

2021 SENATE FINANCE AND TAXATION

SB 2319

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2319
2/10/2021
AM

A BILL for an Act to amend and reenact subsection 1 of section 57-51.2-02 of the North Dakota Century Code, relating to oil and gas agreements; and to provide an effective date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [09:01]

Discussion Topics:

- Spacing, surface occupancy, laterals and straddle wells
- Minerals outside of the reservation
- Drilling activities
- Federal moratorium on drilling

Senator Kannianen [9:02] introduced the bill in favor and introduced an amendment #6186, 6187 and 6216.

Mark Fox, [9:07] Chairman, Mandan, Hidatsa, Arikara Nation in favor #6205

Josh Ruffo, [9:18] West Region Field Coordinator, Enerplus in favor #6206

Shane Schulz [9:23] Director of Government Affairs and Senior Corporate Counsel, QEP Resources, Inc. in favor #6165.

Teddy Carter [9:24] Public & Governmental Affairs, Devon Energy in favor #6185.

Chair Bell adjourns the meeting. [09:26]

Joel Crane, Committee Clerk



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senator Jordan Kannianen

District 4
8011 51st Street NW
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COMMITTEES:
Finance and Taxation
Political Subdivisions

Testimony on SB 2319

Jordan Kannianen, District 4 Senator

This bill addresses “straddle wells” whose horizontal laterals cross the boundaries of the Fort Berthold Indian Reservation. It would establish that wells drilled outside the boundary of the reservation whose laterals cross into the reservation are part of the existing oil and gas tax agreement between the state and the Three Affiliated Tribes. The Interim Tribal Taxation Issues Committee studied this issue extensively, and there is much data on the subject. Both the Department of Mineral Resources and Mineral Tracker have done long and thorough research, showing the past and projected results of these wells (see Mineral Tracker Report in testimonies).

The location of the well head has always been the method for establishing the taxation of the oil and gas extracted from a well, regardless of the positioning of the horizontal laterals. This bill would change that.

With recent actions by the Biden Administration to ban oil and gas activities on Federal lands, and with the exemption the Three Affiliated Tribes have received on reservation lands, this bill seeks to create additional revenue for both the state and the Tribes by allowing access to Federal minerals off of the reservation through reservation lands. An amendment would place a sunset clause on this change if a new well has not been drilled within two years.

I ask for adoption of the amendment and favorable consideration of the amended bill.
Thank you.



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#6187

August 20, 2020

Office of Governor
State of North Dakota
Attn: Governor Doug Burgum
600 East Boulevard Avenue
Bismarck, ND, 58505-0001
Phone: (701) 328-2200

RE: Fort Berthold Indian Reservation Boundary Wells | PRODUCTION ANALYSIS

Dear Governor Burgum,

MineralTracker, as a division of First International Bank & Trust, respectfully submits this Production Analysis Report for the purpose of providing meaningful analysis related to oil and gas reserves attributable to wells whose wellbores intersect the Fort Berthold Indian Reservation ("FBIR") boundary. MineralTracker was tasked with employing decline curve analysis to provide production forecasts of oil and gas for all wells crossing the boundary.

The North Dakota Department of Mineral Resources ("DMR") provided a list of 214 wells that cross the FBIR boundary, which are herein referred to as the "subject wells". The DMR also provided the length of the lateral section of each subject wellbore inside, and outside, the FBIR boundary. MineralTracker compiled historical production data for each of the subject wells and employed the Arp's equation to calculate a forward-looking decline curve for each well. An economic limit was estimated for each subject well using assumed commercial factors.

The results of the Production Analysis Report are detailed in the pages that follow. Information has been provided in a data format in addition to this report.

We thank you for the opportunity to offer our services for the benefit of the State of North Dakota.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joel Brown".

Joel Brown
Mineral Services Manager
MineralTracker | First International Bank & Trust
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Watford City, ND 58854
Phone: (701) 570-1504
Email: jbrown@fibt.com



PRODUCITON VOLUME SUMMARY

The subject wells have been categorized based on the location of the wellhead and the date on which the well was spud. Summaries of the volumetric analysis are included in the following tables.

All Wells Crossing Boundary

Count of Wells Crossing Boundary	214	
Lateral Footage Inside FBIR	913,301	
Lateral Footage Outside FBIR	1,220,271	
Total Production Volumes	Oil (bbl)	Gas (Mcf)
Cumulative Production (thru 6/30/2020)	58,932,457	83,420,133
Forecasted Production (from 7/1/2020)	52,122,068	105,200,693
Forecasted Production (6/30/2021 thru 7/1/2023)	7,969,175	16,431,205
Proportional to Footage Inside FBIR		
Cumulative Production (thru 6/30/2020)	25,226,743	35,708,985
Forecasted Production (from 7/1/2020)	22,311,474	45,032,414
Forecasted Production (6/30/2021 thru 7/1/2023)	3,411,300	7,033,574
Proportional to Footage Outside FBIR		
Cumulative Production (thru 6/30/2020)	33,705,714	47,711,148
Forecasted Production (from 7/1/2020)	29,810,594	60,168,279
Forecasted Production (6/30/2021 thru 7/1/2023)	4,557,874	9,397,631

Table 1: Production Analysis Results for All Subject Wells

Wellhead Outside FBIR, Spud Before June 30, 2019

Count of Wells Crossing Boundary	132	
Lateral Footage Inside FBIR	525,513	
Lateral Footage Outside FBIR	724,933	
Total Production Volumes	Oil (bbl)	Gas (Mcf)
Cumulative Production (thru 6/30/2020)	34,594,679	52,179,052
Forecasted Production (from 7/1/2020)	30,622,747	63,118,239
Forecasted Production (6/30/2021 thru 7/1/2023)	4,581,274	9,879,655
Proportional to Footage Inside FBIR		
Cumulative Production (thru 6/30/2020)	14,538,775	21,928,792
Forecasted Production (from 7/1/2020)	12,869,530	26,526,100
Forecasted Production (6/30/2021 thru 7/1/2023)	1,925,328	4,152,028
Proportional to Footage Outside FBIR		
Cumulative Production (thru 6/30/2020)	20,055,904	30,250,260
Forecasted Production (from 7/1/2020)	17,753,218	36,592,139
Forecasted Production (6/30/2021 thru 7/1/2023)	2,655,946	5,727,627

Table 2: Production Analysis Results for Wellheads Outside FBIR, Spud Before June 30, 2019



Wellhead Inside FBIR, Spud Before June 30, 2019

Count of Wells Crossing Boundary	74	
Lateral Footage Inside FBIR	387,788	
Lateral Footage Outside FBIR	399,085	
Total Production Volumes	Oil (bbl)	Gas (Mcf)
Cumulative Production (thru 6/30/2020)	23,900,348	30,731,483
Forecasted Production (from 7/1/2020)	15,867,149	33,660,035
Forecasted Production (6/30/2021 thru 7/1/2023)	2,267,433	4,894,754
Proportional to Footage Inside FBIR		
Cumulative Production (thru 6/30/2020)	11,778,607	15,145,138
Forecasted Production (from 7/1/2020)	7,819,674	16,588,392
Forecasted Production (6/30/2021 thru 7/1/2023)	1,117,440	2,412,240
Proportional to Footage Outside FBIR		
Cumulative Production (thru 6/30/2020)	12,121,741	15,586,345
Forecasted Production (from 7/1/2020)	8,047,476	17,071,643
Forecasted Production (6/30/2021 thru 7/1/2023)	1,149,993	2,482,513

Table 3: Production Analysis Results for Wellheads Inside FBIR, Spud Before June 30, 2019

Wellhead Inside FBIR, Spud After June 30, 2019

Count of Wells Crossing Boundary	8	
Lateral Footage Inside FBIR	0	
Lateral Footage Outside FBIR	96,253	
Total Production Volumes	Oil (bbl)	Gas (Mcf)
Cumulative Production (thru 6/30/2020)	437,430	509,598
Forecasted Production (from 7/1/2020)	5,632,171	8,422,420
Forecasted Production (6/30/2021 thru 7/1/2023)	1,120,467	1,656,796
Proportional to Footage Inside FBIR		
Cumulative Production (thru 6/30/2020)	0	0
Forecasted Production (from 7/1/2020)	0	0
Forecasted Production (6/30/2021 thru 7/1/2023)	0	0
Proportional to Footage Outside FBIR		
Cumulative Production (thru 6/30/2020)	437,430	509,598
Forecasted Production (from 7/1/2020)	5,632,171	8,422,420
Forecasted Production (6/30/2021 thru 7/1/2023)	1,120,467	1,656,796

Table 4: Production Analysis Results for Wellheads Inside FBIR, Spud Before After 30, 2019



PRODUCTION PROFILE

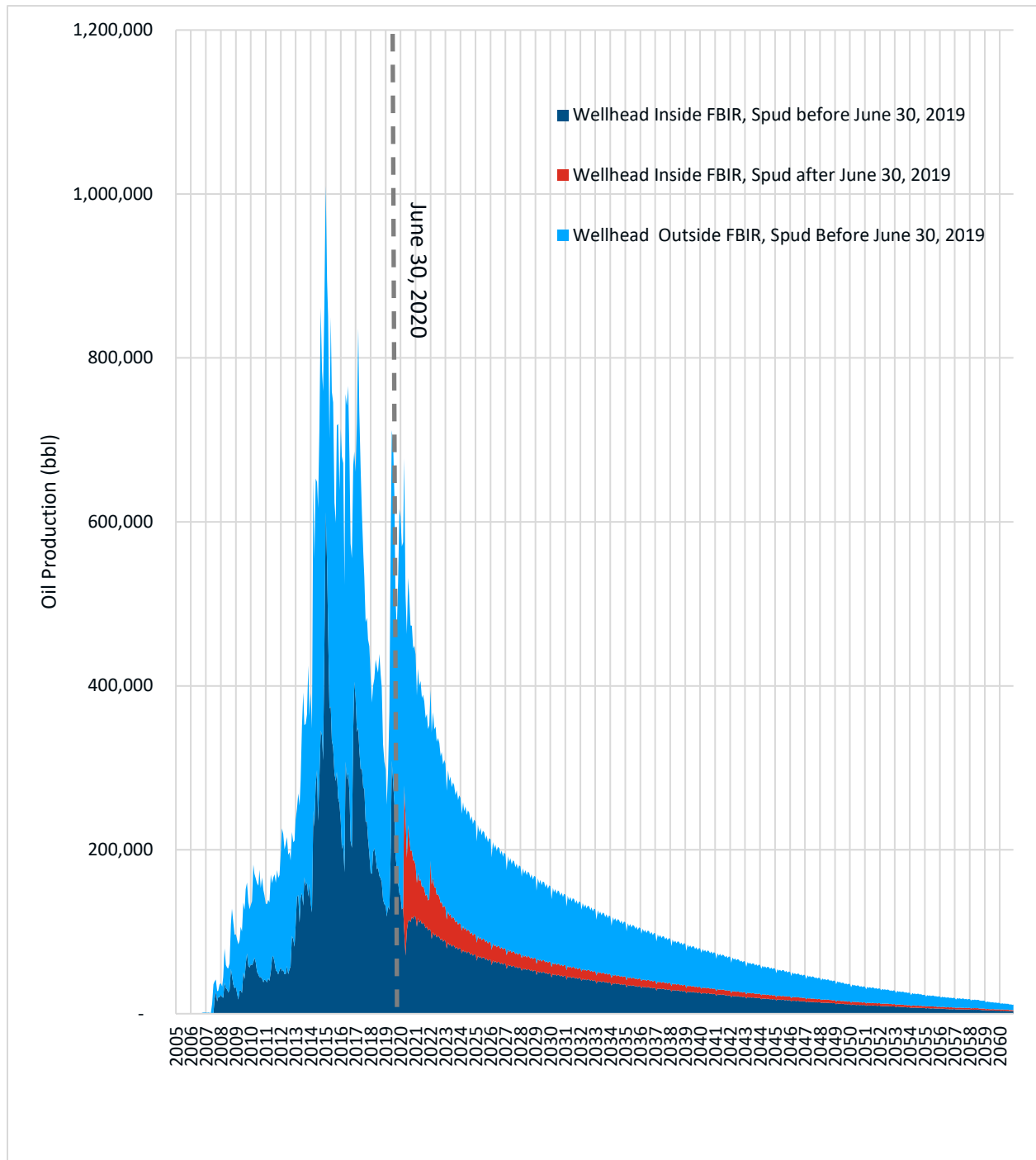


Figure 2: Oil Production Profile

FBIR BOUNDARY WELLS MAP

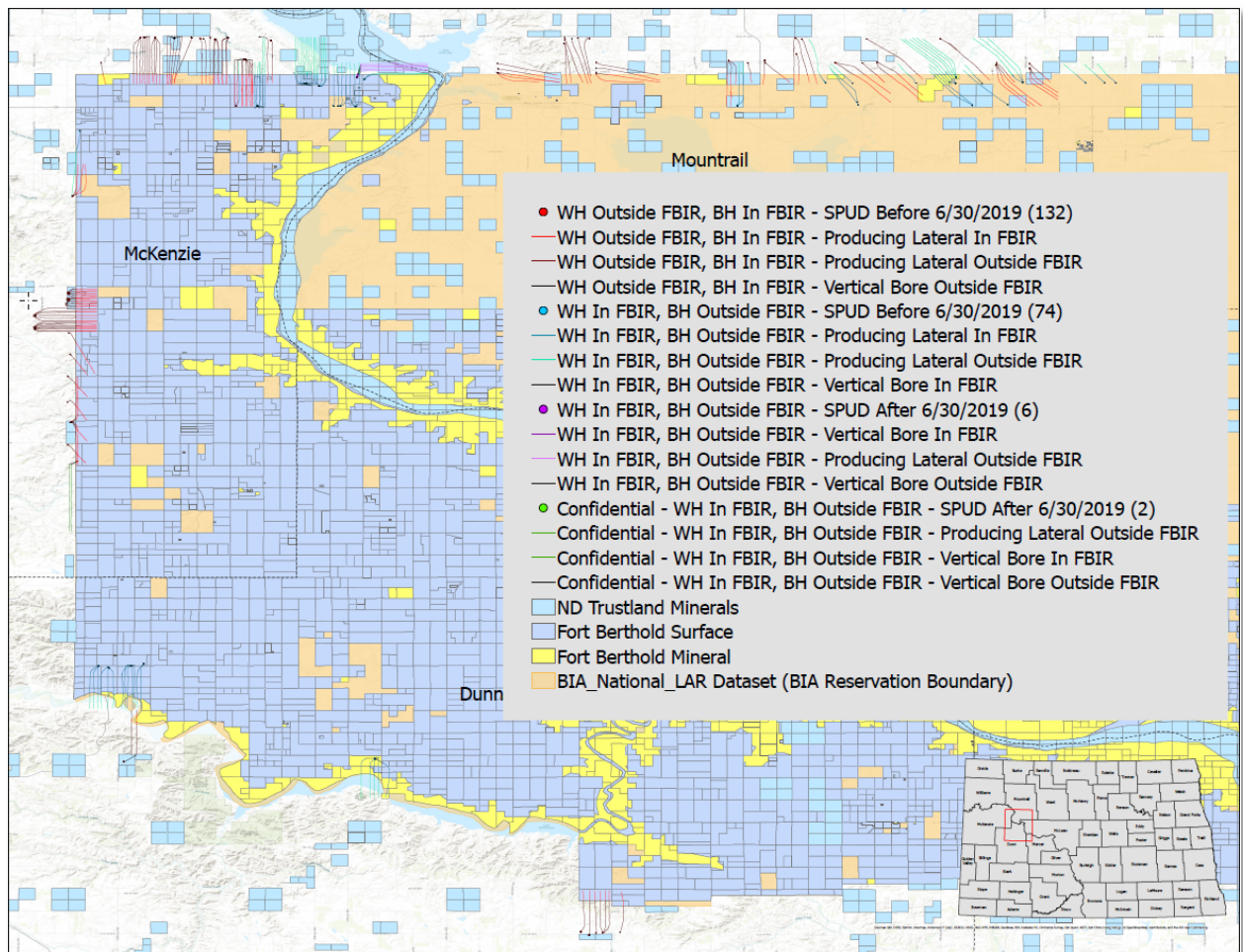


Figure 2: FBIR Boundary Wells Map

Provided by the North Dakota Department of Mineral Resources

SUBJECT WELL LIST

Well Name	Operator	Spud Date	Status	Status Date	Wellhead Location	Length (ft) Inside FBIR	Length (ft) Outside FBIR
BARN 147-94-13A-24H	ENERPLUS	6/30/2015	A	5/4/2016	Inside	5,152	4,289
BURROWING 147-94-13B-24H	ENERPLUS	7/5/2015	A	2/15/2019	Inside	3,957	5,533
DETENNE 1-07H	EOG RESOURCES	1/19/2008	IA	4/15/2020	Inside	2,300	3,096
FB BONITA 152-93-9B-10-10B	BRUIN E&P	10/2/2019	A	10/2/2019	Inside	-	10,640
FB BONITA 152-93-9B-10-12T	BRUIN E&P	10/1/2019	A	10/1/2019	Inside	-	10,720
FB BONITA 152-93-9B-10-13B	BRUIN E&P	9/30/2019	A	9/30/2019	Inside	-	10,628
FB BONITA 152-93-9B-10-14T	BRUIN E&P	9/28/2019	A	9/28/2019	Inside	-	10,654
FB BONITA 152-93-9B-10-15B	BRUIN E&P	9/27/2019	A	9/27/2019	Inside	-	10,648
FB BONITA 152-93-9B-10-9T	BRUIN E&P	10/4/2019	A	10/4/2019	Inside	-	11,381
FORT BERTHOLD 148-95-26A-35-14H	BRUIN E&P	7/22/2014	IA	6/15/2020	Inside	8,133	1,922
FORT BERTHOLD 148-95-26A-35-1H	BRUIN E&P	3/18/2012	A	6/18/2012	Inside	10,188	231
FORT BERTHOLD 148-95-26B-35-3H	BRUIN E&P	6/5/2014	A	11/25/2014	Inside	9,423	1,256
FORT BERTHOLD 148-95-26B-35-4H	BRUIN E&P	6/10/2014	A	3/15/2018	Inside	9,429	736
FORT BERTHOLD 148-95-26B-35-5H	BRUIN E&P	6/16/2014	A	12/5/2014	Inside	10,038	177
FORT BERTHOLD 148-95-26B-35-8H	BRUIN E&P	6/18/2014	A	12/3/2014	Inside	9,394	635
FORT BERTHOLD 148-95-26B-35-9H	BRUIN E&P	6/20/2014	A	7/15/2020	Inside	9,004	1,094
FORT BERTHOLD 148-95-27A-34-1H	BRUIN E&P	1/13/2012	AB	7/15/2020	Inside	6,983	3,070
FORT BERTHOLD 148-95-27A-34-2H	BRUIN E&P	5/15/2012	AB	7/15/2020	Inside	6,923	2,707
FORT BERTHOLD 148-95-27A-34-3H	BRUIN E&P	7/11/2012	AB	5/15/2020	Inside	7,393	2,322
FORT BERTHOLD 148-95-27B-34-4H	BRUIN E&P	8/26/2013	A	5/13/2014	Inside	6,625	3,331
FORT BERTHOLD 148-95-27B-34-5H	BRUIN E&P	8/23/2013	A	4/12/2014	Inside	6,895	3,275
FORT BERTHOLD 148-95-27B-34-8H	BRUIN E&P	11/29/2013	A	4/26/2014	Inside	7,315	2,923
FORT BERTHOLD 152-93-17C-08-1H	BRUIN E&P	12/26/2009	A	4/5/2010	Inside	7,455	2,483
FORT BERTHOLD 152-93-17C-08-2H	BRUIN E&P	3/20/2011	IA	7/15/2020	Inside	7,415	2,789
FORT BERTHOLD 152-93-17C-08-3H	BRUIN E&P	11/23/2012	A	3/15/2018	Inside	7,419	2,776

