

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1400

Introduced by

Representatives Brandenburg, Grueneich, Headland, Kempenich, Pyle, Schreiber-Beck
Senators Conley, Erbele, Kessel, Wanzek, Weber

1 A BILL for an Act to create and enact a new section to chapter 4.1-01 of the North Dakota
2 Century Code, relating to conservation easements and leaseholds; and to amend and reenact
3 sections 4.1-01-21, 4.1-01-21.1, and 49-22-09.2 of the North Dakota Century Code, relating to
4 the federal environmental law impact review fund, the environmental impact mitigation fund, and
5 mitigating environmental impacts; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Section 4.1-01-21 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **4.1-01-21. Federal environmental law impact review fund - Continuing appropriation -**
10 **Investments.**

- 11 1. The federal environmental law impact review fund consists of:
- 12 a. Any moneys appropriated or transferred for the purposes set forth in section
13 4.1-01-19; ~~and~~
- 14 b. Any gifts, grants, and donations forwarded to the commissioner for the purposes
15 set forth in section 4.1-01-19; and
- 16 c. Any interest or investment earnings upon moneys in the fund.
- 17 2. All moneys in the federal environmental law impact review fund are appropriated to the
18 commissioner on a continuing basis for the purposes set forth in section 4.1-01-19.
19 The state treasurer may invest moneys in the fund in accordance with section
20 21-10-07.

21 **SECTION 2. AMENDMENT.** Section 4.1-01-21.1 of the North Dakota Century Code is
22 amended and reenacted as follows:

1 **4.1-01-21.1. Environmental impact mitigation fund - Report to legislative**
2 **management - Continuing appropriation - Investments.**

- 3 1. There is created in the state treasury the environmental impact mitigation fund. The
4 fund consists of all moneys deposited in the fund under section 49-22-09.2 and all
5 interest or investment earnings upon moneys in the fund. All moneys in the fund are
6 appropriated to the commissioner on a continuing basis for disbursement by the
7 commissioner in accordance with this section. The state treasurer may invest moneys
8 in the fund in accordance with section 21-10-07.
- 9 2. Moneys in the fund may be used only for:
- 10 a. Consultation with environmental scientists or engineers, industry specialists, or
11 others for relevant services to analyze or implement mitigation required from the
12 impact of development; ~~and~~
- 13 b. Creation, restoration, or mitigation of similar habitat affected by the construction
14 or operation of an energy conversion or transmission facility. Mitigation of
15 adverse impacts from development under this section shall be conducted in the
16 following order of priority:
- 17 (1) The area immediately impacted by the development;
- 18 (2) The county impacted by the development;
- 19 (3) The region impacted by the development; and
- 20 (4) Other areas within the state; and
- 21 c. Purchasing and maintaining easements or leaseholds.
- 22 3. The commissioner is not subject to chapter 54-44.4 when contracting for services
23 under this chapter.
- 24 4. In consultation with the federal environmental law impact review committee, the
25 commissioner shall adopt rules pursuant to chapter 28-32 to implement the provisions
26 of this section.
- 27 5. Easements or leaseholds purchased by a person to mitigate adverse environmental
28 effects of the construction or operation of an energy conversion or transmission facility
29 under chapter 49-22 must be limited to the operational life of the facility as defined
30 under chapter 49-22. Any payment made to mitigate adverse environmental effects of
31 the construction or operation of an energy conversion or transmission facility under

1 chapter ~~49-22~~ section 49-22-09.2 must be made to the commissioner who shall deposit
2 the payment into the environmental impact mitigation fund. Prior to the public service
3 commission issuing a permit or certificate to an applicant under chapter 49-22, the
4 commissioner shall notify the public service commission of mitigation efforts under this
5 section to create, restore, or mitigate similar habitat affected by the construction or
6 operation of an energy conversion or transmission facility.

7 6. The commissioner shall provide a biennial report of environmental impact mitigation
8 fund disbursements to the legislative management.

9 7. For purposes of this section, the environmental impact mitigation fund is not subject to
10 subsection 2 of section 4.1-01-18.

11 **SECTION 3.** A new section to chapter 4.1-01 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Conservation easement or leasehold.**

14 The commissioner may purchase and hold an easement or leasehold in the name of the
15 state to administer this title. The commissioner shall terminate any easement or leasehold if the
16 easement or leasehold is no longer necessary.

17 **SECTION 4. AMENDMENT.** Section 49-22-09.2 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **49-22-09.2. Mitigating environmental impacts - Energy conversion facilities -**
20 **Transmission facilities.**

21 1. If an applicant elects to provide a payment to mitigate the environmental impact of the
22 construction or operation of ~~an~~ a wind energy conversion or transmission facility, the
23 payment must be made to the agriculture commissioner who shall deposit the
24 payment into the environmental impact mitigation fund under section 4.1-01-21.1.

25 2. Excluding a wind energy conversion facility, if an applicant elects to provide a payment
26 to mitigate the environmental impact of the construction or operation of an energy
27 conversion facility, the payment may be made to the agriculture commissioner who
28 shall deposit the payment into the environmental impact mitigation fund under section
29 4.1-01-21.1.

30 3. If an applicant elects to provide a payment to mitigate the environmental impact of the
31 construction or operation of a transmission facility, the payment may be made to the

1 agriculture commissioner who shall deposit the payment into the environmental impact
2 mitigation fund under section 4.1-01-21.1.

3 4. Nothing in this section shall be construed to limit an applicant from conducting
4 mitigation activities.

5 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.