

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1409

Introduced by

Representatives Porter, Carlson, Hunskor, Toman

Senators Carlisle, Murphy, Schaible, Unruh

1 A BILL for an Act to amend and reenact sections 54-17.8-03, 54-17.8-05, and 57-51-15 of the
2 North Dakota Century Code, relating to the funding and purposes of the outdoor heritage fund;
3 and to provide an effective date.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 54-17.8-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-17.8-03. North Dakota outdoor heritage fund purposes.**

- 8 1. The commission shall use the fund to provide grants to state agencies, tribal
9 governments, political subdivisions, and nonprofit organizations to enhance
10 conservation in this state by:
- 11 a. ~~Provide~~Providing access to private and public lands for sportsmen, including
12 projects that create fish and wildlife habitat and provide access for sportsmen;
- 13 b. ~~Improve~~Improving, ~~maintain~~maintaining, and ~~restore~~restoring water quality, soil
14 conditions, plant diversity, animal systems, and ~~to support~~by supporting other
15 practices of stewardship to enhance farming and ranching;
- 16 c. ~~Develop~~Developing, ~~enhance~~enhancing, ~~conserve~~conserving, and
17 ~~restore~~restoring wildlife and fish habitat on private and public lands; and
- 18 d. ~~Conserve~~Conserving natural areas and creating other areas for recreation
19 through the establishment and development of parks and other recreation areas.
- 20 2. The commission or grantee may not use the fund, in any manner, to finance:
- 21 a. Litigation;
- 22 b. Lobbying activities;

- 1 c. Any activity that would interfere, disrupt, or prevent activities associated with
- 2 surface coal mining operations; sand, gravel, or scoria extraction activities; oil
- 3 and gas operations; or other energy facility or infrastructure development;
- 4 d. The acquisition of land or to encumber any land for a term longer than twenty
- 5 years; or
- 6 e. Projects outside this state or projects that are beyond the scope of defined
- 7 activities that fulfill the purposes of this chapter.

8 3. The commission or a grantee may not use grant funds, except after a finding of

9 exceptional circumstances by the commission, to finance:

- 10 a. A completed project or project commenced before the grant application;
- 11 b. A feasibility or research study;
- 12 c. Maintenance costs;
- 13 d. A paving project for a road or parking lot;
- 14 e. A swimming pool or aquatic park;
- 15 f. Personal property that is not affixed to the land;
- 16 g. Playground equipment, except that grant funds may be provided for up to
- 17 twenty-five percent of the cost of the equipment not exceeding twenty-five
- 18 thousand dollars per project and all playground equipment grants may not
- 19 exceed five percent of the total grants per year;
- 20 h. A building except for building that is included as part of a comprehensive
- 21 conservation plan for a new or expanded recreational project; or
- 22 i. A project in which the applicant is not directly involved in execution and
- 23 completion of the project.

24 **SECTION 2. AMENDMENT.** Section 54-17.8-05 of the North Dakota Century Code is

25 amended and reenacted as follows:

26 **54-17.8-05. Powers and duties of commission.**

27 The commission is granted all the powers necessary or appropriate to carry out and

28 effectuate the purposes of this chapter, including the power to:

- 29 1. Make grants to a state agency, a tribal government, a political subdivision, ~~and~~ or a
- 30 nonprofit organization;

- 1 2. Place conditions on an offer or a grant including a limit on the duration of an offer, a
2 requirement of matching funds, and limit the source of the matching funds, and the
3 commission shall exclude any money appropriated from the state general fund from
4 use as matching funds unless the legislative assembly authorizes the use of state
5 general fund money as matching funds;
- 6 3. Approve expenditures for staffing or an outside consultant to design and implement an
7 approved project based on the documented need of the applicant and the
8 expenditures may not exceed five percent of the grant to a grantee if the grant
9 exceeds two hundred fifty thousand dollars and expenditures may not exceed ten
10 percent of the grant to a grantee if the grant is two hundred fifty thousand dollars or
11 less;
- 12 4. Enter contracts or agreements to carry out the purposes of this chapter, including
13 authority to contract for the administration of the fund and staffing for the advisory
14 board;
- 15 ~~3.5.~~ Accept donations, grants, contributions, and gifts from any public or private source;
16 and
- 17 4.6. Adopt policies and rules necessary to effectuate the purposes of this chapter.

