

2015 SENATE FINANCE AND TAXATION

SB 2226

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2226
2/3/2015
Job #23046

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Relating to 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.

Minutes:

Attachments 1, 2, 3

Chairman Cook opened the hearing on SB2226.

Senator Donald Schaible introduced SB2226.

Basically, it will increase our agreement that we have, the authority to enter agreements with the Three Affiliated Tribes, which is existing, the bill adds Standing Rock Sioux Tribe and Turtle Mountain Band of Chippewa Indians. The bill includes the other two tribes and expanded that the governor can enter into agreements with these two tribes.

Chairman Cook -- Is there oil in Standing Rock?

Donald Schaible -- I would hope so but I don't believe so.

Senator Brad Bekkedahl, District 1, co-sponsor of this bill. The reason that I am a co-sponsor is that there are tribal lands in my district area, southwest of Williston, in the Trenton area. There was the Fort Buford Military reservation there and some of the tribal members were made land allocations in our area when they ran out of property and land up in the Turtle Mountain region. There is production in that area. They are very good wells and my hope is that if anything like this passes, that that district area which is the small community of Trenton actually receives some of this funding back for their roads and development issues that they are dealing with the growth. There are 2 major man camps in that area; three large water depots; a very large oil terminal for loading and off-loading crude and supplies that definitely have impacts in that area. My hope is that if the bill passes they come to an agreement with the governor that some of those resources come back to that area to help those tribal members in my area deal with their impacts.

Chairman Cook -- What happens to all the tax revenue today from those wells?

Senator Bekkedahl -- I have to say, I don't know. I'm assuming that taxes go to the state and the tribal members that own any of those minerals in fee would probably get the resources. Others here may be able to answer the question better to know if any of those resources are going back to the Belcourt tribe at this point.

Senator Richard Marcellais, District 9 (Attachment #1)

In support of SB2226.

Senator Bekkedahl -- It's my understanding that the tribal council at Belcourt has a resolution that does not allow fracking on any tribal lands. Is that correct?

Senator Marcellais -- That is correct. There was a resolution passed by the Turtle Mountain Band of Chippewa that they would not allow fracking on the Turtle Mountain Indian Reservation. The reason for that is we have an aquifer and we want to protect it.

Senator Bekkedahl -- Does that ban currently apply to any of the properties in the Trenton area that are under development?

Senator Marcellais -- I'd have to check it for you.

Steve Sitting Bear, External Affairs Director, Standing Rock Sioux Tribe (Attachment #2) In support.

Senator Oehlke -- Standing Rock goes over into South Dakota significantly. Is there agreements with the state of South Dakota relative to any of this oil exploration or anything?

Steve Sitting Bear -- As of today, no, there are no agreements in place. There have been oil and gas exploration leases that have gone out in Corson County, which is the southern half of Standing Rock. But as of today, no drilling has occurred. We are hoping to go to the state of South Dakota and do something similar.

Patrick Marcellais, Turtle Mountain Band of Chippewa

I am here in support of SB2226. **(Attachment #3)**

I want to touch back on the question that was asked about the tracking ban, that resolution was passed as part of keeping the aquifer safe within the boundaries of the reservation. It does not apply to the public domain lands out in the Trenton area.

In our support for SB2226 we are looking at the same things that some of the supportive senators are and that is to provide infrastructure within the Turtle Mountains. The Trenton area is the brother/sister to the Turtle Mountain area. In our further endeavors into this process we would love to help them all we could and we have helped them through tough times and through good times. One of the things that I would like to point out to the committee members is that I bring my son here today and I do that to show that in the Turtle Mountain we want to invest in our future. I believe that with some type of agreement in place and moving with the sponsor and this bill we can secure a good future for the youth

of our community. Secure a good future for the youth of the Trenton area. It is a collaborative effort.

Senator Triplett -- You mentioned that the tribe has received some funds through the BIA management of the leasehold interest in the Trenton area. I'm wondering if you could help us understand how it would be better to have the state also involved. Are you unhappy with how the BIA has allocated dollars back to the tribe? Would this give you better leverage to get money from those leases back to the folks at Trenton?

Patrick Marcellais -- I don't want to sound wrong in this answer but as far as the way it is set now, I believe that the state goes about extraction tax for the oil and gas out on those leases out there and 20% of it goes back to the royalties of the enrolled members that are the landowner of that out in the public domain. That is the revenue, the 2 million, goes to them. I believe that will be untouched, as far as how the bill is structured. We want to have that agreement with the state as far as what they receive, structured the same way as the Three Affiliated.

Senator Triplett -- The money that is coming now is going directly to individuals. There is no money right now going to the tribal entity and you are looking to have the same type of agreement as Three Affiliated.

Patrick Marcellais -- Yes.

Senator Triplett -- I note that Scott Davis is in the audience, I am wondering if I could ask a question of him? If anyone doesn't know, you are the Indian Affairs Commissioner for the state of North Dakota and serve as part of the Governor's Cabinet. Is that correct? My question is, if we are going to do this, why would we not just do a blanket coverage of all the tribal entities in North Dakota so that it's over and done? The reason that I bring this up is that I serve on the Natural Resources committee and we have heard in testimony in previous sessions that there is shallow gas underlain all of North Dakota. The same potential exists for all of the land areas. Maybe while we are doing this it would not be a bad idea to just include all of the tribal entities? Would that be a reasonable idea in your mind?

Scott Davis -- That is a very good question. First of all, I am not at liberty to speak on behalf of any tribe and I think, in this case, one tribe is missing in the room and that is Spirit Lake. My discussions with them over the course of this process has been, to my knowledge, there is no oil and gas up in the Devils Lake, Spirit Lake, area. What we are hearing today is that tribes, Standing Rock, is being proactive in trying to see if and when if they start developing in the course of time that this would be in place. Turtle Mountain is a unique situation where we have the 6x12 reservation. In his testimony how the federal government policies and treaties have been developed over centuries. We have quite a few acres of land from Pembina Gorge all the way into Montana and so obviously some of those are producing oil and gas right now too. My strategy is always been to work with every tribe, individually.

No further testimony.

Chairman Cook -- Closed the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2226
2/11/2015
Job #23634

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Attachment #1

Chairman Cook opened the committee work on SB2226.

I am going to hand out some amendments that you can insert. (Attachment #1)

That is an amendment that has been offered by the tribes. My question is, I recall in testimony some of these lands, at Trenton, that were homestead acre's that they were allowed to go and homestead on. I asked Mr. Walstad to research to see to what degree, what is trust land. My belief of the trust land is going to be land that has a deed where it is entrusted to the Department of the Interior. He was going to reach out to Scott Davis.

Senator Triplett -- I would suggest the Attorney General's office.

Chairman Cook -- That was the second place, Scott Davis or the Attorney General's office. We will try to clarify exactly so that we know what this means and then we can act on the bill.

Senator Dotzenrod -- This idea when it says or an individual tribal member. If that individual tribal member actually owned the land and was the owner of the land, you'd think that we wouldn't be able to do this.

Chairman Cook -- I would think that.

Senator Dotzenrod -- But it says they are not the owner. They are lands held in trust by the United States or an individual tribal member so the tribal member who is being addressed is not an owner. They are an owner that has some sort of trust relationship?

Chairman Cook -- I'd like to know who negotiates the lease for the oil, the mineral rights.

Senator Oehlke -- Every tribe is a little bit different and I know the Spirit Lake Nation also has deeded land involved within the tribal boundaries. Some of that is owned by white people but some of that deeded land is owned by Native Americans. In some reservations

the trust land that individual owned, technically, is still reservation land and that is where you get into this kind of issue. Spirit Lake Nation is quite different from every other reservation in the state when it comes to who owns who land. It is quite confusing out there.

Senator Triplett -- The truth of it is virtually every reservation in this country has unique aspects because it just depended upon where they were at the time that federal government policy changed. Which it did at least 3 different times in really dramatic ways. Every reservation has its own story.

