

**2019 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE**

**SB 2054**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2054  
1/31/2019  
Job Number 31909

- Subcommittee  
 Conference Committee

Committee Clerk: Marne Johnson

### Explanation or reason for introduction of bill/resolution:

A bill relating to outdoor heritage fund purposes and membership.

### Minutes:

6 Attachments

**Chair Unruh:** Opened the public hearing.

**Senator Janne Myrdal, District 10 (0:30-7:35) Introduced the bill.** I bring SB 2054 as it relates to the Outdoor Heritage Fund (OHF). HB 1278 was in the 2013 session that put this into century code. During this past interim, in my part of the state, it became known to me that there was lack of clarity relating to the purpose and dispensing of money from the OHF. This bill simply seeks to clarify these concerns and remove duplicative language. During the process of applications for funding it was expressed by the members of the OHF board some questions as to legislative intent. I was present at one of those meetings as OHF discussed several proposals and can personally verify legislative intent was brought up several times. SB 2054 attempts to give some clarification of the four areas of qualification by removing what is deemed to be contradictory and duplicative language in section 1 line 8-9. I talk about duplication, it mentions the word conservation there, stricken language on line 8-9, it has 'with higher priority given to enhance conservation practices in the state' we replace that with 'for the following purposes' the reason being, the word conservation in the four provisions you see below, which are the four provision that tell the entities that come for this grant that clearly they need to qualify for at least one of these. Directive d already talks about conserving natural areas, which is conservation. We felt that was duplicative and clarifying legislative intent by taking that language out on line 8-9. In addition, section 2, lines 22-24 seeks to assure geographical balance of members of the OHF during the nomination process. This has been contentious in our region, and as we had this conversation with the Governor's Office and others. They were unaware that currently the people on this board are all residents who live west of highway 83. The optics for the constituents in my region don't look good. In Chapter 54-17.8, it delineates very clearly who needs to be on that advisory board; there's groups like Farmers Union, Farm Bureau etc. Somehow those appointed are not geographically represented, we think for constituents across our entire state it's an important distinction that at least ensure a geographic balance among members is maintained. There's no shall, no directive, just a clarification that the Governor's appointees and those organizations that submit names should probably do their due diligence and make

sure that the entire state is represented. These changes are to assure all North Dakota's constituents and OHF board of advisors have more clarity on legislative intent. The OHF under North Dakota Century Code functions as an advisory board to the Industrial Commission. It is urgent that there is clarity of legislative intent as decisions of granting projects using large amount of monies, the estimates for the 2019 biennium will be \$28 million. You can look at chapter 54-17.8 to see the makeup and how those monies arrive in this fund. Also my concern, our constituents must have fair and clear process when pursuing applying for projects under this section. What we're hearing now, this is no turf fight, this is to clarify it for the people on the board and clarified for the constituents, so that we don't waste time applying for something we can't get. Those are the kind of things this hopefully clarifies for the constituents so they don't spend extra monies and time trying to apply to something that isn't available to them.

**Chair Unruh:** We've been dealing with OHF most of my time here. One of the main initial purpose was to enhance conservation in our state. You're comfortable with taking out that enhanced conservation practices language to apply to all. As the OHF functions, these a-d fall into categories as to how the money is spent, you're comfortable with removing the conservation aspect from all of them?

**Senator Myrdal:** Yes, I am, I think there's discrepancy right now in how grants are being granted. I think the definitions between recreation and conservation, we've split them, and often they're married. Conservation issues, birding, access to conservation areas may fall in the recreational part of it. It's unclear, if you look at this as an applicant, I fit under d, when I was there, and what I hear from constituents, yes the focus is on enhanced conservation practices, and yes, there's large monies going to walking paths, biking paths, dock, things that sound like recreation, not conservation. I want a discussion, I want to keep this conversation going, I hope you look at this a big problem. I'm open to amendments.

**Vice-Chair Kreun:** There's been a lot of conversation between the recreation and the conservation portion, has there been, prior to this, a conversation to solve and to find that within the context with the people who oversee this activity? Are we looking at that, how has this come about without that conversation?

**Senator Myrdal:** Absolutely, this conversation has been going on for 8-10 months. Especially with the Industrial Commission, because they are the deciding vote, the OFH is an advisory board, they're spread out, tourism department, other department heads, several lengthy meetings. Yes, this has been discussed.

**Senator Piepkorn:** When was this language written?

**Senator Myrdal:** In 2013.

**Senator Piepkorn:** It seems when you're trying to determine legislative intent, there's not a lot of room for grey area or interpretation.

**Senator Myrdal:** I tend to agree with you, the section this bill covers, I think the language clear in those four provisions. However, my constituents are unclear on it. I don't want to go

into individual projects. I want the process to be better and smoother. We try to fix grey areas in the century code.

**Dawn Mandt, Executive Director Red River Regional Council (14:20-20:55) Testified in support, please see attachment #1. Provided additional testimony, please see attachment #2.**

**Sara Otte Coleman, Director, Tourism Division, North Dakota Department of Commerce (22:00-24:40) Testified in support, please see attachment #3.**

**Ron Ness, North Dakota Petroleum Council (25:25) Testified in opposition, please see attachment #4.** This is an assessment of where the OHF money has gone county by county. This body decides where the money goes but to put this in context, this is a bucket of oil tax revenues that was created for a very specific purpose. We all remember Measure 5 and the oil and gas industry came together with the Wildlife and Conservation interests for 18 months. Along with the rest of the business community that didn't feel that Measure 5 was appropriate utilization of the funds of that magnitude. We came forward with this proposal to address wildlife and outdoor habitat concerns being raised as issues related to the Bakken. That's why the bucket was created. I agree with everything all the previous speakers have said. I haven't watched these processes closely in terms of the grants, typically, if you find a way to weave 1-4 into your project, it has been tremendously beneficial to parks. These buckets you create are done for a purpose. The water resources trust fund funds water. The argument here, we would all be supportive if we moved this down to the Parks and Recs budget discussion. Those are legislative decisions that determine where these funds go. Let's remember why we did this; we did this directly in result to one thing. The big four Bakken counties have done a poor job of attracting projects and completing them, it's relative to function the previous speakers said. We had offered some help to complete grants and get through the process for small wildlife groups, it's hard to get through that process as a non-profit group, but it can be done, there's help out there. The stakeholders of this group felt very responsible to ensure that we add wildlife and habitat conservation. The purpose of the fund, the handout is to show that really everywhere across the state has benefited. Once we open buckets up to allow other things much broader into them, there's really no limitation on the need out there. We've had the same issue with the oil and gas research council funding and the universities wanting more funding for general university expenditures, where their budgets are short. They want to fund professor salaries, that money was designated by the legislature very specifically for oil and gas research, education, not to supplement professor salaries at universities. That where that bucket draws the line. If you can show research, we'll fund the research. We aren't opposed to any particular projects, once we broaden this bucket, and it takes away the focus, we're really going away from what the stakeholders came together for the purpose, I would have concern for what the future of the funding mechanism would be. We have all stuck together to make sure this OHF bucket continues to be funded, once you broaden it I don't know that we would stick together.

**Chair Unruh:** Are you on the OHF advisory board?

**Ron Ness:** I am not.

**Senator Piepkorn:** Is there anything preventing the Petroleum Council or member organizations from making direct donations to some of these smaller wildlife groups that you were talking about?

**Ron Ness:** We are a large supporter of the Mule Deer Foundation and other wildlife groups. We planted 58,000 trees across North Dakota we leveraged obligation money that we had for pipeline tree replacement and created a tree replacement program that as not just in those Bakken counties but in 9 different counties, we'll be doing that again this year. No there's no limitation on the ability to support projects.

**Vice-Chair Kreun:** The problem is the definition of recreation and conservation. Those two can blend; how do you promote conservation, you do that through recreation and education. If we're going to try to separate those two, we're going to lose the ability to gain knowledge for our state and bring our young kids into this process of learning how to recreate and conserve at the same time. I think we should at least look at the definition of recreation and conservation and how they blend together.

**Ron Ness:** I will let the wildlife groups speak to that. In our oil and gas research council, the council with the approval of the Industrial Commission, sets aside 8% of the funds for education, focused on this. The Industrial Commission approved 14.5% at a recent meeting to be designated for things of a broader nature. My purpose is to keep the fact that the purpose of the fund is conservation of wildlife, and keeping that as the primary focus point. What they do inside the fund, how the grants are written, I think people have gotten pretty good at that, as you can see from the chart, I support that. The purpose of the fund, remaining in the fund is critical to the stakeholders who agreed to this.

**Keith Trego, Executive Director, Natural Resources Trust (35:10) Testified in opposition.** I was one of the people who spent 18 months discussing and putting this process together, I can give you a little background about our thoughts. I also agree with a lot of comments we've heard here about tourism and the value of parks and recreation there is an element in this existing legislation, directive d, that addresses that. I don't think that that's the issue here. The issue, as Ron framed it, and I'll emphasis here. This came out of discussions of doing on the ground conservation, which I will emphasize, we're talking agriculture, we're talking doing projects that work for farmers and ranchers, they enhance habitat, improve water quality, improve air quality. Out of that you get improved wildlife habitat. That was the origin of the discussions and the cooperative work that many of us did over the months; not everyone agrees on all these points, but we came together in a very unique way.

