

TRIBAL TAXATION ISSUES COMMITTEE - BACKGROUND MEMORANDUM

Section 4 of Senate Bill No. 2312 (2019) ([Appendix A](#)) establishes the Tribal Taxation Issues Committee. The committee is composed of 10 members--the Governor, who was designated by the Legislative Management to serve as chairman of the committee, the Lieutenant Governor, the Tax Commissioner, the executive director of the Indian Affairs Commission, the Majority and Minority Leaders of the House of Representatives and the Senate, and the chairmen of the Finance and Taxation Standing Committees of the House of Representatives and the Senate. The nonlegislative members of the committee serve as nonvoting members. The legislation requires the committee chairman to invite tribal chairmen to each committee meeting.

The committee is required to study tribal taxation issues, including the tax collection agreements that exist between the tribes and the state, the interaction between tribal sovereignty and state law, consideration of how statutory changes may affect provisions in existing agreements, the amount and manner of revenue sharing under the agreements, the costs and benefits to the state and the tribes if tax compacts are implemented, implementation models used in other states for tax compacts, best practices for negotiating and ratifying tax compacts, the procedure for withdrawal from an agreement and how to handle disputed funds; and methods for sourcing revenue generated from wells located inside or outside of the external boundaries of a reservation in this state when a horizontal lateral enters a spacing unit that is located both inside and outside of the external boundaries of a reservation in this state.

The committee also is authorized to study tribal-state issues, including government-to-government relations, human services, education, corrections, and issues related to the promotion of economic development. At the conclusion of its meetings, the committee is required to report its findings and recommendations, along with any legislation required to implement those recommendations, to the Legislative Management.

Section 3 of Senate Bill No. 2312 suspended North Dakota Century Code Section 54-35-23 through July 31, 2021. Section 54-35-23 provides for the Tribal and State Relations Committee, which is required to study tribal-state issues, including government-to-government relations, human services, education, corrections, and issues related to the promotion of economic development. This committee, which was created in 2005, conducts joint meetings with the North Dakota Tribal Governments' Task Force. The North Dakota Tribal Governments' Task Force is composed of six members--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 Chairperson of the Spirit Lake Tribe, or the Chairperson's designee; the Chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or the Chairman's designee; the Tribal Chairman of the Turtle Mountain Band of Chippewa Indians, or the Tribal Chairman's designee; and the Chairman of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, or the Chairman's designee.

FEDERAL INDIAN LAW AND POLICY

Indian law is a very 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.

During the initial era 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 these groups. This era 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 open land in the Oklahoma Territory. This era 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 ceded much of the land it occupied to the United States and reserved a smaller portion of it. This is the origin of the term reservation.

With the enactment of the federal General Allotment Act of 1887, or Dawes Act, United States-Indian relations entered a new era. This era is known as the allotment era because the General Allotment Act authorized the President to allot portions of reservation land to individual Indians. Under this system, 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 General Allotment 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 General Allotment Act resulted in a decline in the total amount of Indian-held land from 138 million acres in 1887 to 48 million acres in 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 Indian Civil Rights Act of 1968 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 a number of 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

Probably the most important concept in state-tribal relations is the concept of sovereignty. Both the states and Indian tribes are sovereigns in the federal system. In *Johnson v. McIntosh*, 21 U.S. 543 (1823), the United States Supreme Court stated "[t]he rights of the original inhabitants were in no instance entirely disregarded, but were necessarily to a considerable extent impaired. They were admitted to be the rightful occupants of the soil . . . but their rights to complete sovereignty as independent nations were necessarily diminished, and their power to dispose of the soil at their own will to whomsoever they pleased was denied by the original fundamental principle that discovery gave exclusive title to those who made it." In *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831), the Court held the Cherokees could not be regarded as a foreign state within the meaning of Article III of the United States Constitution, so as to bring them within the federal judicial power and permit them to maintain an action in the Court. However, Chief Justice John Marshall characterized Indian tribes as "domestic dependent nations." In *Worcester v. Georgia*, 31 U.S. 515 (1832), the Court further discussed the status of Indian tribes. The Court stated "[t]he Indian nations had always been considered as distinct, independent political communities retaining their original natural rights as the undisputed possessors of the soil, from time immemorial, with the single exception of that imposed by irresistible power, which excluded them from intercourse with any other European potentate than the first discoverer of the coast of the particular region claimed . . ." The Court concluded the laws of Georgia have no force in Cherokee territory. Based upon these early cases, the tribes are sovereign and free from state intrusion on their sovereignty. Thus, state laws generally have been held inapplicable within the boundaries of reservations, although exceptions have been made under the plenary power of Congress to limit tribal sovereignty.

