

HOUSE BILL NO. 1113

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Commerce)

1 A BILL for an Act to amend and reenact sections 10-30.5-02, 17-02-01, and 52-02.1-04 of the
2 North Dakota Century Code, relating to the North Dakota development fund, incorporated,
3 ethanol plant reporting to the budget section, and new jobs training; and to repeal chapter 54-62
4 of the North Dakota Century Code, relating to faith-based and community initiatives.

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

6 **SECTION 1. AMENDMENT.** Section 10-30.5-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **10-30.5-02. (~~Effective through July 31, 2013~~) Purpose and fund uses.**

- 9 1. It is the purpose of this chapter to create a statewide nonprofit development
10 corporation that will have the authority to take equity positions in, to provide loans to,
11 or to use other innovative financing mechanisms to provide capital for new or
12 expanding businesses in this state, or relocating businesses to this state. The
13 corporation's principal mission is the development and expansion of primary sector
14 business in this state. The corporation may form additional corporations, limited
15 liability companies, partnerships, or other forms of business associations in order to
16 further its mission of primary sector economic development.
- 17 2. The exclusive focus of this corporation is business development in this state; however,
18 it is not excluded from participation with other states or organizations in projects that
19 have a clear economic benefit to state residents in the creation of jobs or secondary
20 business. Emphasis should be to develop jobs that provide an income adequate to
21 support a family above the poverty level.
- 22 3. Moneys in the development fund may be used to provide working capital or for
23 financing the purchase of fixed assets but not to refinance existing debt. Moneys may
24 also be used to make matching grants to county-authorized or city-authorized

1 development corporations for the acquisition, leasing, or remodeling of real estate
2 facilities for locating a prospective new primary sector business. A grant must be made
3 as part of a package of financing in which the state is a participant.

4 4. The commissioner of commerce shall adopt rules, subject to the approval of the board
5 of directors, necessary to implement the administration of the fund. The rules to
6 implement the grant program must be developed to encourage local fundraising
7 initiatives for developing locations for businesses financed by the corporation.

8 5. Moneys in the development fund may be used to provide financing to early childhood
9 facilities licensed under chapter 50-11.1. Moneys also may be used to make grants or
10 loans to match grants or loans made by county-authorized or city-authorized
11 development corporations, job development authorities created under chapter 11-11.1
12 or 40-57.4, and regional planning councils for acquiring, leasing, or remodeling of real
13 estate facilities or for acquiring equipment for establishing or expanding a licensed
14 early childhood facility. In providing financing under this subsection, the corporation
15 shall ensure funds are distributed fairly among for-profit early childhood facilities,
16 nonprofit early childhood facilities, and public early childhood facilities. An award under
17 this subsection may not exceed one hundred thousand dollars per award.

18 **~~(Effective after July 31, 2013) Purpose and fund uses.~~**

19 ~~1. It is the purpose of this chapter to create a statewide nonprofit development~~
20 ~~corporation that will have the authority to take equity positions in, to provide loans to,~~
21 ~~or to use other innovative financing mechanisms to provide capital for new or~~
22 ~~expanding businesses in this state, or relocating businesses to this state. The~~
23 ~~corporation's principal mission is the development and expansion of primary sector~~
24 ~~business in this state. The corporation may form additional corporations, limited~~
25 ~~liability companies, partnerships, or other forms of business associations in order to~~
26 ~~further its mission of primary sector economic development.~~
27 ~~2. The exclusive focus of this corporation is business development in this state; however,~~
28 ~~it is not excluded from participation with other states or organizations in projects that~~
29 ~~have a clear economic benefit to state residents in the creation of jobs or secondary~~
30 ~~business. Emphasis should be to develop jobs that provide an income adequate to~~
31 ~~support a family above the poverty level.~~

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4 development corporations for the acquisition, leasing, or remodeling of real estate
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- 7 4. The commissioner of commerce shall adopt rules, subject to the approval of the board
8 of directors, necessary to implement the administration of the fund. The rules to
9 implement the grant program must be developed to encourage local fundraising
10 initiatives for developing locations for businesses financed by the corporation.

11 **SECTION 2. AMENDMENT.** Section 17-02-01 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **17-02-01. Ethanol production incentives –~~Report to budget section.~~**

- 14 1. a. An ethanol plant that was in operation before July 1, 1995, and which has a
15 production capacity of fewer than fifteen million gallons [56781000 liters] of
16 ethanol may receive up to nine hundred thousand dollars in production incentives
17 from the state during the 2005-07 biennium and may receive no production
18 incentives under this section after the 2005-07 biennium.
- 19 b. An ethanol plant that was in operation before July 1, 1995, and which produced
20 fifteen million gallons [56781000 liters] or more in the previous fiscal year is
21 eligible to receive up to four hundred fifty thousand dollars in production
22 incentives from the state during the 2005-07 biennium and may receive no
23 production incentives under this section after the 2005-07 biennium.
- 24 2. The agricultural products utilization commission shall determine the amount of
25 production incentives to which a plant is entitled under this section by multiplying the
26 number of gallons of ethanol produced by the plant and marketed to a distributor or
27 wholesaler by forty cents. The commission shall forward the production incentives to
28 the plant upon receipt of an affidavit by the plant indicating that the ethanol is to be
29 sold at retail to consumers. The affidavit must be accompanied by an affidavit from a
30 wholesaler or retailer indicating that the ethanol is to be sold at retail to consumers.

1 3. ~~Within ninety days after the conclusion of the plant's fiscal year, the plant shall submit~~
2 ~~to the budget section of the legislative management a statement by a certified public~~
3 ~~accountant indicating whether the plant produced a profit from its operation in the~~
4 ~~preceding fiscal year, after deducting the payments received under this section.~~

5 **SECTION 3. AMENDMENT.** Section 52-02.1-04 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **52-02.1-04. Fund - Administration.**

8 Funding for programs must be through loans or grants as stated under this section. Loans
9 may be made by the department from the North Dakota ~~future~~development fund, incorporated.
10 a community, or the department and a community cooperatively. A community may provide
11 loans directly or through any financial institution currently qualified to participate in a loan with
12 the Bank of North Dakota. The Bank of North Dakota may participate in loans under such credit
13 standards and lending policies it determines are necessary and applicable. A community may
14 alternatively fund a program through a grant without use of new jobs credit from withholding.

15 1. Loans must be secured and payable from a sufficient portion of the future receipts of
16 payments authorized by the agreement, with such other security as the lender may
17 determine is justified. The state treasurer shall transfer the moneys from the special
18 fund created in section 52-02.1-03 to a special fund set up for this purpose by the
19 department or community. The receipts must be pledged to the payment of principal of
20 and interest on the loan.

21 2. The department may adopt rules to implement this chapter.

22 **SECTION 4. REPEAL.** Chapter 54-62 of the North Dakota Century Code is repealed.