

**FIRST ENGROSSMENT
with Conference Committee Amendments****ENGROSSED SENATE BILL NO. 2332**

Introduced by

Senators J. Lee, Robinson

Representatives Kaldor, Weisz

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

9 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

10 **SECTION 1.** A new section to chapter 6-09 of the North Dakota Century Code is
11 created and enacted as follows:

12 Health information technology loan fund - Appropriation.

- 13 1. The health information technology loan fund is established in the Bank for the
14 purpose of providing loans to health care providers to purchase and upgrade
15 electronic health record technology, train personnel in its use, improve security of
16 information exchange, and for other purposes as established by the health
17 information technology office, in collaboration with the health information
18 technology advisory committee. This fund is a revolving loan fund. All moneys
19 transferred into the fund, interest upon moneys in the fund, and collections of
20 interest and principal on loans made from the fund are appropriated for
21 disbursement according to this section.
- 22 2. The Bank shall make loans from this fund to health care providers as approved by
23 the health information technology office director, in collaboration with the health
24 information technology advisory committee, in accordance with the criteria

1 established by the health information technology office director under section 4 of
2 this Act. A loan made under this fund must be repayable over a period that may
3 not exceed ten years.

4 3. The Bank shall administer the health information technology loan fund. Funds in
5 the loan fund may be used for loans as provided under this section and the costs
6 of administration of the fund. Annually, the Bank may deduct a service fee for
7 administering the revolving loan fund maintained under this section.

8 4. An application for a loan under this section must be made to the health information
9 technology office. The health information technology office director, in
10 collaboration with the health information technology advisory committee, may
11 approve the application of a qualified applicant that meets the criteria established
12 by the health information technology office director. The health information
13 technology office shall forward approved applications to the Bank. Upon approval
14 of the application by the Bank, the Bank shall make the loan from the revolving
15 loan fund as provided under this section.

16 5. The Bank may do all acts necessary to negotiate loans and preserve security as
17 deemed necessary, to exercise any right of redemption, and to bring suit in order
18 to collect interest and principal due the revolving loan fund under mortgages,
19 contracts, and notes executed to obtain loans under this section. If the applicant's
20 plan for financing provides for a loan of funds from sources other than the state of
21 North Dakota, the Bank may take a subordinate security interest. The Bank may
22 recover from the revolving loan fund amounts actually expended by the Bank for
23 legal fees and to effect a redemption.

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

26 **Health information technology planning loan fund - Appropriation.**

27 1. The health information technology planning loan fund is established in the Bank for
28 the purpose of providing low-interest loans to health care entities to assist those
29 entities in improving health information technology infrastructure. This fund is a
30 revolving loan fund. All moneys transferred into the fund, interest upon moneys in

1 the fund, and collections of interest and principal on loans made from the fund are
2 appropriated for disbursement according to this section.

3 2. The Bank shall make loans from this fund to health care entities as approved by
4 the health information technology office director, in collaboration with the health
5 information technology advisory committee, in accordance with the criteria
6 established by the health information technology director under section 4 of this
7 Act.

8 3. The Bank shall administer the health information technology planning loan fund.
9 Funds in the loan fund may be used for loans as provided under this section and
10 the costs of administration of the fund. Annually, the Bank may deduct a service
11 fee for administering the revolving loan fund maintained under this section.

12 4. An application for a loan under this section must be made to the health information
13 technology office. The health information technology office director, in
14 collaboration with the health information technology advisory committee, may
15 approve the application of a qualified applicant that meets the criteria established
16 by the health information technology office director. The health information
17 technology office shall forward approved applications to the Bank. Upon approval
18 of the application by the Bank, the Bank shall make the loan from the revolving
19 loan fund as provided under this section.