A few facts, as we analyzed the expenditure of the funds, about 75% of the conservation related dollars go directly to farmers and ranchers for voluntary conservation on private land. Which is consistent with why we put this together. That cooperation of doing conservation and agriculture is extremely important, that was source of conflict around Measure 5. We haven't totally solved the problem but this has gone a long way to addressing that issue. What I would suggest to the group the issues others have brought up, on needing more funding for recreation, tourism, our outdoor amenities, they drive much of our tourism industry. Hunting is a huge part of that. We probably haven't invested enough in all those areas. Taking away from Outdoor Heritage legislation and reducing its impact and going away from its original intent is not a good way to address that issue. I think we should have

discussions around alternatives. I will say part of this came from a proposal to enhance amenities at the Frost Fire Ski Lodge. That doesn't mean it fits the intent we came up with. The approach would be to back up and look at broader issues, but not detract from the original intent of the Outdoor Heritage Fund.

**Chair Unruh:** Are you on the OHF board?

**Keith Trego:** I am not. We use the Outdoor Heritage Funding process through our organization, we sit in, we are very familiar with the process, I should say. This still is a new granting entity, there are some people here who do sit on the board who can speak to some of those details, it's not perfect. We all have a list of things we might improve as this process matures, but we need to give it some time, and have some patience and not tear it apart while it's going through its metamorphosis. There are four conservation representatives on the board, I am not one of them.

**Senator Piepkorn:** Remind me of the organization you represent?

**Keith Trego:** I represent the North Dakota Natural Resources Trust, a private non-profit group. I previously worked for the State Game and Fish Department.

**Jon Devney, Senior Vice President Delta Waterfowl (40:10-41:35) Testified in opposition.** We need greater investment in recreation, it creates an economic stimulus in many communities and it's very important. As Ron and Keith pointed out, the OHF has a role in that, my concern is that we're undermining the basic principle of why the legislation was created in the first place. There was Measure 5 emerged and was defeated. A number of good folks from energy, agriculture, wildlife conservation came down and did something pretty remarkable, created a piece of consensus legislation that I'm sure anyone that anyone involved would have had different outcomes associated with it. It's a consensus piece of legislation, it allows for recreation, but we want to make sure it continues to prioritize conservation.

**Mary Jensen, North Dakota Farmers Union (41:55) Testified in opposition.** We are opposed to this change because it changes the original intent of the fund, we would like to see it still focused on conservation.

**Daryl Lies, President North Dakota Farm Bureau, OHF Board (42:30-49:15) Testified in opposition.** I bring a unique perspective to this, representing 27,000 member families across the state which include farmers, ranchers, and non-farmer/ranchers. At NDFB we are a grass roots policy driven organization who was involved as one of the stakeholders in the process. This was a stakeholders driven piece of legislation. That came about from folks who didn't agree all the time, and were at odds with each other. This hasn't gone all the way to meet all their goals, but it has brought a conversation about, and brought some camaraderie back from those cross section of groups that are represented. That's a benefit to North Dakota. At the time this was created, NDFB was involved. We have policy that was keeping us out of these conversations to a point, we have a process at NDFB to address those things, a) the board can look at our current policy and make decisions for the best route forward if we have conflicting interests; we have a secondary one that takes us back to our grassroots that is our legislative task force, we bring a representative from each district in the state. At the time,

I was not on board, but I was on the task force and chaired that committee, we spent 3 hours face to face, coming up with a recommendation to our state board that wouldn't infringe on our policy, but yet got us in the conversation and down the pathway to finding a resolution to these conservation issues brought up. The NDFB board got in the conversation, support the legislation before them, there got to be some intense conversations. Present day, I serve as president of NDFB, I sit on the OHF board. These are not easy decisions; the representation that you see listed on the back side of that bill inherently gives representation throughout the state. We are statewide organization. When we put representatives on boards at a state level, we represent the state. The changing of the geographic location, by our nature, by the nature of Farmers Union, by the nature of Grain Growers, we inherently represent all corners of the state. We seek those who are qualified and able to make meetings. Not whether they live in Cass, or McClain, or Williams, but whether they can do a good job of representing. That's a problematic area for us. It's also problematic for us to change the priority of conservation. You've heard other testimony that that was the main reason that this came about. It should still remain. There's some discussion that someone should draft an amendment to clarify these things, that it is agriculture, energy, fish, and wildlife and habitat. All other things, recreation and outdoor activities can be born from those things being done properly. Some we've denied because they don't fit, are great projects. I think we need to separate these discussions. I think we need to talk about the parks and recs budget, if that's a priority for the state, then we need to do it in the parks and recs, but I don't think we need to take away the focus here. Mr. Ness gave a great piece of information. The OHF is the third state chart on the back side. Look at where the dark counties are for funding, I think we've represented the whole state quite well. Except the counties with the biggest impact, are lagging behind. We think that a lot of things said here today, whether you talk about parks and recs amenities, talking about outdoor entertainment, conservation are all important topics of conversation, but may not fit in everyplace we try to make them fit. Conservation was the purpose of this, needs to be the priority going forward.

**Chair Unruh:** Can you explain if there are a set of guidelines within the board on how projects are selected? I think the committee needs a little more information on how that process works within the board itself.

**Daryl Lies:** We can get you the full list of guidelines we've been given by the Industrial Commission. There's some examples, we don't do brick and mortar, unless it has a direct tie, to the comprehensive conservation plan of that area. If it's a standalone building, we don't do brick and mortar. That's an intercommittee policy given to us by the Industrial Commission. We also make sure that directive d was receiving 15% of the monies. I'm proud to say that we keep a balance, when they run the numbers, it was around that 15%. Just because there's only 4 directives doesn't mean that you should prioritize and try and make sure that 25% goes to each of them. You have to look at the project and make sure it's meeting some of those policies and the intent. We also have, by representation, you're going to have differences of opinions, and the organizations that have policy driving how are our membership does approach things on that board. I think that's why they were put there, so that we make sure we have projects accepted across the board.

**Vice-Chair Kreun:** Do the reservations contribute to the oil buckets?

**Daryl Lies:** The oil coming off of them gets taxed and goes into the fund.

**Andrea Pfennig, Deputy Executive Director, North Dakota Industrial Commission (53:20-57:10) Provided neutral agency testimony, please see attachment #5.** The Commission oversees the OHF, what I have provided you with is some brief background information about the OHF. You'll see the background of the fund, and directives. You'll see a bit of the funding information, for this biennium it's capped at \$10 million. In current century code it's set to go back to \$40 million as a cap, however we have never received that much money. I don't know if it's ever gone over the \$20 million in a biennium. On the second page you'll see the funding guidelines, and you'll see that 25% match is required. It goes into some of the projects that aren't considered, which include projects already completed. Feasibility, research maintenance cost, paving lot, swimming pools, aquatic parks personal property not affixed to the land. In the last session other limitations were put into place which includes the limitations on playgrounds at \$10,000 per project. As has been mentioned we have a goal of 15% of funding will be given priority for directive d. The projects can be certain to a specific location or statewide and on the density map you will see a breakout by county of funds that have been received for projects. I will point out that statewide projects aren't included in this map. The amount awarded for site specific projects has been about \$23.8 million or 58% of the funds awarded the amount for statewide projects is about \$17.2 million. You'll see a pie chart that shows the amount of funds awarded by directive. On last page is information you've seen before OHF funds awarded by activity. I've also given you a pie chart that shows a breakout of the outdoor recreation projects by category.

**Chair Unruh:** Give us an example of what an access type project would look like?

**Andrea Pfennig:** An access project could be a dock that stretches far out into the water so that individuals could access deeper water for fishing regardless of their financial means or physical capabilities. It could also include a project that would partner with Game and Fish on PLOTS.

**Senator Roers:** Tell me more about the enhanced farming and ranching projects.

**Andrea Pfennig:** If you look at the back of this, with the bar graph, it will breakout the best management practices, which include perimeter fencing, cross fencing, what that's getting at is rotational grazing. I'm sure the members of the conservation community would be better qualified, but one thing they are looking at doing is taking cattle away from waterways so that you improve the quality of the water, better rotation management so that you increase advantageous habitat for wildlife in general.

**Senator Roers:** So you're trying to keep the cattle from areas that are most conducive to wildlife, breeding grounds?

**Andrea Pfennig:** I would say that keeping cattle away from the water is to improve the water quality overall.

**Chair Unruh:** Are those implemented through local soil conservation districts?

**Andrea Pfennig:** Yes, we would partner with local conservation districts to implement those projects.

**Chair Unruh:** Closed the public hearing. Attachment #6 submitted by absent parties.

# 2019 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2054  
2/8/2019  
Job Number 32466

- Subcommittee  
 Conference Committee

Committee Clerk: Marne Johnson

### Explanation or reason for introduction of bill/resolution:

A bill relating to outdoor heritage fund purposes and membership.

### Minutes:

1 Attachment

**Chair Unruh:** Opened the committee discussion. We've had two requested changes, one to remove the overarching statement that project that are funded with OHF money do not have the higher priority of enhancing conservation, and the other would be to ensure geographic balance of members is maintained. If you recall, we have some testimony in favor and then we had quite a few folks who have representation on the Board who had testified against the bill. Of course, the OHF has a little bit of history here, in the state of North Dakota. An initiated measure change to the constitution sparked the conversation to talk about what we're doing regarding conservation and funding that here in the state. As a solution to the concern that many residents had, even though the measure failed; the solution to making sure that we're prioritizing conservation, was the Outdoor Heritage Fund. I helped with this project every step of the way; I'm happy to see we've gotten where we've gotten with this, I think the Fund has done some great things, you've got some handouts that we've received, both regarding this bill, and a couple for SB 2261. We have some material for that as well. The makeup of the Board was a very difficult thing to come up with. A lot of people wanted a voice on the Board; as we've established that over time, we've found something that works, to have all those groups come and testify that they are happy with the way things are working. I don't see now as the time to upset the applecart. If there were an issue with the way the funds were being distributed, I think it would be something we should take a look at. You've got a chart that was handed out to us that shows the majority of funds have been awarded to projects in the eastern half of the state as opposed to the western half, which is where the conversation around measure 5 had evolved from. Removing the higher priority with OHF given its inception is not something I can support. I don't see a piece of this bill I'm willing to support, we're open for committee discussion. **Please see attachment #1 for biennium award info.**

**Senator Cook:** I move moved a Do Not Pass.

**Senator Schaible:** I second.

A roll call vote was taken.  
Motion passes 5-1-0.

