

Sixty-first  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO.

Introduced by

Representative Keiser

1 A BILL for an Act to create and enact a new section to chapter 10-30.5 of the North Dakota  
2 Century Code, relating to entrepreneurship awards; to amend and reenact sections 6-09-15 and  
3 10-30.5-04 and subdivision b of subsection 2 of section 54-60.1-01 of the North Dakota Century  
4 Code, relating to the Bank of North Dakota and North Dakota development fund, incorporated,  
5 use of funds for entrepreneurship awards; and to provide an expiration date.

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

7 **SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **6-09-15. (Effective through July 31, ~~2009~~ 2015) Powers.** The Bank of North Dakota  
10 may:

- 11 1. Make, purchase, guarantee, or hold loans:
  - 12 a. To state-chartered or federally chartered lending agencies or institutions or  
13 any other financial institutions.
  - 14 b. To holders of Bank of North Dakota certificates of deposit and savings  
15 accounts up to ninety percent of the value of the certificates and savings  
16 accounts offered as security.
  - 17 c. To actual farmers who are residents of this state, if the loans are secured by  
18 recorded mortgages giving the Bank of North Dakota a first lien on real estate  
19 in North Dakota in amounts not to exceed eighty percent of the value of the  
20 security.
  - 21 d. That are insured or guaranteed in whole or in part by the United States, its  
22 agencies, or instrumentalities.
  - 23 e. That are eligible to be guaranteed under chapter 15-62.1. Loans made  
24 pursuant to this subdivision may provide for interest that remains unpaid at

- 1                   the end of any period specified in the loan to be added to the principal amount  
2                   of the debt and thereafter accumulate interest.
- 3                   f.    To individuals or bank holding companies for the purpose of purchasing or  
4                   refinancing the purchase of bank stock of a bank located in the state.
- 5                   g.    To nonprofit organizations that are exempt from federal taxation under section  
6                   501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of  
7                   the loans to be used for construction, reconstruction, repair, renovation,  
8                   maintenance, and associated costs on property under the control of the parks  
9                   and recreation department.
- 10                  h.    Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as  
11                  amended through December 31, 1996, to nonprofit corporations for the  
12                  purpose of relending loan funds to rural businesses.
- 13                  i.    Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951,  
14                  subparts F and R; and part 1955, subparts A, B, and C, as amended through  
15                  December 31, 1996, to finance businesses and community development  
16                  projects in rural areas.
- 17                  j.    Obtained as security pledged for or originated in the restructuring of any other  
18                  loan properly originated or participated in by the Bank.
- 19                  k.    To instrumentalities of this state.
- 20                  l.    As otherwise provided by this chapter or other statutes.
- 21                  m.    If the Bank is participating in the loan and the Bank deems it is in the best  
22                  interests of the Bank to do so, it may purchase the remaining portion of the  
23                  loan from a participating lender that is closed by regulatory action or from the  
24                  receiver of the participating lender's assets.
- 25                  n.    To an investment company created for completing a trust preferred securities  
26                  transaction for the benefit of a financial institution located in this state.
- 27                  2.    Make agricultural real estate loans in order to participate in the agricultural  
28                  mortgage secondary market program established pursuant to the Agricultural  
29                  Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as  
30                  amended through December 31, 1996.

- 1           3.   Purchase participation interests in loans made or held by banks, bank holding  
2               companies, state-chartered or federally chartered lending agencies or institutions,  
3               any other financial institutions, or any other entity that provides financial services  
4               and that meets underwriting standards that are generally accepted by state or  
5               federal financial regulatory agencies.
- 6           4.   Invest its funds:
  - 7               a.   In conformity with policies of the industrial commission.
  - 8               b.   In a public venture capital corporation organized and doing business in this  
9                   state through the purchase of shares of stock.
  - 10              c.   In North Dakota alternative and venture capital investments and early-stage  
11                  capital funds, including the North Dakota development fund, incorporated, not  
12                  to exceed ten million dollars, for the purpose of providing funds for investment  
13                  in North Dakota alternative and venture capital investments ~~and~~, early-stage  
14                  capital funds, and entrepreneurship awards. The Bank may invest a  
15                  maximum of two hundred thousand dollars per biennium in North  
16                  Dakota-based venture capital entities that make investments in companies  
17                  located outside North Dakota. The Bank may allow for third-party  
18                  management of the funds invested under this subdivision if the management  
19                  is provided by the North Dakota development fund, incorporated, or a third  
20                  party that is located in the state and that has demonstrated fund management  
21                  experience.
- 22           5.   Buy and sell federal funds.
- 23           6.   Lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage all real  
24               and personal property, title to which has been acquired in any manner.
- 25           7.   Acquire real or personal property or property rights by purchase, lease, or, subject  
26               to chapter 32-15, the exercise of the right of eminent domain and may construct,  
27               remodel, and repair buildings.
- 28           8.   Receive deposits from any source and deposit its funds in any bank or other  
29               financial institution.
- 30           9.   Perform all acts and do all things necessary, convenient, advisable, or desirable to  
31               carry out the powers expressly granted or necessarily implied in this chapter

