #1)**

**Shannon Roers Jones, District 46 Representative, testifies in favor (see attachment #2)**

**Representative Roers Jones:** Yes, we had inadvertently amended the most important part out, so please amend this back in. Also there is some other language added by the House Judiciary committee that I would like the committee to consider removing. Lines 14-16 on page one is the amendment that was added. It significantly impacts the ability for this bill to be effective, so I will ask that you amend out those 3 lines which would put the bill back into its nearly original form.

This bill comes from a month long collaboration between the highway patrol department and the Department of Indian Affairs. They have been working on ways to create more collaboration between the Bureau of Indian affairs (BIA) police, the highway patrol and other law enforcement agencies within the state. We're looking to add the BIA police to the definition of federal law enforcement officer and federal agent. Representative Monson did the same thing with customs and border patrol. Page 2 line 26 you'll see we're crossing out customs and border patrol and just listing a federal agent. The reason for that change is rather than identifying each one of the agencies individually, we want to include both customs and border control and BIA agents under the definition of federal agent so we don't have to continue adding each individually to the section listed there.

We're looking to add BIA to the definition of federal agent which allows them a limited scope explained in subsection 2 at the bottom of page one. This allows for more inter-agency

cooperation. It also allows for these agencies to cooperate on joint task forces. The problem with the language that was added on lines 14-16 is the requirement in the statute that reciprocity agreement exists before this goes into effect. I understand the committee's concern that we don't want to be giving authority to BIA agents to enforce laws on North Dakota state territory without having the ability to go onto federal lands and enforce laws, but this creates unworkable situations where there are questions on who would give the authority and if they have to go through congressional approval. Is that going to nullify the intent of this whole bill? I don't think it's necessary that we codify that that agreement must exist before we can start to put together these joint working arrangements.

**Vice Chairman Dwyer:** Line 10 you also have the words "federal law enforcement officers" that was taken out on the House?

**Representative Roers Jones:** Federal law enforcement officers was another item that was added at the suggestion of this working group between highway patrol and the Indian affairs commission. That is added to allow for other agencies to be added in the future without legislative change. The concern in the House was that this is something that we should revisit with every agency that we seek to add to this in the future. That's why it was taken out in the House. It was added originally to simplify the process of creating partnerships with those other organizations. It could be left out or added back in as the committee sees fit.

**Vice Chairman Dwyer:** Our travel governments are separate sovereign nations. Why wouldn't we want that reciprocal agreement since we're dealing with two sovereign nations?

**Representative Roers Jones:** I'm not saying that there aren't reciprocal agreements that might be created and likely will be created, but the fact that we are requiring in statute for this to become effective will create difficulties in the future in the negotiation of those types of agreements.

**Senator Bakke:** You want us to remove lines 14-16?

**Representative Roers Jones:** That would be my preference and those coming to speak behind me. It would allow those departments to engage in the type of mutual aid agreements that work best for them and that they've used in the past but not to require it by code.

**(11:40) Scott Davis, Executive Director of ND Indian Affairs Commission (see attachments #3-4)**

**Senator Myrdal:** We're codifying one thing but not requiring reciprocity in the code if we take this out. It gets complicated because of agreements in crossing.

**Davis:** Correct. An agreement that we have with MHA is more of a county/tribal thing. It is a two-way street on that. Those are the in-depth agreements of detaining the situation such as high speed chases and use of force.

**Senator Myrdal:** If pass it as the original bill, what authority does it give your side in North Dakota? What's the limitations?

**Davis:** It's scary when we talk about full federal authority over a jurisdiction, but that is not the intent; it's a mutual aid agreement and very limited. Possibly under the federal drug task force, that would be a full-fledged federal umbrella over the state and county because now FBI has the ability to deputize a county deputy or travel deputy on just working drugs. That would probably be the only area. The good thing about that is then you don't have to get into jurisdiction when you're combatting drugs and dope. As a federal agent you have the right to go into a county or tribe working on one thing, or a travel deputy. That would be the only area where it could possible come up. Then you don't have to get into jurisdiction. As a federal agent you have the right to go into a county or tribe and work on one thing, drugs. It still keeps us in our lane, and we also get reimbursed from the feds for our deputies' time. We've been working on this for a while.

**Senator Luick:** On line 10 we have the federal law enforcement officers taken out. What do you prefer?

**Davis:** I prefer we leave that in there.

**Senator Luick:** You are okay with the 14-16 lines out coming out as well?

**Davis:** Yes.

**Chair Larson:** I can understand when someone is living off the reservation to be able to respond to that. I would think that on a 911 on the reservation, if there is a highway patrol near there, you would think that the nearest person should respond to an emergency.

**Davis:** The focus is recognizing BIA authority as a state law agency. Once recognized, that would help them in a legal sense to enter into these agreements. Depending what the tribe or county wants, that's all we're asking here. Every situation could be a little different, but they would be tight on their legal lane. We're not trying to force anyone to change their entire code or legal process. The tribes and state are very sensitive about their sovereignty; it's certainly a trust thing. However, we recognize that crimes are crimes, we need help and we're understaffed and resources are limited. We all want to help each other.

**Chair Larson:** Your BIA officer won't go out to look for speeders, but if something is happening, it only makes sense for them to continue to have that authority, but it also makes sense the other way around. The agreement part of it makes sense to me because I can certainly see where you want to be able to use those resources back and forth. But the jurisdictional part; it sounds like this bill is allowing the BIA officers to do that, but there's not as much assistance for the others to go in and do that.

**Davis:** No, it's not; it's the opposite. The example of high speed chases, it happens. There've been people who cross the tribal line thinking they're free, but they're not because where they did the crime is really where the jurisdiction will go. That's what we're talking about with agreements. There is no loophole with this. You won't get into a jurisdictional maze; that's the nice, cooperative agreement that we've been working on. Without these cooperative agreements, people still think they have a loophole to commit crime like drugs, human trafficking, abuse and others. We've done collective sweeps in the tribe; that's also what

we're talking about here. It helps when you have assets assisting each other, making public safety better for everybody.

**Vice Chairman Dwyer:** If we pass this and make the amendments that Representative Roers Jones recommended, I assume that would lead the way for these agreements to happen better and sooner to occur because they have to be in place in order for this to be implemented.

**Davis:** Correct.

**(31:20) Jenna Clawson Huibregtse, ND Highway Patrol Trooper, testifies in favor (see attachment #5)**

**Senator Myrdal:** I've gotten emails to tell me not to do this. What you're asking us to do is to codify something that will help continuous or future agreements. Your testimony is that if we leave the amendment in, it would hinder ease of future agreements. Correct?

**Clawson Huibregtse:** Yes, I do think it would hinder agreements. We're dealing with five different tribal nations, and casting one agreement that people are forced to form into is probably the worst practice to go about this. Individual agreements and meeting with each individual tribe is the way to go. In the century code, it gives specific things that BIA would be allowed to do along with these other federal law enforcement agencies; they're very narrow. There are instances where we already can go on reservations where the BIA can't come out of the reservation. If we wanted to, we could go work traffic on a state highway on reservations. We're proud of the jurisdiction we have and respect the tribes' authority to do that for themselves as well.

**Senator Myrdal:** Do you see any potential for abuse of codifying this while we're waiting for future agreements? We're not privy to those agreements.

**Clawson Huibregtse:** I don't because the scope is so narrow on what they can do. We've talked about educating jointly on what this bill entails for other agencies. One example is that on multiple occasions we've had BIA officers leave Bismarck following a car that's weaving that they've identified as someone who's most likely impaired. They'll call state radio to notify us and would have to follow them all the way to Standing Rock until they can pull them over for this offense. They respect the fact that they can't do that now, but for public safety, they should be able to address that right away. On the federal side, they get more training than we do. BIA officers are so busy, and they aren't working for extra work to do.

**Chair Larson:** This creates a situation where all officers are recognized whereas the amendments made it have to be something that was agreed on with the Bureau of Indian affairs.

**Senator Luick:** With the five nations being a part of this, do they all have different sets of laws they have to contend with and/or do they cooperate with one another today?



**Clawson Huibregtse:** They all have the same laws; however, for instance the Bureau of Indian affairs chief in Standing Rock answers to the tribal chairman there. While everybody is abiding by the same laws, the different issues that are facing different tribes, they focus more on other sets of laws than others, but they are all abiding by the same ones to my knowledge.

**(45) Senator Luick:** Their court systems, is there one per nation?

**Clawson Huibregtse:** They have tribal courts within each. There are tribal charges that people can answer to but also federal.

**Senator Luick:** Today all five tribes are willing to work with this?

**Clawson Huibregtse:** We've been in conversation with all and work closely with Indian affairs commission. This was identified years ago, and we've had rough drafts rolling. We wanted to wait on meetings until we could go in and speak to the Bureau of Indian Affairs authority.

**Chair Larson:** What about training?

**Clawson Huibregtse:** That's another hurdle. Their training is almost twice as long. At this point they could go in on their own accord and take the entire academy over again on the state level, even though they have more training than we offer in our academy. With them included in this, we would approach the post board, talk about training side-by-side and what they would need to do for a yearly upkeep such as firearms. Their firearms qualifications are more extensive than ours even, but it's not a bad idea to have us doing those trainings side-by-side.

**Chair Larson:** That can be done by rule?

**Clawson Huibregtse:** Correct.

**Davis:** One more analogy is the missing woman Olivia Lone Bear. That was about 8 months of our work cooperatively with BIA and other agencies to try to find her. We didn't need an agreement to do that because of the emergency. We worked very closely together relating intel, information, search and rescue, etc. In hindsight, do we need a script for that? This law would only strengthen that. The missing indigenous women is a big deal right now in our state and country.

**Vice Chairman Dwyer:** If we did not put back in the words "federal law enforcement officers" and left it for another day, in terms of what you, the tribes and the state does, if we took out lines 14-16 and put back in the BIA, it would be fully implementable in terms of your programs.

**Davis:** We would rather have the original bill.

**Vice Chairman Dwyer:** It wouldn't restrict you from anything you would want to do if we didn't have those words.

**Chair Larson:** with the exception that they wouldn't be able to interact with the federal agents as well if they're not included in there.

**Vice Chairman Dwyer:** Federal agents are listed separately.

**Representative Roers Jones:** You are correct. This was intended to be proactive and is not necessary for the agreements that they're looking to implement between the BIA and other agencies. It was intended to make this simpler to enter into other agreements of this sort with other federal agencies above and beyond BIA police folk.

**Senator Myrdal:** How many officers are there in BIA in North Dakota?

**Davis:** There are 96, but that's half staffed nationwide.

**Chair Larson closes the hearing on HB 1234.**

# 2019 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

HB 1234  
3/12/2019  
#33579 (6:30)

- Subcommittee  
 Conference Committee

Committee Clerk: Meghan Pegel

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota Century Code, relating to the authority of federal agents.

## Minutes:

No Attachments

**Chair Larson** begins discussion on HB 1234. Senator Osland and Senator Myrdal were absent.

**Senator Luick:** We're going to need an amendment to put back in "federal law enforcement officers".

**Chair Larson:** We want to put it back to the original bill.

**Vice Chairman Dwyer:** If you recall, one of the discussions on the term "federal law enforcement officers" was that rather than doing a carte blanche where it would include anybody, put that back in the bill. That makes sense to me

**Senator Bakke:** so just add the Bureau of Indian Affairs police and not add federal law enforcement?

**Vice Chairman Dwyer:** Right

**Chair Larson:** My understanding was that that does then encapsulate all of them.

**Senator Luick:** I understand it as Senator Larson does where federal law enforcement officers contain all the agencies, so we wouldn't have to revisit this.

**Chair Larson:** The second to last paragraph on page one in Trooper Jenna's testimony explains it by saying, "The inclusion of federal law enforcement throughout the history of this century code has purely been a benefit to the safety and security of the citizens of North Dakota".

**Vice Chairman Dwyer:** Okay. Let's leave it.

**Chair Larson:** Really what we're doing is simply putting it back the way the original bill was written before it was amended in the House. That's the way we want to amend that.