Chairman Cook closed the committee work on SB2226.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2226
2/17/2015
Job #23990

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Committee work.

Minutes:

Attachment #1

Chairman Cook opened the committee work on SB2226.

We have brand new amendments that were handed out. Everybody have them? Senator Triplett do you want to move them?

Senator Triplett -- I will move amendment 15.0805.01003 to SB2226 (Attachment #1)

Seconded by Senator Unruh.

All in favor signify by saying aye. Voice vote unanimous. Motion carried.

We have before us SB2226, as amended.

Senator Triplett moves a do pass on SB2226, as amended.

Seconded by Senator Unruh.

Roll call on SB2226, as amended. 7-0-0.

Carrier: Senator Triplett.

JD
2/17/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2226

Page 1, line 5, after "Reservation" insert "and on certain trust properties outside reservation boundaries"

Page 1, line 14, after "Reservation" insert "and on trust properties outside reservation boundaries"

Page 1, line 23, after "reservation" insert "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"

Page 2, line 2, after "reservation" insert "and on trust properties outside reservation boundaries"

Page 2, line 4, after "reservation" insert "and on trust properties outside reservation boundaries"

Page 2, line 9, after "reservation" insert "and on trust properties outside reservation boundaries"

Page 2, line 14, after "reservation" insert "and on trust properties outside reservation boundaries"

Page 2, line 28, after "reservation" insert "and on trust properties outside reservation boundaries"

Renumber accordingly

Date: 2-17-15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2226

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15-0805.01003

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Triplett Seconded By Sen. Unruh

voice vote unanimous

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chairman Lonnie Laffen			Senator Connie Triplett		
Senator Brad Bekkedahl					
Senator Dave Oehlke	<i>Motion passed</i>				
Senator Jessica Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-17-15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO 2226

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 15.0805.01003 Title

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Sen. Triplett Seconded By Sen. Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod	✓	
Vice Chairman Lonnie Laffen	✓		Senator Connie Triplett	✓	
Senator Brad Bekkedahl	✓				
Senator Dave Oehlke	✓				
Senator Jessica Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Triplett

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2226: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2226 was placed on the Sixth order on the calendar.

Page 1, line 5, after "Reservation" insert "and on certain trust properties outside reservation boundaries"

Page 1, line 14, after "Reservation" insert "and on trust properties outside reservation boundaries"

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Renumber accordingly

2015 HOUSE ENERGY AND NATURAL RESOURCES

SB 2226

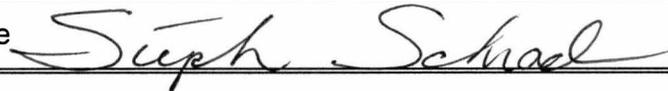
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee
Pioneer Room, State Capitol

SB 2226
3/6/2015
Job # 24437

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to authority of the governor to enter agreements relating to taxation and regulation of oil and gas exploration and production within the boundaries of reservations and on certain trust properties outside reservation boundaries.

Minutes:

Attachments 2

Chairman Porter

Don Schaible, District 31 explains bill.

Brad Bekkedahl District 1: It makes sense for this agreement to be before the governor for a compact discussion. The area SW of Williston, which includes trust lands that are under the jurisdiction of the Turtle Mountain Band of Chippewa, have oil production currently and continues to expand in that area.

Rep. George Keiser: What is the problem, what are we correcting with this?

Bekkedahl: This would allow the same thing to happen with the Belcourt Tribe as the Fort Berthold Tribe, to actually enter into negotiations with the governor and return some of that money to the area that's impacted.

Steven Sitting Bear, External Affairs Standing Rick Sioux Tribe; Written testimony #1

Chairman Porter: Inside of the Standing Rock boundaries what is the percentage of land owned as fee land by non-tribal members?

Sitting Bear: The Standing Rock Reservation sits in both North Dakota and South Dakota. I would estimate we are 60-65% in trust in North and South Dakota.

Chairman Porter: Inside of that, the minerals that are owned on the fee land that is not in trust, those are owned by somebody else?

Sitting Bear: Private ownership.

Rep. George Keiser: Do you want the compact to be the same as the other compact?

Sitting Bear: Yes, the same agreement as Fort Berthold.

Patrick Marcellais, District II Councilman, Secretary/Treasurer-Turtle Mountain Band of Chippewa; written testimony #2

Rep. Glen Froseth: What type of agreement are you looking for?

Marcellais: We are looking to have the same agreement at Fort Berthold.

Rep. Glen Froseth: On your active production today, what kind of split do you do with the state?

Marcellais: Currently I don't know what it is. The two million dollars in royalties goes to the individual trust owners in the western part of the state. That will not be touched with this bill. What we are looking for is an agreement with the state that will continue that oil extraction split.

Chairman Porter: Currently there is no tribal tax on top of the state tax on production and extraction of oil?

Marcellais: No.

Chairman Porter: On those areas that are held in trust, that are not in the exterior boundaries of the Turtle Mountain Band of Chippewa's nation, those minerals are held privately by the individual owner of that land or they are held in trust by the federal government.

Marcellais: The land itself is held in trust by the federal government. As I understand it, there is an agreement between the individuals and the federal government. Those agreements along with the oil producing companies are set in stone.

Chairman Porter: So on some of that land the minerals are held as private property? Even though the surface is held in trust?

Marcellais: Correct.

Rep. George Keiser: The bill reads on page 1 line 15, "each tribal governing body is entitled to enter a separate agreement." For any of the three tribal groups that enter an agreement, it takes a vote of the entire tribal government, the leader cannot enter into it solely?

Marcellais: Correct.

Rep. George Keiser: Why do you want us to grant the authority to the governor, instead of keeping it within the legislature?

Marcellais: The approach we took on this was the understanding that this agreement was proposed with Fort Berthold, we didn't want to muck the water by putting verbiage. That way you feel comfortable with adopting the same thing that was put forth with Fort Berthold. There is the exception of the public allotment domains in Trenton. We also have banded fracking to protect our aquifer.

Chairman Porter: One of the arguments that always presents itself with this bill is that using the verbiage of the exterior boundaries of the federally recognized reservation includes the checkerboard pieces that aren't owned by the reservation. They are getting tax off of private property of a citizen of the State of North Dakota that is not a member of the reservation. No one has an issue with those lands that are held in trust. It's those fee lands that are not held that is the issue. This bill will expand that philosophy across the state.

Marcellais: Currently we don't own any fee land in the western part of the state. The only land we have in the western part of the state is federally trust land. Most of that land is held within the enrolled members of the Turtle Mountain Band of Chippewa. Those are the royalties that we talked about earlier. The only fee land we have is within the boundaries of the reservation and we pay our taxes on that land just like anyone else.

Chairman Porter: This isn't the surface, it's the minerals and you don't own all of the minerals on that trust land, that's what you told us earlier. The tax comes from the minerals and the extraction of the minerals. It is not in all cases owned by the tribal government, it's owned by the state of North Dakota. That's where the rub comes on this issue. There was the same rub that happened inside of the original agreement with the Fort Berthold agreement. That there is a lot of land in Fort Berthold that the minerals are owned by non-tribal members it is split even though they don't have any oversight of that.

Marcellais: I'm glad this question came up because we can figure this matter out together as a committee. What I know is that lands that are held out in federal trust, the Turtle Mountain Band of Chippewa do own the mineral rights. But the individual land owner gets the royalties. It just touches on the point that each reservation is unique in its own way and this shows that.

Rep. Roger Brabandt: You said that the Turtle Mountain Reservation being 30 square miles isn't twice that size.

Marcellais: Yes, it's six by twelve miles, it's sited in my written testimony how it came to be the size that it is today.

OPPOSITION: None

Chairman Porter closes hearing.

