

Sixty-second
Legislative Assembly
of North Dakota

SENATE BILL NO. 2371

Introduced by

Senators Wardner, Christmann, Hogue

Representatives Carlson, Delzer, Vigesaa

(Approved by the Delayed Bills Committee)

A BILL for an Act to create and enact a new section to chapter 6-09 and a new subsection to section 39-12-02 of the North Dakota Century Code, relating to the establishment of a rebuilders loan program and to special permits for vehicles of excessive size and weight; to amend and reenact subsection 5 of section 57-35.3-05 and subsections 1 and 5 of section 57-38-01.32 of the North Dakota Century Code and subsection 4 of section 10 of chapter 12 of the 2011 Session Laws, relating to financial institutions tax and income tax credits for contributions to the housing incentive fund and relating to the county and township road reconstruction program; to provide for a rebuilders loan program, principal reduction grants, flood-impacted political subdivision infrastructure development grant program, township financial stabilization grant program, road grade raising grants, oil and gas impact grant funding enhancement, and transportation funding enhancement; to provide for transfers; to provide appropriations; to provide contingent appropriations and transfers; to provide a continuing appropriation; to provide statements of legislative intent; to provide for retroactive application; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Rebuilders loan program - Loan fund - Continuing appropriation - Requirements.

1. The Bank of North Dakota shall maintain a loan fund to make or participate in loans to North Dakota residents affected by a presidentially declared disaster in the state for the purpose of the resident rebuilding the resident's flood-damaged home or purchasing a new home in the disaster-impacted community. Up to twenty percent of the loan proceeds disbursed under this program may be used for debt service, debt retirement, or other credit obligations. All moneys transferred into the fund, interest

1 upon moneys in the fund, and payments to the fund of principal and interest on loans
2 made from the fund are appropriated for the purpose of providing loans in accordance
3 with this section.

4 2. The Bank shall administer and supervise the loan fund and loans made from the fund.
5 The Bank may deduct, from interest payments received on loans, a service fee for
6 administering the fund for the Bank and originating financial institutions. An application
7 for a loan from the fund must be made to the Bank or originating financial institution
8 and, upon approval, a loan must be made from the fund in accordance with this
9 section.

10 3. A loan may be made from the fund only to a homeowner residing in an area in this
11 state in which federal emergency management agency individual assistance was
12 available to homeowners after a presidentially declared disaster in the state as a result
13 of a flood event occurring during 2011. A loan may be made from the fund only to a
14 homeowner residing in this state whose home was granted a reduction in 2011 in true
15 and full valuation from the individual's property's preflood value by an assessment
16 reduction pursuant to the governor's executive order 2011-22 or by an abatement for
17 flood-damaged property granted by the board of county commissioners. An initial loan
18 made to a homeowner under this section from state funds may not exceed thirty
19 thousand dollars. If federal funds are made available for this program, an additional
20 amount as determined by the Bank may be borrowed by eligible homeowners who
21 received an initial loan of thirty thousand dollars.

22 4. A loan from the fund must have the interest rate fixed at one percent per year for no
23 more than twenty years.

24 5. For every loan made from the fund, principal and interest payments must be deferred
25 for the first twelve months of the loan.

26 6. A loan application under this section may not be accepted after September 30, 2012.

27 7. In consideration of labors of residents to recover from disaster impacts, restore and
28 strengthen the community, and rebuild or replace and reoccupy their homes and to
29 encourage the retention of homeowners and businesses in the disaster-stricken
30 community, the city or county in which the homeowner resides may annually submit to
31 the Bank payment equivalent to the annual principal reductions granted by the city or

1 county to homeowners residing in the property for which loans were made. The benefit
2 to a borrower under this subsection is limited to ten percent of the original loan
3 principal for any full year the homeowner resides in the property for which the loan
4 was made, up to a maximum of fifty percent of the original loan principal for any loan.

5 8. The industrial commission shall contract with a certified public accounting firm to audit
6 the fund as necessary. The cost of the audit, and any other actual costs incurred by
7 the Bank on behalf of the fund, must be paid by the fund.

8 9. The Bank shall adopt policies to implement this section.

9 **SECTION 2.** A new subsection to section 39-12-02 of the North Dakota Century Code is
10 created and enacted as follows:

11 A multitrip permit for nondivisible loads may be issued for specific routes identified in
12 the permit application. The fee for this permit is the single trip permit fee multiplied by
13 the number of days the permit is valid. This subsection does not apply to special
14 mobile equipment or loads over one hundred fifty thousand pounds [68038.86
15 kilograms].