20 5. The Bank may do all acts necessary to negotiate loans and preserve security as
21 deemed necessary, to exercise any right of redemption, and to bring suit in order
22 to collect interest and principal due the revolving loan fund under mortgages,
23 contracts, and notes executed to obtain loans under this section. If the applicant's
24 plan for financing provides for a loan of funds from sources other than the state of
25 North Dakota, the Bank may make a loan subordinate security interest. The Bank
26 may recover from the revolving loan fund amounts actually expended by the Bank
27 for legal fees and to effect a redemption.

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

30 **Health information technology advisory committee - Duties.**

- 1 1. The health information technology advisory committee consists of the state chief
2 information officer or the chief information officer's designee, the state health
3 officer or the state health officer's designee, the governor or the governor's
4 designee, the executive director of the department of human services or the
5 executive director's designee, and individuals appointed by the governor and the
6 state health officer to represent a broad range of public and private health
7 information technology stakeholders.
- 8 2. The health information technology advisory committee shall collaborate with and
9 make recommendations to the health information technology office, as provided
10 under sections 1, 2, 4, and 5 of this Act.
- 11 3. As requested by the health information technology advisory committee, the
12 department shall provide or arrange for administrative services to assist the health
13 information technology advisory committee.
- 14 4. The health information technology advisory committee may employ an executive
15 director who serves at the pleasure of and under the direct supervision of the
16 health information technology advisory committee. The executive director may
17 employ personnel as necessary for the administration of this section.

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

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

- 21 1. The health information technology office is created in the department. The health
22 information technology advisory committee shall make recommendations to the
23 health information technology office for implementing a statewide interoperable
24 health information infrastructure that is consistent with emerging national
25 standards; promote the adoption and use of electronic health records and other
26 health information technologies; and promote interoperability of health information
27 systems for the purpose of improving health care quality, patient safety, and the
28 overall efficiency of health care and public health services.
- 29 2. The health information technology office director, in collaboration with the health
30 information technology advisory committee, shall:

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

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

26 **Health information technology office - Electronic health information exchange**
27 **fund.**

- 28 1. There is created an electronic health information exchange fund. The fund
29 consists of moneys deposited in the fund from federal or other sources or moneys
30 transferred into the fund as directed by the legislative assembly. The health
31 information technology office shall administer this fund and shall distribute moneys

1 in the fund accordingly. The moneys in the fund must be used to facilitate and
2 expand electronic health information exchange. Moneys in the fund may be used,
3 subject to legislative appropriations, to provide services directly, for grants as
4 provided under this section, and for the costs of administration of the fund.

5 2. A grant applicant shall submit an application to the health information technology
6 office, which shall determine the applicant's eligibility based upon criteria
7 established by the health information technology office director in collaboration
8 with the health information technology advisory committee.

9 3. This section does not create an entitlement to any funds available for grants under
10 this section. The health information technology office may award these grants to
11 the extent funds are available and, within the office's discretion, to the extent such
12 applications are approved.

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

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

21 **SECTION 8. BANK OF NORTH DAKOTA TRANSFERS.** The industrial commission
22 shall transfer, during the period beginning with the effective date of this Act and ending
23 June 30, 2011, as requested by the health information technology office director, up to
24 \$8,000,000 from the current earnings and the accumulated undivided profits of the Bank of
25 North Dakota to the health information technology loan fund to meet any required match for
26 federal funds or to the electronic health information exchange fund to meet any required match
27 for federal funds or as directed, a portion to both funds to meet any required match for federal
28 funds. The health information technology office director shall request fund transfers from the
29 Bank only as necessary to comply with federal requirements and to meet cash flow needs of
30 the funds.

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

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

19 **SECTION 11. APPROPRIATION.** There is appropriated out of any moneys in the
20 electronic health information exchange fund, not otherwise appropriated, the sum of
21 \$88,000,000, or so much of the sum as may be necessary, including up to \$80,000,000 of
22 federal funds deposited in the fund from the federal American Recovery and Reinvestment Act
23 of 2009 to the information technology department for the purposes established under section 5
24 of this Act, for the period beginning with the effective date of this Act and ending June 30, 2011.

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