TRIBAL AND STATE RELATIONS COMMITTEE

North Dakota Century Code Section 54-35-23 establishes the Tribal and State Relations Committee. The committee consists of a chairman designated by the Chairman of the Legislative Management; three members of the House of Representatives, two of whom are selected by the House Majority Leader and one of whom is selected by the House Minority Leader; and three members of the Senate, two of whom are selected by the Senate Majority Leader and one of whom is selected by the Senate Minority Leader.

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

The North Dakota Tribal Governments' Task Force is composed of six members, including the Executive Director of the Indian Affairs Commission, or the Executive Director's designee; the Chairman of the Standing Rock Sioux Tribe, or the Chairman's designee; the Chairman of the Spirit Lake Tribe, or the Chairman's designee; the Chairman of the Mandan, Hidatsa, and Arikara (MHA) Nation, or the Chairman's designee; the Chairman of the Turtle Mountain Band of Chippewa Indians, or the Chairman's designee; and the Chairman of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, or the Chairman's designee.

House Bill 1015 (2017) suspended Section 54-35-23 through July 31, 2019, and established the Tribal Taxation Issues Committee. The Tribal Taxation Issues Committee consisted of 10 members: the Governor, who was designated by the Legislative Management to serve as Chairman, the Lieutenant Governor, the Tax Commissioner, the Executive Director of the Indian Affairs Commission, the Majority and Minority Leaders of the House and the Senate, and the Chairmen of the Finance and Taxation Standing Committees of the House and the Senate. The nonlegislative committee members served as nonvoting members, and the committee Chairman was required to invite tribal chairmen to each committee meeting. Senate Bill 2312 (2019) extended the suspension of Section 54-35-23 through July 31, 2021, and again established the Tribal Taxation Issues Committee with the same membership as the previous interim.

The committee was assigned one study. Section 1 of House Bill 1563 (2025) directed a study of issues related to the taxation of land owned by enrolled tribal members who reside within the boundaries of any tribal reservation of the state. The study required a review of federal law, judicial decisions concerning tribal taxation authority, state property tax exemptions related to property of Native Americans, and the interaction between tribal sovereignty and state law.

The Legislative Management assigned the committee the responsibility to receive two reports:

- A report from the Department of Commerce regarding the distribution, use, and impact of tribal tourism grants, as directed by Section 1 of House Bill 1581 (2025).
- A report from the Governor describing the terms and negotiations of any oil and gas agreements entered under Chapter 57-51.2 and a biennial report thereafter describing the agreement's implementation and any difficulties in its implementation, pursuant to Section 57-51.2-04.

Committee members were Representatives Dawson Holle (Chairman), Collette Brown, Matthew Heilman, and Jon O. Nelson and Senators Richard Marcellais, Tim Mathern, and Scott Meyer.

BACKGROUND

Federal Indian Law and Policy

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

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

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

The allotment era was followed by the Indian reorganization era, 1934 to 1953, during which the land base of the tribes was protected by extending indefinitely the trust period for existing allotments still held in trust and encouraging tribes to establish legal structures for self-government. The Indian reorganization era was followed by the termination and relocation era, 1953 to 1968, when the federal government sought to terminate tribes that were believed to be prosperous enough to become part of the American mainstream, terminate the trust responsibility of the federal government, and encourage the physical relocation of Indians from reservations to seek work in large urban centers.

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

State-Tribal Relations

One of the most important concepts in state-tribal relations is the concept of sovereignty. In the federal system, both the states and Indian tribes are sovereigns. Tribal sovereignty refers to the right of Indians to govern themselves. Sovereignty for tribes includes the right to establish a tribal government, determine membership requirements, enact legislation, and establish law enforcement and court systems.

Based on early United States Supreme Court cases, tribes are sovereign and free from state intrusion on their sovereignty. State laws generally have been held inapplicable within reservation boundaries, although exceptions have been made under the plenary power of Congress to limit tribal sovereignty.

State-Tribal Cooperative Agreements

Chapter 54-40.2 provides for agreements between public agencies and tribal governments. A public agency means any political subdivision, including a municipality, county, school district, and any agency or department of North Dakota. Tribal government means the officially recognized government of an Indian tribe, nation, or other organized group or community located in North Dakota exercising self-government powers and recognized as eligible for services provided by the United States. Under this chapter, any one or more public agencies may enter an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any dispute in accordance with Chapter 54-40.2 or any other law that authorizes a public agency to enter an agreement. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement.