Well Name	Operator	Spud Date	Status	Status Date	Wellhead Location	Length (ft) Inside FBIR	Length (ft) Outside FBIR
FORT BERTHOLD 152-93-17C-08-4H	BRUIN E&P	10/17/2012	IA	4/15/2020	Inside	7,732	2,771
FORT BERTHOLD 152-93-17D-08-5H	BRUIN E&P	1/3/2013	A	5/15/2020	Inside	7,664	2,801
FORT BERTHOLD 152-93-17D-08-6H	BRUIN E&P	3/4/2013	A	5/15/2020	Inside	7,525	2,464
FORT BERTHOLD 152-93-17D-08-7H	BRUIN E&P	3/8/2013	IA	5/15/2020	Inside	7,580	2,795
FORT BERTHOLD 152-93-7C-6-10H	BRUIN E&P	2/15/2016	A	11/3/2016	Inside	2,520	8,731
FORT BERTHOLD 152-93-7C-6-11H	BRUIN E&P	2/16/2016	A	11/5/2016	Inside	2,502	8,732
FORT BERTHOLD 152-93-7C-6-12H	BRUIN E&P	2/17/2016	A	11/6/2016	Inside	2,384	8,734
FORT BERTHOLD 152-93-7C-6-13H	BRUIN E&P	2/18/2016	A	11/8/2016	Inside	2,309	8,734
FORT BERTHOLD 152-93-7C-6-14H	BRUIN E&P	4/22/2016	A	10/28/2016	Inside	2,242	8,725
FORT BERTHOLD 152-93-7C-6-5H	BRUIN E&P	4/24/2016	A	11/1/2016	Inside	2,749	8,727
FORT BERTHOLD 152-93-7C-6-6H	BRUIN E&P	11/28/2015	A	11/1/2016	Inside	2,429	8,693
FORT BERTHOLD 152-93-7C-6-7H	BRUIN E&P	11/29/2015	A	12/15/2019	Inside	2,558	8,730
FORT BERTHOLD 152-93-7C-6-8H	BRUIN E&P	12/1/2015	A	11/15/2017	Inside	3,124	9,447
FORT BERTHOLD 152-93-7C-6-9H	BRUIN E&P	12/2/2015	A	11/7/2016	Inside	2,512	8,730
FORT BERTHOLD 152-93-7D-6-1H	BRUIN E&P	8/3/2013	A	2/28/2014	Inside	2,954	8,672
FORT BERTHOLD 152-93-7D-6-2H	BRUIN E&P	1/23/2013	A	4/20/2013	Inside	2,731	8,729
FORT BERTHOLD 152-93-7D-6-3H	BRUIN E&P	8/6/2013	A	3/6/2014	Inside	2,765	8,687
FORT BERTHOLD 152-93-7D-6-4H	BRUIN E&P	8/8/2013	A	3/8/2014	Inside	6,151	17,396
FORT BERTHOLD 152-93-9C-10-5H	BRUIN E&P	1/25/2014	IA	4/15/2020	Inside	2,218	8,045
FORT BERTHOLD 152-93-9C-10-6H	BRUIN E&P	1/23/2014	IA	4/15/2020	Inside	1,285	9,117
FORT BERTHOLD 152-94-14C-11-1H	BRUIN E&P	1/16/2011	A	4/15/2019	Inside	7,566	2,799
FORT BERTHOLD 152-94-14C-11-2H	BRUIN E&P	10/27/2012	A	3/15/2019	Inside	7,438	2,849
FORT BERTHOLD 152-94-14D-11-16H	BRUIN E&P	11/14/2018	A	5/26/2019	Inside	7,914	2,914
FORT BERTHOLD 152-94-14D-11-19H	BRUIN E&P	11/15/2018	A	5/7/2019	Inside	7,930	2,913
FORT BERTHOLD 152-94-14D-11-3H	BRUIN E&P	1/27/2013	PA	10/17/2018	Inside	7,503	2,858
FORT BERTHOLD 152-94-14D-11-4H	BRUIN E&P	1/24/2013	IA	7/15/2020	Inside	7,510	2,862



Well Name	Operator	Spud Date	Status	Status Date	Wellhead Location	Length (ft) Inside FBIR	Length (ft) Outside FBIR
FORT BERTHOLD 152-94-14D-2-13H3	BRUIN E&P	11/11/2018	A	5/15/2019	Inside	7,740	9,118
FORT BERTHOLD 152-94-14D-2-15H3	BRUIN E&P	11/13/2018	A	5/20/2019	Inside	7,730	8,773
GDR 1-07H	EOG RESOURCES	12/20/2007	TA	9/24/2018	Inside	2,424	3,007
GEVING 1-09H	EOG RESOURCES	5/24/2007	A	7/15/2020	Inside	1,591	2,790
HAWKEYE 01-2501H	EOG RESOURCES	8/2/2012	IA	6/15/2020	Inside	4,756	10,741
HOVDA 1-08H	EOG RESOURCES	6/15/2008	A	7/15/2020	Inside	2,343	3,080
MODEL 10-07H	EOG RESOURCES	5/1/2009	A	7/15/2020	Inside	2,338	3,045
NIGHTMAKER 3-17-8H	SLAWSON	6/7/2014	A	10/11/2014	Inside	7,609	2,847
NIGHTMAKER 5-17-8TFH	SLAWSON	6/10/2014	A	10/17/2014	Inside	7,287	2,848
NOKOTA 24-13-12HA	WPX ENERGY	3/6/2020	Conf.	Conf.	Inside	-	15,790
NOKOTA 24-13-12HQ	WPX ENERGY	3/7/2020	Conf.	Conf.	Inside	-	15,792
PARSHALL 146-0806H	EOG RESOURCES	6/25/2014	A	12/15/2019	Inside	573	10,876
PARSHALL 147-1608H	EOG RESOURCES	7/27/2014	TA	10/18/2019	Inside	9,162	2,020
PARSHALL 152-0806H	EOG RESOURCES	7/2/2014	A	6/15/2020	Inside	2,351	10,880
PARSHALL 36-0806H	EOG RESOURCES	6/22/2014	A	6/15/2020	Inside	702	10,969
PARSHALL 37-0806H	EOG RESOURCES	6/27/2014	A	6/15/2020	Inside	499	10,301
PARSHALL 39-1608H	EOG RESOURCES	7/25/2014	A	6/15/2020	Inside	9,552	1,026
PARSHALL 40-1509H	EOG RESOURCES	2/22/2014	A	8/5/2014	Inside	9,453	1,358
PARSHALL 44-1004H	EOG RESOURCES	2/16/2014	IA	6/15/2020	Inside	1,697	10,375
PARSHALL 45-1004H	EOG RESOURCES	2/14/2014	A	6/15/2020	Inside	1,905	10,668
PARSHALL 46-1004H	EOG RESOURCES	2/12/2014	A	6/15/2020	Inside	2,852	11,993
PARSHALL 56-0806H	EOG RESOURCES	7/12/2014	PA	8/5/2018	Inside	2,140	10,702
PARSHALL 57-0806H	EOG RESOURCES	6/29/2014	A	8/15/2019	Inside	2,703	10,828
PYGMY 147-93-18B-19H TF	ENERPLUS	8/4/2013	A	11/28/2013	Inside	8,023	203
SAMPSON 1-12H	EOG RESOURCES	7/5/2007	A	8/31/2007	Inside	2,295	3,134
SCREECH 147-94-13B-24H	ENERPLUS	7/3/2015	A	6/15/2020	Inside	3,614	5,628

Well Name	Operator	Spud Date	Status	Status Date	Wellhead Location	Length (ft) Inside FBIR	Length (ft) Outside FBIR
SNOWY 147-94-13A-24H TF	ENERPLUS	7/1/2015	A	6/15/2020	Inside	4,453	5,169
TOLLEFSON 44-10H	WHITING	5/30/2009	A	7/15/2019	Inside	2,755	8,577
VAN HOOK 107-1411H	EOG RESOURCES	4/4/2012	IA	6/15/2020	Inside	7,998	2,214
VAN HOOK 5-11H	EOG RESOURCES	10/5/2008	IA	7/15/2020	Inside	2,674	3,170
VAN HOOK 71-1411HX	EOG RESOURCES	11/28/2015	A	6/10/2017	Inside	7,333	1,445
AMU H-517HR	HESS	3/14/1967	PA	12/7/2019	Outside	2,314	2,684
AN-NORBY- 152-94-0409H-2	HESS	5/16/2019	A	11/13/2019	Outside	2,186	9,005
AN-NORBY- 152-94-0409H-3	HESS	5/15/2019	A	11/14/2019	Outside	2,339	8,955
AN-NORBY- 152-94-0409H-4	HESS	5/14/2019	A	11/17/2019	Outside	2,328	8,965
AN-NORBY- 152-94-0409H-5	HESS	5/13/2019	A	11/18/2019	Outside	2,339	8,964
AN-NORBY- 152-94-0409H-6	HESS	5/13/2019	A	11/23/2019	Outside	2,914	8,969
AN-NORBY-152-94- 0409H-1	HESS	10/18/2008	A	11/15/2019	Outside	1,944	9,003
AVALANCHE 36-14-MB2	SHD OIL & GAS	11/4/2014	AB	10/15/2019	Outside	3,259	1,513
AVALANCHE 36-15-TF1	SHD OIL & GAS	11/3/2014	A	1/15/2020	Outside	3,263	1,547
AVALANCHE 36-16-MB2	SHD OIL & GAS	11/1/2014	A	7/15/2020	Outside	3,262	1,831
AVALANCHE 36-17-TF2	SHD OIL & GAS	2/11/2015	A	7/15/2020	Outside	3,248	1,750
BARBARA 1-12H	EOG RESOURCES	1/8/2009	A	7/6/2009	Outside	2,175	3,535
BREHM 11-4-2H	WHITING	3/25/2014	A	5/11/2014	Outside	2,117	7,147
BREHM 11-7H	WHITING	1/23/2009	A	5/5/2009	Outside	685	9,223
BREHM 12-7H	WHITING	9/17/2010	A	1/14/2011	Outside	7,734	2,365
BREHM 12-7TFH	WHITING	6/12/2011	A	11/15/2019	Outside	4,423	5,654
BREHM 13-7H	WHITING	5/28/2014	A	8/31/2014	Outside	6,856	417
BREHM 13-7TFH	WHITING	5/26/2014	A	4/15/2020	Outside	9,218	684
BREHM 21-4H	WHITING	10/15/2010	A	3/15/2020	Outside	2,053	8,750
BUCKY 13-36H	SHD OIL & GAS	5/25/2014	IAW	11/15/2019	Outside	3,277	1,685
BULLET 12-36H	SHD OIL & GAS	3/28/2014	A	7/15/2020	Outside	3,278	1,622

Well Name	Operator	Spud Date	Status	Status Date	Wellhead Location	Length (ft) Inside FBIR	Length (ft) Outside FBIR
CANON 12-36H	SHD OIL & GAS	8/26/2014	AB	6/15/2020	Outside	3,262	2,377
CCU BADGER 1C-TFH	CONOCOPHILLIPS	9/12/2017	A	4/15/2018	Outside	215	10,377
CCU BADGER 1D-MBH	CONOCOPHILLIPS	9/11/2017	A	4/18/2018	Outside	2,376	8,269
DAILEY 4-12/13H	QEP ENERGY	1/16/2012	A	5/15/2019	Outside	7,820	2,343
FOREMAN 11-4TFH	WHITING	4/4/2010	A	6/21/2010	Outside	1,813	8,324
FOREMAN 12-11-1-2BH	QEP ENERGY	10/19/2015	A	2/24/2017	Outside	3,253	6,534
FOREMAN 12-11-1-2T2H	QEP ENERGY	10/21/2015	A	2/19/2017	Outside	3,150	6,713
FOREMAN 1-2-1BH	QEP ENERGY	10/11/2014	A	4/30/2015	Outside	3,258	6,839
FOREMAN 1-2-1T3H	QEP ENERGY	1/16/2016	A	2/18/2017	Outside	3,252	6,888
FOREMAN 1-2-1TH	QEP ENERGY	10/8/2014	A	5/3/2015	Outside	3,260	6,938
FOREMAN 21-4TFH	WHITING	11/17/2010	A	4/26/2011	Outside	2,162	8,692
FOREMAN 2-2-1BH	QEP ENERGY	10/9/2014	A	5/1/2015	Outside	3,260	6,898
FOREMAN 2-2-1THR	QEP ENERGY	1/18/2016	A	2/14/2017	Outside	3,252	7,111
FOREMAN 3-2-1BHR	QEP ENERGY	1/19/2016	A	2/11/2017	Outside	3,248	7,132
FOREMAN 3-2-1TH	QEP ENERGY	10/23/2015	A	2/11/2017	Outside	3,251	6,768
FOREMAN 36-35-1-2LL	QEP ENERGY	10/12/2014	A	4/27/2015	Outside	3,266	6,862
FOREMAN 4-2-1BHR	QEP ENERGY	1/17/2016	A	2/19/2017	Outside	3,250	9,721
FOREMAN 5-2/1H	QEP ENERGY	10/18/2011	A	1/22/2012	Outside	3,371	6,438
FOREMAN 5-2-1BH	QEP ENERGY	10/24/2015	A	2/21/2017	Outside	3,253	6,663
FOREMAN 6-2-1BH	QEP ENERGY	10/22/2015	A	2/14/2017	Outside	3,254	6,693
FOREMAN 6-2-1TH	QEP ENERGY	10/13/2014	IA	6/15/2020	Outside	3,205	7,071
FORT BERTHOLD 152-94-11B-14-10H	BRUIN E&P	8/6/2018	A	4/30/2019	Outside	7,543	3,316
FORT BERTHOLD 152-94-11B-14-11H	BRUIN E&P	8/9/2018	A	4/16/2019	Outside	8,271	3,357
FORT BERTHOLD 152-94-11B-14-12H	BRUIN E&P	8/10/2018	A	4/13/2019	Outside	7,544	3,345
FORT BERTHOLD 152-94-11B-14-18H	BRUIN E&P	8/12/2018	A	4/10/2019	Outside	7,546	3,390
FORT BERTHOLD 152-94-11B-14-5H	BRUIN E&P	9/1/2013	A	3/15/2019	Outside	7,497	3,280

Well Name	Operator	Spud Date	Status	Status Date	Wellhead Location	Length (ft) Inside FBIR	Length (ft) Outside FBIR
FORT BERTHOLD 152-94-11B-14-6H	BRUIN E&P	9/3/2013	IA	6/15/2020	Outside	7,500	3,288
FORT BERTHOLD 152-94-11B-14-7H	BRUIN E&P	9/5/2013	IA	6/15/2020	Outside	7,501	3,335
FORT BERTHOLD 152-94-11B-14-8H	BRUIN E&P	8/1/2018	A	5/1/2019	Outside	8,022	5,067
FORT BERTHOLD 152-94-11B-14-9H	BRUIN E&P	8/3/2018	IA	7/15/2020	Outside	14,173	3,836
HALLIDAY 1-19-18H 1	HUNT OIL	4/25/2011	A	10/13/2011	Outside	2,379	7,595
HALLIDAY 146-92-19-18H- 3	HUNT OIL	1/23/2019	A	7/20/2019	Outside	2,370	8,090
HALLIDAY 146-92-19-18H- 4	HUNT OIL	11/22/2018	A	7/12/2019	Outside	2,246	7,608
HALLIDAY 146-92-19-18H- 5	HUNT OIL	11/24/2018	A	7/12/2019	Outside	2,372	7,445
HALLIDAY 146-92-19-18H- 6	HUNT OIL	11/27/2018	A	7/19/2019	Outside	2,375	7,648
HALLIDAY 2-19-18H	HUNT OIL	12/9/2014	A	8/15/2019	Outside	2,311	7,490
HAMMER 12-36H	SHD OIL & GAS	8/28/2014	AB	3/15/2020	Outside	3,267	1,450
HENDERSON 4-1H	QEP ENERGY	10/6/2008	PA	3/30/2015	Outside	2,765	2,343
HENDERSON 4-25H	QEP ENERGY	6/3/2010	A	5/15/2019	Outside	3,679	1,691
HOFF 1-10H	EOG RESOURCES	4/13/2007	IA	6/15/2020	Outside	2,053	3,268
JONES 4-24H	QEP ENERGY	10/25/2008	A	12/15/2019	Outside	3,318	2,302
JORDET 1-11H	EOG RESOURCES	12/11/2007	A	3/25/2008	Outside	2,143	3,328
LACEY 11-10H	WHITING	7/25/2008	A	2/15/2020	Outside	189	10,018
LACEY 12-10H	WHITING	7/21/2010	A	10/9/2010	Outside	8,528	1,843
LACEY 12-10TFH	WHITING	5/13/2011	A	6/15/2017	Outside	4,002	6,458
LACEY 13-10H	WHITING	2/19/2013	A	3/28/2013	Outside	8,112	-
LEVANG 4-13H	QEP ENERGY	7/11/2008	A	7/15/2020	Outside	3,464	1,637
LUKE 13-36H	SHD OIL & GAS	5/20/2014	AB	6/15/2020	Outside	5,450	2,158
MAGNUM 36-11-TF2	SHD OIL & GAS	1/7/2015	A	8/15/2019	Outside	3,264	1,547
MAGNUM 36-12-MB2	SHD OIL & GAS	1/16/2015	A	9/15/2019	Outside	3,272	1,417
MAGNUM 36-13-TF2	SHD OIL & GAS	1/17/2015	A	9/15/2019	Outside	3,271	1,527
MARC 13-36H	SHD OIL & GAS	5/22/2014	IA	6/15/2020	Outside	3,270	1,478

Well Name	Operator	Spud Date	Status	Status Date	Wellhead Location	Length (ft) Inside FBIR	Length (ft) Outside FBIR
MATTIE 13-36H	SHD OIL & GAS	5/24/2014	IA	6/15/2020	Outside	3,273	1,773
MURRAY 13-3H	WHITING	1/0/1900	A	7/15/2019	Outside	2,134	4,870
NELSON FEDERAL 21X-5A	XTO ENERGY	1/21/2015	A	1/15/2019	Outside	2,268	8,778
NELSON FEDERAL 21X-5B	XTO ENERGY	1/26/2015	A	2/15/2020	Outside	2,263	8,591
NELSON FEDERAL 21X-5BXC	XTO ENERGY	6/26/2018	A	7/15/2020	Outside	2,267	8,914
NELSON FEDERAL 21X-5C	XTO ENERGY	6/29/2018	A	3/9/2019	Outside	2,265	8,942
NELSON FEDERAL 21X-5E	XTO ENERGY	1/24/2015	A	7/15/2020	Outside	2,273	9,061
NELSON FEDERAL 21X-5F	XTO ENERGY	6/23/2018	A	7/15/2020	Outside	2,145	8,901
NELSON FEDERAL 21X-5FXG2	XTO ENERGY	6/27/2018	A	7/15/2020	Outside	2,268	8,926
NELSON FEDERAL 41X-5C	XTO ENERGY	6/3/2015	A	12/15/2019	Outside	2,258	8,447
NELSON FEDERAL 41X-5D	XTO ENERGY	6/5/2015	A	11/15/2019	Outside	2,254	8,751
NELSON FEDERAL 41X-5G	XTO ENERGY	9/19/2010	A	3/15/2019	Outside	1,737	8,684
NELSON FEDERAL 41X-5H	XTO ENERGY	6/4/2015	A	11/15/2019	Outside	2,260	8,417
NIGHTMAKER 4-8-17TFH	SLAWSON	12/25/2013	A	3/23/2014	Outside	8,789	3,389
PARSHALL 35-0509H	EOG RESOURCES	5/5/2013	A	10/16/2013	Outside	1,419	13,154
PARSHALL 50-1114H	EOG RESOURCES	3/27/2014	A	7/15/2020	Outside	5,671	1,782
PARSHALL 51-1114H	EOG RESOURCES	2/3/2014	AB	6/15/2020	Outside	6,822	1,353
PARSHALL 52-1114H	EOG RESOURCES	2/1/2014	IA	7/15/2020	Outside	7,661	1,469
PARSHALL 53-1014H	EOG RESOURCES	1/29/2014	IA	8/15/2019	Outside	9,449	2,603
PARSHALL 54-1014H	EOG RESOURCES	1/25/2014	AB	2/15/2020	Outside	9,172	2,407
PARSHALL 55-1014H	EOG RESOURCES	1/23/2014	A	6/15/2020	Outside	9,090	2,321
PATHFINDER 1-9H	SLAWSON	3/9/2008	IA	10/15/2019	Outside	2,351	3,663
PATHFINDER 3-9H	SLAWSON	9/26/2012	A	12/17/2012	Outside	2,284	3,275
PEACEMAKER (FEDERAL) 1 SLH	SLAWSON	1/13/2015	A	3/13/2015	Outside	7,434	3,432
PEACEMAKER 1-8H	SLAWSON	10/8/2008	A	11/20/2008	Outside	1,844	2,732
PEACEMAKER 2-8H	SLAWSON	11/22/2013	A	4/13/2014	Outside	2,161	3,771

