

Sixtieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2180

Introduced by

Senators Klein, Wanzek, Wardner

Representatives Belter, Brandenburg, Pollert

1 A BILL for an Act to amend and reenact sections 6-09.17-01, 6-09.17-02, 6-09.17-03, and
2 6-09.17-04 of the North Dakota Century Code, relating to the biofuel partnership in assisting
3 community expansion fund; and to provide a continuing appropriation.

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

5 **SECTION 1. AMENDMENT.** Section 6-09.17-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **6-09.17-01. Definitions.** In this chapter, unless the context ~~or subject matter~~ otherwise
8 requires:

- 9 1. "Biodiesel production facility" means an individual or organization involved in
10 production of a biodegradable, combustible liquid fuel that is derived from
11 vegetable oil or animal fat and which is suitable for blending with diesel fuel for use
12 in internal combustion diesel engines. The facility must be located in this state and
13 must be owned by at least ten percent agriculture producers or by at least fifty
14 percent residents of this state.
- 15 2. "Biodiesel Biofuel partnership in assisting community expansion fund" or "fund"
16 means a fund established to buy down the interest rate on loans to biodiesel and
17 ethanol production facilities and to livestock operations as provided under this
18 chapter.
- 19 2. ~~"Biodiesel production facility" means a corporation, limited liability company,~~
20 ~~partnership, individual, or association involved in production of diesel fuel~~
21 ~~containing at least five percent biodiesel meeting the specifications adopted by the~~
22 ~~American society for testing and materials.~~
- 23 3. ~~"Community" means the city or county in which an eligible biodiesel production~~
24 ~~facility is located, or a local development corporation, community organization, or~~

~~any other group whose interest is in the economic growth of the area.~~ "Ethanol production facility" means an individual or organization involved in production of agriculturally derived denatured ethanol that is suitable for blending with a petroleum product for use in internal combustion engines. The facility must be located in this state and must be owned by at least ten percent agriculture producers or by at least fifty percent residents of this state.

4. "Livestock operation" means a livestock feeding, handling, milking, or holding operation located in this state which uses as part of its operation a byproduct produced at a biodiesel or an ethanol production facility.

SECTION 2. AMENDMENT. Section 6-09.17-02 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-02. ~~Biodiesel~~ Biofuel partnership in assisting community expansion fund - Continuing appropriation - Administration. A Effective July 1, 2007, the biodiesel partnership in assisting community expansion fund is hereby established becomes the biofuel partnership in assisting community expansion fund. All moneys transferred into the fund, interest on fund moneys, and payments to the fund are hereby appropriated for the purposes of this chapter. This fund is not subject to section 54-44.1-11 ~~and any unexpended and unobligated balance in the fund at the end of the biennium must be transferred to the state general fund.~~ The Bank of North Dakota shall administer the fund. Notwithstanding any other provision of law, the Bank may transfer any unobligated funds between funds that have been appropriated by the legislative assembly for interest buydown in the biofuel partnership in assisting community expansion fund and the partnership in assisting community expansion fund.

SECTION 3. AMENDMENT. Section 6-09.17-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-03. Fund - Purpose - Interest rate buydown. Moneys in the ~~biodiesel partnership in assisting community expansion~~ fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor be less than fifty percent of the total loans. ~~If the loan is approved by the lenders and there is~~

~~evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved.~~

SECTION 4. AMENDMENT. Section 6-09.17-04 of the North Dakota Century Code is amended and reenacted as follows:

6-09.17-04. Fund moneys - Eligible uses.

1. a. The fund moneys may be used to participate in an interest rate buydown on a loan to a biodiesel or an ethanol production facility or to a livestock operation for the following eligible uses:

(1) Purchase or construction of real property ~~and equipment~~.

(2) Expansion of facilities.

(3) ~~Working capital~~ Purchase or installation of equipment.

~~(4) Inventory.~~

b. The loan funds ~~cannot~~ may not be used to refinance any existing debt or for the relocation within this state of the ~~business within North Dakota~~ biodiesel or ethanol production facility or the livestock operation.

2. ~~The community shall determine the amount of the interest rate buydown and apply to the Bank of North Dakota for participation from the biodiesel partnership in assisting community expansion fund. The funds for the community's portion of the buydown may come from a local development corporation, contributions, community funds, future dedicated tax programs, or any other community source. Any community funds provided for a buydown under chapter 6-09.14 for a biodiesel production facility may be considered as funds for the community's portion of the buydown under this chapter for that facility.~~

3. ~~The fund participation portion in the buydown must be determined by the Bank of North Dakota based on economic conditions in the city or county in which the business is located.~~

4. The maximum amount from the fund in the interest rate buydown for a biodiesel or ethanol production facility may not exceed ~~four~~ five hundred thousand dollars ~~per loan and not more than one loan may be provided~~ to any single biodiesel or ethanol production facility under this chapter. ~~However, if the partnership in assisting community expansion fund does not have adequate funds on hand for an~~

- 1 ~~interest rate buydown for a biodiesel production facility, the maximum amount from~~
2 ~~the fund under this subsection is increased to six hundred thousand dollars per~~
3 ~~loan. The community funds required for participation in the interest rate buydown~~
4 ~~are limited to the amount required when the fund provides two hundred fifty~~
5 ~~thousand dollars per loan. The maximum amount from the fund in the interest rate~~
6 ~~buydown for a livestock operation may not exceed two hundred fifty thousand~~
7 ~~dollars to any single livestock operation under this chapter.~~
8 3. The fund participation ~~must be~~ is limited to the amount required to buy down the
9 interest to five hundred basis points below the national prime interest rate.
10 ~~5.~~ 4. The Bank of North Dakota shall adopt rules to implement this chapter.