

CHAPTER 54-63 RENEWABLE ENERGY COUNCIL

54-63-00.1. Definitions.

As used in this chapter, "advanced biofuel" means fuel derived from renewable biomass and includes:

1. Biofuel derived from cellulose, hemicellulose, or lignin;
2. Biofuel derived from sugar and starch other than ethanol derived from corn kernel starch;
3. Biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;
4. Diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;
5. Biogas, including landfill gas and sewage waste treatment gas, produced through the conversion of organic matter from renewable biomass;
6. Butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and
7. Other fuel derived from cellulosic biomass.

54-63-01. Renewable energy council - Composition.

The industrial commission shall consult with the renewable energy council in matters of policy affecting the administration of the renewable energy development fund.

1. The renewable energy council consists of:
 - a. The commissioner of commerce or the commissioner's designee.
 - b. A member with a substantial interest in the agriculture industry appointed by the governor.
 - c. A member with a substantial interest in the biodiesel industry appointed by the governor representing biodiesel interests.
 - d. A member with a substantial interest in the biomass industry appointed by the governor representing biomass interests.
 - e. A member with a substantial interest in the wind industry appointed by the governor representing wind interests.
 - f. A member with a substantial interest in the ethanol industry appointed by the governor representing ethanol interests.
 - g. A member with a substantial interest in advanced biofuel and sugar-based biofuel, appointed by the governor.
2. Subject to subsection 6, the terms of office for members of the council are three years but of those first appointed, two serve for one year, two serve for two years, and two serve for three years.
3. The commissioner of commerce shall serve as chairman.
4. The council shall have at least one regular meeting each year and such additional meetings as the chairman determines necessary at a time and place to be fixed by the chairman. Special meetings must be called by the chairman on written request of any three members. Four members constitute a quorum.
5. The council shall recommend to the industrial commission the approval of grants, loans, or other financial assistance necessary or appropriate for funding, research, development, marketing, and educational projects or activities and any other matters related to this chapter.
6. Members of the council serve at the pleasure of the governor.

54-63-02. Access to council records.

1. Materials and data submitted to, or made or received by, the council or industrial commission, to the extent that the council or industrial commission determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the commission or

receiving council or industrial commission services under this chapter, are subject to section 44-04-18.4.

2. a. A person or entity must file a request with the council or industrial commission to have material designated as confidential under subsection 1. The request must contain any information required by the council or industrial commission and must include at least:
 - (1) A general description of the nature of the information sought to be protected.
 - (2) An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
 - (3) An explanation of why the information is not readily ascertainable by proper means by other persons.
 - (4) A general description of a person or entity that may obtain economic value from disclosure or use of the information, and how the person or entity may obtain this value.
 - (5) A description of the efforts used to maintain the secrecy of the information.
- b. The fact that a request has been made is exempt.
3. The information submitted pursuant to subsection 2 is confidential. The council or industrial 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 council or industrial commission determines the information is either not relevant or not a trade secret, the council or industrial commission shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.
4. The names or identities of independent technical reviewers on a project or program and the names of council members making recommendations are confidential, may not be disclosed by the council, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.

54-63-03. Industrial commission powers.

1. The industrial commission may:
 - a. Make grants or loans, and provide other forms of financial assistance as necessary or appropriate, to qualified persons for funding research, development, marketing, and educational projects or activities, feasibility studies, applied research and demonstrations, venture capital investments, and low-interest loans and loan buydowns to foster the development of renewable energy, including wind, biofuels, biomass, solar, hydroelectric, geothermal, and hydrogen, that is produced from the foregoing renewable energy sources. Any financial assistance that the commission awards to a project must not be the project's sole support. Any financial assistance the commission awards must be conditioned on the assurance that the applicant or a third party will support the project by either monetary or nonmonetary means. The amount of this additional support is at the commission's discretion.
 - b. Provide incentives for multifeed facilities to process corn ethanol, cellulosic ethanol, canola biodiesel, and soy biodiesel.
 - c. Provide incentives for scaleable technologies.
 - d. Provide incentives to increase research and utilization of renewable energy coproduct utilization for livestock feed, human food products, and industrial use technologies.
 - e. Execute contracts and all other instruments necessary or convenient for the performance of its powers and functions under this chapter.
 - f. Accept aid, grants, or contributions of money or other things of value from any source, to be held, used, and applied to carry out this chapter, subject to the conditions upon which the aid, grants, or contributions are made, including aid, grants, or contributions from any department, agency, or instrumentality of the United States for any purpose consistent with this chapter.

- g. Establish interest buydown programs for equipment needed for production, harvest, storage, and transport under the special private lands open to sportsmen pilot program for native grass stands.
 - h. Fund technical assistance from the university system and private entities to producers.
 - i. Establish incentive programs that have as their purpose demonstrating to the agriculture community the commercial feasibility of producing, harvesting, storing, and delivering biomass feedstock. The program may include providing funds to producers of perennial biomass crops, including native grasses, so that such producers have an income during the time needed for these plants to mature and become ready for harvest.
 - j. Provide incentives to support research and demonstration projects and obtain matching grants for projects involving advanced biofuels and sugar-based biofuels.
2. The industrial commission shall contract with the department of commerce to provide technical assistance to the renewable energy council and the industrial commission to carry out and effectuate the purposes of this chapter, including pursuit of aid, grants, or contributions of money or other things of value from any source for any purpose consistent with this chapter. The department may contract with a public or private third party to provide any or all of the technical assistance necessary to implement the purposes of this chapter.

54-63-04. Renewable energy development fund - Continuing appropriation.

The renewable energy development fund is a special fund in the state treasury. All funds in the renewable energy development fund are appropriated to the industrial commission on a continuing basis for the purpose of carrying out and effectuating this chapter. Interest earned by the fund must be credited to the fund.