16 **SECTION 3. AMENDMENT.** Subsection 5 of section 57-35.3-05 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 5. There is allowed a credit against the tax imposed by sections 57-35.3-01 through
19 57-35.3-12 in an amount equal to the contribution to the housing incentive fund under
20 section 54-17-40. ~~The taxpayer may not claim more than twenty percent of the credit~~
21 ~~for each separate contribution made in any taxable year.~~ For the purposes of the credit
22 allowed in this subsection, subsections 2 through 8 of section 57-38-01.32 apply.

23 **SECTION 4. AMENDMENT.** Subsections 1 and 5 of section 57-38-01.32 of the North
24 Dakota Century Code are amended and reenacted as follows:

25 1. A taxpayer is entitled to a credit as determined under this section against state income
26 tax liability under section 57-38-30 or 57-38-30.3 for contributing to the housing
27 incentive fund under section 54-17-40. The amount of the credit is equal to the amount
28 contributed to the fund during the taxable year. ~~The taxpayer may not claim more than~~
29 ~~twenty percent of the credit for each separate contribution made in any taxable year.~~

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to ~~four~~fifteen million dollars per biennium. This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.

SECTION 5. AMENDMENT. Subsection 4 of section 10 of chapter 12 of the 2011 Session Laws is amended and reenacted as follows:

4. The funding included in the county and township road reconstruction program line item in section 1 of this Act may be used for:
- a. Ninety percent of the cost of the approved paved roadway projects not to exceed the funding available for that county.
 - b. ~~Twenty-five~~Ninety percent of the cost of the approved unpaved roadway projects not to exceed the funding available for that county.
 - c. Funding may be used for construction, engineering, and plan development costs.

SECTION 6. TRANSFER - BANK OF NORTH DAKOTA - REBUILDERS LOAN

PROGRAM FUND. The Bank of North Dakota shall transfer the sum of \$30,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the rebuilders loan program fund during the period beginning with the effective date of this Act and ending June 30, 2013.

SECTION 7. APPROPRIATION - ADJUTANT GENERAL - FUNDING FOR REBUILDERS LOAN PROGRAM AND FLOOD-IMPACTED HOUSING REHABILITATION - CITY AND COUNTY AUTHORITY. There is appropriated out of any moneys in the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be necessary, to the adjutant general for the purpose of providing funds to the Bank of North Dakota's rebuilders loan program fund and to cities and counties for flood-impacted housing rehabilitation, for the period beginning with the effective date of this Act and ending June 30, 2013. Funds made available to cities and counties under this section must be used by the city or county as deemed most effective in that community to assist homeowners in rehabilitation or replacement of their flood-damaged homes and to retain homeowners in the community.

SECTION 8. APPROPRIATION - LAND DEPARTMENT - FLOOD-IMPACTED POLITICAL SUBDIVISION INFRASTRUCTURE DEVELOPMENT GRANTS - ADMINISTRATION. There is

1 appropriated out of any moneys in the general fund in the state treasury, not otherwise
2 appropriated, the sum of \$30,000,000, or so much of the sum as may be necessary, to the
3 commissioner of university and school lands for the purpose of providing infrastructure
4 development grants to flood-impacted political subdivisions, for the period beginning with the
5 effective date of this Act and ending June 30, 2013. The funding provided in this section is
6 considered a one-time funding item. Up to \$110,000 of this appropriation may be used by the
7 commissioner of university and school lands for salaries and operating expenses relating to the
8 administration of this grant program.

9 **SECTION 9. FLOOD-IMPACTED POLITICAL SUBDIVISION INFRASTRUCTURE**
10 **DEVELOPMENT GRANTS - CRITERIA - DISTRIBUTION.**

