

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED SENATE BILL NO. 2043**

Introduced by

Legislative Council

(Information Technology Committee)

1 A BILL for an Act to create and enact a new section to chapter 54-59 of the North Dakota
2 Century Code, relating to the preparation of an information technology department annual
3 report; to amend and reenact section 54-35-15.2, subsection 4 of section 54-59-05, and
4 sections 54-59-06, 54-59-07, 54-59-11, and 54-59-16 of the North Dakota Century Code,
5 relating to powers, duties, and responsibilities of the information technology committee and the
6 information technology department; and to provide a statement of legislative intent.

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

8 **SECTION 1. AMENDMENT.** Section 54-35-15.2 of the 1999 Supplement to the North
9 Dakota Century Code is amended and reenacted as follows:

10 **54-35-15.2. Information technology committee - Powers and duties.** The
11 information technology committee has continuing existence and may meet and conduct its
12 business during the legislative session and in the interim between sessions. The committee
13 shall:

- 14 1. Meet at least once each calendar quarter.
- 15 2. Receive a report from the chief information officer of the state at each meeting.
- 16 3. Review the business plan of the information technology department.
- 17 4. Address macro-level questions relating to the information technology department.
- 18 5. Review the activities of the information technology department.
- 19 6. Review statewide information technology standards.
- 20 7. Review the statewide information technology plan.
- 21 8. Conduct studies of information technology efficiency and security.
- 22 9. Make recommendations regarding established or proposed information technology
23 programs and information technology acquisition by the executive and judicial
24 branches.

- 1 10. ~~Review~~ Except as provided in subsection 11, review the cost-benefit analysis of
2 any major information technology project of an executive or judicial branch agency.
3 A major project is a project with a cost of two hundred fifty thousand dollars or
4 more in one biennium or a total cost of five hundred thousand dollars or more.
- 5 11. Review the cost-benefit analysis of any major project of the state board of higher
6 education or any institution under the control of the state board of higher education
7 if the project:
- 8 a. Significantly impacts the statewide wide area network, including the campus
9 access routers;
- 10 b. Impacts the statewide library system; or
- 11 c. Is an administrative project. An administrative project is a project that directly
12 collects, aggregates, modifies, stores, or reports institutional student,
13 financial, or human resources records or data and is provided primarily for
14 administrative purposes.
- 15 12. Perform periodic reviews to ensure that a major information technology project is
16 on its projected schedule and within its cost projections.

17 **SECTION 2. AMENDMENT.** Subsection 4 of section 54-59-05 of the 1999

18 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 19 4. May purchase, finance the purchase, or lease equipment or software or replace,
20 including by trade or resale, equipment or software as may be necessary to carry
21 out this chapter. An agreement to finance the purchase of software, equipment, or
22 implementation services may not exceed a period of three years. The department
23 shall submit any intended financing proposal for the purchase of software,
24 equipment, or implementation services under this subsection, which is in excess of
25 one million dollars, to the budget section of the legislative council before executing
26 a financing agreement. If the budget section does not approve the execution of a
27 financing agreement, the department may not proceed with the proposed financing
28 arrangement. The department may finance the purchase of software, equipment,
29 or implementation services only to the extent the purchase amount does not
30 exceed the amount appropriated to the department during that biennium for
31 equipment. Each executive branch agency or institution, except the institutions

under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.

SECTION 3. AMENDMENT. Section 54-59-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-59-06. Business plan. The department shall develop and maintain a business plan. The business plan must:

1. Define the department's overall organization, mission, and delivery of services.
2. Define the ~~strategies for improving personnel productivity and workflow processes of the department~~ department's short-term and long-term goals and objectives based on customer needs.
3. ~~Determine how use of the statewide network will improve learning in the state.~~ Outline the strategies and activities necessary to meet the goals and objectives of the department while improving the efficiency of the department and improving service to customers.
4. ~~Determine how the statewide networks can provide network services for the benefit of Indian tribes, nonprofit organizations, and noncommercial public television stations licensed by the federal communications commission to operate in this state.~~ Define rates and funding mechanisms necessary to finance the proposed activities of the department.
5. Define a method for evaluating progress toward the goals outlined in the business plan.
6. Determine the specific strategies and processes to ensure that agencies share information, systems, and the statewide network.
6. ~~Define the processes that will ensure that counties, cities, and school districts receive maximum benefit of the statewide network.~~

7. ~~Define a fair and equitable billing structure that provides for payback of the initial investments and ongoing operations of the statewide network.~~

8. 7. Address the processes that will be put in place to ensure that the department exercises its powers and duties with minimal delay, cost, and procedural burden to an entity receiving services from the department; to ensure that the department provides prompt, high-quality services to an entity receiving services from the department; to ensure that an entity receiving services from the department is aware of the technology available and to ensure training on its use; and to foster information technology innovation by state entities.