18 **SECTION 3. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **57-51-15. (Effective for taxable events occurring through June 30, 2015) Gross**
21 **production tax allocation.**

22 The gross production tax must be allocated monthly as follows:

- 23 1. First the tax revenue collected under this chapter equal to one percent of the gross
24 value at the well of the oil and one-fifth of the tax on gas must be deposited with the
25 state treasurer who shall:
 - 26 a. Allocate to each hub city a monthly amount that will provide a total allocation of
27 three hundred seventy-five thousand dollars per fiscal year for each full or partial
28 percentage point of its private covered employment engaged in the mining
29 industry, according to data compiled by job service North Dakota;
 - 30 b. Allocate to each hub city school district a monthly amount that will provide a total
31 allocation of one hundred twenty-five thousand dollars per fiscal year for each full

- 1 or partial percentage point of the hub city's private covered employment engaged
2 in the mining industry, according to data compiled by job service North Dakota;
- 3 c. Credit revenues to the oil and gas impact grant fund, but not in an amount
4 exceeding two hundred forty million dollars per biennium;
- 5 d. Credit ~~four~~eight~~six~~ percent of the amount available under this subsection to the
6 North Dakota outdoor heritage fund, but not in an amount exceeding
7 fifteen~~twenty~~ million dollars in a state fiscal year and not in an amount exceeding
8 thirty~~forty~~ million dollars per biennium;
- 9 e. Credit four percent of the amount available under this subsection to the
10 abandoned oil and gas well plugging and site reclamation fund, but not in an
11 amount exceeding five million dollars in a state fiscal year and not in an amount
12 that would bring the balance in the fund to more than seventy-five million dollars;
13 and
- 14 f. Allocate the remaining revenues under subsection 3.
- 15 2. After deduction of the amount provided in subsection 1, annual revenue collected
16 under this chapter from oil and gas produced in each county must be allocated as
17 follows:
- 18 a. The first five million dollars is allocated to the county.
- 19 b. Of all annual revenue exceeding five million dollars, twenty-five percent is
20 allocated to the county.
- 21 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
22 to provide for deposit of thirty percent of all revenue collected under this chapter in the
23 legacy fund as provided in section 26 of article X of the Constitution of North Dakota
24 and the remainder must be allocated to the state general fund. If the amount available
25 for a monthly allocation under this subsection is insufficient to deposit thirty percent of
26 all revenue collected under this chapter in the legacy fund, the state treasurer shall
27 transfer the amount of the shortfall from the state general fund share of oil extraction
28 tax collections and deposit that amount in the legacy fund.
- 29 4. For a county that received less than five million dollars of allocations under
30 subsection 2 in the most recently completed state fiscal year, revenues allocated to
31 that county must be distributed by the state treasurer as follows:

- 1 a. Forty-five percent must be distributed to the county treasurer and credited to the
2 county general fund. However, the allocation to a county under this subdivision
3 must be credited to the state general fund if in a taxable year after 2012 the
4 county is not levying a total of at least ten mills for combined levies for county
5 road and bridge, farm-to-market and federal aid road, and county road purposes.
- 6 b. Thirty-five percent of all revenues allocated to any county for allocation under this
7 subsection must be apportioned by the state treasurer no less than quarterly to
8 school districts within the county, excluding consideration of and allocation to any
9 hub city school district in the county, on the average daily attendance distribution
10 basis, as certified to the state treasurer by the county superintendent of schools.
- 11 c. Twenty percent must be apportioned no less than quarterly by the state treasurer
12 to the incorporated cities of the county. A hub city must be omitted from
13 apportionment under this subdivision. Apportionment among cities under this
14 subsection must be based upon the population of each incorporated city
15 according to the last official decennial federal census. In determining the
16 population of any city in which total employment increases by more than two
17 hundred percent seasonally due to tourism, the population of that city for
18 purposes of this subdivision must be increased by eight hundred percent.
- 19 5. For a county that received five million dollars or more of allocations under subsection 2
20 in the most recently completed state fiscal year, revenues allocated to that county
21 must be distributed by the state treasurer as follows:
- 22 a. Sixty percent must be distributed to the county treasurer and credited to the
23 county general fund. However, the allocation to a county under this subdivision
24 must be credited to the state general fund if in a taxable year after 2012 the
25 county is not levying a total of at least ten mills for combined levies for county
26 road and bridge, farm-to-market and federal aid road, and county road purposes.
- 27 b. Five percent must be apportioned by the state treasurer no less than quarterly to
28 school districts within the county on the average daily attendance distribution
29 basis for kindergarten through grade twelve students residing within the county,
30 as certified to the state treasurer by the county superintendent of schools.