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**Senator Schaible will carry.**

**Chair Unruh:** Closed committee discussion.

Date: 2/8  
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2054

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. Cook Seconded By Sen. Schaible

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) 5 No 1

Absent 0

Floor Assignment Sen. Schaible

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

**REPORT OF STANDING COMMITTEE**

**SB 2054: Energy and Natural Resources Committee (Sen. Unruh, Chairman)**  
recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).  
SB 2054 was placed on the Eleventh order on the calendar.

**2019 TESTIMONY**

**SB 2054**



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TESTIMONY IN FAVOR OF SB 2054

OUTDOOR HERITAGE FUND PURPOSE AND MEMBERSHIP  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

JANUARY 31, 2019

Dawn Mandt, Executive Director  
701.520.0487 (cell)  
dawn@redriverrc.com

Chairwoman Unruh and Members of the Committee, my name is Dawn Mandt, Executive Director of the Red River Regional Council. The Regional Council has been a four-county economic development district in northeastern North Dakota for the past 45 years. I have been working on rural development in North Dakota since 1992. Thank you for the opportunity to testify on SB 2054.

I'm here to testify in favor of SB 2054. **SB 2054 provides clarity on recreation funding** and provides an avenue to support expanded outdoor recreation development. The bill also seeks to **provide statewide representation on the Outdoor Heritage Fund (OHF) Advisory Board.**

While the OHF has funded many worthy recreation projects statewide, it has accounted for only approximately 16% of the total funded projects according to early 2018 reports while it is 25% of the eligible categories. **Currently, the Advisory Board has a divided position on**

**recreation funding** and has developed a practice of requiring conservation as part of any recreation project while also attempting to categorically exclude certain types of projects. The Advisory Board Members themselves have stated their own varied interpretations of this perplexing policy which leads to divided discussion and votes on recreation applications citing to legislative intent. **From an applicant's perspective, this is confusing, and it is inconsistently applied on a case by case basis.** Nearly all funded projects are related to hunting, fishing, camping, or paths while leaving many high-quality recreation projects unfunded. Many of the unfunded projects are located in small, rural communities that are unable to complete such projects without grant funding.

Two state programs that could be used to support recreation development, the Community Recreation Grant Program through ND Parks and Recreation and the Tourism Infrastructure Grant Program through the ND Department of Commerce were discontinued in 2017. Neither program is proposed to receive funding in the current draft budget. This has left **the OHF program as the only state funding available to support community-based outdoor recreation.**

While the Advisory Board is more focused on conservation than community and economic development, the two are intrinsically related. **Outdoor recreation is one of the top drivers for overnight visits to North Dakota and tourism is the state's third largest industry.** Visiting parks, hiking, camping, fishing, hunting, mountain biking, kayaking, birding, horseback riding, snowmobiling, and skiing are common activities. Visitors as well as our existing residents enjoy our outdoor playground. We have recently resurrected the Rendezvous Region Tourism Council with approximately 80 members to market such activities in our region while we continue to focus on amenity development.

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In northeastern North Dakota, we have focused on **outdoor recreation as a high priority economic development strategy for the past five years**. Within a two-hour drive of our region, we have more than 1.2 million people. We are the only area of the state to have this population density to attract to our region. During the summer, we find our regional campgrounds at capacity and many with seasonal Canadian campers. In 2018, Icelandic State Park experienced 600 additional camper nights over 2017. In Grafton, the campground is full for several months of the year and stretching well into harvest. Stump Lake Park has a lengthy waiting list for seasonal camping. Therefore, we believe we have a key natural strength to not only draw visitors and recreation enthusiasts, but also, enhance the quality of life in our region, by providing high-quality, user-friendly recreation amenities.

For us to solidly continue outdoor recreation development in our region, **we rely on strong private and public partnerships and funding**. In the past two years, **we have secured \$3.1 million in private philanthropic gifts to support recreation**. In 2018, we opened the state's first mountain bike terrain park with a partnership between ND Parks and Recreation and the Pembina Gorge Foundation. We have completed Phase 1 which includes three downhill trails up to a mile in length. We would like to build the final four trails this coming year. We are working in lockstep with ND Parks and Recreation to implement the Pembina Gorge State Recreation Area Master Plan published in December 2014 with input from more than 400 people.

This Master Plan will continue the momentum that has been building over the past 15 years since Governor Hoeven allocated funds towards trail development in the Pembina Gorge. We aim to continue amenity development to both conserve the intrinsic values of the gorge while also providing outdoor enthusiasts (bikers, hikers, ATV riders, hunters, kayakers, birders,

archeologists) opportunities to soak themselves in nature. In 2018, the fossil dig sold out within a couple of hours. **We are reaching a tipping point** to becoming a well-visited destination.

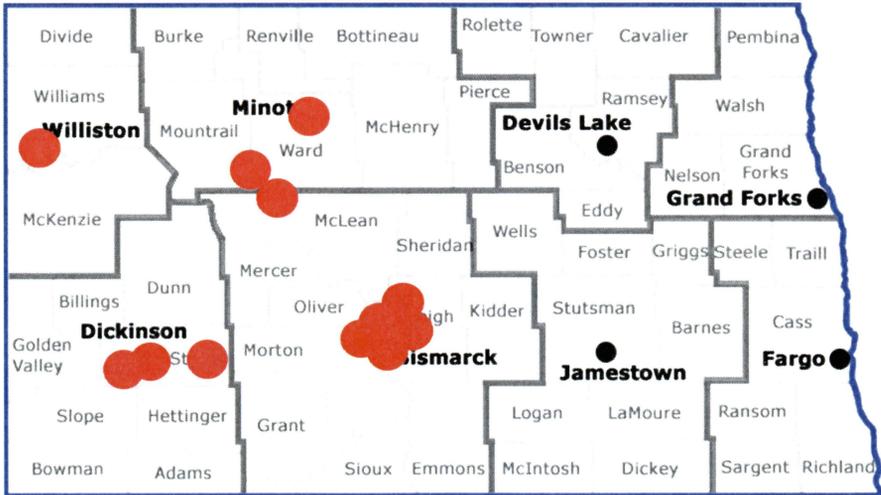
Vital to continue the momentum we have been building, we need access to funding such as could be provided by the OHF program. **Ideally, outdoor recreation funding would support the projects prioritized in the ND Parks and Recreation State Comprehensive Outdoor Recreation Plan (SCORP).** In the 2018 SCORP, 93% of North Dakotans ranked outdoor recreation as important.

And finally, SB2054 seeks statewide representation on the Advisory Board. Today, there is not a voting member of the Advisory Board that resides east Bismarck. **Statewide representation is necessary to assure statewide perspectives in the decision-making process.**

Figure 1 has red dots indicating the current geographic representation of Advisory Board members.

Again, thank you Chairwoman Unruh and members of the committee for the opportunity to testify on behalf of SB 2054. I urge your support for this important bill.

Figure 1: OHF Advisory Board Current Geographic Representation



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**TESTIMONY IN FAVOR OF SB 2054**  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

January 30, 2019

Grafton Parks and Recreation is in favor of SB 2054 to lessen the emphasis on “conservation” and to assure geographic representation on the Advisory Board.

Outdoor Recreation has been a key factor in retaining and attracting young families to our region. Many rural communities like Grafton rely on outside funding sources such as grants and public donations to provide similar outdoor recreational opportunities as our larger neighboring cities.

Most of the outdoor recreational activities we provide does not meet the eligibility criteria of the Outdoor Heritage Fund Grant Program. We would like to see less emphasis on conservation projects and an equal opportunity for funding an outdoor recreational project.

Grafton Parks and Recreation would ask that you pass SB 2054.

Thank you for your time,

Bill Dahl, Director  
Grafton Parks and Recreation  
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Grafton, ND 58237  
[bill@graftonparks.com](mailto:bill@graftonparks.com)

**DEPARTMENT OF COMMERCE TESTIMONY ON SB 2054  
JANUARY 31, 2019, 9:00 A.M.  
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
FORT LINCOLN ROOM  
SENATOR JESSICA UNRUH, CHAIR**

**SARA OTTE COLEMAN – DIRECTOR, TOURISM DIVISION AT ND DEPARTMENT OF COMMERCE**

Good morning Chair Unruh and members of the committee, I am Sara Otte Coleman Director of the Tourism Division at the North Dakota Department of Commerce.

Tourism provides strong revenue for our state and helps diversify our state's economy.

- Outdoor recreation motivates more visitors to North Dakota than any other activity
- \$5.4 billion was contributed by Tourism to the state's economy in 2016
- More than 2,300 providers and experiences listed on NDtourism.com
- 2,800 tourism businesses registered with the Secretary of State
- \$2.8 million in taxes were generated from tourism related activities in 2017
- Majority of our visitors are non-residents

Visitors impact all areas of North Dakota with visitor expenditures exceeding a million dollars in all but two of our 53 counties and exceeded \$10 million in 22 counties. Statewide visitors spent \$382.85 million on recreation in 2015.

