

Sixty-fifth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2192**

Introduced by

Senators Kreun, Burckhard, Meyer

Representatives Hatlestad, Zubke, Mock

1 A BILL for an Act to create and enact a new section to chapter 57-38 and a new subdivision to  
2 subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the housing  
3 incentive fund tax credit; to amend and reenact sections 54-17-40 and 54-17-41 of the North  
4 Dakota Century Code, relating to the housing incentive fund and housing finance agency report;  
5 to provide a transfer; and to provide an appropriation.

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

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

9 **54-17-40. (Effective through June 30, 2017~~2019~~) Housing incentive fund - Continuing  
10 appropriation -Report to budget section.**

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

14 2. After a public hearing, the housing finance agency shall create an annual allocation  
15 plan for the distribution of the fund. At least ~~twenty-five~~<sup>fifteen</sup> percent of the fund must  
16 be used to assist developing communities to address an unmet housing need or  
17 alleviate a housing shortage. The agency may collect a reasonable administrative fee  
18 from the fund, project developers, applicants, or grant recipients. The origination fee  
19 assessed to grant recipients may not exceed five percent of the project award.

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

Sixty-fifth  
Legislative Assembly

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

9           ~~The housing finance agency shall maintain a register reflecting the number of  
10      housing units owned or master leased by cities, counties, school districts, or other  
11      employers of essential service workers. This register must also reflect those entities  
12      that are providing rent subsidies for their essential workers. The housing finance  
13      agency shall report quarterly to the budget section of the legislative management on  
14      the progress being made to reduce the overall number of units owned, master leased,  
15      or subsidized by these entities. This report must include a listing of projects approved  
16      and number of units within those projects that provide housing for essential service  
17      workers.~~

- 18        3. The housing finance agency shall adopt guidelines for the fund so as to address  
19        unmet housing needs in this state. Assistance from the fund may be used solely for:
  - 20          a. New construction, rehabilitation, or acquisition of a multifamily housing project;
  - 21          b. Gap assistance, matching funds, and accessibility improvements;
  - 22          c. Assistance that does not exceed the amount necessary to qualify for a loan using  
23           underwriting standards acceptable for secondary market financing or to make the  
24           project feasible; and
  - 25          d. Rental assistance, emergency assistance, or targeted supportive services  
26           designated to prevent homelessness.
- 27        4. Eligible recipients include units of local, state, and tribal government; local and tribal  
28        housing authorities; community action agencies; regional planning councils; and  
29        nonprofit organizations and for-profit developers of multifamily housing. Individuals  
30        may not receive direct assistance from the fund.

Sixty-fifth  
Legislative Assembly

1       5. Except for subdivision d of subsection 3, assistance is subject to repayment or  
2       recapture under the guidelines adopted by the housing finance agency. Any  
3       assistance that is repaid or recaptured must be deposited in the fund and is  
4       appropriated on a continuing basis for the purposes of this section.

5       **SECTION 2. AMENDMENT.** Section 54-17-41 of the North Dakota Century Code is  
6       amended and reenacted as follows:

7       **54-17-41. (Effective through June 30, 2017) Report.**

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

10      **SECTION 3.** A new section to chapter 57-38 of the North Dakota Century Code is created  
11     and enacted as follows:

12      **(Effective for the first two taxable years beginning after December 31, 2016) Housing**  
13      **incentive fund tax credit.**

14      1. A taxpayer is entitled to a credit as determined under this section against state income  
15      tax liability under section 57-38-30 or 57-38-30.3 for contributing to the housing  
16      incentive fund under section 54-17-40. The amount of the credit is equal to the amount  
17      contributed to the fund during the taxable year.

18      2. North Dakota taxable income must be increased by the amount of the contribution  
19      upon which the credit under this section is computed but only to the extent the  
20      contribution reduced federal taxable income.

21      3. The contribution amount used to calculate the credit under this section may not be  
22      used to calculate any other state income tax deduction or credit allowed by law.

23      4. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the  
24      excess may be carried forward to each of the ten succeeding taxable years.

25      5. The aggregate amount of tax credits allowed to all eligible contributors is limited to  
26      twenty million dollars.

27      6. Within thirty days after the date on which a taxpayer makes a contribution to the  
28      housing incentive fund, the housing finance agency shall file with each contributing  
29      taxpayer, and a copy with the tax commissioner, completed forms that show as to  
30      each contribution to the fund by that taxpayer the following:

Sixty-fifth  
Legislative Assembly

- 1       a. The name, address, and social security number or federal employer identification  
2                   number of the taxpayer that made the contribution.
- 3       b. The dollar amount paid for the contribution by the taxpayer.
- 4       c. The date the payment was received by the fund.
- 5       7. To receive the tax credit provided under this section, a taxpayer shall claim the credit  
6                   on the taxpayer's state income tax return in the manner prescribed by the tax  
7                   commissioner and file with the return a copy of the form issued by the housing finance  
8                   agency under subsection 6.
- 9       8. Notwithstanding the time limitations contained in section 57-38-38, this section does  
10                  not prohibit the tax commissioner from conducting an examination of the credit  
11                  claimed and assessing additional tax due under section 57-38-38.
- 12       9. A passthrough entity making a contribution to the housing incentive fund under this  
13                  section is considered to be the taxpayer for purposes of this section, and the amount  
14                  of the credit allowed must be determined at the passthrough entity level. The amount  
15                  of the total credit determined at the entity level must be passed through to the  
16                  partners, shareholders, or members in proportion to their respective interests in the  
17                  passthrough entity.

18       **SECTION 4.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota

19       Century Code is created and enacted as follows:

20                  Housing incentive fund tax credit under section 3 of this Act.

21       **SECTION 5. APPROPRIATION - TRANSFER - GENERAL FUND TO HOUSING**

22       **INCENTIVE FUND.** There is appropriated out of any moneys in the general fund in the state  
23       treasury, not otherwise appropriated, the sum of \$20,000,000 or so much of the sum as may be  
24       necessary, which the office of management and budget shall transfer to the housing incentive  
25       fund for the biennium beginning July 1, 2017, and ending June 30, 2019. The funding provided  
26       in this section is considered a one-time funding item.