

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, and 54-17.8-05, subdivision c of
2 subsection 1 of section 54-17.8-06, and section 57-51-15 of the North Dakota Century Code,
3 relating to the funding and purposes of the outdoor heritage fund and the outdoor heritage
4 advisory board; ~~and~~ to provide an effective date; and to declare an emergency.

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

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

8 **54-17.8-03. North Dakota outdoor heritage fund purposes.**

9 1. The commission shall use the fund to provide grants to state agencies, tribal
10 governments, political subdivisions, and nonprofit organizations, with higher priority
11 given to enhance conservation practices in this state by:

12 a. ~~Provide~~Providing access to private and public lands for sportsmen, including
13 projects that create fish and wildlife habitat and provide access for sportsmen;

14 b. ~~Improve~~Improving, ~~maintain~~maintaining, and ~~restore~~restoring water quality, soil
15 conditions, plant diversity, animal systems, and ~~to support~~by supporting other
16 practices of stewardship to enhance farming and ranching;

17 c. ~~Develop~~Developing, ~~enhance~~enhancing, ~~conserve~~conserving, and
18 ~~restore~~restoring wildlife and fish habitat on private and public lands; and

19 d. ~~Conserve~~Conserving natural areas and creating other areas for recreation
20 through the establishment and development of parks and other recreation areas.

21 2. The commission or grantee may not use the fund, in any manner, to finance:

22 a. Litigation;

23 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~~ten
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.** Subdivision c of subsection 1 of section 54-17.8-06 of the
19 North Dakota Century Code is amended and reenacted as follows:

- 20 c. Four members from the conservation community. The governor shall appoint
21 ~~from a list of nominations one member from ducks unlimited of North Dakota, one~~
22 ~~member from the North Dakota chapter of pheasants forever, and two~~the
23 members from the conservation community at large of statewide conservation
24 groups.

25 **SECTION 4. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **57-51-15. (Effective for taxable events occurring through June 30, 2015) Gross**
28 **production tax allocation.**

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

- 1 1. First the tax revenue collected under this chapter equal to one percent of the gross
2 value at the well of the oil and one-fifth of the tax on gas must be deposited with the
3 state treasurer who shall:
 - 4 a. Allocate to each hub city a monthly amount that will provide a total allocation of
5 three hundred seventy-five thousand dollars per fiscal year for each full or partial
6 percentage point of its private covered employment engaged in the mining
7 industry, according to data compiled by job service North Dakota;
 - 8 b. Allocate to each hub city school district a monthly amount that will provide a total
9 allocation of one hundred twenty-five thousand dollars per fiscal year for each full
10 or partial percentage point of the hub city's private covered employment engaged
11 in the mining industry, according to data compiled by job service North Dakota;
 - 12 c. Credit revenues to the oil and gas impact grant fund, but not in an amount
13 exceeding two hundred forty million dollars per biennium;
 - 14 d. Credit ~~four~~eight percent of the amount available under this subsection to the
15 North Dakota outdoor heritage fund, but not in an amount exceeding
16 ~~fifteen~~twenty million dollars in a state fiscal year and not in an amount exceeding
17 ~~thirty~~forty million dollars per biennium;
 - 18 e. Credit four percent of the amount available under this subsection to the
19 abandoned oil and gas well plugging and site reclamation fund, but not in an
20 amount exceeding five million dollars in a state fiscal year and not in an amount
21 that would bring the balance in the fund to more than seventy-five million dollars;
22 and
 - 23 f. Allocate the remaining revenues under subsection 3.
- 24 2. After deduction of the amount provided in subsection 1, annual revenue collected
25 under this chapter from oil and gas produced in each county must be allocated as
26 follows:
 - 27 a. The first five million dollars is allocated to the county.
 - 28 b. Of all annual revenue exceeding five million dollars, twenty-five percent is
29 allocated to the county.
- 30 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
31 to provide for deposit of thirty percent of all revenue collected under this chapter in the

1 legacy fund as provided in section 26 of article X of the Constitution of North Dakota
2 and the remainder must be allocated to the state general fund. If the amount available
3 for a monthly allocation under this subsection is insufficient to deposit thirty percent of
4 all revenue collected under this chapter in the legacy fund, the state treasurer shall
5 transfer the amount of the shortfall from the state general fund share of oil extraction
6 tax collections and deposit that amount in the legacy fund.

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

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

1 year. The amount available under this subdivision must be allocated no less than
2 quarterly by the state treasurer in an equal amount to each eligible organized and
3 unorganized township. The amount allocated to unorganized townships under
4 this subdivision must be distributed to the county treasurer and credited to a
5 special fund for unorganized township roads, which the board of county
6 commissioners shall use for the maintenance and improvement of roads in
7 unorganized townships.

