

2025 HOUSE ENERGY AND NATURAL RESOURCES

HB 1400

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1400

1/23/2025

Relating to the federal environmental law impact review fund and the environmental impact mitigation fund.

9:40 a.m. Chairman Porter opened the hearing.

Members Present: Chairman Porter, Vice Chairman D. Anderson, Vice Chairwoman Novak, Representatives: Dockter, Hagert, Headland, Heinert, Johnson, Marschall, J. Ruby, Conmy, Foss

Discussion Topics:

- Clarification of language
- State Investment Board
- Participation

9:41 a.m. Doug Goehring, Agriculture commissioner, ND DA, testified in support and submitted testimony #31003.

9:58 a.m. Representative Mike Brandenburg testified in favor.

9:59 a.m. Carley Mcleod, External Affairs, Minnkota Power Cooperative, testified in favor.

10:01 a.m. Jean Schafer, Senior Legislative Representative, Basin Electric, testified in favor.

10:03 a.m. Mark Staples, External Affairs Manager, TNC, testified in favor and submitted testimony #30920.

Additional written testimony:

Levi Andrist, GA Group, PC, submitted testimony #30793.

Dan Wogsland, ND Grain Growers Association, submitted testimony in favor #30944.

10:06 a.m. Chairman Porter closed the hearing.

Janae Pinks, Committee Clerk for Leah Kuball, Committee Clerk



January 23, 2025

House Energy & Natural Resources Committee

Re: Support HB 1400

Chairman Porter and members of the committee,

Wind Industry of ND (WIND) is a coalition that advocates for the continued support of wind as one of North Dakota's many valuable natural resources.

WIND is writing to express our support for House Bill 1400 and to thank Representatives Brandenburg, Grueneich, Headland, Kempenich, Pyle, Schreiber-Beck and Senators Conley, Erbele, Kessel, Wanzek, and Weber—along with Agriculture Commissioner Doug Goehring—for sponsoring this bill.

Last session, the legislature reformed how the industry seeks to responsibly and collaboratively offset environmental and wildlife impacts of wind development. That reform elevated the agriculture commissioner to become an important resource that helps balance the interests of energy development, associated environmental impacts, and impacts to agriculture. We were pleased to be a part of and supportive of these reforms.

We appreciate the extensive efforts undertaken to develop and implement the voluntary mitigation program under the Agriculture Commissioner's leadership this interim. The numerous meetings and collaborative discussions have laid the groundwork for a program that balances environmental protections without compromising the needs of farmers and ranchers. House Bill 1400 provides the additional authority, in the form of voluntary easements, needed to ensure the program can achieve its full potential, benefiting farmers, landowners, and energy development.

Thank you again for your hard work and commitment to advancing this important program. For these reasons, we urge a **DO PASS** recommendation from the committee.

<https://windindustrynd.com>

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Hearing on HB 1400
House Energy and Natural Resources Committee
Jan. 23, 2025

Testimony of Mark Staples, external affairs manager, The Nature Conservancy in North Dakota

Chair Porter and members of the House Energy and Natural Resources Committee:

For the record, my name is Mark Staples, external affairs manager for The Nature Conservancy in North Dakota. Our nonprofit organization has been working to help people and nature thrive for more than 70 years, including on-the-ground conservation in North Dakota since 1971. We work alongside private landowners, state and federal agencies, and nonprofit partners to restore and improve management of lands and waters.

The Nature Conservancy supports HB 1400 and appreciates the inclusion of an additional land management tool to administer the Environmental Impact Mitigation Fund. We encourage the committee to adopt an amendment to strengthen this chapter and continue developing energy resources while balancing impacts to natural habitat and working agricultural lands.

Using the Environmental Impact Mitigation Fund to purchase and maintain easements and leaseholds is a sensible use of this fund and should be subject to the same guidelines as restoration and mitigation activities already defined in this chapter. To that end, we recommend an amendment in Section 2, on line 17 of page 2 of HB 1400:

c. Purchasing and maintaining easements or leaseholds in habitat similar to that affected by the construction or operation of an energy conversion or transmission facility. Easements or leaseholds purchased under this section shall be held for no less than the duration of adverse impacts.

Furthermore, allowing dollars in the Environmental Impact Mitigation Fund to be invested with the State Investment Board is a good way to generate additional revenue that will be used to mitigate impacts in a timely manner. Annual updates on the status of deposits and expenditures in the fund—like through regular State Investment Board reports—are an important way to bolster public confidence in these mitigation efforts.

