

BANKS AND BANKING

CHAPTER 80

SENATE BILL NO. 2179

(Senators J. Lee, Hogan, Mathern)
(Representatives K. Koppelman, Kreidt, Roers Jones)

AN ACT to create and enact chapter 6-08.5 of the North Dakota Century Code, relating to the prevention of financial exploitation; and to amend and reenact section 6-08.1-03 of the North Dakota Century Code, relating to a financial institution's duty of confidentiality.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

6-08.1-03. Duty of confidentiality.

A financial institution may not disclose customer information to ~~any~~ any person, governmental agency, or law enforcement agency unless the disclosure is made in accordance with any of the following:

1. Pursuant to consent granted by the customer in accordance with this chapter.
2. To a person other than a governmental agency or law enforcement agency pursuant to valid legal process.
3. To a governmental agency or law enforcement agency pursuant to valid legal process in accordance with this chapter.
4. For the purpose of reporting a suspected violation of the law in accordance with this chapter.
5. For the purpose of notifying the agriculture commissioner ~~that~~ a financial institution has notified a customer of the availability of the North Dakota mediation service.
6. As part of the disclosure made of deposits of public corporations with financial institutions in the security pledge schedule verified by the custodian of securities pursuant to section 21-04-09.
7. For purposes of reporting suspected exploitation of an eligible adult as defined by section 12.1-31-07. ~~Nothing in this~~ This subsection may not be construed to impose ~~upon a duty on a~~ a duty on a financial institution ~~a duty~~ to investigate an alleged or suspected exploitation of an eligible adult or to make a report to a governmental agency or law enforcement agency.

8. For purposes of reporting suspected financial exploitation of an eligible adult under chapter 6-08.5 to a law enforcement agency or the department of human services. This subsection may not be construed to impose a duty on a financial institution to investigate a suspected financial exploitation of an eligible adult or to make a report to the department of human services or law enforcement agency.

SECTION 2. Chapter 6-08.5 of the North Dakota Century Code is created and enacted as follows:

6-08.5-01. Definitions.

As used in this chapter:

1. "Account" means funds or assets held by a financial service provider, including a deposit account, savings account, share account, certificate of deposit, trust account, individual retirement account, guardianship or conservatorship account, investment or securities account, retirement account, loan, extension of credit, or safe deposit box.
2. "Eligible adult" means an individual who is at least sixty-five years of age or a vulnerable adult as defined in section 50-25.2-01.
3. "Financial exploitation" means the wrongful or unauthorized taking, withholding, appropriation, or use of an eligible adult's money, assets, or property for one's own benefit or the benefit of a third party. The term includes defrauding an eligible adult.
4. "Financial service provider" means a financial institution, credit union, savings and loan association, or trust company.
5. "Financial transaction" means any of the following as applicable to the business or services provided by a financial service provider:
 - a. A transfer or request to transfer or disburse funds or assets in an account;
 - b. A request to initiate a wire transfer, initiate an automated clearing house transfer, or issue a money order, cashier's check, or official check;
 - c. A request to negotiate a check or other negotiable instrument;
 - d. A request to change the ownership of an account;
 - e. A request for a loan, extension of credit, or draw on a line of credit; or
 - f. A request to designate or change the designation of a beneficiary to receive any property, benefit, or contract right for an eligible adult.
6. "Law enforcement agency" means an agency authorized by law to enforce the law and to conduct or engage in investigations or prosecutions for violations of the law.

6-08.5-02. Eligible adult financial exploitation prevention - Duration of refusal or hold - Notification and reporting - Immunity.