8 f. Nine percent must be allocated by the state treasurer among hub cities. The
9 amount available for allocation under this subdivision must be apportioned by the
10 state treasurer no less than quarterly among hub cities. Sixty percent of funds
11 available under this subdivision must be distributed to the hub city receiving the
12 greatest percentage of allocations to hub cities under subdivision a of
13 subsection 1 for the quarterly period, thirty percent of funds available under this
14 subdivision must be distributed to the hub city receiving the second greatest
15 percentage of such allocations, and ten percent of funds available under this
16 subdivision must be distributed to the hub city receiving the third greatest
17 percentage of such allocations.

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

22 a. The county's statement of revenues and expenditures; and

23 b. The amount allocated to or for the benefit of townships or school districts, the
24 amount allocated to each organized township or school district and the amount
25 expended from each such allocation by that township or school district, the
26 amount expended by the board of county commissioners on behalf of each
27 unorganized township for which an expenditure was made, and the amount
28 available for allocation to or for the benefit of townships or school districts which
29 remained unexpended at the end of the fiscal year.

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

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

- 6 1. First the tax revenue collected under this chapter equal to one percent of the gross
7 value at the well of the oil and one-fifth of the tax on gas must be deposited with the
8 state treasurer who shall:
 - 9 a. Allocate five hundred thousand dollars per fiscal year to each city in an
10 oil-producing county which has a population of seven thousand five hundred or
11 more and more than two percent of its private covered employment engaged in
12 the mining industry, according to data compiled by job service North Dakota. The
13 allocation under this subdivision must be doubled if the city has more than seven
14 and one-half percent of its private covered employment engaged in the mining
15 industry, according to data compiled by job service North Dakota;
 - 16 b. Credit revenues to the oil and gas impact grant fund, but not in an amount
17 exceeding one hundred million dollars per biennium;
 - 18 c. Credit ~~four~~eight percent of the amount available under this subsection to the
19 North Dakota outdoor heritage fund, but not in an amount exceeding
20 ~~fifteen~~twenty million dollars in a state fiscal year and not in an amount exceeding
21 ~~thirty~~forty million dollars per biennium;
 - 22 d. Credit four percent of the amount available under this subsection to the
23 abandoned oil and gas well plugging and site reclamation fund, but not in an
24 amount exceeding five million dollars in a state fiscal year and not in an amount
25 that would bring the balance in the fund to more than seventy-five million dollars;
26 and
 - 27 e. Allocate the remaining revenues under subsection 3.
- 28 2. After deduction of the amount provided in subsection 1, annual revenue collected
29 under this chapter from oil and gas produced in each county must be allocated as
30 follows:
 - 31 a. The first two million dollars is allocated to the county.

- 1 b. Of the next one million dollars, seventy-five percent is allocated to the county.
- 2 c. Of the next one million dollars, fifty percent is allocated to the county.
- 3 d. Of the next fourteen million dollars, twenty-five percent is allocated to the county.
- 4 e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated
- 5 to the county.
- 6 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
- 7 to provide for deposit of thirty percent of all revenue collected under this chapter in the
- 8 legacy fund as provided in section 26 of article X of the Constitution of North Dakota
- 9 and the remainder must be allocated to the state general fund. If the amount available
- 10 for a monthly allocation under this subsection is insufficient to deposit thirty percent of
- 11 all revenue collected under this chapter in the legacy fund, the state treasurer shall
- 12 transfer the amount of the shortfall from the state general fund share of oil extraction
- 13 tax collections and deposit that amount in the legacy fund.
- 14 4. The amount to which each county is entitled under subsection 2 must be allocated
- 15 within the county so the first five million three hundred fifty thousand dollars is
- 16 allocated under subsection 5 for each fiscal year and any amount received by a county
- 17 exceeding five million three hundred fifty thousand dollars is credited by the county
- 18 treasurer to the county infrastructure fund and allocated under subsection 6.
- 19 5. a. Forty-five percent of all revenues allocated to any county for allocation under this
- 20 subsection must be credited by the county treasurer to the county general fund.
- 21 However, the allocation to a county under this subdivision must be credited to the
- 22 state general fund if during that fiscal year the county does not levy a total of at
- 23 least ten mills for combined levies for county road and bridge, farm-to-market and
- 24 federal aid road, and county road purposes.
- 25 b. Thirty-five percent of all revenues allocated to any county for allocation under this
- 26 subsection must be apportioned by the county treasurer no less than quarterly to
- 27 school districts within the county on the average daily attendance distribution
- 28 basis, as certified to the county treasurer by the county superintendent of
- 29 schools. However, no school district may receive in any single academic year an
- 30 amount under this subsection greater than the county average per student cost
- 31 multiplied by seventy percent, then multiplied by the number of students in

1 average daily attendance or the number of children of school age in the school
2 census for the county, whichever is greater. Provided, however, that in any county
3 in which the average daily attendance or the school census, whichever is greater,
4 is fewer than four hundred, the county is entitled to one hundred twenty percent
5 of the county average per student cost multiplied by the number of students in
6 average daily attendance or the number of children of school age in the school
7 census for the county, whichever is greater. Once this level has been reached
8 through distributions under this subsection, all excess funds to which the school
9 district would be entitled as part of its thirty-five percent share must be deposited
10 instead in the county general fund. The county superintendent of schools of each
11 oil-producing county shall certify to the county treasurer by July first of each year
12 the amount to which each school district is limited pursuant to this subsection. As
13 used in this subsection, "average daily attendance" means the average daily
14 attendance for the school year immediately preceding the certification by the
15 county superintendent of schools required by this subsection.