**Senator Luick: Motions to amend the bill back to its original form.**

**Vice Chairman Dwyer: Seconds.**

**A Roll Call Vote was Taken: 4 yeas, 0 nays, 2 absent. Amendment is adopted.**

**Senator Bakke: Motions for a Do Pass as Amended.**

**Senator Luick: Seconds.**

**A Roll Call Vote was Taken: 4 yeas, 0 nays, 2 absent. Motion carries.**

**Senator Bakke will carry the bill.**

19.0490.04002  
Title.05000

Adopted by the Senate Judiciary Committee

March 12, 2019

8/3/12  
120

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1234

Page 1, line 10, after the semicolon insert "the bureau of Indian affairs police; federal law enforcement officers;"

Page 1, line 13, remove "The term does not include the bureau of Indian affairs police"

Page 1, remove lines 14 through 16

Renumber accordingly

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1234**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Senator Luick Seconded By Vice Chairman Dwyer

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	AB				
Senator Osland	AB				

Total (Yes) 4 No 0

Absent 2

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
**to amend the bill back to its original form.**

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1234**

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar

Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Senator Bakke Seconded By Senator Luick

Senators	Yes	No	Senators	Yes	No
Chair Larson	X		Senator Bakke	X	
Vice Chair Dwyer	X				
Senator Luick	X				
Senator Myrdal	AB				
Senator Osland	AB				

Total (Yes) 4 No 0

Absent 2

Floor Assignment Senator Bakke

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

**REPORT OF STANDING COMMITTEE**

**HB 1234, as engrossed: Judiciary Committee (Sen. D. Larson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1234 was placed on the Sixth order on the calendar.

Page 1, line 10, after the semicolon insert "the bureau of Indian affairs police; federal law enforcement officers;"

Page 1, line 13, remove "The term does not include the bureau of Indian affairs police"

Page 1, remove lines 14 through 16

Renumber accordingly



**2019 CONFERENCE COMMITTEE**

**HB 1234**

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1234  
4/11/2019  
34679

Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek
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## Explanation or reason for introduction of bill/resolution:

Relating to the authority of federal agents.

## Minutes:

1, 2
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**Members present:** Rep. Satrom, Chairman, Rep. Jones, Rep. Becker, Senator Myrdal, Senator Lemm, Senator Bakke

**Chairman Rep. Satrom:** Opened the conference committee meeting on HB 1234.

**Rep. Jones:** (Attachment #1) Handed out proposed amendment 19.0490.04003.

We wanted reciprocity in an agreement and the concern that came to us and it is what the Senate was working with was that if that requirement for an agreement was right up front and center; because of the different types of federal agencies working with the different types of state jurisdictions it would be hard to have a one size fits all agreement. We went into section 54-40.2 and found there was already in place good statutes on reciprocal agreements and MOU's and those types of things in that section so I have a packet of information to pass out so they can be working on it. Instead of putting a requirement for an agreement in the bill itself; this just says that any agreement entered into under this section relating to reciprocal jurisdictions between the agencies will be governed by that statute. Went over the proposed amendment and handouts.

**Senator Myrdal:** I think it clarifies it. We knew about this particular chapter so by putting this in what we are actually doing is saying it is a reference. It is already covered in this chapter. I appreciate your work.

**Rep. Jones:** We have another amendment 19.0490.04005. (Attachment #2) On the reservation school boards candidate could not have a felony on their record.

**Rep. Rick Becker:** The House took out on page 1, line 10 on this Christmas Tree they struck BIA, police and federal law enforcement officers. Originally the Senate put it back in. I have concern about putting federal officers in there. We had testimony that would open it wide up. A trooper indicated there would be 5 to 10 agencies that would then be brought in to be included within this much of agencies which are not potentially there. We saw several bills

that wanted to blur the line between the jurisdictions and I think that is an integral part to law enforcement and the way that executive branch is set up. The worst case you are presenting is two years another agency can say can you add us in? I would like to hear from the Senate.

**Senator Myrdal:** I fully understand it. How much liberty are we willing to give up for safety. In respect to our law enforcement I am often on the fence in that issue too. The reason we put it back in. It is a fine line and something we need to watch in the future. After 911 we gave a lot of liberty out for safety. We will strongly recommend we keep that language in.

**Rep. Jones:** Moved we accede to Senate Amendments and further amend.

**Seconded:** Senator Myrdal

**Senator Bakke:** Could you clarify what is being removed? Is it just the addition to BIA and federal law enforcement? Is that what you are putting back in?

**Rep. Jones:** The first page on that handout we are acceding to Senate amendments and further amending to include #3. Referred to 19.0490.04003 proposed amendment.

**Senator Myrdal:** Senator Bakke basically the bill as it came out of the Senate is what we accede to.

**Rep. Satrom:** Is there then a memorandum of understanding that this goes with. Can anyone speak to that?

**Rep. Jones:** That is why I included the entire of Section 54-40.02 The way we worded this it says any agreement entered into under this section related to the reciprocal jurisdiction between an agency must be made pursuant to this section. We aren't saying they have to have a formal agreement.

**Roll Call Vote: 6 Yes 0 No 0 Absent**

**Rep. Jones:** Discussed issue with SB 2230 and referred to 19.0490.04005 and the problems now that the Governor has already signed it. Whatever guides, rules and regulations on the reservation the state couldn't do anything and was less restrictive. When we drafted the legislation we put in there it only effect candidates for the school boards and that was not the intention of the proponents of the bill and it was problematic. This bill would be considered germane, according to legislative counsel, because it deals with tribal stuff and the other bill was doing a similar thing. We are trying to take care of this immediately.

**Rep. Rick Becker:** I would disagree with Legislative Council. I think it is a bit concerning that if it includes tribe, and race that it is germane. It says that this deals with white people, then it is germane.

**Rep. Jones:** I apologize for the way I referred to this. The bill we are dealing with before us is dealing with interaction between our government and tribal government. The SB 2230 was doing similar and it was basically considered a house keeping thing the way it was done so they felt it would be ok. We did not discuss native or non-native; more so the two different

nations. Another point that has been brought to our attention is we cannot move this bill forward the way it is presented as an amendment because we cannot recede in this effort because we undo what we have already done. We will not reference this amendment as written; we will discuss the subsequence of the bill and do as a further amendment.

**Senator Myrdal:** I think due to the confusion here we need to check with Legislative Council and get that cleared up before we make a decision. I have no problem dealing with the amendment; I think we need to be sure the mechanism be clear on record.

**Rep. Rick Becker:** Discussion on the amendment and recede and accede.

**Senator Myrdal:** If we strike that here we are striking something that hasn't even been amended yet. I think it is a fine line and I think we need to watch it.

**Rep. Jones:** I appreciate what Senator Myrdal was saying. Legislative counsel seems to have this wrong so we need to confer with them. I want to keep them as two separate actions when they go to the floor.

Adjourned.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1234  
4/15/2019  
34750

- Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek
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## Explanation or reason for introduction of bill/resolution:

Relating to the authority of federal agents.

## Minutes:

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**Members present:** Rep. Satrom, Chairman, Rep. Jones, Rep. Becker, Senator Myrdal, Senator Lemm, Senator Bakke

**Chairman Rep. Satrom:** Opened the conference committee meeting on HB 1234.

**Rep. Jones:** I would like to make a motion where we reconsider our actions where we acceded to the Senate amendments and further amend for the purpose of another version we have been working on.

**Senator Myrdal:** Seconded

Discussion:

**Rep. Jones:** What we have before us is wording problems on this bill for law enforcement and agency requests. The version we passed out of this committee gave us authority and the status of federal agents to the tribal law officers without requiring an agreement to be in place specifically and then we referenced this section that does delineate how those agreements would be made but nowhere in the bill did we have a spot that there had to be an agreement in place. Presented proposed amendment .04007 (Attachment 1 & 2). If we don't have this part in the bill that says that there needs to be an agreement in place; the version that passed just says when an agreement is done it will be done under section 54; but it doesn't tell us we have to have it. This is specific if we are going to give arrest authority and the status of federal agents to the tribal law enforcement that there needs to be a reciprocal agreement in place. We are getting push back from law enforcement on that because they are afraid if that is mandated; that it will drive them away from coming to the table to work together.

**Senator Myrdal:** The language that you have here on .04007 versions. I noticed the federal law enforcement officers are taken off this Christmas tree version, but it is not off the one you moved to reconsider?

**Rep. Jones:** Today I am talking about a .4007. Do we want to talk about the version I am presenting today that fixes what we did?

**Senator Myrdal:** In this version I don't see federal law enforcement officers stricken out, which was on the bill we voted on.

**Senator Bakke:** On line 10 of the .04007 after the word security we had the Bureau of Indian Affairs police, federal law enforcement officers. That has been removed from this new bill. That is what we had in the original one we voted on last time.

**Rep. Jones:** It was not our intention to have that stricken out. It was our intention to leave the Bureau of Indian Affairs police in. That is what has happened with legislative counsel. It was my intention to leave BIA police in and struck the federal law enforcement officers because the BIA police is what we are dealing with and it works just fine, but the federal law enforcement officer's open's that up and adds a whole different dimension to the bill I don't think we should deal with at this time.

**Rep. Rick Becker:** Looks like we need the .05000 version and have a Christmas tree off the .05000. Then I would have some discussion regarding that aspect of should or should not be the BIA be in there where it was in the .05000 version? We need to have that amendment based on the .05000 version of the bill to look at.

**Senator Myrdal:** Rep. Becker has it correct because I am not talking about the intent of language of the Christmas tree because we need to see it relating to the actual bill. Don't like this agreement issue.

**Senator Bakke:** So what I am hearing is Rep. Becker and Senator Myrdal saying is we should have a .05000 version and then the amendments that are being proposed should be added to that bill rather than the .04007. Is that correct?

**Rep. Rick Becker:** If we have an impression we work off of whatever was the last approved version. Once we reconsidered and pulled back we are back to the House version of .04000?

**Senator Myrdal:** We are in the discussion on that motion. We have jumped the gun here. The discussion is to reconsider that. I think from the Senate side I don't know how the vote is going to go on that. the one thing we are willing to change from that would be willing to take the federal concern out; but this agreement issue is not going to go through with us. We have a concern with that and we think it is covered in chapter 54 and I think this is just mudding up the intent of the sponsor of this. We are totally open to taking out line 10, after the BIA taking out the federal law enforcement officers for now so we don't have that hot dish list. If we are going to add the BIA police that we voted on and are considering now; I don't think there is a will from our conference committee here to muddle up the waters on the reciprocity issue.

**Senator Bakke:** I don't have a copy of the .05000 version. Do they indicate on that copy both the BIA and federal law enforcement officers? Are both of them on there? I was more comfortable when both of them were listed. Is that what we voted on originally?

**Senator Myrdal:** I think in the Christmas tree that we looked at that is on page 2, line 1; that was in the motion on and passed last time. That bill included what Senator Bakke is talking about which is the BIA, federal law enforcement officers, so I think where we are standing and where we don't agree on in the reconsideration that you are requesting is so we can look at this Christmas tree option. I Rep. McWilliams saying ahead of time we won't likely go along with this front page of that so we are stuck on that issue. So reconsideration is in question over here.

**Rep. Satrom:** I think we should recess and try to get all the same copies and try to see if there is some way we can work out the impasses? I think we can just hold that reconsideration.

**Rep. Rick Becker:** If we have an impasse for reconsideration then it won't be reconsidered. My understanding is that doesn't mean we are done. We have a bill that we would have acceded and further amended so we can further amend the amendment and can still work toward anything that we are interested in so it is not a done deal.

Adjourned.

# 2019 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

HB 1234  
4/18/2019  
34838

Subcommittee  
 Conference Committee

Committee Clerk: DeLores D. Shimek
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## Explanation or reason for introduction of bill/resolution:

Relating to the authority of federal agents.

## Minutes:

1
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**Members Present:** Rep. Satrom, Chairman, Rep. Jones, Rep. Backer, Senator Myrdal, Senator Lemm, Senator Bakke

**Chairman Satrom:** Opened the conference committee meeting on HB 1234.

**Rep. Jones:** Passed around version .04003 amendment. (Attachment 1) Went over the proposed amendment. We are talking about BIA, not tribal police. BIA is a federal agency and so for us to give them these limited things that we have in this bill is fairly easy to do without causing problems. If we were giving this to tribal police and open this up for others it would be a major concern. We like the Senate amendments where they are; with the exception of line 10 we have two things underlined; the BIA police and the federal law enforcement officers. We have decided that we would like to have the BIA police have the benefits of this bill, but not the federal law enforcement officers. We may want to give them this similar treatment but we would like to do it one at a time as it is brought forward to us.

