

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1432

Introduced by

Representatives Brandenburg, Belter, Boe, Headland, D. Johnson, Kasper, Kempenich,  
Thoreson

Senators Dotzenrod, Erbele, Schaible, Wanzek

1 A BILL for an Act to create and enact two new sections to chapter 4-01 of the North Dakota  
2 Century Code, relating to the environmental impact litigation fund; ~~to provide for a continuing~~  
3 ~~appropriation; and~~ to provide for a transfer; and to provide an appropriation.

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

5 **SECTION 1.** A new section to chapter 4-01 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Environmental impact litigation advisory committee.**

- 8 1. The environmental impact litigation advisory committee consists of:
- 9 a. The commissioner of agriculture, who shall serve as the chairman;
- 10 b. The governor or the governor's designee;
- 11 c. The majority leader of the house of representatives, or the leader's designee;
- 12 d. The majority leader of the senate, or the leader's designee;
- 13 ~~e. One individual appointed by the North Dakota stockmen's association~~
- 14 ~~f. One individual appointed by the North Dakota corn growers association;~~
- 15 ~~g. One individual appointed by the North Dakota soybean growers association;~~
- 16 ~~h. One individual appointed by the North Dakota wheat commission;~~
- 17 ~~i. One individual appointed by the North Dakota grain growers association;~~
- 18 ~~j. One individual appointed by the lignite energy council; and~~
- 19 ~~k. One individual appointed by the North Dakota petroleum council;~~
- 20 e. One individual appointed by the lignite energy council;
- 21 f. One individual appointed by the North Dakota corn growers association;
- 22 g. One individual appointed by the North Dakota grain growers association;
- 23 h. One individual appointed by the North Dakota petroleum council;

- 1 i. One individual appointed by the North Dakota soybean growers association; and
- 2 j. One individual appointed by the North Dakota stockmen's association.

3 2. The committee shall advise the agriculture commissioner with respect to expenditures  
4 from the environmental impact litigation fund.

5 **SECTION 2.** A new section to chapter 4-01 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Environmental impact litigation fund - ~~Continuing appropriation~~ - Purpose.**

8 1. The environmental impact litigation fund consists of:

9 a. Any moneys appropriated or transferred for the purposes set forth in this section;  
10 and

11 b. Any gifts, grants, and donations forwarded to the agriculture commissioner for the  
12 purposes of this section.

13 2. ~~All moneys in the environmental impact litigation fund are appropriated on a continuing~~  
14 ~~basis to the agriculture commissioner~~ Moneys in the environmental impact litigation  
15 fund may be used, subject to legislative appropriations, for any expenses incurred in  
16 the consideration of, the pursuit of, or the participation in administrative or judicial  
17 matters, including litigation, pertaining to:

18 a. Exempt and nonexempt activities governed by section 404 of the Clean Water  
19 Act [33 U.S.C. 1344] or by regulations implementing section 404 of the Clean  
20 Water Act; ~~and~~

21 b. Any potential detriment to the state or to industries operating within the state as a  
22 result of governmental interpretations pertaining to the Clean Air Act of 1970, as  
23 amended, [42 U.S.C. 7401, et seq.] or any regulations implementing the Clean  
24 Air Act;

25 c. Any potential detriment to the state or to industries operating within the state as a  
26 result of governmental interpretations pertaining to the Endangered Species Act  
27 of 1973, as amended, [16 U.S.C. 1531, et seq.] or any regulations implementing  
28 the Endangered Species Act;

29 d. Any potential detriment to the state or to industries operating within the state as a  
30 result of governmental interpretations pertaining to the Safe Drinking Water Act,

1 as amended, [42 U.S.C. 300f, et seq.] or any regulations implementing the Safe  
2 Drinking Water Act;

3 e. Any potential detriment to the state or to industries operating within the state as a  
4 result of governmental interpretations pertaining to the Toxic Substances Control  
5 Act, as amended, [15 U.S.C. 2601, et seq.] or any regulations implementing the  
6 Toxic Substances Control Act; and

7 f. Any potential detriment to the state or to industries operating within the state as a  
8 result of governmental interpretations pertaining to any other federal law or tribal  
9 law, or to any regulations implementing such a law.

10 3. For purposes of this section, "expenses" include consulting fees, research costs,  
11 expert witnesses, attorney fees, and travel costs.

12 **SECTION 3. APPROPRIATION AND TRANSFER - ENVIRONMENTAL IMPACT**

13 **LITIGATION FUND.** There is hereby appropriated out of any moneys in the general fund in the  
14 state treasury, not otherwise appropriated, the sum of ~~\$5,000,000~~\$4,000,000, or so much of the  
15 sum as may be necessary, which sum the office of management and budget shall transfer to the  
16 environmental impact litigation fund, for the purpose of funding environmental impact litigation  
17 and related activities, during the biennium beginning July 1, 2015, and ending June 30, 2017.  
18 The office of management and budget shall transfer funds under this section at the time and in  
19 the amount directed by the agriculture commissioner.

20 **SECTION 4. APPROPRIATION - ENVIRONMENTAL IMPACT LITIGATION FUND -**

21 **EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL - TRANSFER**

22 **AUTHORITY.** There is appropriated out of any moneys in the environmental impact litigation  
23 fund in the state treasury, not otherwise appropriated, the sum of \$4,000,000, or so much of the  
24 sum as may be necessary, to the office of management and budget for the purpose of providing  
25 transfers to state agencies as provided in this section, for the biennium beginning July 1, 2015,  
26 and ending June 30, 2017. Subject to emergency commission and budget section approval, the  
27 office of management and budget shall transfer the funds provided in this section to state  
28 agencies for environmental impact litigation activities as recommended by the environmental  
29 impact litigation advisory committee.