STATE-TRIBAL COOPERATIVE AGREEMENTS

Statutory Background

In 1983, the Legislative Assembly enacted the legislation now codified in Chapter 54-40.2. The provisions of this chapter are discussed in more detail below. Before enactment of the law, tribes and state agencies entered agreements for various purposes. The 1983 bill was introduced by the Attorney General to create a general framework for uniformity and to provide statutory authorization for public agencies of the state and political subdivisions to enter agreements with tribal governments. The authorization was stated in very general terms and provides public agencies may enter an agreement with a tribal government to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law.

In 1991, Chapter 54-40.2 was amended to establish a role for the Indian Affairs Commission in proposing agreements and assisting in negotiation and development of agreements. The 1991 amendments also created requirements for newspaper notice of a pending agreement and posting of notice at the tribal office of any affected tribe. The 1991 law created a requirement for the Indian Affairs Commission to make findings concerning the

agreement and the original intent of the parties and to determine whether the parties are in substantial compliance with the agreement.

In 1995, Section 24-02-02.3 was created to provide authority for the director of the Department of Transportation to enter agreements with tribal governments for construction and maintenance of highways, streets, roads, and bridges. The amendment provided Chapter 54-40.2 does not apply to those agreements.

In 1999, Chapter 54-40.2 was amended to provide the chapter does not apply to certain agreements with the Department of Human Services or to agreements entered with tribal governments under a state-funded or federally funded program, 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 eligible.

In 2005, Chapter 54-40.2 was amended to require a school district entering an agreement with a tribe to provide notice to the Superintendent of Public Instruction before entering the agreement.

In 2007, legislation was enacted to create Chapter 57-51.2, providing authority for the Governor to enter an agreement with the Three Affiliated Tribes of the Fort Berthold Reservation relating to the taxation and regulation of oil and gas exploration and production within the Fort Berthold Reservation. Section 57-51.2-05 provides Chapter 54-40.2 does not apply to any such agreement.

In 2013, Chapter 57-51.2 was extensively revised to provide more beneficial terms for the Three Affiliated Tribes under an oil and gas tax agreement. A new agreement was entered to implement the 2013 legislative changes.

In 2015, the scope of Chapter 57-51.2 was expanded to allow the Governor to enter oil and gas tax agreements with the Standing Rock Sioux Tribe and the Turtle Mountain Band of Chippewa Indians. Legislation also was enacted in 2015 to create Chapter 57-39.8 authorizing the Governor to enter a state-tribal sales, use, and gross receipts tax agreement with the Standing Rock Sioux Tribe. Section 57-39.8-02 outlines the parameters for an agreement, including provisions relating to the rate of tax imposed, conforming tribal taxes to the state sales tax base, allocation of revenues, authority for the Tax Commissioner to administer and collect the tax and allowances for the provision of these services, authority for the Tax Commissioner to offset future distributions to the tribe in the case of an overpayment, and the proper venue for resolving any disputes arising from an agreement.

In 2019, Chapter 57-51.2 was amended to remove the requirement that each state-tribal oil and gas tax agreement be confirmed by a majority of the Legislative Assembly. The legislation also changed the split of the tax revenue between the state and the tribe affected by the agreement from being split equally to the tribe receiving 80 percent of the oil tax revenue from trust lands and the state receiving 20 percent. For all other production, the state receives 80 percent of the oil tax revenue and the tribe receives 20 percent. In early 2019, a new oil and gas tax agreement was signed by the Governor and the Three Affiliated Tribes which contained the new revenue split.

Legislation also was enacted in 2019 to create Chapters 57-39.9 and 57-39.10. Chapter 57-39.9 authorizes the Governor, in consultation with the Tax Commissioner, to enter an agreement with the governing body of any tribe in this state for the collection and administration of sales, use, alcohol beverage gross receipts, and farm machinery gross receipts tax. Chapter 57-39.10 authorizes the Governor, in consultation with the Tax Commissioner, to enter an agreement with the governing body of any tribe in this state for the collection and administration of alcoholic beverage and tobacco wholesale taxes and alcoholic beverages gross receipts tax. Each chapter outlines the parameters and requirements for such agreements and provides that Chapter 54-40.2 does not apply to any such agreements. The legislation also repealed Chapter 57-39.8, relating to sales, use, and gross receipts tax agreements entered between the Governor and the Standing Rock Sioux Tribe.

