

FISCAL NOTE
Requested by Legislative Council
12/21/2018

Bill/Resolution No.: HB 1077

- 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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 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).*

Grants explicit authority to do federal audits currently being done by the State Auditor.

- 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.*

No fiscal impact, audits are currently being done.

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.*

None

- 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.*

None

- 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.*

None

Name: Donald LaFleur

Agency: State Auditor

Telephone: 3284744

Date Prepared: 12/27/2018

2019 HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

HB 1077

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau Room, State Capitol

HB 1077

1/11/2019

30676

☐ Subcommittee

☐ Conference Committee

Committee Clerk: Kathleen Davis

Explanation or reason for introduction of bill/resolution:

A bill relating to the powers and duties of the state auditor

Minutes:

Attachment 1

Chairman Porter called the hearing to order.

Brian Johnson, State Auditor's Office, presented Attachment 1.

Chairman Porter: Explain in detail the lawsuit.

Johnson: A gentleman out of Minot, mineral audits weren't being paid. He contracted with a company to make those payments, that wasn't happening. He ultimately ended up filing a lawsuit saying we didn't have the authority to conduct these mineral audits because the Century Code didn't allow us to.

Chairman Porter: So it was a citizen who filed this lawsuit.

Johnson: correct. A citizen suit Josh Gallion as auditor.

Chairman Porter: Are you doing these audits now? On behalf of the federal government?

Johnson: correct.

Vice Chairman Damschen: It says "perform work". Is that defined, or understood?

Brian Johnson: I believe that's understood.

Rep Heinert: Do you know what other states are doing in reference to these audits?

Johnson: I believe other states are auditing them. I believe there's federal funding for all states to do these audits.

Chairman Porter: Can you double check on other oil and gas lease states and see what they're doing?

Johnson: I will do that.

Rep Heinert: You stated the auditor's office is doing these audits. Is anyone else involved in state government doing these audits?

Brian Johnson: No.

Rep. Mitskog: What would prompt an audit? Random, whistle blower?

Brian Johnson: As wells are completed and updated we flag those, perform the audit and make sure they're making the payments as they're supposed to be. As they come into production, the audit checks to make sure there no federal lands oil or gas is being pulled from, and if so, the audit goes further to ensure the company is making the payments they're supposed too.

Rep. Mitskog: How many a year?

Brian Johnson I don't know.

Rep. Mitskog: can we find that out?

Johnson: I can include that in the other answers.

Rep. Roers Jones: Are you auditing for the federal government to protect their interests or are you auditing to be sure everyone is being paid properly. I assume your comparing this against the drilling and division order and looking at payments. You're not auditing the drilling and division order as far as accuracy are you?

Brian Johnson: I believe not. The main purpose is for the federal royalty and mineral interests. There are substantial funds that cities and counties where those wells are at receiving additional monies when the payments aren't being made.

Rep. Mitskog: The costs of the audit, the federal government reimburses?

Brian Johnson: correct

Rep Heinert: Is this going to cause additional workload?

Brian Johnson: not at all.

Chairman Porter: Further testimony in support?

Jodi Smith, Commission, Dept. of Trust Lands: We request an opportunity to gather information to bring back to the committee for further support.

Chairman Porter: We will hold on to this and give you an opportunity to come back with your expert. Further testimony in support? Opposition? Seeing none we'll close the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau Room, State Capitol

HB 1077
2/1/2019
31979

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Kathleen Davis

Explanation or reason for introduction of bill/resolution:

A bill relating to the powers and duties of the state auditor

Minutes:

Attachment 1

Chairman Porter opened the hearing on HB 1077.

Jodi Smith, Commissioner of University and School Lands presented Attachment 1.

Chairman Porter: Are you in favor of the bill?

Smith: we're not opposed to it. It's ok the way it is.

Chairman Porter: questions?

Rep Heinert: I move a Do Pass on HB 1077.

Rep. Zubke: Second.

Chairman Porter: We have a motion for a Do Pass on HB 1077 and a second. Discussion?

Rep. Keiser: This is my opportunity to express my general frustration with fiscal notes. Obviously somebody wants this so there's no fiscal impact. If they hadn't liked it, I would have like to know what the fiscal note would look like.

Chairman Porter: Their claim is they're already doing them and it won't cost anymore. This just grants them specific authority. Further discussion?