Scientists and energy siting experts with The Nature Conservancy have partnered with energy developers for years to provide recommendations on avoiding sensitive habitat whenever possible and offsetting the effects of development and operation where impacts cannot be avoided. Developers who voluntarily contribute to this fund have demonstrated a vested interest in seeing these funds deployed in a timely and targeted manner to achieve mitigation goals.

We urge the committee to consider and adopt this amendment and ultimately vote for a Do Pass recommendation on HB 1400. This concludes my testimony and I will stand for any questions.



**North Dakota Grain Growers Association
Testimony in Favor of HB 1400
House Energy and Natural Resources Committee
January 23, 2025**

Chairman Porter, Members of the House Energy and Natural Resources Committee, for the record my name is Dan Wogsland representing the North Dakota Grain Growers Association. I appear before you today in support of HB 1400.

HB 1400 offers important improvements to the state's handling of conservation easements and environmental impact mitigation.

We support HB 1400 for several key reasons:

First, the bill's provisions regarding conservation easements and leaseholds provide crucial oversight and flexibility. By giving the Agriculture Commissioner authority to purchase and terminate easements as necessary, it ensures that agricultural lands are managed with appropriate consideration for both conservations needs and agricultural productivity. The requirement that the Commissioner must terminate easements when they are no longer necessary is particularly important, as it prevents perpetual restrictions on agricultural land use when circumstances change.

Second, the amendments to the environmental impact mitigation fund create a more structured and transparent process for managing environmental impacts from energy development. The prioritized order for mitigation efforts—starting with immediately impacted areas and moving outward to the county, region, and state levels—ensures that local agricultural communities most affected by development receive primary consideration.

Third, the limitation of easements and leaseholds to the operational life of energy facilities provides important protections for agricultural interests. This prevents permanent encumbrances on agricultural land and ensures that mitigation requirements align with actual facility impacts.

The bill's requirement for the Commissioner to notify the Public Service Commission of mitigation efforts before permit issuance adds an important layer of coordination and oversight. This helps ensure that agricultural interests are properly considered in the energy development process.

We particularly appreciate that all mitigation payments must be made to the Commissioner for deposit into the environmental impact mitigation fund. This centralized approach helps ensure consistent application of mitigation requirements and proper oversight of funds.

The biennial reporting requirement to the legislative management enhances transparency and accountability in the use of mitigation funds, which is essential for maintaining public trust and ensuring proper management of resources affecting agricultural lands.

In conclusion, HB 1400 represents a balanced approach to managing conservation easements and environmental impact mitigation while protecting agricultural interests. The NDGGA urges a "do pass" recommendation on this bill.

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
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**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 602
BISMARCK, ND 58505-0020

**Testimony of Doug Goehring
Agriculture Commissioner
House Energy and Natural Resources
Coteau AB Room
January 23, 2025**

Chairman Porter and members of the House Energy and Natural Resources Committee, I am Agriculture Commissioner Doug Goehring. I am here today in support of HB 1400, which provides for the ability to acquire interest on money in environmental impact mitigation fund and the ability to enter into easements or leaseholds to carry out the intent and purpose of the mitigation program under 4.1-01-21.1.

HB 1400 allows me, in my position, to enter into conservation agreements with landowners that are necessary to fulfill statutory requirements enacted last session related to environmental mitigation. The bill also provides the ability to obtain interest on the dollars deposited in the environmental impact mitigation fund.

Chairman Porter and committee members, I have been approached to offer a few amendments to the bill, which I will walk through. The first was an oversight during drafting, I would like to invest funds through the treasurer office not state investment board. I would like to only collect simple interest on the two funds. The second amendment is to change language for transmission facilities to a may participate in the mitigation program. This would allow them to gain some leverage during the sitting process. Finally,

an emergency clause is added so that these changes can be made to the sitting law for projects that may be looking to start in near future.

Chairman Porter and committee members, thank you for your time. I urge a do pass on HB 1400. I would be happy to answer any questions you may have.

