



117 South First Street • Montevideo, MN 56265

March 10, 2026

Chair Acomb
Chair Swedzinski
House Energy Finance and Policy Committee
Re: H.F. 3458

Chair Acomb, Chair Swedzinski, and Committee Members,

CURE is a rurally based, non-profit organization dedicated to protecting and restoring resilient towns and landscapes by harnessing the power of the people who care about them. We appreciate the opportunity to testify in support of H.F. 3458.

Tribal Nations, both inside and outside of Minnesota, are sovereign nations with reserved rights to regulate their own affairs. In self-governance, Tribes look out for their national interests and members, and are invested in long-term durable solutions that often benefit Minnesota's economy, environment, cultural expression, and shared values. Tribal Nations have the right to practice energy sovereignty, which includes regulating their own energy systems. Many Tribes in the upper Midwest are engaged in exciting energy projects bringing renewable energy to rural people, helping to clean up our electric grid and improve energy equity across the state.

The U.S. Constitution clearly reserves the rights of Tribal Nations to regulate their own resources and commerce in the absence of the U.S. Congress's regulation thereof.¹ As a result, federal courts in the U.S. 8th Circuit Court of Appeals have made it clear that Tribes can opt for whatever energy provider they choose, regardless of a state's attempt to enforce exclusive utility service territories.²

¹ The Commerce Clause reserves the right to regulate trade with Indian Tribes to the Congress, and the U.S. Supreme Court has interpreted this to determine that only Congress has this authority. *See* U.S. CONSTITUTION, Article 1, Sec. 8, Cl. 3; *Haaland v. Brackeen*, 599 U.S. at 273 (2023) ("In a long line of cases, we have characterized Congress's power to legislate with respect to the Indian tribes as 'plenary and exclusive.'"). Therefore, the state of Minnesota has no authority to constrain a Tribal Nation's regulatory authority, only Congress may do so.

² *Devils Lake Sioux Indian Tribe v. North Dakota Pub. Serv. Comm'n*, No. 90-179, slip op. at 7 (D.N.D. Feb. 3, 1993) (district court determined that the Tribal Government had the inherent sovereign power to decide which utility supplier to patronize and to do so without regard to the North Dakota Territorial Integrity Law which purports to allocate consumer load between investor owned and cooperative utility suppliers); *Baker Elec. Co-op., Inc. v. Chaske*, 28 F.3d 1466 (8th Cir. 1994) (remanding questions to district court without reversing legal decision below); *Devils Lake Sioux Indian Tribe v. ND PUB. SERV.*, 896 F. Supp. 955 (D.N.D. 1995) (holding that Tribes can contract with whatever electric provider they choose to serve tribal buildings).



As a result, H.F. 3458 explicitly states what is already true: Tribal Nations have the sovereign right to change utility territories and determine their own form of energy sovereignty. Minnesota cannot impose this type of regulation on Tribes if they determine they would like to change or regulate their energy system.

H.F. 3458 is a step in the right direction, but could be improved with a clarification of the exclusive authority each Tribe has over how utilities will operate on their lands. The legislature clearly does not mean to fully deregulate all utility provision on such lands, so the language should state that only the government of the Tribal Nation has the authority to set different boundaries or to establish a different form of regulation. This addition (highlighted) would add helpful clarity to H.F. 3458:

(b) To the extent that the sovereign tribal government wishes to exercise its sovereign authority, the exclusive rights and assigned service areas referenced in paragraph (a) do not apply within the exterior boundaries of the 11 sovereign Indian nations in Minnesota identified in section 10.65, subdivision 2.

This addition will help to clarify that this law is not meant to immediately deregulate utility territories on the lands of Tribal Nations. Without this additional language there may be the potential for misinterpretation of the legislature's intent — potentially leading utilities to degrade their service to customers in Indian Country, or allowing disreputable third-party entities to attempt to provide redundant electric service without any regulatory oversight. This would put already-vulnerable rural customers at the risk of being bilked by bad actors exploiting a legal gray area. To avoid misinterpretation and profiteering, it would be helpful to assure that the Tribe's government is the ultimate authority on any change to utility service territories within their lands.

CURE thanks the committee for hearing this important bill and supports its passage and the furtherance of Tribes' energy sovereignty.

Sincerely,

/s/ Hudson Kingston

Hudson B. Kingston

Legal Director

Sarah Mooradian

Government Relations & Policy Director

CURE

117 S 1st Street

Montevideo, MN 56265

(320) 269-2984

HUDSON@curemn.org