ND Lawmakers Vote to Close Oil Industry Loophole

JAMES MacPHERSON, Associated Press

BISMARCK, N.D. (AP) — The North Dakota Legislature voted Friday to close a tax loophole used by the oil industry that the Tax Department says is costing the state $50 million each year.

The measure that passed the Senate and House on the last day of the 80-day legislative session also gives the Three Affiliated Tribes a greater share of the taxes collected from reservation oil production.

Gov. Jack Dalrymple still must approve the measure.

The exemption for so-called stripper wells was intended to keep low-volume wells producing in times of depressed prices, providing jobs and at least some tax revenue for the state. It also advanced technology in the oil patch over the past three decades by allowing companies to experiment with new drilling techniques. But the 1980s-era law also excuses higher-producing wells from paying extraction taxes because they are near the weaker wells and drilling in the same oil pool.

Stripper wells are exempt from the state's 6.5 percent extraction tax, but not a 5 percent production tax.

North Dakota has about 8,100 wells and 2,800 of them are classified as stripper wells, according to the state Department of Mineral Resources. Of that sum, about 500 are higher-producing wells but carry the stripper well designation.

Attempts to close the stripper well loophole have failed in the past three legislative sessions, but the exemption increasingly had been criticized by the public and politicians from both parties.

State House Majority Leader Al Carlson, a Republican from Fargo, called the exemption a "tremendous loophole." He said closing it amounts to a tax on the industry but that "the stripper well problem is a problem for North Dakota."

Two bills failed this session that attempted to close the exemption enjoyed by the oil companies in exchange for lower tax rates.

"There didn't seem to be an appetite to do that," Carlson said.

The measure that passed both chambers Friday also modified a revenue sharing agreement the state has had with the Three Affiliated Tribes since 2008 to give more money to tribal governments. The agreement limits oil tax rates on Fort Berthold Reservation land and spells out how the state and tribal governments will

share oil revenues.

North Dakota currently gets 80 percent of tax collections from private land on the Fort Berthold Reservation and 50 percent of the taxes from lands that are held in trust by the federal government to benefit the tribe and individual tribal members. Under the measure, a 6.5 percent extraction tax and a 5 percent production tax from private or "fee land" would be split equally between the tribe and the state.

The Fort Berthold Reservation is in the heart of North Dakota's booming oil country and accounts for about 20 percent of the state's oil production. Drilling has skyrocketed since the original agreement was signed and tax collections have been healthy, with the state pocketing the bulk of the revenue.

Through mid-April, the state has collected $315 million, with the tribe getting $201 million, according to tax records. The state's share is divided among counties, cities, school districts and a number of state funds and programs.

The reworked tax structure does not remove price triggers that would lessen state taxes for companies if the price of oil falls below a certain level. The concept, adopted in the 1980s during a time of depressed oil prices, adjusts the state's oil extraction tax if a barrel falls below a certain price.

The so-called trigger price currently is set at about $52 a barrel, and the state could see tax revenue decrease by at least $2 billion if oil falls below that, state tax analysts have said.

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