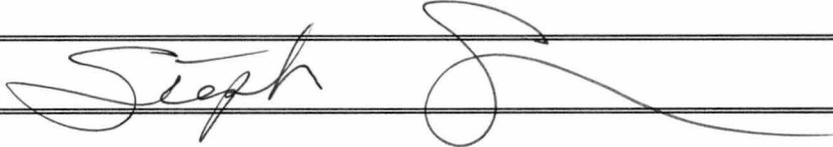
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

SB 2226
3/20/2015
Job # 25183

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to authority of the governor to enter agreements relating to taxation and regulation of oil and gas exploration and production within the boundaries of reservations and on certain trust properties outside reservation boundaries.

Minutes:

Attachments 0

Chairman Porter opens hearing. Explains bill and proposed amendment in the works; no written testimony. It will talk about on any of those agreements that the legislative assembly has the last vote. They have to come back to the legislative assembly to be voted on after the governor negotiates the agreement.

The other issue is a very technical and complicated issue that I met with the tax department on. They're okay with the language, but because the Trenton land is checker boarded. The wells themselves are never on the Trenton land because you can't get a permit. They can drill under them because Trenton doesn't own the minerals. The other language isn't to me yet so we'll take this one up next week.

Rep. George Keiser: You may recall that I asked the tribal representative specifically if they give the tribal chairman the authority to make the decision unilaterally, His response was absolutely not it has to be the full council to make the decision.

Chairman Porter closes discussion.

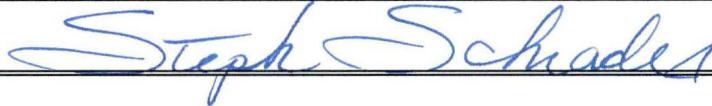
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

SB 2226
3/26/2015
Job # 25500

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to authority of the governor to enter agreements relating to taxation and regulation of oil and gas exploration and production within the boundaries of reservations and on certain trust properties outside reservation boundaries.

Minutes:

Attachments 2

Chairman Porter opens hearing and explains amendment; **written testimony #1.**

Al Stenjum, representing Three Affiliated Tribes and Standing Rock: Currently they have agreements in place, Standing Rock does, if it's just a renewal of the existing agreement, would it still be put before the legislature?

Chairman Porter: Yes it would.

Rep. George Keiser: I move the adoption of the amendment.

Rep. Mike Lefor: Second.

Rep. George Keiser: I move a Do Pass as Amended.

Rep. Dick Anderson: Second.

Vote: Yes 13, No 0, Absent 0

Rep. Dick Anderson: Carrier.

Chairman Porter: Something I wanted to bring up about this bill; in relationship to how the tax department interprets the language in the Three Affiliated agreement and how it is implemented. Currently, if a well head is not on tribal lands there is no splitting of the tax. There is no redistribution under the current Three Affiliated Tribes agreement. Here is a map of a component of the Trenton area; written testimony #2. You will see that the oil company drilled off to the side of the Trenton area. Those wells would not be subject to any type of tax agreement. They would just pay the mineral holders underneath the spacing

unit. That is how it is done under the current Three Affiliated Tribes agreement that is the tax department's interpretation of any agreement going forward. The well head has to be on Tribal land for there to be a split. All the tax goes to the state, the minerals are distributed accordingly.

Chairman Porter: Are there any questions?

Chairman Porter: Seeing none we will close the discussion.

AP
3-27-15
10/2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2226

Page 1, line 1, after "sections" insert "54-40.2-04, 54-40.2-05,"

Page 1, line 1, after "57-51.2-01" insert a comma

Page 1, line 2, after the first "to" insert "legislative confirmation of state-tribal tax collection agreements and the"

Page 1, line 5, after "boundaries" insert "; and to provide an effective date"

Page 1, after line 6, insert:

"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 later than March thirty-first of the next ensuing 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."

Page 1, line 10, after "enter" insert "separate"

HR
202

Page 1, line 10, remove the overstrike over "agreements"

Page 1, line 10, remove "an"

Page 1, line 11, remove "agreement"

Page 1, line 12, after "Indians" insert an underscored comma

Page 1, after line 16, insert:

"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 later than March thirty-first of the next ensuing odd-numbered year."

Page 3, after line 28, insert:

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

Renumber accordingly

Date: 3/26/15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2226

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: 15.0805.02001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Keiser Seconded By Rep Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep Hunsakor		
Vice Chairman Damschen			Rep Mock		
Rep D Anderson			Rep Muscha		
Rep Brabandt					
Rep Devlin					
Rep Froseth					
Rep Hofstad					
Rep Keiser					
Rep Lefor					
Rep Nathe					

Voice Vote Carries

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
See amendment above

Date: 3/26/15
Roll Call Vote #:

2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2226

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep Keiser Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hunsakor	✓	
Vice Chairman Damschen	✓		Rep Mock	✓	
Rep D Anderson	✓		Rep Muscha	✓	
Rep Brabandt	✓				
Rep Devlin	✓				
Rep Froseth	✓				
Rep Hofstad	✓				
Rep Keiser	✓				
Rep Lefor	✓				
Rep Nathe	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. D. Anderson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2226, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2226 was placed on the Sixth order on the calendar.

Page 1, line 1, after "sections" insert "54-40.2-04, 54-40.2-05,"

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

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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 later than March thirty-first of the next ensuing 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."

Page 1, line 10, after "enter" insert "separate"

Page 1, line 10, remove the overstrike over "agreements"

Page 1, line 10, remove "an"

Page 1, line 11, remove "agreement"

Page 1, line 12, after "Indians" insert an underscored comma

Page 1, after line 16, insert:

"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 later than March thirty-first of the next ensuing odd-numbered year."

Page 3, after line 28, insert:

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

Re-number accordingly

2015 CONFERENCE COMMITTEE

SB 2226

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2226
4/8/2015
Job #25926

- Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Conference Committee

Minutes:

Attachments #1, #2, #3

Chairman Cook opened the conference committee on SB2226. Senators Cook, Unruh and Triplett; Representatives Keiser, Porter and Mock all present.

Sen. Cook -- I have handed out a potential amendment 0805.02004 (**Attachment #1**). You also have a Christmas tree version of SB2226 with that amendment added (**Attachment #2**). Also, a memo that I received this afternoon from Mr. Nygard. (**Attachment #3**) I think it would be important for us to digest this a little bit, gather some thoughts on how we might put this all together and then see if we want to change this motion. Any questions?

Sen. Triplett -- For the audience gathered here, could you explain what your amendment does?

Sen. Cook -- The amendment simply goes to the requirement and agreement that made it look like it had to be renegotiated every two years. It makes it clear that it is not every two years. An agreement can be for multiple years.

Adjourned.

2015 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB2226
4/10/2015
Job #26025

Subcommittee
 Conference Committee

Committee Clerk Signature

Alice Grove

Explanation or reason for introduction of bill/resolution:

Conference committee

Minutes:

Attachment #1

Chairman Cook opened the conference committee work on SB2226. Senators Cook, Unruh and Triplett; Representatives Keiser, Porter, Mock all present.

Sen. Cook -- We've met on this once.

Rep. Keiser -- Thank you for the opportunity to have a chance to review the amendment that you handed out, 02004. I have had the opportunity to review it and think it makes a lot of sense and I would move its adoption.

Sen. Unruh -- Seconded.

Rep. Mock -- As I've looked at this, has there been any consideration to a delayed implementation for pending agreements so that those that have been working on this they would not have to wait 2 years until the House and Senate reconvene.

Sen. Cook -- There has been consideration of that, yes. We don't know what the agreements are.

Sen. Triplett -- I have alternate amendments in hand here which are labeled 02005 (**Attachment #1**) which were prepared at the request of Senate Minority Leader Schneider which would allow, in addition to the confirmation that is proposed in 2004 amendment the budget section to approve it if the legislative assembly is not in session and then anything approved by the budget section would also be subject to confirmation by a majority of the members of the legislature at the next regular meeting. That would be an alternative way of having legislative involvement but not having such a long delay. I don't know if you want to vote on yours first and then I could offer to further amend.

Sen. Cook -- I appreciate knowing that that's out here, I think we should vote on this motion we have first. If it fails, we will take another vote.