Outdoor recreation supports local businesses and communities and is cited as a top reason to live and work in North Dakota. As we work to build healthy and vibrant communities and attract the workforce needed for our state's economy to grow, outdoor recreation offerings top the list to differentiate North Dakota.

In previous biennia the tourism division has offered matching grants for tourism operations and expansions. These dollars helped support outdoor projects like guest ranches, marinas, resorts, recreation rentals, ski lodges, campsites and pavilions. In 2016-2017, 10 projects totaling \$5.3 million dollars competed for \$586,000 in available funds. While all the projects would not fit the intent of the Outdoor Heritage Fund (OHF) it illustrates the interest and need for funding assistance.

The minor changes in SB 2054 will allow the advisory board the ability to fund broader recreation projects in keeping with legislative intent. If funded, these projects will provide more citizens access to outdoor recreation and create new attractors for our state.

Thank you for your consideration. I am happy to answer any questions.



## EXTRACTION TAX

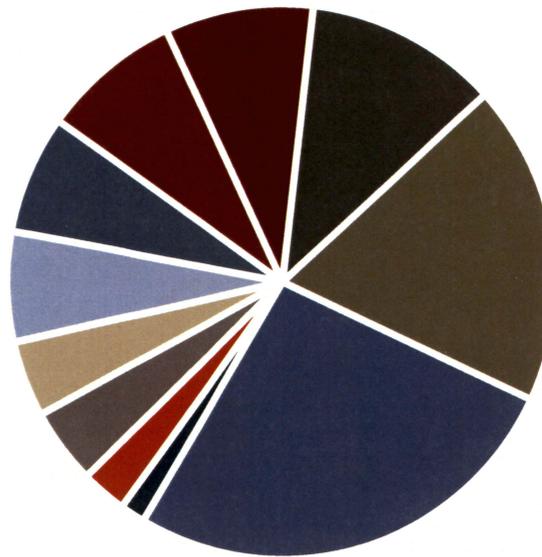
The gross value of oil production at the well, less any part which is specifically exempt. *The current extraction tax rate is 5%.*

## GROSS PRODUCTION TAX

Gross value of oil production at the well, less any part which is specifically exempt, is taxed in lieu of property taxes on the oil and gas producing properties. Gas production is taxed on a volume basis at a rate determined by the movement of a fuels cost index. *The current gross production tax rate is 5%.*

## OIL & GAS TAX DISTRIBUTIONS 2008 - 2018 FY

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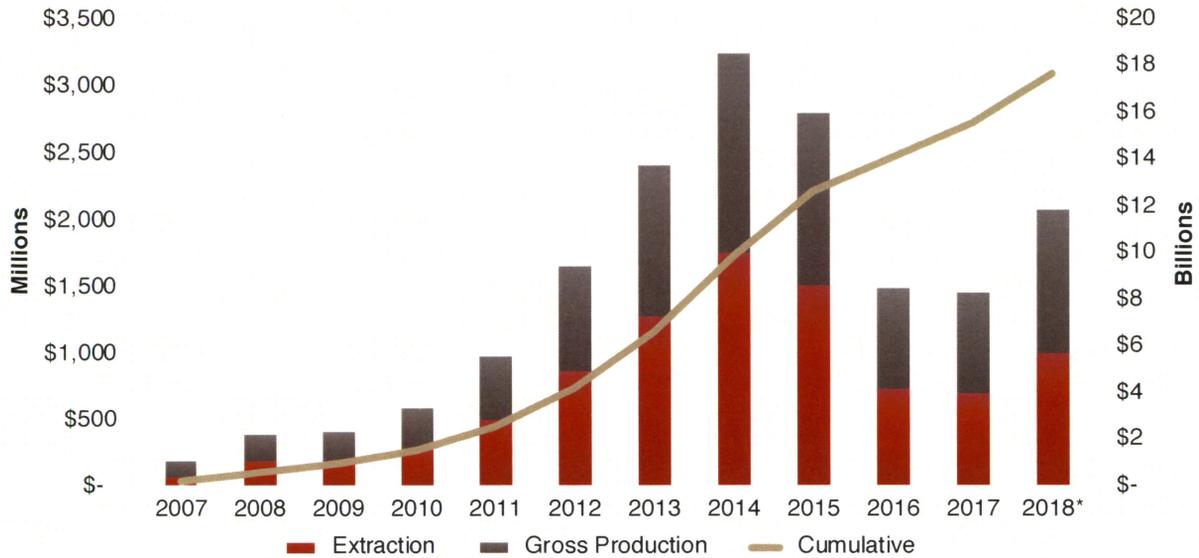
## STATE OIL TAX DISTRIBUTIONS BY TYPE

Fiscal Years 2008 - 2018

County	Property Tax	Water	Education	OHF	Transportation	One-Time/OTH	Total
Adams	\$1,657,279	\$10,921,695	\$4,155,078	\$239,167	\$6,351,443	\$3,097,412	\$26,422,014
Barnes	\$8,014,572	\$53,890,715	\$20,907,155	\$1,025,520	\$11,538,468	\$33,047,311	\$128,423,641
Benson	\$2,757,586	\$20,069,627	\$15,563,074	\$28,306	\$9,290,386	\$1,293,155	\$49,002,134
Billings	\$1,002,449	\$12,704,530	\$291,820	\$266,519	\$20,865,655	\$64,502,561	\$99,633,533
Bottineau	\$5,078,136	\$4,858,489	\$12,209,949	\$232,291	\$24,163,093	\$51,887,904	\$98,429,861
Bowman	\$2,177,349	\$10,889,597	\$8,150,694	\$239,167	\$15,643,318	\$100,020,885	\$137,121,010
Burke	\$2,233,406	\$17,769,249	\$5,004,138	\$296,625	\$22,882,359	\$75,020,206	\$123,205,982
Burleigh	\$46,117,894	\$9,931,275	\$152,726,487	\$600,945	\$11,536,359	\$7,649,701	\$228,562,662
Cass	\$93,447,481	\$322,864,894	\$275,014,305	\$828,269	\$19,669,721	\$109,098,347	\$820,923,016
Cavalier	\$4,653,007	\$13,198,676	\$6,622,241	\$196,013	\$8,518,064	\$1,705,000	\$34,893,002
Dickey	\$4,093,396	\$2,661,467	\$10,725,748	\$193,305	\$8,178,272	\$320,000	\$26,172,188
Divide	\$2,521,190	\$26,048,474	\$3,449,289	\$169,952	\$26,674,177	\$117,788,340	\$176,651,421
Dunn	\$3,043,301	\$18,244,328	\$5,901,254	\$166,278	\$44,407,390	\$259,272,118	\$331,034,669
Eddy	\$1,426,347	\$270,196	\$4,797,938	\$126,027	\$3,186,824	\$180,000	\$9,987,332
Emmons	\$2,524,731	\$243,737	\$8,915,260	\$716,422	\$5,731,200	\$443,431	\$18,574,781
Foster	\$2,606,266	\$9,494	\$7,066,456	\$71,027	\$4,226,331	\$2,680,000	\$16,659,575
Golden Valley	\$926,744	\$12,727,350	\$5,033,792	\$291,519	\$7,731,746	\$28,020,527	\$54,731,678
Grand Forks	\$39,306,299	\$54,694,625	\$112,971,191	\$663,637	\$14,404,336	\$235,483,428	\$457,523,516
Grant	\$1,813,743	\$10,904,926	\$4,337,572	\$479,496	\$5,601,170	\$484,123	\$23,621,032
Griggs	\$2,141,899	\$434,696	\$6,448,246	\$314,173	\$5,153,158	\$200,000	\$14,692,173
Hettinger	\$2,318,265	\$10,931,478	\$6,564,241	\$250,867	\$6,322,563	\$1,372,689	\$27,760,103
Kidder	\$1,505,185	\$1,525,592	\$5,573,905	\$36,575	\$7,174,494	\$400,000	\$16,215,752
LaMoure	\$3,587,429	\$3,009,493	\$9,607,926	\$938,026	\$8,528,910	\$320,000	\$25,991,785
Logan	\$1,471,032	\$-	\$5,485,241	\$339,070	\$4,570,871	\$280,000	\$12,146,214
McHenry	\$3,806,261	\$12,202,095	\$14,230,084	\$447,311	\$10,570,990	\$3,585,118	\$44,841,858
McIntosh	\$1,730,926	\$-	\$6,336,641	\$111,382	\$4,732,002	\$280,000	\$13,190,951
McKenzie	\$8,146,129	\$64,170,438	\$15,522,943	\$166,278	\$109,845,988	\$564,022,680	\$761,874,456

## TOTAL OIL TAX COLLECTIONS

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## STATE OIL TAX DISTRIBUTIONS BY TYPE

