# F I S C A L  I M P A C T  R E P O R T

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|---|---|---|---|---|---|
| **SPONSOR** | Nibert/Strickler/ Montoya/Gallegos DM/Wooley | **ORIGINAL DATE** **LAST UPDATED** | 2/15/17 2/17/17 | **HB** | 382 |
| **SHORT TITLE** | Mineral Lease Districts Act | | | **SB** | |
| | | | | **ANALYST** | Armstrong |

**REVENUE (dollars in thousands)**

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|---|---|---|---|---|
| **FY17** | **FY18** | **FY19** | | |
| $0 | ($499,736.5) | ($499,736.5) | Recurring | Public School Fund / General Fund |
| $0 | ($20.0) | ($20.0) | Recurring | Bureau of Geology and Mineral Resources |
| $0 | $499,756.5 | $499,756.5 | Recurring | Mineral Lease Districts (Local) |

(Parenthesis ( ) Indicate Revenue Decreases)

**SOURCES OF INFORMATION**
LFC Files

Responses Received From
Office of the Attorney General (OAG)
Energy, Minerals and Natural Resources Department (EMNRD)

Responses Not Received From
NM Association of Counties
NM Municipal League

**SUMMARY**

Synopsis of Bill

House Bill 382 (HB382), the Mineral Lease District Act ("the Act"), enables counties to establish mineral lease districts and specifies the form and function of the board of directors for such districts. A mineral lease district would distribute funds received from federal mineral leases (FML). Such districts would sunset every two years unless reauthorized by the county.

## FISCAL IMPLICATIONS

**This bill has significant impact on state finances and needs to be referred to HAFC.**

Mineral royalties collected by the federal government are disbursed to a variety of funds, with 50 percent going to the state in which the lease is located and a portion of this retained for administrative costs. From state FY12 through state FY16, New Mexico received an average of nearly $500 million from FML disbursements.

While other states with mineral lease district statutes, like Utah and Colorado, allow for direct FML disbursements to counties, New Mexico's FML disbursements are fully accounted for by existing statute, with nearly all of the revenue deposited in the public school fund which reverts to the general fund. Section 22-8-34 NMSA 1978. Statute requires an annual appropriation of $20 thousand from FML to the Bureau of Geology and Mineral Resources of the New Mexico Institute of Mining and Technology. Section 69-2-6 NMSA 1978.

HB382 provides that counties may form a mineral lease district to receive FML disbursements directly. While it is unclear if the bill, as introduced, allows counties to receive direct disbursements (see "Technical Issues" below), it could result in lost general fund revenue of nearly $500 million annually if all counties with oil and gas production on federal lands form a mineral lease district.

## SIGNIFICANT ISSUES

In 2011, the U.S. Department of the Interior (DOI) declared FML payments to counties are to be counted as prior-year payments under the payment in lieu of taxes (PILT) formula, potentially reducing PILT distributions to counties receiving direct FML disbursements. The bill's "Findings" section states "New Mexico counties will lose millions of dollars otherwise dedicated to public land management" due to this deduction. However, New Mexico's FML disbursements do not go to counties and would not be counted against PILT under the 2011 DOI determination.

## TECHNICAL ISSUES

OAG analysis notes:

> Although the proposed Act provides that mineral leasing funds received by a district shall be distributed by the board of directors of the district, nowhere does it require that mineral leasing funds owing to a county shall be allocated to the district in the first place. The Act therefore may not satisfy the "pass through" requirement under federal law – specifically, that state law *requires* pass through of federal land payments to the special purpose district. The Act therefore could fail to serve its intended purpose of maximizing PILT revenue.
>
> To remedy this, the bill could be amended to add a provision analogous to Colorado's, which provides that upon receipt of the certified copy of the resolution creating the district, the executive director of the Department of Local Affairs shall allocate all future funding directly to the district. Colo. Rev. Stat. Ann. § 30-20-1304(4).

In proposed Section 2 E, the bill states: "in order to maximize the amount of payment in lieu of taxes funding that New Mexico receives, county federal mineral lease payments must be protected from the **<u>new</u>** federal prior-year payment method." Use of "new" may be confusing because the prior-year payment method has been in effect since 2011.

JA/jle/sb