9. ~~Address the deployment of encryption and the administration of digital signatures.~~

10. ~~Address information and system backup and disaster recovery.~~

SECTION 4. AMENDMENT. If Senate Bill No. 2251 does not become effective, section 54-59-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-59-07. ~~Statewide wide area network~~ State information technology advisory committee. The ~~statewide wide area network~~ state information technology advisory committee consists of the chief information officer or the officer's designee, who is a nonvoting member; the ~~state court administrator~~ director of the department of economic development and finance or the ~~administrator's~~ director's designee, ~~with the approval of the chief justice of the supreme court;~~ the commissioner of higher education or the commissioner's designee; the chairman of the information technology council of North Dakota or a designee; the director of the North Dakota workforce development council or a designee; the chairman of the educational telecommunications council or a designee; and nine eight members appointed by the governor. ~~The governor shall appoint two members representing state agencies, one member representing a county, one member representing a city, two members representing elementary or secondary education, one member representing noncommercial public television stations licensed by the federal communications commission to operate in this state, and two members from private industry who are knowledgeable in the deployment of major technology projects.~~ The governor's appointees from private industry serve two year terms, and other appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. The department shall provide staff services to the committee. Except for the

1 commissioner of higher education and the representatives of state agencies who receive
2 compensation for their duties as state officers or employees, members of the committee are
3 entitled to be compensated for time spent in attendance at meetings of the committee and for
4 other travel as approved by the chairman of the committee at the rate of sixty-two dollars and
5 fifty cents per day and are entitled to reimbursement for their actual and necessary expenses
6 incurred in the same manner as other state officials. The compensation and expenses are to
7 be paid from appropriations for the department. The committee shall advise the department
8 ~~with respect to planning and implementation of wide area network services provided by the~~
9 ~~department~~ regarding statewide information technology planning, including providing electronic
10 government services for citizens and businesses, developing technology infrastructure to
11 support economic development and work force training, and developing other statewide
12 information technology initiatives and policy.

13 **SECTION 5. AMENDMENT.** If Senate Bill No. 2251 becomes effective, section
14 54-59-07 of the 1999 Supplement to the North Dakota Century Code is amended and
15 reenacted as follows:

16 **54-59-07. ~~Statewide wide area network~~ State information technology advisory**
17 **~~committee.~~ committee.** The ~~statewide wide area network~~ state information technology advisory committee
18 consists of the chief information officer or the officer's designee, who is a nonvoting member;
19 the ~~state court administrator~~ director of the department of economic development and finance
20 or the ~~administrator's~~ director's designee, ~~with the approval of the chief justice of the supreme~~
21 ~~court;~~ the commissioner of higher education or the commissioner's designee; the chairman of
22 the information technology council of North Dakota or a designee; the director of the North
23 Dakota workforce development council or a designee; the chairman of the educational
24 technology council or a designee; and nine eight members appointed by the governor. ~~The~~
25 ~~governor shall appoint two members representing state agencies, one member representing a~~
26 ~~county, one member representing a city, two members representing elementary and secondary~~
27 ~~education, one member representing noncommercial public television stations licensed by the~~
28 ~~federal communications commission to operate in this state, and two members from private~~
29 ~~industry who are knowledgeable in the deployment of major technology projects. The~~
30 ~~governor's appointees from private industry serve two year terms, and other appointees of the~~
31 ~~governor serve at the pleasure of the governor. The governor shall designate the chairman of~~

1 the committee. The department shall provide staff services to the committee. Except for the
2 commissioner of higher education and the representatives of state agencies who receive
3 compensation for their duties as state officers or employees, members of the committee are
4 entitled to be compensated for time spent in attendance at meetings of the committee and for
5 other travel as approved by the chairman of the committee at the rate of sixty-two dollars and
6 fifty cents per day and are entitled to reimbursement for their actual and necessary expenses
7 incurred in the same manner as other state officials. The compensation and expenses are to
8 be paid from appropriations for the department. The committee shall advise the department
9 ~~with respect to planning and implementation of wide area network services provided by the~~
10 ~~department~~ regarding statewide information technology planning, including providing electronic
11 government services for citizens and businesses, developing technology infrastructure to
12 support economic development and workforce training, and developing other statewide
13 information technology initiatives and policy.