- 1 However, a hub city school district must be omitted from consideration and
2 apportionment under this subdivision.
- 3 c. Twenty percent must be apportioned no less than quarterly by the state treasurer
4 to the incorporated cities of the county. A hub city must be omitted from
5 apportionment under this subdivision. Apportionment among cities under this
6 subsection must be based upon the population of each incorporated city
7 according to the last official decennial federal census. In determining the
8 population of any city in which total employment increases by more than two
9 hundred percent seasonally due to tourism, the population of that city for
10 purposes of this subdivision must be increased by eight hundred percent.
- 11 d. Three percent must be apportioned no less than quarterly by the state treasurer
12 among the organized and unorganized townships of the county. The state
13 treasurer shall apportion the funds available under this subdivision among
14 townships in the proportion that township road miles in the township bear to the
15 total township road miles in the county. The amount apportioned to unorganized
16 townships under this subdivision must be distributed to the county treasurer and
17 credited to a special fund for unorganized township roads, which the board of
18 county commissioners shall use for the maintenance and improvement of roads
19 in unorganized townships.
- 20 e. Three percent must be allocated by the state treasurer among the organized and
21 unorganized townships in all the counties that received five million dollars or
22 more of allocations under subsection 2 in the most recently completed state fiscal
23 year. The amount available under this subdivision must be allocated no less than
24 quarterly by the state treasurer in an equal amount to each eligible organized and
25 unorganized township. The amount allocated to unorganized townships under
26 this subdivision must be distributed to the county treasurer and credited to a
27 special fund for unorganized township roads, which the board of county
28 commissioners shall use for the maintenance and improvement of roads in
29 unorganized townships.
- 30 f. Nine percent must be allocated by the state treasurer among hub cities. The
31 amount available for allocation under this subdivision must be apportioned by the

1 state treasurer no less than quarterly among hub cities. Sixty percent of funds
2 available under this subdivision must be distributed to the hub city receiving the
3 greatest percentage of allocations to hub cities under subdivision a of
4 subsection 1 for the quarterly period, thirty percent of funds available under this
5 subdivision must be distributed to the hub city receiving the second greatest
6 percentage of such allocations, and ten percent of funds available under this
7 subdivision must be distributed to the hub city receiving the third greatest
8 percentage of such allocations.

9 6. Within thirty days after the end of each calendar year, the board of county
10 commissioners of each county that has received an allocation under this section shall
11 file a report for the calendar year with the commissioner, in a format prescribed by the
12 commissioner, including:

- 13 a. The county's statement of revenues and expenditures; and
14 b. The amount allocated to or for the benefit of townships or school districts, the
15 amount allocated to each organized township or school district and the amount
16 expended from each such allocation by that township or school district, the
17 amount expended by the board of county commissioners on behalf of each
18 unorganized township for which an expenditure was made, and the amount
19 available for allocation to or for the benefit of townships or school districts which
20 remained unexpended at the end of the fiscal year.

21 Within fifteen days after the time when reports under this subsection were due, the
22 commissioner shall provide the reports to the legislative council compiling the
23 information from reports received under this subsection.

24 **(Effective for taxable events occurring after June 30, 2015) Gross production tax**
25 **allocation.** The gross production tax must be allocated monthly as follows:

- 26 1. First the tax revenue collected under this chapter equal to one percent of the gross
27 value at the well of the oil and one-fifth of the tax on gas must be deposited with the
28 state treasurer who shall:
29 a. Allocate five hundred thousand dollars per fiscal year to each city in an
30 oil-producing county which has a population of seven thousand five hundred or
31 more and more than two percent of its private covered employment engaged in