Well Name	Operator	Spud Date	Status	Status Date	Wellhead Location	Length (ft) Inside FBIR	Length (ft) Outside FBIR
PENNINGTON FEDERAL 41-4TFH	WHITING	5/24/2014	A	12/15/2019	Outside	436	8,717
PETERSON 11-4H	WHITING	11/25/2008	A	2/17/2009	Outside	1,908	8,944
QUALE 1-1H	CONTINENTAL	10/13/2011	A	6/15/2019	Outside	1,911	8,783
QUALE FEDERAL 2-1H	CONTINENTAL	9/5/2014	IA	3/15/2020	Outside	2,240	9,598
ROHDE USA 14-20H	MARATHON	12/9/2009	A	9/15/2019	Outside	3,431	6,279
ROLLEFSTAD 1-3H	CONTINENTAL	7/17/2009	A	4/15/2020	Outside	1,941	8,396
ROLLEFSTAD 2-3H	CONTINENTAL	6/10/2010	A	8/5/2010	Outside	2,260	9,726
ROLLEFSTAD 3-3H	CONTINENTAL	3/1/2012	A	5/21/2012	Outside	2,246	8,726
ROLLEFSTAD FEDERAL 10-3H-2	CONTINENTAL	6/18/2013	IA	7/15/2020	Outside	2,234	8,267
ROLLEFSTAD FEDERAL 11-3H-1	CONTINENTAL	5/23/2013	IA	7/15/2020	Outside	2,246	9,034
ROLLEFSTAD FEDERAL 12-3H-3	CONTINENTAL	5/19/2013	IA	7/15/2020	Outside	2,246	9,117
ROLLEFSTAD FEDERAL 13-3H	CONTINENTAL	5/17/2013	IA	7/15/2020	Outside	2,242	9,076
ROLLEFSTAD FEDERAL 14-3H-2	CONTINENTAL	5/15/2013	IA	7/15/2020	Outside	2,245	8,675
ROLLEFSTAD FEDERAL 7-3H-1	CONTINENTAL	6/11/2013	IA	7/15/2020	Outside	2,225	8,235
ROLLEFSTAD FEDERAL 8-3H-3	CONTINENTAL	6/14/2013	IA	7/15/2020	Outside	2,234	8,266
ROLLEFSTAD FEDERAL 9-3H	CONTINENTAL	6/16/2013	IA	7/15/2020	Outside	2,125	8,185
SORENSEN 11-3H	WHITING	12/2/2009	A	7/15/2019	Outside	1,823	8,896
SORENSEN 11-3HU	WHITING	5/5/2019	A	10/9/2019	Outside	2,133	9,668
STATE 4-25-24TH	QEP ENERGY	7/28/2015	A	7/15/2017	Outside	9,215	1,459
STATE 4-36-1TH	QEP ENERGY	7/24/2015	A	3/11/2016	Outside	7,688	2,314
STATE 4-36H	QEP ENERGY	8/14/2008	A	11/15/2019	Outside	3,348	1,801
STATE 7-25-24BH	QEP ENERGY	7/27/2015	A	5/15/2018	Outside	9,896	839
STATE 7-36-1BH	QEP ENERGY	7/23/2015	A	11/15/2019	Outside	9,457	787
THUD 12-36H	SHD OIL & GAS	3/30/2014	A	12/15/2019	Outside	3,271	1,422
VAN HOOK 104-1218H	EOG RESOURCES	1/28/2013	A	9/27/2013	Outside	8,368	3,532
VAN HOOK 127-0107H	EOG RESOURCES	10/9/2012	A	4/18/2013	Outside	1,316	11,697

Well Name	Operator	Spud Date	Status	Status Date	Wellhead Location	Length (ft) Inside FBIR	Length (ft) Outside FBIR
VAN HOOK 29-1113H	EOG RESOURCES	1/22/2013	A	7/15/2017	Outside	6,042	5,622
VAN HOOK 30-1113H	EOG RESOURCES	1/25/2013	A	6/15/2017	Outside	8,720	4,073
VAN HOOK 33-1218H	EOG RESOURCES	5/9/2013	IA	7/15/2020	Outside	6,169	4,472
VIOLA PENNINGTON 11-3H	WHITING	6/15/2014	A	7/15/2019	Outside	2,147	8,504
WEST CLARK 103-0136H	EOG RESOURCES	11/9/2015	IA	6/15/2020	Outside	5,858	1,703
WEST CLARK 104-0136H	EOG RESOURCES	11/8/2015	IA	6/15/2020	Outside	6,983	825
WEST CLARK 105-0136H	EOG RESOURCES	11/6/2015	TA	1/9/2019	Outside	7,757	415

FUTURE DEVELOPMENT

It is important to note that the subject wells considered for the sake of the production analysis do not account for the possibility of further drilling development of future wells. Based on the current optimal spacing being employed by operators in the area, it is estimated that between 73 and 93 additional Bakken and Three Forks wells may be drilled across the FBIR boundary at some point in the future.



Fort Berthold Indian Reservation Boundary Wells | PRODUCTION ANALYSIS EXECUTIVE SUMMARY

For the completion of the Production Analysis, 214 wells, whose wellbores cross the FBIR boundary, were considered. Forward-looking decline curves were constructed for each well to forecast future volumes of oil, natural gas, and water to be produced. The list of subject wells, along with the wellhead location, and lateral footage inside and outside of the FBIR boundary were provided to MineralTracker by the North Dakota Department of Mineral Resources. The following results have been highlighted as pertinent to the purpose of the Production Analysis.

Wellheads Outside FBIR

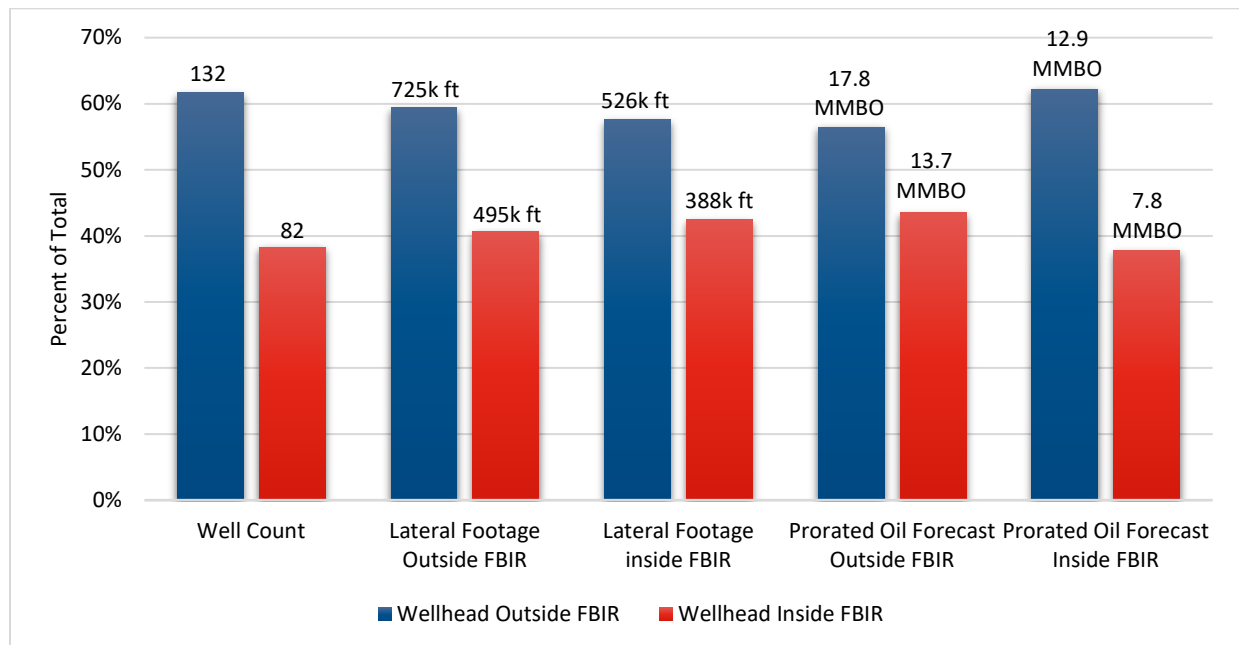
Note: Volumes are denoted in million barrels of oil ("MMBO")

Well Count: 132 | Footage Inside Boundary: 525,513 (42%) | Footage Outside Boundary: 724,933 (58%)
Forecasted Oil: 30.6 MMBO | Prorated Inside FBIR: 12.9 MMBO | Prorated Outside FBIR: 17.8 MMBO
Prorated Oil Production Difference: 4.9 MMBO

Wellheads Inside FBIR

Well Count: 82 | Footage Inside Boundary: 387,788 (44%) | Footage Outside Boundary: 495,338 (56%)
Forecasted Oil: 21.5 MMBO | Prorated Inside FBIR: 7.8 MMBO | Prorated Outside FBIR: 13.7 MMBO
Prorated Oil Production Difference: 5.9 MMBO

In consideration of wells crossing the FBIR boundary, most of the total lateral footage is located outside of the boundary. By prorating the forecasted production to the lateral footage for each well, it is estimated that 10.8 MMBO more may be attributable to lateral footage outside of the FBIR boundary than inside.



February 9, 2021

#6216

PROPOSED AMENDMENTS TO SENATE BILL NO. 2319

Page 1, line 2, remove the second "and"

Page 1, line 2, after "date" insert "; and to provide a contingent expiration date"

Page 1, line 16, replace "**EMERGENCY**" with "**EFFECTIVE DATE**"

Page 1, after line 17, insert:

"SECTION 3. CONTINGENT EXPIRATION DATE. This Act is effective through June 30, 2023, and after that date is ineffective, unless by that date the governor's office notifies the tax commissioner and legislative council that an agreement under chapter 57-51.2 has been entered with the governing body of a tribe in this state and, pursuant to that agreement, at least one new oil and gas well on which drilling commences after July 31, 2021, situated within the exterior boundaries of the reservation to which the agreement applies, has a horizontal lateral that extends to federal land located outside the exterior boundaries of the reservation."

Renumber accordingly

**MANDAN, HIDATSA & ARIKARA NATION**

Three Affiliated Tribes * Fort Berthold Indian Reservation
404 Frontage Road New Town, ND 58763
Tribal Business Council

Office of the Chairman
Mark N. Fox

SENATE BILL 2319
SENATE FINANCE AND TAXATION COMMITTEE
FEBRUARY 10, 2021

TESTIMONY OF MARK FOX, CHAIRMAN

Madam Chairman and members of the Committee, my name is Mark Fox, I am the Chairman of the Mandan, Hidatsa and Arikara (MHA) Nation. The MHA Nation supports Senate Bill 2319 because it will correct an existing inequity in our oil and gas tax sharing agreement with North Dakota which has existed since the agreement's inception in 2008. The Bill would clarify that off reservation wellheads which extract oil and gas from within our reservation boundaries are included in the oil and gas tax agreement. Including these wellheads ensures that all production from oil and gas on the reservation is shared under the tax agreement. This in turn creates a more equitable split of tax revenue.

There are currently 132 wells off the reservation that extract oil and gas from the reservation using horizontal drilling technology. Without a tax sharing agreement, The MHA Nation has the right to tax all the production from these wells attributable to trust land.

Because we have a Tax Agreement, these wells should be included precisely because they extract oil and gas from the reservation. The fact they have not been included is an historic oversight that must be corrected.

Since 2008 when the first tax agreement was signed, these border wells have generated over \$200 million in production and extraction taxes, \$31 million in the last 2 fiscal years alone. All of the revenue from these wells has gone to the state.

The MHA Nation has not received a dime of revenue from these wells, even though they extract reservation oil and gas. It is now time to correct this inequity.

SB 2319 is not new, it simply is intended to correct an old problem that has been before the legislature before, most recently in 2019. The 2019 legislative session resulted in a needed revised oil and gas tax agreement, which we supported. However, in order to advance the agreement in 2019, we left the border well issue on the table, even though it was a contentious issue then. We did so based on the state's assurance that the issue would be addressed by the Tribal Taxation Issues Committee during the interim. The Committee studied the issue and we participated in those discussions. We determined the issue could not be resolved without statutory changes; SB 2319 is intended to correct the problem.

Madam Chairman, this is a fairness issue. The MHA Nation's current oil and gas tax agreement includes the sharing of tax revenue from lateral wells going out of, but not coming into the reservation. By contrast, border wells drilling into the reservation are excluded from our current agreement, the State is receiving all of the tax revenue from reservation oil and gas production to the exclusion of the MHA Nation. There is simply no legitimate reason not to include these wells in the agreement.

Any concerns about the fiscal note attached to this Bill are outweighed by at least two factors. First, the state has received more than its fair share of the tax revenue from reservation production off of border wells since 2008 so the scales are already tipped in the states favor. Second, the current federal moratorium preventing drilling on federal land is expected to result in less production and less tax revenue. If we work together, we can find ways to avoid production slowdowns. The MHA Nation has already demonstrated its ability to avoid what operators initially believed to be a significant loss of production by getting its reservation trust land exempted for the federal drilling moratorium on public land.

Since we share tax revenue, this benefitted the state's fiscal situation as well, and should be considered a positive in any analysis of the fiscal note attached to SB 2319.

Oil and gas operators should not have to be pressured to locate their wellheads on one side of the reservation or the other. These decisions should be based on geographical and technological considerations aimed at getting the best production results. Yet, because of the loophole created by the border well issue, operators have had to spend money moving wellheads to one side of the reservation or the other. SB 2319 is intended to remove this uncertainty.

Our oil and gas producers support SB 2319 because it provides more stability. It also does not affect the amount of taxes they owe from reservation production because we have a tax sharing agreement in place.

We understand the importance of a stable tax environment for the state. It also serves our interests as well. However, during each biennium that this issue remains unresolved, we lose between \$8-12 million per year. Although we allowed this issue to linger past 2019, the MHA Nation can no longer afford to forgo its fair share of revenue from off reservation wells extracting on reservation oil and gas.

We are simply seeking a fair distribution of production revenue from our trust resources for us to build our infrastructure and provide governmental services to our residents and the oil and gas industry. As we grow stronger, North Dakota grows stronger because we are in this together. Thank you for the opportunity to testify today. We strongly urge your support of SB 2319.

Testimony of Josh Ruffo – 2/10/2021
Tribal Straddle Well Adjustment to State/Tribal Oil Tax Agreement
Senate Finance and Taxation Committee
SB 2319

Madam chair

Thank you ~~Chairman Bell~~ and members of the Senate Finance and Taxation Committee for the opportunity to testify today in support of SB 2319.

My name is Josh Ruffo, and I am a resident of Turtle Lake, North Dakota. I have worked in the oil and gas industry for 15 years, and I am the current West Region Field Coordinator for Enerplus Resources.

Enerplus Resources (USA) Corporation is a subsidiary of Enerplus Corporation and we currently operate 280 wells on the Fort Berthold Indian Reservation (“FBIR”). Enerplus entered FBIR in 2008 and we are proud to employ a growing workforce of employees, several of which are enrolled members and live on the Reservation.

In the past five years alone, Enerplus has created an estimated 375 full-time jobs, paid \$177MM in extraction/production taxes and invested over \$1.6B of capital in FBIR and the State of North Dakota. We are currently producing approximately 40,000 barrels of oil per day.

The biggest drivers for economic recovery and long-term growth for Enerplus’ operations on FBIR is the crude oil price, costs, taxes, fair regulations and the ability to operate in a business-friendly environment.

The decision whether to shut in production, complete wells or drill new wells is largely dependent on these factors.

**ENERPLUS RESOURCES
(USA) CORPORATION**

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Denver, CO 80202-2805

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www.enerplus.com

Since joining Enerplus Resources in 2010, one of my primary responsibilities has been to work directly with the MHA Nation leadership as the primary point of contact on behalf of our company. I am also responsible for all regulatory and environmental field compliance with our Bakken operations.

For the past 10 years Enerplus has engaged in and supported the many efforts of the State of North Dakota and the MHA Nation to work together on providing regulatory certainty on FBIR, especially on taxation policy.

Enerplus believes SB 2319 provides another such opportunity for the state and MHA to work together and find a solution on straddle well taxation policy that will further the regulatory stability on FBIR and the State of North Dakota.

At a time when Washington D.C. is attempting to create regulatory uncertainty with oil/gas development, Enerplus believes collaboration and leadership between the MHA Nation and the State of North Dakota is of particular importance, especially as it relates to the continued collective gas capture goals throughout North Dakota.

Enerplus is proud to operate its business within FBIR and in the State of North Dakota. We appreciate the efforts of the state to partner with the MHA Nation to work on viable solutions, and we thank you for your continued demonstration of support for our industry – with actions that help provide a regulatory environment that values long-term stability.

Enerplus believes SB 2319 provides a favorable occasion for all parties – the MHA Nation, the State of North Dakota and the oil and gas industry to continue to present North Dakota as an attractive state for investment.

Thank you for your consideration of this important legislation. Enerplus asks for your support in moving SB 2319 forward. I look forward to any questions you may have.

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Enerplus Background

- FBIR – since 2008
- About ___percent of all Enerplus production is from Ft. Berthold;
- Nearly 2/3 of Enerplus capital investment in 2021 will be in Ft. Berthold;
- 2021 Drilling & Completions Plan – 1 rig program; 20-26 wells, starting April 1
- We plan to resume completion operations on FBIR at the end of this month (current DUC's 28)
- Bruin acquisition (if asked) – Enerplus looks forward to the opportunity to expand our operations in North Dakota and increase our leasehold acreage, both on and off-FBIR. We are currently in the due diligence period. More details and information on the acquisition is described in our publicly-released statement.

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#6165

Testimony by Shane Schulz
On behalf of
QEP Resources, Inc.
To the
Senate Finance and Taxation Committee
Hearing on Senate Bill 2319
February 10, 2021

Good morning Mr. Chairman and Committee members. My name is Shane Schulz and I am the Director of Government Affairs and Senior Corporate Counsel for QEP ("QEP") Resources, Inc. in Denver, Colorado. I urge you to support Senate Bill 2319.

QEP is an oil producer in North Dakota and Texas. We have a large lease position on the Fort Berthold Indian Reservation and enjoy working in North Dakota and on the reservation. We see the language in Senate Bill 2319 helping eliminate an unfair allocation methodology in the current Tax Agreement. The proposed amendment would require all wells that produce oil and gas from reservation lands be included in the Tax Agreement, including production from wellheads originating outside reservation boundaries. It would also be consistent with the modern definition of a Horizontal Well.

The MHA Nation entered into a new Tax Agreement during the last legislative session on the State's promise that it would review the issue of border wells extracting reservation oil and gas. This is perfect opportunity to correct this situation that has deprived the MHA Nation of its fair share of tax revenue from these wells. We appreciate your consideration of this matter and look forward to working with you in this effort.

I urge your support of Senate Bill 2319. By supporting this legislation, you will be supporting members of the Three Affiliated Tribe and helping to provide equity to the current Tax Agreement.