1. If a financial service provider has a good faith belief to suspect financial exploitation occurred, was attempted, or is being attempted, the financial service provider may refuse a financial transaction or hold a financial transaction on an account:
 - a. Belonging to the eligible adult;
 - b. On which the eligible adult is a beneficiary, including a trust, guardianship, or conservatorship account; or
 - c. Belonging to a person suspected of perpetrating financial exploitation.
2. A financial service provider may refuse a financial transaction or hold a financial transaction under this section if the department of human services or a law enforcement agency provides information to the financial service provider demonstrating it is reasonable to believe financial exploitation occurred, was attempted, or is being attempted.
3. Subsection 2 does not require a financial service provider to refuse a financial transaction or hold a financial transaction if provided with information by the department of human services or a law enforcement agency alleging financial exploitation occurred, was attempted, or is being attempted. Except as ordered by a court, a financial service provider may determine whether to refuse a financial transaction or hold a financial transaction based on the information available to the financial service provider.
4. A financial service provider refusing a financial transaction or holding a financial transaction based on a good faith belief to suspect financial exploitation occurred, was attempted, or is being attempted shall:
 - a. Except with regard to an account administered by a bank or trust company in a fiduciary capacity, make a reasonable effort to notify, orally or in writing, one or more parties authorized to transact business on the account; and
 - b. Report the incident to the department of human services, if the incident involves financial exploitation of a vulnerable adult as defined in section 50-25.2-01.
5. Notice under this section is not required to be provided to a party authorized to conduct business on the account if the party is the suspected perpetrator of financial exploitation.
6. A financial service provider, or an employee, officer, or director of a financial service provider, is immune from all criminal, civil, and administrative liability:
 - a. For refusing or not refusing a financial transaction, or for holding or not holding a financial transaction under this section; or
 - b. For actions taken in furtherance of the determination made under subdivision a, if the determination is based upon a good faith belief financial exploitation occurred, was attempted, or is being attempted.

6-08.5-03. Reporting to a law enforcement agency or the department of human services - Immunity.

1. If a financial service provider, or an employee, officer, or director of a financial service provider has a good faith belief to suspect financial exploitation of an eligible adult occurred, was attempted, or is being attempted, the financial service provider, or an employee, officer, or director of a financial service provider may report the information to a law enforcement agency or the department of human services.
2. This section does not impose a duty on a financial institution to investigate a suspected financial exploitation of an eligible adult or to make a report to a law enforcement agency or the department of human services.
3. A financial service provider, or an employee, officer, or director of a financial service provider, is immune from all criminal, civil, and administrative liability for reporting or not reporting under this section if the determination is made based on a good faith belief that financial exploitation occurred, was attempted, or is being attempted.

6-08.5-04. Individuals who may be contacted regarding suspected financial exploitation - Immunity - Exemption from customer consent and notice provisions.

1. A financial service provider may offer to an eligible adult the opportunity to submit and update periodically a list of individuals the eligible adult authorizes the financial service provider to contact if the financial service provider has reasonable cause to suspect the eligible adult is a victim or a target of financial exploitation.
2. Notwithstanding subsection 1, a financial service provider having a good faith belief to suspect an eligible adult is the victim or target of financial exploitation may convey the suspicion to one or more of the following individuals, provided the individual is not the suspected perpetrator:
 - a. An individual on the list described in subsection 1.
 - b. A co-owner, additional authorized signatory, or beneficiary on the eligible adult's account.
 - c. An attorney-in-fact, trustee, conservator, guardian, or other fiduciary who has been selected or appointed to manage some or all of the financial affairs of the eligible adult.
3. If a financial service provider provides information under this section, the financial service provider may limit the information, such as disclosing only that the financial service provider has reasonable cause to suspect the eligible adult may be a victim or target of financial exploitation, without disclosing any other details or confidential personal information regarding the financial affairs of the eligible adult.
4. The financial service provider may choose not to contact an individual on the list provided under subsection 1, if the financial service provider suspects the individual is engaged in financial exploitation.
5. The financial service provider may rely on information provided by the eligible adult in compiling a list of contact individuals.

6. A financial service provider, or an employee, officer, or director of a financial service provider, is immune from all criminal, civil, and administrative liability for contacting an individual or electing not to contact an individual under this section and for actions taken in furtherance of that determination if the determination is made based on a good faith belief financial exploitation occurred, was attempted, or is being attempted.
7. Contact with an individual, and any information provided under this section, is exempt from the customer consent provisions in sections 6-08.1-03 and 6-08.1-04.

6-08.5-05. Refusal to accept power of attorney - Immunity.

1. A financial service provider may refuse to accept an acknowledged power of attorney if the financial service provider has a good faith belief to suspect the principal is or may be the victim or target of financial exploitation by the agent or individual acting for or with the agent.
2. A financial service provider, or an employee, officer, or director of a financial service provider, is immune from all criminal, civil, and administrative liability for refusing to accept a power of attorney or for accepting a power of attorney under this section and for actions taken in furtherance of that determination if the determination was based on a good faith belief financial exploitation occurred, was attempted, or was being attempted.

