CHAPTER 54-17
INDUSTRIAL COMMISSION

54-17-01. Industrial commission to manage industries of state and to act as a state housing finance agency.

The commission created to conduct and manage, on behalf of the state of North Dakota, certain utilities, industries, enterprises, including housing finance programs, and business projects established by law must be known as the industrial commission of North Dakota, but may be designated as the industrial commission. In the creation of the industrial commission, it is the intention of the legislative assembly that all acts of the industrial commission are the acts of the state of North Dakota functioning in its sovereign capacity.

54-17-02. Industrial commission - Members - Quorum - Meetings - Pledge of allegiance.

The industrial commission of North Dakota shall consist of the governor, the attorney general, and the agriculture commissioner. The governor and one member constitute a quorum for the transaction of business. The meetings of the commission must be held at such times and places as the governor or a majority of the commission may determine. It must be provided by the proper authorities with suitably furnished offices at the seat of government. At the beginning of each regularly scheduled meeting of the industrial commission, members must be given the opportunity to participate in a voluntary recitation of the pledge of allegiance.

54-17-03. Chairman and attorney - Executive director - Employees - Compensation - Bonds.

The governor is the chairman of the industrial commission, and its attorney is the attorney general. The commission shall appoint an executive director and may employ other subordinate officers, employees, and agents, on such terms as the commission determines proper. The commission may require suitable bonds of its executive director or other subordinate officers, employees, or agents. The commission shall fix the amount of the compensation of the commission's executive director, officers, employees, and agents. The compensation, together with other expenditures for operation and maintenance of the general business of the commission, must remain within the appropriation available in each year for such purpose. The commission may set the compensation, within the limits of legislative appropriation, for members of a board, committee, or council that advises the commission. Notwithstanding any other provision of law, the compensation for any board, committee, or council member may include reimbursement for expenses, a salary, a per diem, or a combination of the three, as set by the commission.

54-17-04. Seal of commission.

The industrial commission shall adopt and procure an official seal and may authenticate therewith its documentary acts.

54-17-05. Orders of commission - Approval by majority.

All orders, rules, regulations, bylaws, and written contracts, adopted or authorized by the industrial commission, before becoming effective, must be approved by a majority of the commission.

54-17-06. Biennial report.

The industrial commission shall submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. The report must contain a meaningful financial statement of each utility, industry, enterprise, and business project under its control.

54-17-07. Industries under the industrial commission - Income on deposits and investments.

The industrial commission shall operate, manage, control, and govern all utilities, industries, enterprises, and business projects established, owned, undertaken, administered, or operated by the state of North Dakota, except those carried on in penal, charitable, or educational institutions or those conducted pursuant to chapter 65-08.1. All income earned on state moneys that are deposited or invested to the credit of the industrial commission or any agency, utility, industry, enterprise, or business project operated, managed, controlled, or governed by the industrial commission must be added to and become a part of such moneys.

54-17-07.1. Advisory board - Rules.

The industrial commission shall appoint a six-member advisory board consisting of representatives of lenders, the residential real estate industry, the mobile home and manufactured housing industry, and homeowners and buyers, and in consultation with such board may adopt rules and regulations for the conduct of its housing finance program which may, among other matters, establish requirements for the type and purchase price of dwelling units and multifamily facilities eligible to be financed, the income limits for eligible low or moderate income persons or families, the interest rates and other terms of mortgage loans to be financed, requirements relating to federal or private mortgage insurance or guarantees, and the general terms and conditions for the issuance and security of housing revenue bonds to be issued.

54-17-07.2. Definitions.

As used in sections 54-17-07.1 through 54-17-07.7 and section 54-17-07.10:

1. "Lenders" means any bank or trust company chartered by the state of North Dakota or any national banking association located in North Dakota, state or federal savings and loan association located in North Dakota, and federal housing administration approved mortgagee or other mortgage banking institutions actively engaged in home mortgage lending in North Dakota approved by the industrial commission.
2. "Multifamily housing facility" means any facility containing four or more residential dwelling units; provided, that at least twenty percent of the units in each facility must be held for occupancy by persons or families of low and moderate income for such period of time as the industrial commission may determine and may include such related public or private facilities intended for commercial, cultural, recreational, community, or other civic purpose as the commission may approve.
3. "Persons and families of low or moderate income" means persons or families whose financial means are insufficient, taking into account such factors as the industrial commission shall deem relevant, to secure decent, safe, and sanitary housing provided by private industry without the financial assistance afforded by the housing finance programs of the commission.
4. "Single-family residential dwelling unit" means any residential real property that:
   a. Is designed for occupancy by one to four individual households;
   b. Is an individual condominium or equity cooperative unit; or
   c. Is an individual nonrental dwelling unit the ownership of which includes rights of facilities in common.

