

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, and 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, and gross receipts, ~~or motor~~**  
9 **vehicle excise tax agreements.**

10 The governor, ~~in consultation with the tax commissioner,~~ may enter an agreement on behalf  
11 of the state with the governing body of the Standing Rock Sioux Tribe which complies with the  
12 provisions of this chapter relating to administration and allocation of state and tribal sales, use,  
13 and gross receipts ~~or motor vehicle excise~~ taxes, ~~or all of those taxes,~~ imposed and collected  
14 within the exterior boundaries of the Standing Rock Reservation 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 tribal tax of equal rate, except as provided in subdivision b, and  
2           conform in all respects with regard to the taxable or exempt status of transactions  
3           and activities under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2, and  
4           57-40.3. However, but must be applied to only those taxable transactions and  
5           activities that are exempt from state taxes because they occur within the tribe's  
6           jurisdiction are taxable by the tribe.
- 7           b. Must also impose a separate and additional tribal sales, use, and gross receipts  
8           tax at a rate of one-fourth of one percent which conforms in all respects with  
9           regard to the taxable or exempt status of transactions and activities under  
10           chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2. However, taxable transactions  
11           and activities exempt from state taxes because they occur within the tribe's  
12           jurisdiction must also be subject to the tax under this subdivision by the tribe. The  
13           entire tax revenue from the tax imposed under this subdivision must be  
14           transferred to the state treasurer and paid to the Standing Rock Sioux Tribe.
- 15           c. May not be newly imposed except to be effective on the first day of a calendar  
16           quarter beginning at least one hundred eighty-nine days after the imposition is  
17           approved by the governing body and notice is provided to the tax commissioner.
- 18           e.d. The provisions of chapter 57-39.2 pertaining to administration of the retail sales  
19           tax, including provisions for refunds, credits, retailer compensation, adoption of  
20           rules, and allocation and deposit of the state share of revenues, not in conflict  
21           with this chapter or federal law, must govern the administration of any tax subject  
22           to an agreement under this chapter.
- 23           3. The agreement must provide for an agreed amount equal to three percent of the total  
24           amount collected, from the tribal taxes imposed under subdivisions a and b of  
25           subsection 2, to be allowed to the tax commissioner for collection and administration  
26           services to the Standing Rock Sioux Tribe government under this chapter. Any sums  
27           collected for services must be paid to the state treasurer for deposit in the general  
28           fund.
- 29           4. The tax revenue from taxable transactions and activities within the exterior boundaries  
30           of the Standing Rock Reservation within this state and subject to taxes imposed by the  
31           state or the tax imposed under subdivision a of subsection 2 is to be allocated

1 between eighty percent to the Standing Rock Sioux Tribe and twenty percent to this  
2 state, in proportion to the percentage of enrolled members of the Standing Rock Sioux  
3 Tribe and nonenrolled persons living within the exterior boundaries of the Standing  
4 Rock Reservation, as reported in the most recent decennial census by the United  
5 States census bureau. The tribal share of the tax allocated under this subdivision must  
6 be transferred to the state treasurer and paid to the Standing Rock Sioux Tribe.  
7 However, the tribal share paid to the Standing Rock Sioux Tribe under the agreement  
8 is limited to two million dollars during a state biennium and any amount exceeding that  
9 limitation must be deposited by the state treasurer in the state general fund.

10 5. The governing body of the Standing Rock Sioux Tribe must agree not to impose  
11 additional tribal any other taxes or any fee on transactions and activities subject to a  
12 sales, use, and gross receipts tax or motor vehicle excise tax, or all of those taxes,  
13 administered by the tax commissioner.

14 6. The agreement must allow the tax commissioner to offset future distributions to the  
15 tribe if there was a previous overpayment of the tax distributed to the tribe.

16 7. The tax commissioner must be given authority to administer and enforce within the  
17 exterior boundaries of the Standing Rock Reservation state and tribal taxes that are  
18 subject to an agreement authorized by this chapter.

19 8. The federal district court for the western division of North Dakota is the venue for any  
20 dispute arising from an agreement under this chapter.

21 9. The agreement must require that the governing body of the Standing Rock Sioux Tribe  
22 report annually to the budget section of the legislative management and that the report  
23 identify projects totaling investment in essential infrastructure of at least ten percent of  
24 tribal receipts under the agreement for that year.

25 10. Taxes imposed under chapters 11-09.1 and 40-05.1 are not subject to allocation under  
26 any agreement entered under the provisions of this chapter.

27 **57-39.8-03. Inapplicability of chapter 54-40.2.**

28 Chapter 54-40.2 does not apply to any agreement entered under this chapter.