

Sixty-fourth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1406

Introduced by

Representatives Schmidt, Boe, Brandenburg, D. Johnson, Onstad

Senators Heckaman, Oehlke, Schaible

1 A BILL for an Act to create and enact chapter 57-39.8 of the North Dakota Century Code,  
2 relating to authorizing entry of state-tribal agreements for administration and collection of state  
3 and tribal sales, use, gross receipts, and motor vehicle excise taxes imposed and collected  
4 within the exterior boundaries of the Standing Rock Reservation within this state.

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

6 **SECTION 1.** Chapter 57-39.8 of the North Dakota Century Code is created and enacted as  
7 follows:

8 **57-39.8-01. Authority to enter state-tribal sales, use, gross receipts, or motor vehicle**  
9 **excise tax agreements.**

10 The governor, in consultation with the tax commissioner, may enter an agreement with the  
11 governing body of the Standing Rock Sioux Tribe relating to administration and allocation of  
12 state and tribal sales, use, and gross receipts or motor vehicle excise taxes, or all of those  
13 taxes, imposed and collected within the exterior boundaries of the Standing Rock Reservation  
14 within this state.

15 **57-39.8-02. Agreement requirements.**

16 Any agreement under this chapter is subject to the following:

- 17 1. The only taxes subject to agreement are state and tribal sales, use, and gross receipts  
18 or motor vehicle excise taxes, or all of those taxes, for taxable transactions and  
19 activities within the exterior boundaries of the Standing Rock Reservation within this  
20 state.
- 21 2. If the Standing Rock Sioux Tribe governing body chooses to impose sales, use, and  
22 gross receipts or motor vehicle excise taxes, or all of those taxes, on persons subject  
23 to the tribe's taxing powers and enter an agreement under this chapter, the tribal tax  
24 code provisions:

- 1           a. Must impose a tax of equal rate and conform in all respects with regard to the  
2           taxable or exempt status of transactions and activities under chapters 57-39.2,  
3           57-39.5, 57-39.6, 57-40.2, and 57-40.3. However, taxable transactions and  
4           activities exempt from state taxes because they occur within the tribe's  
5           jurisdiction are taxable by the tribe.
- 6           b. May not be newly imposed except to be effective on the first day of a calendar  
7           quarter beginning at least one hundred eighty days after the imposition is  
8           approved by the governing body and notice is provided to the tax commissioner.
- 9           c. The provisions of chapter 57-39.2 pertaining to administration of the retail sales  
10          tax, including provisions for refunds, credits, retailer compensation, adoption of  
11          rules, and allocation and deposit of the state share of revenues, not in conflict  
12          with this chapter or federal law, must govern the administration of any tax subject  
13          to an agreement under this chapter.
- 14          3. The agreement must provide for an agreed amount to be allowed to the tax  
15          commissioner for collection and administration services to the Standing Rock Sioux  
16          Tribe government under this chapter. Any sums collected for services must be paid to  
17          the state treasurer for deposit in the general fund.
- 18          4. The tax revenue from taxable transactions and activities within the exterior boundaries  
19          of the Standing Rock Reservation within this state is to be allocated between the  
20          Standing Rock Sioux Tribe and this state, in proportion to the percentage of enrolled  
21          members of the Standing Rock Sioux Tribe and nonenrolled persons living within the  
22          exterior boundaries of the Standing Rock Reservation, as reported in the most recent  
23          decennial census by the United States census bureau.
- 24          5. The governing body of the Standing Rock Sioux Tribe must agree not to impose  
25          additional tribal taxes or any fee on transactions and activities subject to a sales, use,  
26          and gross receipts tax or motor vehicle excise tax, or all of those taxes, administered  
27          by the tax commissioner.
- 28          6. The agreement must allow the tax commissioner to offset future distributions to the  
29          tribe if there was a previous overpayment of the tax distributed to the tribe.
- 30          7. The tax commissioner must be given authority to administer and enforce state and  
31          tribal taxes that are subject to an agreement authorized by this chapter.

- 1       8.   The federal district court for the western division of North Dakota is the venue for any  
2       dispute arising from an agreement under this chapter.
- 3       9.   The agreement must require that the governing body of the Standing Rock Sioux Tribe  
4       report annually to the budget section of the legislative management and that the report  
5       identify projects totaling investment in essential infrastructure of at least ten percent of  
6       tribal receipts under the agreement for that year.
- 7       10. Taxes imposed under chapters 11-09.1 and 40-05.1 are not subject to allocation under  
8       any agreement entered under the provisions of this chapter.
- 9       **57-39.8-03. Inapplicability of chapter 54-40.2.**
- 10      Chapter 54-40.2 does not apply to any agreement entered under this chapter.