54-17-07.3. Housing finance programs.

Acting in its capacity as a state housing finance agency, the industrial commission is authorized to establish the following housing finance programs:

1. Home mortgage finance program. A program or programs to provide financing or refinancing of loans made by lenders, including second mortgage loans and leasehold mortgage loans on tribal trust or other reservation lands, and leasehold mortgage loans that are insured, guaranteed, or assisted through an affordable housing program, to persons or families of low and moderate income for the purchase or substantial rehabilitation of owner occupied, single-family residential dwelling units,

which includes mobile homes and manufactured housing. The commission may also authorize a program to provide refinancing of loans previously made by lenders and purchased under the home mortgage finance program.

2. Mobile home and manufactured housing finance program. A program or programs to provide for the purchase or guaranty of a loan made by a lender to finance the purchase of a mobile home or a manufactured housing unit other than on a real property mortgage basis. A program authorized under this subsection may provide assistance in the development of low-income to moderate-income housing or to otherwise assist a developing community in the state address an unmet housing need or alleviate a housing shortage.
3. Multifamily housing finance program. A program or programs to provide financing directly or indirectly of construction, permanent, and combined construction and permanent mortgage loans, including participations in mortgage loans, for the acquisition, construction, refurbishing, reconstruction, rehabilitation, or improvement of multifamily housing facilities. As part of the program, the industrial commission, acting in its capacity as a state housing finance agency, may enter a public and private partnership with any interested private entity and accept any gift, grant, or other type of financial aid or assistance, including a contribution to the housing incentive fund, to provide financing for the construction or rehabilitation of a multifamily housing facility in a developing community in the state to address an unmet housing need or alleviate a housing shortage. A private entity participating in this program may reserve a proportionate share of available units in the facility for occupancy by its workforce based on its financial participation in the facility, in addition to any units held for occupancy by individuals or families of low or moderate income.
4. Mortgage loan financing program. A program or programs to provide for the purchase or guaranty of a temporary or permanent mortgage loan originated by a lender on residential real property or on land to be developed into residential real property, in addition to a mortgage loan acquired or to be acquired under subsections 1 through 3. A program authorized under this subsection may provide assistance in the development of low to moderate income housing or to otherwise assist a developing community in the state address an unmet housing need or alleviate a housing shortage.
5. Home improvement finance program. A program or programs to provide full or partial, indirect financing of improvements to existing residential dwelling units.
6. Housing grant program. A program or programs to provide a grant other than those authorized by section 54-17-07.6 to encourage and promote housing availability for persons of low or moderate income or to otherwise assist a developing community in this state address an unmet housing need or alleviate a housing shortage.
7. Residential mortgage program. A program or programs to originate residential mortgages if private sector mortgage loan services are not reasonably available. Under this program, a local financial institution or credit union may assist the agency with receiving loan applications, gathering required documents, ordering legal documents, and maintaining contact with borrowers. The applicant must be referred to the agency by a local financial institution or credit union. The agency shall provide all regulatory disclosures, process and underwrite loans, prepare closing documents, and distribute loan funds. A loan under this program may be issued only for an owner-occupied primary residence.
8. The housing finance agency may purchase, service, and sell residential real estate loans secured by a first mortgage lien on real property originated by financial institutions. The loans may be held in the agency's portfolio or sold on the secondary market with servicing retained.

54-17-07.4. Housing revenue bonds.

In order to fund its housing finance programs, the industrial commission is authorized to issue and refund revenue bonds or evidences of debt and indebtedness of the state. The principal of and interest on such bonds are payable only from revenues generated under the

applicable housing finance programs. The bonds may not constitute a debt of the state of North Dakota and must contain a statement to that effect on their face. The bonds may be sold at public or private sale, must mature not more than fifty years from their date or dates, and must contain such terms and provisions as the commission shall determine. The commission may capitalize from bond proceeds all expenses incidental to the issuance of the bonds or to the applicable housing finance program, including, without limitation, any reserves for the payment of the bonds.

