

FISCAL NOTE
Requested by Legislative Council
02/06/2017

Amendment to: HB 1199

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2015-2017 Biennium | | 2017-2019 Biennium | | 2019-2021 Biennium | |
|-----------------------|--------------------|-------------|--------------------|----------------|--------------------|---------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | \$(28,203,612) | | \$(1,923,520) |
| Expenditures | | | | \$25,000 | | |
| Appropriations | | | | | | |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| | 2015-2017 Biennium | 2017-2019 Biennium | 2019-2021 Biennium |
|-------------------------|--------------------|--------------------|--------------------|
| Counties | | | |
| Cities | | | |
| School Districts | | | |
| Townships | | | |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The State defines its minerals under the Missouri River using the current ordinary high water mark. Within the Lake Sakakawea reservoir sovereign minerals are leased within the estimated pre-inundation OHWM. This Bill would codify the use of historical records to determine the OHWM.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The State owns the bed of navigable waters. N.D.C.C. ch. 61-33 defines sovereign land as those areas, including beds and islands, lying within the OHWM of navigable lakes and streams and assigns management of the oil, gas and related hydrocarbons to the Board of University and School Lands. The State Engineer manages the surface of the lands and the bed of the navigable waters. The revenue from sovereign mineral leasing is deposited into the Strategic Investment and Improvements Fund.

The bill redefines the OHWM for the Missouri River by codifying use of historical records. The OHWM would no longer change with the movement of the river. Under Lake Sakakawea, the Board already leases minerals to the estimated historic OHWM of the Missouri River. West of the Hwy 85 Bridge, the Board leases minerals within the OHWM of the River as it currently flows. The bill's change in the method of determining sovereign minerals switches the Board's use of the current OHWM to instead use of historical records to an area near the Confluence with the Yellowstone River.

Because the acreage of the current river is greater than of the historic river in some areas, sovereign lands would be surrendered. It is estimated that the difference in the current river acreage compared to the historic acreage over the 29.7 river miles between the Confluence and the Hwy 85 Bridge is approximately 4,761 acres. If the bill is adopted, these sovereign lands would be relinquished. The fiscal impact would include the return of bonus payments, rents, and royalties previously collected. The State would also forego any future royalties from these tracts.

The fiscal impact of expanding the definition of subsurface minerals beyond present reference in N.D.C.C. ch. 61-33 to the Board managing oil, gas and related hydrocarbons cannot be determined.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Because the Board has already leased oil and gas minerals based on historical records east of the Hwy 85 Bridge, this bill would not change the mineral acreage presently leased and there would be no apparent fiscal change.

The fiscal impact would be from the changes in sovereign land acreage due to the modification in the definition of the OWHM to utilize historical records to an area near the Confluence. Because the State's mineral claim between Hwy 85 and the Confluence would be reduced by an estimated 4,761 acres, there would be a fiscal impact to the SIIF in the reduction of collected bonus, rent and royalty and the loss of future royalty and leasing revenue. This would include the return to lessees of \$14,739,147 of bonuses and rent; the repayment to operators of \$7,228,281 in royalties collected and anticipated through FY 2017; and the forfeiture of the State's claim to \$4,312,664 of presently escrowed royalty.

Additionally, based upon 2015-2017 Biennium (to date) average level prices and production, the estimated impacts on future royalty revenue would be a reduction of \$1,923,520 in each of the next two biennia.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The possible effect on legal expenditures or the need for additional technical expertise staff cannot be determined.

The 2010 investigation of the historical OWHM was not conducted as far west as the bill would dictate. The costs of hiring a qualified contractor to investigate the historical OWHM of the additional area is estimated at \$25,000.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Continuing appropriation authority (N.D.C.C. §§ 15-05-19, 15-07-22) is used to enhance or maintain the value of the SIIF; it is unknown if this same authority can be used for expenditures related to reducing the State's previously claimed asset.

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| Area in Bill 1199 | |
|-------------------------|---------|
| Estimated OHWM Survey . | 9,963 |
| As Adjusted Bill 1199 | 5,202 |
| Change | (4,761) |
| % Change | 47.79% |

| Bonus Repayments | | | | |
|------------------|-----------------|---------------------------------|--------------------|-------------------------|
| | Affected Tracts | Total Bonuses & Rents Collected | % Impact Bill 1199 | Bonus & Rent Repayments |
| Bonus & Rents | 110 | 30,843,545 | 47.79% | 14,739,147 |

| | Received | Anticipated FY 2017 Collections | Revenues | % Impact Bill 1199 | Returned Funds |
|---------------------|------------|---------------------------------|------------|--------------------|----------------|
| Royalties Collected | 14,438,756 | 687,344 | 15,126,101 | 47.79% | 7,228,281 |
| Royalties Escrowed | 8,652,681 | 372,118 | 9,024,799 | 47.79% | 4,312,664 |
| | 23,091,437 | 1,059,462 | 24,150,900 | | 11,540,945 |

| Projected Future Biennia Revenues Based Upon FY16 & FY17 Prices & Production | | | | | |
|--|--|---|-------------------------|--------------------|---------------------|
| | FY16 & FY17 Received & Projected Collections | FY16 & FY17 Received & Projected Escrow | Total Estimated Revenue | % Impact Bill 1199 | Lost Future Revenue |
| Projected Future Biennia | 2,749,377 | 1,275,833 | 4,025,211 | 47.79% | 1,923,520 |