Sen. Triplett -- Even if it passes, I think we could further amend.

Roll call vote on motion to amend 02004. Senate 2 yes, 1 no; Representative 2 yes, 1 no. Passed.

Sen. Cook -- Sen. Triplett, you would like to further amend?

Sen. Triplett -- What I'd prefer to do is pass these out and let people have a look at them and not make the motion until we've looked at them. I have both the version itself and the Christmas tree version.

Rep. Porter -- The way I am reading this on page 2 in the Christmas tree, line 15, it's either/or. It's not then subsequent. You're earlier explanation made it sound like it was temporary approval and then subsequent later.

Sen. Triplett -- If you move up to line 3, on page 2 of the Christmas tree version, it says any tax collection agreement approved by the budget section of the legislative management is also subject to confirmation by a majority of the members elected to the House of Representatives and the Senate, at the next regular meeting of the legislative assembly. If legislative confirmation is not received, the agreement will be rendered ineffective.

Sen. Cook -- So, Sen. Triplett, if I understand this right, if there is a proposal that they have negotiated with the governor, the governor and the tribe agree to the tax agreement, it would go to the budget section; if approved by the budget section it would go into effect and then, at a later date when the legislature comes back, the legislature would have the right to repeal it and then it would go out of effect. Sen. Triplett and committee members, I had this conversation with Mr. Nygard. He approached me on it, asked if I would consider this, I will tell you folks the same thing I told Mr. Nygard: for one, I think we send too much power to the budget section. Regardless of that, to me one of the most important things of sound tax policy is certainty and the uncertainty that would be created by a tax proposal being approved with the possibility that it is going to be unapproved 6 months or a year later does more harm than it does good. I know that there is an urge to get some things done quicker than what we can do every 2 years but there is a lot of benefit coming with the certainty when we go home, for 2 years we know what the tax code is in North Dakota. That brings a lot of relief to me. I would hope that we would reject this and leave the bill as we have it.

Sen. Triplett -- I will make a motion to approve amendment 15.0805.02005 to engrossed SB2226.

Rep. Mock -- Seconded

Sen. Triplett -- In general, I do agree with you that the legislature, over time, has given far too much authority to the budget section and, as a member of the minority, I am more conscious of that than you are. At the same time many people have worked long and hard to establish agreements between the state and the tribes across the state to find some kind of workable way to relegate situations. When there is the possibility of an agreement, it

seems unfortunate that we would take the possibility of losing it by just letting time pass.
(meter 9:12-9:41)

Rep. Porter -- There's a lot of things that, never having been a member of the budget section that, I think should have been undone but I didn't have the votes either.

Roll call vote on motion to amend 02005. Senators 1 yes, 2 no; Representatives 1 yes, 2 no. Motion failed.

Carriers: Sen. Cook and Rep. Keiser

Sen. Cook -- I think with a simple motion, we can sine die this conference committee, can we not?

Sen. Cook -- This will be the final report.

Rep. Porter -- Move sine die.

Rep. Keiser -- Seconded.

All in favor aye. Carried.

LOF 2
TV
4/10/15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2226

That the House recede from its amendments as printed on pages 1066 and 1067 of the Senate Journal and pages 1203 and 1204 of the House Journal and that Engrossed Senate Bill No. 2226 be amended as follows:

Page 1, line 1, after "sections" insert "54-40.2-04, 54-40.2-05,"

Page 1, line 1, after "57-51.2-01" insert a comma

Page 1, line 2, after the first "to" insert "legislative confirmation of state-tribal tax collection agreements and the"

Page 1, line 5, after "boundaries" insert "; and to provide an effective date"

Page 1, after line 6, insert:

"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."

Page 1, line 10, after "enter" insert "separate"

Page 1, line 10, remove the overstrike over "agreements"

Page 1, line 10, remove "an"

Page 1, line 11, remove "agreement"

Page 1, line 12, after "Indians" insert an underscored comma

Page 1, after line 16, insert:

"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."

Page 3, after line 28, insert:

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

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2226

That the House recede from its amendments as printed on pages 1066 and 1067 of the Senate Journal and pages 1203 and 1204 of the House Journal and that Engrossed Senate Bill No. 2226 be amended as follows:

Page 1, line 1, after "sections" insert "54-40.2-04, 54-40.2-05,"

Page 1, line 1, after "57-51.2-01" insert a comma

Page 1, line 2, after the first "to" insert "budget section approval or legislative confirmation of state-tribal tax collection agreements and the"

Page 1, line 5, after "boundaries" insert "; and to provide an effective date"

Page 1, after line 6, insert:

"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 budget section or legislative assembly for tax collection agreements.

1. 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.
2. If the agreement is a tax collection agreement between the tax commissioner and one or more tribes, the agreement is also subject to:
 - a. Confirmation by a majority of members elected to the house of representatives and the senate, if the legislative assembly is in session, and does not become effective until its legislative confirmation date or the effective date in the agreement, whichever is later; or
 - b. Approval of the budget section of the legislative management, if the legislative assembly is not in session, and does not become effective until its budget section approval date or the effective date in the agreement, whichever is later.
3. If the agreement ~~so provides~~ obtains the approvals under subsection 1, and if required, subsection 2, it may be submitted to the secretary for approval.
4. Any tax collection agreement approved by the budget section of the legislative management is also subject to confirmation by a majority of the members elected to the house of representatives and the senate at the next regular meeting of the legislative assembly. If legislative confirmation is not received, the agreement will be rendered ineffective.
5. Any tax collection agreement disapproved by the budget section of the legislative management may be subsequently approved by the legislative assembly under subdivision a of subsection 2.

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, budget section approval or 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."

Page 1, after line 9, insert:

"1."

Page 1, line 10, after "enter" insert "separate"

Page 1, line 10, remove the overstrike over "agreements"

Page 1, line 10, remove "an"

Page 1, line 11, remove "agreement"

Page 1, line 12, after "Indians" insert an underscored comma

Page 1, after line 16, insert:

- "2. Each agreement under this chapter is subject to:
- a. Confirmation by a majority of members elected to the house of representatives and the senate, if the legislative assembly is in session, and does not become effective until its legislative confirmation date or the effective date in the agreement, whichever is later; or
 - b. Approval of the budget section of the legislative management, if the legislative assembly is not in session, and does not become effective until its budget section approval date or the effective date in the agreement, whichever is later.
3. Any tax collection agreement approved by the budget section of the legislative management is also subject to confirmation by a majority of the members elected to the house of representatives and the senate at the next regular meeting of the legislative assembly. If legislative confirmation is not received, the agreement will be rendered ineffective.

4. Any tax collection agreement disapproved by the budget section of the legislative management may be subsequently approved by the legislative assembly under subdivision a of subsection 2.

Page 3, after line 28, insert:

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

Renumber accordingly

**2015 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB2226 as engrossed

Senate Finance & Tax Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Keiser Seconded by: Sen. Unruh

Senators	4/8	4/10		Yes	No	Representatives	4/8	4/10		Yes	No
Sen. Dwight Cook	x	x		x		Rep. George Keiser	x	x		x	
Sen. Jessica Unruh	x	x		x		Rep. Todd Porter	x	x		x	
Sen. Connie Triplett	x	x			x	Rep. Corey Mock	x	x			x
Total Senate Vote				2	1	Total Rep. Vote				2	1

Vote Count Yes: 4 No: 2 Absent: 0

Senate Carrier Sen. Cook House Carrier Rep. Keiser

LC Number 15.0805.02004 . 04000 of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SB 2226, as engrossed: Your conference committee (Sens. Cook, Triplett, Unruh and Reps. Keiser, Porter, Mock) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1066-1067, adopt amendments as follows, and place SB 2226 on the Seventh order:

That the House recede from its amendments as printed on pages 1066 and 1067 of the Senate Journal and pages 1203 and 1204 of the House Journal and that Engrossed Senate Bill No. 2226 be amended as follows:

Page 1, line 1, after "sections" insert "54-40.2-04, 54-40.2-05,"

Page 1, line 1, after "57-51.2-01" insert a comma

Page 1, line 2, after the first "to" insert "legislative confirmation of state-tribal tax collection agreements and the"

Page 1, line 5, after "boundaries" insert "; and to provide an effective date"

Page 1, after line 6, insert:

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Page 3, after line 28, insert:

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

Renumber accordingly

Engrossed SB 2226 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

SB 2226



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



#1
2-3-15

Senator Richard Marcellais
District 9
RR 1, Box 267A
Belcourt, ND 58316-9787
rmarcellais@nd.gov

COMMITTEES:
Education
Government and Veterans Affairs

**Testimony for SB 2226
February 2, 2015 9:00 am
Lewis & Clark Room**

Relating to authority of the governor to enter agreements relating to taxation & regulation of oil and gas exploration and production within the boundaries of the Fort Berthold, Standing Rock Sioux and Turtle Mountain Band of Chippewa Indian Reservations.