Approved April 8, 2019

Filed April 9, 2019

CHAPTER 81

SENATE BILL NO. 2197

(Senators Unruh, Erbele, Poolman)
(Representatives Headland, Howe, Pyle)

AN ACT to amend and reenact subsection 4 of section 6-09-15.5 and subsection 1 of section 6-09.11-03 of the North Dakota Century Code, relating to loans for family farmers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 6-09-15.5 of the North Dakota Century Code is amended and reenacted as follows:

4. A loan made from the fund must have either a fixed rate at one percent below the Bank's then current base for ten years or the interest rate fixed at one percent below the Bank's then current base rate for the first five years with a maximum rate of six percent per year and variable at one percent below the Bank's then current base rate for the second five years. ~~During and during the~~ second five years, the variable rate must be adjusted annually on the anniversary date. The rate during the remaining term of the loan floats at the Bank's base rate as in effect from time to time.

SECTION 2. AMENDMENT. Subsection 1 of section 6-09.11-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The Bank of North Dakota may make available an appropriate amount of funds to purchase participation interests in loans made by financial institutions for the purposes as set forth in section 6-09.11-04.
 - a. Interest charged on a participation interest purchased by the Bank under this section may not be greater than one percent less than the Bank's base rate as in effect from time to time and may float.
 - b. A loan may be a fixed rate at the Bank's then current base rate for up to ten years. The rate during the remaining term of the loan floats at the Bank's base rate as in effect from time to time.
 - c. However, the interest rate may not exceed eleven percent during the course of the loan. The Bank may charge for necessary and reasonable fees as determined by the industrial commission.

Approved April 8, 2019

Filed April 9, 2019

CHAPTER 82

HOUSE BILL NO. 1092

(Education Committee)

(At the request of the Bank of North Dakota)

AN ACT to amend and reenact section 6-09-38, subsection 2 of section 6-09-48, subsection 1 of section 15-62.1-02, and section 15-62.1-04 of the North Dakota Century Code, relating to the North Dakota higher education savings plan, the federal student loan program, and the state guarantee loan program; to repeal section 15-62.1-10 of the North Dakota Century Code, relating to eligibility for participation in the federal student loan program; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09-38 of the North Dakota Century Code is amended and reenacted as follows:

6-09-38. North Dakota higher education savings plan - Administration - Rules - Continuing appropriation.

The Bank of North Dakota shall adopt rules to administer, manage, promote, and market a North Dakota higher education savings plan. The Bank shall ensure that the North Dakota higher education savings plan is maintained in compliance with internal revenue service standards for qualified state tuition programs. The Bank, as trustee of the North Dakota higher education savings plan, may impose an annual administrative fee to recover expenses incurred in connection with operation of the plan ~~or for other programs deemed to promote attendance at an institution of higher education, support the functions of the Bank related to the educational mission of the Bank, or defray the expenses of education as defined by section 529 of the Internal Revenue Code of 1986 [26 U.S.C. 529].~~ Administrative fees received by the Bank are appropriated on a continuing basis to be used as provided in this section. Contributions made during the taxable year to a higher education savings plan administered by the Bank, pursuant to the provisions of the plan, are eligible for an income tax deduction as provided in chapter 57-38. Information related to contributions is confidential except as is needed by the tax commissioner for determining compliance with the income tax deduction provided in chapter 57-38.

SECTION 2. AMENDMENT. Subsection 2 of section 6-09-48 of the North Dakota Century Code is amended and reenacted as follows:

2. The funds ~~shall~~must be used to support the functions of the Bank related to ~~higher education~~the educational mission of the Bank.

SECTION 3. AMENDMENT. Subsection 1 of section 15-62.1-02 of the North Dakota Century Code is amended and reenacted as follows:

1. To guarantee all loans ~~which~~that satisfy the requirements set forth in title IV, part B, of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.; Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581], as amended through December 31, 1998, upon terms, conditions, and application procedures commensurate with the federal Higher

Education Act of 1965 [20 U.S.C. 1001 et seq.; Pub. L. 89-329; 79 Stat. 1236; Pub. L. 99-498; 100 Stat. 1353; Pub. L. 105-244; 112 Stat. 1581], as amended through December 31, 1998, if federal coinsurance of student loans guaranteed by the agency is available. If at any time the agency determines that student loans made under the terms and conditions of federal coinsurance programs are no longer adequately serving the needs of North Dakota students attending postsecondary institutions, or if federal coinsurance is no longer available, the agency shall notify the industrial commission or its designee. Upon approval of the industrial commission or its designee, the agency shall guarantee student loans without federal coinsurance pursuant to rules made by the agency relating to terms for applicant eligibility in accordance with the provisions of this chapter. Students whose loans are guaranteed by the agency must be students who have been accepted for enrollment in postsecondary training or are attending eligible postsecondary institutions located within or outside this state, and whose loans are for the purpose of assisting them in meeting their expenses of postsecondary education. Students who are accepted for enrollment or are attending eligible proprietary or postsecondary institutions of higher education are eligible to have loans guaranteed by the agency. The agency shall, by rule, establish minimum qualifications for a person to be deemed a part-time student for purposes of this chapter.

