

**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 create and enact section 17-02-01.1 of the North Dakota Century Code,  
2 relating to the definition of eligible facility for ethanol production incentives; to amend and  
3 reenact sections 10-30.5-02, ~~17-02-01~~, and 52-02.1-04 of the North Dakota Century Code,  
4 relating to the North Dakota development fund, incorporated, ~~ethanol plant reporting to the~~  
5 ~~budget section~~, and new jobs training; and to repeal ~~chapter 54-62~~ sections 17-02-01 and  
6 54-62-03 of the North Dakota Century Code, relating to ethanol production incentives and the  
7 advisory commission on faith-based and community initiatives.

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

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

11 **10-30.5-02. (~~Effective through July 31, 2013~~) Purpose and fund uses.**

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

- 1       3.   Moneys in the development fund may be used to provide working capital or for  
2       financing the purchase of fixed assets but not to refinance existing debt. Moneys may  
3       also be used to make matching grants to county-authorized or city-authorized  
4       development corporations for the acquisition, leasing, or remodeling of real estate  
5       facilities for locating a prospective new primary sector business. A grant must be made  
6       as part of a package of financing in which the state is a participant.
- 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     5.   Moneys in the development fund may be used to provide financing to early childhood  
12      facilities licensed under chapter 50-11.1. Moneys also may be used to make grants or  
13      loans to match grants or loans made by county-authorized or city-authorized  
14      development corporations, job development authorities created under chapter 11-11.1  
15      or 40-57.4, and regional planning councils for acquiring, leasing, or remodeling of real  
16      estate facilities or for acquiring equipment for establishing or expanding a licensed  
17      early childhood facility. In providing financing under this subsection, the corporation  
18      shall ensure funds are distributed fairly among for-profit early childhood facilities,  
19      nonprofit early childhood facilities, and public early childhood facilities. An award under  
20      this subsection may not exceed one hundred thousand dollars per award.

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

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

1 have a clear economic benefit to state residents in the creation of jobs or secondary  
2 business. Emphasis should be to develop jobs that provide an income adequate to  
3 support a family above the poverty level.

4 3. Moneys in the development fund may be used to provide working capital or for  
5 financing the purchase of fixed assets but not to refinance existing debt. Moneys may  
6 also be used to make matching grants to county authorized or city authorized  
7 development corporations for the acquisition, leasing, or remodeling of real estate  
8 facilities for locating a prospective new primary sector business. A grant must be made  
9 as part of a package of financing in which the state is a participant.

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

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

16 ~~— 17-02-01. Ethanol production incentives — Report to budget section.~~

17 ~~— 1. a. An ethanol plant that was in operation before July 1, 1995, and which has a~~  
18 ~~production capacity of fewer than fifteen million gallons [56781000 liters] of~~  
19 ~~ethanol may receive up to nine hundred thousand dollars in production incentives~~  
20 ~~from the state during the 2005-07 biennium and may receive no production~~  
21 ~~incentives under this section after the 2005-07 biennium.~~

22 ~~— b. An ethanol plant that was in operation before July 1, 1995, and which produced~~  
23 ~~fifteen million gallons [56781000 liters] or more in the previous fiscal year is~~  
24 ~~eligible to receive up to four hundred fifty thousand dollars in production~~  
25 ~~incentives from the state during the 2005-07 biennium and may receive no~~  
26 ~~production incentives under this section after the 2005-07 biennium.~~

27 ~~— 2. The agricultural products utilization commission shall determine the amount of~~  
28 ~~production incentives to which a plant is entitled under this section by multiplying the~~  
29 ~~number of gallons of ethanol produced by the plant and marketed to a distributor or~~  
30 ~~wholesaler by forty cents. The commission shall forward the production incentives to~~  
31 ~~the plant upon receipt of an affidavit by the plant indicating that the ethanol is to be~~

~~sold at retail to consumers. The affidavit must be accompanied by an affidavit from a wholesaler or retailer indicating that the ethanol is to be sold at retail to consumers.~~  
~~3. Within ninety days after the conclusion of the plant's fiscal year, the plant shall submit to the budget section of the legislative management a statement by a certified public accountant indicating whether the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received under this section.~~

**SECTION 2.** Section 17-02-01.1 of the North Dakota Century Code is created and enacted as follows:

**17-02-01.1. Definition.**

In this chapter "eligible facility" means an ethanol production plant constructed in this state after July 31, 2003.

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

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

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

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

**SECTION 4. REPEAL.** ~~Chapter 54-62~~Sections 17-02-01 and 54-62-03 of the North Dakota Century Code ~~is~~are repealed.