**Rep. Jones: Motion to reconsider our actions whereby we had acceded to the Senate and further amend.**

**Senator Myrdal: Seconded**

**Roll Call Vote: 6 Yes 0 No 0 Absent**

**Senator Myrdal:** I just want to thank Rep. Jones and law enforcement for assisting us.

**Senator Myrdal:** Motion to recede from Senate amendments and amend as follows 19.0490.04009.

**Seconded:** Rep. Jones



House Judiciary Committee

HB 1234

4/18/2019

Page 2

**Chairman Satrom:** Any further discussion? Seeing none.

**Roll Call Vote: 6 Yes 0 No 0 Absent. Motion carries.**

**Carriers: Rep. Jones, Senator Myrdal**

Adjourned.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1234

That the House accede to the Senate amendments as printed on page 1189 of the House Journal and page 909 of the Senate Journal and that Engrossed House Bill No. 1234 be further amended as follows:

Page 1, after line 24 insert:

"3. Any agreement entered under this section relating to reciprocal jurisdiction between a public agency and a tribal government must be made pursuant to chapter 54-40.2."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1234

That the Senate recede from its amendments as printed on page 1189 of the House Journal and page 909 of the Senate Journal and that Engrossed House Bill No. 1234 be amended as follows:

Page 1, line 10, after the semicolon insert "the bureau of Indian affairs police;"

Page 1, line 13, remove "The term does not include the bureau of Indian affairs police"

Page 1, remove lines 14 through 16

Page 1, after line 24 insert:

"3. Any agreement entered under this section relating to reciprocal jurisdiction between a public agency and a tribal government must be made pursuant to chapter 54-40.2."

Renumber accordingly

**2019 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

HB 1234 as (re) engrossed

**House Judiciary Committee**

- Action Taken**
- HOUSE accede to Senate Amendments
  - HOUSE accede to Senate Amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows
  
  - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Jones                      Seconded by: Senator Myrdal

Representatives	04/11		Yes	No	Senators	4/11		Yes	No
Rep. Satrom, Chairman	X		X		Senator Myrdal, Chairman	X		X	
Rep. Jones	X		X		Senator Lemm	X		X	
Rep. Becker	X		X		Senator Bakke	X		X	
Total Rep. Vote			3		Total Senate Vote			3	

Vote Count            Yes: 6                      No: 0                      Absent: 0

House Carrier Rep. Jones                      Senate Carrier Senator Myrdal

LC Number 0490 . 04003 of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**2019 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

**HB 1234** as (re) engrossed

**House Judiciary Committee**

- Action Taken**     HOUSE accede to Senate Amendments  
                       HOUSE accede to Senate Amendments and further amend  
                       SENATE recede from Senate amendments  
                       SENATE recede from Senate amendments and amend as follows  
  
 **Reconsider**

Motion Made by: Rep. Jones                                      Seconded by: Senator Myrdal

Representatives	4/18			Yes	No	Senators				Yes	No
Rep. Satrom, Chairman	x			X		Senator Myrdal, Chairman	x			X	
Rep. Jones	x			X		Senator Lemm	x			X	
Rep. Becker	x			X		Senator Bakke	x			X	
Total Rep. Vote				3		Total Senate Vote				3	

Vote Count                      Yes: 6                                      No: 0                                      Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**2019 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

HB 1234 as (re) engrossed

**House Judiciary Committee**

- Action Taken**
- HOUSE accede to Senate Amendments
  - HOUSE accede to Senate Amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows
  - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Myrdal Seconded by: Rep. Jones

Representatives	04/11	4/15	4/18	Yes	No	Senators	4/11	4/15	4/18	Yes	No
Rep. Satrom, Chairman	X	X	X	X		Senator Myrdal, Chairman	X	X	X	X	
Rep. Jones	X	X	X	X		Senator Lemm	X	X	X	X	
Rep. Becker	X	X	X	X		Senator Bakke	X	X	X	X	
Total Rep. Vote				3		Total Senate Vote				3	

Vote Count      Yes: 6                      No: 0                      Absent: 0

House Carrier Rep. Jones                      Senate Carrier Senator Myrdal

LC Number 19.0490 , 04009 of amendment

LC Number \_\_\_\_\_ . 06000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 19.0490.04009  
House Carrier: Jones  
Senate Carrier: Myrdal

**REPORT OF CONFERENCE COMMITTEE**

**HB 1234, as engrossed:** Your conference committee (Sens. Myrdal, Lemm, Bakke and Reps. Satrom, Jones, Becker) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 909, adopt amendments as follows, and place HB 1234 on the Seventh order:

That the Senate recede from its amendments as printed on page 1189 of the House Journal and page 909 of the Senate Journal and that Engrossed House Bill No. 1234 be amended as follows:

Page 1, line 10, after the semicolon insert "the bureau of Indian affairs police:"

Page 1, line 13, remove "The term does not include the bureau of Indian affairs police"

Page 1, remove lines 14 through 16

Page 1, after line 24 insert:

"3. Any agreement entered under this section relating to reciprocal jurisdiction between a public agency and a tribal government must be made pursuant to chapter 54-40.2."

Renumber accordingly

Engrossed HB 1234 was placed on the Seventh order of business on the calendar.

**2019 TESTIMONY**

**HB 1234**



#1  
HB1234  
1-14-19  
Pg 1

**Testimony of Trooper Jenna Clawson Huibregtse, North Dakota Highway Patrol**  
Hearing Related to the Authority of Federal Agents  
House Bill No. 1234  
House Judiciary Committee  
Chairman, Representative Kim Koppelman  
North Dakota State Capitol, Bismarck ND  
January 14, 2019

Chairman Koppelman and members of the Committee,

I appreciate the opportunity to speak with you today. My name is Jenna Clawson Huibregtse. I am proud to serve the state as a Trooper in the North Dakota Highway Patrol and I serve as the department's Cultural Liaison Officer. I am here today on behalf of my agency to provide testimony in support of House Bill 1234.

I worked for 3 ½ years as a road trooper in the Southwest Region of North Dakota and in June of 2018, began to work from the Capitol in my current position. In my time with the Highway Patrol I have worked with multiple local, state, and federal agencies. Often law enforcement needs to call on other agencies for assistance or to work in collaboration for public safety. In a rural state like North Dakota, law enforcement must be able to call on neighboring agencies for assistance when the closest backup may be over 45 minutes away. Uniformed officers, including the Bureau of Indian Affairs Police, have served in this function in support of our agency on multiple occasions. However, occasionally a lack of clarified authority has hindered the ability for agency-to-agency assistance.

While on routine patrol, uniformed officers including the Highway Patrol, US Customs and Border Protection, and the Bureau of Indian Affairs, often encounter situations where they are required to act in order to preserve public safety and the security of North Dakota citizens. The changes outlined in House Bill 1234 will update the North Dakota Century Code and clarify the authority of the Bureau of Indian Affairs police to assist local law enforcement officers, participate in organized law enforcement task forces, and during serious incidents.

North Dakota shares geography with 5 tribal nations. Making these changes to Century Code will allow law enforcement in different jurisdictional boundaries to more seamlessly assist one another in times of need. The addition of the Bureau of Indian affairs police will also assist in tribal and state relationships and collaborative efforts. This bill clarifies authority while respecting jurisdictional boundaries.

#1 HB 1234  
1-14-19  
Pg 2

An additional change outlined in House Bill 1234 adds "federal law enforcement officers" to encompass all federal law enforcement working in the State of North Dakota and prevents the need to individually add agencies to Century Code in the future. This change would assist in clearing up any confusion in the middle of a request for assistance or when federal law enforcement officers need to act in a serious incident. This bill is good for law enforcement and most importantly good for public safety and North Dakota citizens.

This concludes my testimony and I am happy to answer any questions.

Thank you, Chairman and members of the Committee.

#2  
HB 1234  
1-14-19

**Testimony of Erica Thunder, North Dakota Indian Affairs Commission**  
Hearing Relating to the Authority of Federal Agents  
HB 1234  
House Judiciary Committee  
Chairman, Representative Kim Koppelman  
North Dakota State Capital, Bismarck ND  
January 14, 2019

Chairman Koppelman and members of the Committee,

Thank you for this opportunity to speak with you all. My name is Erica Thunder, and I serve as Judicial Systems Administrator for the North Dakota Indian Affairs Commission (hereinafter “NDIAC”). I work beneath, Commissioner Scott J. Davis, Commissioner, to the NDIAC, and speak on behalf of he and our Office in my testimony today. NDIAC, is a cabinet member agency of the Governor’s Cabinet, wherein Mr. Davis serves, and we are commemorating our 70<sup>th</sup> year as a legislatively authorized North Dakota Commission. On behalf of my agency, NDIAC, we support of House Bill 1234.

As a background of myself and also of my work--I was raised and graduated from Bottineau High School, completed my bachelor’s degree in Political Science from the University of North Dakota, and also completed both my Juris Doctorate and Federal Indian Law Degrees from the University of North Dakota School of Law. I am a member of the Three Affiliated Tribes, and spent my formative years growing up in the Turtle Mountains.

I want to take this moment, to thank all of those who represent law enforcement here today in person, and those who are not able to be here today; thank you for your service, sacrifice, and

#2  
HB 1234  
1-14-19

dedication to our communities and public safety; and in particular, a heartfelt thanks to our fellow State Cabinet colleagues, the North Dakota Highway Patrol, who have been so integral in working on this issue. I also want to give a very special thanks to this Bill's sponsors, Representatives Roers Jones, Boschee, and Satrom, as well as Senators Myrdal and Oban.

My position as Judicial Systems Administrator is one which interfaces with all levels of the judicial systems within North Dakota, which includes a very key element to keeping public safety at the heart of every issue, within our judicial systems: that key element being law enforcement. Having previously practiced as an attorney in various capacities, one thing has always remained key: collaboration in law enforcement is imperative and integral to the communities in which they serve. Echoing Trooper Clawson Huibregtse's very well-stated points, law enforcement very often needs to call upon other agencies for assistance, particularly in a rural state like North Dakota. Uniformed Federal officers, like the Bureau of Indian Affairs Police (hereinafter "BIA"), among other Federal agents working within this State, have served in this function in support of each other on an innumerable amount of occasions. However, occasionally a lack of clarified authority has hindered the ability for agency-to-agency assistance.

I come here today, on behalf of my agency, supporting this very pro-law enforcement bill, because our office, and in my own personal capacity, have worked cases wherein House Bill 1234 would help alleviate jurisdictional liabilities and update the North Dakota Century Code to clarify the authority of the BIA police, as well as "federal law enforcement officers", generally,

#2  
HB 1234  
1-14-19

to assist local law enforcement officers in extremely difficult and potentially violent cases. To Trooper Clawson Huibregtse point, law enforcement must be able to call on neighboring agencies for assistance when the closest backup may be over 45 minutes away. Much can occur in 45 minutes.

Along with assisting in the above-mentioned area, House Bill 1234 will also assist in a federal agency like the BIA to participate in organized law enforcement task forces. This is highly crucial, as we currently work on building more and more collaborative drug task forces across the state, which includes areas in and around our State's five Tribal Nations. Currently, the Federal Bureau of Investigations (hereinafter "FBI"), North Dakota Highway Patrol, North Dakota Bureau of Criminal Investigations (hereinafter "BCI"), NDIAC, along with Turtle Mountain BIA police officers, and the surrounding local police officers of places like Bottineau County, Rolette County, Pierce, and Benson County, are in the first half of planning stages for a cooperative Turtle Mountain Drug Task Force.

This is similar to the work of the BCI, who have had a very successful drug task force in their "Northwest Narcotics Task Force". It is cost effective, as the crimes being committed as they relate to drug activity affect all of our Counties in North Dakota, and would be worked by these same agencies, as the drug activity we see bleeds into one county to another. FBI also has a wonderful program called "Safe Trails" that has been used most exclusively in Indian Country, but it provides the ability for, example, a law enforcement officer from Bottineau County, to become cross deputized as both a North Dakota officer and a federal officer, giving he or she

#2  
HB 1234  
1-14-19

the ability to work in a cross jurisdictional way that is usually quite hard to do. With this program also comes financial compensation for the local entity involved in the program, along with vehicles, and other items needed by law enforcement working drug crime activity. In this example, House Bill 1234 would aid greatly in allowing our federal partners to work more closely with our State and Local officers, in a way that is fiscally smart, and one more way for our law enforcement to be supported in worked dangerous crimes, as it would ease their jurisdictional liability that our current North Dakota Century Code, as it is written today, does not cover. This Bill clarifies authority while respecting jurisdictional boundaries. It provides for an important level of trust and cooperation between law enforcement officers working in North Dakota, regardless of their jurisdictional status.

