

FIRST ENGROSSMENT  
with House AmendmentsSixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED 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 agriculture producers must hold at least ten percent of the ownership interest in the  
14 facility or at least fifty percent of the ownership interest of the facility must be  
15 owned by residents of this state.

16 2. "Biodiesel pump" means retail or wholesale infrastructure designed to dispense  
17 and distribute biodiesel fuel.

18 3. "Biodiesel Biofuel partnership in assisting community expansion fund" or "fund"  
19 means a fund established to buy down the interest rate on loans to biodiesel and  
20 ethanol production facilities and to livestock operations as provided under this  
21 chapter.

22 2. ~~"Biodiesel production facility" means a corporation, limited liability company,~~  
23 ~~partnership, individual, or association involved in production of diesel fuel~~

1           ~~containing at least five percent biodiesel meeting the specifications adopted by the~~  
2           ~~American society for testing and materials.~~

3           3. ~~4. "Community" means the city or county in which an eligible biodiesel production~~  
4           ~~facility is located, or a local development corporation, community organization, or~~  
5           ~~any other group whose interest is in the economic growth of the area. "E-85 pump"~~  
6           ~~means retail or wholesale infrastructure designed to dispense gasoline blends with~~  
7           ~~greater than sixty percent ethanol.~~

8           5. "Ethanol production facility" means an individual or organization involved in  
9           production of agriculturally derived denatured ethanol that is suitable for blending  
10           with a petroleum product for use in internal combustion engines. The facility must  
11           be located in this state and agriculture producers must hold at least ten percent of  
12           the ownership interest in the facility or at least fifty percent of the ownership  
13           interest of the facility must be owned by residents of this state.

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

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

19           **6-09.17-02. ~~Biodiesel~~ Biofuel partnership in assisting community expansion fund**  
20 **- Continuing appropriation - Administration.** A Effective July 1, 2007, the biodiesel  
21 partnership in assisting community expansion fund is hereby established becomes the biofuel  
22 partnership in assisting community expansion fund. All moneys transferred into the fund,  
23 interest on fund moneys, and payments to the fund are ~~hereby~~ appropriated for the purposes of  
24 this chapter. This fund is not subject to section 54-44.1-11 ~~and any unexpended and~~  
25 ~~unobligated balance in the fund at the end of the biennium must be transferred to the state~~  
26 ~~general fund.~~ The Bank of North Dakota shall administer the fund. Notwithstanding any other  
27 provision of law, the Bank may transfer any unobligated moneys between funds that have been  
28 appropriated by the legislative assembly for interest buydown in the biofuel partnership in  
29 assisting community expansion fund and the partnership in assisting community expansion  
30 fund.

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

3           **6-09.17-03. Fund - Purpose - Interest rate buydown.** Moneys in the ~~biodiesel~~  
4 ~~partnership in assisting community expansion~~ fund must be used for the purpose of buying  
5 down the interest rate on loans made by a lead financial institution in participation with the Bank  
6 of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor  
7 be less than fifty percent of the total loans. ~~If the loan is approved by the lenders and there is~~  
8 ~~evidence of the community's commitment and ability to fund its portion of the buydown, the~~  
9 ~~fund's participation in the buydown must automatically be approved.~~

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

12          **6-09.17-04. Fund moneys - Eligible uses.**

- 13          1.    a.    The fund moneys may be used to participate in an interest rate buydown on a  
14                    loan to a biodiesel or an ethanol production facility, to a livestock operation, or  
15                    for the installation of E-85 or biodiesel pumps for the following eligible uses:  
16                    (1)   Purchase or construction of real property ~~and equipment~~.  
17                    (2)   Expansion of facilities.  
18                    (3)   ~~Working capital~~ Purchase or installation of equipment.  
19                    (4)   ~~Inventory~~.  
20          b.    The loan funds ~~cannot~~ may not be used to refinance any existing debt or for  
21                    the relocation within this state of the ~~business within North Dakota~~ biodiesel  
22                    or ethanol production facility or the livestock operation.  
23          2.    ~~The community shall determine the amount of the interest rate buydown and apply~~  
24                   ~~to the Bank of North Dakota for participation from the biodiesel partnership in~~  
25                   ~~assisting community expansion fund. The funds for the community's portion of the~~  
26                   ~~buydown may come from a local development corporation, contributions,~~  
27                   ~~community funds, future dedicated tax programs, or any other community source.~~  
28                   ~~Any community funds provided for a buydown under chapter 6-09.14 for a~~  
29                   ~~biodiesel production facility may be considered as funds for the community's~~  
30                   ~~portion of the buydown under this chapter for that facility.~~

- 1        ~~3.~~    ~~The fund participation portion in the buydown must be determined by the Bank of~~  
2            ~~North Dakota based on economic conditions in the city or county in which the~~  
3            ~~business is located.~~
- 4        ~~4.~~    The maximum amount from the fund in the interest rate buydown for a biodiesel or  
5            ethanol production facility may not exceed ~~four~~ five hundred thousand dollars ~~per~~  
6            ~~loan and not more than one loan may be provided~~ to any single biodiesel or  
7            ethanol production facility under this chapter. ~~However, if the partnership in~~  
8            ~~assisting community expansion fund does not have adequate funds on hand for an~~  
9            ~~interest rate buydown for a biodiesel production facility, the maximum amount from~~  
10           ~~the fund under this subsection is increased to six hundred thousand dollars per~~  
11           ~~loan. The community funds required for participation in the interest rate buydown~~  
12           ~~are limited to the amount required when the fund provides two hundred fifty~~  
13           ~~thousand dollars per loan. The maximum amount from the fund in the interest rate~~  
14           buydown for a livestock operation may not exceed two hundred fifty thousand  
15           dollars to any single livestock operation under this chapter.
- 16        3.    The fund participation ~~must be~~ is limited to the amount required to buy down the  
17            interest to five hundred basis points below the national prime interest rate.
- 18        ~~5.~~ 4.    The Bank of North Dakota shall adopt rules to implement this chapter.