SECTION 4. AMENDMENT. Section 15-62.1-04 of the North Dakota Century Code is amended and reenacted as follows:

15-62.1-04. Repayment of loans.

The agency shall establish rules for the repayment, or deferment of repayment, of loans guaranteed under this chapter which are coinsured by the federal government consistent with the Higher Education Act of 1965, as amended, ~~and. The agency shall also establish~~ adopt rules for the repayment, or deferment of repayment, of loans guaranteed by the agency which are not coinsured by the federal government.

SECTION 5. REPEAL. Section 15-62.1-10 of the North Dakota Century Code is repealed.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 20, 2019

Filed March 21, 2019

CHAPTER 83

SENATE BILL NO. 2098

(Industry, Business and Labor Committee)
(At the request of the Bank of North Dakota)

AN ACT to amend and reenact section 6-09-44 of the North Dakota Century Code, relating to the Bank of North Dakota residential mortgage loan program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09-44 of the North Dakota Century Code is amended and reenacted as follows:

6-09-44. Residential mortgages.

1. The Bank may establish a residential mortgage loan program under which the Bank may originate residential mortgages if private sector mortgage loan services are not reasonably available. Under this program a local financial institution or credit union may assist the Bank in taking a loan application, gathering required documents, ordering required legal documents, and maintaining contact with the borrower.
2. If the Bank establishes a program under this section, at a minimum the program must provide:
 - a. An applicant must be referred to the Bank by a local financial institution or credit union;
 - b. The loan application must be for an owner-occupied primary residence; and
 - c. The Bank provide all regulatory disclosures, process and underwrite the loan, prepare closing documents, and disburse the loan; and
 - d. ~~The terms of the loan originated by the Bank must provide:~~
 - (1) ~~The amount of the loan may not exceed an amount to be established by Bank policy;~~
 - (2) ~~The term of the loan may not exceed thirty years;~~
 - (3) ~~The rate of the loan must be equal to the Bank's market rate;~~
 - (4) ~~The maximum loan to value may not exceed eighty percent of appraised value; however, a local financial institution or credit union may take a second mortgage that does not exceed a combined loan to value of ninety-five percent; and~~
 - (5) ~~Standard credit underwriting and documentation applies.~~

3. The Bank may sell eligible first-time home buyer loans to the North Dakota housing finance agency.

Approved March 14, 2019

Filed March 14, 2019

CHAPTER 84

SENATE BILL NO. 2099

(Industry, Business and Labor Committee)
(At the request of the Bank of North Dakota)

AN ACT to amend and reenact section 6-09-47 of the North Dakota Century Code, relating to the medical facility infrastructure loan fund; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09-47 of the North Dakota Century Code is amended and reenacted as follows:

6-09-47. Medical facility infrastructure loan fund - Continuing appropriation - Audit and costs of administration.

1. The Bank of North Dakota shall administer a loan program to provide loans to medical facilities to conduct construction that improves the health care infrastructure in the state or improves access to existing nonprofit health care providers in the state. The construction project may include land purchases and may include purchase, lease, erection, or improvement of any structure or facility to the extent the governing board of the health care facility has the authority to authorize such activity.
2. In order to be eligible under this loan program, the applicant must be the governing board of the health care facility which shall submit an application to the Bank. The application must:
 - a. Detail the proposed construction project, which must be a project of at least one million dollars and which is expected to be utilized for at least thirty years;
 - b. Demonstrate the need and long-term viability of the construction project; and
 - c. Include financial information as the Bank may determine appropriate to determine eligibility, such as whether there are alternative financing methods.
3. ~~The governor shall establish a task force to review loan applications under this section and to make recommendations to the Bank on the loan applications. The task force must include representation of medical providers and medical facilities from the oil-producing counties in the state. The task force shall work with the Bank to establish criteria for eligibility for a loan under the program. The criteria established by the task force and the Bank must give priority to applicants that are located in oil-producing counties.~~
4. A loan provided under this section:

- a. May not exceed the lesser of fifteen million dollars or seventy-five percent of the actual cost of the project;
 - b. Must have an interest rate equal to one percent; and
 - c. Must provide a repayment schedule of no longer than twenty-five years.
- ~~5-4.~~ A recipient of a loan under this section shall complete the financed construction project within twenty-four months of approval of the loan. Failure to comply with this subsection may result in forfeiture of the entire loan received under this section.
- ~~6-5.~~ The medical facility infrastructure fund is a special fund in the state treasury. This fund is a revolving fund. All moneys transferred into the medical facility infrastructure fund, interest on moneys in the fund, and collections of principal and interest on loans from the fund are appropriated to the Bank on a continuing basis for the purpose of providing loans under this section.
- ~~7-6.~~ Funds in the medical facility infrastructure fund may be used for loans as provided under this section and to pay the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the medical facility infrastructure fund maintained under this section.
- ~~8-7.~~ The medical facility infrastructure fund must be audited in accordance with section 6-09-29. The cost of the audit and any other actual costs incurred by the Bank on behalf of the fund must be paid from the fund.
- ~~9-8.~~ The Bank shall deposit loan repayment funds in the medical facility infrastructure fund.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 21, 2019

Filed March 22, 2019

CHAPTER 85

SENATE BILL NO. 2296

(Senators Wanzek, Dotzenrod, Klein)
(Representatives Headland, D. Johnson, Pollert)

AN ACT to amend and reenact sections 6-09.7-02 and 6-09.7-05 of the North Dakota Century Code, relating to the Bank of North Dakota loan guarantee program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.7-02 of the North Dakota Century Code is amended and reenacted as follows:

6-09.7-02. Powers and duties of the Bank of North Dakota.

The Bank of North Dakota may take, hold, and administer, on behalf of the state from any source, any property, or any interest in the property, and the income therefrom, either absolutely or in trust, for any purpose of the state guarantee loan program; provided, that no guarantee obligation of the Bank is payable out of any moneys of the Bank except those made available to the Bank under this chapter. The Bank shall establish the types of projects and ventures eligible to be guaranteed under this chapter.

SECTION 2. AMENDMENT. Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

6-09.7-05. Establishment and maintenance of adequate guarantee funds - Use of strategic investment and improvements fund.

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The Bank may request the director of the office of management and budget to transfer funds from the strategic investment and improvements fund created by section 15-08.1-08 to maintain one hundred percent of the guarantee reserve fund balance. Transfers from the strategic investment and improvements fund may not exceed a total of ~~twenty-five~~^{fifty} million dollars. Moneys in the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program must be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula that will assure, as determined by the Bank, an adequate amount of reserve.

Approved March 20, 2019

Filed March 21, 2019

CHAPTER 86

HOUSE BILL NO. 1333

(Representatives Nathe, Howe, Lefor, Mock, Sanford)
(Senators Bekkedahl, Cook)

AN ACT to create and enact a new chapter to title 6 of the North Dakota Century Code, relating to the creation of an innovation loan fund to support technology advancement committee and loan program; to provide a continuing appropriation; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 6 of the North Dakota Century Code is created and enacted as follows:

Definitions.

In this chapter, unless the context otherwise requires:

1. "Commissioner" means the commissioner of the department of commerce.
2. "Committee" means the innovation loan fund to support technology advancement committee.
3. "Diversification sectors" means the following industries:
 - a. Advanced computing and data management;
 - b. Agriculture technology;
 - c. Autonomous and unmanned vehicles and related technologies;
 - d. Energy;
 - e. Health care;
 - f. Value-added agriculture;
 - g. Value-added energy; and
 - h. Any industry or area specifically identified by the committee as an industry that will contribute to the diversification of the state's economy.

Innovation loan fund to support technology advancement committee - Membership - Meetings.

1. The innovation loan fund to support technology advancement committee consists of:

- a. The commissioner or the commissioner's designee who shall serve as the chairperson of the committee and is a nonvoting member of the committee;
 - b. Three members representing active venture capital firms, private entities, or angel capital funds;
 - c. One member with finance-related experience, knowledge, or education; and
 - d. Three members from the private sector with expertise in the diversification sectors.
2. The commissioner, in consultation with the president of the Bank of North Dakota, shall appoint the members of the committee. The term of office of the appointed members of the committee is four years, and the terms must be staggered so that no more than one of the members' terms appointed under subdivisions b and c of subsection 1 expires each year, and so that no more than one of the members' terms appointed under subdivision d of subsection 1 expires each year. Each term of office commences on the first day of July. Members serve at the pleasure of the commissioner and may be reappointed for additional terms. Members of the committee may not invest or otherwise participate in applied research, experimentation, or operational testing associated with a loan awarded under this chapter. If a committee member appointed under subdivision b of subsection 1 ceases to represent an active venture capital firm, private entity, or angel capital fund, that individual's membership on the committee ceases immediately and the commissioner, in consultation with the president of the Bank of North Dakota, shall appoint a new member to the committee for the remainder of the term.
 3. A committee member representing the private sector is eligible to receive compensation in an amount not exceeding one hundred thirty-five dollars per day and travel and expense reimbursement as provided by law for state officers for attending meetings of the committee.
 4. The committee shall meet as necessary to make loan recommendations and provide ongoing review of research, development, and commercialization activities.