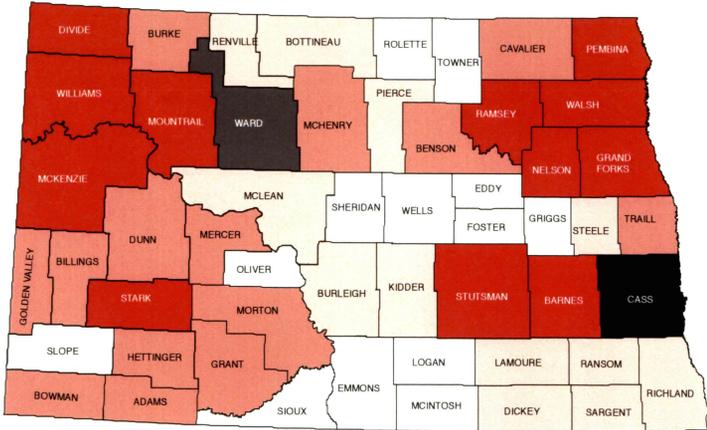
Fiscal Years 2008 - 2018

County	Property Tax	Water	Education	OHF	Transportation	One-Time/OTH	Total
Adair	\$5,388,960	\$9,981,546	\$22,674,607	\$307,952	\$12,609,122	\$18,296,008	\$69,258,195
Boone	\$3,710,430	\$21,394,367	\$15,270,822	\$265,966	\$8,306,719	\$4,475,693	\$53,423,997
Morton	\$14,917,587	\$14,838,051	\$60,432,480	\$803,751	\$11,744,710	\$6,566,616	\$109,303,195
Mountrail	\$7,521,272	\$31,196,175	\$19,314,872	\$169,952	\$120,254,126	\$403,866,532	\$582,322,930
Nelson	\$2,523,641	\$25,116,010	\$7,589,930	\$673,913	\$6,502,856	\$280,000	\$42,686,349
Oliver	\$1,214,493	\$14,773	\$3,298,751	\$352,068	\$3,916,581	\$203,622	\$9,000,288
Pembina	\$5,790,242	\$29,301,764	\$21,087,211	\$493,513	\$7,330,411	\$406,886	\$64,410,027
Pierce	\$3,144,715	\$3,135,105	\$8,173,698	\$33,340	\$4,669,540	\$444,576	\$19,600,974
Ramsey	\$6,273,272	\$56,974,227	\$28,142,240	\$375,901	\$6,887,147	\$12,787,585	\$111,440,372
Ransom	\$3,579,749	\$2,160,086	\$13,365,987	\$1,031,839	\$5,707,555	\$14,775,360	\$40,620,576
Renville	\$2,049,807	\$3,132,295	\$8,859,756	\$147,550	\$11,253,406	\$34,112,495	\$59,555,308
Richland	\$11,184,335	\$7,994,169	\$33,182,327	\$382,111	\$8,834,718	\$40,409,849	\$101,987,509
Rolette	\$1,911,353	\$-	\$38,980,489	\$93,340	\$5,463,142	\$300,000	\$46,748,324
Sargent	\$3,593,610	\$4,495,414	\$10,810,456	\$345,610	\$7,338,319	\$300,000	\$26,883,410
Sheridan	\$1,096,943	\$746,338	\$2,307,870	\$55,742	\$4,693,473	\$281,400	\$9,181,766
Sioux	\$386,770	\$-	\$7,379,448	\$52,068	\$3,445,685	\$288,110	\$11,552,080
Slope	\$632,719	\$9,600	\$117,419	\$266,519	\$5,358,237	\$14,384,466	\$20,768,961
Stark	\$19,292,078	\$68,803,521	\$49,587,775	\$1,177,592	\$45,244,553	\$289,968,471	\$474,073,990
Steele	\$2,761,777	\$5,413,976	\$4,044,522	\$71,515	\$4,932,986	\$200,000	\$17,424,776
Stutsman	\$12,253,679	\$27,635,603	\$38,830,443	\$1,885,380	\$12,256,352	\$1,653,529	\$94,514,986
Towner	\$2,274,940	\$1,144,134	\$4,084,222	\$450,243	\$4,435,010	\$320,000	\$12,708,549
Tyler	\$5,640,750	\$13,713,797	\$17,780,579	\$279,400	\$7,822,795	\$16,312,578	\$61,549,899
Ward	\$6,947,437	\$29,761,118	\$23,882,041	\$493,513	\$12,609,379	\$400,000	\$74,093,488
Ward	\$39,296,054	\$136,972,604	\$121,898,859	\$1,092,385	\$23,447,801	\$135,071,056	\$457,778,758
Wells	\$3,715,765	\$904,518	\$8,167,986	\$145,642	\$6,264,759	\$360,000	\$19,558,670
Williams	\$23,037,155	\$71,849,755	\$53,468,838	\$235,452	\$99,835,331	\$695,357,186	\$943,783,716
<b>Total</b>	<b>\$440,247,835</b>	<b>\$1,261,866,083</b>	<b>\$1,356,346,293</b>	<b>\$21,116,423</b>	<b>\$878,664,000</b>	<b>\$3,354,276,954</b>	<b>\$7,312,517,589</b>

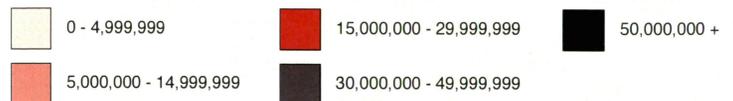
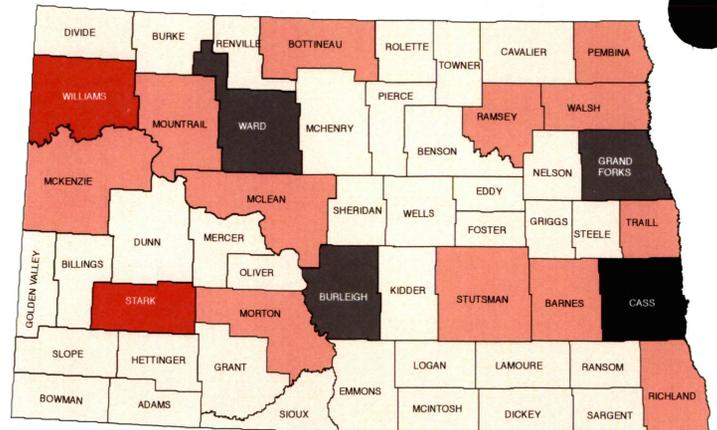
# BENEFITS FOR THE ENTIRE STATE

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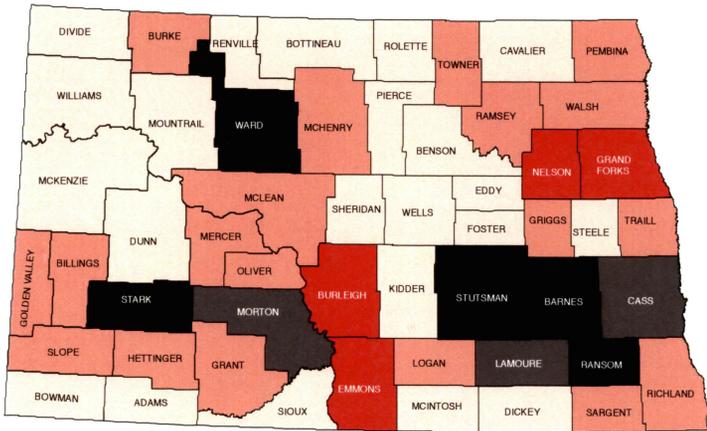
## WATER PROJECT FUNDING



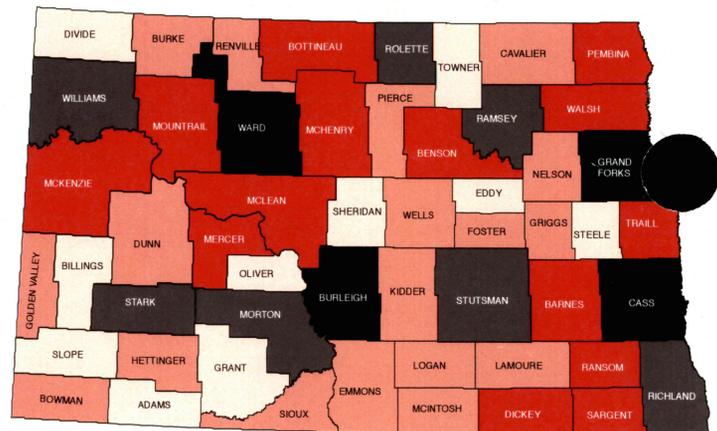
## PROPERTY TAX BUYDOWN



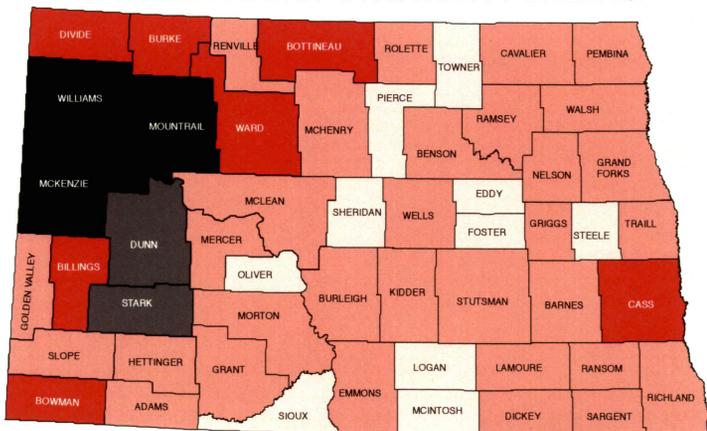
## OUTDOOR HERITAGE FUND



## SCHOOL FUNDING



## LOCAL TRANSPORTATION FUNDING



The oil and gas taxes are deposited into various trust funds that are used to support investments around the state. These funds include the Resource Trust fund for water projects, Common Schools and Foundation Aid Funds that support K-12 education, and the Outdoor Heritage Fund that provides grants for projects that enhance, preserve and expand outdoor recreation and conservation efforts in the state.

For more information visit: [TaxStudy.NDEnergy.org](http://TaxStudy.NDEnergy.org)



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# INDUSTRIAL COMMISSION OF NORTH DAKOTA

## OUTDOOR HERITAGE FUND

Governor  
**Doug Burgum**  
Attorney General  
**Wayne Stenehjem**  
Agriculture Commissioner  
**Doug Goehring**  
  
Executive Director/Secretary  
Karlene Fine

**Background** - The Outdoor Heritage Fund (OHF) was created by the Legislature in 2013 to provide grants to state agencies, tribal governments, political subdivisions, and nonprofit organizations, with higher priority given to projects that enhance conservation practices in this state for four directives that are outlined below, along with a sampling of projects that have been funded under each directive.