Rep. Mitskog: So there were not additional FTE's required?

Chairman Porter: No impact because the State Auditor's office says they're already doing this.

A motion and a second has been called. The clerk will call the roll.

13 yes 0 no 1 absent Motion carries. Rep Bosch is the carrier.

Date: 2-1-19
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1017**

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Heinert Seconded By Rep Zubke

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones	✓	
Rep Bosch	✓		Rep. Ruby	✓	
Rep. Devlin	✓		Rep. Zubke	✓	
Rep. Heinert	✓				
Rep. Keiser	✓		Rep. Mitskog	✓	
			Rep. Eidson	✓	

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep Bosch

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1077: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1077 was placed on the Eleventh order on the calendar.

2019 SENATE ENERGY AND NATURAL RESOURCES

HB 1077

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1077
2/28/2019
Job Number 32976

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to the powers and duties of the state auditor.

Minutes:

2 attachments

Chair Unruh: Opened the public hearing.

Brian Johnson, Deputy State Auditor (0:20-3:40) introduced the bill, please see attachment #1.

Chair Unruh: This is not an audit your office is currently performing, it would be additional duties and you need additional FTEs that are federally funded?

Brian Johnson: No, we currently have 5 FTEs; we've been doing these since 1984. Our office is downtown, we have 5 full time employees, the office space and their salaries are paid for by the federal dollars. No fiscal impact, no changes, this just clarifies the code to make it more clear that we do have the authority to do these audits.

Senator Piepkorn: What time period does this chart cover?

Dennis Roller, Manager, Royalty Audit Section, State Auditor's Office: The numbers are biennium to date, til December.

Senator Piepkorn: Why, if you've been doing this since 1984, why the change? Who requested this?

Brian Johnson: There really is no change, it's a clarification of the century code that spells out specifically, rather than a general line that says we have the ability to conduct all audits that are authorized in century code or by the federal government; this clearly spells out that we are allowed to do these audits. The main reason for that is the lawsuit. It's clarification that we have the authority to do this, it clarifies it so we can avoid another lawsuit.

Senator Piepkorn: When was this lawsuit? Who is Phillip Armstrong?

Brian Johnson: He purchased a company, or ended up with some wells where there were royalty payments that were owed. It's common for these things to get overlooked, which is a reason we do what we do. We make sure that if someone comes into possession of one of these wells, that they understand and are making the payments they are supposed to be making. He was an individual that didn't believe that we had authority to demand he make these payments and filed the lawsuit. He is in the oil business up in Minot. This lawsuit was about a year ago.

No opposing testimony.

Attachment #2 is neutral testimony provided by Jodi Smith, Commissioner of University and School Lands.

Chair Unruh: Closed the public hearing.

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Fort Lincoln Room, State Capitol

HB 1077
3/15/2019
Job Number 33812
(0:00-1:10)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to the powers and duties of the state auditor.

Minutes:

No Attachments

Chair Unruh: Opened committee work. This bill gives the State Auditor the permission to perform work on mineral royalties for the federal government. They've been doing it; they just want to clarify that they can continue to do it. Had a couple of discussions with folks to make sure that this was all okay and it seems that it is.

Senator Schaible: I move a do pass.

Senator Roers: I second.

A roll call vote was taken.

Motion passes 6-0-0.

Senator Schaible will carry.

Chair Unruh: Closed committee work.

Date: 3/15
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1077

Senate Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Schaible Seconded By Sen. Roers

Senators	Yes	No	Senators	Yes	No
Senator Jessica Unruh	X		Senator Merrill Piepkorn	X	
Senator Curt Kreun	X				
Senator Donald Schaible	X				
Senator Dwight Cook	X				
Senator Jim Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Schaible

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1077: Energy and Natural Resources Committee (Sen. Unruh, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1077 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1077



Office of the
State Auditor

TESTIMONY TO HOUSE ENERGY AND NATURAL RESOURCES
HB 1077 – STATE AUDITOR’S OFFICE – AUTHORITY TO PERFORM ROYALTY AUDITS
1/11/2019

Good morning, Chairman Porter and members of the committee, my name is Joshua Gallion and I serve as the State Auditor. I’m here today to discuss the resource needs of the State Auditor’s Office, providing information and results regarding our efforts to fulfill our statutory obligations while improving accountability and promoting transparency of our states government.

