

HOUSE BILL NO. 1452

Introduced by

Representatives Bosch, Delzer, Mitskog, Pollert, Porter

Senators Holmberg, Patten, Bell, Wardner

1 A BILL for an Act to create and enact a new chapter to title 54 of the North Dakota Century
2 Code, relating to a clean sustainable energy authority and a clean sustainable energy fund; to
3 amend and reenact subsection 5 of section 54-44.4-02 of the North Dakota Century Code,
4 relating to an exemption from procurement services for energy programs; to provide a
5 continuing appropriation; to provide an appropriation; to provide a transfer; and to provide a
6 report.

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

8 **SECTION 1.** A new chapter to title 54 of the North Dakota Century Code is created and
9 enacted as follows:

10 **Definitions.**

11 As used in this chapter:

- 12 1. "Authority" means the clean sustainable energy authority.
- 13 2. "Clean" means a technology or concept that reduces emissions to the air, water, or
14 land and meets or exceeds state and federal environmental regulations.
- 15 3. "Commission" means the industrial commission.
- 16 4. "Fund" means the clean sustainable energy fund.
- 17 5. "Program" means the clean sustainable energy program.
- 18 6. "Sustainable" means a technology or concept that allows the use of a natural resource
19 to be maintained or enhanced through increased efficiency and life cycle benefits
20 without adversely impacting energy security, affordability, reliability, resilience, or
21 national security.

22 **Clean sustainable energy authority - Purpose.**

23 There is created the clean sustainable energy authority to support research, development,
24 and technological advancements through partnerships and financial support for the large scale

1 development and commercialization of projects, processes, activities, and technologies that
2 reduce environmental impacts of energy production. The purpose of the financial support is to
3 enhance the production of clean sustainable energy, to make the state a world leader in the
4 production of clean sustainable energy, and to diversify and grow the state's economy.

5 **Clean sustainable energy authority - Membership - Meetings.**

- 6 1. The clean sustainable energy authority consists of fifteen members, including seven
7 voting members and eight ex officio, nonvoting members.
- 8 2. The seven voting members consist of:
- 9 a. One member appointed by the legislative management to serve as chairman;
10 b. Two members appointed by the lignite research council;
11 c. Two members appointed by the oil and gas research council;
12 d. One member appointed by the renewable energy council; and
13 e. One member appointed by the western Dakota energy association.
- 14 3. The eight ex officio, nonvoting members consist of:
- 15 a. One member appointed by the North Dakota outdoor heritage fund advisory
16 board;
17 b. The commissioner of commerce or the commissioner's designee;
18 c. The director of the department of environmental quality or the director's designee;
19 d. The director of mineral resources or the director's designee;
20 e. The director of the North Dakota pipeline authority or the director's designee;
21 f. The director of the North Dakota transmission authority or the director's designee;
22 g. The director of the state energy research center or the director's designee;
23 h. The president of the Bank of North Dakota or the president's designee;
- 24 4. The term of office for the chairman is two years. The term of office for the other voting
25 members is four years, and the other voting members may not serve more than two
26 consecutive terms. The terms of office for the voting members commence on July first.
27 The initial terms for the voting members of the authority must be staggered following a
28 method determined by the authority.
- 29 5. The authority shall meet at least semiannually. The chairman shall call a meeting upon
30 written request from three voting members of the authority. Four voting members is a
31 quorum at any meeting.

1 **Clean sustainable energy authority - Duties - Report.**

- 2 1. The authority shall make recommendations to the commission for program guidelines,
3 including eligibility criteria for entities to receive funding under this chapter.
- 4 2. The authority shall make recommendations to the commission for grant awards, loan
5 approvals, or other financial assistance to provide funding to support research,
6 development, and technological advancements for the large scale development and
7 commercialization of projects, processes, activities, and technologies that reduce
8 environmental impacts in accordance with this chapter. Any projects, processes,
9 activities, and technologies selected by the commission for funding must have been
10 recommended by the authority, must demonstrate feasibility based on a technical
11 review, must have other sources of financial support, and must achieve the priorities
12 and purposes of the program. At the request of the authority, the Bank of North Dakota
13 shall provide a recommendation regarding the economic feasibility of a project,
14 process, activity, or technology under consideration by the authority. The Bank shall
15 review the business plan, financial statements, and other information necessary to
16 provide a recommendation.
- 17 3. The authority shall make recommendations to the legislative assembly on a
18 comprehensive environmental, social, and governance policy for the state. The
19 authority shall monitor the progress made to implement the environmental, social, and
20 governance policy.
- 21 4. The authority may consult with any other state agency necessary to carry out the
22 purposes under this chapter.
- 23 5. Each biennium, the authority shall provide a written report to the legislative
24 management regarding its activities.