Thank you for your consideration.

Shane Schulz
Director, Government Affairs and Sr. Corp Counsel
Shane.Schulz@qepres.com
P 303.640.4267 \ M 307.214.8698
Denver, CO 80265

#6185

**Senate Bill 2319
Senate Finance and Taxation Committee
Testimony Presented by Devon Energy
February 10, 2021**

Good morning Chair Bell, members of the committee. My name is Teddy Carter and I am a Public and Government Affairs Representative for Devon Energy. Thank you for the opportunity to testify. Devon Energy recently merged with WPX Energy and is a new face to some in North Dakota. Our acreage is entirely on the Ft. Berthold Reservation consisting of approximately 85,000 net acres. We support the intent of the MHA Nation on this legislation and appreciate all sides working together to come to an agreement that benefits all North Dakotans.

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2319
2/10/2021
PM

A BILL for an Act to amend and reenact subsection 1 of section 57-51.2-02 of the North Dakota Century Code, relating to oil and gas agreements; and to provide an effective date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [02:47]

Discussion Topics:

- Tax agreement and wells boarding Tribal Land
- Sunset clause

Senator Kannianen [02:50] moved amendment [LC 21.0959.01002]

Senator Meyer second

Verbal Vote carried verbally

Senator Kannianen [02:52] moved DO PASS as Amended and re-refer to appropriations

Senator Meyer second

Senators	Vote
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

Motion passed 7-0-0

Senator Kannianen carries

Chair Bell adjourns the meeting. [02:55]

Joel Crane, Committee Clerk

C5
2/10
1 of 1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2319

Page 1, line 2, remove the second "and"

Page 1, line 2, replace "an effective date" with "for application; and to provide a contingent expiration date"

Page 1, line 16, replace "**EMERGENCY**" with "**APPLICATION**"

Page 1, line 16, replace "is effective for" with "applies to"

Page 1, after line 17, insert:

"SECTION 3. CONTINGENT EXPIRATION DATE. This Act is effective through June 30, 2023, and after that date is ineffective, unless by that date the governor's office notifies the tax commissioner and legislative council that an agreement under chapter 57-51.2 has been entered with the governing body of a tribe in this state and, pursuant to that agreement, at least one new oil and gas well on which drilling commences after July 31, 2021, situated within the exterior boundaries of the reservation to which the agreement applies, has a horizontal lateral that extends to federal land located outside the exterior boundaries of the reservation."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2319: Finance and Taxation Committee (Sen. Bell, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2319 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the second "and"

Page 1, line 2, replace "an effective date" with "for application; and to provide a contingent expiration date"

Page 1, line 16, replace "**EMERGENCY**" with "**APPLICATION**"

Page 1, line 16, replace "is effective for" with "applies to"

Page 1, after line 17, insert:

"SECTION 3. CONTINGENT EXPIRATION DATE. This Act is effective through June 30, 2023, and after that date is ineffective, unless by that date the governor's office notifies the tax commissioner and legislative council that an agreement under chapter 57-51.2 has been entered with the governing body of a tribe in this state and, pursuant to that agreement, at least one new oil and gas well on which drilling commences after July 31, 2021, situated within the exterior boundaries of the reservation to which the agreement applies, has a horizontal lateral that extends to federal land located outside the exterior boundaries of the reservation."

Renumber accordingly

2021 SENATE APPROPRIATIONS

SB 2319

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

SB 2319
2/15/2021
Senate Appropriations Committee

Relating to oil and gas agreements.

Senator Holmberg opened the hearing at 9:45 a.m.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

Discussion Topics:

- Royalties on wells
- Amendments
- Impact on counties
- Discussion with tribes

Senator Jordan Kannianen, District 4 – Bill Sponsor – introduced the bill and presented amendment LC 21.0959.02001 - testimony #6627.

Geoff Simon, Exec. Director, Western Energy Association – testified neutrally.

Ryan Rauschenberger, State Tax Commissioner – provided neutral testimony.

Senator Holmberg closed the hearing at 10:11 a.m.

Rose Laning, Committee Clerk

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2319

Page 1, line 1, after "57-51.2-02" insert "and subdivision c of subsection 5 of section 57-51.2-02"

Page 1, after line 16, insert:

"SECTION 2. AMENDMENT. Subdivision c of subsection 5 of section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

- 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. The definition of "wells located within the exterior boundaries of the reservation" in subsection 1 may not be construed as altering the physical location of a wellhead for purposes of revenue allocations among political subdivisions as provided in chapter 57-51.

Renumber accordingly

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2319
2/18/2021
Senate Appropriations Committee

A BILL for an Act to amend and reenact subsection 1 of section 57-51.2-02 of the North Dakota Century Code, relating to oil and gas agreements; to provide for application; and to provide a contingent expiration date.

Chairman Holmberg opened the hearing at 3:57 p.m.

Senators present: Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.

Senator Rust moved to adopt amendment LC 21.0959.02001
Vice-Chair Wanzek seconded the motion

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	Y	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Motion Passed 14-0-0

Senator Rust moved DO NOT PASS AS AMENDED
Vice-Chair Wanzek seconded the motion.

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	Y	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	N
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	N

Motion Passed 12-2-0

Senator Rust will carry the bill

Chairman Holmberg closed the hearing at 4:08 p.m.

Rose Laning, Committee Clerk

February 12, 2021

SK
2/18
1961

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2319

Page 1, line 1, after "57-51.2-02" insert "and subdivision c of subsection 5 of section 57-51.2-02"

Page 1, after line 16, insert:

"SECTION 2. AMENDMENT. Subdivision c of subsection 5 of section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

- 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. The definition of "wells located within the exterior boundaries of the reservation" in subsection 1 may not be construed as altering the physical location of a wellhead for purposes of revenue allocations among political subdivisions as provided in chapter 57-51.

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2319, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2319 was placed on the Sixth order on the calendar.

Page 1, line 1, after "57-51.2-02" insert "and subdivision c of subsection 5 of section 57-51.2-02"

Page 1, after line 16, insert:

"SECTION 2. AMENDMENT. Subdivision c of subsection 5 of section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

- 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. The definition of "wells located within the exterior boundaries of the reservation" in subsection 1 may not be construed as altering the physical location of a wellhead for purposes of revenue allocations among political subdivisions as provided in chapter 57-51.

Renumber accordingly

2021 HOUSE FINANCE AND TAXATION

SB 2319

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2319
3/23/2021
AM

A bill relating to oil and gas agreements.
--

Chairman Headland opened the hearing at 9:00am.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Discussion Topics:

- Straddle wells
- Tax agreement with MHA Nation
- Access of federal lands
- Method of oil and gas taxation
- Sunset provision

Senator Kannianen introduced bill and proposed an amendment 21.0959.04001 (#10390 and 10389).

Mark Fox Chairman of the Mandan, Hidatsa and Arikara (MHA) Nation, testified in support (#10507) and provided a draft letter from Chairman Fox to Lieutenant General Scott A. Spellmon, Commanding General with the United States Army Corps of Engineers (#10511).

Senator Patten testified in support (no written testimony).

Joel Brown, Vice President of Mineral Services Manager with Mineral Tracker, (#10429).

Brady Pelton, General Counsel with North Dakota Petroleum Council, testified in support (#10501).

Josh Ruffo, West Region Field Coordinator Enerplus Resources and resident of Turtle Lake, testified in support (#10525).

Shane Schulz, Senior Corporate Counsel for Diamondback Energy, Inc., testified in support (#10458).

Teddy Carter, Devon Energy, testified in support (#10484).

Lynn Helms, Director for the North Dakota Department of Mineral Resources, neutral testimony and answered questions from the committee (no written testimony).

Ryan Rauschenberger, North Dakota Tax Commissioner, answered questions from the committee.

Lynn Helms, Director for the North Dakota Department of Mineral Resources, answered additional questions from the committee.

Ryan Rauschenberger, North Dakota Tax Commissioner, answered additional questions from the committee.

Additional written testimony:

Lisa DeVille, Vice President of Fort Berthold Protectors of Water and Earth Rights, testimony in opposition #10460.

Delvin Rabbithead Sr., President of Fort Berthold Protectors of Water and Earth Rights, testimony in opposition #10457.

Chairman Headland closed the hearing at 10:58am.

Mary Brucker, Committee Clerk



NORTH DAKOTA SENATE

#10390

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Senator Jordan Kannianen

District 4
8011 51st Street NW
Stanley, ND 58784-9562
C: 701-421-8813
jkannianen@nd.gov

COMMITTEES:

Finance and Taxation
Political Subdivisions

Testimony on SB 2319

Jordan Kannianen, District 4 Senator

Chairman Headland and Committee members,

This bill addresses “straddle wells” whose horizontal laterals cross the boundaries of the Fort Berthold Indian Reservation. It would establish that wells drilled outside the boundary of the reservation whose laterals cross into the reservation are part of the existing oil and gas tax agreement between the state and the Three Affiliated Tribes. The Interim Tribal Taxation Issues Committee studied this issue extensively, and there is much data on the subject. Both the Department of Mineral Resources and Mineral Tracker have done long and thorough research, showing the past and projected results of these wells (see Mineral Tracker Report in testimonies).

The location of the well head has always been the method for establishing the taxation of the oil and gas extracted from a well, regardless of the positioning of the horizontal laterals. This bill would change that.

With the exemption the Three Affiliated Tribes have received on reservation lands from the halt on oil and gas activities on Federal lands, this bill seeks to create additional revenue for both the state and the Tribes by allowing access to Federal minerals off of the reservation through reservation lands. The Tribes believe they can obtain the same exemption for Federal lands in which a lateral originates from Tribal lands.

A final EIS on the Federal lands in question was supposed to be delivered by the US Forest Service in 2016 (which was needed before non-surface access and respacing could occur), but it was finally received December 7, 2020. This has not been available for drilling because of Vision Quest (a spiritual area for the MHA Tribes) and bighorn

sheep. The feds have looked at ways to develop these lands, since it contains some of the best geology in the Bakken, and that led to the new EIS. Now that it was finally delivered, we have the new administration to deal with. The reasoning behind this bill was to strike a deal, so to speak, in which the Tribes would share in the exterior straddle wells if they got a Federal exemption on those core lands, potentially increasing revenues on both sides.

The bill was amended on the Senate side to require production to occur on these Federal lands before the terms of the bill could be triggered in 2023.

Moreover, although it's a bit wordy, the attempt was made to exempt Mountrail County from these provisions since it contains no Federal lands and would only lose money from this deal (losing on the straddle wells and not gaining anything on the back end with the Federal minerals). Language was also added to ensure this bill didn't affect the distribution of gross production taxes back to the political subdivisions and school districts (based on the location of the wellhead).

Now, with all that said, the Tribes don't like the changes that occurred on the Senate side. While the argument can be made that the amendments saved the bill, I'm offering an amendment at the request of the Tribes to basically put the bill back into its original form.

21.0959.04001

THIRD ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2319

Introduced by

Senator Kannianen

A BILL for an Act to amend and reenact subsection 1 of section 57-51.2-02 and subdivision c of subsection 5 of section 57-51.2-02 of the North Dakota Century Code, relating to oil and gas agreements; to provide for application; ~~and~~ to provide a contingent ~~effective~~expiration date; ~~and~~ to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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:~~

a. "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.

b. "Wells located within the exterior boundaries of the reservation" includes ~~wells-~~
~~located in a county with a population of less than ten thousand but greater than~~
~~twelve thousand at the time an agreement is entered pursuant to this chapter.~~
~~based on the most recent actual or estimated census data published by the~~
~~United States census bureau, with one or more horizontal laterals that penetrate~~
the off-reservation wellheads that extract oil and gas from within the exterior
boundaries of the reservation.

SECTION 2. AMENDMENT. Subdivision c of subsection 5 of section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

- 1 c. The state's share of the oil and gas gross production tax revenue as divided in
2 subdivisions a and b is subject to distribution among political subdivisions as
3 provided in chapter 57-51. The definition of "wells located within the exterior
4 boundaries of the reservation" in subsection 1 may not be construed as altering
5 the physical location of a wellhead for purposes of revenue allocations among
6 political subdivisions as provided in chapter 57-51.

7 **SECTION 3. APPLICATION.** This Act applies to agreements entered on or after ~~June 30,~~
8 ~~2023~~ July 1, 2021.

9 ~~**SECTION 4. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on July 1,~~
10 ~~2023, if by that date the tax commissioner notifies the legislative council that at least one new~~
11 ~~oil and gas well on which drilling commences after July 31, 2021, situated within the exterior~~
12 ~~boundaries of the reservation, has a horizontal lateral that extends to federal minerals located~~
13 ~~outside the exterior boundaries of the reservation.~~

14 **SECTION 4. CONTINGENT EXPIRATION DATE.** This Act is effective through June 30,
15 2023, and after that date is ineffective, unless by that date the governor's office notifies the tax
16 commissioner and legislative council that an agreement under chapter 57-51.2 has been
17 entered with the governing body of a tribe in this state and, pursuant to that agreement, at least
18 one new oil and gas well on which drilling commences on or after July 1, 2021, situated within
19 the exterior boundaries of the reservation to which the agreement applies, has a horizontal
20 lateral that extends to federal land located outside the exterior boundaries of the reservation.

21 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.

**SENATE BILL 2319
HOUSE FINANCE AND TAXATION COMMITTEE
MARCH 23, 2021**

**TESTIMONY OF MARK FOX, CHAIRMAN, MANDAN HIDATSA AND
ARIKARA NATION**

Mr. Chairman and members of the Committee, my name is Mark Fox, I am the Chairman of the Mandan, Hidatsa and Arikara (MHA) Nation. The MHA Nation supports Senate Bill 2319 with amendments to restore the original intent of the Bill. SB 2319 is intended to correct an inequity in the current Oil and Gas Tax Agreement between the MHA Nation and North Dakota. Put simply, if a well extracts oil and gas from within the Fort Berthold Indian Reservation, it needs to be part of the agreement, whether the well head is on or off the Reservation.

Off Reservation wellheads have been excluded from the tax agreement since its inception in 2008. SB 2319 was introduced in the Senate to correct the existing inequity. Including off Reservation wellheads in the agreement ensures that all production from oil and gas on the Reservation is shared under the tax agreement. This in turn creates a more equitable split of tax revenue.

There are currently 132 wellheads off the Reservation that extract oil and gas from the Reservation using horizontal drilling technology. Without a tax sharing agreement, the MHA Nation has the right to tax all the production from these wells attributable to trust land. Because we have a tax agreement, these wells should be

included precisely because they extract oil and gas from the Reservation. The fact they have not been included is an historic injustice that must be corrected.

Since 2008 when the first tax agreement was signed, these border wells have generated over \$200 million in production and extraction taxes, \$31 million in the last two fiscal years alone. All the revenue from these wells has gone to the state to the exclusion of the MHA Nation, even though they extract Reservation oil and gas, and even though Reservation infrastructure is used to service these wells.

SB 2319 is not new; it simply is intended to correct an old problem that was before the legislature in 2019. The 2019 legislative session resulted in a needed revised oil and gas tax agreement, which we supported. However, in order to advance the agreement in 2019, we reluctantly left the border well issue on the table. We did so based on the state's assurance that the issue would be addressed by the Tribal Taxation Issues Committee during the interim. The Committee studied the issue and we participated in those discussions. We determined the issue could not be resolved without statutory changes. SB 2319, as originally presented in the Senate, was intended to correct the problem.

After SB 2319 was introduced in the Senate, we thought we had reached agreement with legislative leadership on the effective date of the legislation. To address concerns over efforts to develop Federal minerals adjacent to the Reservation, we agreed that the legislation would sunset after two years, unless

federal minerals were drilled within the two-year term. However, without our knowledge the sunset provision which was added to SB 2319 was eliminated from the Bill by an amendment that would instead make the legislation ineffective until 2023, delaying the effective date for another two years. This amendment is unacceptable, and the Bill needs to be amended to restore the original two-year sunset provision. The MHA Nation has already waited for two years since the 2019 legislative session when we reluctantly agreed to forgo the border well issue to get a new agreement in place. We did so on the state's promise to study the issue in the interim and address it this session. The MHA Nation cannot wait another two years, the Bill needs to be effective now, subject to the sunset clause we agreed to with legislative leadership.

A second amendment was added to the Bill that excludes border Wells on the north side of the Reservation in Mountrail County. The reason for this amendment, we are told, is concern with a fiscal note showing the potential loss of revenue to the county if these wells are included in the agreement. But any revenue reduction from these wells is far outweighed by other fiscal factors and should not be considered an impediment to including all border wells in the legislation. To begin with, the MHA Nation pays millions of dollars in property taxes each biennium to Mountrail County. To date, the MHA Nation has done so even though it has the right to claim an exemption from those taxes under federal law. These county taxes increase every

year, yet the MHA Nation utilizes its own revenue to build and improve infrastructure on fee land in and around the city of New Town, without any support from the county. The MHA Nation has also spent millions of dollars on street and road improvements in and around New Town and this too benefits the county. Two other recent examples of infrastructure investment are the MHA Nation's recent purchase of the abandoned ShopKo building and the purchase of and new construction on the abandoned car dealership site in New Town. These and other improvements that the MHA Nation has made in the county provide significant benefits to Mountrail County, not just in increased employment and tax revenue, but to the county's economy in general. Furthermore, the fact that the MHA Nation has been a good partner in terms of promoting the development of oil and gas, most recently illustrated by its ability to help convince the federal government to exempt its land from the Federal oil and gas moratorium on federal lands, helps preserve and generate new tax revenue for the state which would otherwise be lost. The fiscal notes that came with this Bill do not account for this positive economic reality.

In short, these two changes to the original version of SB 2319; the removal of the two-year sunset clause, and the exclusion of wells on the north side of the Reservation, need to come off the Bill. The two-year sunset clause should be restored, and the exemption for the wells on the north side removed. We cannot support the Bill without these amendments.

Other concerns about the fiscal note attached to this Bill are outweighed by other factors. First, the state has received more than its fair share of the tax revenue from Reservation production off border wells since 2008, so the scales are already tipped in the state's favor. Second, the current federal moratorium preventing drilling on federal land is expected to result in less production and less tax revenue. If we work together, we can find ways to avoid production slowdowns. If this Bill is passed with the amendments we propose, the MHA Nation will work to include production from adjacent federal minerals in Reservation drilling units. The MHA Nation has already demonstrated its ability to avoid what operators initially believed to be a crippling loss of production by getting Reservation trust land exempted from the federal drilling moratorium on federal land. Since we share tax revenue, this benefitted the state's fiscal situation as well, and should be considered a positive in any analysis of the fiscal note attached to SB 2319.

Oil and gas operators should not have to be pressured to locate their wellheads on one side of the Reservation or the other. These decisions should be based on geographical and technological considerations aimed at getting the best production results. Yet, because of the loophole created by the border well issue, operators have had to spend money moving wellheads inside of the Reservation.

SB 2319 is intended to remove this uncertainty. Our oil and gas producers support SB 2319 because it will provide more stability. It also does not affect the

amount of taxes they owe from Reservation production because we have a tax sharing agreement in place that covers production from off Reservation wells. By contrast, without SB 2319 -with the amendments we propose- oil and gas extracted from the Reservation through off Reservation well heads will become subject to dual state and tribal taxation. The MHA Nation has reached a point where it will begin taxing Reservation production from these wells because they are not included in the agreement, and because we cannot allow the deprivation of revenue from these wells to continue.

There is a common misperception surrounding the oil and gas tax agreement that the state is sharing its revenue under the tax agreement. This is simply not so. By entering into a tax agreement, we are preventing dual state and tribal taxation, by sharing one tax. Both the MHA Nation and North Dakota are foregoing their respective claims of right to tax reservation oil and gas production through the tax sharing agreement. The state is not giving revenue to the MHA Nation, nor is the MHA Nation giving revenue to the state. Instead, we are sharing revenue we both have a right to claim because we both recognize the problems dual taxation can cause. In other words, the state is not giving us something we are not already entitled to, and this is an important point to keep in mind.

