Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2226
(Senators Schaible, Bekkedahl, Marcellais)
(Representatives D. Anderson, Froseth, D. Johnson)

AN ACT to amend and reenact sections 54-40.2-04, 54-40.2-05, 57-51.2-01, and 57-51.2-02 of the North Dakota Century Code, relating to legislative confirmation of state-tribal tax collection agreements and the authority of the governor to enter agreements relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation, Standing Rock Sioux Tribe Reservation, or Turtle Mountain Band of Chippewa Indians Reservation and on certain trust properties outside reservation boundaries; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-04. Approval of agreement by governor and tribes - Approval by legislative assembly for tax collection agreements.

As a condition precedent to an agreement made under this chapter becoming effective, it must have the approval of the governor of North Dakota and the governing bodies of the tribes involved. If the agreement is a tax collection agreement between the tax commissioner and one or more tribes, the agreement also is subject to confirmation by a majority of members elected to the house of representatives and the senate and does not become effective until its legislative confirmation date or the effective date in the agreement, whichever is later. Each tax collection agreement presented for legislative confirmation must contain an expiration date not more than sixteen years after its effective date and the expiration date must be March thirty-first of an odd-numbered year. If the agreement ~~so provides~~obtains the approvals under this section and, if required, legislative confirmation under this section, it may be submitted to the secretary for approval.

SECTION 2. AMENDMENT. Section 54-40.2-05 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-05. Filing of agreement.

~~Within ten days after a declaration of~~After approval by the governor and ~~following approval of the agreement~~ by the tribe or tribes affected by the agreement and, if required, legislative confirmation, and prior to commencement of its performance, an agreement made pursuant to this chapter must be filed with:

1. The secretary.
2. The clerk of court of each county where the principal office of one of the parties to the agreement is located.
3. The secretary of state.
4. The affected tribal government.

SECTION 3. AMENDMENT. Section 57-51.2-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.2-01. Authority to enter agreements.

The governor, in consultation with the tax commissioner, may enter separate agreements with the Three Affiliated Tribes, Standing Rock Sioux Tribe, and Turtle Mountain Band of Chippewa Indians, relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation, Standing Rock Sioux Tribe Reservation, or Turtle Mountain Band of Chippewa Indians Reservation and on trust properties outside reservation boundaries. Each tribal governing body is entitled to enter a separate agreement that conforms with the requirements of this chapter.

Each agreement under this chapter is subject to confirmation by a majority of members elected to the house of representatives and the senate and does not become effective until its confirmation date or the effective date in the agreement, whichever is later. Each agreement presented for confirmation must contain an expiration date not more than sixteen years after its effective date and the expiration date must be March thirty-first of an odd-numbered year.

SECTION 4. AMENDMENT. Section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

57-51.2-02. Agreement requirements.

An agreement under this chapter is subject to the following:

1. The only taxes subject to agreement are the state's oil and gas gross production and oil extraction taxes attributable to production from wells located within the exterior boundaries of the ~~Fort Berthold Reservation~~reservation and wells located on trust properties outside reservation boundaries. For purposes of this chapter, "trust properties outside reservation boundaries" means land in this state located outside the exterior boundaries of a reservation which are held in trust by the United States for any Indian tribe or owned by an Indian tribe or tribal member subject to a restriction against alienation imposed by the United States.

2. The state's oil and gas gross production tax under chapter 57-51 must apply to all wells located within the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries.

3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas production attributable to trust lands on the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries may not exceed six and one-half percent but may be reduced through negotiation between the governor and the ~~Three Affiliated Tribes~~tribal governing body.

4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and 57-51.1 do not apply to production within the boundaries of the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries except as otherwise provided in the agreement.

5. The allocation of revenue from oil and gas gross production and oil extraction taxes on the ~~Fort Berthold Reservation~~reservation must be as follows:

   a. Production attributable to trust lands. All revenues and exemptions from all oil and gas gross production and oil extraction taxes attributable to production from trust lands on the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries must be evenly divided between the tribe and the state.

   b. All other production. The tribe must receive fifty percent of the total oil and gas gross production and oil extraction taxes collected from all production attributable to nontrust lands on the ~~Fort Berthold Reservation~~reservation in lieu of the application of ~~the Three Affiliated Tribes'~~tribal fees and taxes related to production on such lands. The state must receive the remainder.

c. The state's share of the oil and gas gross production tax revenue as divided in subdivisions a and b is subject to distribution among political subdivisions as provided in chapter 57-51.

6. An oil or gas well that is drilled and completed during the time of an agreement under this chapter must be subject to the terms of the agreement for the life of the well.

7. The ~~Three Affiliated Tribes~~tribal governing body must agree not to impose a tribal tax or any fee on future exploration and production of oil and gas on the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries during the term of the agreement.

8. To address situations in which the tax commissioner refunds taxes to a taxpayer, the agreement must allow the tax commissioner to offset future distributions to the tribe.

9. The tax commissioner must retain authority to administer and enforce chapters 57-51 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.

10. An oil or gas well that is drilled and completed during the time an agreement under this chapter is in effect is subject to state regulatory provisions for the life of the well in addition to any other applicable regulatory provisions.

11. The federal district court for the ~~western~~northwestern division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Three Affiliated Tribes or between the state and the Turtle Mountain Band of Chippewa Indians. The federal district court for the southwestern division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Standing Rock Sioux Tribe.

12. The agreement must require that the ~~Three Affiliated Tribes~~tribal governing body report annually to the budget section of the legislative management and that the report:

    a. Identifies projects totaling investment of at least ten percent of tribal oil and gas gross production and oil extraction tax receipts of the tribe for that year in essential infrastructure.

    b. At a minimum, informs the budget section of tribal investments in essential infrastructure and fees, expenses, and charges the tribe imposes on the oil industry.

SECTION 5. EFFECTIVE DATE. This Act is effective for agreements entered after July 31, 2015.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2226.

Senate Vote:	Yeas 36	Nays 11	Absent 0
House Vote:	Yeas 89	Nays 2	Absent 3

Secretary of the Senate

Received by the Governor at 12:40 P.M. on April 27, 2015.

Approved at 4:06 P.M. on April 29, 2015.

Governor

Filed in this office this 30th day of April, 2015,

at 8:21 o'clock A M.

Secretary of State