

HOUSE BILL NO. 1409

Introduced by

Representatives Porter, Carlson, Hunskor, Toman

Senators Carlisle, Murphy, Schaible, Unruh

1 A BILL for an Act to amend and reenact sections 54-17.8-03, 54-17.8-05, and 57-51-15 of the
2 North Dakota Century Code, relating to the funding and purposes of the outdoor heritage fund;
3 and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 54-17.8-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **54-17.8-03. North Dakota outdoor heritage fund purposes.**

8 1. The commission shall use the fund to provide grants to state agencies, tribal
9 governments, political subdivisions, and nonprofit organizations to enhance
10 conservation in this state by:

11 a. ~~Provide~~Providing access to private and public lands for sportsmen, including
12 projects that create fish and wildlife habitat and provide access for sportsmen;

13 b. ~~Improve~~Improving, ~~maintain~~maintaining, and ~~restor~~restoring water quality, soil
14 conditions, plant diversity, animal systems, and ~~to support~~by supporting other
15 practices of stewardship to enhance farming and ranching;

16 c. ~~Develop~~Developing, ~~enhance~~enhancing, ~~conserve~~conserving, and
17 ~~restor~~restoring wildlife and fish habitat on private and public lands; and

18 d. ~~Conserve~~Conserving natural areas and creating other areas for recreation
19 through the establishment and development of parks and other recreation areas.

20 2. The commission or grantee may not use the fund, in any manner, to finance:

21 a. Litigation;

22 b. Lobbying activities;

- 1 c. Any activity that would interfere, disrupt, or prevent activities associated with
2 surface coal mining operations; sand, gravel, or scoria extraction activities; oil
3 and gas operations; or other energy facility or infrastructure development;
4 d. The acquisition of land or to encumber any land for a term longer than twenty
5 years; or
6 e. Projects outside this state or projects that are beyond the scope of defined
7 activities that fulfill the purposes of this chapter.
- 8 3. The commission or a grantee may not use grant funds, except after a finding of
9 exceptional circumstances by the commission, to finance:
- 10 a. A completed project or project commenced before the grant application;
11 b. A feasibility or research study;
12 c. Maintenance costs;
13 d. A paving project for a road or parking lot;
14 e. A swimming pool or aquatic park;
15 f. Personal property that is not affixed to the land;
16 g. Playground equipment, except that grant funds may be provided for up to
17 twenty-five percent of the cost of the equipment not exceeding twenty-five
18 thousand dollars per project and all playground equipment grants may not
19 exceed five percent of the total grants per year;
20 h. A building except for building that is included as part of a comprehensive
21 conservation plan for a new or expanded recreational project; or
22 i. A project in which the applicant is not directly involved in execution and
23 completion of the project.

24 **SECTION 2. AMENDMENT.** Section 54-17.8-05 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-17.8-05. Powers and duties of commission.**

27 The commission is granted all the powers necessary or appropriate to carry out and
28 effectuate the purposes of this chapter, including the power to:

- 29 1. Make grants to a state agency, a tribal government, a political subdivision, ~~and~~ or a
30 nonprofit organization;

- 1 2. Place conditions on an offer or a grant including a limit on the duration of an offer, a
2 requirement of matching funds, and limit the source of the matching funds, and the
3 commission shall exclude any money appropriated from the state general fund from
4 use as matching funds;
- 5 3. Approve expenditures for staffing or an outside consultant to design and implement an
6 approved project based on the documented need of the applicant and the
7 expenditures may not exceed five percent of the grant to a grantee;
- 8 4. Enter contracts or agreements to carry out the purposes of this chapter, including
9 authority to contract for the administration of the fund and staffing for the advisory
10 board;
- 11 ~~3.5.~~ Accept donations, grants, contributions, and gifts from any public or private source;
12 and
- 13 4.6. Adopt policies and rules necessary to effectuate the purposes of this chapter.