We understand the importance of a stable tax environment for the state. It also serves our interests as well. However, during each biennium that this issue remains

unresolved, we lose between \$8-12 million per year. Although we allowed this issue to linger past 2019, the MHA Nation can no longer afford to forgo its fair share of revenue from off Reservation wells extracting on Reservation oil and gas.

Mr. Chairman, this is a fairness issue. The MHA Nation's current oil and gas tax agreement includes the sharing of tax revenue from lateral wells going out of, but not coming into the Reservation. Border wells drilling into the Reservation are excluded from our current agreement even though most of the oil and gas produced from these wells comes from the Reservation. The State has received all of the tax revenue from Reservation oil and gas production from these wells to the exclusion of the MHA Nation. There is simply no legitimate reason not to include these wells in the agreement.

We are simply seeking a fair distribution of production revenue from our resources for us to build our infrastructure and provide governmental services to our residents and the oil and gas industry. As we grow stronger, North Dakota grows stronger because we are in this together. Thank you for the opportunity to testify today. We strongly urge your support of SB 2319 with the amendments we propose.



MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes * Fort Berthold Indian Reservation
404 Frontage Road New Town, ND 58763
Tribal Business Council

Office of the Chairman
Mark N. Fox

March 17, 2021

Lieutenant General Scott A. Spellmon, Commanding General
U.S. Army Corps of Engineers
441 G Street NW
Washington, D.C. 20314-1000

Re: Urgent Request for Immediate Consultation – One on One

Dear General Spellmon:

As Chairman of the Mandan, Hidatsa, and Arikara (MHA) Nation, I am requesting that you immediately schedule a nation-to-nation consultation between the MHA Nation and the U.S. Army Corps of Engineers.

Given the emergency nature of our request, we prefer a virtual meeting by video conference.

Our request is for a single tribe consultation -- just MHA Nation and the Corps.

We seek immediate consultation on the alternatives being considered by the Corps regarding continuity of operations of the Dakota Access Pipeline (DAPL) or alternative delivery systems while any NEPA-related or other federal review of DAPL is conducted.

Over half of the oil produced on our Reservation is transported to market via DAPL. MHA Nation's interests as an oil and gas producing Tribe are unique among other Tribes in our region. We insist on a one-on-one consultation before any action is taken that would adversely impact the market value of our oil and gas resources which are held in trust on our behalf by the United States. At a minimum, our trustee owes the MHA Nation meaningful consultation that is specific and pre-decisional.

Please let our counsel, John Fredericks (jf Fredericks@jf3law.com), know how soon this consultation can be scheduled with us.

Sincerely,

Mark Fox

cc: hqtribal@usace.army.mil

#10429



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SB 2319

Federal Oil & Gas Development Forecasts

Presented by Joel Brown, VP Mineral Services Manager

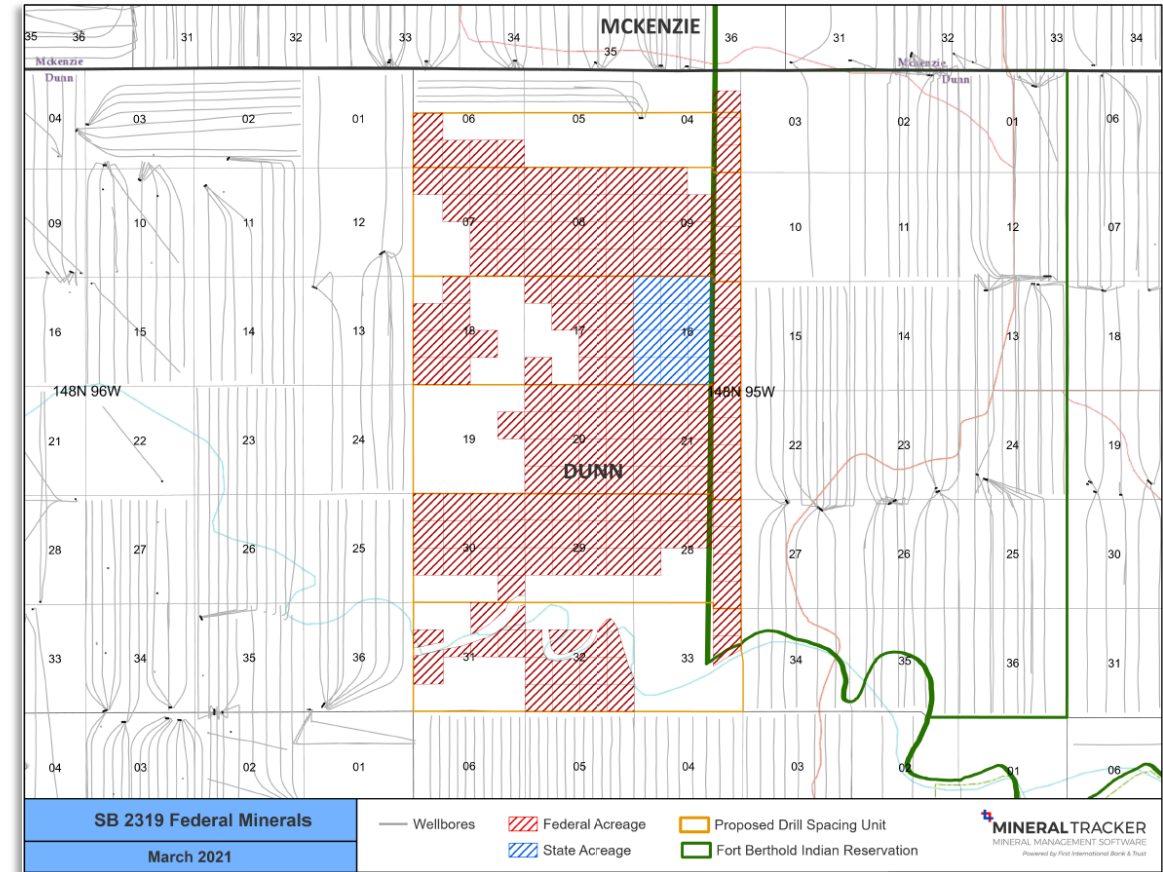
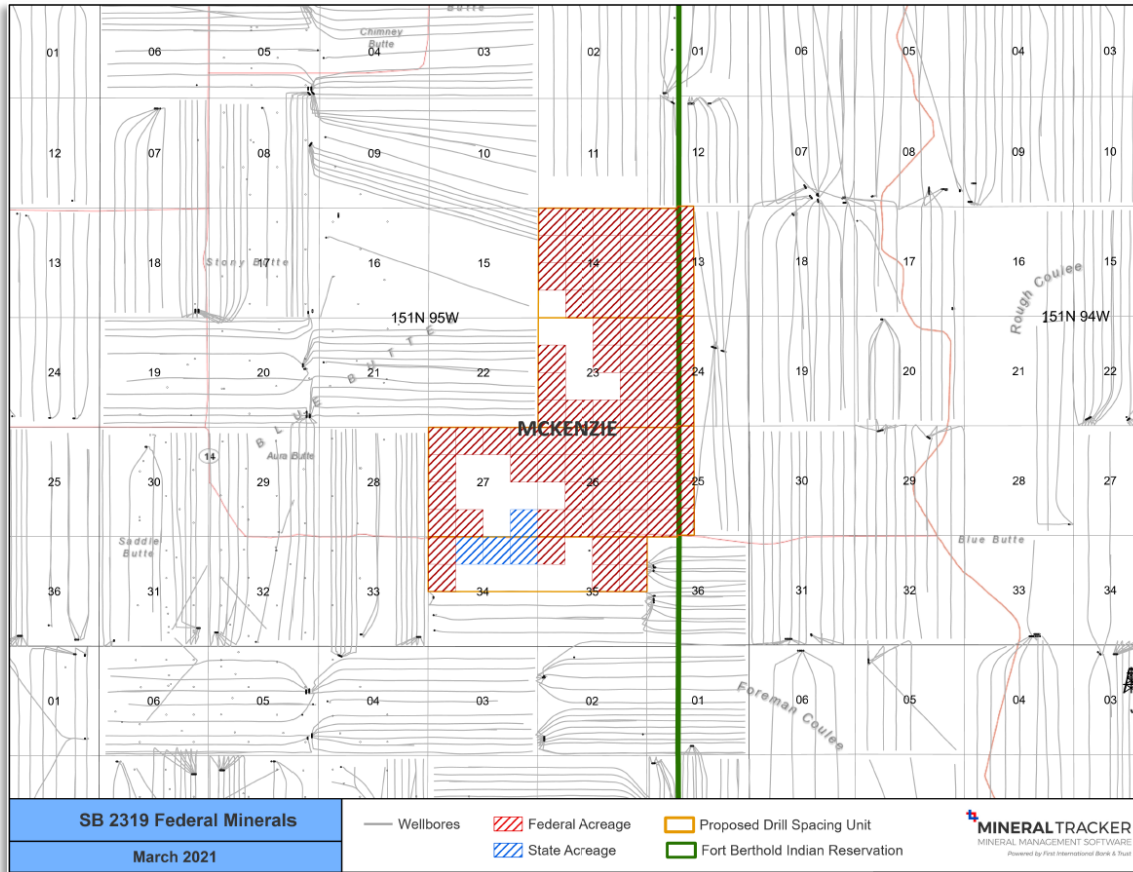
March 23, 2021

Overview

SB 2319 refers to the development of Federal minerals located outside the exterior boundaries of the reservation. The specific minerals described are located in highly productive regions of the Bakken and Three Forks Formations in Dunn and McKenzie Counties.

The purpose of this presentation is to provide a forecast of the fiscal impacts if the subject Federal minerals were to be developed. This methodology employs common industry practices for projecting oil and gas production, including decline curve analysis. Assumed economic factors were employed to establish cash flow projections in a full development scenario.

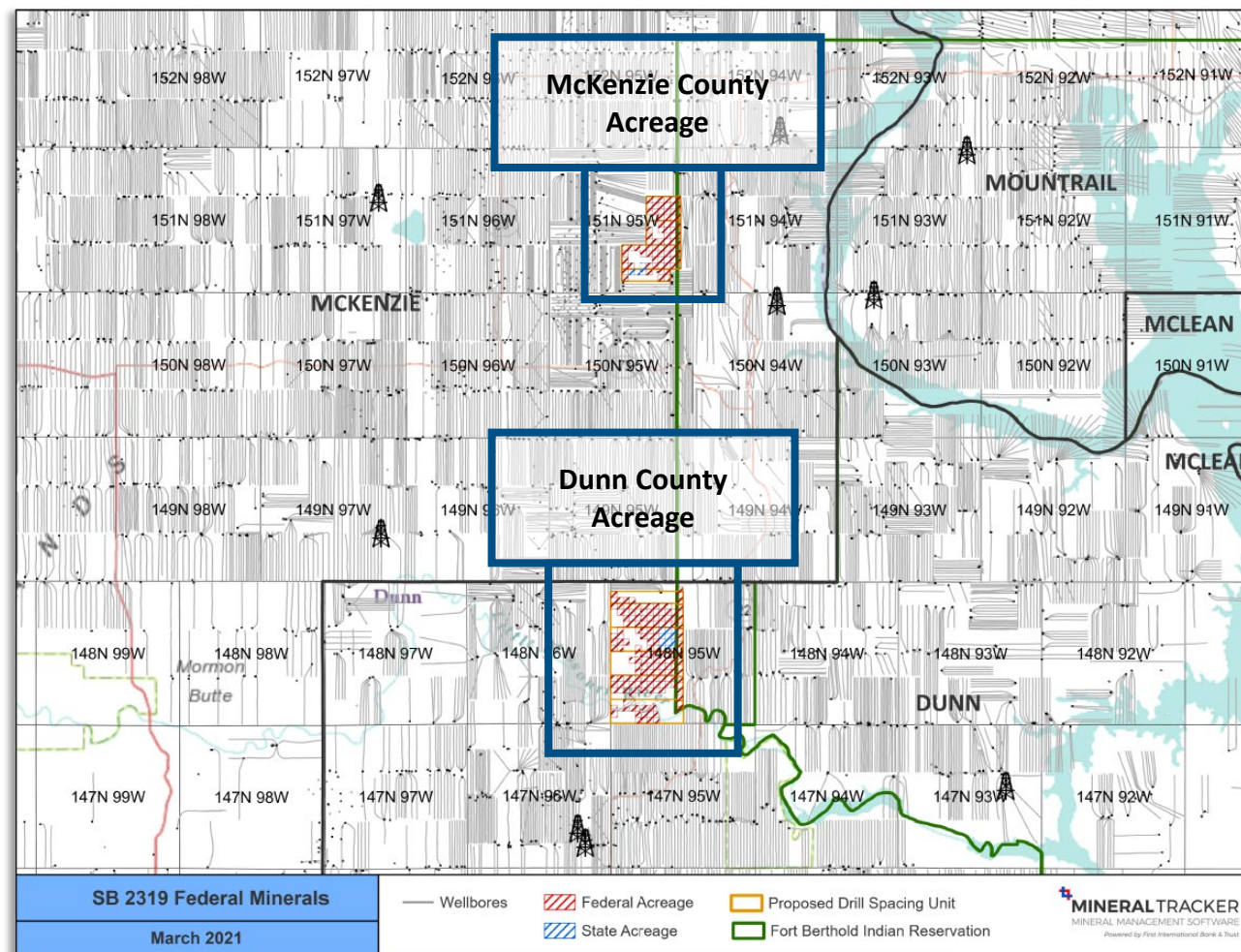
Subject Federal Minerals



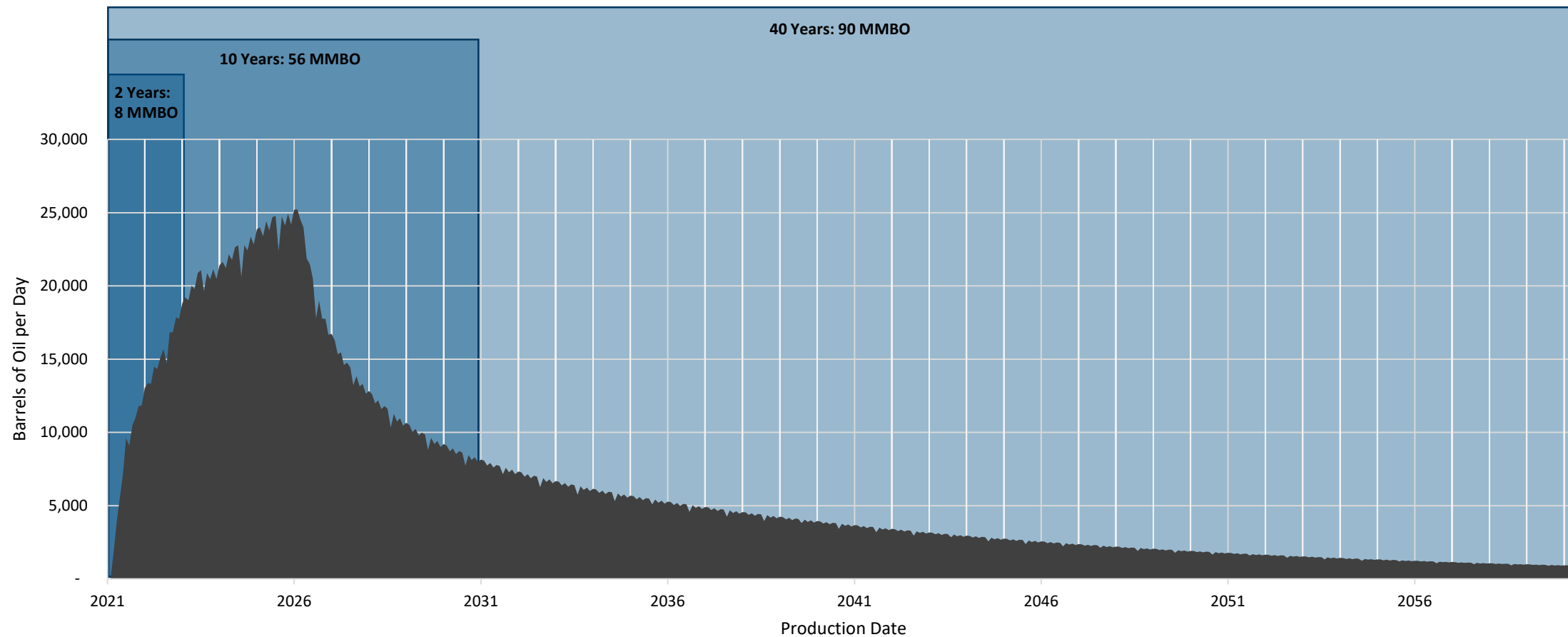
Subject Federal Minerals

Development Model

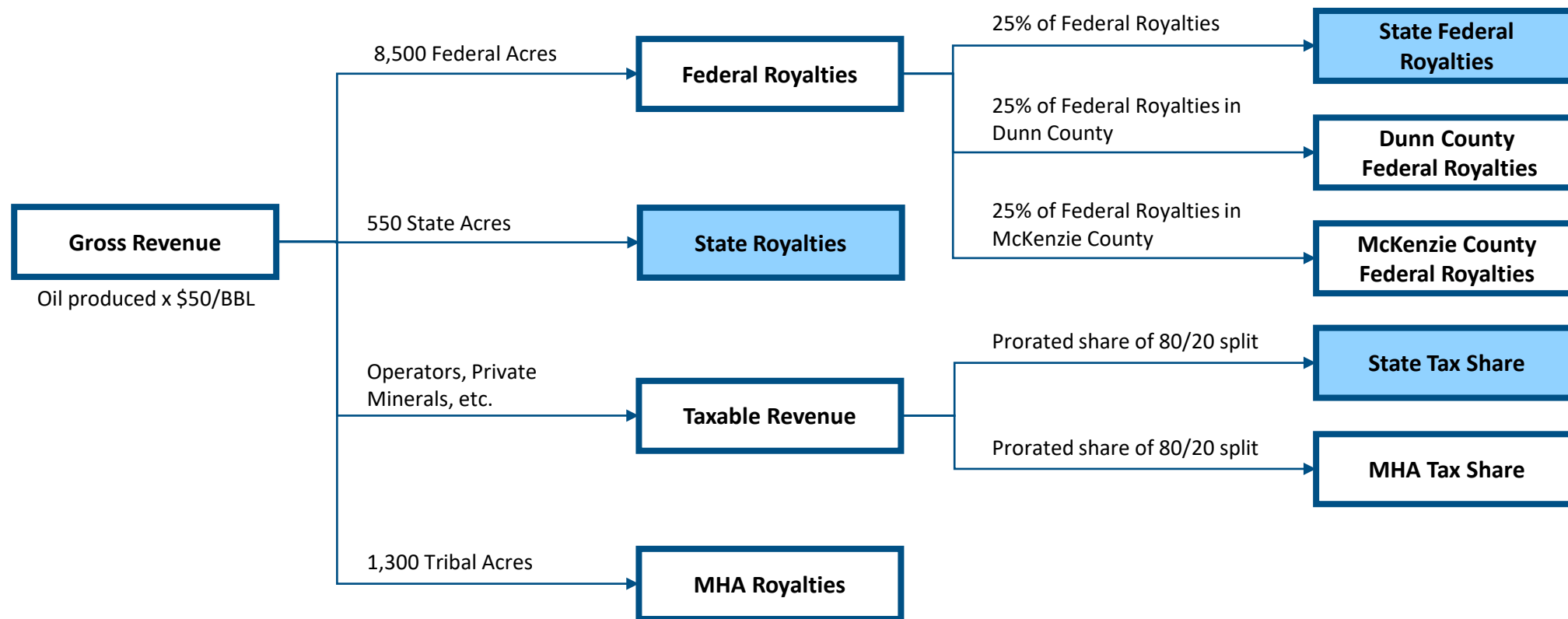
- ~15,000 Undeveloped Acres
 - ~8,500 Federal Acres
 - ~1,300 Tribal Acres
 - ~550 State Acres
- 10 Drill Spacing Units
- 110 Wells Drilled
 - 67 in Dunn County
 - 43 in McKenzie County
- 5 Year Drilling Schedule