2025 Legislation

The committee reviewed recent legislation affecting tribal nations and state-tribal relations. The legislation included provisions relating to education, transportation, health care, public safety, child welfare, economic development, tourism, taxation, and cultural preservation. Several measures provided appropriations, established grant programs, and amended statutory provisions affecting tribal governments and tribal communities throughout the state.

The committee also reviewed legislation addressing the response to missing and murdered Indigenous persons, tribal court warrants, the placement and protection of Indian children, and compliance with federal requirements relating to Native American cultural resources.

Institutions for Mental Diseases Waiver

The committee received testimony from a representative of the MHA Nation regarding Section 1115 Medicaid waivers for institutions for mental diseases (IMD). The IMD exclusion limits Medicaid reimbursement for certain behavioral health services provided in facilities with more than 16 beds. The testimony asserted the IMD restriction may limit access to mental health and substance use disorder treatment services. The testimony asserted a majority of states have received or are pursuing IMD waivers for substance use disorder services. The testimony contended an IMD waiver could allow the tribe and other tribes operating health programs to expand residential treatment services and receive federal reimbursement for those services.

The committee received testimony from a representative of MHA Recovery Services which indicated there are six programs operating under the MHA Recovery Services network. According to the testimony, it is difficult to recruit and retain licensed addiction counselors in rural areas and, for that reason, both addiction counselors at the New Town facility work remotely. The testimony indicated the rate of opioid overdose deaths among Native Americans is significantly higher than among non-Native populations. The testimony indicated the states that have received IMD waivers have expanded the availability of inpatient behavioral health treatment beds and reduced the use of emergency rooms for behavioral health services. The testimony contended longer stabilization periods for tribal members at the State Hospital would help patients with their recovery from addiction.

The committee received testimony from a representative of the Good Road Recovery Center regarding Medicaid-related barriers affecting behavioral health treatment services. The committee was informed hospitals may use presumptive eligibility, a process that provides temporary Medicaid coverage based on preliminary eligibility information, but the center may not. Testimony contended this results in delays in care and gaps in reimbursement; however, the center is pursuing presumptive eligibility. The testimony contended investment in preventive addiction treatment may reduce downstream costs for medical systems, law enforcement agencies, and the courts.

The committee received testimony from a representative of the Turtle Mountain Recovery Center which indicated the center offers five levels of care and served approximately 300 clients during its first 2 years of operation. The testimony indicated the center experienced a high rate of success in clients maintaining sobriety and would prefer to expand from 16 to 32 beds.

The committee received testimony from a representative of the National Health Law Program regarding the federal IMD exclusion. The testimony indicated evaluations of waiver programs in other states have produced mixed results. According to the testimony, the waiver process may require significant time and administrative effort, and possible alternatives to an IMD waiver include expanding community-based behavioral health services, increasing access to medication-assisted treatment, using telehealth services, and enhancing other Medicaid-covered substance use disorder services.

The committee received testimony from a representative of the North Dakota Protection and Advocacy Project which contended IMD waivers may direct resources toward institutional care rather than home- and community-based services and may require significant time and administrative resources to implement. According to the testimony, IMD waivers have not consistently demonstrated positive outcomes.

The committee received testimony from a representative of the Department of Health and Human Services regarding Medicaid coverage of behavioral health services and IMD waivers. The committee was informed the department funds substance use disorder treatment through a variety of Medicaid and state-funded programs and the use of residential and outpatient substance use disorder treatment services has increased in recent years. Testimony indicated an IMD waiver requires compliance with federal performance measures, budget neutrality, and independent evaluations. The testimony asserted the implementation of an IMD waiver may require significant state resources and a multiyear approval and implementation process.

The committee received testimony from a representative of NorthStar Behavioral Health Advisory which asserted the federal IMD exclusion may create barriers to residential treatment for individuals with mental health and substance use disorders. The testimony contended the exclusion may affect the financial sustainability of tribal treatment programs and contribute to gaps in Medicaid coverage for individuals receiving residential treatment. Testimony indicated numerous states have obtained IMD waivers and contended an IMD waiver could expand access to behavioral health services and increase federal financial participation in treatment costs.

The committee received testimony from a representative of Prairie St. John's indicating federal emergency care requirements may require behavioral health hospitals to provide treatment regardless of a patient's ability to pay, whereas the IMD exclusion restricts reimbursement for certain services.