54-17-07.5. State reallocation under the Mortgage Subsidy Bond Tax Act of 1980.

Repealed by S.L. 1987, ch. 630, § 1.

54-17-07.6. Acceptance of grants, contributions, loans, or other aid.

Acting in its capacity as a state housing finance agency, the industrial commission may contract for, accept, and administer any grant, contribution, or loan of funds, property, or other aid in any form from the federal government or from any other source, and may do all things necessary to qualify for any grant, contribution, or loan under any federal program, including those things necessary to qualify for assistance under the federal housing programs in effect from time to time. Upon submission of written notice to the industrial commission, a housing authority established under chapter 23-11 may elect to exercise the authority granted to the industrial commission under this section and preempt the industrial commission from acting with regard to tenant-based housing certificates and vouchers or successor programs within the area of operation of that housing authority or may elect to enter an agreement with the industrial commission to accept, exercise, and administer any housing aid or assistance upon the terms and conditions agreed upon by the parties. For the purposes of this section, "area of operation" includes any political subdivision that lawfully contracts with the local housing authority to act as a local housing authority for that political subdivision and any political subdivision that has its certificates and vouchers or successor programs assigned by the industrial commission to the local housing authority under an agreement between the local housing authority and the industrial commission.

54-17-07.7. Terms of loans.

Notwithstanding any other provision of law, the industrial commission is authorized to require, as a condition of the origination of loans and mortgage loans made pursuant to any of its housing finance programs or purchase of loans and mortgage loans to be purchased by it, prepayment penalties, restrictions upon assumability, default provisions, rights to accelerate, rights to increase the interest rate, and any other terms the commission may determine to be necessary or desirable to assure the repayment of its housing revenue bonds and, unless such conditions of origination or other terms are not required by the commission, the exemption from federal income taxes of the interest payable on its housing revenue bonds under the Internal Revenue Code of 1986. All such terms are enforceable by the originator, the commission, or any successor holder of the loans or mortgage loans unless expressly waived in writing by or on behalf of the commission.

54-17-07.8. Confidentiality of housing finance agency records.

The following records of the housing finance agency are confidential and are not public records:

1. Personal or financial information of a participant in any of the housing finance agency's programs, obtained directly or indirectly, except for routine credit inquiries or as required by court order.
2. Internal or interagency memorandums or letters of a personal nature which are not available by law to a party, except insofar as they are available in litigation with the agency.
3. Personal financial statements which the industrial commission requires of any housing finance agency employee or member of the housing finance agency's advisory board.

54-17-07.9. Execution of instruments.

In the absence of any provision regulating the execution and acknowledgment of conveyances, transfers, assignments, releases, satisfactions, or other instruments affecting liens on, title to, or interest in real estate, the executive director or other staff as designated by the executive director, may execute and acknowledge such instruments on behalf of the industrial commission acting as the North Dakota housing finance agency.

54-17-07.10. Housing acquisition program.

The industrial commission may establish a program or programs to provide housing for persons of low or moderate income, through the acquisition of residential real property and related personal property or interests therein through purchase, lease, gift, grant, bequest, or otherwise to maintain, repair, improve, sell, or convey leasehold interests in that real and personal property to, or for the benefit of, persons of low or moderate income. Property acquired under this section is subject to property and special assessment taxes in a manner consistent with and equal to other property of equal value within the respective taxing districts where the property is located. Taxes on any property acquired under this section must be paid in a timely manner for any year or pro rata portion of a year by any housing authority or housing acquisition organization holding title to the property.

54-17-07.11. Pledges.

Any pledge made by the industrial commission acting in its capacity as the state housing finance agency is valid and binding from the time the pledge is made. The money and property pledged and received by the industrial commission acting in its capacity as the state housing finance agency, except for general agency money or property, is immediately subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the industrial commission acting in its capacity as the state housing finance agency, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created is required to be recorded to constitute constructive notice of the existence of the pledge.

54-17-07.12. Housing finance agency as wholesale servicing mortgage lender.

Repealed by S.L. 2021, ch. 42, § 29.

54-17-07.13. Criminal history record checks.

The executive director of the housing finance agency may require an applicant for employment to submit to a criminal history record check under section 12-60-24.

54-17-08. Commission to make rules for its procedure - General powers of commission.

The industrial commission shall make rules and regulations for its own procedure. It may do any and all things necessary or expedient in conducting the business of the industries, utilities, enterprises, and business projects under its control.