- 11 1. The energy infrastructure and impact office director shall:
 - 12 a. Develop a plan for providing infrastructure development grants to eligible political
13 subdivisions and establish procedures and forms to be used for making
14 applications for funds.
 - 15 b. Receive and review applications for infrastructure development grants pursuant
16 to this section.
 - 17 c. Make recommendations to the board of university and school lands on grants to
18 eligible political subdivisions pursuant to this section.
- 19 2. The board of university and school lands shall award and distribute infrastructure
20 development grants to eligible political subdivisions based on identified needs.
- 21 3. Eligible political subdivisions include counties, as well as cities, school districts, and
22 other political subdivisions located within such counties, which have received an
23 individual assistance designation by the federal emergency management agency
24 relating to a flood event that occurred during 2011.
- 25 4. Grants received by eligible political subdivisions may be used to offset up to fifty
26 percent of the costs not otherwise reimbursed through federal or other state funds to:
 - 27 a. Develop new community infrastructure, the need for which is directly related to
28 the displacement of residents due to flooding. For the purposes of this Act,
29 infrastructure includes community-owned waterlines, sewer, curb, and gutter.
 - 30 b. Evaluate the extent of damage to community-owned infrastructure.
 - 31 c. Restore or repair flood-related damage to community-owned infrastructure.

- 1 d. Expand landfill capacity or reimburse flood-related waste disposal costs.
- 2 e. Raise roads or develop flood control structures.
- 3 f. Acquire property needed for floodway development or levy construction.
- 4 g. Acquire homes damaged by levy construction.
- 5 h. Provide reimbursement for other flood-related expenses.

6 **SECTION 10. LEGISLATIVE INTENT - FLOOD-IMPACTED POLITICAL SUBDIVISION**

7 **INFRASTRUCTURE DEVELOPMENT GRANTS.** The legislative assembly intends that the
8 moneys appropriated to and distributed by the commissioner of university and school lands for
9 flood-impacted political subdivision infrastructure development grants are to be used by
10 grantees to address needs not funded by other state or federal response or insurance
11 coverage.

12 **SECTION 11. APPROPRIATION - ADJUTANT GENERAL - FINANCIAL STABILIZATION**

13 **GRANTS TO FLOOD-IMPACTED TOWNSHIPS.** There is appropriated out of any moneys in
14 the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, or so
15 much of the sum as may be necessary, to the adjutant general for the purpose of providing
16 financial stabilization grants to flood-impacted townships, for the period beginning with the
17 effective date of this Act and ending June 30, 2013. The funding provided in this section is
18 considered a one-time funding item. Up to \$50,000 of this appropriation may be used by the
19 office of the adjutant general for salaries and operating expenses relating to the administration
20 of this grant program.

21 **SECTION 12. FINANCIAL STABILIZATION GRANTS TO FLOOD-IMPACTED**
22 **TOWNSHIPS - CRITERIA - DISTRIBUTION.**

- 23 1. The office of the adjutant general shall:
 - 24 a. Develop a plan for providing financial stabilization grants to eligible townships
25 and establish procedures and forms to be used for making applications for funds.
 - 26 b. Receive and review applications for grants pursuant to this section.
 - 27 c. Award and distribute township financial stabilization grants to eligible townships
28 based on financial condition.
- 29 2. Eligible townships are those:
 - 30 a. That incurred debt or financial obligations as a result of flood recovery and
31 response efforts during 2011.

- 1 b. That have a general fund levy of at least eighteen mills.
- 2 c. Where the total of all outstanding flood-related debt and flood-related financial
- 3 obligations is equal to or greater than total tax revenues received by the township
- 4 during the preceding two fiscal years.
- 5 3. A township may apply to the office of the adjutant general for a grant under this
- 6 subsection for up to fifty percent of the outstanding debt.

7 **SECTION 13. APPROPRIATION - DEPARTMENT OF COMMERCE - FLOOD-RELATED**

8 **COSTS.** There is appropriated from special funds derived from federal funds the sum of

9 \$235,000,000, or so much of the sum as may be necessary, to the department of commerce for

10 the purpose of providing loans or grants to flood-impacted individuals, property acquisitions,

11 and infrastructure development grants to flood-impacted communities, for the period beginning

12 with the effective date of this Act and ending June 30, 2013.

13 **SECTION 14. APPROPRIATION - STATE DISASTER RELIEF FUND - ADJUTANT**

14 **GENERAL - ROAD GRADE RAISING GRANTS.** There is appropriated out of any moneys in

15 the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of

16 \$6,000,000, or so much of the sum as may be necessary, to the adjutant general for grants to

17 eligible counties for road grade raising projects, for the period beginning with the effective date

18 of this Act and ending June 30, 2013. For purposes of this section, an eligible county is one that

19 contains any portion of a natural body of water that comprises more than one hundred fifty

20 thousand acres at current water levels and has risen more than twenty-five feet since 1993.