PROPOSED AMENDMENTS TO
HOUSE BILL NO. 1400

Introduced by

1 A BILL for an ACT to create and enact a new section to chapter 4.1 of the North Dakota Century
2 Code, relating conservation easements and leaseholds; and to amend and reenact sections 4.1-
3 01-21, ~~and~~ 4.1-01-21.1, and 49-22-09.2 of the North Dakota Century Code, relating to the federal
4 environmental law impact review fund and the environmental impact mitigation fund; and to
5 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
 - 13 section 4.1-01-19; and
 - 14 b. Any gifts, grants, and donations forwarded to the commissioner for the
 - 15 purposes set forth in section 4.1-01-19.
- 16 2. All moneys in the federal environmental law impact review fund are appropriated
17 to the commissioner on a continuing basis for the purposes set forth in section
18 4.1-01-19. ~~The commissioner may invest money in the fund under the supervision~~
19 ~~of the state investment board pursuant to chapter 21-10.~~ The state treasurer shall
20 invest available moneys in the fund in accordance with section 21-10-07 and in
21 cooperation with the commissioner shall deposit any income earned through the
22 investments into the fund. The fund and earnings of the fund are appropriated to
23 the commissioner on a continuing basis to be used exclusively to carry out the

intent and purpose of this chapter.

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

4.1-01-21.1. Environmental impact mitigation fund – report to legislative management – Continuing appropriation – Investments.

1. There is created in the state treasury the environmental impact mitigation fund.
The fund consists of all moneys deposited in the fund under section 49-22-09.2.
All moneys in the fund are appropriated to the commissioner on a continuing basis for disbursement by the commissioner in accordance with this section. ~~The commissioner may invest moneys in the fund under the supervision of the state investment board pursuant to chapter 21-10.~~ The state treasurer shall invest available moneys in the fund in accordance with section 21-10-07 and in cooperation with the commissioner shall deposit any income earned through the investment into the fund. The fund and earnings of the fund are appropriated to the commissioner on a continuing basis to be used exclusively to carry out the intent and purpose of this chapter.
2. Money in the fund may be used only for:
 - a. Consultation with environmental scientists or engineers, industry specialists, or others for relevant services to analyze or implement mitigation required from the impact of development, and
 - b. Creation, restoration, or mitigation of similar habitat affected by the construction or operation of an energy conversion or transmission facility.
Mitigation of adverse impacts from development under this section shall be conducted in the following order of priority:
 - (1) The area immediately impacted by the development;
 - (2) The county impacted by the development;
 - (3) The region impacted by the development; and

(4) Other areas within the state; and

c. Purchasing and maintaining easements or leaseholds.

3. The commissioner is not subject to chapter 54-44.4 when contracting for services under this chapter.
4. In consultation with the federal environmental law impact review committee, the commissioner shall adopt rules pursuant to chapter 28-32 to implement the provisions of this section.
5. Easements or leaseholds purchased by a person to mitigate adverse environmental effects of the construction or operation of an energy conversion or transmission facility under chapter 49-22 must be limited to the operational life of the facility as defined under chapter 49-22. Any payment made to mitigate adverse environmental effects of the construction or operation of an energy conversion or transmission facility under chapter 49-22 must be made to the commissioner who shall deposit the payment into the environmental impact mitigation fund. Prior to the public service commission issuing a permit or certificate to an applicant under chapter 49-22, the commissioner shall notify the public service commission of mitigation efforts under this section to create, restore, or mitigate similar habitat affected by the construction or operation of an energy conversion or transmission facility.
6. The commissioner shall provide a biennial report of environmental impact mitigation fund disbursements to the legislative management.
7. For purposes of this section, the environmental impact mitigation fund is not subject to subsection 2 of section 4.1-01-18.

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

Conservation easement or leasehold.

The commissioner may purchase and hold an easement or leasehold in the name of the

1 state to administer this title. The commissioner shall terminate any easement or leasehold if the
2 easement or leasehold is no longer necessary.

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

5 49-22-09.2. Mitigating environmental impacts of wind energy. If an applicant elects to
6 provide a payment to mitigate the environmental impact of the construction or operation of ~~an a~~
7 wind energy conversion ~~or transmission facility~~, the payment must be made to the agriculture
8 commissioner who shall deposit the payment into the environmental impact mitigation fund under
9 section 4.1-01-21.1. ~~Nothing in this section shall be construed to limit an applicant from~~
10 ~~conducting mitigation activities.~~

11 If an applicant elects to provide a payment to mitigate the environmental impact of the
12 construction or operation of an energy conversion facility other than a wind energy conversion
13 facility, the payment may be made to the agriculture commissioner who shall deposit the payment
14 into the environmental impact mitigation fund under section 4.1-01-21.1.

15 If an applicant elects to provide a payment to mitigate the environmental impact of the
16 construction or operation of transmission facility, the payment may be made to the agriculture
17 commissioner who shall deposit the payment into the environmental impact mitigation fund under
18 section 4.1-01-21.1.

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

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

2025 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau AB Room, State Capitol

HB 1400

2/20/2025

Relating to the federal environmental law impact review fund and the environmental impact mitigation fund.