Chapter 54-40.2

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. The term does not include an entity owned, organized, or chartered by a tribe that exists as a separate entity authorized by a tribe to enter agreements of any kind without further approval by the government of the tribe.

Section 54-40.2-02 provides 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. Section 54-40.2-03.1 provides after the parties to an agreement have agreed to its contents, the public agency involved must 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 also must be published in any newspaper of general circulation for the benefit of the members of the tribe affected by the agreement and 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 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 30 days of the publication of the notice.

Section 54-40.2-03.2 provides if the public agency involved receives a request pursuant to Section 54-40.2-03.1, the public agency must hold a public hearing, before submitting the agreement to the Governor, at which any person interested in the agreement may be heard. Notice of the time, place, and purpose of the hearing must be published before the hearing in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice also must be published in a newspaper of general circulation published for the benefit of the members of any tribe affected by the agreement and 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.

Section 54-40.2-04 provides as a condition precedent to an agreement made under Chapter 54-40.2 becoming effective, the agreement must have the approval of the Governor and the governing body of the tribes involved. If the agreement so provides, it may be submitted to the secretary of the interior of the United States for approval.

Section 54-40.2-05 provides after approval by the Governor and by the tribe or tribes affected by the agreement and before commencement of its performance, the agreement must be filed with the Secretary of the Interior, the clerk of court of each county in which the principal office of one of the parties is located, the Secretary of State, and the affected tribal government.

Section 54-40.2-05.1 provides upon the request of a political subdivision or any tribe affected by an approved agreement, the Indian Affairs Commission must 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 commission must provide an opportunity, after public notice, for the public to submit written comments concerning the execution of the agreement. The commission is required to prepare a written report of its findings and submit copies of the report to the affected political subdivision or public agency, the Governor, and the affected tribes. The findings of the commission are for informational purposes only. In an administrative hearing or legal proceeding in which the performance of a party to the agreement is at issue, the findings may not be introduced as evidence, 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.

Section 54-40.2-06 provides an agreement made pursuant to Chapter 54-40.2 must include provisions for revocation. Section 54-40.2-08 enumerates specific limitations on agreements between public agencies and Indian tribes. That section provides Chapter 54-40.2 may not be construed to 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; 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; authorize a public agency or tribal government to enter an agreement except as authorized by its own organizational documents or enabling laws; or 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 Indian tribe, band, or community which is held in trust by the United States or subject to a restriction against alienation imposed by the United States. Section 54-40.2-09 provides Chapter 54-40.2 does not affect the validity of any agreement entered between a tribe and a public agency before August 1, 1999.

Tribal-State Cooperative Tax Agreements

Cigarette and Tobacco Excise Tax Agreement

On July 1, 1993, a collection agreement between the Tax Commissioner and the Standing Rock Sioux Tribe became effective. Under this agreement the Standing Rock Sioux Tribe levies a cigarette and tobacco excise tax on all licensed wholesalers and distributors operating on the Standing Rock Sioux Reservation. The tax rates are identical to the state tax rates. The Tax Department serves as an agent of the tribe in collecting the tax. The

agreement ([Appendix B](#)), which was recently renegotiated, provides that 87 percent of the tax, less a 1 percent administrative fee, is returned to the tribe. Thirteen percent, plus the 1 percent administrative fee, is deposited in the general fund. The terms of the renegotiated agreement became effective on May 1, 2015.

Motor Vehicle Fuel and Special Fuel Tax Agreements

The state also has entered motor vehicle fuel and special fuel tax agreements with several tribes in the state. The tax applies to motor vehicle fuel and special fuel within the exterior boundaries of the reservation at a rate of 23 cents per gallon. The state's agreement with:

- The Standing Rock Sioux Tribe became effective January 1, 1999. A renegotiated agreement ([Appendix C](#)) was signed on May 1, 2015, and provides for a revenue allocation of 87 percent, less a 1 percent administration fee, to the tribe. Thirteen percent, plus the 1 percent administration fee, is deposited in the general fund.
- The Spirit Lake Tribe, which became effective September 1, 2006, provides for a revenue allocation of 76 percent, less a 1 percent administration fee, to the tribe. Twenty-four percent, plus the 1 percent administration fee, is deposited in the general fund. ([Appendix D](#))
- The Three Affiliated Tribes of the Fort Berthold Reservation, which became effective September 1, 2007, provides for a revenue allocation of 70 percent, less a 1 percent administration fee, to the tribe. Thirty percent, plus the 1 percent administration fee, is deposited in the general fund. ([Appendix E](#))
- The Turtle Mountain Band of Chippewa Indians, which became effective September 1, 2010, provides for a revenue allocation of 96 percent, less a 1 percent administration fee, to the tribe. Four percent, plus the 1 percent administration fee, is deposited in the general fund. ([Appendix F](#))