As you are aware, the State Auditor is a constitutional state official elected by the citizens of North Dakota. My job is to lead the way in providing truthful, objective and independent information to you and the citizens of North Dakota. Our mission is to produce informative audits to improve government through our vision of a diverse team committed to generating greater value for our taxpayers.

Why do we audit federal mineral royalty interests?

The auditor’s office is authorized through the federal government U.S.C. 1735 to audit oil companies for the operation of wells or the removal of oil from federal land in North Dakota. This is funded through federal dollars and results in a portion of these dollars coming back to the state and to local counties where these lands are located.

Why do we need to add this section to the Century Code?

The statutory authority in the North Dakota Century Code authorizing the State Auditor’s Office from performing this function is vague.

This resulted in a lawsuit that was ultimately dismissed by the court.

What adding this section to the Century Code does?

By adding this subsection, it clarifies the statutory authority in the Century Code to perform the federal mineral royalty audits.

HB1077
#1
1-11-19
pg 2

(a) AUTHORIZATION OF SECRETARY Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this chapter to:

(1)

conduct inspections, audits, and investigations;

(2)

receive and process production and financial reports;

(3)

correct erroneous report data;

(4)

perform automated verification; and

(5)

issue demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes, to any State with respect to all Federal land within the State.

From: "Gallion, Joshua C." <jcgallion@nd.gov>

Date: January 15, 2019 at 1:30:04 PM CST

To: "Porter, Todd K." <tkporter@nd.gov>

Cc: "Damschen, Charles D." <cdamschen@nd.gov>, "Anderson, Dick D." <dickanderson@nd.gov>, "Bosch, Glenn D." <gdbosch@nd.gov>, "Devlin, Bill R." <bdevlin@nd.gov>, "Heinert, Patrick D." <pdheinert@nd.gov>, "Keiser, George J." <gkeiser@nd.gov>, "Lefor, Mike" <mlefor@nd.gov>, "Marschall, Andrew" <amarschall@nd.gov>, "Roers Jones, Shannon" <sroersjones@nd.gov>, "Ruby, Matthew" <mruby@nd.gov>, "Zubke, Denton B." <dzubke@nd.gov>, "Eidson, Matt" <meidson@nd.gov>, "Mitskog, Alisa" <amitskog@nd.gov>, "LaFleur, Donald K." <dlafleur@nd.gov>, "Ludwig, Brianna S." <bsludwig@nd.gov>, "Johnson, Brian L." <brljohanson@nd.gov>, "Roller, Dennis R." <droller@nd.gov>

Subject: HB 1077 follow up testimony

Chairman Porter and Committee Members,

I would like to add to our testimony and provide the answers to questions that were asked. First, let me apologize for not providing the testimony directly. Another committee was discussing a legislative study regarding state fees and fines which is a performance audit I am already planning. The authority to order a performance audit cannot be delegated which required me to personally attend.

Questions:

1. What other states have Federal Mineral Royalty programs?
2. How many wells are audited in North Dakota?

- (1) North Dakota has been performing this function since 1982. Currently eight (8) other states perform Federal Mineral Royalty compliance work. They are Alaska, California, Colorado, Montana, New Mexico, Oklahoma, Utah, and Wyoming. Along with these states there are six (6) Native American Tribes that also perform Tribal Mineral Royalty compliance work. They are Navajo, Shoshone and Arapaho, Ute, Southern Ute, Ute Mountain Ute, and Blackfeet.
- (2) There are over 3,000 wells that can be audited. The ND Auditor's Office performs two types of Federal Mineral Royalty compliance projects. The first is a full scope Government Auditing Standards audit and we complete approximately two (2) of these per year. They look at a 3-5 year period and cover all federal wells and minerals (oil and gas) for a company. The second type is a compliance review, which is identified based on multiple analytical reviews of all the production and royalty payment data. The Federal Mineral Royalty audit division performs around 200 of these types of compliance reviews each year.

Again, my apologies for not providing the original testimony for this bill. It is very important in that it clarifies the language in NDCC 54-10 regarding the authority for the State Auditor's Office to conduct Federal Mineral Royalty Audits.

Please let me know if you have any further questions.