The committee received testimony from a representative of the Mental Health Advocacy Network regarding IMD waivers. The testimony indicated studies have suggested North Dakota's behavioral health system would benefit from continued investment in community-based services. The testimony contended research regarding IMD waivers has not consistently indicated reduced use of emergency rooms for psychiatric needs or increased access to psychiatric hospital services. The testimony asserted implementation of an IMD waiver may require significant administrative resources and could shift resources away from community-based services.

Health Care

The committee received testimony from a representative of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation regarding health care. The testimony indicated the tribe is working with the South Dakota Department of Social Services to discuss managed care plans, which would allow the tribe to manage medical care for tribal citizens on Medicaid in South Dakota. Medicaid costs paid by the state are higher in urban areas than on reservations because there are no Indian health service centers in off-reservation urban areas. If a tribal member lives in an urban area and is on Medicaid, the state is responsible for a larger portion of the member's health care costs.

The committee received testimony from representatives of the MHA Nation which indicated the average life expectancy for both men and women on the Fort Berthold Reservation is 52 years, as compared to the national average of 72 to 77 years. The testimony contended a contributing factor to this disparity is a lack of critical care facilities on the reservation. Testimony indicated new health facilities are under construction, and plans for a hospital and nursing home are underway. The committee was informed the MHA Nation pays $40 million in premiums annually for tribal health insurance.

The committee received testimony from representatives of the Turtle Mountain Public Health Department and the Tribal Nations Research Group, which indicated the state and tribal governments entered a public health data use-sharing agreement during the COVID-19 pandemic which assisted with contact-tracing efforts; however, the agreement concluded following the end of the pandemic. The testimony indicated each tribal nation is required to enter a separate data use agreement with the state. Both the MHA Nation and the Standing Rock Sioux Tribe have entered data use agreements with the state. According to the testimony, jurisdictional issues have impeded the ability of the Turtle Mountain Band of Chippewa Indians to enter a similar agreement.

Human Services

The committee received testimony from representatives of the Standing Rock Sioux Tribe which emphasized the importance of regular communication and consultation between the state and tribal governments, particularly regarding child welfare, Medicaid, and public safety issues. The committee was informed the transition from county-administered human services to human service zones has created additional barriers to accessing services because residents are more likely to encounter automated systems rather than in-person assistance. The testimony asserted the length and complexity of the foster parent licensing process may delay placements and emphasized the importance of placing foster children who are enrolled tribal members with tribal families.

The committee received testimony from a representative of the Sacred Pipe Resource Center regarding services for Native Americans living in urban areas. The committee was informed the nonprofit organization provides culturally responsive programs and community-based services intended to support Native American youth, housing, health, civic engagement, businesses, and arts. The organization works with community partners to address service gaps, improve community outcomes, and strengthen cultural connections for Native Americans living in the Bismarck-Mandan area. The organization provides technical assistance to Native-led nonprofit organizations and sponsors community events, outreach activities, and educational programs. The organization provides educational information regarding rental rights and responsibilities and the testimony contended many Native American families are evicted due to additional individuals residing on the premises who are not listed on the lease.

The committee received testimony from a representative of the Indian Affairs Commission regarding state efforts to address human service needs. The testimony indicated the Governor's office has established a workforce subcabinet to address workforce development, which includes addressing issues specific to tribal communities such as attracting medical providers and increasing housing and child care availability.

Economic Development

The committee received testimony from representatives of the North Dakota Native Tourism Alliance which asserted tribal tourism presents an opportunity for the state and tribal nations to work together to highlight tourism both nationally and internationally. The North Dakota Native Tourism Alliance works to create regional tours within tribal nations. The committee was informed that creating sustainable economic benefits for tribal nations includes attracting visitors to North Dakota and creating tour itineraries that promote spending time and money within tribal communities to support tribal businesses, entrepreneurs, and artisans. Tourism highlights the sovereign status of tribes, allowing tribes to share their cultural history and laws or rules related to visiting burial sites or archaeological features. The committee was informed tourism in North Dakota provided an economic benefit of $3.4 billion in 2024, and the United Tribes Technical College International Powwow has an economic impact of about $10 million each year.