Again, to Trooper Clawson Huibregtse's point, and to clarify an additional change outlined in House Bill 1234, the language "federal law enforcement officers" (line 10, page 1) is added to encompass all federal law enforcement working in the State of North Dakota and prevents the need to individually add agencies to Century Code in the future. This change would also assist in clearing up any confusion in the middle of a request for assistance or for when federal law enforcement officers need to act in a serious incident. To that end, you will notice lines 1,2, and 24, on page 2 of the Bill updates, once again, the language of Century Code, to cleanly state "Federal Agent"

House Bill 1234, as few as updates as it makes, will have an extremely important impact for the good of our North Dakota citizens, and to our law enforcement who serve in North Dakota,

F2  
HB1234  
1-14-19

regardless of their jurisdiction. This Bill is good North Dakota, public safety, collaboration, trust, and addressing some of our greatest challenges that our State faces. It is good for our Federal agents who call North Dakota their home, live and work here, and protect our North Dakota citizens, in every possible.

This concludes my testimony. Thank you, Chairman and members of the Committee.

TURTLE MOUNTAIN BAND OF  
**CHIPPEWA**

1000 HIGHWAY 281  
BELCOURT, ND 58316  
TMBCI.ORG

#3  
HB 1234  
7-14-19  
PO  
FROM THE OFFICE OF THE CHAIRMAN

JAMIE AZURE  
TRIBAL CHAIRMAN  
JAMIE.AZURE@TMBCI.ORG

701.477.2673

January 11, 2019

The Honorable Diane Larson  
North Dakota Judiciary Committee  
State Capitol  
600 East Boulevard  
Bismarek, ND 58505-0360

RE: House Bill 1234  
66<sup>th</sup> Assembly (2019)

Dear Chairperson Larson:

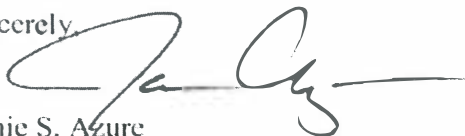
The Turtle Mountain Band of Chippewa Indians supports House Bill 1234. We became aware of the language in the existing law in August of 2018. Section 29-06-05.2 failed to include Bureau of Indian Affairs Law Enforcement as federal law enforcement. Along with our Bureau of Indian Affairs Law Enforcement, Tribal Law Enforcement, and numerous State of North Dakota Law Enforcement agencies, we determined this amendment would be beneficial for effective law enforcement objectives and public safety.

Specifically, as most of you are aware, criminal activity flows between the Cities, Counties, and the various reservations within the State of North Dakota. Often this crime includes, drug sales and thefts in support of drug activities. Many successful drug arrest and suppression operations include cooperation between the Bureau of Indian Affairs and the North Dakota Bureau of Criminal Investigation. HB 1234 will assist in these operations.

Furthermore, criminals work the borders of the reservations. They operate with the understanding the limitations of BIA Law Enforcement's pursuit and arrest authorities. As such, perpetrators perform their criminal activity on the reservations and live off reservation, and vice versa. Many of these perpetrators commit traffic offenses on their way home. When caught, the perpetrators attempt to flee law enforcement. As the law presently exists, BIA Law Enforcement may not pursue off reservation. BIA must call dispatch and dispatch must then call a County or City officer to continue the pursuit. This is an untenable logistical nightmare.

In order to protect the citizens of both the Tribe and the State of North Dakota, this amendment is logical. This law will both protect the People of the Tribe and the Citizens of the State of North Dakota and enhance each other's sovereignty.

Sincerely,



Jamie S. Azure  
Chairman  
Turtle Mountain Band of Chippewa Indians



19.0490.03001  
Title.

Prepared by the Legislative Council staff for  
House Judiciary Committee  
January 22, 2019

#1  
HB 1234  
2-11-19  
P. 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1234

Page 1, line 10, remove "the bureau of Indian affairs police;"

Page 1, line 14, after the period insert "The term does not include the bureau of Indian affairs police unless an agreement is in effect between the state and the bureau of Indian affairs relating to the reciprocal jurisdiction of state and bureau of Indian affairs law enforcement officers."

Renumber accordingly

19.0490.04001  
Title.

Prepared by the Legislative Council staff for  
Representative K. Koppelman  
February 26, 2019

# |  
HB 1234  
3.6.19

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1234

Page 1, line 10, after the semicolon insert "the bureau of Indian affairs police;"

Renumber accordingly

#2  
HB 1234  
3-6-19

19.0490.04000

FIRST ENGROSSMENT

Sixty-sixth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1234

Introduced by

Representatives Roers Jones, Boschee, Satrom

Senators Myrdal, Oban

1 A BILL for an Act to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota  
2 Century Code, relating to the authority of federal agents.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 29-06-05.2 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **29-06-05.2. Federal law enforcement officer - Authority to make arrests.**

- 7 1. "Federal agent" means an employee of the federal bureau of investigation; the federal  
8 drug enforcement administration; the bureau of alcohol, tobacco, firearms and  
9 explosives; the homeland security investigations unit of the department of homeland  
10 security; or the United States customs and border protection who is authorized to  
11 arrest, with or without a warrant, any individual for a violation of the United States  
12 Code and carry a firearm in the performance of the employee's duties as a federal law  
13 enforcement officer. The term does not include the bureau of Indian affairs police  
14 unless an agreement is in effect between the state and the bureau of Indian affairs  
15 relating to the reciprocal jurisdiction of state and bureau of Indian affairs law  
16 enforcement officers.
- 17 2. A federal agent has the same authority and immunity as a peace officer in this state  
18 when making an arrest for a nonfederal crime if any of the following exist:
- 19 a. The federal agent has reasonable grounds to believe that a felony offense was  
20 committed and the individual arrested committed the offense.
- 21 b. The federal agent is rendering assistance to a peace officer in an emergency or  
22 at the request of the peace officer.
- 23 c. The federal agent is working as a part of a task force composed of North Dakota  
24 peace officers and federal law enforcement officers.

1       **SECTION 2. AMENDMENT.** Section 29-06-15 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **29-06-15. Arrest without warrant - Peace officer - ~~Officer in the United States customs~~**  
4 **~~and border protection~~Federal agent.**

- 5       1. A law enforcement officer, without a warrant, may arrest a person:
- 6           a. For a public offense, committed or attempted in the officer's presence and for the  
7           purpose of this subdivision, a crime must be deemed committed or attempted in  
8           the officer's presence when what the officer observes through the officer's senses  
9           reasonably indicates to the officer that a crime was in fact committed or  
10          attempted in the officer's presence by the person arrested.
- 11          b. When the person arrested has committed a felony, although not in the officer's  
12          presence.
- 13          c. When a felony in fact has been committed, and the officer has reasonable cause  
14          to believe the person arrested to have committed it.
- 15          d. On a charge, made upon reasonable cause, of the commission of a felony by the  
16          party arrested.
- 17          e. For the public offenses, not classified as felonies and not committed in the  
18          officer's presence as provided for under section 29-06-15.1.
- 19          f. On a charge, made upon reasonable cause, of driving or being in actual physical  
20          control of a vehicle while under the influence of alcoholic beverages.
- 21          g. For the offense of violating a protection order under section 14-07.1-06, an order  
22          prohibiting contact under section 12.1-31.2-02, or for an assault involving  
23          domestic violence under section 14-07.1-11.
- 24          h. On a charge, made upon reasonable cause, of being under the influence of  
25          volatile chemical vapors in violation of section 19-03.1-22.1.
- 26       2. ~~An officer of the United States customs and border protection~~A federal agent, without  
27       a warrant, may arrest a person if all of the following circumstances exist:
- 28           a. The officer is on duty.
- 29           b. One or more of the following situations exist:

Sixty-sixth  
Legislative Assembly

- 1                   (1) The person commits an assault or other crime, defined and punishable
- 2                                   under chapter 12.1-17, against the officer or against any other person in the
- 3                                   presence of the officer.
- 4                   (2) The officer has reasonable cause to believe that a crime, as defined in
- 5                                   paragraph 1, has been committed and reasonable cause to believe that the
- 6                                   person to be arrested has committed it.
- 7                   (3) The officer has reasonable cause to believe that a felony has been
- 8                                   committed and reasonable cause to believe that the person to be arrested
- 9                                   has committed it.
- 10                  (4) The officer has received positive information from an authoritative source
- 11                                   that a peace officer holds a warrant for the person's arrest.
- 12                  3. If a law enforcement officer has reasonable cause to believe an individual has violated
- 13                                   a lawful order of a court of this state which requires the individual to participate in the
- 14                                   twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31,
- 15                                   the law enforcement officer may immediately take the individual into custody without a
- 16                                   warrant. An individual taken into custody under this subsection may not be released on
- 17                                   bail or on the individual's personal recognizance unless the individual has made a
- 18                                   personal appearance before a magistrate.

#3  
HB 1234  
3.6.19

**Testimony of Scott Davis, North Dakota Indian Affairs Commission**  
Hearing Relating to the Authority of Federal Agents  
HB 1234  
Senate Judiciary Committee  
Chairwoman, Senator Diane Larson  
North Dakota State Capital, Bismarck ND  
March 6, 2019

Chairwoman Larson and members of the Committee,

My name is Scott J. Davis, Executive Director of North Dakota Indian Affairs Commission (NDIAC), as a cabinet member agency of the Governor's Cabinet, and we are commemorating our 70<sup>th</sup> year as a legislatively authorized North Dakota Commission. On behalf of my agency, NDIAC, we support the most important part of the original version House Bill 1234, which would recognize Bureau of Indian Affairs police officers (hereinafter "BIA"), as a "Federal Agent" under North Dakota Century Code, §29-06-05.2 Federal law enforcement officer, Section 1, which defines Federal Agents recognized by North Dakota. We do not believe it is necessary to include from the original version, "federal law enforcement officers" generally. The language proposed by the House Judiciary Committee, which requires an agreement of reciprocity between the State of ND and Tribal Nations who utilize BIA police officers, would only add an extra layer to something we believe will complicate and harm the intentions of this Bill. Law enforcement agreements between the state and tribal nations in North Dakota are already regulated and required to abide by NDCC 54-40.2 titled "Agreements between public agencies and Indian tribes." Adding an extra agreement stipulation in this century code regarding a sensitive subject like jurisdiction, complicates a relationship where jurisdictional boundaries are already deeply respected and closely followed by all law enforcement agencies.

For those reasons, we are in support of the simple addition of “BIA police” to this section of law.

The Judicial Systems Administrator-Erica Thunder, is one which interfaces with all levels of the judicial systems within North Dakota, which includes a very key element to keeping public safety at the heart of every issue, within our judicial systems: that key element being law enforcement and collaboration in law enforcement is imperative and integral to the communities in which they serve. Echoing Trooper Clawson Huibregtse’s very well-stated points, law enforcement very often needs to call upon other agencies for assistance, particularly in a rural state like North Dakota. Uniformed Federal officers, like BIA police, among other Federal agents working within this State, have served in this function in support of each other on an innumerable amount of occasions. However, occasionally a lack of clarified authority has hindered the ability for agency-to-agency assistance.

Our agency, NDIAC, supports the addition of “BIA police officers” to North Dakota Century Code §29-06-05.2, Section 1, because our office, and in my own personal capacity, have worked cases wherein House Bill 1234 would help alleviate jurisdictional liabilities and update the North Dakota Century Code to clarify the authority of the BIA police, to assist local law enforcement officers in extremely difficult and potentially violent cases. This in it of itself, would help our agency, as well as other law enforcement agencies, such as ND Highway Patrol, in engaging with Tribal Nation to achieve mutual aid agreements where certain forms of reciprocity can exist, such as detainment and hot pursuit, with recognizing the sovereignty of both the State of ND and Tribal Nations. Without this addition to North Dakota Century Code, BIA officers

currently face issues of liability when they cross invisible lines to assist their State and Federal counterparts who also serve to protect the people of North Dakota. To Trooper Clawson Huibregtse point, law enforcement must be able to call on neighboring agencies for assistance when the closest backup may be over 45 minutes away. Much can occur in 45 minutes.

To that end, House Bill 1234 will assist the BIA police to participate in organized law enforcement task forces. This is highly crucial, as we currently work on building more and more collaborative drug task forces across the state, which includes areas in and around our State's five Tribal Nations. Currently, the Federal Bureau of Investigations (hereinafter "FBI"), North Dakota Highway Patrol, North Dakota Bureau of Criminal Investigations (hereinafter "BCI"), NDIAC, along with Turtle Mountain BIA police officers, and the surrounding local police officers of places like Bottineau County, Rolette County, Pierce, and Benson County, are in the first half of planning stages for a cooperative Turtle Mountain Drug Task Force.