14 **SECTION 3. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **57-51-15. (Effective for taxable events occurring through June 30, 2015) Gross**
17 **production tax allocation.**

18 The gross production tax must be allocated monthly as follows:

- 19 1. First the tax revenue collected under this chapter equal to one percent of the gross
20 value at the well of the oil and one-fifth of the tax on gas must be deposited with the
21 state treasurer who shall:
 - 22 a. Allocate to each hub city a monthly amount that will provide a total allocation of
23 three hundred seventy-five thousand dollars per fiscal year for each full or partial
24 percentage point of its private covered employment engaged in the mining
25 industry, according to data compiled by job service North Dakota;
 - 26 b. Allocate to each hub city school district a monthly amount that will provide a total
27 allocation of one hundred twenty-five thousand dollars per fiscal year for each full
28 or partial percentage point of the hub city's private covered employment engaged
29 in the mining industry, according to data compiled by job service North Dakota;
 - 30 c. Credit revenues to the oil and gas impact grant fund, but not in an amount
31 exceeding two hundred forty million dollars per biennium;

- 1 d. ~~Credit four percent of the amount available under this subsection~~revenues to the
2 North Dakota outdoor heritage fund, but not in an amount exceeding
3 ~~fifteen~~twenty-five million dollars in a state fiscal year and not in an amount
4 exceeding ~~thirty~~fifty million dollars per biennium;
- 5 e. Credit four percent of the amount available under this subsection to the
6 abandoned oil and gas well plugging and site reclamation fund, but not in an
7 amount exceeding five million dollars in a state fiscal year and not in an amount
8 that would bring the balance in the fund to more than seventy-five million dollars;
9 and
- 10 f. Allocate the remaining revenues under subsection 3.
- 11 2. After deduction of the amount provided in subsection 1, annual revenue collected
12 under this chapter from oil and gas produced in each county must be allocated as
13 follows:
 - 14 a. The first five million dollars is allocated to the county.
 - 15 b. Of all annual revenue exceeding five million dollars, twenty-five percent is
16 allocated to the county.
- 17 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
18 to provide for deposit of thirty percent of all revenue collected under this chapter in the
19 legacy fund as provided in section 26 of article X of the Constitution of North Dakota
20 and the remainder must be allocated to the state general fund. If the amount available
21 for a monthly allocation under this subsection is insufficient to deposit thirty percent of
22 all revenue collected under this chapter in the legacy fund, the state treasurer shall
23 transfer the amount of the shortfall from the state general fund share of oil extraction
24 tax collections and deposit that amount in the legacy fund.
- 25 4. For a county that received less than five million dollars of allocations under
26 subsection 2 in the most recently completed state fiscal year, revenues allocated to
27 that county must be distributed by the state treasurer as follows:
 - 28 a. Forty-five percent must be distributed to the county treasurer and credited to the
29 county general fund. However, the allocation to a county under this subdivision
30 must be credited to the state general fund if in a taxable year after 2012 the

- 1 county is not levying a total of at least ten mills for combined levies for county
2 road and bridge, farm-to-market and federal aid road, and county road purposes.
- 3 b. Thirty-five percent of all revenues allocated to any county for allocation under this
4 subsection must be apportioned by the state treasurer no less than quarterly to
5 school districts within the county, excluding consideration of and allocation to any
6 hub city school district in the county, on the average daily attendance distribution
7 basis, as certified to the state treasurer by the county superintendent of schools.
- 8 c. Twenty percent must be apportioned no less than quarterly by the state treasurer
9 to the incorporated cities of the county. A hub city must be omitted from
10 apportionment under this subdivision. Apportionment among cities under this
11 subsection must be based upon the population of each incorporated city
12 according to the last official decennial federal census. In determining the
13 population of any city in which total employment increases by more than two
14 hundred percent seasonally due to tourism, the population of that city for
15 purposes of this subdivision must be increased by eight hundred percent.
- 16 5. For a county that received five million dollars or more of allocations under subsection 2
17 in the most recently completed state fiscal year, revenues allocated to that county
18 must be distributed by the state treasurer as follows:
- 19 a. Sixty percent must be distributed to the county treasurer and credited to the
20 county general fund. However, the allocation to a county under this subdivision
21 must be credited to the state general fund if in a taxable year after 2012 the
22 county is not levying a total of at least ten mills for combined levies for county
23 road and bridge, farm-to-market and federal aid road, and county road purposes.
- 24 b. Five percent must be apportioned by the state treasurer no less than quarterly to
25 school districts within the county on the average daily attendance distribution
26 basis for kindergarten through grade twelve students residing within the county,
27 as certified to the state treasurer by the county superintendent of schools.
28 However, a hub city school district must be omitted from consideration and
29 apportionment under this subdivision.
- 30 c. Twenty percent must be apportioned no less than quarterly by the state treasurer
31 to the incorporated cities of the county. A hub city must be omitted from