54-17-09. Industrial commission to determine place of business of industries - Rules made by commission.

The industrial commission shall:

1. Determine the location of all utilities, industries, enterprises, and business projects established, owned, undertaken, administered, or operated by the state.
2. Make rules, regulations, orders, and bylaws for the management and operation, and for the transaction of the business, of such utilities, industries, enterprises, and business projects.

54-17-10. Powers and duties of commission in operating industries.

In the management, operation, and control of all utilities, industries, enterprises, and business projects established, owned, undertaken, administered, or operated by the state, and to accomplish the purposes of this chapter, the industrial commission shall:

1. Acquire by purchase, lease, or, subject to chapter 32-15, by exercise of the right of eminent domain, all necessary property or property rights, and hold and possess or sell the whole or any part thereof.
2. Construct and reconstruct necessary buildings on the properties acquired.
3. Equip, maintain, repair, and alter any and all properties acquired and the improvements thereon.
4. Generally use properties acquired and improvements made so as to promote such utilities, industries, enterprises, and business projects.

54-17-11. Manager and employees of industries - Commission to appoint - Compensation.

The industrial commission shall appoint a manager and all necessary subordinate officers and employees of and for each utility, industry, enterprise, and business project established, owned, undertaken, administered, or operated by the state. It may constitute such manager its general agent in the performance of its duties in the particular utility, industry, enterprise, or business project in which the manager is engaged, but subject, nevertheless, in such agency to the supervision, limitation, and control of the commission. It shall employ such contractors, architects, builders, attorneys, sales agents, clerks, accountants, and other experts, agents, and servants, as in the judgment of the commission the interests of the state may require, and shall define the duties, designate the titles, and fix the compensation and bonds of all persons so engaged.

54-17-12. Manager shall appoint necessary employees.

Subject to the control and regulation of the industrial commission, the manager of any utility, industry, enterprise, or business project established, owned, undertaken, administered, or operated by the state shall appoint and employ such deputies, assistants, and other subordinates, and such contractors, architects, builders, attorneys, sales agents, clerks, accountants, and other experts, agents, and servants, as in the manager's judgment are required by the interests of the utility, industry, enterprise, or business project of which the manager is in charge.

54-17-13. Compensation of employees and expenditures remain within appropriation.

The total compensation of the appointees and employees of each utility, industry, enterprise, or business project established, owned, undertaken, administered, or operated by the state, together with other expenditures for the operation and maintenance thereof, must remain within the appropriation and earnings lawfully available in each year for such purposes.

54-17-14. Removal and discharge of appointees.

The industrial commission may remove and discharge any and all persons appointed in the exercise of the powers granted by this chapter, whether by the commission or by any manager of any utility, industry, enterprise, or business project of the state. Any such removal may be made whenever in the judgment of the commission the public interests require it. All appointments and removals contemplated by this chapter must be made as the commission shall deem most fit to promote the efficiency of the public service.

54-17-15. Commission to fix prices of things bought and sold by industry.

The industrial commission shall fix the buying prices of things bought, and the selling prices of things sold, incidental to any utility, industry, enterprise, or business project of the state, and shall fix the rates and charges for any and all services rendered thereby. In fixing such prices, rates, and charges, the commission shall make provision for accumulating a fund with which to replace, in the general fund of the state, any amount received from the state.

54-17-16. Investigation conducted by commission.

The industrial commission shall conduct investigations of all matters directly or indirectly connected with, or bearing upon the success of, any of the utilities, industries, enterprises, and business projects under its management, and of all matters which directly or indirectly may affect the methods, operations, processes, products, or results thereof. In aid of any such investigation the commission may summon and compel the attendance of witnesses and examine them under oath. Any member of the commission may administer such oath. It shall have access to, and may order the production of, all books, accounts, papers, and property material to such investigation. Witnesses other than those in the employ of the state are entitled to the same fees as witnesses in civil cases in the district court.

54-17-17. Witnesses not excused from testifying - Not subject to prosecution.

In an investigation made by the industrial commission under the provisions of this chapter, the claim that any testimony or evidence sought to be elicited or produced on the examination may tend to incriminate the person giving or producing it, or may expose the person to public ignominy, does not excuse the person from testifying or producing evidence, documentary or otherwise, but no person may be prosecuted or subjected to any penalty or forfeiture for and on account of any matter or thing concerning which the person may testify or produce such evidence. Such person is not exempted from prosecution and punishment for perjury committed in so testifying.

