

**SECOND ENGROSSMENT
with Conference Committee Amendments****REENGROSSED SENATE BILL NO. 2419**

Introduced by

Senator Stenehjem

Representative Berg

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact chapter 57-51.2 of the North Dakota Century Code,
2 relating to agreements with the Three Affiliated Tribes to share revenue from state taxes on oil
3 and gas production within the boundaries of the Fort Berthold Reservation; to provide an
4 effective date; to provide an expiration date; and to declare an emergency.

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

6 **SECTION 1.** Chapter 57-51.2 of the North Dakota Century Code is created and
7 enacted as follows:

8 **57-51.2-01. Authority to enter agreements.** The governor, in consultation with the
9 tax commissioner, may enter agreements with the Three Affiliated Tribes relating to taxation
10 and regulation of oil and gas exploration and production within the boundaries of the Fort
11 Berthold Reservation.

12 **57-51.2-02. Agreement requirements.** An agreement under this chapter is subject to
13 the following:

- 14 1. The only taxes subject to agreement are the state's oil and gas gross production
15 and oil extraction taxes attributable to production from wells located within the
16 exterior boundaries of the Fort Berthold Reservation.
- 17 2. The state's oil and gas gross production tax under chapter 57-51 must apply to all
18 wells located within the Fort Berthold Reservation.
- 19 3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas
20 production attributable to trust lands on the Fort Berthold Reservation may not
21 exceed six and one-half percent but may be reduced through negotiation between
22 the governor and the Three Affiliated Tribes.

- 1 4. Any exemptions for oil and gas production from trust lands under chapters 57-51
2 and 57-51.1 do not apply to production within the boundaries of the Fort Berthold
3 Reservation except as otherwise provided in the agreement.
- 4 5. The allocation of revenue from oil and gas production taxes on the Fort Berthold
5 Reservation must be as follows:
 - 6 a. Production attributable to trust lands. All revenues and exemptions from all
7 oil and gas gross production and oil extraction taxes attributable to production
8 from trust lands on the Fort Berthold Reservation must be evenly divided
9 between the tribe and the state.
 - 10 b. All other production. The tribe must receive twenty percent of the total oil and
11 gas gross production taxes collected from all production attributable to
12 nontrust lands on the Fort Berthold Reservation in lieu of the application of
13 the Three Affiliated Tribes' fees and taxes related to production on such
14 lands. The state must receive the remainder.
 - 15 c. The state's share of the revenue as divided in subdivisions a and b is subject
16 to distribution among political subdivisions as provided in chapters 57-51 and
17 57-51.1.
- 18 6. An oil or gas well that is drilled and completed during the time of an agreement
19 under this chapter must be subject to the terms of the agreement for the life of the
20 well.
- 21 7. The Three Affiliated Tribes must agree not to impose a tribal tax or any fee on
22 future production of oil and gas on the Fort Berthold Reservation during the term of
23 the agreement.
- 24 8. To address situations in which the tax commissioner refunds taxes to a taxpayer,
25 the agreement must allow the tax commissioner to offset future distributions to the
26 tribe.
- 27 9. The tax commissioner must retain authority to administer and enforce chapters
28 57-51 and 57-51.1 as applied to wells subject to any agreement authorized by this
29 chapter.

1 10. An oil or gas well that is drilled and completed during the time an agreement under
2 this chapter is in effect is subject to state regulatory provisions for the life of the
3 well in addition to any other applicable regulatory provisions.

4 11. The federal district court for the western division of North Dakota is the venue for
5 any dispute arising from a revenue-sharing agreement between the state and the
6 Three Affiliated Tribes.

7 **57-51.2-03. Statutory inconsistencies superseded.** This chapter supersedes any
8 inconsistent provisions of chapters 57-51 and 57-51.1 and any inconsistent provisions of state
9 law relating to regulatory provisions and state law relating to oil and gas exploration and
10 production and administration of those provisions.

11 **57-51.2-04. Reports.** After entering an agreement under this chapter the governor
12 shall file a report with the legislative council describing the agreement's negotiations and terms
13 and thereafter shall file biennial reports with the legislative council describing the agreement's
14 implementation and any difficulties in its implementation.

15 **57-51.2-05. Inapplicability of chapter 54-40.2.** Chapter 54-40.2 does not apply to
16 any agreement entered under chapter 57-51.2.

17 **SECTION 2. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for oil
18 production after June 30, 2007. This Act is ineffective after June 30, 2009, unless by that date
19 the governor's office notifies the tax commissioner and legislative council that an agreement
20 has been entered with the Three Affiliated Tribes under chapter 57-51.2.

21 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.