10:47 a.m. Chairman Porter called the hearing to order.

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak,
Representatives: Dockter, Hagert, Headland, Heinert, Johnson, Marschall, Olson, Conmy,
Foss

Members absent: Representative M. Ruby

Discussion Topics:

- Committee Action

10:50 a.m. Representative Novak moved to adopt amendment 25.1091.01001 #38239.

10:50 a.m. Representative D. Anderson seconded the motion.

Voice vote: Motion carried

10:50 a.m. Representative Novak moved a Do Pass as Amended.

10:50 a.m. Representative Heinert seconded the motion.

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Anna Novak	Y
Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Austin Foss	Y
Representative Jared c. Hagert	AB
Representative Craig Headland	Y
Representative Pat D. Heinert	Y
Representative Jorin Johnson	Y
Representative Andrew Marschall	Y
Representative Jeremy L. Olson	Y
Representative Matthew Ruby	AB

Motion Carried: 11-0-2

Bill Carrier: Representative Olson

Additional written testimony:

Representative Todd Porter, NDLA, submitted testimony #37610, #37611, and #38239 in favor.

10:52 a.m. Chairman Porter closed the hearing.

Saydee Wahl for Leah Kuball, Committee Clerk

2/20/25
1 of 4

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

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-~~and~~ 4.1-01-21.1. and 49-22-09.2 of the North Dakota Century Code, relating
4 to the federal environmental law impact review fund-~~and~~ the environmental impact mitigation
5 fund. and 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 ~~commissioner~~ state treasurer may invest moneys in the fund ~~under the supervision~~

~~of the state investment board pursuant to chapter 21-10~~ in accordance with section
21-10-07.

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

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

1. There is created in the state treasury the environmental impact mitigation fund. The
fund consists of all moneys deposited in the fund under section 49-22-09.2 and all
interest or investment earnings upon moneys in the fund. All moneys in the fund are
appropriated to the commissioner on a continuing basis for disbursement by the
commissioner in accordance with this section. ~~The commissioner~~ state treasurer may
invest moneys in the fund under the supervision of the state investment board
pursuant to chapter 21-10 in accordance with section 21-10-07.
2. Moneys in the fund may be used only for:
 - a. Consultation with environmental scientists or engineers, industry specialists, or
others for relevant services to analyze or implement mitigation required from the
impact of development; ~~and~~
 - b. Creation, restoration, or mitigation of similar habitat affected by the construction
or operation of an energy conversion or transmission facility. Mitigation of
adverse impacts from development under this section shall be conducted in the
following order of priority:
 - (1) The area immediately impacted by the development;
 - (2) The county impacted by the development;
 - (3) The region impacted by the development; and
 - (4) Other areas within the state; and
 - c. Purchasing and maintaining easements or leaseholds.
3. The commissioner is not subject to chapter 54-44.4 when contracting for services
under this chapter.
4. In consultation with the federal environmental law impact review committee, the
commissioner shall adopt rules pursuant to chapter 28-32 to implement the provisions
of this section.

5. Easements or leaseholds purchased by a person to mitigate adverse environmental effects of the construction or operation of an energy conversion or transmission facility under chapter 49-22 must be limited to the operational life of the facility as defined under chapter 49-22. Any payment made to mitigate adverse environmental effects of the construction or operation of an energy conversion or transmission facility under ~~chapter 49-22~~ section 49-22-09.2 must be made to the commissioner who shall deposit the payment into the environmental impact mitigation fund. Prior to the public service commission issuing a permit or certificate to an applicant under chapter 49-22, the commissioner shall notify the public service commission of mitigation efforts under this section to create, restore, or mitigate similar habitat affected by the construction or operation of an energy conversion or transmission facility.
6. The commissioner shall provide a biennial report of environmental impact mitigation fund disbursements to the legislative management.
7. For purposes of this section, the environmental impact mitigation fund is not subject to subsection 2 of section 4.1-01-18.

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

Conservation easement or leasehold.

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

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

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

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

2. ~~Excluding a wind energy conversion facility, if an applicant elects to provide a payment to mitigate the environmental impact of the construction or operation of an energy~~

1 conversion facility, the payment may be made to the agriculture commissioner who
2 shall deposit the payment into the environmental impact mitigation fund under section
3 4.1-01-21.1.

4 3. If an applicant elects to provide a payment to mitigate the environmental impact of the
5 construction or operation of a transmission facility, the payment may be made to the
6 agriculture commissioner who shall deposit the payment into the environmental impact
7 mitigation fund under section 4.1-01-21.1.