**Directive A** - Provide access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen.

- Schatz Point Fishing Pier – This project will assist with the installation of a handicap accessible fishing pier at Lake Tschida that will offer the public opportunities to access depths of 18' regardless of abilities or financial means. OHF is providing \$42,500 of the \$57,598 total project costs.

**Directive B** - Improve, maintain, and restore water quality, soil conditions, plant diversity, animal systems and to support other practices of stewardship to enhance farming and ranching.

- North Central Soil Health & Habitat – This project will work with 10-20 growers over 3 years to impact 3,250 grower designated salt impacted acres from annual crop production and establish deep rooted salt tolerant perennial vegetation. The use of cover crops on adjacent acres will be an additional practice to further promote soil health and salinity management. Workshops will also be held. OHF is providing \$52,500 of the \$288,625 total project costs.

**Directive C** - Develop, enhance, conserve, and restore wildlife and fish habitat on private and public lands.

- North Dakota Hen House Project II – This project includes the installation of 200 hen houses in the Woodworth and Carrington region. Delta Waterfowl biologists estimate that over 16,000 mallard ducklings will hatch in these hen houses over the next 10 years. The houses will be monitored and maintained for the next 10 years. OHF is providing \$26,300 of the \$60,900 total project costs.

**Directive D** - Conserve natural areas for recreation through the establishment and development of parks and other recreation areas.

- Sheyenne River Water Trail Development – This project will improve accessibility and informational materials for canoeing, kayaking, fishing, camping, and hunting access opportunities on Sheyenne River. The Sheyenne River has multiple scattered parcels of public lands that have limited or no access by road due to private land and therefore see minimal public use. This project will improve 4 main access points including a trailhead and provide the public with information including a map, camping opportunities, safety concerns, and rules. OHF is providing \$8,700 of the \$16,300 total project costs.

During the 2017-2019 biennium, the OHF is capped at \$10 million, after which it will be capped at \$40 million per biennium. To date, \$41,020,082 has been approved for funding. It

Randy Bina	Joshua DeMorrett	Tyler Dokken	Jay Elkin	Carolyn Godfread	Tom Hutchens
Robert Kuylen	Daryl Lies	Jim Melchior, Chairman	Wade Moser	Kent Reiersen	Patricia Stockdill
Ex-officio:	Melissa Baker	Tom Claeys	Terry Steinwand	Rhonda Vetsch	



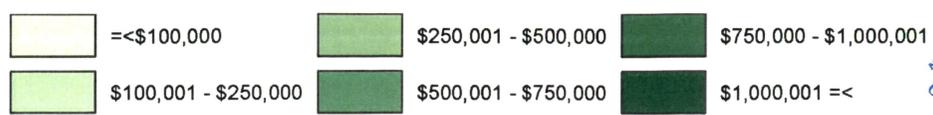
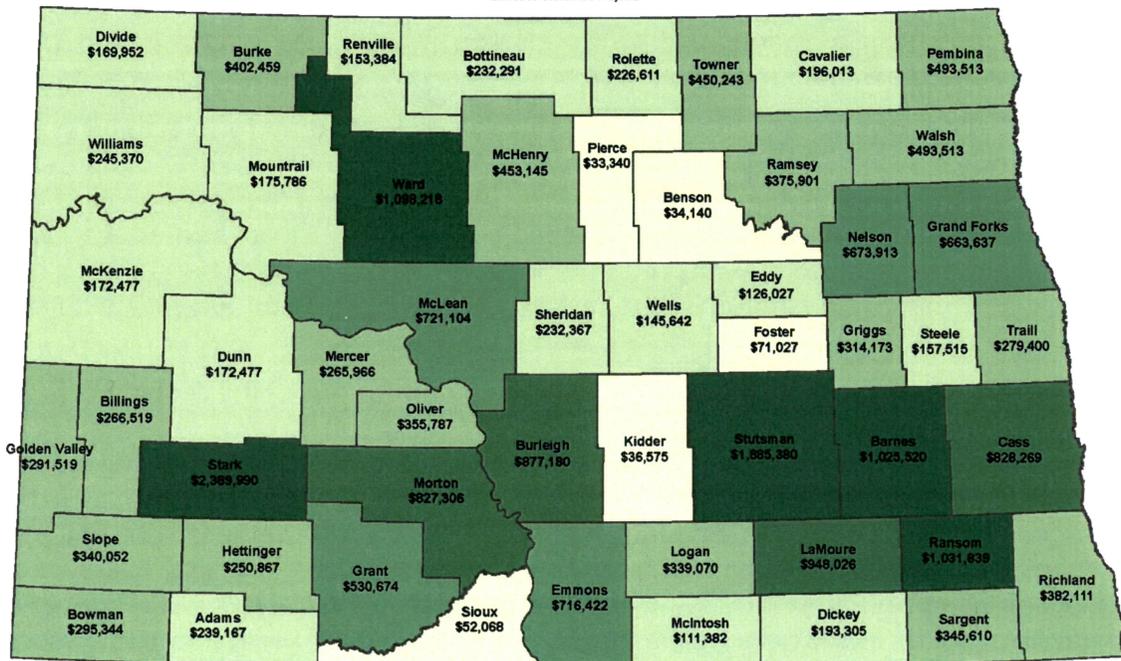
is governed by the Industrial Commission consisting of Governor Doug Burgum, Chairman, Attorney General Wayne Stenehjem and Agriculture Commissioner Doug Goehring. A 16-member advisory board (12 voting members) reviews applications from eligible organizations.

**Funding Guidelines** - A 25% match is required. Except for extenuating circumstances, the Commission cannot consider funding for projects already completed; feasibility or research studies; maintenance costs; paving projects for roads and parking lots; swimming pools or aquatic parks, and personal property that is not affixed to the land. Funding for playground equipment is limited to 25% of the cost of the equipment up to \$10,000 per project. Funding for staffing or outside consultants for the design and implementation of the project (based on documented need) may not exceed 5% of the grant if the grant exceeds \$250,000 and may not exceed 10% if the grant is \$250,000 or less. By policy, the Industrial Commission has stated that unless there is a finding of exceptional circumstances, the following projects are not eligible: construction or refurbishment of indoor/outdoor ice rinks, construction or refurbishment of indoor/outdoor athletic courts and sports fields, and infrastructure that is not part of a comprehensive conservation plan. The goal of the Industrial Commission is that at a minimum, 15% of the funding received for a biennium will be given priority for recreation projects that meet Directive D.

Projects can be specific to certain locations, or statewide. The density map below shows the amount of project specific funding per county.