- 1 the mining industry, according to data compiled by job service North Dakota. The
2 allocation under this subdivision must be doubled if the city has more than seven
3 and one-half percent of its private covered employment engaged in the mining
4 industry, according to data compiled by job service North Dakota;
- 5 b. Credit revenues to the oil and gas impact grant fund, but not in an amount
6 exceeding one hundred million dollars per biennium;
- 7 c. Credit ~~four~~eight~~six~~ percent of the amount available under this subsection to the
8 North Dakota outdoor heritage fund, but not in an amount exceeding
9 fifteen~~twenty~~ million dollars in a state fiscal year and not in an amount exceeding
10 thirty~~forty~~ million dollars per biennium;
- 11 d. Credit four percent of the amount available under this subsection to the
12 abandoned oil and gas well plugging and site reclamation fund, but not in an
13 amount exceeding five million dollars in a state fiscal year and not in an amount
14 that would bring the balance in the fund to more than seventy-five million dollars;
15 and
- 16 e. Allocate the remaining revenues under subsection 3.
- 17 2. After deduction of the amount provided in subsection 1, annual revenue collected
18 under this chapter from oil and gas produced in each county must be allocated as
19 follows:
- 20 a. The first two million dollars is allocated to the county.
- 21 b. Of the next one million dollars, seventy-five percent is allocated to the county.
- 22 c. Of the next one million dollars, fifty percent is allocated to the county.
- 23 d. Of the next fourteen million dollars, twenty-five percent is allocated to the county.
- 24 e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated
25 to the county.
- 26 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
27 to provide for deposit of thirty percent of all revenue collected under this chapter in the
28 legacy fund as provided in section 26 of article X of the Constitution of North Dakota
29 and the remainder must be allocated to the state general fund. If the amount available
30 for a monthly allocation under this subsection is insufficient to deposit thirty percent of
31 all revenue collected under this chapter in the legacy fund, the state treasurer shall

1 transfer the amount of the shortfall from the state general fund share of oil extraction
2 tax collections and deposit that amount in the legacy fund.

3 4. The amount to which each county is entitled under subsection 2 must be allocated
4 within the county so the first five million three hundred fifty thousand dollars is
5 allocated under subsection 5 for each fiscal year and any amount received by a county
6 exceeding five million three hundred fifty thousand dollars is credited by the county
7 treasurer to the county infrastructure fund and allocated under subsection 6.

8 5. a. Forty-five percent of all revenues allocated to any county for allocation under this
9 subsection must be credited by the county treasurer to the county general fund.
10 However, the allocation to a county under this subdivision must be credited to the
11 state general fund if during that fiscal year the county does not levy a total of at
12 least ten mills for combined levies for county road and bridge, farm-to-market and
13 federal aid road, and county road purposes.

14 b. Thirty-five percent of all revenues allocated to any county for allocation under this
15 subsection must be apportioned by the county treasurer no less than quarterly to
16 school districts within the county on the average daily attendance distribution
17 basis, as certified to the county treasurer by the county superintendent of
18 schools. However, no school district may receive in any single academic year an
19 amount under this subsection greater than the county average per student cost
20 multiplied by seventy percent, then multiplied by the number of students in
21 average daily attendance or the number of children of school age in the school
22 census for the county, whichever is greater. Provided, however, that in any county
23 in which the average daily attendance or the school census, whichever is greater,
24 is fewer than four hundred, the county is entitled to one hundred twenty percent
25 of the county average per student cost multiplied by the number of students in
26 average daily attendance or the number of children of school age in the school
27 census for the county, whichever is greater. Once this level has been reached
28 through distributions under this subsection, all excess funds to which the school
29 district would be entitled as part of its thirty-five percent share must be deposited
30 instead in the county general fund. The county superintendent of schools of each
31 oil-producing county shall certify to the county treasurer by July first of each year

1 the amount to which each school district is limited pursuant to this subsection. As
2 used in this subsection, "average daily attendance" means the average daily
3 attendance for the school year immediately preceding the certification by the
4 county superintendent of schools required by this subsection.

5 The countywide allocation to school districts under this subdivision is subject
6 to the following:

7 (1) The first three hundred fifty thousand dollars is apportioned entirely among
8 school districts in the county.

9 (2) The next three hundred fifty thousand dollars is apportioned seventy-five
10 percent among school districts in the county and twenty-five percent to the
11 county infrastructure fund.

12 (3) The next two hundred sixty-two thousand five hundred dollars is
13 apportioned two-thirds among school districts in the county and one-third to
14 the county infrastructure fund.

