

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2312

Introduced by

Senators Kannianen, Wardner

Representative Pollert

1 A BILL for an Act to amend and reenact sections 57-51.1-02 and 57-51.2-01 and subsection 5
2 of section 57-51.2-02 of the North Dakota Century Code, relating to the allocation of revenue
3 from oil and gas production and oil extraction taxes imposed on production and extraction
4 activity on a reservation in this state; to provide for application; and to declare an emergency.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 57-51.1-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **57-51.1-02. Imposition of oil extraction tax.**

9 There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the
10 activity in this state of extracting oil from the earth, and every owner, including any royalty
11 owner, of any part of the oil extracted is deemed for the purposes of this chapter to be engaged
12 in the activity of extracting that oil. The rate of tax is five percent of the gross value at the well of
13 the oil extracted. ~~However, if the average price of a barrel of crude oil exceeds the trigger price~~
14 ~~of ninety dollars for each month in any consecutive three-month period, then the rate of tax on~~
15 ~~oil extracted from all taxable wells is six percent of the gross value at the well of the oil~~
16 ~~extracted until the average price of a barrel of crude oil is less than the trigger price of ninety~~
17 ~~dollars for each month in any consecutive three-month period, in which case the rate of tax~~
18 ~~reverts to five percent of the gross value at the well of the oil extracted. By December thirty-first~~
19 ~~of each year, the tax commissioner shall determine an indexed trigger price under this section~~
20 ~~by applying to the current trigger price an adjustment equal to the percentage rate of change of~~
21 ~~the producer price index for industrial commodities as calculated and published by the United~~
22 ~~States department of labor, bureau of labor statistics, for the twelve months ending June~~
23 ~~thirtieth of that year and the indexed trigger price so determined is the trigger price for the~~
24 ~~following calendar year.~~

1 ~~For purposes of this section, "average price" of a barrel of crude oil means the monthly~~
2 ~~average of the daily closing price for a barrel of west Texas intermediate cushing crude oil, as~~
3 ~~those prices appear in the Wall Street Journal, midwest edition. When computing the monthly~~
4 ~~average price, the most recent previous daily closing price must be considered the daily closing~~
5 ~~price for the days on which the market is closed.~~

6 **SECTION 2. AMENDMENT.** Section 57-51.2-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **57-51.2-01. Authority to enter agreements.**

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

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

22 **SECTION 3. AMENDMENT.** Subsection 5 of section 57-51.2-02 of the North Dakota
23 Century Code is amended and reenacted as follows:

- 24 5. The allocation of revenue from oil and gas gross production and oil extraction taxes on
25 the reservation must be as follows:
- 26 a. Production attributable to trust lands. All~~The~~ tribe must receive eighty percent of
27 the total revenues, and be subject to all applicable exemptions from all oil and
28 gas gross production and oil extraction taxes attributable to production from trust
29 lands on the reservation and on trust properties outside reservation boundaries
30 must be evenly divided between the tribe and the state. The state must receive
31 the remainder.

- 1 b. All other production. The tribe must receive ~~forty~~twenty percent of the total oil and
2 gas gross production and oil extraction taxes collected, and be subject to all
3 applicable exemptions, from all production attributable to nontrust lands on the
4 reservation in lieu of the application of tribal fees and taxes related to production
5 on such lands. The state must receive the remainder.
- 6 c. The state's share of the oil and gas gross production tax revenue as divided in
7 subdivisions a and b is subject to distribution among political subdivisions as
8 provided in chapter 57-51.

9 **SECTION 4. APPLICATION.** Sections 2 and 3 of this Act are effective for all new oil and
10 gas wells on which drilling first commences after June 30, 2019, and which are the subject of an
11 agreement authorized under this chapter, or the first day of the next succeeding month after the
12 date an agreement authorized under this chapter is executed, whichever occurs later.

13 **SECTION 5. EMERGENCY.** Sections 2 and 3 of this Act are declared to be an emergency
14 measure.