Thanks,
Josh

Joshua C. Gallion
State Auditor
NORTH DAKOTA STATE AUDITOR'S OFFICE

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Jodi A. Smith, Commissioner

TESTIMONY OF JODI SMITH
Commissioner of University and School Lands
North Dakota Department of Trust Lands

House Bill 1077

House Energy and Natural Resources Committee
February 1, 2019

Chairman Porter and members of the House Energy and Natural Resources Committee, I am Jodi Smith, the Commissioner and Secretary for the Board of University and School Lands (Board). I am here to testify on House Bill 1077.

The Department of Trust Lands (Department) is the administrative arm of the Board, serving under the direction and authority of the Board. The Board is comprised of the Governor, Secretary of State, Attorney General, State Treasurer, and Superintendent of Public Instruction. The Department's primary responsibility is managing the Common Schools Trust Fund and 13 other permanent educational trust funds. The beneficiaries of the trust funds include local school districts, various colleges and universities, and other institutions in North Dakota. The Department manages four additional funds: the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, the Capitol Building Fund, and the Indian Cultural Education Trust.

The Department also administers the responsibilities outlined in the Uniform Unclaimed Property Act, N.D.C.C. ch. 47-30.1. In this role the Department collects "unclaimed property" (uncashed checks, unused bank accounts, etc.), and processes owners' claims. This property is held in permanent trust for owners to claim, with the revenue from the investment of the property benefiting the Common Schools Trust Fund.

Additionally, the Department operates the Energy Infrastructure and Impact Office (EIIO), which provides financial support to political subdivisions that are affected by energy development. Assistance is provided through both the oil and gas impact grant program and the coal impact loan program. The EIIO also distributes energy and flood grants carried over from prior biennia.

ONRR State Cooperative Agreements

There are currently nine States, including North Dakota, participating in cooperative agreements with the Office of Natural Resources Revenue (ONRR), United States Department of the Interior. The terms of the cooperative agreement delegate functions which each State performs in conjunction with ONRR. As

Page 2 of 2
Testimony of Jodi Smith
February 1, 2019

shown in the chart below, all of the states currently participating in these agreements have agencies other than those that manage state owned minerals conducting audits of oil and gas royalties generated from Federal minerals.

<u>State</u>	<u>Auditing Agency</u>	<u>Performs Trust Mineral Audits</u>
Alaska	Division of Oil and Gas	No
California	State Controller's Office	No
Colorado	Department of Revenue, Mineral Audit Section	No
Montana	Department of Revenue	No
New Mexico	Department of Taxation and Revenue	No
North Dakota	State Auditor's Office	No
Oklahoma	State Auditor & Inspector's Office	No
Utah	State Tax Commission	No
Wyoming	Department of Audit, Mineral Audit Division	No

We look forward to working with the committee on these issues and would be happy to answer any questions.



TESTIMONY TO SENATE ENERGY AND NATURAL RESOURCES

HB 1077 – STATE AUDITOR’S OFFICE – AUTHORITY TO PERFORM ROYALTY AUDITS

2/27/2019

Good morning, Chairman Unruh and members of the committee, my name is Brian Johnson and I serve as the Deputy State Auditor. I’m here today to discuss the resource needs of the State Auditor’s Office, providing information and results regarding our efforts to fulfill our statutory obligations while improving accountability and promoting transparency of our states government.

As you are aware, the State Auditor is a constitutional state official elected by the citizens of North Dakota. Our job is to lead the way in providing truthful, objective and independent information to you and the citizens of North Dakota. Our mission is to produce informative audits to improve government through our vision of a diverse team committed to generating greater value for our taxpayers.

Why do we audit federal mineral royalty interests?

The auditor’s office is authorized through the federal government U.S.C. 1735 to audit oil companies for the operation of wells or the removal of oil from federal land in North Dakota. This is funded through federal dollars and results in a portion of these dollars coming back to the state and to local counties where these lands are located.

§1735. Delegation of royalty collections and related activities

(a) Authorization of Secretary

Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this chapter to:

- (1) conduct inspections, audits, and investigations;*
 - (2) receive and process production and financial reports;*
 - (3) correct erroneous report data;*
 - (4) perform automated verification; and*
 - (5) issue demands, subpoenas, and orders to perform restructured accounting, for royalty management enforcement purposes,*
- to any State with respect to all Federal land within the State.*

Why do we need to add this section to the Century Code?