15 (4) The next one hundred seventy-five thousand dollars is apportioned fifty
16 percent among school districts in the county and fifty percent to the county
17 infrastructure fund.

18 (5) Any remaining amount is apportioned to the county infrastructure fund
19 except from that remaining amount the following amounts are apportioned
20 among school districts in the county:

21 (a) Four hundred ninety thousand dollars, for counties having a
22 population of three thousand or fewer.

23 (b) Five hundred sixty thousand dollars, for counties having a population
24 of more than three thousand and fewer than six thousand.

25 (c) Seven hundred thirty-five thousand dollars, for counties having a
26 population of six thousand or more.

27 c. Twenty percent of all revenues allocated to any county for allocation under this
28 subsection must be apportioned no less than quarterly by the state treasurer to
29 the incorporated cities of the county. Apportionment among cities under this
30 subsection must be based upon the population of each incorporated city
31 according to the last official decennial federal census. In determining the

1 population of any city in which total employment increases by more than two
2 hundred percent seasonally due to tourism, the population of that city for
3 purposes of this subdivision must be increased by eight hundred percent. If a city
4 receives a direct allocation under subsection 1, the allocation to that city under
5 this subsection is limited to sixty percent of the amount otherwise determined for
6 that city under this subsection and the amount exceeding this limitation must be
7 reallocated among the other cities in the county.

- 8 6. a. Forty-five percent of all revenues allocated to a county infrastructure fund under
9 subsections 4 and 5 must be credited by the county treasurer to the county
10 general fund. However, the allocation to a county under this subdivision must be
11 credited to the state general fund if during that fiscal year the county does not
12 levy a total of at least ten mills for combined levies for county road and bridge,
13 farm-to-market and federal aid road, and county road purposes.
- 14 b. Thirty-five percent of all revenues allocated to the county infrastructure fund
15 under subsections 4 and 5 must be allocated by the board of county
16 commissioners to or for the benefit of townships in the county on the basis of
17 applications by townships for funding to offset oil and gas development impact to
18 township roads or other infrastructure needs or applications by school districts for
19 repair or replacement of school district vehicles necessitated by damage or
20 deterioration attributable to travel on oil and gas development-impacted roads. An
21 organized township is not eligible for an allocation of funds under this subdivision
22 unless during that fiscal year that township levies at least ten mills for township
23 purposes. For unorganized townships within the county, the board of county
24 commissioners may expend an appropriate portion of revenues under this
25 subdivision to offset oil and gas development impact to township roads or other
26 infrastructure needs in those townships. The amount deposited during each
27 calendar year in the county infrastructure fund which is designated for allocation
28 under this subdivision and which is unexpended and unobligated at the end of
29 the calendar year must be transferred by the county treasurer to the county road
30 and bridge fund for use on county road and bridge projects.

1 c. Twenty percent of all revenues allocated to any county infrastructure fund under
2 subsections 4 and 5 must be allocated by the county treasurer no less than
3 quarterly to the incorporated cities of the county. Apportionment among cities
4 under this subsection must be based upon the population of each incorporated
5 city according to the last official decennial federal census. If a city receives a
6 direct allocation under subsection 1, the allocation to that city under this
7 subsection is limited to sixty percent of the amount otherwise determined for that
8 city under this subsection and the amount exceeding this limitation must be
9 reallocated among the other cities in the county.

10 7. Within thirty days after the end of each calendar year, the board of county
11 commissioners of each county that has received an allocation under this section shall
12 file a report for the calendar year with the commissioner, in a format prescribed by the
13 commissioner, including:

- 14 a. The county's statement of revenues and expenditures; and
15 b. The amount available in the county infrastructure fund for allocation to or for the
16 benefit of townships or school districts, the amount allocated to each organized
17 township or school district and the amount expended from each such allocation
18 by that township or school district, the amount expended by the board of county
19 commissioners on behalf of each unorganized township for which an expenditure
20 was made, and the amount available for allocation to or for the benefit of
21 townships or school districts which remained unexpended at the end of the fiscal
22 year.

23 Within fifteen days after the time when reports under this subsection were due, the
24 commissioner shall provide the reports to the legislative council compiling the
25 information from reports received under this subsection.

26 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events beginning after
27 June 30, 2015.