16 The countywide allocation to school districts under this subdivision is subject
17 to the following:

- 18 (1) The first three hundred fifty thousand dollars is apportioned entirely among
19 school districts in the county.
- 20 (2) The next three hundred fifty thousand dollars is apportioned seventy-five
21 percent among school districts in the county and twenty-five percent to the
22 county infrastructure fund.
- 23 (3) The next two hundred sixty-two thousand five hundred dollars is
24 apportioned two-thirds among school districts in the county and one-third to
25 the county infrastructure fund.
- 26 (4) The next one hundred seventy-five thousand dollars is apportioned fifty
27 percent among school districts in the county and fifty percent to the county
28 infrastructure fund.
- 29 (5) Any remaining amount is apportioned to the county infrastructure fund
30 except from that remaining amount the following amounts are apportioned
31 among school districts in the county:

- 1 (a) Four hundred ninety thousand dollars, for counties having a
2 population of three thousand or fewer.
- 3 (b) Five hundred sixty thousand dollars, for counties having a population
4 of more than three thousand and fewer than six thousand.
- 5 (c) Seven hundred thirty-five thousand dollars, for counties having a
6 population of six thousand or more.
- 7 c. Twenty percent of all revenues allocated to any county for allocation under this
8 subsection must be apportioned no less than quarterly by the state treasurer to
9 the incorporated cities of the county. Apportionment among cities under this
10 subsection must be based upon the population of each incorporated city
11 according to the last official decennial federal census. In determining the
12 population of any city in which total employment increases by more than two
13 hundred percent seasonally due to tourism, the population of that city for
14 purposes of this subdivision must be increased by eight hundred percent. If a city
15 receives a direct allocation under subsection 1, the allocation to that city under
16 this subsection is limited to sixty percent of the amount otherwise determined for
17 that city under this subsection and the amount exceeding this limitation must be
18 reallocated among the other cities in the county.
- 19 6. a. Forty-five percent of all revenues allocated to a county infrastructure fund under
20 subsections 4 and 5 must be credited by the county treasurer to the county
21 general fund. However, the allocation to a county under this subdivision must be
22 credited to the state general fund if during that fiscal year the county does not
23 levy a total of at least ten mills for combined levies for county road and bridge,
24 farm-to-market and federal aid road, and county road purposes.
- 25 b. Thirty-five percent of all revenues allocated to the county infrastructure fund
26 under subsections 4 and 5 must be allocated by the board of county
27 commissioners to or for the benefit of townships in the county on the basis of
28 applications by townships for funding to offset oil and gas development impact to
29 township roads or other infrastructure needs or applications by school districts for
30 repair or replacement of school district vehicles necessitated by damage or
31 deterioration attributable to travel on oil and gas development-impacted roads. An

1 organized township is not eligible for an allocation of funds under this subdivision
2 unless during that fiscal year that township levies at least ten mills for township
3 purposes. For unorganized townships within the county, the board of county
4 commissioners may expend an appropriate portion of revenues under this
5 subdivision to offset oil and gas development impact to township roads or other
6 infrastructure needs in those townships. The amount deposited during each
7 calendar year in the county infrastructure fund which is designated for allocation
8 under this subdivision and which is unexpended and unobligated at the end of
9 the calendar year must be transferred by the county treasurer to the county road
10 and bridge fund for use on county road and bridge projects.

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

- 20 7. Within thirty days after the end of each calendar year, the board of county
21 commissioners of each county that has received an allocation under this section shall
22 file a report for the calendar year with the commissioner, in a format prescribed by the
23 commissioner, including:
- 24 a. The county's statement of revenues and expenditures; and
25 b. The amount available in the county infrastructure fund for allocation to or for the
26 benefit of townships or school districts, the amount allocated to each organized
27 township or school district and the amount expended from each such allocation
28 by that township or school district, the amount expended by the board of county
29 commissioners on behalf of each unorganized township for which an expenditure
30 was made, and the amount available for allocation to or for the benefit of

1 townships or school districts which remained unexpended at the end of the fiscal
2 year.

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

6 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable events beginning after
7 June 30, 2015.

8 **SECTION 6. EMERGENCY.** Subsection 2 of section 54-17.8-05 as amended by section 2
9 of this Act is declared to be an emergency measure.