

2/14/23

23.0830.01002

Sixty-eighth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1286**

Introduced by

Representatives Headland, D. Anderson, Bosch, Lefor, Nathe, Porter, Vigesaa

Senators Bekkedahl, Hogue, Kessel, Patten, Rummel

1 A BILL for an Act to amend and reenact section 57-51.1-02 ~~and subsection 3 of section~~  
2 ~~57-51.2-02~~ of the North Dakota Century Code, relating to the removal of triggered oil extraction  
3 tax rate changes for wells located outside the exterior boundaries of a reservation; ~~to provide for~~  
4 ~~application~~; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 57-51.1-02 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **57-51.1-02. Imposition of oil extraction tax.**

9 1. There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon  
10 the activity in this state of extracting oil from the earth, and every owner, including any  
11 royalty owner, of any part of the oil extracted is deemed for the purposes of this  
12 chapter to be engaged in the activity of extracting that oil. The rate of tax is five  
13 percent of the gross value at the well of the oil extracted. ~~However~~

14 2. Subject to subsection 3, for a well located within the exterior boundaries of a  
15 reservation, a well located on trust properties outside reservation boundaries as  
16 defined in section 57-51.2-02, or a straddle well located on reservation trust land as  
17 defined in section 57-51.2-07.10, if the average price of a barrel of crude oil exceeds  
18 the trigger price of ninety dollars for each month in any consecutive three-month  
19 period, then the rate of tax on oil extracted from all taxable wells is six percent of the  
20 gross value at the well of the oil extracted until the average price of a barrel of crude  
21 oil is less than the trigger price of ninety dollars for each month in any consecutive  
22 three-month period, in which case the rate of tax reverts to five percent of the gross  
23 value at the well of the oil extracted. By December thirty-first of each year, the tax  
24 commissioner shall determine an indexed trigger price under this section by applying

1 to the current trigger price an adjustment equal to the percentage rate of change of the  
2 producer price index for industrial commodities as calculated and published by the  
3 United States department of labor, bureau of labor statistics, for the twelve months  
4 ending June thirtieth of that year and the indexed trigger price so determined is the  
5 trigger price for the following calendar year. For purposes of this ~~section~~subsection,  
6 "average price" of a barrel of crude oil means the monthly average of the daily closing  
7 price for a barrel of west Texas intermediate cushing crude oil, as those prices appear  
8 in the Wall Street Journal, midwest edition. When computing the monthly average  
9 price, the most recent previous daily closing price must be considered the daily closing  
10 price for the days on which the market is closed.

11 3. A tribe may make an irrevocable election to opt-out of the increased rate of tax  
12 provided in subsection 2 by providing written notice to the tax commissioner. If a tribe  
13 provides notice under this subsection, the rate of tax on oil extracted from taxable  
14 wells is equal to the rate of tax provided in subsection 1, beginning in the month of  
15 production after notice under this subsection is received by the tax commissioner.

16 ~~SECTION 2. AMENDMENT. Subsection 3 of section 57-51.2-02 of the North Dakota~~  
17 ~~Century Code is amended and reenacted as follows: —~~

18 ~~3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas~~  
19 ~~production attributable to trust lands on the reservation and on trust properties outside~~  
20 ~~reservation boundaries may not exceed six and one-half five percent but may be~~  
21 ~~reduced through negotiation between the governor and the tribal governing body.~~

22 ~~SECTION 3. APPLICATION. Section 2 of this Act applies to agreements entered under~~  
23 ~~chapter 57-51.2 after June 30, 2023.~~

24 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after  
25 June 30, 2023.

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Title.

Prepared by the Legislative Council staff for  
Representative Headland  
February 13, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1286

Page 1, line 1, remove "and subsection 3 of section"

Page 1, line 2, remove "57-51.2-02"

Page 1, line 3, after "changes" insert "for wells located outside the exterior boundaries of a reservation"

Page 1, line 3, remove "to provide for application;"

Page 1, after line 7 insert "1."

Page 1, line 12, after "However" insert:

"2. Subject to subsection 3, for a well located within the exterior boundaries of a reservation, a well located on trust properties outside reservation boundaries as defined in section 57-51.2-02, or a straddle well located on reservation trust land as defined in section 57-51.2-07.10"

Page 1, line 12, remove the overstrike over ", if the average price of a barrel of crude oil exceeds the trigger price"

Page 1, remove the overstrike over lines 13 through 23

Page 2, line 1, remove the overstrike over "For purposes of this"

Page 2, line 1, after "section" insert "subsection"

Page 2, line 1, remove the overstrike over ", "average price" of a barrel of crude oil means the monthly"

Page 2, remove the overstrike over lines 2 through 5 and insert immediately thereafter:

"3. A tribe may make an irrevocable election to opt-out of the increased rate of tax provided in subsection 2 by providing written notice to the tax commissioner. If a tribe provides notice under this subsection, the rate of tax on oil extracted from taxable wells is equal to the rate of tax provided in subsection 1, beginning in the month of production after notice under this subsection is received by the tax commissioner."

Page 2, remove lines 6 through 13

Re-number accordingly