1 apportionment under this subdivision. Apportionment among cities under this
2 subsection must be based upon the population of each incorporated city
3 according to the last official decennial federal census. In determining the
4 population of any city in which total employment increases by more than two
5 hundred percent seasonally due to tourism, the population of that city for
6 purposes of this subdivision must be increased by eight hundred percent.

7 d. Three percent must be apportioned no less than quarterly by the state treasurer
8 among the organized and unorganized townships of the county. The state
9 treasurer shall apportion the funds available under this subdivision among
10 townships in the proportion that township road miles in the township bear to the
11 total township road miles in the county. The amount apportioned to unorganized
12 townships under this subdivision must be distributed to the county treasurer and
13 credited to a special fund for unorganized township roads, which the board of
14 county commissioners shall use for the maintenance and improvement of roads
15 in unorganized townships.

16 e. Three percent must be allocated by the state treasurer among the organized and
17 unorganized townships in all the counties that received five million dollars or
18 more of allocations under subsection 2 in the most recently completed state fiscal
19 year. The amount available under this subdivision must be allocated no less than
20 quarterly by the state treasurer in an equal amount to each eligible organized and
21 unorganized township. The amount allocated to unorganized townships under
22 this subdivision must be distributed to the county treasurer and credited to a
23 special fund for unorganized township roads, which the board of county
24 commissioners shall use for the maintenance and improvement of roads in
25 unorganized townships.

26 f. Nine percent must be allocated by the state treasurer among hub cities. The
27 amount available for allocation under this subdivision must be apportioned by the
28 state treasurer no less than quarterly among hub cities. Sixty percent of funds
29 available under this subdivision must be distributed to the hub city receiving the
30 greatest percentage of allocations to hub cities under subdivision a of
31 subsection 1 for the quarterly period, thirty percent of funds available under this

1 subdivision must be distributed to the hub city receiving the second greatest
2 percentage of such allocations, and ten percent of funds available under this
3 subdivision must be distributed to the hub city receiving the third greatest
4 percentage of such allocations.

5 6. Within thirty days after the end of each calendar year, the board of county
6 commissioners of each county that has received an allocation under this section shall
7 file a report for the calendar year with the commissioner, in a format prescribed by the
8 commissioner, including:

9 a. The county's statement of revenues and expenditures; and

10 b. The amount allocated to or for the benefit of townships or school districts, the
11 amount allocated to each organized township or school district and the amount
12 expended from each such allocation by that township or school district, the
13 amount expended by the board of county commissioners on behalf of each
14 unorganized township for which an expenditure was made, and the amount
15 available for allocation to or for the benefit of townships or school districts which
16 remained unexpended at the end of the fiscal year.

17 Within fifteen days after the time when reports under this subsection were due, the
18 commissioner shall provide the reports to the legislative council compiling the
19 information from reports received under this subsection.

20 **(Effective for taxable events occurring after June 30, 2015) Gross production tax**
21 **allocation.** The gross production tax must be allocated monthly as follows:

22 1. First the tax revenue collected under this chapter equal to one percent of the gross
23 value at the well of the oil and one-fifth of the tax on gas must be deposited with the
24 state treasurer who shall:

25 a. Allocate five hundred thousand dollars per fiscal year to each city in an
26 oil-producing county which has a population of seven thousand five hundred or
27 more and more than two percent of its private covered employment engaged in
28 the mining industry, according to data compiled by job service North Dakota. The
29 allocation under this subdivision must be doubled if the city has more than seven
30 and one-half percent of its private covered employment engaged in the mining
31 industry, according to data compiled by job service North Dakota;