Chairman Cook, members of the Senate Finance & Tax Committee, for the record my name is Richard Marcellais, Senator from District 9, Rolette County.

The Turtle Mountain Indian Reservation has a land base of 6 miles by 12 miles it covers 72 square miles (46,000 acres; and another 26,175 acres located in Rolette County which borders Bottineau County where there is currently oil/gas exploration and production taking place. The Turtle Mountain Indian Reservation is approximately 80% of District 9, Rolette County.

The Trenton Indian Service Area (TISA) which is a part of the Turtle Mountain Band of Chippewa Indians in Trenton, North Dakota, is located 14 miles southwest of Williston, North Dakota owns approximately 6,200 square miles, is bounded on the north by Canadian border and on the west the Fort Peck Indian Reservation in Montana.

Therefore, I am here today in support of Senate Bill 2226.

Chairman Cook and Finance & Tax Committee that concludes my testimony. I will try an answer any questions that you may have.

#2

To: Senate Finance and Taxation Committee: Chairman Sen. Dwight Cook, Vice-Chairman Sen. Lonnie Laffen, Sen. Brad Bekkedahl, Sen. Jim Dotzenrod, Sen. Dave Oehlke, Sen. Connie Triplett, Sen. Jessica Unruh

From: Steve Sitting Bear

Date: February 3rd 2015

Subject: Testimony on SB 2226

The Standing Rock Sioux Tribe currently is not directly engaged in the oil and gas development that is occurring in north western part of our state, and we may not be engaged in it for many years to come. But we do understand that there are oil and gas resources within borders, and if development does move south, we must be prepared for it. We need to have agreements such as this to help navigate the costs that come with oil and gas development. Learning from the Three Affiliated Tribes, we know that the impact the oil industry will have on our communities will happen quick, where lack of preparation will only compound the problems, many of which already exist.

As you all aware, the cost of infrastructure, housing, road repair, law enforcement shortages, health care services, environmental clean ups etc. are going to be both in great need, and also very costly. We as a tribe, and also as members of this state need to be proactive in preparing for that impact - if it does indeed come. Our tribe, much like many of the others tribes, the same as many of the counties in this state, as of today, we do not have the resources to adequately manage that impact. That is why I am here today, both on behalf of the Standing Rock Sioux Tribe, but also as a citizen of Sioux County.

As a sovereign Nation, with sovereign governing powers, we wish to enter into negotiations with the sovereign state of North Dakota. We're hoping we can find common ground, much the same as the other tax agreements we have accomplished with this state. We wish to work together with North Dakota, with a mutual understanding that our citizen's health, well-being and quality of life are second to none. We want to work together, in a government to government relationship to help protect our citizens, our resources and our land. It is our duty to help minimize the impact of oil and gas development.

As Chairman Archambault stated in the State to Tribal address, "As tribes, we are all unique, one size does not always fit all" We are all separate sovereigns with separate laws, political structures, opportunities and challenges. We would ask that this committee take that into consideration as we move forward with this bill.

Thank you

Steve Sitting Bear

External Affairs Director
Standing Rock Sioux Tribe
701-854-8638
ssittingbear@standingrock.org

#3
SR 2326

Turtle Mountain Band of Chippewa
Finance & Taxation
North Dakota State Capital, Bismarck ND
February 03, 2015

Good Morning Chairman Cook and Committee Members,

My name is Patrick Marcellais, and I'm currently serving as District II councilman and secretary/treasurer for the Turtle Mountain Band of Chippewa. Today I'm here in support of Senate bill 2226.

I would like to start by touching on the history of the Turtle Mountain Reservation it was established by Executive Order on December 21, 1882. A large area of land was set apart for use and occupancy of the Turtle Mountain Band of Chippewa Indians.

March 29, 1884 the reservation was reduced to two townships. At this time it was still "Dakota Territory".

Act of 7/13/1892 – The president of the United States was authorized to appoint a commission to negotiate with the TMBCI in North Dakota (was Dakota Territory) for cession and relinquishment to the US of whatever right & interest they may have in land to which they claim title and also to make a roll (census) of Chippewa and Mixed bloods. This became known as the "McCumber Roll".

October 2, 1892 an agreement was entered into with the TMBCI. This agreement was ratified by Congress on April 21, 1904 (12 years later).

McCumber commission report shows that the Indians at the time of their conference with the commission held out for a reservation 30 miles square, but were informed that this was impossible. After much discussion it was finally decided to give the Indians the right to take allotments on the Public Domain in Lieu of the reservation demanded by them. (Article 6 of the agreement)

- Article 6 reads – All members of the TMBCI who may be Unable to secure land upon the reservation may take homesteads upon any vacant land belonging to the US without charge and shall continue to hold and be entitled to such share in all tribal funds, annuities or other property the same as if located on the reservation.

Chairman Cook and committee members that was a brief history of how we have become the Turtle Mountain Band of Chippewas. Mr. Chairman and Committee members currently there are 65 approved Oil & Gas leases on these Public Domain tracts located in western North Dakota and are administered by the Bureau of Indian Affairs Turtle Mountain Agency and an additional 12 (twelve) tracts administered by the Bureau of Indian Affairs Fort Berthold Agency. Of these approved leases in Fiscal Year 2014, Bureau of Indian Affairs

#3.2
SB2226
2.3.15

Turtle Mountain Agency collected and distributed in excess of two million dollars in royalty payments for the Turtle Mountain Tribe and its members. Of the 65 active leases 41 share in allocated production in 27 active Oil & Gas wells according to their respective share within the spacing unit. Chairman Cook and committee members that's where we are currently at.

Chairman Cook and Committee members the future of the Turtle Mountain is bright if this bill is successful, Turtle Mountains would like to invest in the future infrastructure like roads, public emergency services, housing, health care, and most of all the youth of the Turtle Mountains.

Turtle Mountain Reserve

EXECUTIVE MANSION, December 21, 1882

It is hereby ordered that the following-described country in the territory of Dakota, viz: Beginning at a point on the international boundary where the tenth guide meridian west of the fifth principal meridian (being the range line between ranges 73 and 74 west of the fifth principal meridian) will, when extended, intersect said international boundary; thence south on the tenth guide meridian to the southeast corner of township 161 north, range 74 west; thence east on the fifteenth standard parallel north, to the northeast corner of township 160 north, range 74 west; thence south on the tenth guide meridian west to the southeast corner of township 159 north, range 74 west; thence east on the line between townships 158 and 159 north to the southeast corner of township 159 north, range 70 west; thence north with the line between ranges 69 and 70 west to the northeast corner of township 160 north, range 70 west; thence west on the fifteenth standard parallel north to the southeast 161 north, range 70 west; thence north on the line between ranges 69 and 70 west to the international boundary; thence west of the international boundary to the place of beginning, be, and the same is hereby, withdrawn from sale and settlement and set apart for the use and occupancy of the Turtle Mountain band of Chippewas and such other Indians of the Chippewa tribe as the Secretary of the interior may see fit to settle thereon.

CHESTER A. ARTHUR.