Oil Production Forecast

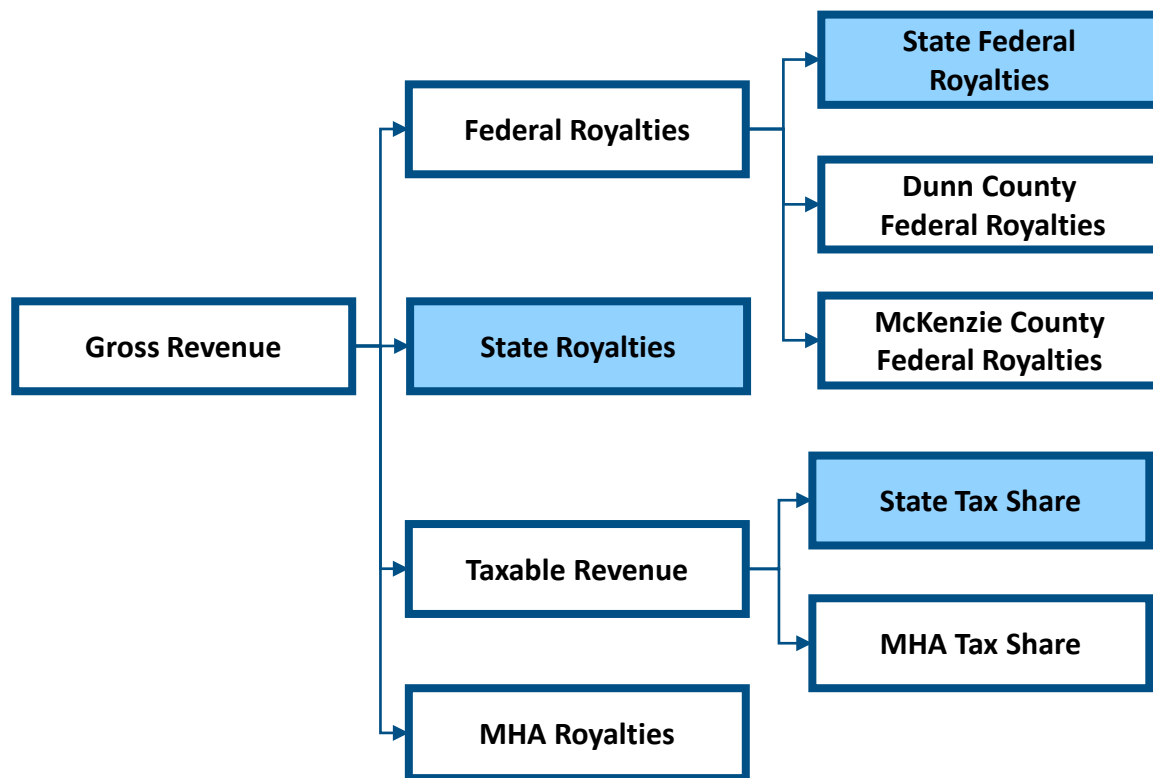


Cash Flow Forecasts



Model assumes a \$50 per barrel oil price.

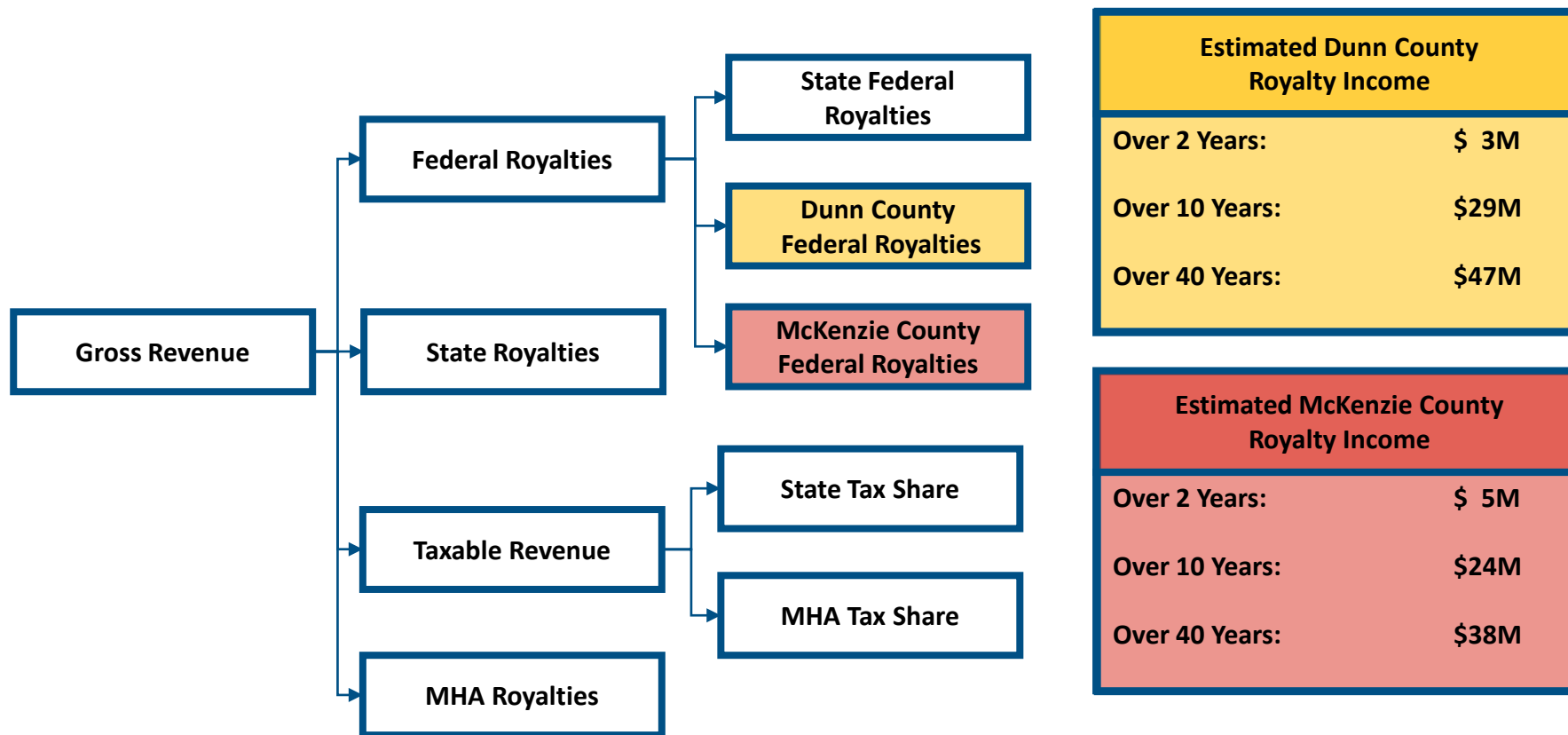
Cash Flow Forecasts



Estimated State Income	
Over 2 Years:	\$ 36M
• Taxes:	\$ 28M
• State Royalties:	\$ 1M
• State Federal Royalties:	\$ 7M
Over 10 Years:	\$265M
• Taxes:	\$195M
• State Royalties:	\$ 17M
• State Federal Royalties:	\$ 53M
Over 40 Years:	\$426M
• Taxes:	\$312M
• State Royalties:	\$ 29M
• State Federal Royalties:	\$ 85M

Model assumes a \$50 per barrel oil price.

Cash Flow Forecasts

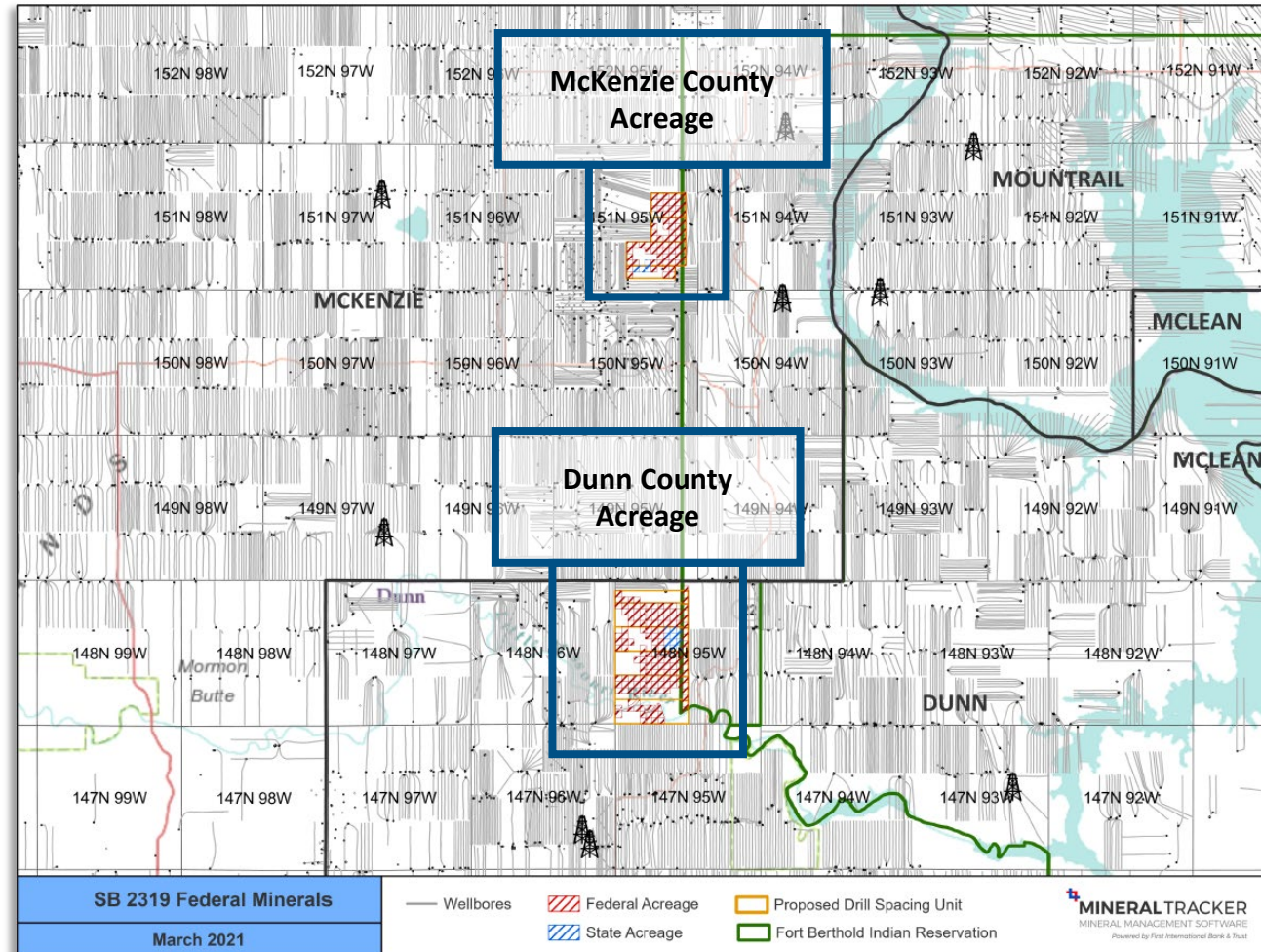


Model assumes a \$50 per barrel oil price.

Disclaimer

Please note, all estimates of future cash flow were constructed using decline curve analysis. Other evaluators may arrive at differing conclusions from the forecasts described herein.

Cash flow projections were generated using assumptions pertaining to future commodity prices, tax structures, and mineral/royalty ownership. MineralTracker cannot provide guarantees as to the accuracy of the underlying assumptions or resulting cash flow results.



Senate Bill 2319
Testimony of Brady Pelton
House Finance and Taxation Committee
March 23, 2021

Chairman Headland and members of the House Finance and Taxation Committee, my name is Brady Pelton, general counsel and director of government affairs for the North Dakota Petroleum Council. The North Dakota Petroleum Council represents more than 650 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota. I appear before you today in support of Senate Bill 2319.

At a time when North Dakota's Bakken and Three Forks formations are in immense competition for capital investments with oil plays in other areas of the nation, it is critical to have a stable and consistent business climate in place. Senate Bill 2319 helps sustain and enhance that stable environment by allowing the Mandan, Hidatsa, and Arikara ("MHA") Nation and the State of North Dakota to continue a strong and enduring agreement on how oil and gas taxes on minerals produced within the Fort Berthold Indian Reservation ("FBIR") are shared between the two governments.

Stability created by resolving the issue of how oil taxes on straddle wells are distributed between the MHA Nation and the State and its complement to a fair and equitable tax-sharing agreement have a far reach. Greater capital expenditures toward oil and gas exploration and production brought on by that stability inevitably lead to increased production and even larger amounts of revenue to the State, the MHA Nation, oil and gas companies, and royalty owners. Stability for oil and gas producers also encourages midstream companies to increase investments into natural gas infrastructure, significantly increasing natural gas capture capabilities within the Fort Berthold Indian Reservation.

North Dakota's oil and gas industry has a longstanding history of cooperation and partnership with the MHA Nation, examples of which may be shared by those industry representatives following me in testimony today. This mutually beneficial partnership has resulted in responsible mineral development in an area of the state with exceptional mineral geology. This partnership also extends far beyond oil and gas producers agreeing to invest capital within FBIR and the MHA Nation receiving a portion of oil tax revenue. The MHA Nation has taken strong steps to protect and enhance its mineral asset by supporting mineral development within FBIR boundaries and the economic transportation of oil to market. It has also been communicated to industry that the Nation will be an ally in interactions with the new federal administration, an important factor in consideration of the complex regulatory structure involved with developing federal, trust, and fee minerals.

A stable tax environment is the foundation of a healthy and productive business climate that works to the advantage of all parties. The North Dakota Petroleum Council therefore urges your support for **Senate Bill 2319** in a version that resolves the straddle well oil tax distribution issue fairly and respectfully recommends a **Do Pass** vote on that version of the bill. Thank you, and I would be happy to answer any questions.

Testimony of Josh Ruffo – 3/22/2021
Tribal Straddle Well Adjustment to State/Tribal Oil Tax Agreement
House Finance and Taxation Committee
SB 2319

Chairman Headland and members of the House Finance and Taxation Committee, thank you for the opportunity to testify today in support of SB 2319, in anticipation it can be amended to more closely reflect its introduced version.

My name is Josh Ruffo, and I am a resident of Turtle Lake, North Dakota. I have worked in the oil and gas industry for 15 years, and I am the current West Region Field Coordinator for Enerplus Resources.

Enerplus Resources (USA) Corporation is a subsidiary of Enerplus Corporation and we currently operate 776 wells in North Dakota, with 566 of those wells located on the Fort Berthold Indian Reservation (“FBIR”). Enerplus entered FBIR in 2008 and we are proud to employ a growing workforce of employees, several of which are enrolled members and live on the Reservation.

In the past five years alone, Enerplus has created hundreds of full-time jobs, paid \$177MM in extraction/production taxes and invested over \$2B of capital in FBIR and the State of North Dakota. We are currently producing over 40,000 barrels of oil per day.

The biggest drivers for economic recovery and long-term growth for Enerplus’ operations on FBIR is the crude oil price, costs, taxes, fair regulations and the ability to operate in a business-friendly environment.

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(USA) CORPORATION**

US Bank Tower, Suite 2200
950 17th Street
Denver, CO 80202-2805

720-279-5500
www.enerplus.com

The decision whether to shut in production, complete wells or drill new wells is largely dependent on these factors.

Since joining Enerplus Resources in 2010, one of my primary responsibilities has been to work directly with the MHA Nation leadership as the primary point of contact on behalf of our company. I am also responsible for all regulatory and environmental field compliance with our Bakken operations.

For the past 10 years Enerplus has engaged in and supported the many efforts of the oil and gas industry, the State of North Dakota and the MHA Nation to work together on providing regulatory certainty and a stable business environment on FBIR, especially on taxation policy.

With 30% of North Dakota's oil production coming from FBIR it is clear just how important it is for all parties involved to work together to ensure this operational stability is sustained.

In fact, one of the factors that led to our decision to grow our presence in ND, with our recently announced acquisition, was due to the stable tax and business environment that exists in ND and on FBIR.

We are concerned, therefore, when we hear the threat of dual-taxation with these straddle wells if an agreement is not reached on this bill. A dual-taxation environment, even if just on a subset of wells, would place a dark shadow over this stable tax environment – putting unnecessary risk on future investment, jobs, new well development and ultimately lost revenue for all parties involved.

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Enerplus believes SB 2319 provides a prime opportunity to avoid this pitfall and for the State of North Dakota and MHA Nation to again work together and find a solution on straddle well taxation policy that will move this regulatory stable environment forward.

We agree with Chairman Fox that a mutually agreed upon version of the bill should be reached in this legislative session.

Chairman Fox has also committed to this legislative body that resolution of the straddle well issue is the final oil and gas tax-related priority the MHA Nation would like to have resolved.

This should not only be seen as an incentive to come to agreement now but should also be viewed as a notable success for how far the state and MHA have come on working through tax issues and creating a long-term, shared-tax policy that is beneficial and fair to all.

At a time when Washington D.C. is attempting to create regulatory uncertainty with oil/gas development, Enerplus believes collaboration and leadership between the MHA Nation and the State of North Dakota is of particular importance.

Enerplus is proud to operate its business within FBIR and in the State of North Dakota. We appreciate the efforts of the state to partner with the MHA Nation to work on viable solutions, especially around tax policy, and we thank you for your continued demonstration of your support for our industry.

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Enerplus believes SB 2319 provides a favorable occasion for all parties – the MHA Nation, the State of North Dakota and the oil and gas industry to continue to present North Dakota as an attractive state for investment.

For these reasons, we are asking this committee and legislature to work out a solution with the MHA Nation and move SB 2319 forward in an amended version that addresses this issue now and not delay it for a future legislature to decide.

Thank you for your consideration of this important legislation. I look forward to any questions you may have.

Enerplus Background

- FBIR – since 2008
- Approximately 45% of all Enerplus production is from Ft. Berthold;
- Nearly 2/3 of Enerplus capital investment in 2021 will be in Ft. Berthold;
- 2021 Drilling & Completions Plan – 1 rig program; 20-26 wells, starting April 1
- We plan to resume completion operations on FBIR at the end of this month (current DUC's 28)
- Bruin acquisition (if asked) – Enerplus looks forward to the opportunity to expand our operations in North Dakota and increase our leasehold acreage, both on and off-FBIR. We closed on the acquisition on March 10th. More details and information on the acquisition is described in our publicly-released statement.

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Testimony by Shane Schulz
On behalf of
Diamondback Energy, Inc.
To the
House Finance and Taxation Committee
Hearing on Senate Bill 2319
March 23, 2021

Good morning Mr. Chairman and Committee members. My name is Shane Schulz and I am the Director of Government Affairs and Senior Corporate Counsel for Diamondback Energy, Inc. Just last week Diamondback Energy, Inc. closed on its acquisition of QEP Resources, Inc. Diamondback Energy, Inc. is based in Midland, Texas. We urge your support of Senate Bill 2319.

Diamondback is an oil producer in North Dakota and Texas. We have a large acreage position on the Fort Berthold Indian Reservation. We enjoy working in North Dakota and with the Three Affiliated Tribes on the reservation. We support Senate Bill 2319 with amendments to take the bill language to the original form. The original language would require all wells that produce oil and gas from reservation lands be included in the Tax Agreement, including production from wellheads originating outside reservation boundaries that included wellbores penetrating reservation boundaries. It would also be consistent with the definition of a Horizontal Well.

The MHA Nation entered into a new Tax Agreement during the last legislative session on the State's promise that it would review the issue of border wells extracting reservation oil and gas. This is perfect opportunity to correct this situation that has deprived the MHA Nation of its fair share of tax revenue from these wells. We appreciate your consideration of this matter and look forward to working with you in this effort.