The statutory authority in the North Dakota Century Code authorizing the State Auditor’s Office from performing this function is vague.

This resulted in a lawsuit that was ultimately dismissed by the court. (Phillip Armstrong vs. State Auditor of North Dakota)

What adding this section to the Century Code does?

By adding this subsection, it clarifies the statutory authority in the Century Code to perform the federal mineral royalty audits.



Office of the
State Auditor

MINERAL ROYALTY DIVISION

The Mineral Royalty Division is fully-funded by the federal government and operates within the North Dakota State Auditor's Office. This division uses audits and compliance reviews to verify that the federal government and the State of North Dakota are receiving the correct lease royalty money from energy companies that produce minerals from federal leases within North Dakota.

BENEFITS TO NORTH DAKOTANS

The federal lease royalty money is divided amongst the federal government, the State of North Dakota and the local counties. The percentage of dollars returned to the State of North Dakota is dependent on how the federal mineral interest was acquired. The visual below demonstrates the three types of federal mineral interest and the percentage and dollars that come back to North Dakota.*

**FEDERAL GOVERNMENT
NORTH DAKOTA**

75%

25%

52%

25%

75%

48%

**ACQUIRED
LEASE**

**FLOOD CONTROL
LEASE**

**PUBLIC DOMAIN
LEASE**



**TO
GENERAL
FUND**

**TO
COUNTIES
VIA STATE**



COUNTIES RECIEVING FUNDS

Billings	Mercer
Bottineau	Mountrail
Bowman	Oliver
Burke	Renville
Divide	Slope
Dunn	Stark
Golden Valley	Ward
McKenzie	Williams
McLean	

Three types of leases defined: (1) acquired lease: federal government acquired for a multitude of reasons, (2) flood control lease: federal government acquired for flood control, and (3) public domain lease: always owned by the federal government.

*Biennium to date (12/31/18)



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United States Department of the Interior

OFFICE OF NATURAL RESOURCES REVENUE

P.O. Box 25165

Denver, Colorado 80225-0165

FEB 14 2019

HB 1077
2.28.19
#1
Pg. 3

Mr. Joshua C. Gallion
State of North Dakota
Office of the State Auditor's Office
600 E. Boulevard Avenue, Dept. 117
Bismarck, North Dakota 58505

Dear Mr. Gallion:

We would like to provide you some historical perspective and information about the benefits of the long standing Grant and Cooperative Agreement (Agreement) between the State of North Dakota (North Dakota) and the Office of Natural Resources Revenue (ONRR).

History

In September 1981, through efforts to improve reporting and accountability of royalties, the Secretary of the Interior entered into a joint audit project with the state of Wyoming. The Wyoming Agreement proved so successful that Agreements were offered to other states in the early part of 1982. Several states, including North Dakota, accepted the offer to participate. Concurrently, Minerals Management Service (now ONRR) approached and signed Agreements with several energy-producing tribes desiring to audit their own royalties. Congress passed the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) which became law in January 1983. FOGRMA provided for states and tribes to petition the Secretary of the Interior for Delegations of Authority (Section 205) and Cooperative Agreements (Section 202), respectively.¹

There are currently nine states and six tribes with Agreements. These states and tribes comprise the State and Tribal Royalty Audit Committee "STRAC," an influential committee, whose voice is heard throughout the Department of the Interior and the federal government

Through this long term partnership, North Dakota has collected millions of dollars in unpaid royalties. We would like to thank North Dakota for their support of the Agreement between ONRR and North Dakota. We believe that the Agreement between ONRR and North Dakota is beneficial to both parties.

Benefits

North Dakota directly benefits from its relationship with ONRR by being fully reimbursed for five North Dakota employees. The Agreement with North Dakota is fully funded for approximately \$631,000 through fiscal year 2019. The salaries for four auditors and one audit

¹ -- Article through the efforts of George Staigle, Brad Simpson, F David Loomis and Larry Love

Mr. Joshua C. Gallion

2

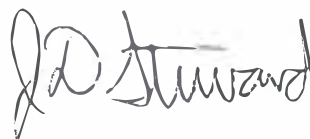
supervisor, as well as any other direct costs for performing mineral compliance work are fully reimbursed by ONRR.