21 **SECTION 15. APPROPRIATION - ADJUTANT GENERAL - STATE DISASTER RELIEF**

22 **FUND.** There is appropriated out of any moneys in the state disaster relief fund, not otherwise

23 appropriated, the sum of \$29,500,000, or so much of the sum as may be necessary, to the

24 adjutant general for the purposes of providing the required state share of funding for defraying

25 the expenses associated with presidentially declared state disasters, for the period beginning

26 with the effective date of this Act and ending June 30, 2013.

27 **SECTION 16. CONTINGENT APPROPRIATION - ADJUTANT GENERAL - 2012**

28 **DISASTERS.** If a disaster event occurring during 2012 exceeds \$50,000,000 in damages

29 across the state, there is appropriated out of any moneys in the state disaster relief fund in the

30 state treasury, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as

31 may be necessary, to the adjutant general for the purpose of providing grants to political

1 subdivisions for a portion of the local share required to match federal emergency relief funding
2 relating to the disaster, for the period beginning with the effective date of this Act and ending
3 June 30, 2013. A political subdivision may apply to the adjutant general for an emergency relief
4 grant under this subsection for up to fifty percent of the local match required to receive the
5 federal emergency relief funding.

6 **SECTION 17. APPROPRIATION - TRANSFER - STATE DISASTER RELIEF FUND.** The
7 office of management and budget shall transfer \$68,700,000 from the state general fund to the
8 state disaster relief fund during the period beginning with the effective date of this Act and
9 ending June 30, 2013.

10 **SECTION 18. STATE WATER COMMISSION - FLOODWAY PROPERTY ACQUISITION**
11 **AND CONSTRUCTION FUNDING.** In its future plans, the state water commission shall place a
12 high priority on providing funding for floodway property acquisitions and construction. The
13 funding must be used to supplement federal hazard mitigation grant funds or other federal funds
14 for acquiring property and for the construction of flood control projects in qualifying political
15 subdivisions, including necessary funding for any state or local match requirements. For
16 purposes of this section, qualifying political subdivisions are cities or counties that are eligible
17 for federal emergency management agency hazard mitigation grant funding or other
18 comparable federal programs for flood mitigation and have received, or are located within
19 counties that have received, an individual assistance designation by the federal emergency
20 management agency as a result of a flood event occurring during 2011.

21 **SECTION 19. APPROPRIATION - STATE WATER COMMISSION - RESOURCES TRUST**
22 **FUND.** There is appropriated out of any moneys in the resources trust fund, not otherwise
23 appropriated, the sum of \$50,000,000, or so much of the sum as may be necessary, to the state
24 water commission for the purpose of defraying the expenses of that agency, for the period
25 beginning with the effective date of this Act and ending June 30, 2013. As provided in section 4
26 of chapter 46 of the 2011 Session Laws, expenditures pursuant to this section require budget
27 section approval.

28 **SECTION 20. APPROPRIATION - FULL-TIME EQUIVALENT POSITIONS - HIGHWAY**
29 **PATROL.** There is appropriated out of any moneys in the general fund in the state treasury, not
30 otherwise appropriated, the sum of \$681,870, or so much of the sum as may be necessary, to
31 the highway patrol for the purpose of hiring additional patrol officers, for the period beginning

1 with the effective date of this Act and ending June 30, 2013. The highway patrol is authorized
2 four additional full-time equivalent positions.

3 **SECTION 21. FLEX PACE PROGRAM USE.** The Bank of North Dakota shall utilize the flex
4 partnership in assisting community expansion program to assist in financing of affordable
5 multifamily housing units for individuals in areas of North Dakota affected by oil and gas
6 development, for the period beginning with the effective date of this Act and ending June 30,
7 2013.

8 **SECTION 22. CONTINGENT APPROPRIATION - TRANSFER - OIL AND GAS IMPACT**
9 **GRANT FUND.** There is appropriated out of any moneys in the general fund in the state
10 treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be
11 necessary, which the office of management and budget shall transfer to the oil and gas impact
12 grant fund during the period beginning April 1, 2012, and ending June 30, 2013. The office of
13 management and budget may transfer this funding only if the tax commissioner certifies that
14 total oil and gas tax revenue collections for the period July 1, 2011, through February 29, 2012,
15 exceed total oil and gas tax revenue collection projections for that period by at least
16 \$48,000,000, based on legislative estimates made at the close of the 2011 regular legislative
17 session.