**North Dakota Outdoor Heritage Fund**  
Awards by County, Grant Rounds 1-13

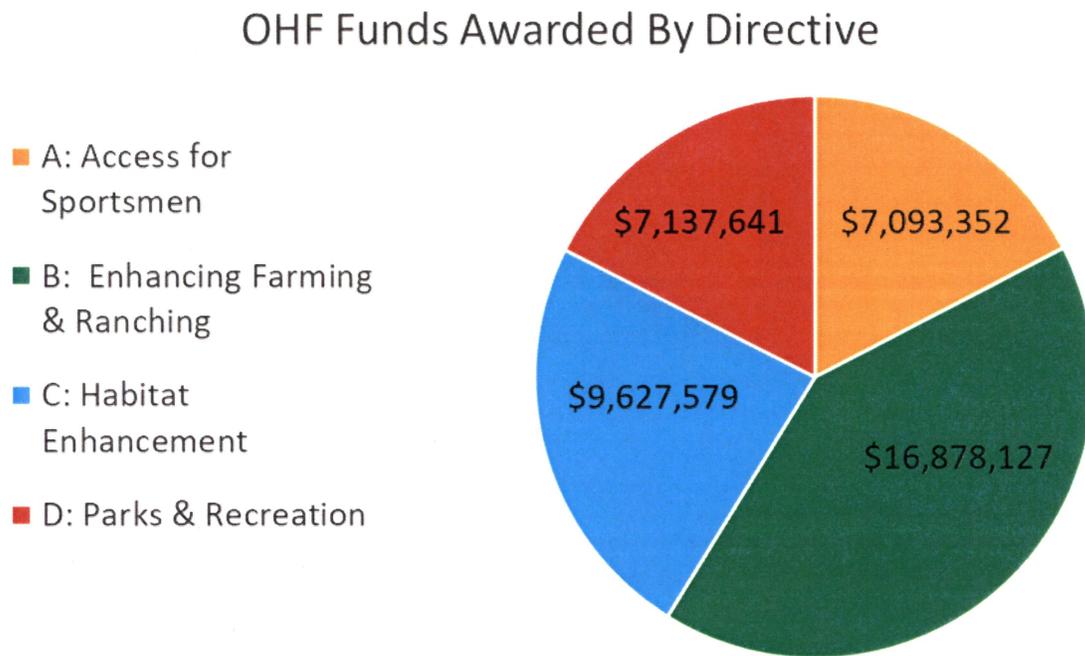
\*Excludes Statewide Projects



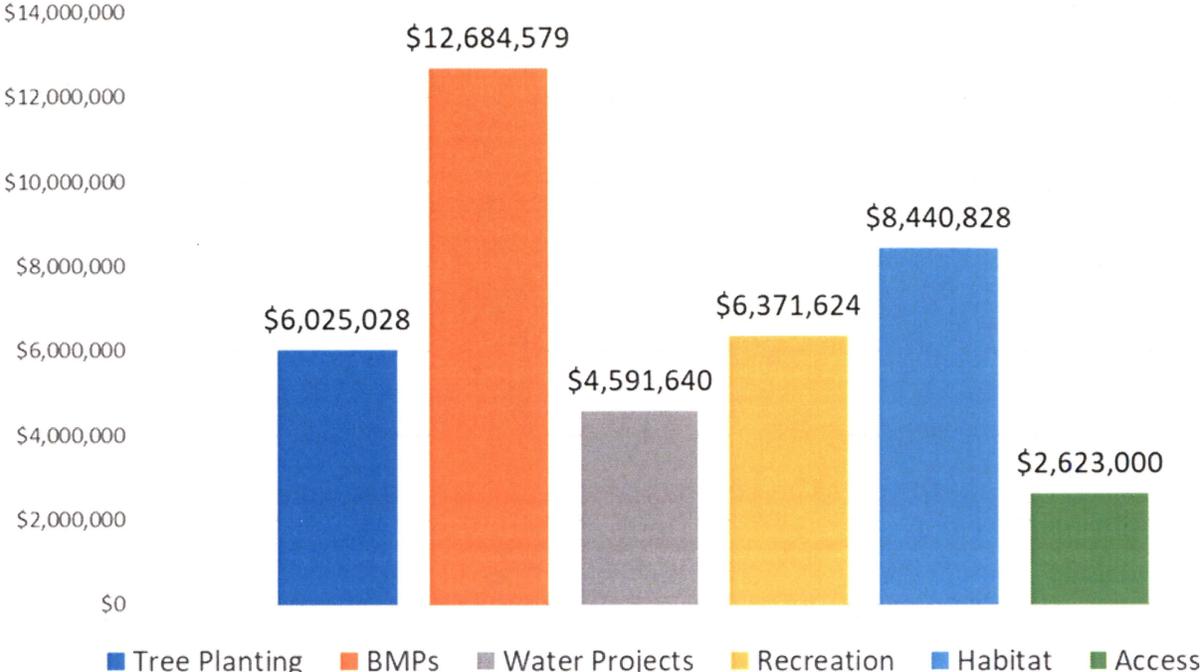
There have been many statewide projects funded as well. These projects include a variety of activities including tree planting, agricultural best management practices, habitat establishment, and access for sportsmen. Below is a breakout of statewide vs. site specific awards:

- Amount awarded for site specific projects: \$23,789,587 (58%)
- Amount awarded for statewide projects: \$17,230,495 (42%)
- Total amount awarded: \$41,020,082

The following charts demonstrate OHF awards by directive and activity type.

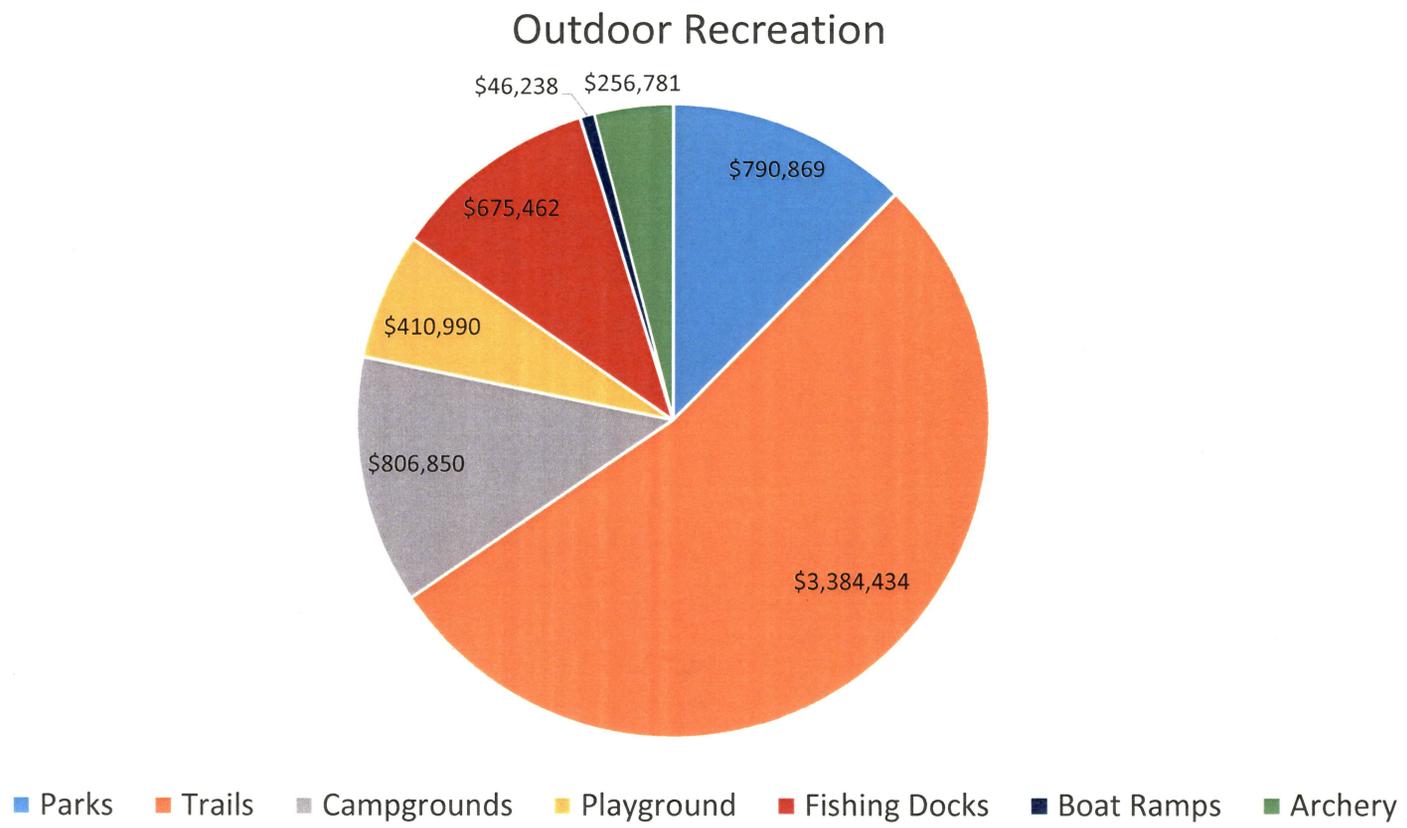


### OHF Funds Awarded by Activity



*\*While the total approved award amount is \$41,020,082, projects that were approved and subsequently withdrawn by the recipient(s) are not included in the above charts. Tree planting occurs in small amounts in other activities. Examples of Best Management Practices (BMPs) include: perimeter fencing, cross fencing, wells, tanks, pipelines, cover crops, and grass planting.*

# Outdoor Recreation – \$6,371,624



\*Through R13



**Ducks Unlimited**

**TESTIMONY IN OPPOSITION TO SB 2054  
Carmen Miller, Director of Public Policy, Ducks Unlimited  
North Dakota Senate Energy and Natural Resources Committee  
January 31, 2019**

Good morning, Chairwoman Unruh, and members of the committee. My name is Carmen Miller and I am the Director of Public Policy for Ducks Unlimited's Great Plains Region in Bismarck, submitting this written testimony in opposition to SB 2054. Ducks Unlimited was founded in 1937 and is now the world's largest private waterfowl and wetlands conservation organization, with over 80 years of experience restoring and protecting wetlands and other aquatic habitat. DU has been working in North Dakota for over 30 years, has over 4000 members in the State, has invested over \$100 million in North Dakota, and employs a staff of over 40 in an office in Bismarck which serves as a regional headquarters for 7 states.

Ducks Unlimited works with conservation funds like the Outdoor Heritage Fund throughout the country, and strongly supports state-based funding for conservation and recreation. These funds have a long track record of providing important resources for wildlife habitat, clean water, and healthy communities. Since its inception in 2013, the Outdoor Heritage Fund has been popular – over 175 groups from across the state have applied for grants, over \$41 million in grant funds have been awarded, and every county in the state has benefitted from the fund. Projects have ranged from bike trails to city parks to wildlife habitat to water quality improvement. The fund has attracted more than dollar-for-dollar matching, created innovative private-public partnerships and generated considerable return on investment for a highly efficient use of oil and gas tax revenue.

SB 2054 is concerning because it proposes to shift the focus of the fund away from conservation, without any specifics or additional funding. There are four clear directives outlining criteria and categories of funding, with a priority given to projects that enhance conservation practices in the state. The attached pie chart shows the distribution of funds during the past biennium. While Directive B, enhanced farming and ranching practices, has certainly received the largest piece of the pie, the other directives are far from ignored. Over \$7 million has been awarded to parks and recreation projects under Directive D. It is also important to note that the Industrial Commission has a goal of providing at least 15% of the fund to recreation projects outlined in Directive D. Any discussion of re-prioritizing the fund needs to be more comprehensive than what is proposed in SB 2054, with a consideration of parameters and possible additional funding.

Another factor to consider is the fiscal element of the fund, which will change dramatically during the next biennium. During the 2017 Legislative Session, the cap on the fund was reduced to \$10 million per biennium. This reduction is set to sunset at the end of the biennium, restoring the cap to \$40 million per biennium – while this should be happening automatically, there are also two separate tax bills which confirm this. With an additional \$15 million each year, there will be considerably more funding available for all the directives. The Outdoor Heritage Fund is still young and evolving, and it should be allowed to operate under more typical fiscal circumstances before the statute is changed.