The committee received testimony from representatives of NATIVE, Inc., and the Native American Development Center regarding services for Indigenous individuals and economic development initiatives. The committee was informed NATIVE, Inc., provides social and cultural programs for Native Americans living in urban areas, whereas the Native American Development Center focuses on economic development opportunities and efforts to alleviate poverty within Native American communities. NATIVE, Inc., serves as an access, assessment, and referral center for a variety of services. Homelessness or the risk of homelessness is a common reason individuals seek assistance from the organization. The testimony indicated the Native American Development Center is pursuing the construction of a cultural center in Bismarck and is seeking financial support to complete the project.

The committee received testimony from a representative of the MHA Nation regarding community infrastructure development. The committee was informed the North Segment Community Center was constructed as an $80 million investment built to last 75 years. The center incorporates fitness to keep the community healthy and unifies services.

The committee received testimony from a representative of the SAGE Development Authority regarding a proposed 235-megawatt wind energy project located on tribal and fee land. The committee was informed the project is expected to generate investment, employment, and housing activity. The testimony indicated the Department of the Interior requires the Secretary of the Interior to approve permits for new wind and solar projects that will be built on federal land.

The committee received testimony from representatives of the Standing Rock Sioux Tribe which indicated communities within reservation boundaries face infrastructure challenges related to deteriorating roads and aging water and sewer systems and may benefit from additional state support for infrastructure improvements.

Education

The committee received testimony from a representative of the Department of Indigenous Health at the University of North Dakota School of Medicine and Health Sciences which indicated the Indigenous Health PhD Program is the first program of its kind in the United States and is designed as a post-master's degree program with prerequisite coursework in areas such as biostatistics and epidemiology. The program prepares Indigenous health scholars to develop a deeper understanding of the unique health challenges affecting Indigenous populations. The committee was informed approximately 60 percent of Native Americans in this state live on a reservation, compared to approximately 30 percent nationally. The department is working to provide internships, community partnerships, and connections within North Dakota to encourage students to remain in the state and practice their professions following the completion of their degrees.

The committee received testimony from a representative of Cankdeska Cikana Community College regarding the college's programs and operations. The committee was informed the college was chartered by the Spirit Lake Tribe in 1974 and is accredited to offer vocational training, certificates, and associate degrees. The college enrolls approximately 300 students, of whom approximately 18 percent are not Native American. The testimony indicated the five tribal colleges in the state share resources, including faculty for high-demand positions.

The committee received testimony from a representative of Sitting Bull College regarding the college and tribal higher education. The testimony indicated the college is open to all students, including students who are not enrolled members of a tribe. Many non-Native American students attending the college reside in South Dakota and therefore are not included in funding provided by this state.

The committee received testimony from a representative of Turtle Mountain Schools regarding cooperative agreements between tribal grant schools and public school districts. The testimony indicated uncertainty regarding the authority of the Bureau of Indian Education-funded tribal grant schools to enter cooperative agreements with public school districts under Chapter 54-40.2. The testimony contended statutory clarification may provide legal certainty for existing and future agreements while preserving local school board authority and supporting cooperation between tribal and public school entities.

The committee received testimony from a representative of United Tribes Technical College regarding the college's programs, operations, and economic impact. The testimony indicated the college was founded in 1969 as an intertribal institution chartered by North Dakota's tribal nations and is accredited through the Higher Learning Commission. The college enrolled 512 students in the fall of 2025, of whom approximately 95 percent were Native American. The college offers more than 20 academic, career, and technical education programs. The testimony contended the state's tribal college system generates significant economic activity and supports workforce development needs throughout the state.

Law Enforcement

The committee received testimony from a representative of the MHA Nation indicating drug overdoses have been reduced through enhanced treatment options and implementation of additional law enforcement. Overdoses declined from 156 in 2020 to 16 in 2024.

The committee received testimony from representatives of the Spirit Lake Tribe regarding the Feather Alert Notice system. The testimony indicated the Feather Alert Notice does not provide an audible notification when it is sent to an individual's cell phone. The testimony contended this reduces the effectiveness of the alert.

The committee received testimony from a representative of the Bureau of Indian Affairs Office of Justice Services regarding law enforcement services on the Standing Rock Reservation. The committee was informed the bureau's priorities include improving emergency response times, increasing community engagement, and maintaining professional law enforcement services. The testimony indicated missing persons cases are among the bureau's highest priorities due to the time-sensitive nature of the investigations. The large geographic area of the reservation presents challenges for law enforcement response efforts and 7 of the 26 authorized law enforcement positions on the reservation are vacant.