This is similar to the work of the BCI, who have had a very successful drug task force in their "Northwest Narcotics Task Force". It is cost effective, as the crimes being committed as they relate to drug activity affect all of our Counties in North Dakota, and would be worked by these same agencies, as the drug activity we see bleeds into one county to another. FBI also has a wonderful program called "Safe Trails" that has been used most exclusively in Indian Country, but it provides the ability for, example, a law enforcement officer from Bottineau County, to become cross deputized as both a North Dakota officer and a federal officer, giving he or she the ability to work in a cross jurisdictional way that is usually quite hard to do. With this



program also comes financial compensation for the local entity involved in the program, along with vehicles, and other items needed by law enforcement working drug crime activity. In this example, House Bill 1234 would aid greatly in allowing the BIA police officers to work more closely with our State and Local officers, in a way that is fiscally smart, and one more way for our law enforcement to be supported in worked dangerous crimes, as it would ease their jurisdictional liability that our current North Dakota Century Code, as it is written today, does not cover. This Bill clarifies authority while respecting jurisdictional boundaries. It provides for an important level of trust and cooperation between law enforcement officers working in North Dakota, regardless of their jurisdictional status.

House Bill 1234, in its original form, recognizing BIA police officers as Federal Agents under North Dakota Century Code, will have an extremely important impact for the good of our North Dakota citizens, and to our law enforcement who serve in North Dakota, regardless of their jurisdiction. This Bill is good North Dakota, public safety, collaboration, trust, and addressing some of our greatest challenges that our State faces. It is good for our Federal agents who call North Dakota their home, live and work here, and protect our North Dakota citizens, in every possible.

This concludes my testimony. Thank you, Chairwoman Larson and members of the Committee.

#4  
HB 1234  
3.6.19

**Testimony of Erica Thunder, North Dakota Indian Affairs Commission**  
Hearing Relating to the Authority of Federal Agents  
HB 1234  
Senate Judiciary Committee  
Chairwoman, Senator Diane Larson  
North Dakota State Capital, Bismarck ND  
March 6, 2019

Chairwoman Larson and members of the Committee,

Thank you for this opportunity to speak with you all. My name is Erica Thunder, and I serve as Judicial Systems Administrator for the North Dakota Indian Affairs Commission (hereinafter “NDIAC”). I work under the leadership of Commissioner Scott J. Davis, Executive Director of NDIAC. NDIAC, is a cabinet member agency of the Governor’s Cabinet, and we are commemorating our 70<sup>th</sup> year as a legislatively authorized North Dakota Commission. On behalf of my agency, NDIAC, we support the most important part of the original version House Bill 1234, which would recognize Bureau of Indian Affairs police officers (hereinafter “BIA”), as a “Federal Agent” under North Dakota Century Code, §29-06-05.2 Federal law enforcement officer, Section 1, which defines Federal Agents recognized by North Dakota. We do not believe it is necessary to include from the original version, “federal law enforcement officers” generally. The language proposed by the House Judiciary Committee, which requires an agreement of reciprocity between the State of ND and Tribal Nations who utilize BIA police officers, would only add an extra layer to something we believe will complicate and harm the intentions of this Bill. Law enforcement agreements between the state and tribal nations in North Dakota are already regulated and required to abide by NDCC 54-40.2 titled “Agreements between public agencies and Indian tribes.” Adding an extra agreement stipulation in this century code

regarding a sensitive subject like jurisdiction, complicates a relationship where jurisdictional boundaries are already deeply respected and closely followed by all law enforcement agencies. For those reasons, we are in support of the simple addition of “BIA police” to this section of law.

As a background of myself and also of my work--I was raised and graduated from Bottineau High School, completed my bachelor’s degree in Political Science from the University of North Dakota, and also completed both my Juris Doctorate and Federal Indian Law Degrees from the University of North Dakota School of Law. I am a member of the Three Affiliated Tribes, and spent my formative years growing up in the Turtle Mountains.

I want to take this moment, to thank all of those who represent law enforcement here today in person, and those who are not able to be here today; thank you for your service, sacrifice, and dedication to our communities and public safety; and in particular, a heartfelt thanks to our fellow State Cabinet colleagues, the North Dakota Highway Patrol, who have been so integral in working on this issue. I also want to give a very special thanks to this Bill’s sponsors, Representatives Roers Jones, Boschee, and Satrom, as well as Senators Myrdal and Oban.

My position as Judicial Systems Administrator is one which interfaces with all levels of the judicial systems within North Dakota, which includes a very key element to keeping public safety at the heart of every issue, within our judicial systems: that key element being law enforcement. Having previously practiced as an attorney in various capacities, one thing has

always remained key: collaboration in law enforcement is imperative and integral to the communities in which they serve. Echoing Trooper Clawson Huibregtse's very well-stated points, law enforcement very often needs to call upon other agencies for assistance, particularly in a rural state like North Dakota. Uniformed Federal officers, like BIA police, among other Federal agents working within this State, have served in this function in support of each other on an innumerable amount of occasions. However, occasionally a lack of clarified authority has hindered the ability for agency-to-agency assistance.

Our agency, NDIAC, supports the addition of "BIA police officers" to North Dakota Century Code §29-06-05.2, Section 1, because our office, and in my own personal capacity, have worked cases wherein House Bill 1234 would help alleviate jurisdictional liabilities and update the North Dakota Century Code to clarify the authority of the BIA police, to assist local law enforcement officers in extremely difficult and potentially violent cases. This in it of itself, would help our agency, as well as other law enforcement agencies, such as ND Highway Patrol, in engaging with Tribal Nation to achieve mutual aid agreements where certain forms of reciprocity can exist, such as detainment and hot pursuit, with recognizing the sovereignty of both the State of ND and Tribal Nations. Without this addition to North Dakota Century Code, BIA officers currently face issues of liability when they cross invisible lines to assist their State and Federal counterparts who also serve to protect the people of North Dakota. To Trooper Clawson Huibregtse point, law enforcement must be able to call on neighboring agencies for assistance when the closest backup may be over 45 minutes away. Much can occur in 45 minutes.

# 4  
HB 1234  
3.6.19

To that end, House Bill 1234 will assist the BIA police to participate in organized law enforcement task forces. This is highly crucial, as we currently work on building more and more collaborative drug task forces across the state, which includes areas in and around our State's five Tribal Nations. Currently, the Federal Bureau of Investigations (hereinafter "FBI"), North Dakota Highway Patrol, North Dakota Bureau of Criminal Investigations (hereinafter "BCI"), NDIAC, along with Turtle Mountain BIA police officers, and the surrounding local police officers of places like Bottineau County, Rolette County, Pierce, and Benson County, are in the first half of planning stages for a cooperative Turtle Mountain Drug Task Force.

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jurisdictional liability that our current North Dakota Century Code, as it is written today, does not cover. This Bill clarifies authority while respecting jurisdictional boundaries. It provides for an important level of trust and cooperation between law enforcement officers working in North Dakota, regardless of their jurisdictional status.

House Bill 1234, in its original form, recognizing BIA police officers as Federal Agents under North Dakota Century Code, will have an extremely important impact for the good of our North Dakota citizens, and to our law enforcement who serve in North Dakota, regardless of their jurisdiction. This Bill is good North Dakota, public safety, collaboration, trust, and addressing some of our greatest challenges that our State faces. It is good for our Federal agents who call North Dakota their home, live and work here, and protect our North Dakota citizens, in every possible.

This concludes my testimony. Thank you, Chairwoman Larson and members of the Committee.

#5  
HB 1234  
3.6.19  
pg. 1

**Testimony of Trooper Jenna Clawson Huibregtse, North Dakota Highway Patrol**  
Hearing Related to the Authority of Federal Agents  
House Bill No. 1234  
Senate Judiciary Committee  
Chair, Senator Diane Larson  
North Dakota State Capitol, Bismarck ND  
March 6, 2019

Chair Larson and members of the Committee,

I appreciate the opportunity to speak with you today. My name is Jenna Clawson Huibregtse. I am proud to serve the great State of North Dakota as a Trooper in the North Dakota Highway Patrol, where I also serve as the department's Cultural Liaison Officer. I am here today on behalf of my agency to provide testimony ultimately in support of House Bill 1234 with a few comments regarding recent House amendments.

I have worked as a road trooper in the Southwest Region of North Dakota for 4 years, transferring last year to the Capitol focusing heavily on Cultural & Tribal Liaison duties. In order to provide the utmost quality of law enforcement services to keep North Dakota safe and secure, it is of vital importance that law enforcement has the ability to call on other agencies or to work in collaboration for public safety.

In a rural state like North Dakota, it is a necessity that law enforcement has the ability and fluid channels to call on neighboring agencies for assistance when the closest backup may be over 45 minutes away. Uniformed federal officers, including the Bureau of Indian Affairs Police (BIA), have served in this function in support of our agency on multiple occasions. However, occasionally a lack of clarified authority has hindered the ability for agency-to-agency assistance.

While on routine patrol, uniformed officers including the Highway Patrol, US Customs and Border Protection, and the Bureau of Indian Affairs Police, often encounter situations where they are required to act swiftly in order to preserve public safety and the security of North Dakota citizens.

The previous and continued inclusion of federal law enforcement throughout the history of this century code has purely been a benefit to the safety and security of the citizens of North Dakota. It has allowed federal agencies to quickly assist local law enforcement officers, participate in organized law enforcement task forces, and aid in serious incidents.

The original bill included adding both the Bureau of Indian Affairs Police and federal law enforcement officers in general. The original thought for adding the general term of "law enforcement officers" is to prevent the need to readdress this century code in the future when we have more agencies inquire about their inclusion. There are multiple federal law enforcement agencies that protect our state and call North Dakota home. There are instances

where they have assisted local agencies in the past and will assist in the future, so I think it best to also include them in century code and help cover their liability when keeping North Dakota citizens safe and secure.

In my experience working with federal law enforcement agencies, the uniformed officers of the Bureau of Indian Affairs Police have been an agency the Highway Patrol has most frequently worked with. However, the issue of liability and coverage for federal law enforcement officers under North Dakota Century Code is a frequent concern for agencies, like the BIA, who are not listed in Century Code. There are many examples for why the inclusion of BIA is beneficial but for the sake of time I will reference one of the most frequent. Vehicle pursuits near reservations often weave on and off the reservation. State troopers patrol the roads alone and in rural areas rarely have another trooper within a quick response time. In the middle of a pursuit near a reservation a state or county law enforcement officer can then vary between having multiple backup officers, if on the reservation, to having none if the pursuit then goes off the reservation. Situations like this happen many times per month in the state of North Dakota. Vehicle pursuits can end quicker and in a safer manner when there is adequate officer presence to deal with the incident. In a rural state like North Dakota other agencies are often the only form of backup an officer may have, making a change like this extremely important.

The original proposed version of House Bill 1234 included "bureau of Indian affairs police and federal law enforcement officers." The House Judiciary Committee removed the general "federal law enforcement" section and added the stipulation of an agreement with BIA in order for them to be recognized under century code. I urge this committee to amend HB 1234 to include "bureau of Indian affairs police and federal law enforcement officers" without the agreement stipulation attached. Attaching an agreement portion unnecessarily complicates adding a federal law enforcement agency who have the same federal arrest authority as other agencies already listed in this century code.

Law enforcement agreements between the state and tribal nations in North Dakota are already regulated and required to abide by NDCC 54-40.2 titled "Agreements between public agencies and Indian tribes." Adding an extra agreement stipulation in this century code regarding a sensitive subject like jurisdiction, complicates a relationship where jurisdictional boundaries are already deeply respected and closely followed by all law enforcement agencies.

North Dakota shares geography with 5 tribal nations where many state and county highways intersect. Making this change to Century Code will allow law enforcement in different jurisdictional boundaries to more seamlessly assist one another on these roadways in times of need. The addition of the Bureau of Indian Affairs Police will also assist in tribal and state relationships and collaborative efforts because the bill would clarify authority while respecting jurisdictional boundaries.

