

HOUSE BILL NO. 183  
INTRODUCED BY M. JOPEK

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BIODIESEL FACILITY REVOLVING LOAN PROGRAM TO BE ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE; CREATING A REVOLVING LOAN ACCOUNT; ESTABLISHING LOAN CRITERIA AND TERMS; PROVIDING A FUND TRANSFER; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Biodiesel facility revolving loan program -- loan account.** (1) There is a revolving loan account to be administered by the department. The department shall establish a revolving loan program from money in the account to assist the financing of all or a portion of the cost of development of facilities in Montana to produce biodiesel, as defined in 15-70-301. The department shall offer up to 10 revolving loans of not more than \$50,000 each.

(2) Biodiesel facility loans may be made to a municipality, including any state agency, city, town, or other public body created pursuant to state law, or to a private person, including an individual, corporation, partnership, or other nongovernmental legal entity.

(3) The department shall evaluate projects and loan applications. In evaluating projects and applications, the following factors must be considered:

(a) the technical design of the project to ensure compliance with all applicable statutes, rules, and design standards;

(b) the financial capacity of the applicant;

(c) the financial, managerial, and technical ability of the applicant to properly operate and maintain the project;

(d) the total financing of the project necessary to ensure completion;

(e) the total amount requested by other applications that have been received or that are likely to be received; and

(f) any other criteria that the department determines to be appropriate, considering the purposes of the biodiesel facility loan program.

(4) Biodiesel facility loan funds may not be:

(a) loaned for relending or investment in stocks, bonds, or other securities or for property not intended for use in production by the recipient of the loan; or

(b) used to:

(i) refinance a nonperforming loan held by a financial institution; or

(ii) pay the operating costs of a biodiesel facility.

(5) Biodiesel facility loans must be made pursuant to a loan agreement and may be amortization or term loans, bear interest at less than the market rate, be callable, and contain other terms and conditions considered appropriate by the department and that are consistent with the purposes of and with rules promulgated to implement this section.

(6) Each recipient of a loan under this section shall provide the department with an annual audit from an independent certified public accountant. The audit must cover all activities related to the biodiesel facility and must include verification of compliance with requirements specific to the biodiesel facility loan program.

(7) A biodiesel facility loan recipient that is in default for nonperformance under rules established by the department may be required to refund the outstanding balance of the loan awarded prior to the default declaration. A biodiesel facility loan is secured by a first lien on all funds and all receivables administered under the authority of the department by the recipient of the loan.

(8) Any interest or income that is earned by the account and loan repayments must be deposited into the revolving loan account.

(9) The department shall develop rules for administering the loan program in this section, including rules:

(a) prescribing the form and content of applications for loans and refinancing agreements;

(b) governing the application of the criteria for awarding loans; and

(c) establishing additional terms and conditions for the making of loans and for the security instruments and other necessary agreements.

**NEW SECTION. Section 2. Fund transfer.** There is transferred \$500,000 from the general fund to the revolving loan account established in [section 1] to be administered by the department of agriculture for revolving loans for biodiesel facilities as provided in [section 1].

**NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 80, and the provisions of Title 80 apply to [section 1].

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2007.

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