

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2364

Introduced by

Senator J. Lee

1 A BILL for an Act to amend and reenact subsections 1 and 2 of section 54-59-25, subsections 1
2 and 2 of section 54-59-26, and section 54-59-29 of the North Dakota Century Code, relating to
3 the health information technology loan fund and confidential health information; and to repeal
4 section 6-09-42 of the North Dakota Century Code, relating to the health information technology
5 loan fund.

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

7 **SECTION 1. AMENDMENT.** Subsection 1 of section 54-59-25 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 1. The health information technology advisory committee consists of the state chief
10 information officer or the chief information officer's designee, the state health officer or
11 the state health officer's designee, the governor or the governor's designee, the
12 executive director of the department of human services or the executive director's
13 designee, the chairman of the house human services committee and the chairman of
14 the senate human services committee or if either or both of them are unwilling or
15 unable to serve then the chairman of the legislative management shall appoint a
16 replacement who is a member of the same legislative chamber as the individual being
17 replaced, and individuals appointed by the governor to represent a broad range of
18 public and private health information technology stakeholders. A committee member
19 who is not an ex officio member, designee of an ex officio member, state employee, or
20 legislator is entitled to mileage and expenses as provided by law for state officers and
21 employees, to be paid by the health information technology office. A committee
22 member who is an ex officio member, designee of an ex officio member, state
23 employee, or legislator is entitled to receive that member's regular salary and receive
24 mileage and expenses, to be paid by the employing agency.

1 **SECTION 2. AMENDMENT.** Subsection 2 of section 54-59-25 of the North Dakota Century
2 Code is amended and reenacted as follows:

3 2. The health information technology advisory committee shall collaborate with and make
4 recommendations to the health information technology office, as provided under
5 sections ~~6-09-42~~, 6-09-43, 54-59-26, and 54-59-27.

6 **SECTION 3. AMENDMENT.** Subsection 1 of section 54-59-26 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 1. The health information technology office is created in the department. The health
9 information technology advisory committee shall make recommendations to the health
10 information technology office for implementing a statewide interoperable health
11 information infrastructure that is consistent with emerging national standards; promote
12 the adoption and use of electronic health records and other health information
13 technologies; and promote interoperability of health information systems for the
14 purpose of improving health care quality, patient safety, and the overall efficiency of
15 health care and public health services.

16 **SECTION 4. AMENDMENT.** Subsection 2 of section 54-59-26 of the North Dakota Century
17 Code is amended and reenacted as follows:

18 2. The health information technology office director, in collaboration with the health
19 information technology advisory committee, shall:
20 a. Apply for federal funds that may be available to assist the state and health care
21 providers in implementing and improving health information technology.
22 b. Implement and administer a health information exchange that utilizes information
23 infrastructure and systems in a secure and cost-effective manner to facilitate the
24 collection, storage, and transmission of health records.
25 c. Adopt rules under chapter 28-32 for the use of health information, use of the
26 health information exchange, and participation in the health information
27 exchange.
28 d. Adopt rules under chapter 28-32 for accessing the health information exchange
29 to ensure appropriate and required privacy and security protections and relating
30 to the authority of the director to suspend, eliminate, or terminate the right to
31 participate in the health information exchange.

- 1 e. ~~Establish a health information technology loan program to provide loans to health-~~
2 ~~care providers for the purpose of purchasing and upgrading certified electronic-~~
3 ~~health record technology, training personnel in the use of such technology, and-~~
4 ~~improving the secure electronic exchange of health information, and for any other~~
5 ~~purpose under section 6-09-42.~~
- 6 f. Establish a health information technology planning loan program to provide
7 low-interest loans to health care entities to assist those entities in improving their
8 health information technology infrastructure under section 6-09-43.
- 9 ~~g-f.~~ Facilitate and expand electronic health information exchange in the state, directly
10 or by awarding grants.
- 11 ~~h-g.~~ Establish an application process and eligibility criteria for and accept and process
12 applications for loans and grants under subdivisions e, f, and g. The eligibility
13 criteria must be consistent with federal requirements associated with federal
14 funds received under subdivision a. The eligibility criteria for loans under
15 subdivision f must include a requirement that the recipient's approved health
16 information technology be strategically aligned with the state's health information
17 technology plan and the associated federal standards and that the recipient has
18 passed an onsite electronic medical record readiness assessment conducted by
19 an assessment team determined by the health information technology advisory
20 committee and the health information technology office director.
- 21 ~~i-h.~~ Determine fees and charges for access and participation in the health information
22 exchange. Any moneys collected under this subdivision must be deposited in the
23 electronic health information exchange fund.
- 24 ~~j-i.~~ Consult and coordinate with the state department of health and the department of
25 human services to facilitate the collection of health information from health care
26 providers and state agencies for public health purposes, including identifiable
27 health information that may be used by state agencies, departments, or
28 institutions to comply with applicable state or federal laws.

29 **SECTION 5. AMENDMENT.** Section 54-59-29 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **54-59-29. Health information exchange - Confidential and exempt records.**

2 ~~Any individually identifiable health information, as defined under the federal Health-~~
3 ~~Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191];~~Information submitted to,
4 stored in, or transmitted by the health information exchange under this chapter and any such
5 data or record in the possession of the health information technology office is an exempt record
6 under chapter 44-04 unless the information is confidential under applicable federal or state law.
7 ~~Any other information relating to patients, individuals, or individually identifiable demographic-~~
8 ~~information contained in a master client index submitted to, stored in or transmitted by the-~~
9 ~~health information exchange or in the possession of the health information technology office is-~~
10 ~~an exempt record.~~

11 **SECTION 6. REPEAL.** Section 6-09-42 of the North Dakota Century Code is repealed.