State and tribal law enforcement agreements are a current work in progress in the State of North Dakota. These efforts continually stress the importance of communication, relationships, trust, and a strict respect for the jurisdiction of both the state and tribes. An agreement



#5  
HB 1234  
3.6.19  
Pg. 3

stipulation in this century code would unnecessarily hinder these efforts. If law enforcement agreements can be met in North Dakota, there needs to be a separate agreement with each tribal nation because each tribal nation and the needs of the state vary depending on location. If this century code mandated an agreement stipulation, that would cast a generalized set of guidelines that would directly conflict the individuality of these agreements. Please consider adding the Bureau of Indian Affairs Police without the agreement stipulation in this bill and also adding back in the general term federal law enforcement officers. These changes are good for the safety and security of North Dakota citizens and for law enforcement facing jurisdictional liability issues in great times on need.

This concludes my testimony and I am happy to answer any questions.

Thank you, Chair and members of the Committee.

#5  
HB 1234  
3.6.19  
Pg. 4

19.0490.03000

Sixty-sixth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1234**

Introduced by

Representatives Roers Jones, Boschee, Satrom

Senators Myrdal, Oban

1 A BILL for an Act to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota  
2 Century Code, relating to the authority of federal agents.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 29-06-05.2 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **29-06-05.2. Federal law enforcement officer - Authority to make arrests.**

- 7 1. "Federal agent" means an employee of the federal bureau of investigation; the federal  
8 drug enforcement administration; the bureau of alcohol, tobacco, firearms and  
9 explosives; the homeland security investigations unit of the department of homeland  
10 security; the bureau of Indian affairs police; federal law enforcement officers; or the  
11 United States customs and border protection who is authorized to arrest, with or  
12 without a warrant, any individual for a violation of the United States Code and carry a  
13 firearm in the performance of the employee's duties as a federal law enforcement  
14 officer.
- 15 2. A federal agent has the same authority and immunity as a peace officer in this state  
16 when making an arrest for a nonfederal crime if any of the following exist:
- 17 a. The federal agent has reasonable grounds to believe that a felony offense was  
18 committed and the individual arrested committed the offense.
- 19 b. The federal agent is rendering assistance to a peace officer in an emergency or  
20 at the request of the peace officer.
- 21 c. The federal agent is working as a part of a task force composed of North Dakota  
22 peace officers and federal law enforcement officers.

23 **SECTION 2. AMENDMENT.** Section 29-06-15 of the North Dakota Century Code is  
24 amended and reenacted as follows:

1       **29-06-15. Arrest without warrant - Peace officer - ~~Officer in the United States customs~~**  
2 **~~and border protection~~Federal agent.**

- 3       1. A law enforcement officer, without a warrant, may arrest a person:
- 4           a. For a public offense, committed or attempted in the officer's presence and for the  
5           purpose of this subdivision, a crime must be deemed committed or attempted in  
6           the officer's presence when what the officer observes through the officer's senses  
7           reasonably indicates to the officer that a crime was in fact committed or  
8           attempted in the officer's presence by the person arrested.
- 9           b. When the person arrested has committed a felony, although not in the officer's  
10          presence.
- 11          c. When a felony in fact has been committed, and the officer has reasonable cause  
12          to believe the person arrested to have committed it.
- 13          d. On a charge, made upon reasonable cause, of the commission of a felony by the  
14          party arrested.
- 15          e. For the public offenses, not classified as felonies and not committed in the  
16          officer's presence as provided for under section 29-06-15.1.
- 17          f. On a charge, made upon reasonable cause, of driving or being in actual physical  
18          control of a vehicle while under the influence of alcoholic beverages.
- 19          g. For the offense of violating a protection order under section 14-07.1-06, an order  
20          prohibiting contact under section 12.1-31.2-02, or for an assault involving  
21          domestic violence under section 14-07.1-11.
- 22          h. On a charge, made upon reasonable cause, of being under the influence of  
23          volatile chemical vapors in violation of section 19-03.1-22.1.
- 24       2. ~~An officer of the United States customs and border protection~~A federal agent, without  
25       a warrant, may arrest a person if all of the following circumstances exist:
- 26           a. The officer is on duty.
- 27           b. One or more of the following situations exist:
- 28               (1) The person commits an assault or other crime, defined and punishable  
29               under chapter 12.1-17, against the officer or against any other person in the  
30               presence of the officer.

- 1                   (2) The officer has reasonable cause to believe that a crime, as defined in  
2                   paragraph 1, has been committed and reasonable cause to believe that the  
3                   person to be arrested has committed it.
- 4                   (3) The officer has reasonable cause to believe that a felony has been  
5                   committed and reasonable cause to believe that the person to be arrested  
6                   has committed it.
- 7                   (4) The officer has received positive information from an authoritative source  
8                   that a peace officer holds a warrant for the person's arrest.
- 9           3. If a law enforcement officer has reasonable cause to believe an individual has violated  
10           a lawful order of a court of this state which requires the individual to participate in the  
11           twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31,  
12           the law enforcement officer may immediately take the individual into custody without a  
13           warrant. An individual taken into custody under this subsection may not be released on  
14           bail or on the individual's personal recognizance unless the individual has made a  
15           personal appearance before a magistrate.

Introduced by

Representatives Roers Jones, Boschee, Satrom

Senators Myrdal, Oban

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8 drug enforcement administration; the bureau of alcohol, tobacco, firearms and  
9 explosives; the homeland security investigations unit of the department of homeland  
10 security; ~~the bureau of Indian affairs police; federal law enforcement officers;~~ or the  
11 United States customs and border protection who is authorized to arrest, with or  
12 without a warrant, any individual for a violation of the United States Code and carry a  
13 firearm in the performance of the employee's duties as a federal law enforcement  
14 officer. The term does not include the bureau of Indian affairs police unless an  
15 agreement is in effect between the state and the bureau of Indian affairs relating to the  
16 reciprocal jurisdiction of state and bureau of Indian affairs law enforcement officers.

17 2. A federal agent has the same authority and immunity as a peace officer in this state  
18 when making an arrest for a nonfederal crime if any of the following exist:  
19 a. The federal agent has reasonable grounds to believe that a felony offense was  
20 committed and the individual arrested committed the offense.  
21 b. The federal agent is rendering assistance to a peace officer in an emergency or  
22 at the request of the peace officer.  
23 c. The federal agent is working as a part of a task force composed of North Dakota  
24 peace officers and federal law enforcement officers.

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2 amended and reenacted as follows:

3       **29-06-15. Arrest without warrant - Peace officer - ~~Officer in the United States customs~~**  
4 **~~and border protection~~ Federal agent.**

5       1. A law enforcement officer, without a warrant, may arrest a person:

6           a. For a public offense, committed or attempted in the officer's presence and for the  
7           purpose of this subdivision, a crime must be deemed committed or attempted in  
8           the officer's presence when what the officer observes through the officer's senses  
9           reasonably indicates to the officer that a crime was in fact committed or  
10          attempted in the officer's presence by the person arrested.

11          b. When the person arrested has committed a felony, although not in the officer's  
12          presence.

13          c. When a felony in fact has been committed, and the officer has reasonable cause  
14          to believe the person arrested to have committed it.

15          d. On a charge, made upon reasonable cause, of the commission of a felony by the  
16          party arrested.

17          e. For the public offenses, not classified as felonies and not committed in the  
18          officer's presence as provided for under section 29-06-15.1.

19          f. On a charge, made upon reasonable cause, of driving or being in actual physical  
20          control of a vehicle while under the influence of alcoholic beverages.

21          g. For the offense of violating a protection order under section 14-07.1-06, an order  
22          prohibiting contact under section 12.1-31.2-02, or for an assault involving  
23          domestic violence under section 14-07.1-11.

24          h. On a charge, made upon reasonable cause, of being under the influence of  
25          volatile chemical vapors in violation of section 19-03.1-22.1.

26       2. ~~An officer of the United States customs and border protection~~ A federal agent, without  
27       a warrant, may arrest a person if all of the following circumstances exist:

28           a. The officer is on duty.

29           b. One or more of the following situations exist:

- 1                   (1) The person commits an assault or other crime, defined and punishable  
2   under chapter 12.1-17, against the officer or against any other person in the  
3   presence of the officer.
- 4                   (2) The officer has reasonable cause to believe that a crime, as defined in  
5   paragraph 1, has been committed and reasonable cause to believe that the  
6   person to be arrested has committed it.
- 7                   (3) The officer has reasonable cause to believe that a felony has been  
8   committed and reasonable cause to believe that the person to be arrested  
9   has committed it.
- 10                  (4) The officer has received positive information from an authoritative source  
11   that a peace officer holds a warrant for the person's arrest.
- 12                  3. If a law enforcement officer has reasonable cause to believe an individual has violated  
13   a lawful order of a court of this state which requires the individual to participate in the  
14   twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31,  
15   the law enforcement officer may immediately take the individual into custody without a  
16   warrant. An individual taken into custody under this subsection may not be released on  
17   bail or on the individual's personal recognizance unless the individual has made a  
18   personal appearance before a magistrate.\_

#5  
HB 1234  
3.6.19  
Pg. 10

**CHAPTER 54-40.2**  
**AGREEMENTS BETWEEN PUBLIC AGENCIES AND INDIAN TRIBES**

**54-40.2-01. Definitions.**

In this chapter:

1. "Public agency" means any political subdivision, including municipalities, counties, school districts, and any agency or department of North Dakota.
2. "Secretary" means the secretary of interior of the United States.
3. "Tribal government" means the officially recognized government of any Indian tribe, nation, or other organized group or community located in North Dakota exercising self-government powers and recognized as eligible for services provided by the United States. The term does not include any entity owned, organized, or chartered by a tribe which exists as a separate entity authorized by a tribe to enter agreements of any kind without further approval by the government of the tribe.

**54-40.2-02. Authorization to enter agreements - General contents.**

1. Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any disputes, in accordance with this chapter or any other law that authorizes a public agency to enter an agreement. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.
2. The Indian affairs commission may propose agreements entered into pursuant to this chapter and may assist, at the request of any tribe affected by such an agreement, in the negotiation and development of such agreements.
3. If the public agency contemplating entering into an agreement under this chapter is a school district, the school district shall:
  - a. Provide written notice to the superintendent of public instruction that it is contemplating entering into an agreement under this chapter; and
  - b. Consider written recommendations that the superintendent makes regarding the agreement.
4. This chapter does not apply to agreements entered into under section 24-02-02.3 and chapter 54-38 or agreements entered with one or more tribal governments pursuant to a state or federally funded program or other activity, including any publicly announced offer of a grant, loan, request for proposal, bid, or other contract originating with a public agency, for which the tribal government is otherwise eligible under federal, state, or local law.

**54-40.2-03. Specifications of agreement.**

Repealed by S.L. 1991, ch. 606, § 10.

**54-40.2-03.1. Agreement - Notice.**

1. After the parties to an agreement have agreed to its contents, the public agency involved shall publish a notice containing a summary of the agreement in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice must also be published in any newspaper of general circulation for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement. The notice must state that the public agency will hold a public hearing concerning the agreement upon the request of any resident of the county in which the notice is published if the request is made within thirty days of the publication of the notice.
2. If the public agency contemplating entering into an agreement under this chapter is a school district, the school district must also provide the superintendent of public instruction a copy of the notice.



#5  
HB 1234  
3-6-19  
pg. 11

**54-40.2-03.2. Public hearing - Notice.**

1. If the public agency receives a request pursuant to section 54-40.2-03.1, the public agency shall hold a public hearing prior to the submission of the agreement to the governor at which any persons interested in the agreement may be heard. Notice of the time, place, and purpose of the hearing must be published prior to the hearing in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice of the public hearing must also be published in any newspaper of general circulation published for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement. The notice must describe the nature, scope, and purpose of the agreement and must state the times and places at which the agreement will be available to the public for inspection and copying.
2. If the public agency contemplating entering into an agreement under this chapter is a school district, the school district must also provide the superintendent of public instruction a copy of the notice.

**54-40.2-04. Approval of agreement by governor and tribes - Approval by legislative assembly for tax collection agreements.**

As a condition precedent to an agreement made under this chapter becoming effective, it must have the approval of the governor of North Dakota and the governing bodies of the tribes involved. If the agreement is a tax collection agreement between the tax commissioner and one or more tribes, the agreement also is subject to confirmation by a majority of members elected to the house of representatives and the senate and does not become effective until its legislative confirmation date or the effective date in the agreement, whichever is later. Each tax collection agreement presented for legislative confirmation must contain an expiration date not more than sixteen years after its effective date and the expiration date must be March thirty-first of an odd-numbered year. If the agreement obtains the approvals under this section and, if required, legislative confirmation under this section, it may be submitted to the secretary for approval.

