

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED HOUSE BILL NO. 1029**

Introduced by

Legislative Management

(Energy Development and Transmission Committee)

1 A BILL for an Act to create and enact a new subsection to section 57-35.3-05 of the North
2 Dakota Century Code, relating to a tax credit for contributions to the housing incentive fund; to
3 amend and reenact subsection 3 of section 54-17-07.3 and sections 54-17-40, 54-17-41, and
4 57-38-01.32 of the North Dakota Century Code, relating to a multifamily housing finance
5 program and to the housing incentive fund and tax credits; to provide a report to the budget
6 section; to provide a continuing appropriation; to provide an effective date; to provide an
7 expiration date; and to declare an emergency.

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

9 **SECTION 1. AMENDMENT.** Subsection 3 of section 54-17-07.3 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 3. Multifamily housing finance program. A program or programs to provide financing
12 directly or indirectly of construction, permanent, and combined construction and
13 permanent mortgage loans, including participations in mortgage loans, for the
14 acquisition, construction, refurbishing, reconstruction, rehabilitation, or improvement of
15 multifamily housing facilities. As part of the program, the industrial commission, acting
16 in its capacity as a state housing finance agency, may enter a public and private
17 partnership with any interested private entity and accept any gift, grant, or other type
18 of financial aid or assistance, including a contribution to the housing incentive fund, to
19 provide financing for the construction or rehabilitation of a multifamily housing facility in
20 a developing community in the state to address an unmet housing need or alleviate a
21 housing shortage. A private entity participating in this program may reserve a
22 proportionate share of available units in the facility for occupancy by its workforce
23 based on its financial participation in the facility, in addition to any units held for
24 occupancy by individuals or families of low or moderate income.

1 **SECTION 2. AMENDMENT.** Section 54-17-40 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-17-40. (Effective through June 30, 2013~~2015~~) Housing incentive fund - Continuing**
4 **appropriation - Report to budget section.**

5 1. The housing incentive fund is created as a special revolving fund at the Bank of North
6 Dakota. The housing finance agency may direct disbursements from the fund and a
7 continuing appropriation from the fund is provided for that purpose.

8 2. After a public hearing, the housing finance agency shall create an annual allocation
9 plan for the distribution of the fund. At least twenty-five percent of the fund must be
10 used to assist developing communities ~~with a population of not more than ten-~~
11 ~~thousand individuals~~ to address an unmet housing need or alleviate a housing
12 shortage. ~~At least fifty percent of the fund must be used to benefit households with-~~
13 ~~incomes at not more than fifty percent of the area median income.~~ The agency may
14 collect a reasonable administrative fee from the fund, project developers, applicants,
15 or grant recipients.

16 The annual allocation plan must give first priority through its scoring and ranking
17 process to housing for essential service workers. For purposes of this subsection,
18 "essential service workers" means individuals employed by a city, county, school
19 district, medical or long-term care facility, the state of North Dakota, or others as
20 determined by the housing finance agency who fulfill an essential public service.

21 The second priority in the annual allocation plan must be to provide housing for
22 individuals and families of low or moderate income. For purposes of this second
23 priority, eligible income limits are determined as a percentage of median family income
24 as published in the most recent federal register notice. Under this second priority, the
25 annual allocation plan must give preference to projects that benefit households with
26 the lowest income and to projects that have rent restrictions at or below department of
27 housing and urban development published federal fair market rents or department of
28 housing and urban development section 8 payment standards.

29 The housing finance agency shall maintain a register reflecting the number of
30 housing units owned or master leased by cities, counties, school districts, or other
31 employers of essential service workers. This register must also reflect those entities

1 that are providing rent subsidies for their essential workers. The housing finance
2 agency shall report quarterly to the budget section of the legislative management on
3 the progress being made to reduce the overall number of units owned, master leased,
4 or subsidized by these entities. This report must include a listing of projects approved
5 and number of units within those projects that provide housing for essential service
6 workers.