Oil and Gas Tax Agreement

The oil and gas revenue sharing agreement between the Three Affiliated Tribes and the state was signed on June 10, 2008, by Three Affiliated Tribes Chairman Marcus D. Wells, Jr. and Governor John Hoeven and was to remain in effect for 24 calendar months after July 1, 2008. The agreement was entered pursuant to the authority provided in Chapter 57-51.2, which was enacted following the passage of House Bill No. 2419 (2007). A renegotiated agreement was signed on January 13, 2010, by Three Affiliated Tribes Chairman Marcus D. Levings and Governor Hoeven. The provisions of the 2010 agreement were to remain in effect indefinitely, unless formally cancelled by either party.

In 2013, Chapter 57-51.2 was extensively revised to provide more beneficial terms for the Three Affiliated Tribes under an oil and gas tax agreement. A new agreement implementing the 2013 legislative changes was signed on June 21, 2013, by Three Affiliated Tribes Chairman Tex Hall and Governor Jack Dalrymple. In 2015, Chapter 57-51.2 was amended to expand the scope of the chapter to apply to agreements entered by the Standing Rock Sioux Tribe and the Turtle Mountain Band of Chippewa Indians and to add confirmation requirements for future agreements. Specifically, any agreement entered after July 31, 2015, was subject to confirmation by a majority of members elected to the House of Representatives and the Senate.

In 2019, the confirmation requirements were removed by Senate Bill No. 2312 and the revenue sharing split was changed from a 50/50 revenue split to an 80/20 split in favor of the tribe for oil tax revenue from trust lands and an 80/20 split in favor of the state for revenue from all other production. An agreement ([Appendix G](#)) reflecting the new revenue split was signed on February 28, 2019, by Three Affiliated Tribes Chairman Mark Fox and Governor Doug Burgum and became effective on March 29, 2019.

Sales and Use Tax Collection Agreement

House Bill No. 1406 (2015) authorized the Governor to enter an agreement with the Standing Rock Sioux Tribe for the state administration and collection of state- and local-level tribal sales, use, and gross receipts taxes imposed within the exterior boundaries of the North Dakota portion of the Standing Rock Sioux Reservation. The bill outlined the parameters for an agreement, including provisions relating to the rate of tax imposed, conforming tribal taxes to the state sales tax base, allocating revenues, authorizing the Tax Commissioner to administer and collect the tax and providing for these services, authorizing for the Tax Commissioner to offset future distributions to the tribe in the case of an overpayment, and determining the proper venue for resolving any disputes arising from an agreement.

The agreement, which became effective July 1, 2016, provided for an 80/20 tribal/state split of tax collections. The agreement required the Standing Rock Sioux Tribe to impose a 5 percent general sales and use tax, a 3 percent sales and use tax on new manufactured homes, a 7 percent alcohol gross receipts tax, and a 3 percent farm machinery gross receipts tax on new farm machinery and new farm irrigation equipment. The taxes were identical

to North Dakota's sales, use, and gross receipts taxes. The Standing Rock Sioux Tribe also imposed a .25 percent tribal local tax that applied to all transactions subject to the state-level taxes. All exceptions that applied to the state's taxes also applied to the tribal taxes.

On January 27, 2017, Tax Commissioner Ryan Rauschenberger issued a memorandum to North Dakota sales and use tax permitholders which provided "[e]ffective March 7, 2017, the North Dakota Office of State Tax Commissioner will discontinue its administration of the Standing Rock Sioux Tribe's sales, use and farm machinery and alcohol gross receipts taxes including the tribal .25 percent local tax." The memorandum further provided the Standing Rock Sioux Tribe's taxes would be administered by the Standing Rock Sioux Tribe Tax Department rather than by the state Tax Department. Chapter 57-39.8, which authorized the agreement, was repealed by Senate Bill Nos. 2257 and 2258 (2019). The authority to enter sales tax agreements is now provided under Chapter 57-39.9.

2019 Legislation

House Bill No. 1118 requires the clerk of each county to include tribal registries, if made available by a federally recognized Indian tribe in the state, in the master list used for jury service.