We urge your support of Senate Bill 2319 with amendments to take it to its original form that was introduced in the Senate. By supporting this legislation, you will be supporting members of the Three Affiliated Tribe and helping to provide equity to the current Tax Agreement.

Thank you for your consideration.

Shane Schulz
Director, Government Affairs and Sr. Corp Counsel
Diamondback Energy, Inc.
Shane.Schulz@qepres.com
P 303.640.4267 \ M 307.214.8698
Denver, CO 80265

Senate Bill 2319
House Finance and Taxation Committee
Testimony Presented by Devon Energy
March 23, 2021

Good morning Chairman Headland, members of the committee, thank you for the opportunity to testify. My name is Teddy Carter and I am a Public and Government Affairs Representative for Devon Energy. Devon Energy recently merged with WPX Energy and is a new face to some in North Dakota. Devon has approximately 85,000 net acres located entirely on the Ft. Berthold Reservation. We support the intent of the MHA Nation on this legislation and appreciate all sides working together to come to an agreement that will provide tax certainty to producers and benefit all North Dakotans. Thank you.

Chairman Headland and members of the committee,

Thank you for taking the time to consider my testimony. My name is Lisa DeVille, I am an enrolled citizen of the Mandan Hidatsa Arikara (MHA) Nation, and a resident of Mandaree, ND, and I write to oppose 2319 as amended.

Fort Berthold lost 70% of its oil and gas revenue in 2020 and that doesn't include the tax revenue that should have been shared from straddle wells since 2008, estimated to be over 200 million dollars since that time.

The language of the original bill would have corrected the unfair and inequitable practice of the current tax revenue sharing policy regarding straddle wells. The MHA Nation should not be used as a negotiator for the ND or the US government to get to previously protected or inaccessible lands. We must protect our ancient, historical, and traditional sites.

Since the beginning of the oil and gas extraction Mandan, Hidatsa, and Arikara people have been treated unfairly and given unequal royalties. History shows that laws are always in favor of the European white man and their greed. We were promised wealth but paid for it with the destruction of the only land we have left. Though our land has been taken and laws were created to silence us when we peacefully protest to protect our land which is our identity as Indigenous people – we are still here.

We must protect the remaining lands of the MHA Nation including our spiritual sites from being destroyed through the oil and gas development that the either amendment would require. The tax revenue from the straddle wells should be equitably shared without having any requirements to get access to lands special to MHA Nation. The original, unamended language of the bill should be what should be adopted.

I urge a do not pass vote for 2319 as amended.

Thank you,

Lisa DeVille

Mandaree, ND

DATE: March 23, 2021

TO: Chairman Headland and members of the House Finance and Taxation Committee of the ND Legislature

FROM: Fort Berthold POWER (Protectors of Water and Earth Rights). Delvin Rabbithead Sr., president

Thank you for considering our written testimony regarding SB 2319. Fort Berthold POWER is a voluntary, citizen-active group. We testify and/or file written comments on proposed federal, state, and tribal regulations which impacts our environment and the health of families and communities within the Fort Berthold Indian Reservation boundaries. Fort Berthold POWER is an affiliate or chapter of Dakota Resource Council.

Tribal members of the Three Affiliated Tribes rely on federal regulations to protect our air, the health of tribal families and residents of Fort Berthold, and our environment - whether through the BIA, EPA, BLM, USFS, or other federal agencies. There are no other existing regulatory protections of our air quality and our health within the Fort Berthold boundaries. Prior to 2017, both BLM and EPA proposed stronger regulatory air protections to benefit human health regarding leaky well site equipment, flaring, venting and to reduce the climate-changing greenhouse gases. The Biden Administration plans to renew and strengthen these health-protecting regulations.

Regarding SB 2319:

- Fort Berthold POWER formally objects to the State of North Dakota's efforts to undermine President Biden's Executive Order 14008 by asking TAT Chairman Fox to facilitate an exemption that would allow new drilling of non-trust federal lands near Fort Berthold boundaries.
- Weakening the health and environmental protections of Executive Order 14008 because the negotiated ND-TAT tax agreements since 2008 failed to include the oil & gas extracted through wells "straddling" the Fort Berthold boundaries, is not a beneficial solution.
- Further, during Senator Kannianen introduction of SB 2319 during the last House Taxation and Finance Committee hearing, he verbally describes this bill as targeting lands formerly reserved for MHA tribal member vision quests and targeting Mandaree and/or Twin Buttes lands where the Tribe's new herd of bighorn sheep are located. Clearly, through SB 2319, our culturally significant sites remain in the crosshairs of the oil & gas industry. Additionally, the cultural uses of the bighorn sheep, as recently described by a TAT tribal council member in statewide news articles, will have less protection because the natural habitat of the bighorn sheep will be under threat from the potential adverse impacts of oil and gas extraction.
- Regarding SB 2319, Fort Berthold POWER supports an adequate and timely payment for any trust minerals extracted from inside the Fort Berthold boundaries. Presenting a new and significant pre-condition to be met in advance, before the rightful payment of royalties to the TAT Tribal Council, is equivalent to strong-arming your neighbor.

Further, Fort Berthold POWER supports more sustainable energy systems through wind, solar, and other means that are less harmful to human health and less damaging to the last of our pre-treaty lands within the Fort Berthold boundaries. Our ancestors occupied these lands before the US government and State of North Dakota were even formed: we have an obligation to protect our lands for future generations. Therefore, Fort Berthold POWER urges a do-not-pass on SB 2319. Thank you.

Fort Berthold POWER Officers: President Delvin Rabbithead Sr., Vice-President Joletta Bird Bear, and Treasurer Lisa DeVille.

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2319
4/7/2021
AM

A bill relating to oil and gas agreements.
--

Chairman Headland opened up the meeting for discussion at 9:00am.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Discussion Topics:

- Proposed amendment for straddle well distribution
- Proposed amendment 21.0959.04003
- Committee decision

Chairman Headland distributed a proposed amendment for straddle well distribution. (#11421).

Ryan Rauschenberger, State Tax Commissioner, explained the proposed amendment.

Representative B. Koppelman distributed a proposed amendment 21.0959.04003 (#11422).

Chairman Mark Fox, MHA Nation, offered comments and answered questions from the committee.

Representative B. Koppelman explained proposed amendment 21.0959.04003 and made some language changes.

Dee Wald, General Counsel for the Office of the State Tax Commissioner, answered questions from the committee.

Representative Bosch made a motion to adopt amendment for straddle well distribution.

Vice Chairman Steiner seconded the motion.

Voice vote-motion carried.

Representative B. Koppelman made a motion to further amend by adding a two-year sunset clause.

Representative Kading seconded the motion.

Voice vote-motion failed.

Representative Dockter made a motion for a DO PASS AS AMENDED.

Representative Bosch seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Tom Kading	Y
Representative Ben Koppelman	N
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Motion carried 13-1-0

Chairman Headland is the bill carrier.

Chairman Headland closed the discussion at 10:28.

****This bill has been reconsidered in the afternoon of 4-07-21.**

Mary Brucker, Committee Clerk

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2319

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to wells located outside reservation boundaries; to provide an appropriation; to provide a continuing appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution - Continuing appropriation.

1. On or before June 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation acreage ratio for each reservation with on-reservation spacing unit acreage. The on-reservation acreage ratio is calculated by dividing the on-reservation spacing unit acreage by the total spacing unit acreage. The on-reservation acreage ratio is effective for each fiscal year beginning July first. The tax commissioner shall publish the on-reservation acreage ratio for the fiscal year on or before June first of each fiscal year.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells. The state treasurer, after distribution to the state general fund under subsection 1 of section 57-51.1-07.5, shall no less than monthly distribute to a tribe with on-reservation spacing unit acreage an amount equal to fifty percent of the taxes certified under this section, multiplied by the on-reservation acreage ratio for that tribe. All such moneys are appropriated to the tribe with on-reservation spacing unit acreage as a continuing appropriation.
3. For purposes of this section:

- a. “Straddle well” means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.
- b. “On-reservation spacing unit acreage” means the on-reservation surface acreage from all spacing units with one or more straddle wells.
- c. “Total spacing unit acreage” means the total surface acreage from all spacing units with one or more straddle wells.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable production beginning after June 30, 2021.

Renumber accordingly

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2319

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to wells located outside reservation boundaries; to provide an appropriation; to provide a continuing appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution - Continuing appropriation.

1. On or before June 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation acreage ratio for each reservation with on-reservation spacing unit acreage. The on-reservation acreage ratio is calculated by dividing the on-reservation spacing unit acreage by the total spacing unit acreage. The on-reservation acreage ratio is effective for each fiscal year beginning July first. The tax commissioner shall publish the on-reservation acreage ratio for the fiscal year on or before June first of each fiscal year.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells. The state treasurer, after distribution to the state general fund under subsection 1 of section 57-51.1-07.5, shall no less than monthly distribute to a tribe with on-reservation spacing unit acreage an amount equal to fifty percent of the taxes certified under this section, multiplied by the on-reservation acreage ratio for that tribe. All such moneys are appropriated to the tribe with on-reservation spacing unit acreage as a continuing appropriation.
3. For purposes of this section:

- a. “Straddle well” means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.
- b. “On-reservation spacing unit acreage” means the on-reservation surface acreage from all spacing units with one or more straddle wells.
- c. “Total spacing unit acreage” means the total surface acreage from all spacing units with one or more straddle wells.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable production beginning after June 30, 2021.

Renumber accordingly

21.0959.04003
Title.

Prepared by the Legislative Council staff for
Representative B. Koppelman
March 26, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2319

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 5 of section 57-51.2-02, relating to wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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. Wells located outside the exterior boundaries of the reservation. If a well located outside the boundaries of the reservation has one or more horizontal laterals that penetrate the reservation boundaries and fifty percent or more of the spacing unit's surface acreage is within the boundaries of the reservation, the well is subject to all applicable exemptions and the tribe must receive twenty percent of the total oil and gas gross production and oil extraction taxes attributable to production on nontrust lands.
 - d. The state's share of the oil and gas gross production tax revenue as divided in subdivisions a ~~and~~, b, and c is subject to distribution among political subdivisions as provided in chapter 57-51.

SECTION 2. APPLICATION. This Act applies to new wells drilled and completed after June 30, 2021."

Renumber accordingly

2021 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Room JW327E, State Capitol

SB 2319
4/7/2021
PM

A bill relating to oil and gas agreements.
--

Chairman Headland opened up the meeting for discussion at 3:18pm.

Representatives	Present
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	AB
Representative Tom Kading	AB
Representative Ben Koppelman	Y
Representative Marvin E. Nelson	Y
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Discussion Topics:

- Reconsideration of actions
- Proposed amendment “Final Revision”
- Committee decision

Representative Dockter made a motion to reconsider our actions.

Representative D. Anderson seconded the motion.

Voice vote-motion carried.

Chairman Headland distributed a proposed amendment titled “Final Revision” which changes the language in section 2 to “taxable production beginning after June 30, 2021.” (#11438).

Dee Wald, General Counsel with the Office of State Tax Commissioner’s Office, explained the proposed amendment.

Representative B. Koppelman made a motion to adopt the amendment “Final Revision” 21.0959.04005.

Vice Chairman Steiner seconded the motion.

Voice vote-motion carried.

Vice Chairman Steiner made a motion for a DO PASS AS AMENDED.

Representative Bosch seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Vicky Steiner	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Sebastian Ertelt	Y
Representative Jay Fisher	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	AB
Representative Tom Kading	AB
Representative Ben Koppelman	N
Representative Marvin E. Nelson	N
Representative Nathan Toman	Y
Representative Wayne A. Trottier	Y

Motion carried 10-2-2

Chairman Headland is the bill carrier.

Chairman Headland closed the discussion at 3:32pm.

Mary Brucker, Committee Clerk

April 7, 2021

DR 4/7/21
10f1

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2319

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation acreage ratio is calculated by dividing the on-reservation spacing unit acreage by the total spacing unit acreage. The on-reservation acreage ratio for each reservation is effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratio for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells. Before allocation of the state's share of oil and gas tax revenues under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing body of a tribe associated with a reservation that has on-reservation spacing unit acreage, an amount equal to fifty percent of the taxes certified under this section multiplied by the on-reservation acreage ratio calculated under subsection 1 for that reservation.
3. For purposes of this section:
 - a. "On-reservation spacing unit acreage" means the surface acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
 - b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.
 - c. "Total spacing unit acreage" means the total surface acreage from all spacing units with one or more straddle wells.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2319, as reengrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). Reengrossed SB 2319 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation acreage ratio is calculated by dividing the on-reservation spacing unit acreage by the total spacing unit acreage. The on-reservation acreage ratio for each reservation is effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratio for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells. Before allocation of the state's share of oil and gas tax revenues under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing body of a tribe associated with a reservation that has on-reservation spacing unit acreage, an amount equal to fifty percent of the taxes certified under this section multiplied by the on-reservation acreage ratio calculated under subsection 1 for that reservation.
3. For purposes of this section:
 - a. "On-reservation spacing unit acreage" means the surface acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
 - b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.
 - c. "Total spacing unit acreage" means the total surface acreage from all spacing units with one or more straddle wells.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021."

Renumber accordingly

FINAL REVISION

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2319

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to wells located outside reservation boundaries; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. On or before August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation acreage ratio is calculated by dividing the on-reservation spacing unit acreage by the total spacing unit acreage. The on-reservation acreage ratio for each reservation is effective for taxable production each fiscal year beginning July first. On or before August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratio for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells. Before allocation of the state's share of oil and gas tax revenues under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing body of a tribe associated with a reservation that has on-reservation spacing unit acreage an amount equal to fifty percent of the taxes certified under this section, multiplied by the on-reservation acreage ratio calculated under subsection 1 for that reservation.

For purposes of this section:

- a. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.
- b. "On-reservation spacing unit acreage" means the acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
- c. "Total spacing unit acreage" means the total surface acreage from all spacing units with one or more straddle wells.

SECTION 2. APPLICATION. This Act applies to ^{taxable} ~~oil and gas tax~~ revenue collections allocated the state treasurer after August 1, 2021."
production beginning after June 30, 2021.

Renumber accordingly

2021 CONFERENCE COMMITTEE

SB 2319

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 2319
4/15/2021
Conference Committee

A BILL for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application

Chair Kannianen calls the meeting to order. Senators Kannianen, Patten, Bell and Representatives Headland, Bosch, Dockter are present. [2:30]

Discussion Topics:

- Political subdivisions tax revenue
- Tax sharing allocation between Tribe and State
- Oil Production

Committee Discussion [2:30]

Ryan Rauschenberger [2:37] Tax Commissioner, Office of the State Commissioner provides information orally.

Chair Kannianen adjourns the meeting. [2:43]

Joel Crane, Committee Clerk

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2319
4/19/2021
Conference Committee

A BILL for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application

Chair Kannianen calls the meeting to order. Senators Kannianen, Patten, Bell and Representatives Headland, Bosch, Dockter are present. [3:00]

Discussion Topics:

- Fee land tax revenue allocation
- Fiscal impact
- Tribal assessed fees and taxes

Committee Discussion [3:00]

Senator Kannianen [3:01] offered an amendment [LC 21.0959.04007] #11669.

Representative Headland [3:06] offered an amendment [LC 21.0959.04008] #11670.

Representative Headland [3:09] moved House recede and further amend [LC 21.0959.04008]

Representative Bosch seconds

Motion passes 5-1-0 (Roll call vote #1)

Senator Patten and **Representative Headland** carries

Chair Kannianen adjourns the meeting. [3:11]

Joel Crane, Committee Clerk

CS
4/19
1 of 2

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2319

That the House recede from its amendments as printed on pages 1367 and 1368 of the Senate Journal and pages 1548 and 1549 of the House Journal and that Reengrossed Senate Bill No. 2319 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation acreage ratio is calculated by dividing the on-reservation spacing unit acreage by the total spacing unit acreage. The on-reservation acreage ratio for each reservation is effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratio for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells by reservation. Before allocation of the state's share of oil and gas tax revenues under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing body of a tribe associated with a reservation that has on-reservation spacing unit acreage, an amount equal to fifty percent of the taxes certified under this section multiplied by the on-reservation acreage ratio calculated under subsection 1 for that reservation.
3. For purposes of this section:
 - a. "On-reservation spacing unit acreage" means the surface acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
 - b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.

2 of 2

- c. "Total spacing unit acreage" means the total surface acreage from all spacing units with one or more straddle wells.
- 4. Upon accepting a payment under this section, if a tribe assesses any tax or fee or imposes any regulation on any current or future straddle well, or assesses an additional tax on any well subject to an agreement under chapter 57-51.2, the agreement under chapter 57-51.2 is void and the state treasurer may not distribute any funds to the tribe under this section or chapter 57-51.2.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021."

Renumber accordingly

**2021 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2319 as engrossed

Senate Finance and Taxation Committee

- Action Taken** ☐ **SENATE accede to House Amendments**
☐ **SENATE accede to House Amendments and further amend**
☐ **HOUSE recede from House amendments**
☒ **HOUSE recede from House amendments and amend as follows**
- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Headland Seconded by: Representative Bosch

Senators				Yes	No		Representatives				Yes	No
Chair Kannianen					N		Headland				Y	
Patten				Y			Bosch				Y	
Bell				Y			Dockter				y	
Total Senate Vote							Total Rep. Vote					

Vote Count Yes: 5 No: 1 Absent: 0

Senate Carrier Patten House Carrier Headland

LC Number 21.0959 . 04008 of amendment

LC Number 21.0959 . 06000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment: for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

21.0959.04007

THIRD ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2319

Introduced by

Senator Kannianen

1 A BILL ~~for an Act to amend and reenact subsection 1 of section 57-51.2-02 and subdivision c of~~
2 ~~subsection 5 of section 57-51.2-02 of the North Dakota Century Code, relating to oil and gas~~
3 ~~agreements; to provide for application; and to provide a contingent effective date for an Act to~~
4 create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating
5 to distribution of revenue from wells located outside reservation boundaries; and to provide for
6 application.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 ~~SECTION 1. AMENDMENT. Subsection 1 of section 57-51.2-02 of the North Dakota~~
9 ~~Century Code is amended and reenacted as follows:~~

10 ~~1. The only taxes subject to agreement are the state's oil and gas gross production and~~
11 ~~oil extraction taxes attributable to production from wells located within the exterior~~
12 ~~boundaries of the reservation and wells located on trust properties outside reservation~~
13 ~~boundaries. For purposes of this chapter, "trust:~~

14 ~~a. "Trust properties outside reservation boundaries" means land in this state located~~
15 ~~outside the exterior boundaries of a reservation which are held in trust by the~~
16 ~~United States for any Indian tribe or owned by an Indian tribe or tribal member~~
17 ~~subject to a restriction against alienation imposed by the United States.~~

18 ~~b. "Wells located within the exterior boundaries of the reservation" includes wells~~
19 ~~located in a county with a population of less than ten thousand but greater than~~
20 ~~twelve thousand at the time an agreement is entered pursuant to this chapter.~~
21 ~~based on the most recent actual or estimated census data published by the~~
22 ~~United States census bureau, with one or more horizontal laterals that penetrate~~
23 ~~the reservation.~~

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

~~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. The definition of "wells located within the exterior boundaries of the reservation" in subsection 1 may not be construed as altering the physical location of a wellhead for purposes of revenue allocations among political subdivisions as provided in chapter 57-51.~~

~~**SECTION 3. APPLICATION.** This Act applies to agreements entered after June 30, 2023.~~

~~**SECTION 4. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on July 1, 2023, if by that date the tax commissioner notifies the legislative council that at least one new oil and gas well on which drilling commences after July 31, 2021, situated within the exterior boundaries of the reservation, has a horizontal lateral that extends to federal minerals located outside the exterior boundaries of the reservation.~~

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation trust lands acreage ratio and the on-reservation nontrust lands acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation trust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of trust lands by the total spacing unit acreage. For each reservation, the on-reservation nontrust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of nontrust lands by the total spacing unit acreage. The on-reservation acreage ratios for each reservation are effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratios for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled

1 before July 1, 2019, by reservation, and the total oil and gas gross production and oil
2 extraction taxes attributable to production from straddle wells drilled on or after July 1,
3 2019, by reservation. Before allocation of the state's share of oil and gas tax revenues
4 under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing
5 body of a tribe associated with a reservation that has on-reservation spacing unit
6 acreage, an amount equal to:

7 a. Fifty percent of the taxes certified under this section for wells drilled before July 1,
8 2019, multiplied by the on-reservation trust lands acreage ratio calculated under
9 subsection 1 for that reservation;

10 b. Fifty percent of the taxes certified under this section for wells drilled before July 1,
11 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated
12 under subsection 1 for that reservation;

13 c. Eighty percent of the taxes certified under this section for wells drilled on or after
14 July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated
15 under subsection 1 for that reservation; and

16 d. Twenty percent of the taxes certified under this section for wells drilled on or after
17 July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio
18 calculated under subsection 1 for that reservation.

