

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1417
(Representatives Kempenich, Boucher, Lemieux)
(Senator Tomac)

AN ACT to create and enact a new chapter to title 4 of the North Dakota Century Code, relating to a loan program and the issuance of revenue bonds or other evidences of indebtedness by the industrial commission of North Dakota for the establishment of meatpacking plants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 4 of the North Dakota Century Code is created and enacted as follows:

Definitions. As used in this chapter, unless the context otherwise requires:

1. "Bank" means the Bank of North Dakota.
2. "Bonds" means revenue bonds or other evidences of indebtedness issued by the commission under this chapter.
3. "Commission" means the industrial commission.

Powers. The commission may:

1. Contract for the performance of its duties and functions under this chapter.
2. Sue and be sued.
3. Borrow money through the issuance and sale of bonds as provided under this chapter.
4. Invest proceeds of its bonds not needed for immediate disbursement, including any reserve funds, in securities the commission determines to be prudent, subject to any agreements with the holders of the commission's bonds.
5. Procure insurance, a guaranty, or a letter of credit for the payment of its bonds, including the payment of premiums or other fees, from any public or private entity.
6. Make loans to persons establishing meatpacking plants in this state through the loan program provided for under this chapter and charge the borrowers fees approved by the commission.
7. Prescribe and approve the forms and procedures for loan applications under this chapter by persons establishing a meatpacking plant in this state.
8. Prescribe the terms and conditions of loans to be made under this chapter.
9. Consent to any changes in the terms or provisions of its bonds, or of any other contract to which the commission is a party, subject to any contracts with the holders of the commission's bonds.
10. Purchase bonds issued under this chapter out of any funds available to the commission for such purpose and not pledged to or necessary for some other purpose, and hold, cancel, or sell the bonds, subject to any contracts with its bondholders.

Bank of North Dakota. The commission may delegate to the Bank, and the Bank is authorized to exercise, all administrative powers granted to the commission under this chapter, including

processing and reviewing applications for, and closing and servicing loans made to, persons establishing meatpacking plants in this state.

Issuance and sale of bonds - Use of bond proceeds. The commission may issue its bonds in such principal amounts as the commission determines is necessary to provide sufficient funds to perform its powers under this chapter. The proceeds may not be used other than to make loans, pay the costs of bond issuance, pay accrued or capitalized interest or capitalized principal, and provide any reasonably required reserve funds. The bonds must be authorized by resolution of the commission and must bear such date, mature at such times, bear interest at such rates, be in such denominations, be payable from such sources, and be subject to such terms of redemption as may be provided by the resolution. The bonds may be sold by the commission at public or private sale at the times and at the prices allowed by the commission. The commission may provide for refunding or refinancing of the bonds.

Agreement with bondholders. Any resolution of the commission authorizing the issuance of bonds under this chapter may contain contractual provisions:

1. Setting aside of reserves or sinking funds.
2. Limiting the purposes to which the proceeds from the sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds.
3. Limiting the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds.
4. Providing the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to such amendment or abrogation, and the manner in which the consent may be given.
5. Vesting in a trustee such property, rights, powers, and duties in trust as the commission may determine, and limiting or abrogating the right of bondholders to appoint a trustee, or limiting the rights, powers, and duties of the trustee.
6. Defining the acts or omissions, which constitute a default of the obligations and duties of the commission to the bondholders, and providing for the rights and remedies of the bondholders in the event of a default, provided that the rights and remedies must be consistent with the laws of this state.
7. Including any other matter that affects the security or protection of the bondholders.

Reserve fund.

1. The commission shall establish and maintain a reserve fund for bonds issued under this chapter. The commission shall deposit in the reserve fund:
 - a. All bond proceeds required to be deposited in the reserve fund by the terms of any contract between the commission and the bondholders or by the terms of any resolution of the commission concerning the use of bond proceeds.
 - b. All moneys made available to the commission for deposit in the reserve fund.
2. Moneys in the reserve fund may not be used other than to make payments of the principal and interest on bonds, including any premium required to be paid when bonds are redeemed prior to maturity, and sinking fund installments as they become due and payable.
3. Moneys in the reserve fund may be withdrawn in accordance with the terms of any contract between the commission and the bondholders or any resolution of the commission concerning the use of bond proceeds.

Exemption from state and local taxes. All bonds issued under this chapter and the interest and income payable to and received by bondholders are exempt from taxation by the state or any political subdivision of the state.

Payment of bonds. Bonds issued under this chapter by the commission are not obligations or debt of the state, and are payable solely from revenues or other funds available to the commission under this chapter. The bonds do not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the commission or the Bank, other than the revenues and property pledged under this chapter. Each bond issued under this chapter must contain a statement that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or interest on the bond.

Legal investments. Bonds issued under this chapter by the commission are legal investments in which all public officers or public bodies of the state, its political subdivisions, and all banks organized under the laws of the state and engaged in the business of banking may invest funds.

Validity. Bonds issued under this chapter must be executed by a member of the commission or by facsimile signature and the manual signature of an authenticating agent. Any bond bearing the signature of a member of the commission in office on the date of execution is valid for all purposes for which it was issued. After issuance, all bonds issued under this chapter by the commission are conclusively presumed to be fully authorized and issued under the laws of the state, and any person is estopped from questioning their authorization, issuance, execution, sale, or delivery by the commission.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1417.

House Vote: Yeas 90 Nays 8 Absent 0

Senate Vote: Yeas 48 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State