

FISCAL NOTE
Requested by Legislative Council
02/05/2015

Amendment to: SB 2364

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

There is no fiscal impact for this bill. It is simply cleaning up language in the NDCC.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There is no fiscal impact for this bill. It is simply cleaning up language in the NDCC.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Dan Sipes

Agency: Information Technology Department

Telephone: 701.328.4317

Date Prepared: 01/27/2015

FISCAL NOTE
Requested by Legislative Council
01/26/2015

Bill/Resolution No.: SB 2364

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

There is no fiscal impact for this bill. It is simply cleaning up language in the NDCC.

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3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Dan Sipes

Agency: Information Technology Department

Telephone: 701.328.4317

Date Prepared: 01/27/2015

2015 SENATE HUMAN SERVICES

SB 2364

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2364

2/4/2015

23160

- Subcommittee
 Conference Committee

Committee Clerk Signature

Donald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to the health information technology loan fund and confidential health information

Minutes:

Attach #1: Testimony by Sheldon Wolf

Sheldon Wolf, ND Health Information Technology Director, North Dakota Information Technology Department, introduced SB 2364 and also testified IN FAVOR of SB 2364. (attach #1). (Oral testimony ends 8:00)

No questions for Mr. Wolf.

OPPOSITION to SB 2364

No opposing testimony

NEUTRAL to SB 2364

No neutral testimony

Closed Public Hearing

Senator Dever moved to ADOPT AMENDMENT as proposed by Mr. Sheldon Wolf. The motion was seconded by **V. Chairman Oley Larsen**. No discussion

Roll Call Vote to Amend SB 2364

6 Yes, 0 No, 0 Absent. Motion passed

Senator Dever moved to recommend Senate Human Services Committee DO PASS as AMENDED SB 2364. The motion was seconded **V. Chairman Oley Larsen**. No discussion.

Roll Call Vote to DO PASS as Amended SB 2364

6 Yes, 0 No, 0 Absent. Motion passed.

V. Chairman Oley Larsen will carry SB 2364 to the floor.

February 4, 2015

TD
2/4/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2364

Page 1, line 1, replace the first "subsection" with "subsections 1 and"

Page 1, line 1, replace the second "subsection" with "subsections 1 and"

Page 1, after line 6 insert:

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

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

Page 1, after line 11, insert:

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

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

Renumber accordingly

Date: 02/04 2015
Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2364**

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: Sheldon Wolf 15-0978.01001 Title 02000

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Dever Seconded By Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larson (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 02/04 2015
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2364

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: 15.0978.01001 Title 02000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Dever Seconded By Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larson (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Larsen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2364: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2364 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the first "subsection" with "subsections 1 and"

Page 1, line 1, replace the second "subsection" with "subsections 1 and"

Page 1, after line 6 insert:

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

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

Page 1, after line 11, insert:

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

Re-number accordingly

2015 HOUSE HUMAN SERVICES

SB 2364

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2364
3/18/2015
Job #25060

- Subcommittee
 Conference Committee

Committee Clerk Signature	
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Explanation or reason for introduction of bill/resolution:

Relating to the health information technology loan fund.

Minutes:

Testimony 1

Chairman Weisz opened the hearing on SB 2364.

Sen. Judy Lee: Introduced and supported the bill.

2:57

Sheldon Wolf: ND Health Information Technology Director provided information on the bill.
(See Testimony #1)

6:09

Rep. Porter: In the first section that deals with the committee, how many individuals fall under that first component category? Why wouldn't there be a slight fiscal note if we are paying for the individual at a meeting?

Wolf: We have 22 members and about 15 or 16 are not state employees. Only 1 or 2 would bill us for mileage and we have that built into our budget already. That is why no fiscal note.

Chairman Weisz: Under section 5 with confidential and exempt records how are you reshaping this?

Wolf: That is the way it was worded before when what HIPPA considered was confidential. Now we really do is open it up and say if it is a federal or state law that considers something confidential it is considered confidential. Other than that it is exempt. Most of the information is confidential because it is medical information. This is the wording the Attorney General and Mike Mullens recommended.

NO OPPOSITION

Chairman Weisz closed the hearing on SB 2364.

2015 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2364
3/18/2015
Job #25077

- Subcommittee
 Conference Committee

Committee Clerk Signature

Vicky Crabtree

Minutes:

Chairman Weisz took up SB 2364.

Rep. Hofstad: I move a Do Pass on engrossed SB 2364.

Rep. Fehr: Second.