- 1 b. Credit revenues to the oil and gas impact grant fund, but not in an amount
- 2 exceeding one hundred million dollars per biennium;
- 3 c. Credit ~~four percent of the amount available under this subsection~~ revenues to the
- 4 North Dakota outdoor heritage fund, but not in an amount exceeding
- 5 ~~fifteen~~ twenty-five million dollars in a state fiscal year and not in an amount
- 6 exceeding ~~thirty~~ fifty million dollars per biennium;
- 7 d. Credit four percent of the amount available under this subsection to the
- 8 abandoned oil and gas well plugging and site reclamation fund, but not in an
- 9 amount exceeding five million dollars in a state fiscal year and not in an amount
- 10 that would bring the balance in the fund to more than seventy-five million dollars;
- 11 and
- 12 e. Allocate the remaining revenues under subsection 3.
- 13 2. After deduction of the amount provided in subsection 1, annual revenue collected
- 14 under this chapter from oil and gas produced in each county must be allocated as
- 15 follows:
- 16 a. The first two million dollars is allocated to the county.
- 17 b. Of the next one million dollars, seventy-five percent is allocated to the county.
- 18 c. Of the next one million dollars, fifty percent is allocated to the county.
- 19 d. Of the next fourteen million dollars, twenty-five percent is allocated to the county.
- 20 e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated
- 21 to the county.
- 22 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first
- 23 to provide for deposit of thirty percent of all revenue collected under this chapter in the
- 24 legacy fund as provided in section 26 of article X of the Constitution of North Dakota
- 25 and the remainder must be allocated to the state general fund. If the amount available
- 26 for a monthly allocation under this subsection is insufficient to deposit thirty percent of
- 27 all revenue collected under this chapter in the legacy fund, the state treasurer shall
- 28 transfer the amount of the shortfall from the state general fund share of oil extraction
- 29 tax collections and deposit that amount in the legacy fund.
- 30 4. The amount to which each county is entitled under subsection 2 must be allocated
- 31 within the county so the first five million three hundred fifty thousand dollars is

1 allocated under subsection 5 for each fiscal year and any amount received by a county
2 exceeding five million three hundred fifty thousand dollars is credited by the county
3 treasurer to the county infrastructure fund and allocated under subsection 6.

4 5. a. Forty-five percent of all revenues allocated to any county for allocation under this
5 subsection must be credited by the county treasurer to the county general fund.
6 However, the allocation to a county under this subdivision must be credited to the
7 state general fund if during that fiscal year the county does not levy a total of at
8 least ten mills for combined levies for county road and bridge, farm-to-market and
9 federal aid road, and county road purposes.

10 b. Thirty-five percent of all revenues allocated to any county for allocation under this
11 subsection must be apportioned by the county treasurer no less than quarterly to
12 school districts within the county on the average daily attendance distribution
13 basis, as certified to the county treasurer by the county superintendent of
14 schools. However, no school district may receive in any single academic year an
15 amount under this subsection greater than the county average per student cost
16 multiplied by seventy percent, then multiplied by the number of students in
17 average daily attendance or the number of children of school age in the school
18 census for the county, whichever is greater. Provided, however, that in any county
19 in which the average daily attendance or the school census, whichever is greater,
20 is fewer than four hundred, the county is entitled to one hundred twenty percent
21 of the county average per student cost multiplied by the number of students in
22 average daily attendance or the number of children of school age in the school
23 census for the county, whichever is greater. Once this level has been reached
24 through distributions under this subsection, all excess funds to which the school
25 district would be entitled as part of its thirty-five percent share must be deposited
26 instead in the county general fund. The county superintendent of schools of each
27 oil-producing county shall certify to the county treasurer by July first of each year
28 the amount to which each school district is limited pursuant to this subsection. As
29 used in this subsection, "average daily attendance" means the average daily
30 attendance for the school year immediately preceding the certification by the
31 county superintendent of schools required by this subsection.

1 The countywide allocation to school districts under this subdivision is subject
2 to the following:

3 (1) The first three hundred fifty thousand dollars is apportioned entirely among
4 school districts in the county.

5 (2) The next three hundred fifty thousand dollars is apportioned seventy-five
6 percent among school districts in the county and twenty-five percent to the
7 county infrastructure fund.

8 (3) The next two hundred sixty-two thousand five hundred dollars is
9 apportioned two-thirds among school districts in the county and one-third to
10 the county infrastructure fund.