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

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

**REPORT OF STANDING COMMITTEE
HB 1400**

Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS** ([25.1091.01001](#)) and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT OR EXCUSED AND NOT VOTING). HB 1400 was placed on the Sixth order on the calendar.

Sixty-Ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO
HOUSE BILL NO. 1400

Introduced by

1 A BILL for an ACT to create and enact a new section to chapter 4.1 of the North Dakota Century
2 Code, relating conservation easements and leaseholds; and to amend and reenact sections 4.1-
3 01-21, ~~and 4.1-01-21.1, and 49-22-09.2~~ of the North Dakota Century Code, relating to the federal
4 environmental law impact review fund and the environmental impact mitigation fund; and to
5 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
- 13 section 4.1-01-19; and
- 14 b. Any gifts, grants, and donations forwarded to the commissioner for the
- 15 purposes set forth in section 4.1-01-19.
- 16 2. All moneys in the federal environmental law impact review fund are appropriated
- 17 to the commissioner on a continuing basis for the purposes set forth in section
- 18 4.1-01-19. ~~The commissioner may invest money in the fund under the supervision~~
- 19 ~~of the state investment board pursuant to chapter 21-10.~~ The state treasurer shall
- 20 invest available moneys in the fund in accordance with section 21-10-07 and in
- 21 cooperation with the commissioner shall deposit any income earned through the
- 22 investments into the fund. The fund and earnings of the fund are appropriated to
- 23 the commissioner on a continuing basis to be used exclusively to carry out the

intent and purpose of this chapter.

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

4.1-01-21.1. Environmental impact mitigation fund – report to legislative management – Continuing appropriation – Investments.

1. There is created in the state treasury the environmental impact mitigation fund.
The fund consists of all moneys deposited in the fund under section 49-22-09.2.
All moneys in the fund are appropriated to the commissioner on a continuing basis for disbursement by the commissioner in accordance with this section. ~~The commissioner may invest moneys in the fund under the supervision of the state investment board pursuant to chapter 21-10.~~ The state treasurer shall invest available moneys in the fund in accordance with section 21-10-07 and in cooperation with the commissioner shall deposit any income earned through the investment into the fund. The fund and earnings of the fund are appropriated to the commissioner on a continuing basis to be used exclusively to carry out the intent and purpose of this chapter.
2. Money in the fund may be used only for:
 - a. Consultation with environmental scientists or engineers, industry specialists, or others for relevant services to analyze or implement mitigation required from the impact of development, and
 - b. Creation, restoration, or mitigation of similar habitat affected by the construction or operation of an energy conversion or transmission facility.
Mitigation of adverse impacts from development under this section shall be conducted in the following order of priority:
 - (1) The area immediately impacted by the development;
 - (2) The county impacted by the development;
 - (3) The region impacted by the development; and

(4) Other areas within the state; and

c. Purchasing and maintaining easements or leaseholds.

3. The commissioner is not subject to chapter 54-44.4 when contracting for services under this chapter.

4. In consultation with the federal environmental law impact review committee, the commissioner shall adopt rules pursuant to chapter 28-32 to implement the provisions of this section.

5. Easements or leaseholds purchased by a person to mitigate adverse environmental effects of the construction or operation of an energy conversion or transmission facility under chapter 49-22 must be limited to the operational life of the facility as defined under chapter 49-22. Any payment made to mitigate adverse environmental effects of the construction or operation of an energy conversion or transmission facility under chapter 49-22 must be made to the commissioner who shall deposit the payment into the environmental impact mitigation fund. Prior to the public service commission issuing a permit or certificate to an applicant under chapter 49-22, the commissioner shall notify the public service commission of mitigation efforts under this section to create, restore, or mitigate similar habitat affected by the construction or operation of an energy conversion or transmission facility.

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

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

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

Conservation easement or leasehold.

The commissioner may purchase and hold an easement or leasehold in the name of the

1 state to administer this title. The commissioner shall terminate any easement or leasehold if the
2 easement or leasehold is no longer necessary.

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

5 49-22-09.2. Mitigating environmental impacts of wind energy. If an applicant elects to
6 provide a payment to mitigate the environmental impact of the construction or operation of ~~an~~ a
7 wind energy conversion ~~or transmission facility~~, the payment must be made to the agriculture
8 commissioner who shall deposit the payment into the environmental impact mitigation fund under
9 section 4.1-01-21.1. ~~Nothing in this section shall be construed to limit an applicant from~~
10 ~~conducting mitigation activities.~~

11 If an applicant elects to provide a payment to mitigate the environmental impact of the
12 construction or operation of an energy conversion facility other than a wind energy conversion
13 facility, the payment may be made to the agriculture commissioner who shall deposit the payment
14 into the environmental impact mitigation fund under section 4.1-01-21.1.

