



NORTH DAKOTA
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Senate Bill 2304

Testimony of Ron Ness

Senate Finance and Taxation Committee

January 28, 2025

Chairman Weber and members of the Committee, my name is Ron Ness, president of the North Dakota Petroleum Council (“NDPC”). The North Dakota Petroleum Council represents more than 550 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline development, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota, South Dakota, and the Rocky Mountain region. I appear before you today in opposition of Senate Bill 2304, which poses a significant threat to the stability and continued development of oil and gas resources within and surrounding the Fort Berthold Indian Reservation (“FBIR”).

North Dakota’s oil and gas industry thrives under a framework of clear, predictable, and fair taxation. Since its inception, the State/Tribal Oil Tax Sharing Agreement (“Agreement”) between North Dakota and the Mandan, Hidatsa, and Arikara (“MHA”) Nation has served as a cornerstone of this framework. Senate Bill 2304 undermines this foundational agreement, introducing instability, eroding tribal sovereignty, and jeopardizing the significant progress that has been achieved through years of state and Tribal cooperation.

The current Agreement between the State of North Dakota and the MHA Nation establishes a clear and equitable allocation of oil gross production and extraction taxes for wells located on or extending into the exterior boundaries of the FBIR. This Agreement balances state and Tribal interests, fostering a cooperative environment that supports oil and gas development while respecting the sovereignty of the Three Affiliated Tribes.

Key benefits of this Agreement include:

1. **Tax Certainty:** A predictable tax structure reduces risks for operators, enabling continued investment in energy production.
2. **Shared Revenue:** The Agreement ensures that both the State of North Dakota and the MHA Nation receive equitable tax revenue to fund critical infrastructure, education, and community development.
3. **Streamlined Administration:** The Agreement outlines a formulaic allocation model for all oil and gas tax revenue generated from mineral development within FBIR, ensuring transparency and clarity in tax reporting and simplifying compliance for operators.

The State/Tribal Oil Tax Sharing Agreement is a model of how state and Tribal governments can collaborate to promote mutual economic benefit. Any disruption to this structure risks creating confusion, discouraging investment, and ultimately reducing production and tax revenues for all parties involved.

Beyond destabilizing the tax framework, Senate Bill 2304 introduces provisions that directly undermine the sovereignty of the MHA Nation. The requirement for the MHA Nation to conduct audits and submit audit reports to the Bureau of Indian Affairs (“BIA”) before tax revenues are released from escrow is a clear infringement on tribal self-determination. As a federally recognized Tribal nation, the MHA Nation has inherent sovereignty that includes the authority to govern its affairs, including the administration and oversight of oil and gas revenues. Requiring audits to be conducted at the direction of, and submitted to, the BIA inserts unnecessary federal oversight and undermines the MHA Nation’s ability to manage its financial and economic interests independently.

This requirement is not only an overreach but also sets a dangerous precedent by imposing undue federal involvement in a state/Tribal agreement that has historically functioned effectively. Such measures erode trust and cooperation between state and Tribal governments, disrupt established governance processes, and send a message that the sovereignty of the MHA Nation is secondary to bureaucratic oversight.

The oil and gas industry is a cornerstone of North Dakota's economy, generating billions of dollars in tax revenue and creating thousands of jobs. The State/Tribal Oil Tax Sharing Agreement has played a critical role in facilitating the responsible development of resources on the FBIR. Senate Bill 2304 jeopardizes this progress by introducing unnecessary complexity, eroding Tribal sovereignty, and destabilizing the foundation of trust and cooperation between the State of North Dakota and the MHA Nation.

On behalf of NDPC and its members, I urge you to oppose Senate Bill 2304 with a **Do Not Pass recommendation** and preserve the collaborative framework that has served our state and Tribal partners so effectively. Thank you for the opportunity to provide this information, and I would be happy to answer any questions.