#3.3
SB2226
2.3.15

EXECUTIVE MANSION, March 29, 1884

It is hereby ordered that the tract of country in the territory of Dakota withdrawn from sale and settlement and set apart for the use and occupancy of the Turtle Mountain band of Chippewa Indians by Executive order dated December 21, 1882, except townships 162 and 163 north, range 71 west, be, and the same is hereby, restored to the mass of the public domain.

EXECUTIVE MANSION, June 3, 1884

The Executive order dated March 29, 1884, whereby certain lands in the territory of Dakota previously set apart for the use and occupancy of the Turtle Mountain band of Chippewa Indian were, with the exception of townships 162 and 163 north, range 71 west, restored to the mass of the public domain, is hereby amended so as to substitute township 162 north, range 70 west, for township 163 north, range 71 west, the purpose and effect of such amendment being to withdraw from sale and settlement and set apart for the use and occupancy of said Indians said township 162 north, range 70 west, in lieu of township 163 north, range 71 west, which last-mentioned township is thereby restored to the mass of the public domain.

CHESTER A. ARTHUR.

15.0805.01001
Title.

Prepared by the Legislative Council staff for
Senator Schaible

February 3, 2015

#1
2-11-15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2226

Page 1, line 16, after "chapter" insert ". Lands held in trust by the United States for the Turtle Mountain Band of Chippewa Indians tribe or an individual tribal member, regardless where those lands are located, must be considered for all purposes under this chapter as being trust lands on and within the boundaries of the Turtle Mountain Band of Chippewa Indians Reservation"

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2226

Page 1, line 5, after "Reservation" insert "and on certain trust properties outside reservation boundaries"

Page 1, line 14, after "Reservation" insert "and on trust properties outside reservation boundaries"

Page 1, line 23, after "reservation" insert "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"

Page 2, line 2, after "reservation" insert "and on trust properties outside reservation boundaries"

Page 2, line 4, after "reservation" insert "and on trust properties outside reservation boundaries"

Page 2, line 9, after "reservation" insert "and on trust properties outside reservation boundaries"

Page 2, line 14, after "reservation" insert "and on trust properties outside reservation boundaries"

Page 2, line 28, after "reservation" insert "and on trust properties outside reservation boundaries"

Renumber accordingly

1

To: House Energy and Natural Resources Committee:
Chairman Representative Todd Porter

From: Steve Sitting Bear (External Affairs SRST)

Date: March 6th 2015

Subject: Testimony on SB 2226

The Standing Rock Sioux Tribe currently is not directly engaged in the oil and gas development that is occurring in north western part of our state, and we may not be engaged in it for many years to come. But we do understand that there are oil and gas resources within borders, and if development does move south, we must be prepared for it. We need to have agreements such as this to help navigate the costs that come with oil and gas development. Learning from the Three Affiliated Tribes, we know that the impact the oil industry will have on our communities will happen quick, where lack of preparation will only compound the problems, many of which already exist.

As you all aware, the cost of infrastructure, housing, road repair, law enforcement shortages, health care services, environmental clean ups etc. are going to be both in great need, and also very costly. We as a tribe, and also as members of this state need to be proactive in preparing for that impact - if it does indeed come. Our tribe, much like many of the others tribes, just as many of the counties in this state, we do not have the resources to adequately manage that impact. That is why I am here today, both on behalf of the Standing Rock Sioux Tribe, but also as a citizen of Sioux County.

As a sovereign Nation, with sovereign governing powers, we wish to enter into negotiations with the sovereign state of North Dakota. We're hoping we can find common ground, much the same as the other tax agreements we have accomplished with this state. We wish to work together with North Dakota, with a mutual understanding that our citizen's health, well-being and quality of life are second to none. We want to work together, in a government to government relationship to help protect our citizens, our resources and our land. It is our duty to help minimize the impact of oil and gas development.

As Chairman Archambault stated in his address to this legislature, "As tribes, we are all unique, one size does not always fit all" We are all separate sovereigns with separate laws, political structures, opportunities and challenges. We would ask that this committee take that into consideration as we move forward with this bill.

Thank you

Steve Sitting Bear

External Affairs Director
Standing Rock Sioux Tribe
701-854-8638
ssittingbear@standingrock.org

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Turtle Mountain Band of Chippewa
Energy & Natural Resources Committee
Chairman, Todd Porter
North Dakota State Capital, Bismarck ND
March 6, 2015

Good Morning Chairman Porter and Committee Members,

My name is Patrick Marcellais, and I'm currently serving as District II councilman and secretary/treasurer for the Turtle Mountain Band of Chippewa. Today I'm here in support of Senate bill 2226.

I would like to start by touching on the history of the Turtle Mountain Reservation. It was established by Executive Order on December 21, 1882. A large area of land was set apart for use and occupancy of the Turtle Mountain Band of Chippewa Indians.

March 29, 1884 the reservation was reduced to two townships. At this time it was still "Dakota Territory".

Act of 7/13/1892 – The president of the United States was authorized to appoint a commission to negotiate with the TMBCI in North Dakota (was Dakota Territory) for cession and relinquishment to the US of whatever right & interest they may have in land to which they claim title and also to make a roll (census) of Chippewa and Mixed bloods. This became known as the "McCumber Roll".

October 2, 1892 an agreement was entered into with the TMBCI. This agreement was ratified by Congress on April 21, 1904 (12 years later).

McCumber commission report shows that the Indians at the time of their conference with the commission held out for a reservation 30 miles square, but were informed that this was impossible. After much discussion it was finally decided to give the Indians the right to take allotments on the Public Domain in Lieu of the reservation demanded by them. (Article 6 of the agreement)

- Article 6 reads – All members of the TMBCI who may be Unable to secure land upon the reservation may take homesteads upon any vacant land belonging to the US without charge and shall continue to hold and be entitled to such share in all tribal funds, annuities or other property the same as if located on the reservation.

Chairman Porter and committee members that was a brief history of how we have become the Turtle Mountain Band of Chippewa's. Mr. Chairman and Committee members currently there are 65 approved Oil & Gas leases on these Public Domain tracts located in western North Dakota and are administered by the Bureau of Indian Affairs Turtle Mountain Agency

and an additional 12 (twelve) tracts administered by the Bureau of Indian Affairs Fort Berthold Agency. Of these approved leases in Fiscal Year 2014, Bureau of Indian Affairs Turtle Mountain Agency collected and distributed in excess of two million dollars in royalty payments for the Turtle Mountain Tribe and its members. Of the 65 active leases 41 share in allocated production in 27 active Oil & Gas wells according to their respective share within the spacing unit. Chairman Porter and committee members that's where we are currently at.

Chairman Porter and Committee members the future of the Turtle Mountain Band of Chippewa will be brighter if this bill is successful, Turtle Mountains would like to invest in future infrastructure like roads, public emergency services, housing, health care, and most of all the youth of the Turtle Mountains.

Turtle Mountain Reserve

EXECUTIVE MANSION, December 21, 1882

It is hereby ordered that the following-described country in the territory of Dakota, viz: Beginning at a point on the international boundary where the tenth guide meridian west of the fifth principal meridian (being the range line between ranges 73 and 74 west of the fifth principal meridian) will, when extended, intersect said international boundary; thence south on the tenth guide meridian to the southeast corner of township 161 north, range 74 west; thence east on the fifteenth standard parallel north, to the northeast corner of township 160 north, range 74 west; thence south on the tenth guide meridian west to the southeast corner of township 159 north, range 74 west; thence east on the line between townships 158 and 159 north to the southeast corner of township 159 north, range 70 west; thence north with the line between ranges 69 and 70 west to the northeast corner of township 160 north, range 70 west; thence west on the fifteenth standard parallel north to the southeast 161 north, range 70 west; thence north on the line between ranges 69 and 70 west to the international boundary; thence west of the international boundary to the place of beginning, be, and the same is hereby, withdrawn from sale and settlement and set apart for the use and occupancy of the Turtle Mountain band of Chippewa's and such other Indians of the Chippewa tribe as the Secretary of the interior may see fit to settle thereon.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, March 29, 1884

It is hereby ordered that the tract of country in the territory of Dakota withdrawn from sale and settlement and set apart for the use and occupancy of the Turtle Mountain band of Chippewa Indians by Executive order dated December 21, 1882, except townships 162 and 163 north, range 71 west, be, and the same is hereby, restored to the mass of the public domain.

