

Sixty-fourth
Legislative Assembly
of North Dakota

REENGROSSED 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 transfer; and~~
3 | ~~to provide an appropriation.~~ for an Act to create and enact four new sections to chapter 4-01 of
4 | the North Dakota Century Code, relating to federal environmental legislation and regulations
5 | that detrimentally impact or have the potential to detrimentally impact the state's agricultural,
6 | energy, or oil production sectors; to provide for a transfer; to provide for a continuing
7 | appropriation; and to provide an appropriation.

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

9 | ~~— **SECTION 1.** A new section to chapter 4-01 of the North Dakota Century Code is created~~
10 | ~~and enacted as follows:~~

11 | ~~— **Environmental impact litigation advisory committee.**~~

12 | ~~— 1. The environmental impact litigation advisory committee consists of:~~

13 | ~~— a. The commissioner of agriculture, who shall serve as the chairman;~~

14 | ~~— b. The governor or the governor's designee;~~

15 | ~~— c. The majority leader of the house of representatives, or the leader's designee;~~

16 | ~~— d. The majority leader of the senate, or the leader's designee;~~

17 | ~~— e. One individual appointed by the lignite energy council;~~

18 | ~~— f. One individual appointed by the North Dakota corn growers association;~~

19 | ~~— g. One individual appointed by the North Dakota grain growers association;~~

20 | ~~— h. One individual appointed by the North Dakota petroleum council;~~

21 | ~~— i. One individual appointed by the North Dakota soybean growers association; and~~

22 | ~~— j. One individual appointed by the North Dakota stockmen's association.~~

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

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

5 — **Environmental impact litigation fund - Purpose.**

6 — 1. — The environmental impact litigation fund consists of:

7 — a. — Any moneys appropriated or transferred for the purposes set forth in this section;
8 and

9 — b. — Any gifts, grants, and donations forwarded to the agriculture commissioner for the
10 purposes of this section.

11 — 2. — Moneys in the environmental impact litigation fund may be used, subject to legislative
12 appropriations, for any expenses incurred in the consideration of, the pursuit of, or the
13 participation in administrative or judicial matters, including litigation, pertaining to:

14 — a. — Exempt and nonexempt activities governed by section 404 of the Clean Water
15 Act [33 U.S.C. 1344] or by regulations implementing section 404 of the Clean
16 Water Act;

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

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

25 — d. — Any potential detriment to the state or to industries operating within the state as a
26 result of governmental interpretations pertaining to the Safe Drinking Water Act,
27 as amended, [42 U.S.C. 300f, et seq.] or any regulations implementing the Safe
28 Drinking Water Act;

29 — e. — Any potential detriment to the state or to industries operating within the state as a
30 result of governmental interpretations pertaining to the Toxic Substances Control

1 ~~Act, as amended, [15 U.S.C. 2601, et seq.] or any regulations implementing the~~
2 ~~Toxic Substances Control Act; and~~
3 ~~f. Any potential detriment to the state or to industries operating within the state as a~~
4 ~~result of governmental interpretations pertaining to any other federal law or tribal~~
5 ~~law, or to any regulations implementing such a law.~~
6 ~~3. For purposes of this section, "expenses" include consulting fees, research costs,~~
7 ~~expert witnesses, attorney fees, and travel costs.~~

8 ~~**SECTION 3. APPROPRIATION AND TRANSFER -- ENVIRONMENTAL IMPACT**~~

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

16 ~~**SECTION 4. APPROPRIATION -- ENVIRONMENTAL IMPACT LITIGATION FUND --**~~

17 ~~**EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL -- TRANSFER**~~

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

26 **SECTION 1.** A new section to chapter 4-01 of the North Dakota Century Code is created
27 and enacted as follows:
28 **Federal environmental law impact review committee.**
29 **1. The federal environmental law impact review committee consists of:**
30 **a. The agriculture commissioner, who shall serve as the chairman;**
31 **b. The governor or the governor's designee;**

1 c. The majority leader of the house of representatives, or the leader's designee;

2 d. The majority leader of the senate, or the leader's designee;

3 e. One member of the legislative assembly from the minority party, selected by the
4 chairman of the legislative management;

5 f. One individual appointed by the lignite energy council;

6 g. One individual appointed by the North Dakota corn growers association;

7 h. One individual appointed by the North Dakota grain growers association;

8 i. One individual appointed by the North Dakota petroleum council;

9 j. One individual appointed by the North Dakota soybean growers association; and

10 k. One individual appointed by the North Dakota stockmen's association.

11 2. The committee shall review federal environmental legislation and regulations that
12 detrimentally impact or have the potential to detrimentally impact the state's
13 agricultural, energy, or oil production sectors and advise the attorney general with
14 respect to participation in administrative or judicial processes pertaining to such
15 legislation or regulations.

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

18 **Environmental impact - Cost of participation.**

19 1. If the attorney general elects to participate in an administrative or judicial process, as
20 recommended by the review committee under section 1 of this Act, any expenses
21 incurred by the attorney general in the participation must be paid by the agriculture
22 commissioner from the federal environmental law impact review fund.

23 2. For purposes of this section, "expenses" include consulting fees, research costs,
24 expert witness fees, attorney fees, and travel costs.

25 **SECTION 3.** A new section to chapter 4-01 of the North Dakota Century Code is created
26 and enacted as follows:

27 **Gifts - Grants - Donations.**

28 The agriculture commissioner may accept gifts, grants, and donations for the purposes set
29 forth in section 2 of this Act, provided the commissioner posts the amount and source of any
30 gifts, grants, and donations on the department of agriculture's website. Any moneys received in

1 accordance with this section must be deposited in the federal environmental law impact review
2 fund.

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

5 **Federal environmental law impact review fund - Continuing appropriation.**

6 1. The federal environmental law impact review fund consists of:

7 a. Any moneys appropriated or transferred for the purposes set forth in section 2 of
8 this Act; and

9 b. Any gifts, grants, and donations forwarded to the agriculture commissioner for the
10 purposes set forth in section 2 of this Act.

11 2. All moneys in the federal environmental law impact review fund are appropriated to the
12 commissioner on a continuing basis for the purposes set forth in section 2 of this Act.

13 **SECTION 5. APPROPRIATION - TRANSFER - FEDERAL ENVIRONMENTAL LAW**

14 **IMPACT REVIEW FUND.** There is appropriated out of any moneys in the general fund in the
15 state treasury, not otherwise appropriated, the sum of \$4,000,000, or so much of the sum as
16 may be necessary, which sum the office of management and budget shall transfer to the federal
17 environmental law impact review fund, for the purpose of funding the state's participation in
18 administrative or judicial processes based on federal environmental legislation or regulations
19 that detrimentally impact or have the potential to detrimentally impact the state's agricultural,
20 energy, or oil production sectors, for the biennium beginning July 1, 2015, and ending June 30,
21 2017. The office of management and budget shall transfer sums under this section at the time
22 and in the amount directed by the agriculture commissioner.