- 7 3. The housing finance agency shall adopt guidelines for the fund so as to address
8 unmet housing needs in this state. Assistance from the fund may be used solely for:
- 9 a. New construction, rehabilitation, or acquisition of a multifamily housing project;
 - 10 b. Gap assistance, matching funds, and accessibility improvements;
 - 11 c. Assistance that does not exceed the amount necessary to qualify for a loan using
12 underwriting standards acceptable for secondary market financing or to make the
13 project feasible; and
 - 14 d. Rental assistance, emergency assistance, or targeted supportive services
15 designated to prevent homelessness.
- 16 4. Eligible recipients include units of local, state, and tribal government; local and tribal
17 housing authorities; community action agencies; regional planning councils; and
18 nonprofit organizations and for-profit developers of multifamily housing. Individuals
19 may not receive direct assistance from the fund.
- 20 5. Except for subdivision d of subsection 3, assistance is subject to repayment or
21 recapture under the guidelines adopted by the housing finance agency. Any
22 assistance that is repaid or recaptured must be deposited in the fund and is
23 appropriated on a continuing basis for the purposes of this section.

24 **SECTION 3. AMENDMENT.** Section 54-17-41 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-17-41. (Effective through June 30, 2013~~2015~~) Report.**

27 Upon request, the housing finance agency shall report to the industrial commission on the
28 activities of the housing incentive fund.

29 **SECTION 4.** A new subsection to section 57-35.3-05 of the North Dakota Century Code is
30 created and enacted as follows:

1 There is allowed a credit against the tax imposed by sections 57-35.3-01 through
2 57-35.3-12 in an amount equal to the contribution to the housing incentive fund under
3 section 54-17-40. For the purposes of the credit allowed in this subsection,
4 subsections 2 through 8 of section 57-38-01.32 apply.

5 **SECTION 5. AMENDMENT.** Section 57-38-01.32 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-38-01.32. (Effective for the first two taxable years beginning after December 31,**
8 **~~2010~~2012) Housing incentive fund tax credit.**

- 9 1. A taxpayer is entitled to a credit as determined under this section against state income
10 tax liability under section 57-38-30 or 57-38-30.3 for contributing to the housing
11 incentive fund under section 54-17-40. The amount of the credit is equal to the amount
12 contributed to the fund during the taxable year.
- 13 2. North Dakota taxable income must be increased by the amount of the contribution
14 upon which the credit under this section is computed but only to the extent the
15 contribution reduced federal taxable income.
- 16 3. The contribution amount used to calculate the credit under this section may not be
17 used to calculate any other state income tax deduction or credit allowed by law.
- 18 4. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the
19 excess may be carried forward to each of the ten succeeding taxable years.
- 20 5. The aggregate amount of tax credits allowed to all eligible contributors is limited to
21 fifteen~~twenty~~ million dollars ~~per biennium~~. This limitation applies to all contributions for
22 which tax credits are claimed under section 57-35.3-05 and this section.
- 23 6. Within thirty days after the date on which a taxpayer makes a contribution to the
24 housing incentive fund, the housing finance agency shall file with each contributing
25 taxpayer, and a copy with the tax commissioner, completed forms that show as to
26 each contribution to the fund by that taxpayer the following:
 - 27 a. The name, address, and social security number or federal employer identification
28 number of the taxpayer that made the contribution.
 - 29 b. The dollar amount paid for the contribution by the taxpayer.
 - 30 c. The date the payment was received by the fund.

- 1 7. To receive the tax credit provided under this section, a taxpayer shall claim the credit
2 on the taxpayer's state income or financial institutions tax return in the manner
3 prescribed by the tax commissioner and file with the return a copy of the form issued
4 by the housing finance agency under subsection 6.
- 5 8. Notwithstanding the time limitations contained in section 57-38-38, this section does
6 not prohibit the tax commissioner from conducting an examination of the credit
7 claimed and assessing additional tax due under section 57-38-38.
- 8 9. A partnership, subchapter S corporation, limited partnership, limited liability company,
9 or any other passthrough entity making a contribution to the housing incentive fund
10 under this section is considered to be the taxpayer for purposes of this section, and
11 the amount of the credit allowed must be determined at the passthrough entity level.
12 The amount of the total credit determined at the entity level must be passed through to
13 the partners, shareholders, or members in proportion to their respective interests in
14 the passthrough entity.

15 **SECTION 6. EFFECTIVE DATE - EXPIRATION DATE.** Sections 4 and 5 of this Act are
16 effective for the first two taxable years beginning after December 31, 2012, and are thereafter
17 ineffective.

18 **SECTION 7. EMERGENCY.** Sections 1 through 3 of this Act are declared to be an
19 emergency measure.