15 If an applicant elects to provide a payment to mitigate the environmental impact of the
16 construction or operation of transmission facility, the payment may be made to the agriculture
17 commissioner who shall deposit the payment into the environmental impact mitigation fund under
18 section 4.1-01-21.1.

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

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

direct vs indirect - in Projects

Amendment to HB 1400: to amend and declare an emergency

Page 1, line 4, after the second fund, insert “; and to amend and reenact section 49-22-09.2 regarding the mitigation of environmental impacts; and to declare an emergency”

Page 3, after line 12, insert:

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

49-22-09.2. Mitigating environmental impacts of wind energy. If an applicant elects to provide a payment to mitigate the environmental impact of the construction or operation of an a wind energy conversion or transmission facility, the payment must be made to the agriculture commissioner who shall deposit the payment into the environmental impact mitigation fund under section 4.1-01-21.1.

If an applicant elects to provide a payment to mitigate the environmental impact of the construction or operation of an energy conversion facility other than a wind energy conversion facility, the payment may be made to the agriculture commissioner who shall deposit the payment into the environmental impact mitigation fund under section 4.1-01-21.1.

If an applicant elects to provide a payment to mitigate the environmental impact of the construction or operation of transmission facility, the payment may be made to the agriculture commissioner who shall deposit the payment into the environmental impact mitigation fund under section 4.1-01-21.1.

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

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

Renumber accordingly

Page 2, line 28, after 22,
insert " - 09.2"

25.1091.01001
Title.

Prepared by the Legislative Council
staff for Representative Porter
February 13, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

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~~and~~, 4.1-01-21.1, and 49-22-09.2 of the North Dakota Century Code, relating
4 to the federal environmental law impact review fund~~and~~, the environmental impact mitigation
5 fund, and 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 ~~commissioner~~state treasurer may invest moneys in the fund ~~under the supervision~~

~~of the state investment board pursuant to chapter 21-10~~ in accordance with section
~~21-10-07.~~

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

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

1. There is created in the state treasury the environmental impact mitigation fund. The fund consists of all moneys deposited in the fund under section 49-22-09.2 and all interest or investment earnings upon moneys in the fund. All moneys in the fund are appropriated to the commissioner on a continuing basis for disbursement by the commissioner in accordance with this section. ~~The commissioner~~ state treasurer may invest moneys in the fund ~~under the supervision of the state investment board pursuant to chapter 21-10~~ in accordance with section 21-10-07.
2. Moneys in the fund may be used only for:
 - a. Consultation with environmental scientists or engineers, industry specialists, or others for relevant services to analyze or implement mitigation required from the impact of development; ~~and~~
 - b. Creation, restoration, or mitigation of similar habitat affected by the construction or operation of an energy conversion or transmission facility. Mitigation of adverse impacts from development under this section shall be conducted in the following order of priority:
 - (1) The area immediately impacted by the development;
 - (2) The county impacted by the development;
 - (3) The region impacted by the development; and
 - (4) Other areas within the state; and
 - c. Purchasing and maintaining easements or leaseholds.
3. The commissioner is not subject to chapter 54-44.4 when contracting for services under this chapter.
4. In consultation with the federal environmental law impact review committee, the commissioner shall adopt rules pursuant to chapter 28-32 to implement the provisions of this section.

- 1 5. Easements or leaseholds purchased by a person to mitigate adverse environmental
2 effects of the construction or operation of an energy conversion or transmission facility
3 under chapter 49-22 must be limited to the operational life of the facility as defined
4 under chapter 49-22. Any payment made to mitigate adverse environmental effects of
5 the construction or operation of an energy conversion or transmission facility under
6 ~~chapter 49-22~~ section 49-22-09.2 must be made to the commissioner who shall deposit
7 the payment into the environmental impact mitigation fund. Prior to the public service
8 commission issuing a permit or certificate to an applicant under chapter 49-22, the
9 commissioner shall notify the public service commission of mitigation efforts under this
10 section to create, restore, or mitigate similar habitat affected by the construction or
11 operation of an energy conversion or transmission facility.
- 12 6. The commissioner shall provide a biennial report of environmental impact mitigation
13 fund disbursements to the legislative management.
- 14 7. For purposes of this section, the environmental impact mitigation fund is not subject to
15 subsection 2 of section 4.1-01-18.

