

## **CHAPTER 57-51.2 TRIBAL OIL AND GAS AGREEMENTS**

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

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

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

An agreement under this chapter is subject to the following:

1. The only taxes subject to agreement are the state's oil and gas gross production and oil extraction taxes attributable to production from wells located within the exterior boundaries of the reservation and wells located on trust properties outside reservation boundaries. For purposes of this chapter, "trust properties outside reservation boundaries" means land in this state located outside the exterior boundaries of a reservation which are held in trust by the United States for any Indian tribe or owned by an Indian tribe or tribal member subject to a restriction against alienation imposed by the United States.
2. The state's oil and gas gross production tax under chapter 57-51 must apply to all wells located within the reservation and on trust properties outside reservation boundaries.
3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas production attributable to trust lands on the reservation and on trust properties outside reservation boundaries may not exceed six and one-half percent but may be reduced through negotiation between the governor and the tribal governing body.
4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and 57-51.1 do not apply to production within the boundaries of the reservation and on trust properties outside reservation boundaries except as otherwise provided in the agreement.
5. The allocation of revenue from oil and gas gross production and oil extraction taxes on the reservation must be as follows:
  - a. Production attributable to trust lands. The tribe must receive eighty percent of the total revenues, and be subject to all applicable exemptions from all oil and gas gross production and oil extraction taxes attributable to production from trust lands on the reservation and on trust properties outside reservation boundaries. The state must receive the remainder.
  - b. All other production. The tribe must receive twenty percent of the total oil and gas gross production and oil extraction taxes collected, and be subject to all applicable exemptions, from all production attributable to nontrust lands on the reservation in lieu of the application of tribal fees and taxes related to production on such lands. The state must receive the remainder.
  - c. The state's share of the oil and gas gross production tax revenue as divided in subdivisions a and b is subject to distribution among political subdivisions as provided in chapter 57-51.
6. An oil or gas well that is drilled and completed during the time of an agreement under this chapter must be subject to the terms of the agreement for the life of the well.
7. The tribal governing body must agree not to impose a tribal tax or any fee on future exploration and production of oil and gas on the reservation and on trust properties outside reservation boundaries during the term of the agreement.
8. To address situations in which the tax commissioner refunds taxes to a taxpayer, the agreement must allow the tax commissioner to offset future distributions to the tribe.

9. The tax commissioner must retain authority to administer and enforce chapters 57-51 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.
10. An oil or gas well that is drilled and completed during the time an agreement under this chapter is in effect is subject to state regulatory provisions for the life of the well in addition to any other applicable regulatory provisions.
11. The federal district court for the northwestern division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Three Affiliated Tribes or between the state and the Turtle Mountain Band of Chippewa Indians. The federal district court for the southwestern division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Standing Rock Sioux Tribe.
12. The agreement must require that the tribal governing body report annually to the budget section of the legislative management and that the report:
  - a. Identifies projects totaling investment of at least ten percent of tribal oil and gas gross production and oil extraction tax receipts of the tribe for that year in essential infrastructure.
  - b. At a minimum, informs the budget section of tribal investments in essential infrastructure and fees, expenses, and charges the tribe imposes on the oil industry.

**57-51.2-03. Statutory inconsistencies superseded.**

This chapter supersedes any inconsistent provisions of chapters 57-51 and 57-51.1 and any inconsistent provisions of state law relating to regulatory provisions and state law relating to oil and gas exploration and production and administration of those provisions.

**57-51.2-04. Reports.**

After entering an agreement under this chapter, the governor shall file a report with the legislative council describing the agreement's negotiations and terms and thereafter shall file biennial reports with the legislative council describing the agreement's implementation and any difficulties in its implementation.

**57-51.2-05. Inapplicability of chapter 54-40.2.**

Chapter 54-40.2 does not apply to any agreement entered under chapter 57-51.2.