

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Keiser

1 A BILL for an Act to create two new sections to chapter 54-17 of the North Dakota Century
2 Code, relating to an affordable housing fund; to amend and reenact section 54-17-07.1 of the
3 North Dakota Century Code, relating to the advisory board to the industrial commission; to
4 create a transfer; and to provide an appropriation.

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

6 **SECTION 1. AMENDMENT.** A new section to chapter 57-14 of the North Dakota
7 Century Code is created and enacted as follows:

8 **Affordable housing fund.** There is created in the state treasury a special fund known
9 as the affordable housing fund. After public hearings the housing finance agency shall create
10 an annual allocation plan for the distribution of all or a portion of the fund. The agency shall
11 adopt rules for the fund so as to address the unmet affordable housing needs through loans,
12 forgivable loans, grants, subsidies, guarantees, and credit enhancements. These forms of
13 assistance may be used solely for:

- 14 a. New construction, rehabilitation, or acquisition of affordable multi-family or a
15 single-family residence;
16 b. GAP assistance, matching funds, and accessibility improvements;
17 c. Single family downpayment or gap assistance that does exceed the amount
18 necessary to qualify for a loan using underwriting standards acceptable for
19 secondary market financing, and to prevent the potential of windfall profits,
20 assistance may be subject to recapture based on the level of assistance and
21 household income;
22 d. Rental assistance, emergency assistance, or targeted supportive services
23 designated to prevent homelessness.

1 Eligible recipients will include units of local, state, and tribal government; local and
2 tribal housing authorities, community action agencies; regional planning councils;
3 nonprofit organizations and for profit developers of affordable housing; and tribal
4 entities. Individuals may not receive direct assistance from the fund.

5 At least fifty percent of the fund must be used to benefit households with incomes
6 at or below fifty percent of the area median income. At least seventy-five percent
7 of the fund must be used to benefit households with an annual income at or below
8 one-hundred percent median income. The annual allocation plan must give priority
9 to projects that benefit households at or below thirty percent of area median
10 income and to households with special needs.

11 The agency may collect a reasonable administrative fee from the fund.

12 **SECTION 2. Biennial Report.** The housing finance agency shall report annually to the
13 industrial commission an biennial to the Legislative Council on the activities of the fund.

14 **SECTION 3. AMENDMENT.** Section 54-17-07.1 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **54-17-07.1. Advisory board - Rules.** The industrial commission shall appoint a
17 ~~six member~~ nine- member advisory board consisting of representatives of tribal governments,
18 special needs housing advocates, housing authorities lenders, the residential real estate
19 industry including realtors and apartment owners, lenders including the mobile home and
20 manufactured housing industry, and ~~homeowners and buyers~~, and in consultation with such
21 board may adopt rules and regulations for the conduct of its housing finance program which
22 may, among other matters, establish requirements for the type and purchase price of dwelling
23 units and multifamily facilities eligible to be financed, the income limits for eligible low or
24 moderate income persons or families, the interest rates and other terms of mortgage loans to
25 be financed, requirements relating to federal or private mortgage insurance or guarantees, and
26 the general terms and conditions for the issuance and security of housing revenue bonds to be
27 issued.

28 **SECTION 4. BANK OF NORTH DAKOTA TRANSFERS TO STATE GENERAL**
29 **FUND.** During the biennium beginning July 1, 2008, and ending June 30, 2011, the industrial
30 commission shall transfer to the state general fund ten million dollars from the current earnings
31 and accumulated undivided profits of the bank of north dakota. The moneys must be

transferred in the amount and at the times requested by the Office of Management and Budget. A transfers authorized may be made on to the extent that the transfer does not reduce the bank's capital structure below one hundred and seventy five million dollars.

SECTION 5. APPROPRIATION. Upon becoming available under section _____, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the state housing finance agency for the purpose of funding eligible activities to meet the affordable housing needs in this state, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 6. AMENDMENT. Section 54-60.1-01 of the North Dakota Century Code is amended and reenacted as follows:

54-60.1-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Benefit date" means the date on which the recipient receives the business incentive. If the business incentive involves the purchase, lease, or donation of physical equipment, the benefit date is the date when the recipient puts the equipment into service. If the business incentive is for improvements to property, the benefit date is the earlier of either when the improvements are finished for the entire project or when a business occupies the property. If a business occupies the property and the business incentive grantor expects that other businesses will also occupy the same property, the grantor may assign a separate benefit date for each subsequent business when that subsequent business first occupies the property.
2. "Business incentive" means a state or political subdivision direct cash transfer, loan, or equity investment; contribution of property or infrastructure; reduction or deferral of any tax or any fee; guarantee of any payment under any loan, lease, or other obligation; or preferential use of government facilities given to a business. To be considered a business incentive, the total assistance in all forms must be valued at twenty-five thousand dollars or more committed within a year. Unless specifically provided otherwise, the term does not include:
 - a. Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, or similar criteria.

- 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.
- c. Public improvements to buildings or lands owned by the state or political subdivision which serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made.
- d. Assistance provided for the sole purpose of renovating old or decaying building stock or bringing such building stock up to code and assistance provided for designated historic preservation districts, provided that the assistance does not exceed seventy-five percent of the total cost.
- e. Assistance to provide job-readiness and training services if the sole purpose of the assistance is to provide those services.
- f. Assistance for housing.
- g. Assistance for pollution control or abatement.
- h. Assistance for energy conservation.
- i. Tax reductions resulting from conformity with federal tax law.
- j. Benefits derived from regulation.
- k. Indirect benefits derived from assistance to educational institutions.
- l. Assistance for a collaboration between a North Dakota institution of higher education and a business.
- m. Redevelopment if the recipient's investment in the purchase of the site and in site preparation is seventy percent or more of the assessors current year's estimated market value.
- n. General changes in tax increment financing law and other general tax law changes of a principally technical nature.
- o. Federal assistance provided through the state or a political subdivision until the assistance has been repaid to, and reinvested by, the state or political subdivision.

- 1 p. Federal or state assistance for the lignite research, development, and
2 marketing program under chapter 54-17.5.
- 3 q. Federal or state assistance for the oil and gas research, development, and
4 marketing program under chapter 54-17.6.
- 5 3. "Compensation" means the value of an employee's:
- 6 a. Earnings, including wages, salary, bonus, and commissions; and
- 7 b. Benefits, including:
- 8 (1) Health, disability, life, and retirement benefits or insurance premium
9 paid by the employer;
- 10 (2) An employee's share of payroll taxes paid by the employer; and
- 11 (3) Other fringe benefits such as housing allowance and transportation
12 expenses.
- 13 4. "Department" means the department of commerce.
- 14 5. "Grantor" means the state or any political subdivision that directly or indirectly
15 grants a business incentive to a recipient.
- 16 6. "Political subdivision" means a unit of local government in this state which has
17 direct or indirect authority to grant a business incentive. The term includes any
18 authority, agency, special district, or entity created by, authorized by, under the
19 jurisdiction of, or contracting with a political subdivision.
- 20 7. "Public purpose" includes assisting community development, increasing the tax
21 base, directly creating employment opportunities, or indirectly creating employment
22 opportunities through increased economic activity. Job retention is only a public
23 purpose in cases in which job loss is specific and demonstrable.
- 24 8. "Recipient" means any individual or business entity that receives a business
25 incentive.
- 26 9. "State" means any North Dakota state government agency that has the authority to
27 directly or indirectly award business incentives are eligible activities of the state
28 housing finance agency with affordable housing funds.