54-17-18. Testimony transcribed and filed in office of commission - Public record.

The industrial commission shall cause the testimony taken at an investigation held under the provisions of this chapter to be transcribed and filed in the office of the commission, at the seat of government, within ten days after it is taken, or as soon thereafter as practicable. When so filed it must be open for inspection by any person.

54-17-19. Failure to testify or produce evidence - Contempt.

Any person failing or refusing to obey the order of the industrial commission issued upon an investigation, or to give or produce evidence when required, must be reported by the commission to the district court or any judge thereof, and must be dealt with by the court or judge as for contempt of court.

54-17-20. Bonds issued by commission.

The industrial commission shall procure the necessary funds for utilities, industries, enterprises, and business projects under its control by negotiating the bonds of the state of North Dakota in such amounts and in such manner as may be provided by law.

54-17-21. Commission authorized to acquire and dispose Riverdale sites, properties, and facilities.

Repealed by S.L. 1999, ch. 457, § 1.

54-17-22. Commission authorized to act as planning agency of state and to negotiate and contract with federal housing administration.

Repealed by S.L. 1999, ch. 457, § 1.

54-17-23. Commission authorized to apply for, receive, and disburse federal planning funds, and to establish separate planning account.

Repealed by S.L. 1999, ch. 457, § 1.

54-17-24. State trusts created.

The industrial commission is hereby authorized and directed to acquire and to hold in one or more trusts all unpaid United States government guaranteed or reinsured student loans and North Dakota guaranteed student loans, belonging to the state of North Dakota or to any of its agencies, departments, or institutions which may be endorsed or assigned to it, such

guaranteed student loans held in the trusts as security for bonds of the state to be issued as and in the manner the commission shall decide. All guaranteed student loans so held in the trusts and the collections therefrom and the increments thereto must be held in special funds as the source of payment of bonds of North Dakota to be issued, none of which bonds may constitute indebtedness of the state. The term "student" for the purposes of this section and section 54-17-25 includes a parent borrower under chapter 15-62.1.

54-17-25. Bonds authorized - Establishment of secondary market program.

Whenever the industrial commission decides that it is in the public interest to diminish the investment of state funds in United States government guaranteed or reinsured or North Dakota guaranteed student loans, that it will be difficult to divest the state of appreciable amounts of such loans by piecemeal offering to the investing and saving public, that business conditions are favorable to a state-sponsored program to consolidate state-held student loans, and to enlarge private participation in such loans, or that the public will otherwise benefit, the commission may by plenary resolution duly adopted in accordance with the provisions hereof authorize preparation, sale, and issuance of revenue bonds of North Dakota in such amounts and at such times and in such form, which may include the issuance of bonds the interest income on which is subject to federal income taxes, as the commission shall determine to be for the public good. The industrial commission may issue subordinate or residual bonds whenever the industrial commission determines that it is appropriate or expedient to do so and the bonds may contain such terms and provisions as the commission may determine. The commission may refund and refinance the bonds from time to time as often as it is advantageous and in the public interest to do so. The bonds shall be a charge upon a sufficient designated portion of the resources of the student loan trusts, subject only to necessary administrative expenses of the trusts duly appropriated out of the interest earning resources thereof. The bonds may bear such rate or rates of interest as the commission may provide. The bonds must have all of the qualities and incidents of negotiable paper and are not subject to taxation by the state of North Dakota or by any county, municipality, or political subdivision therein. The bonds must be payable solely out of the separate resources generated respectively from collection of payments on and earnings and proceeds of United States government guaranteed or reinsured or North Dakota guaranteed student loans, and must respectively so recite. They are not indebtedness of the state of North Dakota or of any agency, board, department, or officer or agent thereof. Without limiting the foregoing, the commission may request the organization of a nonprofit corporation meeting the requirements of the Internal Revenue Code of 1954, as amended and redesignated as the Internal Revenue Code of 1986 [Pub. L. 99-54], and as it may be amended from time to time, and enter into one or more agreements with such corporation providing for the establishment of a secondary market program in the state of North Dakota for the acquisition by the corporation of such loans made pursuant to title IV, part B of the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; 20 U.S.C. 1001 et seq.], as amended through December 31, 1996, as the commission shall, in its discretion, deem advisable.

54-17-26. Bonds eligible for investment - Sale of bonds.