ROLL CALL VOTE: 13 y 0 n 0 absent

MOTION CARRIED

Bill Carrier: Rep. Fehr

Date: 3-18-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2364

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Rep. Hofstad Seconded By Rep. Fehr

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. Mooney	✓	
Vice-Chair Hofstad	✓		Rep. Muscha	✓	
Rep. Bert Anderson	✓		Rep. Oversen	✓	
Rep. Dick Anderson	✓				
Rep. Rich S. Becker	✓				
Rep. Damschen	✓				
Rep. Fehr	✓				
Rep. Kiefert	✓				
Rep. Porter	✓				
Rep. Seibel	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Fehr

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2364, as engrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2364 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2364

Attach#1
02/04/15

SB 2364

**TESTIMONY BEFORE THE
SENATE HUMAN SERVICES COMMITTEE
SENATE BILL 2364
FEBRUARY 4, 2015**

Madam Chairperson, members of the committee, I am Sheldon Wolf, the ND Health Information Technology Director. I am here today to provide information on Senate Bill 2364 and propose two additional amendments.

The bill before you today in its current form simply repeals a section of code and amends language regarding the confidentiality of health information.

Section 6-09-42 was added to Century Code in 2009 anticipating that the State may receive Federal funds from the Federal Government for revolving loans to providers to acquire an electronic health record system. This section set up a revolving loan fund similar to the fund established with State funds at 6-09-43. The Federal funds never materialized; consequently, the fund was never utilized. At this time we do not anticipate any Federal funds to become available and recommend that this section of code be repealed (SB 2364 Section 4), along with the references to this section in 54-59-25 and 26 (SB 2364 Section 1 and 2 respectively).

Section 3 of the bill amends 54-59-29 related to confidential and exempt records. The language change essentially indicates that any record that is considered confidential by State or Federal law is confidential. The current version only indicates that individually identifiable health information, as defined under the federal Health Insurance and Portability and Accountability Act of 1996 was confidential. Since there are other laws that consider records confidential, we are suggesting the changes in section 3 be adopted.

1.2
Finally, I would like to propose two amendments. The first is to section 54-59-25. Starting on page one, line seven of Senate Bill 2364, add the following change:

Section 1. Amendment. Subsection 1 and 2 of section 54-59-25 of the North Dakota Century Code is amended and reenacted as follows.

Immediately following, insert and amend subsection 1.

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

The second amendment is on section 54-59-26. Starting on page one, line twelve of Senate Bill 2364, add the following change:

Section 2. Amendment. Subsection 1 and 2 of section 54-59-26 of the North Dakota Century Code is amended and reenacted as follows:

Immediately following insert and amend subsection 1:

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

Thank you for the opportunity to appear before you today, I would be happy to address any questions.

#1

**TESTIMONY BEFORE THE
HOUSE HUMAN SERVICES COMMITTEE
SENATE BILL 2364
MARCH 18, 2015**

Mr. Chairman, members of the committee, I am Sheldon Wolf, the ND Health Information Technology Director. I am here today to provide information on Senate Bill 2364.

The bill repeals a section of code, amends language regarding the confidentiality of health information, clarifies payments to Health Information Technology Advisory Committee Members and clarifies where the health information network services may be provided.

Section 1 amends 54-59-25 of the North Dakota Century Code to specifically identify that HITAC members who are not an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to mileage and expenses as provided by law for state officers and employees, to be paid by the health information technology office. A committee member who is an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to receive that member's regular salary and is entitled to receive mileage and expenses, to be paid by the employing agency.

Section 6-09-42 was added to Century Code in 2009 anticipating that the State may receive Federal funds from the Federal Government for revolving loans to providers to acquire an electronic health record system. This section set up a revolving loan fund similar to the fund established with State funds at 6-09-43. The Federal funds never materialized; consequently, the fund was never utilized. At this time we do

not anticipate any Federal funds to become available and recommend that this section of code be repealed (SB 2364 Section 6), along with the references to this section in 54-59-25 and 26 (SB 2364 Section 2 and 4 respectively).

Section 3 removes wording regarding a “statewide” interoperable health information infrastructure. Some of the services that the health information network provides cross state lines because of the nature of the providers in our state, thus the request to remove the “statewide” wording.

Section 5 of the bill amends 54-59-29 related to confidential and exempt records. The language change essentially indicates that any record that is considered confidential by State or Federal law is confidential. The current version only indicates that individually identifiable health information, as defined under the federal Health Insurance and Portability and Accountability Act of 1996 was confidential. Since there are other laws that consider records confidential, we are suggesting the changes in section 3 be adopted.

Thank you for the opportunity to appear before you today, I would be happy to address any questions.