

HOUSE BILL NO. 1369

Introduced by

Representatives Brandenburg, Grueneich, Headland, D. Johnson, Kempenich, Lefor,
Satrom, Thomas

Senators Conley, Hogue, Wanzek, Weber

1 A BILL for an Act to create and enact a new section to chapter 54-17 of the North Dakota
2 Century Code, relating to a fertilizer development fund; to provide for a legislative management
3 report; to provide a continuing appropriation; and to provide for a transfer.

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

5 **SECTION 1.** A new section to chapter 54-17 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Fertilizer development fund - Fertilizer development council - Access to council**
8 **records - Industrial commission powers - Legislative management report - Continuing**
9 **appropriation.**

- 10 1. There is created in the state treasury the fertilizer development fund. The fund
11 consists of all moneys transferred to the fund by the legislative assembly; interest
12 upon moneys in the fund; and donations, grants, and other contributions received by
13 the commission for deposit in the fund. All moneys in the fund are appropriated to the
14 commission on a continuing basis to provide grants and other financial assistance and
15 for administrative and operating costs of the fertilizer development council pursuant to
16 this section.
- 17 2. To be eligible for a grant or financial assistance from the fund, the fertilizer
18 development project must be located within the state, and the owner of the fertilizer
19 development project must be an entity domiciled in the United States or Canada.
20 Grant awards and financial assistance are limited to twenty percent of the estimated
21 project costs before the start of construction of the fertilizer plant. Fifty percent of the
22 grant awards and financial assistance must be designated for one or more fertilizer
23 development projects that use hydrogen produced by the electrolysis of water. Fifty

1 percent of the grant awards and financial assistance must be designated for one or
2 more fertilizer development projects that use natural gas. A project may not receive
3 more than fifty percent of the grant awards and financial assistance.

4 3. The fertilizer development council:

5 a. Consists of the following members:

6 (1) The commissioner of commerce or the commissioner's designee to serve as
7 chairman;

8 (2) A representative of the agriculture industry appointed by the governor;

9 (3) A representative of the biodiesel industry appointed by the governor;

10 (4) A representative of the biomass industry appointed by the governor;

11 (5) A representative of the wind industry appointed by the governor;

12 (6) A representative of the ethanol industry appointed by the governor;

13 (7) A representative of the advanced biofuel and sugar-based biofuel industry
14 appointed by the governor; and

15 (8) A representative of the petroleum industry appointed by the governor.

16 b. Shall make recommendations to the commission for program guidelines,
17 including eligibility criteria for entities to receive funding under this section. The
18 council shall make recommendations to the commission for grant awards or other
19 financial assistance to provide funding to support the development of fertilizer
20 plants in the state. The council may consult with any other state agency
21 necessary to carry out this section. Each biennium, the council shall provide a
22 written report to the legislative management regarding its activities.

23 4. a. To the extent the commission or council determines any materials or data consist
24 of trade secrets or commercial, financial, or proprietary information of individuals
25 or entities applying to or contracting with the commission or receiving
26 commission services under this section, materials and data submitted to, made
27 by, or received by the commission or council, are not public records subject to
28 section 44-04-18 and section 6 of article XI of the Constitution of North Dakota,
29 and are subject to section 44-04-18.4.

- 1 b. A person may file a request with the commission to have material designated as
2 confidential under subdivision a. The request must contain any information
3 required by the commission and must include at least the following:
4 (1) A general description of the nature of the information sought to be
5 protected.
6 (2) An explanation of why the information derives independent economic value,
7 actual or potential, from not being generally known to other persons.
8 (3) An explanation of why the information is not readily ascertainable by proper
9 means of other persons.
10 (4) A general description of any person that may obtain economic value from
11 disclosure or use of the information, and how the person may obtain this
12 value.
13 (5) A description of the efforts used to maintain the secrecy of the information.
14 c. Any request under subdivision b is confidential. The commission shall examine
15 the request and determine whether the information is relevant to the matter at
16 hand and is a trade secret under the definition in section 47-25.1-01 or
17 44-04-18.4. If the commission determines the information is either not relevant or
18 not a trade secret, the commission shall notify the requester and the requester
19 may ask for the return of the information and the request within ten days of the
20 notice. If no return is sought, the information and request are open records.
21 d. The names or identities of independent technical reviewers on a project or
22 program are confidential, may not be disclosed by the commission, and are not
23 public records subject to section 44-04-18 or section 6 of article XI of the
24 Constitution of North Dakota.
25 5. The commission is not subject to the reporting requirements under chapter 54-60.1
26 and is granted all the powers necessary to carry out the purposes of this section,
27 including the power to:
28 a. Provide grants and other financial assistance to support the development of
29 fertilizer plants in the state.
30 b. Provide administrative services to the council.

- 1 c. Enter contracts or agreements to carry out the purposes of this section, including
- 2 contracting for the administration of the council.
- 3 d. Keep accurate records of all financial transactions performed under this section.
- 4 e. Accept donations, grants, contributions, or gifts from any public or private source
- 5 to carry out the purposes of this section, which must be deposited in the fund.
- 6 f. Make guidelines to carry out the purposes of this chapter.

7 **SECTION 2. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND.**

8 The office of management and budget shall transfer the sum of \$500,000,000 from the strategic
9 investment and improvements fund to the fertilizer development fund during the biennium
10 beginning July 1, 2023, and ending June 30, 2025.