1 through or by means of its president, officers, agents, or employees or by contracts  
2 with any person, firm, or corporation.

- 3 10. Purchase mortgage loans on residential real property originated by financial  
4 institutions.

5 **(Effective after July 31, 2009 2015) Powers.** The Bank of North Dakota may:

- 6 1. Make, purchase, or hold loans:

- 7 a. To state-chartered or federally chartered lending agencies or institutions or  
8 any other financial institutions.
- 9 b. To holders of Bank of North Dakota certificates of deposit and savings  
10 accounts up to ninety percent of the value of the certificates and savings  
11 accounts offered as security.
- 12 c. To actual farmers who are residents of this state, if the loans are secured by  
13 recorded mortgages giving the Bank of North Dakota a first lien on real estate  
14 in North Dakota in amounts not to exceed eighty percent of the value of the  
15 security.
- 16 d. That are insured or guaranteed in whole or in part by the United States, its  
17 agencies, or instrumentalities.
- 18 e. That are eligible to be guaranteed under chapter 15-62.1. Loans made  
19 pursuant to this subdivision may provide for interest that remains unpaid at  
20 the end of any period specified in the loan to be added to the principal amount  
21 of the debt and thereafter accumulate interest.
- 22 f. To individuals or bank holding companies for the purpose of purchasing or  
23 refinancing the purchase of bank stock of a bank located in the state.
- 24 g. To nonprofit organizations that are exempt from federal taxation under section  
25 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of  
26 the loans to be used for construction, reconstruction, repair, renovation,  
27 maintenance, and associated costs on property under the control of the parks  
28 and recreation department.
- 29 h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as  
30 amended through December 31, 1996, to nonprofit corporations for the  
31 purpose of relending loan funds to rural businesses.

- 1           i.    Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951,  
2               subparts F and R; and part 1955, subparts A, B, and C, as amended through  
3               December 31, 1996, to finance businesses and community development  
4               projects in rural areas.
- 5           j.    Obtained as security pledged for or originated in the restructuring of any other  
6               loan properly originated or participated in by the Bank.
- 7           k.    To instrumentalities of this state.
- 8           l.    As otherwise provided by this chapter or other statutes.
- 9           m.    If the Bank is participating in the loan and the Bank deems it is in the best  
10               interests of the Bank to do so, it may purchase the remaining portion of the  
11               loan from a participating lender that is closed by regulatory action or from the  
12               receiver of the participating lender's assets.
- 13          n.    To an investment company created for completing a trust preferred securities  
14               transaction for the benefit of a financial institution located in this state.
- 15          2.    Make agricultural real estate loans in order to participate in the agricultural  
16               mortgage secondary market program established pursuant to the Agricultural  
17               Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as  
18               amended through December 31, 1996.
- 19          3.    Purchase participation interests in loans made or held by banks, bank holding  
20               companies, state-chartered or federally chartered lending agencies or institutions,  
21               any other financial institutions, or any other entity that provides financial services  
22               and that meets underwriting standards that are generally accepted by state or  
23               federal financial regulatory agencies.
- 24          4.    Invest its funds:  
25               a.    In conformity with policies of the industrial commission.  
26               b.    In a public venture capital corporation organized and doing business in this  
27               state through the purchase of shares of stock.
- 28          5.    Buy and sell federal funds.
- 29          6.    Lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage all real  
30               and personal property, title to which has been acquired in any manner.

