

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.

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 lignite energy council;
14 f. One individual appointed by the North Dakota corn growers association;
15 g. One individual appointed by the North Dakota grain growers association;
16 h. One individual appointed by the North Dakota petroleum council;
17 i. One individual appointed by the North Dakota soybean growers association; and
18 j. One individual appointed by the North Dakota stockmen's association.

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

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

1 **Environmental impact litigation fund - Purpose.**

2 1. The environmental impact litigation fund consists of:

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

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

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

10 a. Exempt and nonexempt activities governed by section 404 of the Clean Water
11 Act [33 U.S.C. 1344] or by regulations implementing section 404 of the Clean
12 Water Act;

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

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

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

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

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

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

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

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

11 **SECTION 4. APPROPRIATION - ENVIRONMENTAL IMPACT LITIGATION FUND -**
12 **EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL - TRANSFER**

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