

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.~~

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

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

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

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

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

17 **Straddle well distribution.**

18 1. By August 1, 2021, and on or before April thirtieth of each subsequent fiscal year, the
19 industrial commission shall certify to the tax commissioner the on-reservation trust
20 lands acreage ratio and the on-reservation nontrust lands acreage ratio for each
21 reservation with on-reservation spacing unit acreage. For each reservation, the
22 on-reservation trust lands acreage ratio is calculated by dividing the on-reservation
23 spacing unit acreage consisting of trust lands by the total spacing unit acreage. For
24 each reservation, the on-reservation nontrust lands acreage ratio is calculated by
25 dividing the on-reservation spacing unit acreage consisting of nontrust lands by the
26 total spacing unit acreage. The on-reservation acreage ratios for each reservation are
27 effective for taxable production each fiscal year beginning July first. By August 1,
28 2021, and on or before June first of each subsequent fiscal year, the tax commissioner
29 shall publish the on-reservation acreage ratios for each reservation.

30 2. The tax commissioner shall certify to the state treasurer the total oil and gas gross
31 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 mineral 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 mineral acreage from all spacing
27 units with one or more straddle wells.

28 4. Upon accepting a payment under this section, if a tribe assesses any tax or fee or
29 imposes any regulation on any current or future straddle well, or assesses an
30 additional tax on any well subject to an agreement under chapter 57-51.2, the

1 agreement under chapter 57-51.2 is void and the state treasurer may not distribute
2 any funds to the tribe under this section or chapter 57-51.2.

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