EXECUTIVE MANSION, June 3, 1884

The Executive order dated March 29, 1884, whereby certain lands in the territory of Dakota previously set apart for the use and occupancy of the Turtle Mountain band of Chippewa Indian were, with the exception of townships 162 and 163 north, range 71 west, restored to the mass of the public domain, is hereby amended so as to substitute township 162 north, range 70 west, for township 163 north, range 71 west, the purpose and effect of such amendment being to withdraw from sale and settlement and set apart for the use and occupancy of said Indians said township 162 north, range 70 west, in lieu of township 163 north, range 71 west, which last-mentioned township is thereby restored to the mass of the public domain.

CHESTER A. ARTHUR.

I am respectfully asking for your support for a Do Pass on SB 2226. I'd be happy to answer any questions you may have at this time.

Thank you.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2226

Page 1, line 1, after "sections" insert "54-40.2-04, 54-40.2-05,"

Page 1, line 2, after the first "to" insert "legislative confirmation of state-tribal tax collection agreements and"

Page 1, line 5, after "boundaries" insert "; and to provide an effective date"

Page 1, after line 6, insert:

"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 later than March thirty-first of the next ensuing 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."

Page 1, line 10, after "enter" insert "separate"

Page 1, line 10, remove the overstrike over "agreements"

Page 1, line 10, remove "an"

Page 1, line 11, remove "agreement"

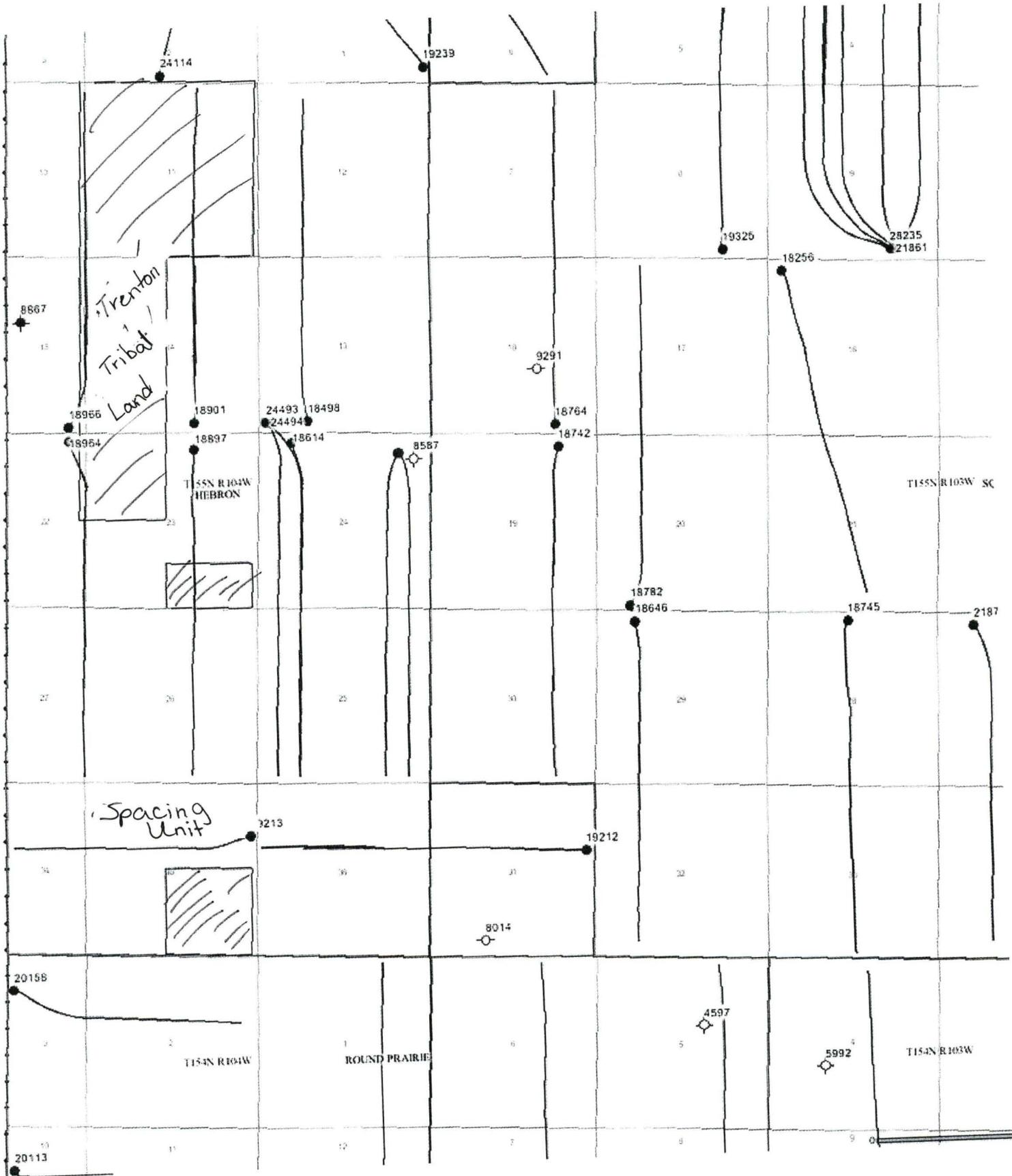
Page 1, after line 16, insert:

"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 later than March thirty-first of the next ensuing odd-numbered year."

Page 3, after line 28, insert:

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

Renumber accordingly



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 Mar. 26, 2015

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2226

That the House recede from its amendments as printed on pages 1066 and 1067 of the Senate Journal and pages 1203 and 1204 of the House Journal and that Engrossed Senate Bill No. 2226 be amended as follows:

Page 1, line 1, after "sections" insert "54-40.2-04, 54-40.2-05,"

Page 1, line 1, after "57-51.2-01" insert a comma

Page 1, line 2, after the first "to" insert "legislative confirmation of state-tribal tax collection agreements and the"

Page 1, line 5, after "boundaries" insert "; and to provide an effective date"

Page 1, after line 6, insert:

"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.

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4. The affected tribal government."

Page 1, line 10, after "enter" insert "separate"

Page 1, line 10, remove the overstrike over "agreements"

Page 1, line 10, remove "an"

Page 1, line 11, remove "agreement"

Page 1, line 12, after "Indians" insert an underscored comma

Page 1, after line 16, insert:

"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."

Page 3, after line 28, insert:

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

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2226

2.
4.8.15

Introduced by

Senators Schaible, Bekkedahl, Marcellais

Representatives D. Anderson, Froseth, D. Johnson

1 A BILL for an Act to amend and reenact sections 54-40.2-04, 54-40.2-05, 57-51.2-01, and
2 57-51.2-02 of the North Dakota Century Code, relating to legislative confirmation of state-tribal
3 tax collection agreements and the authority of the governor to enter agreements relating to
4 taxation and regulation of oil and gas exploration and production within the boundaries of the
5 Fort Berthold Reservation, Standing Rock Sioux Tribe Reservation, or Turtle Mountain Band of
6 Chippewa Indians Reservation and on certain trust properties outside reservation boundaries;
7 and to provide an effective date.

