

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2226

Introduced by

Senators Schaible, Bekkedahl, Marcellais

Representatives D. Anderson, Froseth, D. Johnson

1 A BILL for an Act to amend and reenact sections 57-51.2-01 and 57-51.2-02 of the North
2 Dakota Century Code, relating to authority of the governor to enter agreements relating to
3 taxation and regulation of oil and gas exploration and production within the boundaries of the
4 Fort Berthold Reservation, Standing Rock Sioux Tribe Reservation, or Turtle Mountain Band of
5 Chippewa Indians Reservation and on certain trust properties outside reservation boundaries.

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

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

9 **57-51.2-01. Authority to enter agreements.**

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

17 **SECTION 2. AMENDMENT.** Section 57-51.2-02 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **57-51.2-02. Agreement requirements.**

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

- 21 1. The only taxes subject to agreement are the state's oil and gas gross production and
22 oil extraction taxes attributable to production from wells located within the exterior
23 boundaries of the ~~Fort Berthold Reservation~~reservation and wells located on trust
24 properties outside reservation boundaries. For purposes of this chapter, "trust

1 properties outside reservation boundaries" means land in this state located outside the
2 exterior boundaries of a reservation which are held in trust by the United States for
3 any Indian tribe or owned by an Indian tribe or tribal member subject to a restriction
4 against alienation imposed by the United States.

5 2. The state's oil and gas gross production tax under chapter 57-51 must apply to all
6 wells located within the ~~Fort Berthold Reservation~~reservation and on trust properties
7 outside reservation boundaries.

8 3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas
9 production attributable to trust lands on the ~~Fort Berthold Reservation~~reservation and
10 on trust properties outside reservation boundaries may not exceed six and one-half
11 percent but may be reduced through negotiation between the governor and the ~~Three-~~
12 ~~Affiliated Tribes~~tribal governing body.

13 4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and
14 57-51.1 do not apply to production within the boundaries of the ~~Fort Berthold-~~
15 ~~Reservation~~reservation and on trust properties outside reservation boundaries except
16 as otherwise provided in the agreement.

17 5. The allocation of revenue from oil and gas gross production and oil extraction taxes on
18 the ~~Fort Berthold Reservation~~reservation must be as follows:

19 a. Production attributable to trust lands. All revenues and exemptions from all oil
20 and gas gross production and oil extraction taxes attributable to production from
21 trust lands on the ~~Fort Berthold Reservation~~reservation and on trust properties
22 outside reservation boundaries must be evenly divided between the tribe and the
23 state.

24 b. All other production. The tribe must receive fifty percent of the total oil and gas
25 gross production and oil extraction taxes collected from all production attributable
26 to nontrust lands on the ~~Fort Berthold Reservation~~reservation in lieu of the
27 application of the ~~Three-Affiliated Tribes'~~tribal fees and taxes related to production
28 on such lands. The state must receive the remainder.

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

- 1 6. An oil or gas well that is drilled and completed during the time of an agreement under
2 this chapter must be subject to the terms of the agreement for the life of the well.
- 3 7. The ~~Three Affiliated Tribes~~tribal governing body must agree not to impose a tribal tax
4 or any fee on future exploration and production of oil and gas on the ~~Fort Berthold~~
5 Reservationreservation and on trust properties outside reservation boundaries during
6 the term of the agreement.
- 7 8. To address situations in which the tax commissioner refunds taxes to a taxpayer, the
8 agreement must allow the tax commissioner to offset future distributions to the tribe.
- 9 9. The tax commissioner must retain authority to administer and enforce chapters 57-51
10 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.
- 11 10. An oil or gas well that is drilled and completed during the time an agreement under this
12 chapter is in effect is subject to state regulatory provisions for the life of the well in
13 addition to any other applicable regulatory provisions.
- 14 11. The federal district court for the ~~western~~northwestern division of North Dakota is the
15 venue for any dispute arising from a revenue-sharing agreement between the state
16 and the Three Affiliated Tribes or between the state and the Turtle Mountain Band of
17 Chippewa Indians. The federal district court for the southwestern division of North
18 Dakota is the venue for any dispute arising from a revenue-sharing agreement
19 between the state and the Standing Rock Sioux Tribe.
- 20 12. The agreement must require that the ~~Three Affiliated Tribes~~tribal governing body
21 report annually to the budget section of the legislative management and that the
22 report:
 - 23 a. Identifies projects totaling investment of at least ten percent of tribal oil and gas
24 gross production and oil extraction tax receipts of the tribe for that year in
25 essential infrastructure.
 - 26 b. At a minimum, informs the budget section of tribal investments in essential
27 infrastructure and fees, expenses, and charges the tribe imposes on the oil
28 industry.