14 **SECTION 6. AMENDMENT.** Section 54-59-11 of the 1999 Supplement to the North
15 Dakota Century Code is amended and reenacted as follows:

16 **54-59-11. Information technology plans.** Each executive branch state agency or
17 institution, including the institutions under the control of the board of higher education, shall
18 prepare an information technology plan, subject to approval by the department. The plan must
19 be submitted to the department by ~~January~~ March fifteenth of each even-numbered year. The
20 plan must be prepared based on guidelines developed by the department; must provide the
21 information technology goals, objectives, and activities of the entity for the current biennium
22 and the next two bienniums; and must include ~~a list of~~ information regarding the information
23 technology assets owned, leased, or employed by the entity. Each entity required to file a plan
24 shall provide interim updates to its plan if major information technology changes occur which
25 affect its plan. The department shall review each entity's plan for compliance with statewide
26 information technology policies and standards and may require an entity to change its plan to
27 comply with statewide policies or standards or to resolve conflicting directions among plans.
28 Agencies of the judicial and legislative branches shall file their information technology plans
29 with the department by ~~January~~ March fifteenth of each even-numbered year. Each state entity
30 shall prepare its budget request for the next biennium based on its information technology plan.
31 The agency's budget request and the governor's budget recommendation must include

1 supporting information describing in detail how the information technology plan relates to the
2 budget request and recommendation. Any budget adjustment by the budget office must
3 include the corresponding change to the plan. Based on the plans, the department shall
4 prepare a statewide information technology plan and distribute copies of that plan to members
5 of the legislative assembly as requested by the legislative council or its designee. The
6 statewide information technology plan must be developed with emphasis on long-term strategic
7 goals and objectives. ~~Any state agency or institution, county, city, school district, or other entity~~
8 ~~that uses the statewide network or is a user of services of the department shall file a plan that~~
9 ~~includes and identifies all requirements for voice, data, or video.~~

10 **SECTION 7. AMENDMENT.** Section 54-59-16 of the 1999 Supplement to the North
11 Dakota Century Code is amended and reenacted as follows:

12 **54-59-16. Confidentiality.** The department may receive from various agencies and
13 various agencies may provide to the department any information from the agencies necessary
14 to effect the purposes of this chapter without regard to the confidential nature of the
15 information. Each agency shall notify the department regarding the confidential nature of any
16 information submitted to the department. The department is subject to the same restrictions
17 and penalties regarding the dissemination of this information as the entity involved. Except for
18 a request for access authorized by section 54-10-22.1 or a request to access information
19 collected to carry out section 54-59-09, 54-59-11, or 54-59-13, the department shall refer a
20 request for access to or inspection of information provided by an agency to that agency for
21 response. Referral to the agency satisfies any responsibility of the department to provide that
22 information under open records requirements. Upon court order the department shall provide
23 access to or inspection of this information in accordance with restrictions of that entity involved
24 governing dissemination of that information.

25 **SECTION 8.** A new section to chapter 54-59 of the North Dakota Century Code is
26 created and enacted as follows:

27 **Information technology department annual report.** The department shall prepare
28 and present an annual report to the information technology committee. In addition to the
29 presentation of the annual report to the information technology committee, the department shall
30 present a summary of the annual report to the budget section and to the legislative audit and
31 fiscal review committee. The report must contain:

- 1 1. A list of major projects started, ongoing, and completed during the year including
2 related budgeted and actual costs and the estimated implementation date for each
3 project as well as the actual implementation date for completed projects.
- 4 2. A list of all projects for which financing agreements have been executed.
- 5 3. Information regarding evaluations of cost-benefit analyses for completed projects.
- 6 4. A comparison of the department's rates charged for services compared to rates
7 charged for comparable services in other states and in the private sector.
- 8 5. Information regarding the information technology plans including the department's
9 plan review process, the number of plans reviewed, and the number of plans
10 approved.
- 11 6. A description of the benefits to the state resulting from its investment in information
12 technology.

13 **SECTION 9. LEGISLATIVE INTENT - PERFORMANCE MEASURES.** It is the intent
14 of the legislative assembly that the information technology department develop performance
15 measures to assist the legislative assembly in determining the effectiveness and efficiency of
16 the department's operations during the biennium beginning July 1, 2001, and ending June 30,
17 2003. Each performance measure must include a benchmark for targeted department
18 performance based on national, other states, or private sector performance. The department
19 shall report to the information technology committee, the budget section, and the legislative
20 audit and fiscal review committee during the 2001-02 interim on the performance measures
21 developed.