8 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

11 **54-40.2-04. Approval of agreement by governor and tribes - Approval by legislative**
12 **assembly for tax collection agreements.**

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

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

3 **54-40.2-05. Filing of agreement.**

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

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

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

15 **57-51.2-01. Authority to enter agreements.**

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

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

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

30 **57-51.2-02. Agreement requirements.**

31 An agreement under this chapter is subject to the following:

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- 1 1. The only taxes subject to agreement are the state's oil and gas gross production and
2 oil extraction taxes attributable to production from wells located within the exterior
3 boundaries of the ~~Fort Berthold Reservation~~reservation and wells located on trust
4 properties outside reservation boundaries. For purposes of this chapter, "trust
5 properties outside reservation boundaries" means land in this state located outside the
6 exterior boundaries of a reservation which are held in trust by the United States for
7 any Indian tribe or owned by an Indian tribe or tribal member subject to a restriction
8 against alienation imposed by the United States.
- 9 2. The state's oil and gas gross production tax under chapter 57-51 must apply to all
10 wells located within the ~~Fort Berthold Reservation~~reservation and on trust properties
11 outside reservation boundaries.
- 12 3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas
13 production attributable to trust lands on the ~~Fort Berthold Reservation~~reservation and
14 on trust properties outside reservation boundaries may not exceed six and one-half
15 percent but may be reduced through negotiation between the governor and the ~~Three~~
16 ~~Affiliated Tribes~~tribal governing body.
- 17 4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and
18 57-51.1 do not apply to production within the boundaries of the ~~Fort Berthold~~
19 ~~Reservation~~reservation and on trust properties outside reservation boundaries except
20 as otherwise provided in the agreement.
- 21 5. The allocation of revenue from oil and gas gross production and oil extraction taxes on
22 the ~~Fort Berthold Reservation~~reservation must be as follows:
 - 23 a. Production attributable to trust lands. All revenues and exemptions from all oil
24 and gas gross production and oil extraction taxes attributable to production from
25 trust lands on the ~~Fort Berthold Reservation~~reservation and on trust properties
26 outside reservation boundaries must be evenly divided between the tribe and the
27 state.
 - 28 b. All other production. The tribe must receive fifty percent of the total oil and gas
29 gross production and oil extraction taxes collected from all production attributable
30 to nontrust lands on the ~~Fort Berthold Reservation~~reservation in lieu of the

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- 1 application of the ~~Three Affiliated Tribes'~~tribal fees and taxes related to production
2 on such lands. The state must receive the remainder.
- 3 c. The state's share of the oil and gas gross production tax revenue as divided in
4 subdivisions a and b is subject to distribution among political subdivisions as
5 provided in chapter 57-51.
- 6 6. An oil or gas well that is drilled and completed during the time of an agreement under
7 this chapter must be subject to the terms of the agreement for the life of the well.
- 8 7. The ~~Three Affiliated Tribes~~tribal governing body must agree not to impose a tribal tax
9 or any fee on future exploration and production of oil and gas on the ~~Fort Berthold~~
10 Reservation~~reservation and on trust properties outside reservation boundaries~~ during
11 the term of the agreement.
- 12 8. To address situations in which the tax commissioner refunds taxes to a taxpayer, the
13 agreement must allow the tax commissioner to offset future distributions to the tribe.
- 14 9. The tax commissioner must retain authority to administer and enforce chapters 57-51
15 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.
- 16 10. An oil or gas well that is drilled and completed during the time an agreement under this
17 chapter is in effect is subject to state regulatory provisions for the life of the well in
18 addition to any other applicable regulatory provisions.
- 19 11. The federal district court for the ~~western~~northwestern division of North Dakota is the
20 venue for any dispute arising from a revenue-sharing agreement between the state
21 and the Three Affiliated Tribes or between the state and the Turtle Mountain Band of
22 Chippewa Indians. The federal district court for the southwestern division of North
23 Dakota is the venue for any dispute arising from a revenue-sharing agreement
24 between the state and the Standing Rock Sioux Tribe.
- 25 12. The agreement must require that the ~~Three Affiliated Tribes~~tribal governing body
26 report annually to the budget section of the legislative management and that the
27 report:
28 a. Identifies projects totaling investment of at least ten percent of tribal oil and gas
29 gross production and oil extraction tax receipts of the tribe for that year in
30 essential infrastructure.

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

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

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Talking points regarding SB 2226 amendment

MOU/MOA

Entering into Memorandums of Understanding or Memorandums of Agreement with the State of North Dakota has been frustrating over the past several years. We have attempted to enter into agreements with the State regarding Alcohol tax sharing, Highway Patrol, State Water Commission and the Health Department. All were derailed for lack of a procedure that would ensure the full consultation and decision process. Current North Dakota law (NDCC 54-40.2) provides for the State/Governor to enter into these agreements, however the current law lacks a process, **the details a process to follow**. As such the negotiations proceed to a point where an opinion is delivered (legal or otherwise) that ultimately pushes the issue to the legislature or to a study resolution; this effectively “kicks the can” down the road and leads to no resolution. **We need a procedure that allows timely negotiation** with appropriate approvals. All interested parties have an opportunity to weigh in on the issue and a timely resolution is reached. The current law and system does not accomplish this.

The amendment addresses tax agreements and makes a reference to fiscal notes and legislature approval. However, a negotiation of an agreement with any state agency that would involve any type of fiscal note would then require legislature approval is not acceptable to our State/Tribal relationship. Legislative input is essential. Delays in reaching agreements with two year windows are not.

April 8, 2015

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4-10-15

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2226

That the House recede from its amendments as printed on pages 1066 and 1067 of the Senate Journal and pages 1203 and 1204 of the House Journal and that Engrossed Senate Bill No. 2226 be amended as follows:

Page 1, line 1, after "sections" insert "54-40.2-04, 54-40.2-05,"

Page 1, line 1, after "57-51.2-01" insert a comma

Page 1, line 2, after the first "to" insert "budget section approval or legislative confirmation of state-tribal tax collection agreements and the"

Page 1, line 5, after "boundaries" insert "; and to provide an effective date"

Page 1, after line 6, insert:

"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 budget section or legislative assembly for tax collection agreements.

1. 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.
2. If the agreement is a tax collection agreement between the tax commissioner and one or more tribes, the agreement is also subject to:
 - a. Confirmation by a majority of members elected to the house of representatives and the senate, if the legislative assembly is in session, and does not become effective until its legislative confirmation date or the effective date in the agreement, whichever is later; or
 - b. Approval of the budget section of the legislative management, if the legislative assembly is not in session, and does not become effective until its budget section approval date or the effective date in the agreement, whichever is later.
3. If the agreement ~~so provides~~ obtains the approvals under subsection 1, and if required, subsection 2, it may be submitted to the secretary for approval.
4. Any tax collection agreement approved by the budget section of the legislative management is also subject to confirmation by a majority of the members elected to the house of representatives and the senate at the next regular meeting of the legislative assembly. If legislative confirmation is not received, the agreement will be rendered ineffective.
5. Any tax collection agreement disapproved by the budget section of the legislative management may be subsequently approved by the legislative assembly under subdivision a of subsection 2.

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

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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, budget section approval or 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."

Page 1, after line 9, insert:

"1."

Page 1, line 10, after "enter" insert "separate"

Page 1, line 10, remove the overstrike over "agreements"

Page 1, line 10, remove "an"

Page 1, line 11, remove "agreement"

Page 1, line 12, after "Indians" insert an underscored comma

Page 1, after line 16, insert:

- "2. Each agreement under this chapter is subject to:
 - a. Confirmation by a majority of members elected to the house of representatives and the senate, if the legislative assembly is in session, and does not become effective until its legislative confirmation date or the effective date in the agreement, whichever is later; or
 - b. Approval of the budget section of the legislative management, if the legislative assembly is not in session, and does not become effective until its budget section approval date or the effective date in the agreement, whichever is later.
3. Any tax collection agreement approved by the budget section of the legislative management is also subject to confirmation by a majority of the members elected to the house of representatives and the senate at the next regular meeting of the legislative assembly. If legislative confirmation is not received, the agreement will be rendered ineffective.

4. Any tax collection agreement disapproved by the budget section of the legislative management may be subsequently approved by the legislative assembly under subdivision a of subsection 2.

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Page 3, after line 28, insert:

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

Renumber accordingly