Innovation loan fund to support technology advancement - Innovation technology loan program.

The department of commerce shall administer the innovation technology loan program in consultation with the Bank of North Dakota to provide loans for activities identified in this chapter. The department of commerce shall provide administrative support for the program, including the drafting of application forms, receiving applications, reviewing applications for completeness and compliance with committee policy, and forwarding complete applications to the committee in accordance with the guidelines established by the committee. Program guidelines relating to ownership of intellectual property, inventions, and discoveries must address activities and issues unique to technologies, patents, and companies created as a result of a legacy innovation technology loan.

Innovation technology loans - Eligibility.

1. The committee shall establish guidelines for entities to qualify for an innovation technology loan under this section. The committee shall consider and process applications in a timely manner that does not jeopardize an applicant's opportunity to leverage other funds.
2. In determining whether to recommend approval of an application, the committee shall consider the extent to which the proposal will:
 - a. Deliver applied research, experimentation, or operational testing in one or more of the diversification sectors to create information or data to enhance North Dakota companies or industries or companies making investments in North Dakota;
 - b. Lead to the commercialization or patent of an innovation technology solution; or
 - c. Result in the development of a new company or expansion of an existing company that will diversify the state's economy through new products, investment, or skilled jobs.
3. The Bank of North Dakota shall review the business plan, financial statements, and other information necessary for the Bank to determine which applications recommended for approval by the committee will be approved by the Bank for final loan approval. The terms of the loan must include:
 - a. Zero percent interest for the first three years of the loan;
 - b. Two percent interest for the next two years of the loan; and
 - c. An interest rate equal to a standard Bank of North Dakota loan for all subsequent years.
4. To be eligible for a loan under this chapter, an entity shall agree to provide the Bank of North Dakota with information as requested by the Bank.

Innovation loan fund to support technology advancement - Continuing appropriation.

The innovation loan fund to support technology advancement is a special fund in the state treasury and must be administered by the department of commerce. All moneys in the fund are appropriated to the department of commerce on a continuing basis for the purpose of providing innovation technology loans and for administrative expenses. The department of commerce shall deposit in the innovation loan fund to support technology advancement all principal and interest paid on loans made from the fund. Interest earned on moneys in the fund must be credited to the fund.

Use of loan funds.

Loan recipients shall use innovation technology loan funds to enhance capacity and, to the extent possible, leverage state, federal, and private sources of funding. An entity receiving a loan under this chapter may not use the funds for capital or building investments or for research or other activities not identified in this chapter. The funds may not be used for academic or instructive programming, workforce training, administrative costs, or to supplant funding for regular operations of institutions of higher education. Unless otherwise approved by the committee, loan recipients may use funding only to conduct applied research, experimentation, or operational testing

within the state. If an entity awarded a loan no longer conducts its activities in the state, the interest rate of the loan shall default to the rate of a standard Bank of North Dakota loan.

Innovation loan fund to support technology advancement - Postaward monitoring.

Upon completion of work performed from funding provided by a loan, the department of commerce shall provide an independent review of the results. Evaluation criteria may include:

1. How the work performed has contributed to the development of a company or the expansion of an existing company, has enhanced the ability of a company to make investments in the state, or otherwise enticed a company to invest or move to the state.
2. How the work performed has led to additional economic investment of capital from public and private sector entities within and outside North Dakota.
3. How the work performed has led to or may lead to a patent or research that is commercially viable.

SECTION 2. TRANSFER - BANK OF NORTH DAKOTA - INNOVATION LOAN FUND TO SUPPORT TECHNOLOGY ADVANCEMENT. The Bank of North Dakota shall transfer the sum of \$15,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the innovation loan fund to support technology advancement for the purpose of providing innovation technology loans during the biennium beginning July 1, 2019, and ending June 30, 2021.

Approved May 1, 2019

Filed May 2, 2019