

**FIRST ENGROSSMENT
with Senate Amendments
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 taxes imposed and collected within the exterior
4 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 tax**
9 **agreements.**

10 The governor may enter an agreement on behalf of the state with the governing body of the
11 Standing Rock Sioux Tribe which complies with the provisions of this chapter relating to
12 administration and allocation of state and tribal sales, use, and gross receipts taxes imposed
13 and collected within the exterior boundaries of the Standing Rock Reservation within this state.

14 **57-39.8-02. Agreement requirements.**

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

- 16 1. The only taxes subject to agreement are state and tribal sales, use, and gross receipts
17 taxes for taxable transactions and activities within the exterior boundaries of the
18 Standing Rock Reservation within this state.
- 19 2. If the Standing Rock Sioux Tribe governing body chooses to impose sales, use, and
20 gross receipts taxes on persons subject to the tribe's taxing powers and enter an
21 agreement under this chapter, the tribal tax code provisions:
- 22 a. Must impose a tribal tax of equal rate, except as provided in subdivision b, and
23 conform in all respects with regard to the taxable or exempt status of transactions
24 and activities under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 but must be

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

1 during a state biennium and any amount exceeding that limitation must be deposited
2 by the state treasurer in the state general fund.

3 5. The governing body of the Standing Rock Sioux Tribe must agree not to impose any
4 other taxes or any fee on transactions and activities subject to a sales, use, and gross
5 receipts tax administered by the tax commissioner.

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

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

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

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

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

19 **57-39.8-03. Inapplicability of chapter 54-40.2.**

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