11 (4) The next one hundred seventy-five thousand dollars is apportioned fifty
12 percent among school districts in the county and fifty percent to the county
13 infrastructure fund.

14 (5) Any remaining amount is apportioned to the county infrastructure fund
15 except from that remaining amount the following amounts are apportioned
16 among school districts in the county:

17 (a) Four hundred ninety thousand dollars, for counties having a
18 population of three thousand or fewer.

19 (b) Five hundred sixty thousand dollars, for counties having a population
20 of more than three thousand and fewer than six thousand.

21 (c) Seven hundred thirty-five thousand dollars, for counties having a
22 population of six thousand or more.

23 c. Twenty percent of all revenues allocated to any county for allocation under this
24 subsection must be apportioned no less than quarterly by the state treasurer to
25 the incorporated cities of the county. Apportionment among cities under this
26 subsection must be based upon the population of each incorporated city
27 according to the last official decennial federal census. In determining the
28 population of any city in which total employment increases by more than two
29 hundred percent seasonally due to tourism, the population of that city for
30 purposes of this subdivision must be increased by eight hundred percent. If a city
31 receives a direct allocation under subsection 1, the allocation to that city under

1 this subsection is limited to sixty percent of the amount otherwise determined for
2 that city under this subsection and the amount exceeding this limitation must be
3 reallocated among the other cities in the county.

4 6. a. Forty-five percent of all revenues allocated to a county infrastructure fund under
5 subsections 4 and 5 must be credited by the county treasurer to the county
6 general fund. However, the allocation to a county under this subdivision must be
7 credited to the state general fund if during that fiscal year the county does not
8 levy a total of at least ten mills for combined levies for county road and bridge,
9 farm-to-market and federal aid road, and county road purposes.

10 b. Thirty-five percent of all revenues allocated to the county infrastructure fund
11 under subsections 4 and 5 must be allocated by the board of county
12 commissioners to or for the benefit of townships in the county on the basis of
13 applications by townships for funding to offset oil and gas development impact to
14 township roads or other infrastructure needs or applications by school districts for
15 repair or replacement of school district vehicles necessitated by damage or
16 deterioration attributable to travel on oil and gas development-impacted roads. An
17 organized township is not eligible for an allocation of funds under this subdivision
18 unless during that fiscal year that township levies at least ten mills for township
19 purposes. For unorganized townships within the county, the board of county
20 commissioners may expend an appropriate portion of revenues under this
21 subdivision to offset oil and gas development impact to township roads or other
22 infrastructure needs in those townships. The amount deposited during each
23 calendar year in the county infrastructure fund which is designated for allocation
24 under this subdivision and which is unexpended and unobligated at the end of
25 the calendar year must be transferred by the county treasurer to the county road
26 and bridge fund for use on county road and bridge projects.

27 c. Twenty percent of all revenues allocated to any county infrastructure fund under
28 subsections 4 and 5 must be allocated by the county treasurer no less than
29 quarterly to the incorporated cities of the county. Apportionment among cities
30 under this subsection must be based upon the population of each incorporated
31 city according to the last official decennial federal census. If a city receives a

1 direct allocation under subsection 1, the allocation to that city under this
2 subsection is limited to sixty percent of the amount otherwise determined for that
3 city under this subsection and the amount exceeding this limitation must be
4 reallocated among the other cities in the county.

5 7. Within thirty days after the end of each calendar year, the board of county
6 commissioners of each county that has received an allocation under this section shall
7 file a report for the calendar year with the commissioner, in a format prescribed by the
8 commissioner, including:

- 9 a. The county's statement of revenues and expenditures; and
10 b. The amount available in the county infrastructure fund for allocation to or for the
11 benefit of townships or school districts, the amount allocated to each organized
12 township or school district and the amount expended from each such allocation
13 by that township or school district, the amount expended by the board of county
14 commissioners on behalf of each unorganized township for which an expenditure
15 was made, and the amount available for allocation to or for the benefit of
16 townships or school districts which remained unexpended at the end of the fiscal
17 year.

18 Within fifteen days after the time when reports under this subsection were due, the
19 commissioner shall provide the reports to the legislative council compiling the
20 information from reports received under this subsection.

21 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events beginning after
22 June 30, 2015.