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

18 **Conservation easement or leasehold.**

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

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

24 **49-22-09.2. Mitigating environmental impacts - Energy conversion facilities -**
25 **Transmission facilities.**

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

- 1 conversion facility, the payment may be made to the agriculture commissioner who
2 shall deposit the payment into the environmental impact mitigation fund under section
3 4.1-01-21.1.
4 3. If an applicant elects to provide a payment to mitigate the environmental impact of the
5 construction or operation of a transmission facility, the payment may be made to the
6 agriculture commissioner who shall deposit the payment into the environmental impact
7 mitigation fund under section 4.1-01-21.1.
8 4. Nothing in this section shall be construed to limit an applicant from conducting
9 mitigation activities.

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

2025 SENATE ENERGY AND NATURAL RESOURCES

HB 1400

2025 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Peace Garden Room, State Capitol

HB 1400

3/20/2025

Relating to conservation easements and leaseholds; relating to the federal environmental law impact review fund, the environmental impact mitigation fund, and mitigating environmental impacts; and to declare an emergency.

9:31 a.m. Chairman Patten opened the hearing.

Members present:

Chairman Patten, Vice Chairman Kessel, Senators: Beard, Boehm, Enget, Gerhardt, and Van Oosting.

Discussion Topics:

- Easement management
- Developer obligations
- Funding and interest accrual

9:31 a.m. Commissioner Doug Goehring, Agriculture Commissioner, introduced the bill and submitted testimony in favor #43272.

9:44 a.m. Carlee McLeod, Minnkota Power Cooperative, testified in favor.

9:46 a.m. Ryan Norrell, Basin Electric Power Cooperative, testified in favor.

9:46 a.m. Chairman Patten closed the hearing.

9:48 a.m. Senator Boehm moved a Do Pass.

9:48 a.m. Senator Van Oosting seconded the motion.

Senators	Vote
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Passed 7-0-0.

9:49 a.m. Senator Van Oosting will carry the bill.

Additional written testimony:

Levi Andrist, GA Group, PC, submitted testimony in favor #43054.

Mark Staples, Lobbyist, The Nature Conservancy, submitted testimony in favor #43136.

Dan Wogsland, Lobbyist, North Dakota Grain Growers Association, submitted testimony in favor #43202.

9:49 a.m. Chairman Patten closed the hearing.

Kendra McCann, Committee Clerk

**REPORT OF STANDING COMMITTEE
ENGROSSED HB 1400 ([25.1091.02000](#))**

Energy and Natural Resources Committee (Sen. Patten, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). HB 1400 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.



March 20, 2025

Senate Energy & Natural Resources Committee

Re: Support HB 1400

Chairman Patten and members of the committee,

Wind Industry of ND (WIND) is a coalition that advocates for the continued support of wind as one of North Dakota's many valuable natural resources.

WIND is writing to express our support for House Bill 1400 and to thank Representatives Brandenburg, Grueneich, Headland, Kempenich, Pyle, Schreiber-Beck and Senators Conley, Erbele, Kessel, Wanzek, and Weber—along with Agriculture Commissioner Doug Goehring—for sponsoring this bill.

Last session, the legislature reformed how the industry seeks to responsibly and collaboratively offset environmental and wildlife impacts of wind development. That reform elevated the agriculture commissioner to become an important resource that helps balance the interests of energy development, associated environmental impacts, and impacts to agriculture. We were pleased to be a part of and supportive of these reforms.

We appreciate the extensive efforts undertaken to develop and implement the voluntary mitigation program under the Agriculture Commissioner's leadership this interim. The numerous meetings and collaborative discussions have laid the groundwork for a program that balances environmental protections without compromising the needs of farmers and ranchers. House Bill 1400 provides the additional authority, in the form of voluntary easements, needed to ensure the program can achieve its full potential, benefiting farmers, landowners, and energy development.

Thank you again for your hard work and commitment to advancing this important program. For these reasons, we urge a **DO PASS** recommendation from the committee.

Apex Clean Energy

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Hearing on HB 1400
Senate Energy and Natural Resources Committee
March 20, 2025

Testimony of Mark Staples, registered lobbyist for The Nature Conservancy in North Dakota

Chair Patten and members of the Senate Energy and Natural Resources Committee:

For the record, my name is Mark Staples, external affairs manager for The Nature Conservancy in North Dakota. Our nonprofit organization has been working to help people and nature thrive for more than 70 years, including on-the-ground conservation in North Dakota since 1971. We work alongside private landowners, state and federal agencies, and nonprofit partners to restore and improve management of lands and waters.