7. Acquire real or personal property or property rights by purchase, lease, or, subject to chapter 32-15, the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**SECTION 2. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, 2009 2015) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

1. Cooperate and contract with any private or public entity.
2. Receive appropriations from the legislative assembly and other public moneys as well as contributions from other private or public contributors.
3. ~~Borrow~~ Receive funds not to exceed ten million dollars from the Bank of North Dakota under subdivision c of subsection 4 of section 6-09-15, for the purpose of investing in North Dakota alternative and venture capital investments ~~and,~~ early-stage capital funds, and entrepreneurship awards under section 3 of this Act. The funds for the entrepreneurship awards may not exceed one million dollars. The corporation may provide management services for the Bank's alternative and venture capital investments and early-stage capital funds.

**(Effective after July 31, 2009 2015) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

1. Cooperate and contract with any private or public entity.
2. Receive appropriations from the legislative assembly and other public moneys as well as contributions from other private or public contributors.

1           **SECTION 3.** A new section to chapter 10-30.5 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Entrepreneurship awards:**

- 4           1. The corporation shall administer an entrepreneurship award program that provides  
5 funding awards to entrepreneurial centers and to entrepreneurs.
- 6           2. The following provisions apply to entrepreneurial center awards:
- 7           a. An applicant must be an entrepreneurial center certified by the department of  
8 commerce. In certifying an entrepreneurial center, the department shall  
9 consider whether the center provides business incubator services such as  
10 mentors, shared services, and relationships with educational institutions. An  
11 entrepreneurial center may not be a state entity or an institution under the  
12 control of the state board of higher education.
- 13           b. An award may not exceed fifty thousand dollars. An entrepreneurial center  
14 may not qualify for more than one award per year and may not receive more  
15 than five awards.
- 16           c. Before funds are distributed to a center under this subsection, the center shall  
17 provide the corporation with detailed documentation of the availability of one  
18 dollar of nonstate matching funds for each dollar of state funds distributed  
19 under this subsection. Matching funds must be cash and may not be in-kind  
20 assets.
- 21           d. If during the year preceding the application for an award under this  
22 subsection, an entrepreneurial center was awarded state funding from any  
23 other source, the maximum award under this subsection must be decreased  
24 dollar for dollar for every dollar of other state funds awarded.
- 25           e. As a term of receipt of an award under this subsection, an entrepreneurial  
26 center shall agree to a payback schedule for funds awarded under this  
27 subsection. The payback schedule may commence more than five years after  
28 funds are awarded under this subsection if the center awarded the funds is  
29 not yet profitable five years following the award.
- 30           f. An award under this subsection is not a business incentive under chapter  
31 54-60.1.

3. The following provisions apply to entrepreneur awards:

a. An applicant must be an entrepreneur:

(1) Using the services of an entrepreneurial center certified by the department of commerce under subsection 2;

(2) With a business launch plan, but the business is not required to be a primary sector business; and

(3) That has been approved by the entrepreneurial center and by the corporation.

b. An award may not exceed twenty thousand dollars per business.

c. Before funds are distributed to an entrepreneur under this subsection, the entrepreneur shall provide the corporation with detailed documentation of the availability of one dollar of nonstate matching funds for every four dollars of state funds distributed under this subsection. Matching funds must be cash and may not be in-kind assets.

d. If during the year preceding the application for an award under this subsection an entrepreneur received state funding for the business from any other source, the maximum award under this subsection must be decreased dollar for dollar for every dollar of other state funds received.

e. As a term of receipt of an award under this subsection, to pay back the corporation for the award the entrepreneur shall provide the corporation with an equity position using convertible, nonvoting, preferred stock in the business which the corporation shall liquidate if the business becomes profitable.

**SECTION 4. AMENDMENT.** Subdivision b of subsection 2 of section 54-60.1-01 of the North Dakota Century Code is amended and reenacted as follows:

b. Incentives resulting from Bank of North Dakota programs unless the incentive is a direct interest rate buydown or is an investment made pursuant to the North Dakota alternative and venture capital investments and early-stage capital funds program. An entrepreneurial center award under section 3 of this Act is not a business incentive.



- 1           **SECTION 5. EXPIRATION DATE.** Sections 3 and 4 of this Act are effective through  
2   July 31, 2015, and after that date are ineffective.