

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 section 57-51.2-01 and subsection 5 of section
2 57-51.2-02 of the North Dakota Century Code, relating to the allocation of revenue from oil and
3 gas production and oil extraction taxes imposed on production and extraction activity on a
4 reservation in this state; to suspend section 54-35-23 of the North Dakota Century Code,
5 relating to the tribal and state relations committee; to provide for a legislative management tribal
6 taxation issues committee; to provide for application; to provide an expiration date; and to
7 declare an emergency.

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

9 **SECTION 1. AMENDMENT.** Section 57-51.2-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-51.2-01. Authority to enter agreements.**

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

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

1 **SECTION 2. AMENDMENT.** Subsection 5 of section 57-51.2-02 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 5. The allocation of revenue from oil and gas gross production and oil extraction taxes on
4 the reservation must be as follows:

5 a. Production attributable to trust lands. ~~All~~The tribe must receive eighty percent of
6 the total revenues, and be subject to all applicable exemptions from all oil and
7 gas gross production and oil extraction taxes attributable to production from trust
8 lands on the reservation and on trust properties outside reservation boundaries
9 ~~must be evenly divided between the tribe and the state.~~ The state must receive
10 the remainder.

11 b. All other production. The tribe must receive ~~fifty~~twenty percent of the total oil and
12 gas gross production and oil extraction taxes collected, and be subject to all
13 applicable exemptions, from all production attributable to nontrust lands on the
14 reservation in lieu of the application of tribal fees and taxes related to production
15 on such lands. The state must receive the remainder.

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

19 **SECTION 3. SUSPENSION.** Section 54-35-23 of the North Dakota Century Code is
20 suspended.

21 **SECTION 4. TRIBAL TAXATION ISSUES - LEGISLATIVE MANAGEMENT COMMITTEE.**

22 1. During the 2019-20 interim, the tribal taxation issues committee is created and is
23 composed of ten members as follows:

- 24 a. The governor;
- 25 b. The lieutenant governor;
- 26 c. The tax commissioner;
- 27 d. The executive director of the Indian affairs commission;
- 28 e. The majority leader of the house of representatives and the majority leader of the
29 senate;
- 30 f. The minority leader of the house of representatives and the minority leader of the
31 senate; and

- 1 g. The chairmen of the finance and taxation standing committees of the house of
2 representatives and the senate.
- 3 2. The nonlegislative members shall serve as nonvoting members of the committee.
- 4 3. The legislative management shall designate the chairman of the committee. The
5 committee shall operate according to the statutes and procedures governing the
6 operation of other legislative management interim committees.
- 7 4. The committee shall study tribal taxation issues, including the tax collection
8 agreements that exist between the tribes and the state, the interaction between tribal
9 sovereignty and state law, consideration of how statutory changes may affect
10 provisions in existing agreements, the amount and manner of revenue sharing under
11 the agreements, the costs and benefits to the state and the tribes if tax compacts are
12 implemented, implementation models used in other states for tax compacts, best
13 practices for negotiating and ratifying tax compacts, the procedure for withdrawal from
14 an agreement and how to handle disputed funds; and methods for sourcing revenue
15 generated from wells located inside or outside of the external boundaries of a
16 reservation in this state when a horizontal lateral enters a spacing unit that is located
17 both inside and outside of the external boundaries of a reservation in this state.
- 18 5. The committee may study tribal-state issues, including government-to-government
19 relations, human services, education, corrections, and issues related to the promotion
20 of economic development.
- 21 6. The chairman of the committee shall invite tribal chairmen to each committee meeting.
- 22 7. At the conclusion of its meetings, the committee shall report on its findings and
23 recommendations, together with any legislation required to implement those
24 recommendations, to the legislative management.

25 **SECTION 5. APPLICATION.** Sections 1 and 2 of this Act are effective for all new oil and
26 gas wells on which drilling first commences after June 30, 2019, and which are the subject of an
27 agreement authorized under this chapter, or the first day of the next succeeding month after the
28 date an agreement authorized under this chapter is executed, whichever occurs later.

29 **SECTION 6. EXPIRATION DATE.** Section 3 of this Act is effective through July 31, 2021,
30 and after that date is ineffective.

1 **SECTION 7. EMERGENCY.** Sections 1 and 2 of this Act are declared to be an emergency
2 measure.