

March 19, 2021

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1475

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact three new sections to chapter 4.1-01.1 of the North Dakota Century Code, relating to an agriculture diversification and development fund, agriculture diversification and development committee, and agriculture diversification and development fund grants program; to provide an appropriation; to provide a continuing appropriation; and to provide for a transfer.

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

**SECTION 1.** A new section to chapter 4.1-01.1 of the North Dakota Century Code is created and enacted as follows:

**Agriculture diversification and development fund - Continuing appropriation.**

1. There is created in the state treasury the agriculture diversification and development loan fund. The fund consists of all moneys transferred to the fund by the legislative assembly, interest upon moneys in the fund, and payments of interest and principal on loans made from the fund. Moneys in the fund are appropriated to the Bank of North Dakota on a continuing basis for loan disbursements, grants, and administrative costs pursuant to this section. No more than twenty-five percent of the fund may be utilized for grants in a biennium.
2. Loans, interest rate buydowns, or grants may be issued from the fund to support new or expanding value-added agriculture businesses that demonstrate financial feasibility, enhance profitability for farmers and ranchers, create jobs, and grow the state's economy. Value-added agriculture businesses include food production or processing facilities; feed or pet food processing facilities; commodity processing facilities; agriculture product manufacturers; and animal agriculture production facilities, including swine, poultry, dairy, and feed lot production facilities.
3. The Bank of North Dakota shall develop policies in consultation with the agriculture diversification and development committee. The Bank shall review loan applications. To be eligible for a loan under this section, an entity shall agree to provide the Bank with information as requested. The Bank may develop policies for loan participation with local financial institutions. The Bank shall deposit in the fund all principal and interest paid on the outstanding loans. The Bank may use a portion of the interest paid as a servicing fee to pay for administrative costs, which may not exceed one-half of one percent of the amount of the outstanding loans. The Bank shall contract with a certified public accounting firm to audit the fund if the fund has any loans. The cost of the audit must be paid from the fund.

**SECTION 2.** A new section to chapter 4.1-01.1 of the North Dakota Century Code is created and enacted as follows:

**Agriculture diversification and development committee.**

1. The committee consists of eleven members, five of whom must be appointed by the commissioner for terms of two years each, arranged so that two terms expire in odd-numbered years and three terms expire in even-numbered years.
  - a. Four of the members appointed by the commissioner must be actively engaged in farming in this state and the fifth member appointed by the commissioner must be actively engaged in agribusiness in this state.
  - b. The governor shall appoint one member for a term of two years which expires in odd-numbered years.
  - c. The member appointed by the governor must be actively engaged in business in this state.
  - d. The remaining committee members must consist of:
    - (1) One representative from the independent community banks of North Dakota;
    - (2) One representative from the North Dakota bankers association;
    - (3) The commissioner of commerce or the commissioner's designee;
    - (4) The president of North Dakota state university or the president's designee; and
    - (5) The agriculture commissioner or the commissioner's designee.
  - e. The commission shall elect one of its members as chairman.
2. The agriculture diversification and development committee shall develop guidelines for the grants, including eligibility criteria and reporting requirements. The guidelines must include priority for businesses with a majority of the ownership comprised of North Dakota residents. The agriculture diversification and development committee shall review grant applications and make funding determinations.

**SECTION 3.** A new section to chapter 4.1-01.1 of the North Dakota Century Code is created and enacted as follows:

**Agriculture diversification and development fund grants program - Access to records.**

1. To the extent the agricultural products utilization commission determines the materials or data provided under section 1 of this Act consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying for grants with the commission, materials and data submitted to, made by, or received by the commission, are not public records subject to section 44-04-18 and section 6 article XI of the Constitution of North Dakota, and are subject to section 44-04-18.4.

2. A person may file a request with the commission to have material designated as confidential under subsection 1. The request must contain any information required by the commission and must include at least the following:
  - a. A general description of the nature of the information sought to be protected;
  - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;
  - c. An explanation of why the information is not readily ascertainable by proper means of other persons;
  - d. A general description of any person that may obtain economic value from disclosure or use of the information, and how the person may obtain this value; and
  - e. A description of the efforts used to maintain the secrecy of the information.
3. A request under subsection 2 is confidential. The commission shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the commission determines the information is not relevant or not a trade secret, the commission shall notify the requester and the requester may ask for the return of the information and the request within ten days of the notice. If no return is sought, the information and request are public records.
4. The names or identities of independent technical reviewers on a project or program are confidential, may not be disclosed by the commission, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.

**SECTION 4. APPROPRIATION - TRANSFER TO AGRICULTURE DIVERSIFICATION AND DEVELOPMENT FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000,000, or so much of the sum as may be necessary, to the agriculture diversification and development fund for the biennium beginning July 1, 2021, and ending June 30, 2023. "

Renumber accordingly