

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2332
(Senators J. Lee, Robinson)
(Representatives Kaldor, Weisz)

AN ACT to create and enact two new sections to chapter 6-09 and three new sections to chapter 54-59 of the North Dakota Century Code, relating to Bank of North Dakota loan funds for health information technology, the creation of a health information technology advisory committee and a health information technology office, and to health information exchange grants; to repeal section 23-01-31 of the North Dakota Century Code, relating to the North Dakota health information technology steering committee; to provide an appropriation; to provide for transfers; to provide for a report to the budget section and the legislative council; and to declare an emergency.

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:

Health information technology loan fund - Appropriation.

1. The health information technology loan fund is established in the Bank for the purpose of providing loans to health care providers to purchase and upgrade electronic health record technology, train personnel in its use, improve security of information exchange, and for other purposes as established by the health information technology office, in collaboration with the health information technology advisory committee. This fund is a revolving loan fund. All moneys transferred into the fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement according to this section.
2. The Bank shall make loans from this fund to health care providers as approved by the health information technology office director, in collaboration with the health information technology advisory committee, in accordance with the criteria established by the health information technology office director under section 4 of this Act. A loan made under this fund must be repayable over a period that may not exceed ten years.
3. The Bank shall administer the health information technology loan fund. Funds in the loan fund may be used for loans as provided under this section and the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the revolving loan fund maintained under this section.
4. An application for a loan under this section must be made to the health information technology office. The health information technology office director, in collaboration with the health information technology advisory committee, may approve the application of a qualified applicant that meets the criteria established by the health information technology office director. The health information technology office shall forward approved applications to the Bank. Upon approval of the application by the Bank, the Bank shall make the loan from the revolving loan fund as provided under this section.
5. The Bank may do all acts necessary to negotiate loans and preserve security as deemed necessary, to exercise any right of redemption, and to bring suit in order to collect interest and principal due the revolving loan fund under mortgages, contracts, and notes executed to obtain loans under this section. If the applicant's plan for financing provides for a loan of funds from sources other than the state of North Dakota, the Bank may take a subordinate

security interest. The Bank may recover from the revolving loan fund amounts actually expended by the Bank for legal fees and to effect a redemption.

SECTION 2. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Health information technology planning loan fund - Appropriation.

1. The health information technology planning loan fund is established in the Bank for the purpose of providing low-interest loans to health care entities to assist those entities in improving health information technology infrastructure. This fund is a revolving loan fund. All moneys transferred into the fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement according to this section.
2. The Bank shall make loans from this fund to health care entities as approved by the health information technology office director, in collaboration with the health information technology advisory committee, in accordance with the criteria established by the health information technology director under section 4 of this Act.
3. The Bank shall administer the health information technology planning loan fund. Funds in the loan fund may be used for loans as provided under this section and the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the revolving loan fund maintained under this section.
4. An application for a loan under this section must be made to the health information technology office. The health information technology office director, in collaboration with the health information technology advisory committee, may approve the application of a qualified applicant that meets the criteria established by the health information technology office director. The health information technology office shall forward approved applications to the Bank. Upon approval of the application by the Bank, the Bank shall make the loan from the revolving loan fund as provided under this section.
5. The Bank may do all acts necessary to negotiate loans and preserve security as deemed necessary, to exercise any right of redemption, and to bring suit in order to collect interest and principal due the revolving loan fund under mortgages, contracts, and notes executed to obtain loans under this section. If the applicant's plan for financing provides for a loan of funds from sources other than the state of North Dakota, the Bank may make a loan subordinate security interest. The Bank may recover from the revolving loan fund amounts actually expended by the Bank for legal fees and to effect a redemption.

SECTION 3. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Health information technology advisory committee - Duties.

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, and individuals appointed by the governor and the state health officer to represent a broad range of public and private health information technology stakeholders.
2. The health information technology advisory committee shall collaborate with and make recommendations to the health information technology office, as provided under sections 1, 2, 4, and 5 of this Act.

3. As requested by the health information technology advisory committee, the department shall provide or arrange for administrative services to assist the health information technology advisory committee.
4. The health information technology advisory committee may employ an executive director who serves at the pleasure of and under the direct supervision of the health information technology advisory committee. The executive director may employ personnel as necessary for the administration of this section.

SECTION 4. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Health information technology office - Duties - Loan and grant programs.