19 3. For purposes of this section:

20 a. "On-reservation spacing unit acreage" means the surface acreage located within
21 the exterior boundaries of a reservation in this state from all spacing units with
22 one or more straddle wells.

23 b. "Straddle well" means an oil and gas well located outside the exterior boundaries
24 of a reservation which has one or more laterals penetrating a reservation
25 boundary.

26 c. "Total spacing unit acreage" means the total surface acreage from all spacing
27 units with one or more straddle wells.

28 **SECTION 2. APPLICATION.** This Act applies to oil and gas tax revenue collections
29 allocated by the state treasurer after September 1, 2021.

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2319

That the House recede from its amendments as printed on pages 1367 and 1368 of the Senate Journal and pages 1548 and 1549 of the House Journal and that Reengrossed Senate Bill No. 2319 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation acreage ratio is calculated by dividing the on-reservation spacing unit acreage by the total spacing unit acreage. The on-reservation acreage ratio for each reservation is effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratio for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells by reservation. Before allocation of the state's share of oil and gas tax revenues under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing body of a tribe associated with a reservation that has on-reservation spacing unit acreage, an amount equal to fifty percent of the taxes certified under this section multiplied by the on-reservation acreage ratio calculated under subsection 1 for that reservation.
3. For purposes of this section:
 - a. "On-reservation spacing unit acreage" means the surface acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
 - b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.

- c. "Total spacing unit acreage" means the total surface acreage from all spacing units with one or more straddle wells.
- 4. Upon accepting a payment under this section, if a tribe assesses any tax or fee or imposes any regulation on any current or future straddle well, or assesses an additional tax on any well subject to an agreement under chapter 57-51.2, the agreement under chapter 57-51.2 is void and the state treasurer may not distribute any funds to the tribe under this section or chapter 57-51.2.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021."

Renumber accordingly

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2319
4/20/2021
Conference Committee
First Meeting

A BILL for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application

Chair Kannianen calls the meeting to order. Senators Kannianen, Patten, Bell and Representatives Headland, Bosch, Dockter are present. [3:04]

Discussion Topics:

- Further amendments

Representative Headland moved to reconsider
Representative Dockter seconds

Motion passed verbally

Representative Headland moved to recede and amend and add Section 1, subsection 2, C and D from LC 21.0959.04007 to the LC 21.0959.04008 version.

Representative Dockter seconds

Motion passes 6-0-0 (See Roll Call Vote #1)

Senator Kannianen and **Representative Headland** carries

Chair Kannianen adjourns the meeting. [3:06]

NOTE: Conference Committee reconsidered this action – see second conference committee minutes.

Joel Crane, Committee Clerk

Sixty-seventh
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2319

Introduced by

Senator Kannianen

1 A BILL ~~for an Act to amend and reenact subsection 1 of section 57-51.2-02 and subdivision c of~~
2 ~~subsection 5 of section 57-51.2-02 of the North Dakota Century Code, relating to oil and gas~~
3 ~~agreements; to provide for application; and to provide a contingent effective date for an Act to~~
4 create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating
5 to distribution of revenue from wells located outside reservation boundaries; and to provide for
6 application.

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 ~~SECTION 1. AMENDMENT. Subsection 1 of section 57-51.2-02 of the North Dakota~~
9 ~~Century Code is amended and reenacted as follows:~~

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11 ~~oil extraction taxes attributable to production from wells located within the exterior~~
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13 ~~boundaries. For purposes of this chapter, "trust:~~

14 ~~a. "Trust properties outside reservation boundaries" means land in this state located~~
15 ~~outside the exterior boundaries of a reservation which are held in trust by the~~
16 ~~United States for any Indian tribe or owned by an Indian tribe or tribal member~~
17 ~~subject to a restriction against alienation imposed by the United States.~~

18 ~~b. "Wells located within the exterior boundaries of the reservation" includes wells~~
19 ~~located in a county with a population of less than ten thousand but greater than~~
20 ~~twelve thousand at the time an agreement is entered pursuant to this chapter,~~
21 ~~based on the most recent actual or estimated census data published by the~~
22 ~~United States census bureau, with one or more horizontal laterals that penetrate~~
23 ~~the reservation.~~

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

~~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. The definition of "wells located within the exterior boundaries of the reservation" in subsection 1 may not be construed as altering the physical location of a wellhead for purposes of revenue allocations among political subdivisions as provided in chapter 57-51.~~

~~**SECTION 3. APPLICATION.** This Act applies to agreements entered after June 30, 2023.~~

~~**SECTION 4. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on July 1, 2023, if by that date the tax commissioner notifies the legislative council that at least one new oil and gas well on which drilling commences after July 31, 2021, situated within the exterior boundaries of the reservation, has a horizontal lateral that extends to federal minerals located outside the exterior boundaries of the reservation.~~

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8 2019, multiplied by the on-reservation trust lands acreage ratio calculated under
9 subsection 1 for that reservation;

10 b. Fifty percent of the taxes certified under this section for wells drilled before July 1,
11 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated
12 under subsection 1 for that reservation;

13 c. Eighty percent of the taxes certified under this section for wells drilled on or after
14 July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated
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22 one or more straddle wells.

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24 of a reservation which has one or more laterals penetrating a reservation
25 boundary.

26 c. "Total spacing unit acreage" means the total surface acreage from all spacing
27 units with one or more straddle wells.

28 **SECTION 2. APPLICATION.** This Act applies to oil and gas tax revenue collections
29 allocated by the state treasurer after September 1, 2021.

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2319

That the House recede from its amendments as printed on pages 1367 and 1368 of the Senate Journal and pages 1548 and 1549 of the House Journal and that Reengrossed Senate Bill No. 2319 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation acreage ratio is calculated by dividing the on-reservation spacing unit acreage by the total spacing unit acreage. The on-reservation acreage ratio for each reservation is effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratio for each reservation.
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3. For purposes of this section:
 - a. "On-reservation spacing unit acreage" means the surface acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
 - b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.

- c. "Total spacing unit acreage" means the total surface acreage from all spacing units with one or more straddle wells.
- 4. Upon accepting a payment under this section, if a tribe assesses any tax or fee or imposes any regulation on any current or future straddle well, or assesses an additional tax on any well subject to an agreement under chapter 57-51.2, the agreement under chapter 57-51.2 is void and the state treasurer may not distribute any funds to the tribe under this section or chapter 57-51.2.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021."

Renumber accordingly

Date: 4/20/2021

First Meeting

2021 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2319 as re engrossed

Senate Finance and Taxation Committee

Action Taken

- ☐ SENATE accede to House Amendments
- ☐ SENATE accede to House Amendments and further amend
- ☐ HOUSE recede from House amendments
- ☒ HOUSE recede from House amendments and amend as follows

☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Headland Seconded by: Representative Dockter

Senators				Yes	No		Representatives				Yes	No
Chair Kannianen				Y			Headland				Y	
Patten				Y			Bosch				Y	
Bell				Y			Dockter				Y	
Total Senate Vote				3			Total Rep. Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Kannianen House Carrier Headland

LC Number _____ of amendment _____

LC Number . of engrossment

Emergency clause added or deleted

Statement of purpose of amendment: added section1, subsection 2, C and D from LC 21.0959.04007 to the LC 21.0959.04008 version.

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2319
4/20/2021
Second Meeting
Conference Committee

A BILL for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application

Chair Kannianen calls the meeting to order. Senators Kannianen, Patten, Bell and Representatives Headland, Bosch, Dockter are present. [3:40]

Discussion Topics:

- Technical correction amendments

Representative Headland [3:41] moved to reconsider the previous actions.

Senator Bosch seconds

Motion passed verbally

Representative Headland [3:41] moved to recede from House Amendments.

Representative Bosch seconds

Motion passed verbally

Representative Headland [3:42] moved to adopt the language in LC 21.0959.04007 and add the language in section 4 of LC 21.0959.04008 and in subsection 3 of subsection 1 line 20 and subsection c, line 26 of LC 21.0959.04007 replace the word "surface" with "mineral". **Representative Bosch** seconds

Motion passed 6-0-0

Senator Kannianen and **Representative Headland** carries.

Additional written testimony:

Chair Kannianen submits testimony #11669.

Representative Headland submits testimony #11670.

Chair Kannianen adjourns the meeting. [3:44]

Joel Crane, Committee Clerk

April 20, 2021

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2319

That the House recede from its amendments as printed on pages 1367 and 1368 of the Senate Journal and pages 1548 and 1549 of the House Journal and that Reengrossed Senate Bill No. 2319 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation trust lands acreage ratio and the on-reservation nontrust lands acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation trust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of trust lands by the total spacing unit acreage. For each reservation, the on-reservation nontrust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of nontrust lands by the total spacing unit acreage. The on-reservation acreage ratios for each reservation are effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratios for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled before July 1, 2019, by reservation, and the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled on or after July 1, 2019, by reservation. Before allocation of the state's share of oil and gas tax revenues under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing body of a tribe associated with a reservation that has on-reservation spacing unit acreage, an amount equal to:
 - a. Fifty percent of the taxes certified under this section for wells drilled before July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated under subsection 1 for that reservation;

- 2022
- b. Fifty percent of the taxes certified under this section for wells drilled before July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated under subsection 1 for that reservation;
 - c. Eighty percent of the taxes certified under this section for wells drilled on or after July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated under subsection 1 for that reservation; and
 - d. Twenty percent of the taxes certified under this section for wells drilled on or after July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated under subsection 1 for that reservation.
3. For purposes of this section:
- a. "On-reservation spacing unit acreage" means the mineral acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
 - b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.
 - c. "Total spacing unit acreage" means the total mineral acreage from all spacing units with one or more straddle wells.
4. Upon accepting a payment under this section, if a tribe assesses any tax or fee or imposes any regulation on any current or future straddle well, or assesses an additional tax on any well subject to an agreement under chapter 57-51.2, the agreement under chapter 57-51.2 is void and the state treasurer may not distribute any funds to the tribe under this section or chapter 57-51.2.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021."

Renumber accordingly

**2021 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2319 as re engrossed

Senate Finance and Taxation Committee

Action Taken ☐ **SENATE accede to House Amendments**
 ☐ **SENATE accede to House Amendments and further amend**
 ☐ **HOUSE recede from House amendments**
 ☒ **HOUSE recede from House amendments and amend as follows**

☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Headland Seconded by: Representative Bosch

Senators				Yes	No		Representatives				Yes	No
Chair Kannianen				Y			Headland				Y	
Patten				Y			Bosch				Y	
Bell				Y			Dockter				Y	
Total Senate Vote				3			Total Rep. Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Kannianen House Carrier Headland

LC Number 21. 0959 . 04009 of amendment

LC Number 21. 0959 . 07000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment: adopt the language in LC 21.0959.04007 and add the language in section 4 of LC 21.0959.04008 and in subsection 3 of subsection 1 line 20 and subsection c, line 26 of LC 21.0959.04007 replace the word "surface" with "mineral" for straddle well distributions.

Insert LC: 21.0959.04009
Senate Carrier: Kannianen
House Carrier: Headland

REPORT OF CONFERENCE COMMITTEE

SB 2319, as reengrossed: Your conference committee (Sens. Kannianen, Patten, Bell and Reps. Headland, Bosch, Dockter) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1360-1368, adopt amendments as follows, and place SB 2319 on the Seventh order:

That the House recede from its amendments as printed on pages 1367 and 1368 of the Senate Journal and pages 1548 and 1549 of the House Journal and that Reengrossed Senate Bill No. 2319 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating to distribution of revenue from wells located outside reservation boundaries; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

Straddle well distribution.

1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the industrial commission shall certify to the tax commissioner the on-reservation trust lands acreage ratio and the on-reservation nontrust lands acreage ratio for each reservation with on-reservation spacing unit acreage. For each reservation, the on-reservation trust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of trust lands by the total spacing unit acreage. For each reservation, the on-reservation nontrust lands acreage ratio is calculated by dividing the on-reservation spacing unit acreage consisting of nontrust lands by the total spacing unit acreage. The on-reservation acreage ratios for each reservation are effective for taxable production each fiscal year beginning July first. By August 1, 2021, and on or before June first of each subsequent fiscal year, the tax commissioner shall publish the on-reservation acreage ratios for each reservation.
2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled before July 1, 2019, by reservation, and the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled on or after July 1, 2019, by reservation. Before allocation of the state's share of oil and gas tax revenues under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing body of a tribe associated with a reservation that has on-reservation spacing unit acreage, an amount equal to:
 - a. Fifty percent of the taxes certified under this section for wells drilled before July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated under subsection 1 for that reservation;
 - b. Fifty percent of the taxes certified under this section for wells drilled before July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated under subsection 1 for that reservation;
 - c. Eighty percent of the taxes certified under this section for wells drilled on or after July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated under subsection 1 for that reservation; and

Insert LC: 21.0959.04009
Senate Carrier: Kannianen
House Carrier: Headland

- d. Twenty percent of the taxes certified under this section for wells drilled on or after July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated under subsection 1 for that reservation.
- 3. For purposes of this section:
 - a. "On-reservation spacing unit acreage" means the mineral acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
 - b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.
 - c. "Total spacing unit acreage" means the total mineral acreage from all spacing units with one or more straddle wells.
- 4. Upon accepting a payment under this section, if a tribe assesses any tax or fee or imposes any regulation on any current or future straddle well, or assesses an additional tax on any well subject to an agreement under chapter 57-51.2, the agreement under chapter 57-51.2 is void and the state treasurer may not distribute any funds to the tribe under this section or chapter 57-51.2.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021."

Renumber accordingly

Reengrossed SB 2319 was placed on the Seventh order of business on the calendar.

21.0959.04007

THIRD ENGROSSMENT

Sixty-seventh
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2319

Introduced by

Senator Kannianen

1 A BILL ~~for an Act to amend and reenact subsection 1 of section 57-51.2-02 and subdivision c of~~
2 ~~subsection 5 of section 57-51.2-02 of the North Dakota Century Code, relating to oil and gas~~
3 ~~agreements; to provide for application; and to provide a contingent effective date for an Act to~~
4 ~~create and enact a new section to chapter 57-51.1 of the North Dakota Century Code, relating~~
5 ~~to distribution of revenue from wells located outside reservation boundaries; and to provide for~~
6 ~~application.~~

7 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

8 ~~SECTION 1. AMENDMENT. Subsection 1 of section 57-51.2-02 of the North Dakota~~
9 ~~Century Code is amended and reenacted as follows:~~

10 ~~1. The only taxes subject to agreement are the state's oil and gas gross production and~~
11 ~~oil extraction taxes attributable to production from wells located within the exterior~~
12 ~~boundaries of the reservation and wells located on trust properties outside reservation~~
13 ~~boundaries. For purposes of this chapter, "trust:~~

14 ~~a. "Trust properties outside reservation boundaries" means land in this state located~~
15 ~~outside the exterior boundaries of a reservation which are held in trust by the~~
16 ~~United States for any Indian tribe or owned by an Indian tribe or tribal member~~
17 ~~subject to a restriction against alienation imposed by the United States.~~

18 ~~b. "Wells located within the exterior boundaries of the reservation" includes wells~~
19 ~~located in a county with a population of less than ten thousand but greater than~~
20 ~~twelve thousand at the time an agreement is entered pursuant to this chapter,~~
21 ~~based on the most recent actual or estimated census data published by the~~
22 ~~United States census bureau, with one or more horizontal laterals that penetrate~~
23 ~~the reservation.~~

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

~~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. The definition of "wells located within the exterior boundaries of the reservation" in subsection 1 may not be construed as altering the physical location of a wellhead for purposes of revenue allocations among political subdivisions as provided in chapter 57-51.~~

~~**SECTION 3. APPLICATION.** This Act applies to agreements entered after June 30, 2023.~~

~~**SECTION 4. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on July 1, 2023, if by that date the tax commissioner notifies the legislative council that at least one new oil and gas well on which drilling commences after July 31, 2021, situated within the exterior boundaries of the reservation, has a horizontal lateral that extends to federal minerals located outside the exterior boundaries of the reservation.~~

SECTION 1. A new section to chapter 57-51.1 of the North Dakota Century Code is created and enacted as follows:

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2. The tax commissioner shall certify to the state treasurer the total oil and gas gross production and oil extraction taxes attributable to production from straddle wells drilled

1 before July 1, 2019, by reservation, and the total oil and gas gross production and oil
2 extraction taxes attributable to production from straddle wells drilled on or after July 1,
3 2019, by reservation. Before allocation of the state's share of oil and gas tax revenues
4 under section 57-51.1-07.5, the state treasurer shall allocate monthly to the governing
5 body of a tribe associated with a reservation that has on-reservation spacing unit
6 acreage, an amount equal to:

7 a. Fifty percent of the taxes certified under this section for wells drilled before July 1,
8 2019, multiplied by the on-reservation trust lands acreage ratio calculated under
9 subsection 1 for that reservation;

10 b. Fifty percent of the taxes certified under this section for wells drilled before July 1,
11 2019, multiplied by the on-reservation nontrust lands acreage ratio calculated
12 under subsection 1 for that reservation;

13 c. Eighty percent of the taxes certified under this section for wells drilled on or after
14 July 1, 2019, multiplied by the on-reservation trust lands acreage ratio calculated
15 under subsection 1 for that reservation; and

16 d. Twenty percent of the taxes certified under this section for wells drilled on or after
17 July 1, 2019, multiplied by the on-reservation nontrust lands acreage ratio
18 calculated under subsection 1 for that reservation.

19 3. For purposes of this section:

20 a. "On-reservation spacing unit acreage" means the surface acreage located within
21 the exterior boundaries of a reservation in this state from all spacing units with
22 one or more straddle wells.

23 b. "Straddle well" means an oil and gas well located outside the exterior boundaries
24 of a reservation which has one or more laterals penetrating a reservation
25 boundary.

26 c. "Total spacing unit acreage" means the total surface acreage from all spacing
27 units with one or more straddle wells.

28 **SECTION 2. APPLICATION.** This Act applies to oil and gas tax revenue collections
29 allocated by the state treasurer after September 1, 2021.

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3. For purposes of this section:
 - a. "On-reservation spacing unit acreage" means the surface acreage located within the exterior boundaries of a reservation in this state from all spacing units with one or more straddle wells.
 - b. "Straddle well" means an oil and gas well located outside the exterior boundaries of a reservation which has one or more laterals penetrating a reservation boundary.

- c. "Total spacing unit acreage" means the total surface acreage from all spacing units with one or more straddle wells.
- 4. Upon accepting a payment under this section, if a tribe assesses any tax or fee or imposes any regulation on any current or future straddle well, or assesses an additional tax on any well subject to an agreement under chapter 57-51.2, the agreement under chapter 57-51.2 is void and the state treasurer may not distribute any funds to the tribe under this section or chapter 57-51.2.

SECTION 2. APPLICATION. This Act applies to oil and gas tax revenue collections allocated by the state treasurer after September 1, 2021."

Renumber accordingly