The committee received testimony from a representative of the Highway Patrol regarding missing persons cases. According to the testimony, the terminology used by law enforcement can affect the urgency of the public response to a missing person case. The testimony contended children who leave home voluntarily may nonetheless face dangers and should be treated as potentially at risk.

Elections

The committee received testimony from the Secretary of State which indicated acceptable forms of voter identification include a North Dakota driver's license, North Dakota nondriver identification card, long-term care certificate, tribal identification card, or a letter issued by a tribal government. Valid identification must include an individual's name, date of birth, and residential address. Tribal governments are notified following an election if an enrolled tribal member cast a set-aside ballot. Mobile identification cards are not accepted for voting purposes and an individual without a residential address may obtain an address based on a 911 location.

The committee received testimony from representatives of the Sacred Pipe Resource Center regarding Native American civic engagement and voting. The testimony contended examples of acceptable tribal identification for voting purposes were not included in poll worker training materials until recently.

Gaming

The committee received testimony from a representative of the MHA Nation which indicated the tribe began conducting gaming operations in 1992. The committee was informed that, since the introduction of electronic pull tabs, the 4 Bears Casino and Lodge has experienced a 60 percent reduction in revenue. Testimony indicated gaming revenues are reinvested into casino operations, which employ approximately 200 to 225 individuals.

The committee received testimony from representatives of the Spirit Lake Tribe which asserted the expansion of off-reservation gaming has reduced the tribe's gaming revenue.

Natural Resources

The committee received testimony from a representative of the MHA Nation which indicated the state and the tribe have entered agreements relating to hunting and fishing licenses. The tribe expressed an interest in continuing to collaborate with state agencies regarding fish-tagging activities.

The committee received testimony from a representative of the Spirit Lake Tribe Fish and Wildlife Department which indicated jurisdictional questions relating to hunting and fishing near reservation boundaries may warrant consideration of a memorandum of understanding between the state and the tribe. According to the testimony, tribal members historically were permitted to fish along the north shore of Devils Lake with a tribal fishing license but are now required to obtain a state fishing license. The testimony contended the Legislative Assembly should consider legislation clarifying fishing license requirements for Devils Lake.

The committee received testimony from a representative of the North Dakota Game and Fish Department which indicated state and tribal jurisdiction is determined by the United States Constitution, federal and state law, treaties, and court decisions. Tribes generally have jurisdiction over tribal members and tribal lands within reservation boundaries, while the state has jurisdiction over nontribal members and areas outside reservation boundaries. Jurisdictional boundaries involving Devils Lake, the Standing Rock Reservation, and the Fort Berthold Reservation have been defined through treaties, congressional action, and court decisions. The committee was informed the department has entered memorandums of understanding with the Standing Rock Sioux Tribe and the MHA Nation relating to hunting and fishing activities within reservation boundaries. The department works with the tribe to prevent invasive species by inspecting watercraft at boat ramps located on tribal land.

The committee received testimony from a representative of the Spirit Lake Tribe Environmental Protection Administration regarding tribal-state cooperation on environmental and natural resource issues. The testimony indicated the tribe has collaborated with state agencies on air quality monitoring and protection of shared waters from aquatic nuisance species.

Oil and Gas

The committee received testimony from a representative of the MHA Nation regarding energy use and production. Before significant energy development, the primary industries of the tribe were cattle ranching and farming. The MHA Nation is the top energy producing tribe in the United States and produces approximately 3 percent of all oil produced in the United States, at nearly 300,000 barrels a day from among 3,000 wells. The committee was informed federal policies prevent oil royalties from being paid to the tribe without a communitization agreement. The tribe is working to enhance crude oil storage, gas capture and processing, power generation, and data center development.

Agriculture

The committee received testimony from a representative of the MHA Nation regarding the Native Green Grow NG2 Greenhouse and other agricultural projects. The greenhouse produces 1.8 million pounds of produce annually, including cucumbers, peppers, strawberries, and leafy greens. The greenhouse project cost $90 million to construct and uses natural gas to power a portion of greenhouse operations. The testimony also indicated the laws and regulations of the MHA Nation do not permit subleasing for grazing cattle and the tribe would like to coordinate with state officials and brand inspectors to enforce the subleasing prohibition.

The committee received testimony from a representative of Wozu, Inc., regarding regenerative agriculture, including the use of traditional farming practices to restore agricultural land and increase biodiversity. The organization raises and processes approximately 12 bison per year for food and other products, and provides education about traditional farming techniques to children and other community members.