House Bill No. 1194 directs the Department of Human Services to facilitate care coordination agreements, which are agreements between a health care provider and a tribal health care organization which will result in 100 percent federal funding for eligible medical assistance provided to an American Indian; creates a tribal health care coordination fund, into which the department is required to deposit 60 percent of any federal funding received in excess of the state's regular share of federal medical assistance funding which results from care coordination agreements; directs the department to distribute money from the fund to tribal governments in proportion to the federal funding received from the care coordination agreement request for services originating from within that tribal nation; and provides tribal governments are required to use the money distributed from the fund for health-related purposes.

House Bill No. 1234 revises the definition of "federal agent" to include the Bureau of Indian Affairs Police and requires any agreement relating to reciprocal jurisdiction to be made pursuant to Chapter 54-40.2.

House Bill No. 1237 creates the Task Force on the Prevention of Sexual Abuse of Children and includes the executive director of the Indian Affairs Commission as a member.

House Bill No. 1335 prohibits the board of a school district from establishing a dress code policy that prohibits students from wearing traditional tribal regalia or objects of cultural significance during a graduation ceremony.

Senate Bill No. 2153 authorizes the Department of Corrections and Rehabilitation, the Supreme Court, and the Indian Affairs Commission to negotiate and enter a memorandum of understanding with the tribal governments in this state to create a program to provide treatment and rehabilitation to tribal juveniles who have been adjudicated in tribal court under tribal or federal law.

Senate Bill No. 2215 creates the Kindergarten Through Grade Twelve Education Coordination Council and includes an individual representing a tribal school, who is appointed by the Governor, as a member.

Senate Bill No. 2230 prohibits eligibility for public school board membership in a school district located on tribal land from being less restrictive than eligibility qualifications prescribed by tribal law or resolution for public office. Senate Bill No. 2265 amended the new section created in Senate Bill No. 2230 to restrict the applicability of the section to qualifications for public office relating to criminal convictions.

Senate Bill No. 2257 authorizes the Governor, in consultation with the Tax Commissioner, to enter an agreement with the governing body of any tribe in this state for the collection and administration of alcoholic beverage and tobacco wholesale taxes and alcoholic beverages gross receipts tax. The bill also repeals the existing chapter of Century Code relating to sales, use, and gross receipts tax agreements entered between the Governor and the Standing Rock Sioux Tribe.

Senate Bill No. 2258 authorizes the Governor, in consultation with the Tax Commissioner, to enter an agreement with the governing body of any tribe in this state for the collection and administration of sales, use, alcohol beverage gross receipts, and farm machinery gross receipts tax. The bill also repeals the existing chapter of Century Code relating to sales, use, and gross receipts tax agreements entered between the Governor and the Standing Rock Sioux Tribe.

Senate Bill No. 2312 changes the allowable revenue sharing split for a state-tribal oil and gas revenue sharing agreement. The bill modifies the previous 50/50 state-tribal oil and gas revenue sharing split to require the tribe receive 80 percent of the oil and gas revenue attributable to trust lands and 20 percent of the oil and gas revenue from all other production, with the state receiving the remainder. The bill removes the requirement for agreements to be confirmed by a majority of the members elected to the House of Representatives and the Senate and the requirement that any agreement expire no more than 16 years following the effective date of the agreement. The bill suspends the Tribal and State Relations Committee through July 31, 2021, and establishes the Tribal Taxation Issues Committee.

Senate Bill No. 2313 creates the Children's Cabinet, which includes a representative of the tribal nations in the state as a member, and the Commission on Juvenile Justice, which includes the executive director of the Indian Affairs Commission as a member.

Senate Concurrent Resolution No. 4017 urges the Indian Affairs Commission to consider studying the archaeological discipline, cultural resources, and the knowledge and expertise of tribal elders and tribal historic preservation officers to educate local, state, and federal agencies and the public and to facilitate effective consultation and cooperation for historic and prehistoric site identification and the betterment of North Dakota and its citizens.

SUGGESTED STUDY APPROACH

In addressing the assigned responsibilities, the Tribal Taxation Issues Committee may consider the following approach:

- Receive information from the Tax Commissioner regarding existing tax collection agreements, including the amount and manner of revenue sharing under the agreements.
- Receive information from the tribal governments regarding tribal taxation issues of concern to the tribes, including revenue sharing, negotiation, interaction with the state, and costs and benefits of the tax collection agreements.
- Receive information regarding implementation models used in other states for tax collection agreements, including best practices for negotiating and ratifying tax collection agreements.
- Receive information and testimony from interested persons regarding tribal-state issues relating to government-to-government relations, human services, education, corrections, and issues related to the promotion of economic development.
- Develop recommendations and any bill drafts necessary to implement the recommendations.
- Prepare a final report for submission to the Legislative Management.

ATTACH:7