The proposal in SB 2054 to require a “geographic balance” in the advisory board is unnecessary. First, the attached map illustrates that even without this requirement in board makeup, the fund has benefitted the entire state, with money being spent in every county of North Dakota. Geographic balance in the fund’s expenditures is already being accomplished. Also, the advisory board is appointed by the Governor, and if there is a desire to change the geographic makeup of the board, that can be addressed through conversations with the Governor, and the groups who are represented on the board, without a statutory change.

The Outdoor Heritage Fund is the state’s only source of funding dedicated to the type of critical quality of life infrastructure that is so necessary as our state continues to grow. Vibrant communities depend on parks, trails, and other outdoor recreation opportunities, all important factors in attracting and retaining a quality workforce. In five years, the Outdoor Heritage Fund has become a very successful and unprecedented working partnership between sportsmen, conservation, agriculture, recreation, landowners, and energy. Continued support for the OHF will help address these important needs, provide great benefits to our communities and landowners across the state, and generate a significant return on investment back to our state’s economy.

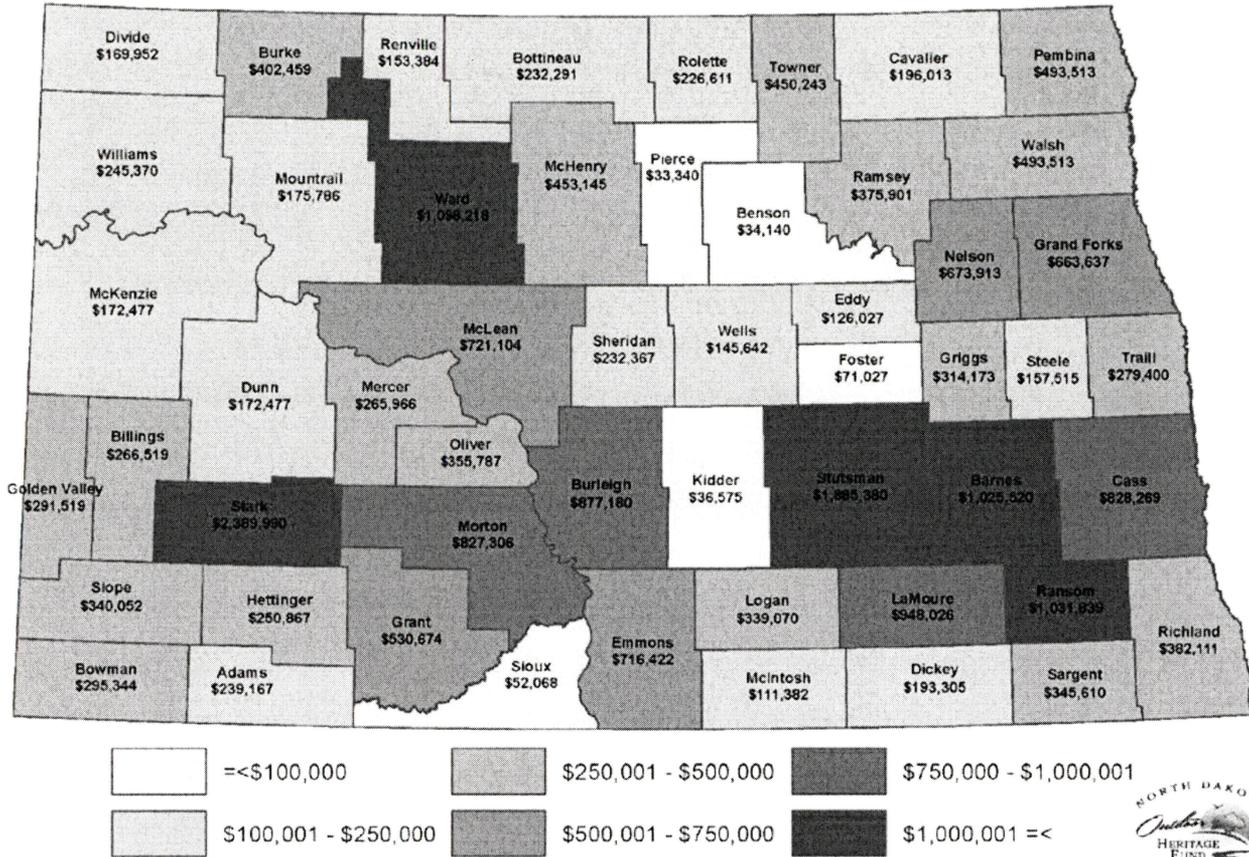
We ask you to adopt a do not pass recommendation for SB 2054. Thank you for your time and consideration of this important matter, and for your service to the State of North Dakota.

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## North Dakota Outdoor Heritage Fund

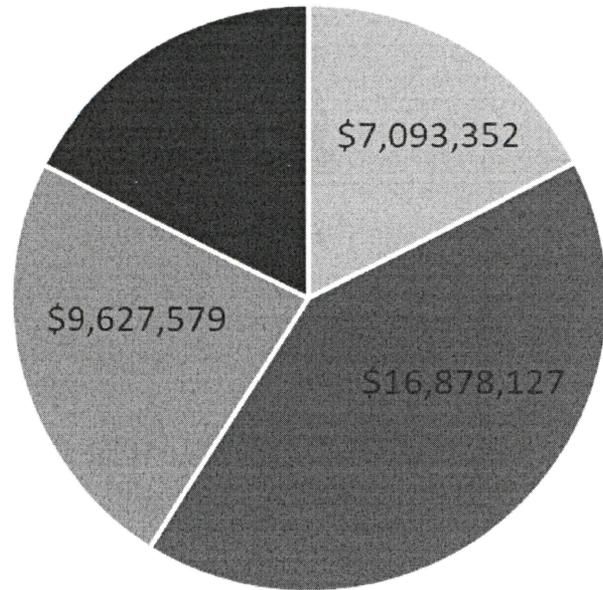
### Awards by County, Grant Rounds 1-13

\*Excludes Statewide Projects



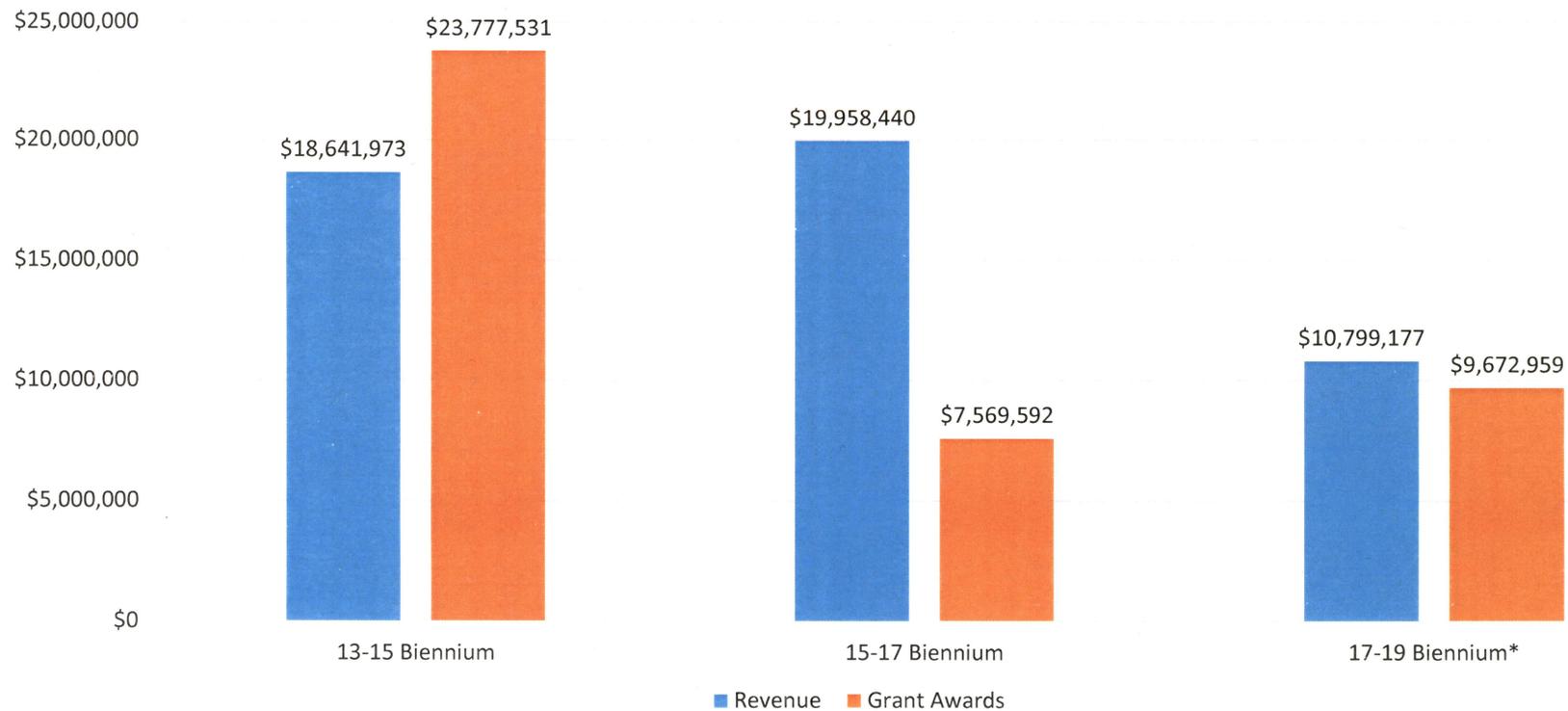
### OHF Funds Awarded By Directive

- A: Access for Sportsmen
- B: Enhancing Farming & Ranching
- C: Habitat Enhancement
- D: Parks & Recreation



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# OHF Funds Received and Awarded by Biennium



\*Funds received through 10/2018