Water

The committee received testimony from a representative of the MHA Nation which indicated the Fox Hills aquifer dropped two feet between 1970 and 2012, and it takes 9,000 years to replenish one inch of the aquifer.

The committee received testimony from representatives of the Spirit Lake Tribe which indicated the tribe is pursuing a memorandum of understanding with the state regarding the cooperative management of water rights.

Tribal History

The committee received testimony from a representative of the MHA Nation regarding tribal history which asserted the Three Affiliated Tribes of the Fort Berthold Reservation is a name assigned by the federal government without tribal consultation and the tribes traditionally identified themselves as the Nueta, Hidatsa, and Sahnish, collectively known as the MHA Nation.

Committee Consideration

Committee members acknowledged approaches to treating addiction and mental health conditions vary, particularly regarding the use of outpatient and inpatient care. Committee members noted treatment needs may differ based on an individual's circumstances, the severity of the condition, and the availability of services. Some committee members indicated an IMD waiver could have an impact on the delivery of care in the state.

Some committee members expressed support for the benefits that could arise from an IMD waiver and discussed how a waiver could benefit individuals with mental health and substance abuse issues. Other committee members expressed concerns regarding the process of obtaining an IMD waiver, the time and cost associated with applying for the waiver may present barriers to obtaining the waiver, and the waiver could affect the availability of treatment options. The committee considered a bill draft that would have provided an appropriation to the Department of Health and Human Services for the purpose of implementing Medicaid plan amendments and applying for an IMD waiver. The committee determined there was not sufficient information regarding the anticipated fiscal impact of the bill draft and the potential consequences to the state of being granted a waiver. The committee recognized the importance of continuing to discuss the issue of IMD waivers and considered a bill draft to further study the impacts of Medicaid plan amendments for an IMD waiver to allow federal funding reimbursement for services provided by IMDs to Medicaid beneficiaries between the ages of 21 and 64.

The committee considered a bill draft that would have created an office of missing Indigenous people in the Indian Affairs Commission. Committee members acknowledged a dedicated office could help to support family members of missing Indigenous people. However, committee members indicated the Executive Director of the Indian Affairs Commission may need more flexibility related to the creation of the office.

Committee members expressed concern for the prevalence of missing and murdered Indigenous individuals and acknowledged the impact public language can have on a missing person investigation. The committee considered a bill draft to prohibit a law enforcement officer from referring to a missing minor as a runaway minor in public communications regarding a missing person case.

Recommendation

The committee recommends a bill draft [27.0255.01000] relating to prohibiting a law enforcement officer from referring to a missing minor as a runaway minor in public communications during a missing person investigation.

The committee recommends a bill draft [27.0143.01000] relating to a study of the impacts of an IMD waiver to allow federal funding reimbursement for services provided by an IMD to Medicaid beneficiaries.

TRIBAL LAND TAXATION STUDY

Section 1 of House Bill 1563 (2025) directed the Legislative Management to study tribal land taxation issues related to taxation of land owned by enrolled tribal members who reside within the boundaries of any tribal reservation within the state. The bill provided the study may include an analysis of federal law, judicial decisions concerning tribal taxation authority, state property tax exemptions related to property of Native Americans, and the interaction between tribal sovereignty and state law.

Background

The United States Supreme Court has classified tribes as "domestic dependent nations" who can exercise sovereignty over their territory. That territory is a reservation, but also may be "Indian country." Indian country is defined under 18 U.S.C. § 1151 as:

> (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation,
>
> (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and,
>
> (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Congress has defined the term "Indian" for a variety of purposes. Most definitions include citizens of all federally recognized tribal governments.

State Taxation

A state generally is without power to tax reservation lands and Indians living on a reservation without express authorization by Congress to tax. This is in part due to preemption by federal treaties and statutes. Tribes and tribal members within Indian country have been found to be immune from a variety of state taxes. Under the federal Indian Reorganization Act of 1934, Indian trust lands are exempt from state and local taxes, including property taxes. In North Dakota, the exemption from property tax is codified in Section 57-02-08(4), which provides an exemption for the property of Indians if the title to the property is inalienable without the consent of the Secretary of the Interior. Fee land, however, is not exempt. Despite this, the preemption doctrine and principles of tribal self-government provide barriers to forms of state taxation.

The Supreme Court has addressed whether allotment has authorized states to impose real property taxes on lands owned in fee by tribes and individual Indians. While a state generally may be unable to tax reservation lands and Indians living on a reservation, fee patents may differ. In 1906, the Court upheld county property taxes assessed against an original allottee.

