

**Sixty-eighth Legislative Assembly of North Dakota  
In Special Session Commencing Monday, October 23, 2023**

HOUSE BILL NO. 1546  
(Legislative Management)

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

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

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

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

1. The authority shall make recommendations to the commission for program guidelines, including eligibility criteria for entities to receive funding under this chapter.
2. The nonvoting technical advisors shall develop a process to review and evaluate projects to determine the technical merits and feasibility of any application, including potential benefits of the development of low-emission technology, the expansion of the development of the state's natural resources or energy production, and the contribution to the economic diversity in the state.
3. The authority may develop a loan program or a loan guarantee program under the clean sustainable energy fund. The Bank of North Dakota shall administer the loan program or loan guarantee program. The interest rate of a loan under this program may not exceed two percent per year. The maximum term of a loan under this section must be approved by the commission based on a recommendation from the authority. The Bank shall review applications for loans or loan guarantees and shall consider the business plan, financial statements, and other information necessary to evaluate the application. To be eligible for a loan or loan guarantee, an entity shall agree to provide the Bank of North Dakota with information as requested. The Bank of North Dakota may develop policies for loan participation with local financial institutions.
4. The authority shall make recommendations to the commission for grant awards, loan approvals, or other financial assistance to provide funding to support research, development, and technological advancements for the large scale development and commercialization of projects, processes, activities, and technologies that reduce environmental impacts and increase sustainability of energy production and delivery in accordance with this chapter. Any projects, processes, activities, and technologies selected by the commission for funding must have been recommended by the authority, must demonstrate feasibility based on a technical review conducted by the nonvoting technical advisors of the authority, must have other sources of financial support, and must achieve the priorities and purposes of the program. At the request of the authority, the Bank of North Dakota shall provide a recommendation regarding the economic feasibility of a project, process, activity, or technology under consideration by the authority. The Bank shall review the business plan, financial statements, and other information necessary to provide a recommendation.
5. The authority shall develop a fertilizer development incentive program, including guidelines to provide loan forgiveness. Funding for the fertilizer development incentive program under this subsection is limited to one hundred twenty-five million dollars.
  - a. To be eligible for the fertilizer development incentive program:

- (1) The fertilizer production facility must be located within the state;
  - (2) The owner of the fertilizer production facility must be an entity domiciled in the United States or Canada;
  - (3) The owner must borrow money under a program administered by the Bank of North Dakota; and
  - (4) The fertilizer production facility must use hydrogen produced by the electrolysis of water.
- b. Upon completion of the construction of the fertilizer production facility, the authority shall forgive the loan and shall use fertilizer development incentive funding to repay any outstanding amount borrowed, as certified by the Bank. The authority shall request an appropriation from the strategic investment and improvements fund or other funding sources to provide fertilizer development incentive funding to repay any outstanding amount borrowed.
6. The authority may consult with any other state agency necessary to carry out the purposes under this chapter.
- 6-7. Each biennium, the authority shall provide a written report to the legislative management regarding its activities and the program's financial impact on state revenues and the state's economy.

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

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

Dennis E. Johnson  
Speaker of the House

Tammy Miller  
President of the Senate

Buell T. Reink  
Chief Clerk of the House

Don Rod  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1546.

House Vote:      Yeas 60              Nays 30              Absent 4

Senate Vote:      Yeas 40              Nays 7              Absent 0

Buell T. Reink  
Chief Clerk of the House

Received by the Governor at 1:25 P.M. on October 25, 2023.

Approved at 3:00 P.M. on October 25, 2023.

Doug Burgum  
Governor

Filed in this office this 25<sup>th</sup> day of October, 2023,  
at 4:18 o'clock P M.

Michael Howe  
Secretary of State