**54-40.2-05. Filing of agreement.**

After approval by the governor and by the tribe or tribes affected by the agreement and, if required, legislative confirmation, and prior to commencement of its performance, an agreement made pursuant to this chapter must be filed with:

1. The secretary.
2. The clerk of court of each county where the principal office of one of the parties to the agreement is located.
3. The secretary of state.
4. The affected tribal government.

**54-40.2-05.1. Review of agreement - Report.**

Upon the request of any political subdivision or any tribe affected by an approved agreement, the Indian affairs commission shall make findings concerning the utility and effectiveness of the agreement taking into account the original intent of the parties and may make findings as to whether the parties are in substantial compliance with all provisions of the agreement. In making its findings, the Indian affairs commission shall provide an opportunity, after public notice, for the public to submit written comments concerning the execution of the agreement. The Indian affairs commission shall prepare a written report of its findings made pursuant to this section and shall submit copies of the report to the affected political subdivision or public agency, the governor, and the affected tribes. The findings of the Indian affairs commission made under this section are for informational purposes only. In any administrative hearing or legal proceeding in which the performance of any party to the agreement is at issue, the findings may not be introduced as evidence, or relied upon, or cited as controlling by any

#5  
HB 1234  
3.6.19  
pg. 12

party, court, or reviewing agency, nor may any presumption be drawn from the findings for the benefit of any party.

**54-40.2-06. Revocation of agreement.**

Any agreement made pursuant to this chapter must include provisions for revocation.

**54-40.2-07. Authorization to appropriate funds for purpose of agreement.**

Any public agency entering into an agreement pursuant to this chapter may appropriate funds for and may sell, lease, or otherwise give or supply material to any entity created for the purpose of performance of the agreement and may provide such personnel or services therefore as is within its legal power to furnish.

**54-40.2-08. Specific limitations on agreements.**

Nothing in this chapter may be construed to:

1. Authorize an agreement that enlarges or diminishes the jurisdiction over civil or criminal matters that may be exercised by either North Dakota or tribal governments located in North Dakota.
2. Authorize a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country.
3. Authorize a public agency or tribal government to enter into an agreement except as authorized by their own organizational documents or enabling laws.
4. Authorize an agreement that provides for the alienation, financial encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

**54-40.2-09. Validity of existing agreements.**

This chapter does not affect the validity of any agreement entered into between a tribe and a public agency before August 1, 1999.

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Title.

Prepared by Legislative Council staff for  
Representative Jones  
April 9, 2019

#1  
HB 1234  
4-11-19  
P.L

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1234

That the House accede to the Senate amendments as printed on page 1189 of the House Journal and page 909 of the Senate Journal and that Engrossed House Bill No. 1234 be further amended as follows:

Page 1, after line 24 insert:

"3. Any agreement entered under this section relating to reciprocal jurisdiction between a public agency and a tribal government must be made pursuant to chapter 54-40.2."

Renumber accordingly

#1  
HB1234  
4-8-19  
P. 2

From: Clawson-Huibregtse, Trp. Jenna L. jclawson@nd.gov  
Subject: HB 1234 Summary/NDCC 54-40.2  
Date: Apr 9, 2019 at 4:35:57 PM  
To: Jones, Terry B. tbjones@nd.gov  
Cc: Thunder, Erica G. ethunder@nd.gov

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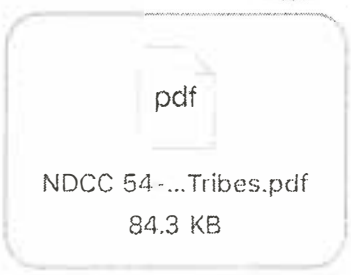
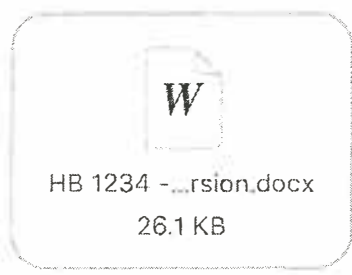
Good Afternoon Representative Jones,

Thank you again for your work and assistance with House Bill 1234. Please see the attachments for a digital copy of the HB 1234 summary/talking points and NDCC 54-40.2 (Agreements Between Public Agencies and Indian Tribes). Please let us know if you have any questions!

Thanks again!

Jenna Clawson Huibregtse  
State Trooper & Cultural Liaison  
North Dakota Highway Patrol  
600 E Blvd Ave  
Bismarck, ND 58505  
P (701) 328-2447  
C (701) 712-1621  
E-mail: [jclawson@nd.gov](mailto:jclawson@nd.gov)

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#1  
HB 1234  
4-11-19  
p. 3

## HB 1234 – Explanation of language/summary/talking points

### HB 1234:

House Bill 1234 concerns federal law enforcement officers and their authority to make arrests in North Dakota. HB 1234 adds “Bureau of Indian Affairs police” and “Federal law enforcement officers” to century code. With this addition, the Bureau of Indian Affairs is added to a list of previously recognized federal law enforcement agencies in century code to include:

1. *federal bureau of investigation;*
2. *federal drug enforcement administration;*
3. *bureau of alcohol, tobacco, firearms and explosives;*
4. *homeland security investigations unit of the department of homeland security; and*
5. *United States customs and border protection*

The federal law enforcement agencies listed have clarified arrest authority for effecting arrests in very particular areas of Century Code. Each century code listed for federal law enforcement officer use are areas of public safety for North Dakota and agency assistance areas for local law enforcement.

### Summary for intent of bill:

The intent of this bill is to add “Bureau of Indian Affairs Police” as they are one of the most relied upon neighboring federal agencies for local law enforcement. The other intent of this bill is to add the terminology “federal law enforcement officers” to avoid redundant language when adding federal law enforcement agencies to century code in the future. There is a long list of federal law enforcement agencies who assist local law enforcement across North Dakota. Often a lack of clarified authority can hinder these efforts or leave federal law enforcement officers open to extra liability upon acting to help local law enforcement or protect North Dakota citizens.

### History of amendments:

- Original bill: added “Bureau of Indian Affairs Police” and “federal law enforcement officers”
- House Amendments: struck out “Bureau of Indian Affairs Police” and “federal law enforcement officers” and added:
  - *The term does not include the bureau of Indian affairs police unless an agreement is in effect between the state and the bureau of Indian affairs relating to the reciprocal jurisdiction of state and bureau of Indian affairs law enforcement officers*
  - This house amendment struck out “Bureau of Indian Affairs Police” with the stipulation of an agreement. This amendment also struck out “federal law enforcement officers” entirely.
- Senate Amendments: returned the bill to its original form including “Bureau of Indian Affairs Police” and “federal law enforcement officers”.

### Talking points for HB 1234:

- The stipulation of a reciprocity agreement in this century code greatly complicates mutual aid agreements made between law enforcement agencies.
  - Mandating this change in this century code spurs the need for the agreements to meet federal guidelines when the agreement can be kept at a local and state level instead
  - These agreements are already mandated by century code in 54-40 “Agreements Between Public Agencies and Indian Tribes”
  - There is a current memorandum of understanding agreement between North Dakota Game & Fish and MHA Game & Fish law enforcement. This agreement abides by North Dakota Century Code under 54-40.2 “Agreements Between Public Agencies and Indian Tribes” and has been a great benefit to both the State of North Dakota and MHA Nation.
    - This particular agreement, for example, to Senator Ollie Larson’s question on the Senate Floor, addresses property seizure and allows for stolen (or any other kind) of property to be distributed back to its rightful owners.
  - The addition of Bureau of Indian Affairs Police allows them to have the same liability coverage on non-reservation land, like state law enforcement officers already have on reservations.
    - This is the same reason US Customs and Border Protection was added to this century code two legislative sessions ago—where US Customs and Border did not actually testify in person, but through Rep. David Monson were facing the very issue BIA is currently facing
- The Bureau of Indian Affairs police are federal agents with federal arrest authority. They have federal arrest authority like all other federal agencies listed in this century code. The Bureau of Indian Affairs Police have arrest authority on enrolled and non-enrolled members for federal crimes. This is the same for FBI, US Customs and Border Patrol, Homeland Security, etc. This does not mean BIA will be conducting general traffic stops. BIA must abide by their own procedures like any other federal agency, with their focus very limited to crime within Tribal communities and the assistance of stopping that crime around those jurisdictions as well. With already very limited staff, this change of law does not add any new duties to BIA’s work—it creates an opportunity for greater coordinating in

#1  
HB1234  
4-11-19  
P. 4

areas like stopping drug trafficking, and other serious criminal infractions.

- To that end, this bill also aids in the creation of multi-agency task forces across the state. Drug crimes span across the state and often maximize on the lack of agency-to-agency collaboration between state/local, and BIA/tribal police. Adding BIA into this century code will remove a hurdle for these task forces to finalize and quantify agency contribution. When BIA is included in century code they will no longer need to differentiate between criminal charges while participating in drug task forces because federal, state, and local arrest authority can then be utilized.
  - If an agreement stipulation is attached in this century code, BIA would need to reach agreements at the state and federal level with any state agency they participate with: i.e. North Dakota Highway Patrol, Bureau of Criminal Investigation, North Dakota Game and Fish, etc.
  - Reaching agreements with each agency is not likely

**Purposed final bill language:**

- Keep “bureau of Indian affairs police” and “federal law enforcement agencies”
  - without stipulation of an agreement for their inclusion, as this is not required for any other included federal agencies
  - “agreements between State agencies and Indian Tribes” is already within NDCC 54-40, setting guidelines for how cross-deputization, etc, will be addressed
  - Any language requiring a reciprocity agreement will add a complicated and unnecessary level of federal bureaucratic guidelines to an otherwise simple process
- Add “any agreement made with the bureau of Indian affairs police must abide by chapter 54-40.2”
  - This language is to clarify that agreements cannot be “mandated” but rather, will have to follow the language of NDCC 54-40, the law that states how agreements between state agencies and tribal nations are made

#1  
HB1234  
4-11-19  
P.5

**CHAPTER 54-40.2**  
**AGREEMENTS BETWEEN PUBLIC AGENCIES AND INDIAN TRIBES**

**54-40.2-01. Definitions.**

In this chapter:

1. "Public agency" means any political subdivision, including municipalities, counties, school districts, and any agency or department of North Dakota.
2. "Secretary" means the secretary of interior of the United States.
3. "Tribal government" means the officially recognized government of any Indian tribe, nation, or other organized group or community located in North Dakota exercising self-government powers and recognized as eligible for services provided by the United States. The term does not include any entity owned, organized, or chartered by a tribe which exists as a separate entity authorized by a tribe to enter agreements of any kind without further approval by the government of the tribe.

**54-40.2-02. Authorization to enter agreements - General contents.**

1. Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any disputes, in accordance with this chapter or any other law that authorizes a public agency to enter an agreement. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.
2. The Indian affairs commission may propose agreements entered into pursuant to this chapter and may assist, at the request of any tribe affected by such an agreement, in the negotiation and development of such agreements.
3. If the public agency contemplating entering into an agreement under this chapter is a school district, the school district shall:
  - a. Provide written notice to the superintendent of public instruction that it is contemplating entering into an agreement under this chapter; and
  - b. Consider written recommendations that the superintendent makes regarding the agreement.
4. This chapter does not apply to agreements entered into under section 24-02-02.3 and chapter 54-38 or agreements entered with one or more tribal governments pursuant to a state or federally funded program or other activity, including any publicly announced offer of a grant, loan, request for proposal, bid, or other contract originating with a public agency, for which the tribal government is otherwise eligible under federal, state, or local law.

**54-40.2-03. Specifications of agreement.**

Repealed by S.L. 1991, ch. 606, § 10.

**54-40.2-03.1. Agreement - Notice.**

1. After the parties to an agreement have agreed to its contents, the public agency involved shall publish a notice containing a summary of the agreement in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice must also be published in any newspaper of general circulation for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement. The notice must state that the public agency will hold a public hearing concerning the agreement upon the request of any resident of the county in which the notice is published if the request is made within thirty days of the publication of the notice.
2. If the public agency contemplating entering into an agreement under this chapter is a school district, the school district must also provide the superintendent of public instruction a copy of the notice.

#1  
HB1234  
4-11-19  
P.6

**54-40.2-03.2. Public hearing - Notice.**

1. If the public agency receives a request pursuant to section 54-40.2-03.1, the public agency shall hold a public hearing prior to the submission of the agreement to the governor at which any persons interested in the agreement may be heard. Notice of the time, place, and purpose of the hearing must be published prior to the hearing in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice of the public hearing must also be published in any newspaper of general circulation published for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement. The notice must describe the nature, scope, and purpose of the agreement and must state the times and places at which the agreement will be available to the public for inspection and copying.
2. If the public agency contemplating entering into an agreement under this chapter is a school district, the school district must also provide the superintendent of public instruction a copy of the notice.