Tribal Taxation

As a sovereign nation, taxation is an inherent power of a tribe and federal authorization is not required for a tribe to tax within its jurisdiction. The United States Supreme Court held in *Montana v. United States* that a tribe may impose its regulatory, adjudicatory, or taxation authority on nonmembers in two circumstances: (1) "[a] tribe may regulate, through taxation, licensing, or other means, the activities of nonmembers who enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements"; or (2) "[a] tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe." 450 U.S. 544, 565-66 (1981). The Court later narrowed the scope of permissible taxation by holding taxation of non-Indians or nontribal members on non-Indian fee lands within the tribal borders is impermissible. This holding does not apply to taxes related to commercial relationships between non-Indians and a tribe or its members. It also does not extend to trust land, as the Court has upheld the imposition of tribal taxes on nonmember activities on trust land. It remains an open question whether federal trust status preempts tribal taxation of trust allotments.

Testimony

The committee received testimony from the Tax Commissioner which indicated property taxes are administered and collected at the local level and serve as a primary source of revenue for local governments. The state administers certain property tax relief programs and equalizes property taxes. Land owned by a recognized tribal entity is exempt from property taxation and approximately 21 percent of property in the state is exempt from property tax.

The committee received testimony from representatives of Rolette County regarding the effect of tax-exempt and trust land on county revenues. The committee was informed when land is converted from fee to trust land, the land becomes tax exempt resulting in a loss of county revenue; however, county services must continue despite reductions in taxable property. From 2020 through 2025, nearly 2,800 acres in Rolette County were converted from fee to trust land, resulting in a reported reduction of $3,386,826 in taxable value. The committee was informed the county does not impose a sales tax and the largest source of funds other than property tax are from highway funds, flexible transportation funds, law enforcement grants, and public health funds. The testimony indicated the federal government provides in lieu of taxation payments for fish and wildlife land and other land removed from taxable status.

The committee received testimony from a representative of Benson County which indicated the county uses valuation guides and comparable sales data to determine land values. The testimony indicated the county has concerns regarding the effect on local tax revenues when land is converted to trust status.

The committee received testimony from a representative of the MHA Nation which indicated tribal governments retain authority to impose taxes within the boundaries of the reservation and on allotted lands.

Committee Considerations

Committee members expressed interest in requesting the federal government to provide payments in lieu of taxation to counties for land held in trust. Members acknowledged the payments may provide an additional source of revenue for counties with significant amounts of tax-exempt trust land. Committee members also acknowledged that the 2021 Legislative Assembly amended the state aid distribution formula to provide additional state aid to Rolette County. The committee discussed a resolution draft to urge Congress to provide payments in lieu of taxes for trust land held by the federal government on behalf of tribal nations.

Recommendation

The committee recommends a resolution draft [27.3003.01000] urging Congress to provide payments in lieu of taxes to local governments for trust land held by the federal government on behalf of tribal nations.

REQUIRED REPORTS

Tribal Tourism Grants

The committee received a report, pursuant to Section 1 of House Bill 1581 (2025), from a representative of the Department of Commerce Tourism and Marketing Division regarding the Tribal Tourism Grant Program. The 69th Legislative Assembly appropriated $100,000 for the program to support tourism projects undertaken by tribal entities. Grant recipients are required to provide a one-to-one funding match and comply with reporting requirements. Awards are issued on a reimbursement basis once eligible expenditures and matching funds are documented. The report indicated two applications had been received as of May 2026, including applications from Prairie Knights Casino and Resort and the International Peace Powwow, and additional applications were anticipated before the application deadline.

Oil and Gas Agreements

Section 57-51.2-04 requires the Governor to file a report with the Legislative Management describing the negotiations and terms of any separate agreement between the Governor and the MHA Nation, Standing Rock Sioux Tribe, and Turtle Mountain Band of Chippewa Indians, relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation, the portion of the Standing Rock Reservation located in this state, or the Turtle Mountain Band of Chippewa Indians Reservation, and on trust properties outside reservation boundaries and thereafter file biennial reports describing the agreement's implementation and any difficulties in its implementation.

The committee received a report indicating no new oil and gas agreements were entered or implemented under Chapter 57-51.2 during the reporting period and no difficulties were encountered in the implementation or administration of the existing oil and gas gross production and extraction tax compact entered with the MHA Nation in 2019.