

23.1168.01004  
Title.

Prepared by the Legislative Council staff for  
Representative Klemin  
October 23, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1546

Page 2, line 26, after the underscored period insert "The funds from the loan may not be disbursed to the owner until the construction is certified to be complete and the fertilizer production facility is operating.

c."

Renumber accordingly

Introduced by

Legislative Management

1 A BILL for an Act to amend and reenact section 54-63.1-04 of the North Dakota Century Code,  
2 relating to the clean sustainable energy authority's fertilizer development incentive program; to  
3 provide for retroactive application; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 54-63.1-04 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **54-63.1-04. Clean sustainable energy authority - Duties - Report.**

- 8 1. The authority shall make recommendations to the commission for program guidelines,  
9 including eligibility criteria for entities to receive funding under this chapter.
- 10 2. The nonvoting technical advisors shall develop a process to review and evaluate  
11 projects to determine the technical merits and feasibility of any application, including  
12 potential benefits of the development of low-emission technology, the expansion of the  
13 development of the state's natural resources or energy production, and the  
14 contribution to the economic diversity in the state.
- 15 3. The authority may develop a loan program or a loan guarantee program under the  
16 clean sustainable energy fund. The Bank of North Dakota shall administer the loan  
17 program or loan guarantee program. The interest rate of a loan under this program  
18 may not exceed two percent per year. The maximum term of a loan under this section  
19 must be approved by the commission based on a recommendation from the authority.  
20 The Bank shall review applications for loans or loan guarantees and shall consider the  
21 business plan, financial statements, and other information necessary to evaluate the  
22 application. To be eligible for a loan or loan guarantee, an entity shall agree to provide  
23 the Bank of North Dakota with information as requested. The Bank of North Dakota  
24 may develop policies for loan participation with local financial institutions.

- 1           4. The authority shall make recommendations to the commission for grant awards, loan  
2           approvals, or other financial assistance to provide funding to support research,  
3           development, and technological advancements for the large scale development and  
4           commercialization of projects, processes, activities, and technologies that reduce  
5           environmental impacts and increase sustainability of energy production and delivery in  
6           accordance with this chapter. Any projects, processes, activities, and technologies  
7           selected by the commission for funding must have been recommended by the  
8           authority, must demonstrate feasibility based on a technical review conducted by the  
9           nonvoting technical advisors of the authority, must have other sources of financial  
10          support, and must achieve the priorities and purposes of the program. At the request  
11          of the authority, the Bank of North Dakota shall provide a recommendation regarding  
12          the economic feasibility of a project, process, activity, or technology under  
13          consideration by the authority. The Bank shall review the business plan, financial  
14          statements, and other information necessary to provide a recommendation.
- 15          5. The authority shall develop a fertilizer development incentive program, including  
16          guidelines to provide loan forgiveness. Funding for the fertilizer development incentive  
17          program under this subsection is limited to one hundred twenty-five million dollars.
- 18           a. To be eligible for the fertilizer development incentive program:
- 19               (1) The fertilizer production facility must be located within the state;  
20               (2) The owner of the fertilizer production facility must be an entity domiciled in  
21               the United States or Canada;  
22               (3) The owner must borrow money under a program administered by the Bank  
23               of North Dakota; and  
24               (4) The fertilizer production facility must use hydrogen produced by the  
25               electrolysis of water.
- 26           b. The funds from the loan may not be disbursed to the owner until the construction  
27           is certified to be complete and the fertilizer production facility is operating.
- 28           c. Upon completion of the construction of the fertilizer production facility, the  
29           authority shall forgive the loan and shall use fertilizer development incentive  
30           funding to repay any outstanding amount borrowed, as certified by the Bank. The  
31           authority shall request an appropriation from the strategic investment and

1                   improvements fund or other funding sources to provide fertilizer development  
2                   incentive funding to repay any outstanding amount borrowed.

3       6.   The authority may consult with any other state agency necessary to carry out the  
4           purposes under this chapter.

5       6-7. Each biennium, the authority shall provide a written report to the legislative  
6           management regarding its activities and the program's financial impact on state  
7           revenues and the state's economy.

8       **SECTION 2. RETROACTIVE APPLICATION.** This Act applies retroactively to July 1, 2023.

9       **SECTION 3. EFFECTIVE DATE.** This Act becomes effective immediately upon its filing with  
10      the secretary of state.