

Sixty-second
Legislative Assembly
of North Dakota

SENATE BILL NO. 2348

Introduced by

Senators Warner, Lyson, Wardner

Representatives Drovdal, Onstad, Thoreson

1 A BILL for an Act to amend and reenact section 57-51.2-02 of the North Dakota Century Code,
2 relating to requirements for agreements with the Three Affiliated Tribes for the taxation and
3 regulation of oil and gas exploration and production within the boundaries of the Fort Berthold
4 Indian Reservation; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 57-51.2-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **57-51.2-02. Agreement requirements.**

9 An agreement under this chapter is subject to the following:

- 10 1. The only taxes subject to agreement are the state's oil and gas gross production and
11 oil extraction taxes contained in chapters 57-51 and 57-51.1 attributable to production
12 from wells located within the exterior boundaries of the Fort Berthold Reservation.
- 13 2. The state's oil and gas gross production tax under chapter 57-51 must apply to all
14 wells located within the Fort Berthold Reservation.
- 15 3. ~~The state's~~Any state oil extraction tax under chapter 57-51.1 as applied to oil and gas
16 production attributable to trust lands on the Fort Berthold Reservation may not exceed
17 ~~six and one-half percent~~the total state tax rate but may be reduced through negotiation
18 between the governor and the Three Affiliated Tribes.
- 19 4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and
20 57-51.1 do not apply to production within the boundaries of the Fort Berthold
21 Reservation except as otherwise provided in the agreement.
- 22 5. The allocation of revenue from oil and gas production and extraction taxes on the Fort
23 Berthold Reservation must be as follows:

- 1 a. Production attributable to trust lands. All revenues and applicable exemptions
- 2 from all oil and gas gross production and oil extraction taxes attributable to
- 3 production from trust lands on the Fort Berthold Reservation must be evenly-
- 4 divided ~~between~~such that the tribe receives eighty percent of such revenue and
- 5 the state receives twenty percent of such revenue.
- 6 b. All other production. The tribe must receive twenty percent of the total oil and gas
- 7 gross production and extraction taxes collected from all production attributable to
- 8 nontrust lands on the Fort Berthold Reservation in lieu of the application of the
- 9 Three Affiliated Tribes' fees and taxes related to production on such lands. The
- 10 state must receive the remainder.
- 11 c. The state's share of the revenue as divided in subdivisions a and b is subject to
- 12 distribution among political subdivisions as provided in chapters 57-51 and
- 13 57-51.1; provided, that the allocation to the political subdivisions must be based
- 14 on the entire amount shared under subsections a and b, and the allocation to the
- 15 state general fund must be reduced accordingly; provided further, that the
- 16 allocation to the tribe must be as determined under the agreement without any
- 17 reduction under this subsection.
- 18 6. An oil or gas well that is drilled and completed during the time of an agreement under
- 19 this chapter must be subject to the terms of the agreement for the life of the well and
- 20 for as long as the agreement remains in effect.
- 21 7. The Three Affiliated Tribes must agree not to impose a tribal tax or any fee on future
- 22 production of oil and gas on the Fort Berthold Reservation during the term of the
- 23 agreement, unless otherwise provided in the tax agreement.
- 24 8. To address situations in which the tax commissioner refundsis obligated to refund
- 25 taxes to a taxpayer, the agreement must allow the tax commissioner to offset future
- 26 distributions to the tribe.
- 27 9. The tax commissioner must retain authority to administer and enforce chapters 57-51
- 28 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.
- 29 10. An oil or gas well that is drilled and completed during the time an agreement under this
- 30 chapter is in effect is subject to applicable state regulatory provisions for the life of the
- 31 well in addition to any other applicable regulatory provisions.

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

4 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
5 June 30, 2011.