Bonds issued under section 54-17-25 may be acquired and held by banks and by savings and loan associations of this state as well as by all public trust funds. They may be issued and sold at public or private sale or by negotiation as the industrial commission may direct and the commission may make, enter into, and enforce all contracts or agreements necessary, convenient, or desirable for the purposes of the commission or pertaining to any purchase or sale of the bonds or other investments or to the performance of its duties and execution or carrying out of any of its powers under section 54-17-25.

54-17-27. Grant program for home weatherization programs.

The industrial commission or its designee shall administer a home weatherization grant program to provide financial assistance to regional offices which administer the United States department of energy home weatherization program. Grant moneys must be used for direct

consumer benefit programs to support labor and material costs for roof repair and heating plant repair to effect energy conservation. No funds may be used for administrative purposes.

54-17-28. Application for grants.

Each regional office which administers the United States department of energy home weatherization program may apply for the grants provided in section 54-17-27 and this section under such reasonable guidelines as may be adopted by the industrial commission or its designee. Each application must be accompanied by a two-year budget, including a productivity work plan. Each regional office is eligible for a base amount of forty thousand dollars for fiscal year 1982 and forty-five thousand dollars for fiscal year 1983.

54-17-29. Commission loan guarantees for seller-sponsored loans between landowners and beginning farmers.

Repealed by S.L. 1983, ch. 126, § 2.

54-17-30. Procedure on default on guaranteed beginning farmer security loan.

Repealed by S.L. 1983, ch. 126, § 2.

54-17-31. Establishment and maintenance of adequate guarantee funds - Use of lands and minerals trust - Appropriation.

Repealed by S.L. 1983, ch. 126, § 2.

54-17-32. Resources trust fund - Commission responsibilities.

1. The industrial commission may, within the limits of legislative appropriations, enter into contracts with institutions of higher education in this state, or with other parties, for the following purposes:
   a. Studies on the development of cogeneration systems.
   b. Studies on the promotion and development of energy conservation programs and renewable energy sources.
   c. Studies of the feasibility of developing waste products utilization.
2. The industrial commission may, within the limits of legislative appropriations, provide for the making of grants in aid of those persons or entities doing research or development with respect to energy conservation, renewable energy sources, cogeneration, or waste products utilization. Grants under this subsection must be made to persons or entities residing, located, or doing business in this state. No grant made pursuant to this subsection may exceed ten thousand dollars in amount, and grants may not be made for time periods which run beyond any fiscal biennium during which the grant is made. As used in this subsection, "entity" means any firm, partnership, corporation, limited liability company, cooperative, association, or other business entity, and any governmental entity.
3. The industrial commission may adopt rules to implement its power to make grants and enter into contracts pursuant to this section. Any rules must be adopted in accordance with chapter 28-32.

54-17-33. State trust created - Agricultural mortgage secondary market.

The industrial commission may establish a trust for the purpose of participating as an agricultural mortgage marketing facility in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996. The industrial commission may take any action necessary to qualify as a certified facility.

54-17-34. Definitions.

As used in sections 54-17-34 through 54-17-34.5:

1. "First-time farmer" means an individual who is a North Dakota resident who has not at any time had any direct or indirect ownership interest in substantial farmland in the

operation of which the individual materially participated, who will be the principal user of the farmland, and who will materially and substantially participate on the farm of which the land is a part in the operation of the farm.

2. "Substantial farmland" means any parcel of land unless the parcel is smaller than thirty percent of the median size of a farm in the county in which the parcel is located.

54-17-34.1. Farm finance program.

Acting as the farm finance agency, the industrial commission may establish the first-time farmer finance program to encourage first-time farmers to enter into and remain in the livelihood of agriculture and to provide first-time farmers a source of financing at favorable rates and terms generally not available to them. The first-time farmer finance program is established to allow first-time farmers to utilize the tax-exempt financing provided for in the Internal Revenue Code of 1986, and any amended regulations adopted thereunder.

54-17-34.2. First-time farmer participation.

The first-time farmer finance program is limited as required by applicable provisions of the Internal Revenue Code of 1986 and any regulations adopted thereunder, as amended, and under the first-time farmer finance program:

1. Financing may not be made to individuals with a net worth that exceeds the net worth requirement of the beginning farmer revolving loan program administered by the Bank of North Dakota and established by loan policy; and
2. Financing may only be made to first-time farmers for the acquisition of land in the state of North Dakota, livestock, farm improvements, and equipment to be used for farming purposes and may not exceed an amount established under the Internal Revenue Code of 1986, as amended.