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.
2. The health information technology office director, in collaboration with the health information technology advisory committee, shall:
 - a. Apply for federal funds that may be available to assist the state and health care providers in implementing and improving health information technology.
 - b. Establish a health information technology loan program to provide loans to health care providers for the purpose of purchasing and upgrading certified electronic health record technology, training personnel in the use of such technology, and improving the secure electronic exchange of health information, and for any other purpose under section 1 of this Act.
 - c. Establish a health information technology planning loan program to provide low-interest loans to health care entities to assist those entities in improving their health information technology infrastructure under section 2 of this Act.
 - d. Facilitate and expand electronic health information exchange in the state, directly or by awarding grants.
 - e. Establish an application process and eligibility criteria for and accept and process applications for loans and grants under subdivisions b, c, and d. The eligibility criteria must be consistent with federal requirements associated with federal funds received under subdivision a. The eligibility criteria for loans under subdivision c must include a requirement that the recipient's approved health information technology be strategically aligned with the state's health information technology plan and the associated federal standards and that the recipient has passed an onsite electronic medical record readiness assessment conducted by an assessment team determined by the health information technology advisory committee and the health information technology office director.

SECTION 5. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Health information technology office - Electronic health information exchange fund.

1. There is created an electronic health information exchange fund. The fund consists of moneys deposited in the fund from federal or other sources or moneys transferred into the fund as directed by the legislative assembly. The health information technology office shall administer this fund and shall distribute moneys in the fund accordingly. The moneys in the fund must be used to facilitate and expand electronic health information exchange. Moneys in the fund may be used, subject to legislative appropriations, to provide services directly, for grants as provided under this section, and for the costs of administration of the fund.
2. A grant applicant shall submit an application to the health information technology office, which shall determine the applicant's eligibility based upon criteria established by the health information technology office director in collaboration with the health information technology advisory committee.
3. This section does not create an entitlement to any funds available for grants under this section. The health information technology office may award these grants to the extent funds are available and, within the office's discretion, to the extent such applications are approved.

SECTION 6. REPEAL. Section 23-01-31 of the North Dakota Century Code is repealed.

SECTION 7. HEALTH INFORMATION TECHNOLOGY OFFICE AND HEALTH INFORMATION TECHNOLOGY ADVISORY COMMITTEE - REPORT TO LEGISLATIVE COUNCIL AND BUDGET SECTION. During the 2009-10 interim, the health information technology office and health information technology advisory committee shall provide periodic reports to the legislative council and the budget section on the status of health information technology activities.

SECTION 8. BANK OF NORTH DAKOTA TRANSFERS. The industrial commission shall transfer, during the period beginning with the effective date of this Act and ending June 30, 2011, as requested by the health information technology office director, up to \$8,000,000 from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology loan fund to meet any required match for federal funds or to the electronic health information exchange fund to meet any required match for federal funds or as directed, a portion to both funds to meet any required match for federal funds. The health information technology office director shall request fund transfers from the Bank only as necessary to comply with federal requirements and to meet cash flow needs of the funds.

SECTION 9. CONTINGENT BANK OF NORTH DAKOTA TRANSFER. If actual general fund revenues for the period July 1, 2009, through September 30, 2009, exceed estimated general fund revenues for that period by at least \$22,500,000, as determined by the office of management and budget, based on the legislative estimates made at the close of the 2009 legislative session and upon certification by the health information technology office director to the director of the office of management and budget of a demonstrated need for health information technology planning loans, the industrial commission shall transfer, as requested by the health information technology office director, up to \$5,000,000 from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology planning loan fund, for the biennium beginning July 1, 2009, and ending June 30, 2011. The health information technology office director shall request transfers from the Bank only as necessary to meet cash flow needs of the fund.

SECTION 10. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the information technology department for the purpose of defraying the costs of the health information technology advisory committee and the health information technology office, for the period beginning with the effective date of this Act and ending June 30, 2011.

SECTION 11. APPROPRIATION. There is appropriated out of any moneys in the electronic health information exchange fund, not otherwise appropriated, the sum of \$88,000,000, or so much of the sum as may be necessary, including up to \$80,000,000 of federal funds deposited in the fund from

the federal American Recovery and Reinvestment Act of 2009 to the information technology department for the purposes established under section 5 of this Act, for the period beginning with the effective date of this Act and ending June 30, 2011.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2332 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 93 Nays 1 Absent 0

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at ___ o'clock _____ M.

Secretary of State