

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 residents of this state must own at least fifty percent of the ownership
15 interest of the facility.
- 16 2. "Biodiesel Biofuel partnership in assisting community expansion fund" or "fund"
17 means a fund established to buy down the interest rate on loans to biodiesel and
18 ethanol production facilities and to livestock operations as provided under this
19 chapter.
- 20 2. ~~"Biodiesel production facility" means a corporation, limited liability company,~~
21 ~~partnership, individual, or association involved in production of diesel fuel~~
22 ~~containing at least five percent biodiesel meeting the specifications adopted by the~~
23 ~~American society for testing and materials.~~

- 1 3. ~~"Community" means the city or county in which an eligible biodiesel production~~
2 ~~facility is located, or a local development corporation, community organization, or~~
3 ~~any other group whose interest is in the economic growth of the area. "Biofuels~~
4 ~~retailer" means a retailer that dispenses and distributes biodiesel fuel and gasoline~~
5 ~~blends with greater than sixty percent ethanol.~~
- 6 4. "Ethanol production facility" means an individual or organization involved in
7 production of agriculturally derived denatured ethanol that is suitable for blending
8 with a petroleum product for use in internal combustion engines. The facility must
9 be located in this state and agriculture producers must hold at least ten percent of
10 the ownership interest in the facility or residents of this state must own at least fifty
11 percent of the ownership interest of the facility.
- 12 5. "Livestock operation" means a livestock feeding, handling, milking, or holding
13 operation located in this state which uses as part of its operation a byproduct
14 produced at a biodiesel or an ethanol production facility.

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

17 **6-09.17-02. ~~Biodiesel~~ Biofuel partnership in assisting community expansion fund**
18 **- Continuing appropriation - Administration.** A Effective July 1, 2007, the biodiesel
19 partnership in assisting community expansion fund is hereby established becomes the biofuel
20 partnership in assisting community expansion fund. All moneys transferred into the fund,
21 interest on fund moneys, and payments to the fund are ~~hereby~~ appropriated for the purposes of
22 this chapter. This fund is not subject to section 54-44.1-11 ~~and any unexpended and~~
23 ~~unobligated balance in the fund at the end of the biennium must be transferred to the state~~
24 ~~general fund.~~ The Bank of North Dakota shall administer the fund. Notwithstanding any other
25 provision of law, the Bank may transfer any unobligated moneys between funds that have been
26 appropriated by the legislative assembly for interest buydown in the biofuel partnership in
27 assisting community expansion fund and the partnership in assisting community expansion
28 fund.

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

1 **6-09.17-03. Fund - Purpose - Interest rate buydown.** Moneys in the ~~biodiesel~~
2 ~~partnership in assisting community expansion~~ fund must be used for the purpose of buying
3 down the interest rate on loans made by a lead financial institution in participation with the Bank
4 of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor
5 be less than fifty percent of the total loans. ~~If the loan is approved by the lenders and there is~~
6 ~~evidence of the community's commitment and ability to fund its portion of the buydown, the~~
7 ~~fund's participation in the buydown must automatically be approved.~~

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

10 **6-09.17-04. Fund moneys - Eligible uses.**

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

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

15 (2) Expansion of facilities.

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

17 (4) ~~Inventory.~~

18 b. The fund moneys may be used to participate in an interest rate buydown on a
19 loan to a biofuels retailer for the purchase or installation of pumps and related
20 equipment.

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

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

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- 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. The maximum amount
16 from the fund in the interest rate buydown for a biofuels retailer may not exceed
17 twenty thousand dollars to any single location of a biofuels retailer under this
18 chapter.
- 19 3. The fund participation ~~must be~~ is limited to the amount required to buy down the
20 interest to five hundred basis points below the national prime interest rate.
- 21 ~~5.~~ 4. The Bank of North Dakota shall adopt rules to implement this chapter.