18 **SECTION 23. CONTINGENT APPROPRIATION - LAND DEPARTMENT - OIL AND GAS**
19 **IMPACT GRANTS.** If the office of management and budget transfers \$30,000,000 from the
20 general fund to the oil and gas impact grant fund in accordance with provisions of section 22 of
21 this Act, there is appropriated out of any moneys in the oil and gas impact grant fund in the state
22 treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be
23 necessary, to the commissioner of university and school lands for providing oil and gas impact
24 grants in accordance with sections 57-62-03.1 and 57-62-05, for the period beginning April 1,
25 2012, and ending June 30, 2013. At least \$3,500,000 of the amount appropriated in this section
26 must be made available for grants relating to licensed emergency medical services operations
27 providing service in an area affected by oil and gas development.

28 **SECTION 24. CONTINGENT APPROPRIATION - STATE TREASURER -**
29 **TRANSPORTATION FUNDING DISTRIBUTIONS TO NON-OIL-PRODUCING POLITICAL**
30 **SUBDIVISIONS.** If the tax commissioner certifies that total oil and gas tax revenue collections
31 for the period July 1, 2011, through February 29, 2012, exceed total oil and gas tax revenue

1 collection projections for that period by at least \$48,000,000, based on legislative estimates
2 made at the close of the 2011 regular legislative session, there is appropriated out of any
3 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
4 \$18,000,000, or so much of the sum as may be necessary, to the state treasurer for the
5 purpose of providing transportation funding distributions, for the period beginning with the
6 effective date of this Act and ending June 30, 2013. The funding provided in this section is
7 considered a one-time funding item. The state treasurer shall distribute the funds provided
8 under this section on April 1, 2012, as follows:

9 1. Eighty percent to non-oil-producing counties and cities pursuant to subsection 4 of
10 section 54-27-19.

11 2. Twenty percent to counties and townships in non-oil-producing counties pursuant to
12 section 54-27-19.1. Organized townships are not required to provide matching funds
13 to receive distributions under this section.

14 For purposes of this section, a "non-oil-producing county" means a county that received no
15 allocation of funding or a total allocation under section 57-51-15 of less than \$500,000 for state
16 fiscal year 2011.

17 **SECTION 25. CONTINGENT APPROPRIATION AND BANK OF NORTH DAKOTA LINE**
18 **OF CREDIT - LITIGATION AND ADMINISTRATIVE PROCEEDINGS COSTS - REPORT TO**

19 **BUDGET SECTION.** There is appropriated out of any moneys in the general fund in the state
20 treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be
21 necessary, to the industrial commission for the purpose of defraying expenses associated with
22 possible litigation and other administrative proceedings involving the United States
23 environmental protection agency's effort to regulate hydraulic fracturing, for the period
24 beginning with the effective date of this Act and ending June 30, 2013. In addition, the industrial
25 commission, contingent on litigation and administrative proceedings, may borrow the sum of
26 \$500,000, or so much of the sum as may be necessary, from the Bank of North Dakota, the
27 proceeds of which is appropriated to the industrial commission for the purpose of defraying the
28 expenses associated with possible litigation and other administrative proceedings involving the
29 United States environmental protection agency's efforts to regulate hydraulic fracturing, for the
30 period beginning with the effective date of this Act and ending June 30, 2013. The industrial
31 commission may spend the general fund moneys and access the line of credit only upon

1 approval by the attorney general. The industrial commission shall report quarterly to the budget
2 section during the 2011-12 interim regarding the status of any litigation and other administrative
3 proceedings. The industrial commission will request a deficiency appropriation to repay any
4 funds borrowed from the Bank.

5 **SECTION 26. EXEMPTION.** The amounts appropriated to the commissioner of university
6 and school lands and the office of the adjutant general pursuant to sections 8 and 11 of this Act
7 are not subject to the provisions of section 54-44.1-11. Any unexpended funds from these
8 appropriations are available for continuing the grant programs authorized by this Act during the
9 biennium beginning July 1, 2013, and ending June 30, 2015.

10 **SECTION 27. RETROACTIVE APPLICATION.** Section 5 of this Act applies retroactively to
11 July 1, 2011.

12 **SECTION 28. EFFECTIVE DATE.** This Act becomes effective November 14, 2011.

13 **SECTION 29. EXPIRATION DATE.** Section 2 of this Act is effective through December 31,
14 2013, and is thereafter ineffective. Sections 3 and 4 of this Act are effective for the first two
15 taxable years beginning after December 31, 2010, and are thereafter ineffective.