North Dakota benefits from having representation within ONRR. The North Dakota delegation attends two meetings a year to learn about the latest issues affecting ONRR as well as being able to voice concerns affecting the states and tribes. The Director of ONRR attends these meetings allowing the states and tribes direct access to the top leadership of ONRR. In recent years, North Dakota has used this opportunity to voice its concerns over issues that specifically affected North Dakota including the proper accounting treatment of un-leased lands and to address significant delays in communitization agreement approval during North Dakota's oil boom. As a result, these issues were able to be corrected and the proper stakeholders (including North Dakota) were made whole. These federal royalties are shared with the North Dakota and ultimately disbursed to various counties within the State.

ONRR benefits from the relationship because the North Dakota auditors have knowledge and experience related specifically to local royalty issues that make them more efficient than ONRR auditors would be in verifying royalty compliance. ONRR also realizes a cost saving because North Dakota is able to do the same work at a lower cost, primarily because of lower payroll costs. Additionally, the Agreement helps promote the Department's goal of restoring trust to local communities by providing North Dakota transparency into ONRR's distribution process. ONRR will continue to do compliance reviews and audits to supplement the efforts of the North Dakota auditors.

If you would like to discuss the many benefits that both North Dakota and ONRR receive from the Agreement, please feel free to contact me at 303-231-3429, or at Greg.Gould@onrr.gov at your convenience.

Sincerely,



for Gregory J. Gould
Director

HB 1077
2.28.19
2
Pg. 1

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Jodi A. Smith, Commissioner

**TESTIMONY OF JODI SMITH
Commissioner of University and School Lands
North Dakota Department of Trust Lands**

House Bill 1077

Senate Energy and Natural Resources Committee
February 28, 2019

Chairman Unruh and members of the Senate Energy and Natural Resources Committee, I am Jodi Smith, the Commissioner and Secretary for the Board of University and School Lands (Board). I am here to provide neutral testimony on House Bill 1077.

The Department of Trust Lands (Department) is the administrative arm of the Board, serving under the direction and authority of the Board. The Board is comprised of the Governor, Secretary of State, Attorney General, State Treasurer, and Superintendent of Public Instruction. The Department's primary responsibility is managing the Common Schools Trust Fund and 13 other permanent educational trust funds. The beneficiaries of the trust funds include local school districts, various colleges and universities, and other institutions in North Dakota. The Department manages four additional funds: the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, the Capitol Building Fund, and the Indian Cultural Education Trust.

The Department also administers the responsibilities outlined in the Uniform Unclaimed Property Act, N.D.C.C. ch. 47-30.1. In this role the Department collects "unclaimed property" (uncashed checks, unused bank accounts, etc.), and processes owners' claims. This property is held in permanent trust for owners to claim, with the revenue from the investment of the property benefiting the Common Schools Trust Fund.

Additionally, the Department operates the Energy Infrastructure and Impact Office (EIIO), which provides financial support to political subdivisions that are affected by energy development. Assistance is provided through both the oil and gas impact grant program and the coal impact loan program. The EIIO also distributes energy and flood grants carried over from prior biennia.

ONRR State Cooperative Agreements

There are currently nine States, including North Dakota, participating in cooperative agreements with the Office of Natural Resources Revenue (ONRR), United States Department of the Interior. The terms of the cooperative agreement delegate functions which each State performs in conjunction with ONRR. As

Page 2 of 2
Testimony of Jodi Smith
February 28, 2019

shown in the chart below, all of the states currently participating in these agreements have agencies other than those that manage state owned minerals conducting audits of oil and gas royalties generated from Federal minerals.

<u>State</u>	<u>Auditing Agency</u>	<u>Performs State Owned Mineral Audits</u>
Alaska	Division of Oil and Gas	No
California	State Controller's Office	No
Colorado	Department of Revenue, Mineral Audit Section	No
Montana	Department of Revenue	No
New Mexico	Department of Taxation and Revenue	No
North Dakota	State Auditor's Office	No
Oklahoma	State Auditor & Inspector's Office	No
Utah	State Tax Commission	No
Wyoming	Department of Audit, Mineral Audit Division	No

We look forward to working with the committee on this bill and would be happy to answer any questions.