

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2419
(Senator Stenehjem)
(Representative Berg)
(Approved by the Delayed Bills Committee)

AN ACT to create and enact chapter 57-51.2 of the North Dakota Century Code, relating to agreements with the Three Affiliated Tribes to share revenue from state taxes on oil and gas production within the boundaries of the Fort Berthold Reservation; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 57-51.2 of the North Dakota Century Code is created and enacted as follows:

57-51.2-01. Authority to enter agreements. The governor, in consultation with the tax commissioner, may enter agreements with the Three Affiliated Tribes relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation.

57-51.2-02. Agreement requirements. An agreement under this chapter is subject to the following:

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 Fort Berthold Reservation.
2. The state's oil and gas gross production tax under chapter 57-51 must apply to all wells located within the Fort Berthold Reservation.
3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas production attributable to trust lands on the Fort Berthold Reservation may not exceed six and one-half percent but may be reduced through negotiation between the governor and the Three Affiliated Tribes.
4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and 57-51.1 do not apply to production within the boundaries of the Fort Berthold Reservation except as otherwise provided in the agreement.
5. The allocation of revenue from oil and gas production taxes on the Fort Berthold Reservation must be as follows:
 - a. Production attributable to trust lands. All revenues and exemptions from all oil and gas gross production and oil extraction taxes attributable to production from trust lands on the Fort Berthold Reservation must be evenly divided between the tribe and the state.
 - b. All other production. The tribe must receive twenty percent of the total oil and gas gross production taxes collected from all production attributable to nontrust lands on the Fort Berthold Reservation in lieu of the application of the Three Affiliated Tribes' fees and taxes related to production on such lands. The state must receive the remainder.

- c. The state's share of the revenue as divided in subdivisions a and b is subject to distribution among political subdivisions as provided in chapters 57-51 and 57-51.1.
6. An oil or gas well that is drilled and completed during the time of an agreement under this chapter must be subject to the terms of the agreement for the life of the well.
7. The Three Affiliated Tribes must agree not to impose a tribal tax or any fee on future production of oil and gas on the Fort Berthold Reservation during the term of the agreement.
8. To address situations in which the tax commissioner refunds taxes to a taxpayer, the agreement must allow the tax commissioner to offset future distributions to the tribe.
9. The tax commissioner must retain authority to administer and enforce chapters 57-51 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.
10. An oil or gas well that is drilled and completed during the time an agreement under this chapter is in effect is subject to state regulatory provisions for the life of the well in addition to any other applicable regulatory provisions.
11. The federal district court for the western division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Three Affiliated Tribes.

57-51.2-03. Statutory inconsistencies superseded. This chapter supersedes any inconsistent provisions of chapters 57-51 and 57-51.1 and any inconsistent provisions of state law relating to regulatory provisions and state law relating to oil and gas exploration and production and administration of those provisions.

57-51.2-04. Reports. After entering an agreement under this chapter the governor shall file a report with the legislative council describing the agreement's negotiations and terms and thereafter shall file biennial reports with the legislative council describing the agreement's implementation and any difficulties in its implementation.

57-51.2-05. Inapplicability of chapter 54-40.2. Chapter 54-40.2 does not apply to any agreement entered under chapter 57-51.2.

SECTION 2. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for oil production after June 30, 2007. This Act is ineffective after June 30, 2009, unless by that date the governor's office notifies the tax commissioner and legislative council that an agreement has been entered with the Three Affiliated Tribes under chapter 57-51.2.

SECTION 3. EMERGENCY. This Act is 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 Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2419 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 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 94 Nays 0 Absent 0

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at ___ o'clock _____ M.

Secretary of State