**54-40.2-04. Approval of agreement by governor and tribes - Approval by legislative assembly for tax collection agreements.**

As a condition precedent to an agreement made under this chapter becoming effective, it must have the approval of the governor of North Dakota and the governing bodies of the tribes involved. If the agreement is a tax collection agreement between the tax commissioner and one or more tribes, the agreement also is subject to confirmation by a majority of members elected to the house of representatives and the senate and does not become effective until its legislative confirmation date or the effective date in the agreement, whichever is later. Each tax collection agreement presented for legislative confirmation must contain an expiration date not more than sixteen years after its effective date and the expiration date must be March thirty-first of an odd-numbered year. If the agreement obtains the approvals under this section and, if required, legislative confirmation under this section, it may be submitted to the secretary for approval.

**54-40.2-05. Filing of agreement.**

After approval by the governor and by the tribe or tribes affected by the agreement and, if required, legislative confirmation, and prior to commencement of its performance, an agreement made pursuant to this chapter must be filed with:

1. The secretary.
2. The clerk of court of each county where the principal office of one of the parties to the agreement is located.
3. The secretary of state.
4. The affected tribal government.

**54-40.2-05.1. Review of agreement - Report.**

Upon the request of any political subdivision or any tribe affected by an approved agreement, the Indian affairs commission shall make findings concerning the utility and effectiveness of the agreement taking into account the original intent of the parties and may make findings as to whether the parties are in substantial compliance with all provisions of the agreement. In making its findings, the Indian affairs commission shall provide an opportunity, after public notice, for the public to submit written comments concerning the execution of the agreement. The Indian affairs commission shall prepare a written report of its findings made pursuant to this section and shall submit copies of the report to the affected political subdivision or public agency, the governor, and the affected tribes. The findings of the Indian affairs commission made under this section are for informational purposes only. In any administrative hearing or legal proceeding in which the performance of any party to the agreement is at issue, the findings may not be introduced as evidence, or relied upon, or cited as controlling by any



party, court, or reviewing agency, nor may any presumption be drawn from the findings for the benefit of any party.

#1  
HB 1234  
4-11-19  
P. 7

**54-40.2-06. Revocation of agreement.**

Any agreement made pursuant to this chapter must include provisions for revocation.

**54-40.2-07. Authorization to appropriate funds for purpose of agreement.**

Any public agency entering into an agreement pursuant to this chapter may appropriate funds for and may sell, lease, or otherwise give or supply material to any entity created for the purpose of performance of the agreement and may provide such personnel or services therefore as is within its legal power to furnish.

**54-40.2-08. Specific limitations on agreements.**

Nothing in this chapter may be construed to:

1. Authorize an agreement that enlarges or diminishes the jurisdiction over civil or criminal matters that may be exercised by either North Dakota or tribal governments located in North Dakota.
2. Authorize a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country.
3. Authorize a public agency or tribal government to enter into an agreement except as authorized by their own organizational documents or enabling laws.
4. Authorize an agreement that provides for the alienation, financial encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

**54-40.2-09. Validity of existing agreements.**

This chapter does not affect the validity of any agreement entered into between a tribe and a public agency before August 1, 1999.

April 10, 2019

#2  
HB1234  
4-11-19  
P.1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1234

That the Senate recede from its amendments as printed on page 1189 of the House Journal and page 909 of the Senate Journal and that Engrossed House Bill No. 1234 be amended as follows:

Page 1, line 1, after "reenact" insert "the new section to chapter 15.1-09 of the North Dakota Century Code, as created by section 1 of Senate Bill No. 2230, as approved by the sixty-sixth legislative assembly and"

Page 1, line 2, after "to" insert "public school board membership in a school district located on tribal land and"

Page 1, line 2, after "agents" insert "; and to declare an emergency"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** The new section to chapter 15.1-09 of the North Dakota Century Code, as created by section 1 of Senate Bill No. 2230, as approved by the sixty-sixth legislative assembly, is amended and reenacted as follows:

**School board membership - Prohibition.**

If a tribal government has prescribed by tribal law or resolution qualifications for eligibility for ~~candidates for~~ public office which are more restrictive than the laws of this state, the qualifications of ~~candidates~~ for eligibility for membership of a public school board of a school district located on tribal land may not be less restrictive than the qualifications for eligibility prescribed by tribal law or resolution for public office. For purposes of this section, "tribal land" means that portion of the land within the exterior boundaries of an Indian reservation which is located in the state. For purposes of this section, "qualifications for eligibility" means consideration of criminal convictions.

Page 3, after line 18, insert:

**"SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Re-number accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1234

That the Senate recede from its amendments as printed on page 1189 of the House Journal and page 909 of the Senate Journal and that Engrossed House Bill No. 1234 be amended as follows:

Page 1, line 13, replace "does not include" with "includes"

Page 1, line 14, replace "unless" with "when"

Page 1, line 14, replace "the state" with "a public agency"

Page 1, line 14, replace "the bureau of Indian affairs" with "a tribal government"

Page 1, line 15, replace "state" with "a public agency"

Page 1, after line 24, insert:

"3. Any agreement entered under this section relating to reciprocal jurisdiction between a public agency and a tribal government must be made pursuant to chapter 54-40.2."

Renumber accordingly

Sixty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1234

Introduced by

Representatives Roers Jones, Boschee, Satrom

Senators Myrdal, Oban

1 A BILL for an Act to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota  
2 Century Code, relating to the authority of federal agents.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 29-06-05.2 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **29-06-05.2. Federal law enforcement officer - Authority to make arrests.**

- 7 1. "Federal agent" means an employee of the federal bureau of investigation; the federal  
8 drug enforcement administration; the bureau of alcohol, tobacco, firearms and  
9 explosives; the homeland security investigations unit of the department of homeland  
10 security; or the United States customs and border protection who is authorized to  
11 arrest, with or without a warrant, any individual for a violation of the United States  
12 Code and carry a firearm in the performance of the employee's duties as a federal law  
13 enforcement officer. The term ~~does not include~~includes the bureau of Indian affairs  
14 police ~~unless~~when an agreement is in effect between ~~the state~~ a public agency and ~~the~~  
15 ~~bureau of Indian affairs~~ a tribal government relating to the reciprocal jurisdiction of  
16 ~~state~~ a public agency and bureau of Indian affairs law enforcement officers.
- 17 2. A federal agent has the same authority and immunity as a peace officer in this state  
18 when making an arrest for a nonfederal crime if any of the following exist:
- 19 a. The federal agent has reasonable grounds to believe that a felony offense was  
20 committed and the individual arrested committed the offense.
- 21 b. The federal agent is rendering assistance to a peace officer in an emergency or  
22 at the request of the peace officer.
- 23 c. The federal agent is working as a part of a task force composed of North Dakota  
24 peace officers and federal law enforcement officers.

1 3. Any agreement entered under this section relating to reciprocal jurisdiction between a  
2 public agency and a tribal government must be made pursuant to chapter 54-40.2.

3 **SECTION 2. AMENDMENT.** Section 29-06-15 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **29-06-15. Arrest without warrant - Peace officer - ~~Officer in the United States customs~~**  
6 **~~and border protection~~Federal agent.**

- 7 1. A law enforcement officer, without a warrant, may arrest a person:
- 8 a. For a public offense, committed or attempted in the officer's presence and for the  
9 purpose of this subdivision, a crime must be deemed committed or attempted in  
10 the officer's presence when what the officer observes through the officer's senses  
11 reasonably indicates to the officer that a crime was in fact committed or  
12 attempted in the officer's presence by the person arrested.
  - 13 b. When the person arrested has committed a felony, although not in the officer's  
14 presence.
  - 15 c. When a felony in fact has been committed, and the officer has reasonable cause  
16 to believe the person arrested to have committed it.
  - 17 d. On a charge, made upon reasonable cause, of the commission of a felony by the  
18 party arrested.
  - 19 e. For the public offenses, not classified as felonies and not committed in the  
20 officer's presence as provided for under section 29-06-15.1.
  - 21 f. On a charge, made upon reasonable cause, of driving or being in actual physical  
22 control of a vehicle while under the influence of alcoholic beverages.
  - 23 g. For the offense of violating a protection order under section 14-07.1-06, an order  
24 prohibiting contact under section 12.1-31.2-02, or for an assault involving  
25 domestic violence under section 14-07.1-11.
  - 26 h. On a charge, made upon reasonable cause, of being under the influence of  
27 volatile chemical vapors in violation of section 19-03.1-22.1.
- 28 2. ~~An officer of the United States customs and border protection~~A federal agent, without  
29 a warrant, may arrest a person if all of the following circumstances exist:
- 30 a. The officer is on duty.
  - 31 b. One or more of the following situations exist:

- 1                   (1) The person commits an assault or other crime, defined and punishable
- 2                                   under chapter 12.1-17, against the officer or against any other person in the
- 3                                   presence of the officer.
- 4                   (2) The officer has reasonable cause to believe that a crime, as defined in
- 5                                   paragraph 1, has been committed and reasonable cause to believe that the
- 6                                   person to be arrested has committed it.
- 7                   (3) The officer has reasonable cause to believe that a felony has been
- 8                                   committed and reasonable cause to believe that the person to be arrested
- 9                                   has committed it.
- 10                  (4) The officer has received positive information from an authoritative source
- 11                                   that a peace officer holds a warrant for the person's arrest.
- 12                  3. If a law enforcement officer has reasonable cause to believe an individual has violated
- 13                                   a lawful order of a court of this state which requires the individual to participate in the
- 14                                   twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31,
- 15                                   the law enforcement officer may immediately take the individual into custody without a
- 16                                   warrant. An individual taken into custody under this subsection may not be released on
- 17                                   bail or on the individual's personal recognizance unless the individual has made a
- 18                                   personal appearance before a magistrate.

#1  
HB1234  
4-18-19

Sixty-sixth  
Legislative Assembly  
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9 explosives; the homeland security investigations unit of the department of homeland  
10 security; the bureau of Indian affairs police; federal law enforcement officers; or the  
11 United States customs and border protection who is authorized to arrest, with or  
12 without a warrant, any individual for a violation of the United States Code and carry a  
13 firearm in the performance of the employee's duties as a federal law enforcement  
14 officer. ~~The term does not include the bureau of Indian affairs police unless an  
15 agreement is in effect between the state and the bureau of Indian affairs relating to the  
16 reciprocal jurisdiction of state and bureau of Indian affairs law enforcement officers.~~
- 17 2. A federal agent has the same authority and immunity as a peace officer in this state  
18 when making an arrest for a nonfederal crime if any of the following exist:
  - 19 a. The federal agent has reasonable grounds to believe that a felony offense was  
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22 at the request of the peace officer.
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#1  
HB1234  
4-18-19

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  - 13 b. When the person arrested has committed a felony, although not in the officer's
  - 14 presence.
  - 15 c. When a felony in fact has been committed, and the officer has reasonable cause
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  - 17 d. On a charge, made upon reasonable cause, of the commission of a felony by the
  - 18 party arrested.
  - 19 e. For the public offenses, not classified as felonies and not committed in the
  - 20 officer's presence as provided for under section 29-06-15.1.
  - 21 f. On a charge, made upon reasonable cause, of driving or being in actual physical
  - 22 control of a vehicle while under the influence of alcoholic beverages.
  - 23 g. For the offense of violating a protection order under section 14-07.1-06, an order
  - 24 prohibiting contact under section 12.1-31.2-02, or for an assault involving
  - 25 domestic violence under section 14-07.1-11.
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  - 27 volatile chemical vapors in violation of section 19-03.1-22.1.
- 28 2. ~~An officer of the United States customs and border protection~~ A federal agent, without  
29 a warrant, may arrest a person if all of the following circumstances exist:
- 30 a. The officer is on duty.
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#1  
HB1234  
4-18-19

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- 2                                   under chapter 12.1-17, against the officer or against any other person in the
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- 6                                   person to be arrested has committed it.
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- 10                  (4) The officer has received positive information from an authoritative source
- 11                                   that a peace officer holds a warrant for the person's arrest.
- 12                  3. If a law enforcement officer has reasonable cause to believe an individual has violated
- 13                                   a lawful order of a court of this state which requires the individual to participate in the
- 14                                   twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31,
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