The Nature Conservancy supports HB 1400. We appreciate the work done on this bill while it was in the House and encourage the committee to consider an amendment that would strengthen the bill, ultimately supporting the continued development of energy resources while balancing impacts to wildlife habitat and working agricultural lands.

Purchasing and maintaining easements and leaseholds is a sensible use of the Environmental Impact Mitigation Fund, and we urge the committee to amend Section 2, on line 21 of page 2 of HB 1400 to ensure that these funds result in lasting benefits for North Dakotans:

c. Purchasing and maintaining easements or leaseholds to be held for no less than the duration of adverse impacts.

Energy siting experts with The Nature Conservancy have partnered with energy developers for years on best practices for avoiding sensitive habitat whenever possible and offsetting the effects of development and operation where impacts cannot be avoided. Developers who have chosen to voluntarily contribute to this fund have demonstrated a vested interest in seeing these dollars deliver on their mitigation goals, and this amendment would ensure their mitigation goals are met.

We urge the committee to consider and adopt this amendment and ultimately vote for a Do Pass recommendation on HB 1400.



**North Dakota Grain Growers Association
Testimony in Support of HB 1400
Senate Energy and Natural Resources Committee
March 20, 2025**

Chairman Patten, Members of the Senate Energy and Natural Resources Committee, for the record my name is Dan Wogsland representing the North Dakota Grain Growers Association (NDGGA). NDGGA is in support of HB 1400.

HB 1400 demonstrates North Dakota's commitment to responsible environmental stewardship while balancing economic development and energy infrastructure needs.

Key Benefits of HB 1400

1. Proactive Environmental Mitigation

- This bill establishes a clear and structured approach for mitigating the environmental impacts of energy conversion and transmission facilities.
- By directing funds to the Environmental Impact Mitigation Fund, the state ensures that financial resources are available to address adverse environmental effects.

2. Flexibility and Localized Mitigation Efforts

- The bill prioritizes mitigation efforts in the areas most directly impacted by development. This ensures that communities and ecosystems affected by energy projects benefit first.
- The four-tiered mitigation structure (impact area → county → region → state) guarantees that local concerns are addressed before expanding the scope of mitigation.

3. Financial Accountability and Transparency

- The biennial reporting requirement ensures transparency in fund disbursements, allowing the Legislative Assembly to oversee mitigation efforts effectively.
- The state treasurer's oversight of fund investments further ensures proper financial stewardship.

4. Strategic Use of Conservation Easements and Leaseholds

- Allowing the Agriculture Commissioner to purchase and manage easements or leaseholds ensures that environmental mitigation efforts are long-term and effective.
- The provision to terminate easements or leaseholds when they are no longer necessary prevents unnecessary government land control, demonstrating a balanced approach.

5. Support for North Dakota's Energy Future

- The bill provides a clear mechanism for energy companies to voluntarily contribute to environmental mitigation without excessive regulatory burdens.
- By not limiting an applicant's ability to conduct mitigation activities independently, HB 1400 supports both industry innovation and environmental responsibility.

6. Emergency Clause for Immediate Action

- The inclusion of an emergency declaration ensures that these critical environmental and economic policies take effect without delay, addressing urgent mitigation needs across the state.

Conclusion

HB 1400 is a practical, well-balanced piece of legislation that aligns with North Dakota's values of responsible resource management and economic development. It enhances environmental protections, supports local communities, and provides a clear, effective framework for energy development mitigation. Therefore, Chairman Patten, Members of the Committee, NDGGA would respectfully request a Do Pass recommendation on HB 1400 and would urge the full Senate to concur.

COMMISSIONER
DOUG GOEHRING



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NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 602
BISMARCK, ND 58505-0020

Testimony of Doug Goehring
Agriculture Commissioner
Senate Energy and Natural Resources
Peace Garden
March 20, 2025

Chairman Patten and members of the Senate Energy and Natural Resources Committee, I am Agriculture Commissioner Doug Goehring. I am here today in support of HB 1400, which provides for the ability to acquire interest on money in the environmental impact mitigation fund and the ability to enter into easements or leaseholds to carry out the intent and purpose of the mitigation program under 4.1-01-21.1.

HB 1400 allows me, in my position, to enter into agreements with landowners that are necessary to fulfill statutory requirements enacted last session related to environmental mitigation. The bill also provides the ability to obtain interest on the dollars deposited in the environmental impact mitigation fund.

Chairman Patten and committee members, thank you for your time. I urge a do pass on HB 1400. I would be happy to answer any questions you may have.