54-17-34.3. Financing.

Financing may be accomplished by the issuance of evidences of indebtedness by the industrial commission acting as the farm finance agency and the entering into of a financing agreement between the industrial commission acting as the farm finance agency and lenders or individuals. Any financing agreement entered into between the industrial commission and any lender or individual is payable as to principal and interest only from the payments made thereon by the first-time farmer, and the financing agreement and any evidence of indebtedness may not constitute a debt of the state of North Dakota or any agency or instrumentality thereof within the meaning of any constitutional or statutory debt limit.

54-17-34.4. Policies.

Before exercising any of its powers as the farm finance agency pursuant to subsection 2 of section 54-17-09, the industrial commission shall adopt policies and rules relating to any or all of the following:

1. Procedures and documentation for the submission of requests for financing; and
2. Provisions necessary for compliance with the Internal Revenue Code of 1986 and any regulations adopted thereunder, as amended.

54-17-34.5. Financing exempt from taxation - Exception.

Evidences of indebtedness issued under the provisions of the first-time farmer finance program, and the interest therefrom, is exempt from any taxes of the state, except inheritance, estate, and transfer taxes.

54-17-35. Governmental public purpose - Electricity transmission export constraint priority.

The legislative assembly finds and declares that it is an essential governmental function and public purpose to assist with the removal of electrical transmission export constraints and to assist with the upgrading and expansion of the region's electrical transmission grid in order to facilitate the development of the state's abundant natural resources for export to the region's

consumers. The industrial commission shall give priority to those projects, processes, or activities that assist with the resolution of electricity transmission export constraints in this state.

54-17-36. Lease of municipal waterworks and sewage systems.

Notwithstanding any other provision of law, the state, acting by and through its industrial commission, may enter agreements to lease all or part of, or an undivided or other interest in, the plant or equipment of any waterworks, mains, or water distribution system and any property related thereto pursuant to subsection 5 of section 40-33-01, subsection 12 of section 61-24.5-09, or subsection 23 of section 61-35-12 or any sewage system and all related property for the collection, treatment, purification, and disposal in a sanitary manner of sewage pursuant to section 40-34-19 or subsection 23 of section 61-35-12 to or from a municipality or other political subdivision or agency of the state, or to or from any person, for such compensation and upon such terms and conditions as the parties under such agreement may stipulate. For the purposes of this section, such agreements include any lease, sublease, purchase agreement, lease-purchase agreement, installment purchase agreement, leaseback agreement, or other contract, agreement, instrument, or arrangement pursuant to which any rights, interests, or other property are transferred to, by, or from any party to, by, or from one or more parties, and any related documents entered or to be entered, including any operating agreement, service agreement, indemnity agreement, participation agreement, loan agreement, or payment undertaking agreement. Any lease obligation entered under this section is payable solely from revenues to be derived by the state or any agency or institution of the state from the ownership, sale, lease, disposition, and operation of the plant or equipment of any waterworks, mains, or water distribution system and any property related thereto or sewage systems and all related property for the collection, treatment, purification, and disposal in a sanitary manner of sewage; any funds or investments permitted under state law, and any earnings thereon, to the extent pledged therefor; revenues to be derived by the state from any support and operating agreement, service agreement, or any other agreement relating to the waterworks, mains, and water distribution system or sewage system; funds, if any, appropriated annually by the legislative assembly; and income or proceeds from any collateral pledged or provided therefor. A lease obligation entered under this section does not constitute an indebtedness of the industrial commission, the state, or any agency or officer or agent thereof, or a pledge of the full faith and credit or unlimited taxing resources of the industrial commission, the state, or any agency or officer or agent thereof. The industrial commission may authorize the public finance authority or another agency or institution of the state to do and perform any acts and things authorized by this section, including making, entering, and enforcing all contracts or agreements necessary, convenient, or desirable for the purposes of this section.

54-17-37. Tribal-state guaranty program - Continuing appropriation.

Expired under S.L. 2007, ch. 461, § 1.

54-17-38. Biomass incentive and research program.

Repealed by S.L. 2009, ch. 521, § 6.

54-17-39. Biomass incentive and research fund.

Repealed by S.L. 2009, ch. 521, § 6.

54-17-40. Housing incentive fund - Continuing appropriation - Report to budget section.