25 **Clean sustainable energy program - Powers and duties of the commission.**

- 26 1. The commission is granted all the powers necessary to carry out the purposes of this
27 chapter, including the power to:
- 28 a. Provide grants, loans, or other forms of financial assistance to qualified entities
29 for the research, demonstration, development, and commercialization of projects,
30 processes, activities, and technologies that reduce environmental impacts and
31 use energy sources derived from within the state. Other forms of financial

- 1 assistance include venture capital investments and interest rate buydowns. The
2 commission must require an entity to provide assurance of financial and other
3 types of support that demonstrate a commitment to the project, process, activity,
4 or technology.
- 5 b. Enter into contracts or agreements to carry out the purposes of this chapter,
6 including contracting for the administration of the program.
- 7 c. Keep accurate records of all financial transactions performed under this chapter.
- 8 d. Cooperate with any private, local, state, or national organization to make
9 contracts and agreements for programs that advance the mission of the program.
- 10 e. Accept loan repayments, donations, grants, contributions, or gifts from any public
11 or private source to carry out the purposes of this chapter, which must be
12 deposited in the clean sustainable energy fund.
- 13 f. Make guidelines necessary to carry out the purposes of this chapter, including
14 guidelines relating to the ownership of intellectual property.
- 15 2. The commission may acquire, purchase, hold, use, lease, license, sell, transfer, or
16 dispose of any interest in an asset necessary for clean sustainable energy technology
17 development to facilitate the production, transportation, distribution, or delivery of
18 clean energy commodities produced in the state as a purchases of last resort.
- 19 3. The commission shall provide administrative support to the authority for the operation
20 of the program, including the preparation of forms, review of applications, and ongoing
21 review of any contracts. The commission may contract with a public or private entity to
22 provide technical assistance necessary to implement the purposes of this chapter.
- 23 4. The commission is not subject to the reporting requirements under chapter 54-60.1.

24 **Clean sustainable energy program - Access to records.**

- 25 1. To the extent the commission or authority determines the materials or data consist of
26 trade secrets or commercial, financial, or proprietary information of individuals or
27 entities applying to or contracting with the commission or receiving commission
28 services under this chapter, materials and data submitted to, made by, or received by
29 the commission or authority, are not public records subject to section 44-04-18 and
30 section 6 of article XI of the Constitution of North Dakota, and are subject to section
31 44-04-18.4.

- 1 2. A person or entity may file a request with the commission to have material designated
2 as confidential under subsection 1. The request must contain any information required
3 by the commission and must include at least the following:
- 4 a. A general description of the nature of the information sought to be protected.
5 b. An explanation of why the information derives independent economic value,
6 actual or potential, from not being generally known to other persons.
7 c. An explanation of why the information is not readily ascertainable by proper
8 means of other persons.
9 d. A general description of any person that may obtain economic value from
10 disclosure or use of the information, and how the person may obtain this value.
11 e. A description of the efforts used to maintain the secrecy of the information.
12 3. Any request under subsection 2 is confidential. The commission shall examine the
13 request and determine whether the information is relevant to the matter at hand and is
14 a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the
15 commission determines the information is either not relevant or not a trade secret, the
16 commission shall notify the requester and the requester may ask for the return of the
17 information and the request within ten days of the notice. If no return is sought, the
18 information and request are public record.
- 19 4. The names or identities of independent technical reviewers on a project or program
20 are confidential, may not be disclosed by the commission, and are not public records
21 subject to section 44-04-18 or section 6 of article XI of the Constitution of North
22 Dakota.

23 **Clean sustainable energy fund - Continuing appropriation.**

24 There is created in the state treasury the clean sustainable energy fund. The fund consists
25 of all moneys transferred to the fund by the legislative assembly; interest upon moneys in the
26 fund; principal and interest payments to the fund; and donations, grants, and other contributions
27 received by the commission for deposit in the fund. All moneys in the fund are appropriated to
28 the commission on a continuing basis to provide grants, loans, and other financial assistance
29 and for administrative and operating costs of the authority and program pursuant to the
30 provisions under this chapter.

1 **SECTION 2. AMENDMENT.** Subsection 5 of section 54-44.4-02 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 5. Procurements by the industrial commission for energy-related programs under
4 chapters 17-05, 54-17.5, 54-17.6, 54-17.7, section 1 of this Act, and 54-63 and under
5 those statutes in title 38 authorizing the industrial commission to perform well and hole
6 pluggings, reclamation work, equipment removal, leak prevention, and similar work.

7 **SECTION 3. APPROPRIATION - TRANSFER - CLEAN SUSTAINABLE ENERGY FUND.**

8 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise
9 appropriated, the sum of \$25,000,000, which the office of management and budget shall
10 transfer to the clean sustainable energy fund, during the biennium beginning July 1, 2021, and
11 ending June 30, 2023.