

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2312
(Senators Kannianen, Wardner)
(Representative Pollert)

AN ACT to amend and reenact section 57-51.2-01 and subsection 5 of section 57-51.2-02 of the North Dakota Century Code, relating to the allocation of revenue from oil and gas production and oil extraction taxes imposed on production and extraction activity on a reservation in this state; to suspend section 54-35-23 of the North Dakota Century Code, relating to the tribal and state relations committee; to provide for a legislative management tribal taxation issues committee; to provide for application; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-51.2-01. Authority to enter agreements.

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

~~Each agreement under this chapter is subject to confirmation by a majority of members elected to the house of representatives and the senate and does not become effective until its confirmation date or the effective date in the agreement, whichever is later. Each agreement presented for confirmation must contain an expiration date not more than sixteen years after its effective date and the expiration date must be March thirty-first of an odd-numbered year.~~

SECTION 2. 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. ~~All~~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 ~~must be evenly divided between the tribe and the state. The state must receive the remainder.~~
 - b. All other production. The tribe must receive ~~fifty~~twenty percent of the total oil and gas gross production and oil extraction taxes collected, and be subject to all applicable exemptions, from all production attributable to nontrust lands on the reservation in lieu of the application of tribal fees and taxes related to production on such lands. The state must receive the remainder.
 - c. The state's share of the oil and gas gross production tax revenue as divided in subdivisions a and b is subject to distribution among political subdivisions as provided in chapter 57-51.

SECTION 3. SUSPENSION. Section 54-35-23 of the North Dakota Century Code is suspended.

SECTION 4. TRIBAL TAXATION ISSUES - LEGISLATIVE MANAGEMENT COMMITTEE.

1. During the 2019-20 interim, the tribal taxation issues committee is created and is composed of ten members as follows:
 - a. The governor;
 - b. The lieutenant governor;
 - c. The tax commissioner;
 - d. The executive director of the Indian affairs commission;
 - e. The majority leader of the house of representatives and the majority leader of the senate;
 - f. The minority leader of the house of representatives and the minority leader of the senate;
and
 - g. The chairmen of the finance and taxation standing committees of the house of representatives and the senate.
2. The nonlegislative members shall serve as nonvoting members of the committee.
3. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedures governing the operation of other legislative management interim committees.
4. The committee shall study tribal taxation issues, including the tax collection agreements that exist between the tribes and the state, the interaction between tribal sovereignty and state law, consideration of how statutory changes may affect provisions in existing agreements, the amount and manner of revenue sharing under the agreements, the costs and benefits to the state and the tribes if tax compacts are implemented, implementation models used in other states for tax compacts, best practices for negotiating and ratifying tax compacts, the procedure for withdrawal from an agreement and how to handle disputed funds; and methods for sourcing revenue generated from wells located inside or outside of the external boundaries of a reservation in this state when a horizontal lateral enters a spacing unit that is located both inside and outside of the external boundaries of a reservation in this state.
5. The committee may study tribal-state issues, including government-to-government relations, human services, education, corrections, and issues related to the promotion of economic development.
6. The chairman of the committee shall invite tribal chairmen to each committee meeting.
7. At the conclusion of its meetings, the committee shall report on its findings and recommendations, together with any legislation required to implement those recommendations, to the legislative management.

SECTION 5. APPLICATION. Sections 1 and 2 of this Act are effective for all new oil and gas wells on which drilling first commences after June 30, 2019, and which are the subject of an agreement authorized under this chapter, or the first day of the next succeeding month after the date an agreement authorized under this chapter is executed, whichever occurs later.

SECTION 6. EXPIRATION DATE. Section 3 of this Act is effective through July 31, 2021, and after that date is ineffective.

SECTION 7. EMERGENCY. Sections 1 and 2 of this Act are declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2312 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 40 Nays 5 Absent 2

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 84 Nays 8 Absent 2

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State