1. The housing incentive fund is a special fund in the state treasury administered by the housing finance agency. Moneys in the fund are appropriated to the housing finance agency on a continuing basis for assistance under subsection 3. Moneys in the fund may be transferred to the housing finance agency's operating fund for administrative expenses, which are subject to legislative appropriation.
2. a. After a public hearing, the housing finance agency shall create an annual allocation plan for the distribution of the fund as authorized under subsection 3.

b. The annual allocation plan must give priority to provide housing for individuals and families of low or moderate income. For purposes of this priority, eligible income limits are determined as a percentage of median family income as published in the most recent federal register notice. Under this priority, the annual allocation plan must give preference to projects that benefit households with the lowest income and to projects that have rent restrictions at or below department of housing and urban development published federal fair market rents or department of housing and urban development section 8 payment standards.
c. At least ten percent of the fund must be used to assist developing communities to address an unmet housing need or alleviate a housing shortage.

3. The housing finance agency shall adopt guidelines for the fund so as to address unmet housing needs in this state. Assistance from the fund may be used solely for:
   a. New construction, rehabilitation, preservation, or acquisition of a multifamily housing project;
   b. New construction, rehabilitation, preservation, or acquisition of a single-family housing project in a developing community or a community land trust project;
   c. Gap assistance, matching funds, and accessibility improvements;
   d. Assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary market financing or to make the project feasible; and
   e. Rental assistance, emergency assistance, barrier mitigation, or services designated to prevent or end homelessness.
4. Eligible recipients include units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning councils; and nonprofit organizations and for-profit developers of residential housing. Individuals may not receive direct assistance from the fund.
5. Except for subdivision d of subsection 3, assistance is subject to repayment or recapture under the guidelines adopted by the housing finance agency. Any assistance that is repaid or recaptured must be deposited in the fund and is appropriated on a continuing basis for the purposes of this section.
6. The agency may collect a reasonable administrative fee from the fund, project developers, applicants, or grant recipients. The origination fee assessed to grant recipients may not exceed five percent of the project award.
7. Upon request, the housing finance agency shall report to the industrial commission regarding the activities of the housing incentive fund.
8. At least once per biennium, the housing finance agency shall provide a report to the budget section of the legislative management regarding the activities of the housing incentive fund.

54-17-41. Report.

Repealed by S.L. 2017, ch. 39, § 23.

54-17-42. Report to legislative assembly or budget section on the fiscal impact of certain actions of the industrial commission.

If any order, regulation, or policy of the industrial commission to implement the provisions of chapter 38-08, excluding spacing unit orders, has a fiscal effect or estimated fiscal effect on the state in excess of twenty million dollars in a biennium, the industrial commission shall report to the legislative assembly when in session and otherwise to the budget section of the legislative management on the fiscal impact of the effect of the action on state revenues and expenditures, including any effect on the funds of the industrial commission.

54-17-43. Research technology park grant program - North Dakota state university - Report.

1. The industrial commission shall administer the research technology park grant program. Subject to legislative appropriations, the industrial commission shall

distribute grant funding to the research technology park at North Dakota state university. The research technology park shall use the funds in accordance with this section.

2. The research technology park at North Dakota state university is created to conduct exploratory, transformational, and innovative research and product development activities that advance intelligent autonomous mobile equipment opportunities and benefit the state's economy and environment through:
   a. Exploratory research and development of technologies and methodologies that facilitate the prudent development and efficient use of the state's autonomous agriculture resources and defense capabilities;
   b. Access to advanced robotics and artificial intelligence expertise for timely scientific and engineering activities to support the state's interests; and
   c. Education and outreach related to the state's advanced technology resources, including the advancement of engineering and technical readiness.
3. Each biennium, the research technology park shall develop a plan for the use of funds received under this section, including industry matching requirements. The plan must be approved by the industrial commission.
4. The research technology park may:
   a. Select research topics and projects;
   b. Enter contracts or agreements with other institutions of higher education to support the selected research topics and projects;
   c. Enter contracts or agreements with federal, private, and nonprofit organizations to carry out the selected research topics and projects; and
   d. Accept donations, grants, contributions, and gifts from any source to finance the selected research topics and projects.
5. Annually, the research technology park shall report all research activities, product development, and accomplishments to the industrial commission and the legislative management. Upon request, the research technology park shall report to the appropriations committees of the legislative assembly on the use of funding under this section.