

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED SENATE BILL NO. 2037**

Introduced by

Legislative Council

(Information Technology Committee)

1 A BILL for an Act to amend and reenact subdivision h of subsection 2 of section 12-60-24 and
2 sections 54-35-15.2, 54-59-05, 54-59-11, 54-59-19, 54-59-20, and 54-59-21 of the North
3 Dakota Century Code, relating to criminal history record checks, powers and duties of the
4 information technology committee and the information technology department, information
5 technology plans, the information technology department annual report, and access to the
6 criminal justice information sharing system.

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

8 **SECTION 1. AMENDMENT.** Subdivision h of subsection 2 of section 12-60-24 of the
9 North Dakota Century Code is amended and reenacted as follows:

10 h. The chief information officer of the information technology department for
11 certain ~~employees~~ individuals under section 54-59-20.

12 **SECTION 2. AMENDMENT.** Section 54-35-15.2 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **54-35-15.2. Information technology committee - Powers and duties.** The
15 information technology committee has continuing existence and may meet and conduct its
16 business during the legislative session and in the interim between sessions. The committee
17 shall:

- 18 1. Meet at least once each calendar quarter.
- 19 2. Receive a report from the chief information officer of the state at each meeting.
- 20 3. Review the business plan of the information technology department.
- 21 4. ~~Address~~ Review macro-level ~~questions~~ issues relating to the information
22 technology ~~department~~.
- 23 5. Review the activities of the information technology department.
- 24 6. Review statewide information technology standards.

7. Review the statewide information technology plan.
8. ~~Conduct studies of~~ Review information technology efficiency and security.
9. ~~Make recommendations regarding~~ Review established or proposed information technology programs and information technology acquisition by the executive and judicial branches.
10. Except as provided in subsection 11, ~~receive and~~ review ~~the~~ information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis of, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the information technology department and the affected agency regarding any major information technology project of an executive or judicial branch agency. A For the purposes of this subsection, a major project is a project with a ~~cost of two hundred fifty thousand dollars or more in one biennium or a total cost of five~~ two hundred fifty thousand dollars or more.
11. ~~Review the~~
 - a. Receive and review information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis of, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the information technology department and the affected institution regarding any major project of the state board of higher education or any institution under the control of the state board of higher education if the project:
 - (1) Significantly impacts the statewide wide area network, including the campus access routers;
 - (2) Impacts the statewide library system; or
 - (3) Is an administrative project. An administrative project is a project that directly collects, aggregates, modifies, stores, or reports institutional student, financial, or human resources records or data and is provided primarily for administrative purposes.

b. For the purposes of this subsection, a major project is a project with a cost of two hundred fifty thousand dollars or more in one biennium or a total cost of five hundred thousand dollars or more.

12. ~~Perform periodic reviews to ensure that a major information technology project is on its projected schedule and within its cost projections.~~ Receive and review information from the information technology department and the affected agency regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and two hundred fifty thousand dollars as determined necessary by the information technology department.

SECTION 3. AMENDMENT. Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

54-59-05. Powers and duties of department. The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing

proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council or the legislative assembly before executing a financing agreement. If the budget section or the legislative assembly does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding 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.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. ~~Shall request and review information on or review information technology, applications, system development projects, and application development projects of executive branch agencies, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive~~

branch agency, the state board of higher education, or any institution under the control of the state board of higher education as provided in section 54-35-15.2.

The department shall present the information to the information technology committee on request of the committee.

8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and two hundred fifty thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.

9. Shall study emerging technology and evaluate its impact on the state's system of information technology.

- ~~9.~~ 10. Shall develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.

- ~~10.~~ 11. Shall review the information technology management of executive branch agencies or institutions.

- ~~11.~~ 12. Shall perform all other duties necessary to carry out this chapter.

- ~~12.~~ 13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. The department shall file with the state auditor before September 1, 2003, a description of the wide area network service the department provided to each private, charitable, and nonprofit entity receiving services from the department on January 1, 2003.

- ~~13.~~ 14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.

14- 15. Notwithstanding subsection 12 13, ~~the department~~ may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.

SECTION 4. AMENDMENT. Section 54-59-11 of the North Dakota Century Code is amended and reenacted as follows:

54-59-11. Information technology plans. Each executive branch state agency or institution, including the institutions under the control of the board of higher education, shall prepare an information technology plan, subject to ~~approval~~ acceptance by the department. The plan must be submitted to the department by July fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the department; must provide the information technology goals, objectives, and activities of the entity for the current biennium and the next two bienniums; and must include ~~information regarding an asset management plan relating to the inventory of~~ information technology assets owned, leased, or employed by the entity. Each entity required to file a plan shall provide interim updates to its plan if major information technology changes occur which affect its plan. The department shall review each entity's plan for compliance with statewide information technology policies and standards and may require an entity to change its plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology plans with the department by July fifteenth of each even-numbered year. Each ~~state~~ entity required to file a plan shall prepare its budget request for the next biennium based on its information technology plan. The agency's budget request and the governor's budget recommendation must include supporting information describing in detail how the information technology plan relates to the budget request and recommendation. Any budget adjustment by the budget office must include the corresponding change to the plan. Based on the plans, the department shall prepare a statewide information technology plan and distribute copies of that plan to members of the legislative assembly as requested by the legislative council or its designee. The statewide information technology plan must be developed with emphasis on long-term strategic goals ~~and~~ objectives, and accomplishments. The statewide information technology plan must contain:

1. A list of major projects started, ongoing, and completed during the biennium, including related budgeted and actual costs and the estimated implementation date for each project as well as the actual implementation date for completed projects.
2. Information regarding evaluations of cost-benefit analyses for completed projects.
3. Information regarding the information technology plans, including the department's plan review process, the number of plans reviewed, and the number of plans accepted.
4. A description of the benefits to the state resulting from its investment in information technology.

SECTION 5. AMENDMENT. Section 54-59-19 of the North Dakota Century Code is amended and reenacted as follows:

54-59-19. Information technology department annual report. The department shall prepare and present an annual report to the information technology committee. In addition to the presentation of the annual report to the information technology committee, the department shall present a summary of the annual report to the budget section and to the legislative audit and fiscal review committee. The report must contain:

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

1 3. Information regarding the delivery of services to agencies, including service
2 dependability, agency complaints, and information technology department
3 responsiveness.

4 **SECTION 6. AMENDMENT.** Section 54-59-20 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **54-59-20. ~~Employees of the department~~– Security background information.** The
7 chief information officer shall require as a condition of employment with the department that
8 individuals who have unescorted physical access to the facilities or other security sensitive
9 areas of the department designated by the chief information officer submit to a criminal history
10 record check in accordance with section 12-60-24. The chief information officer may require as
11 a condition of contracting with the department or other state agency or department with respect
12 to an information technology project that any individual employed by the contractor or a
13 subcontractor to perform the work under the contract submit to a criminal history record check
14 in accordance with section 12-60-24.

15 **SECTION 7. AMENDMENT.** Section 54-59-21 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **54-59-21. Criminal justice information sharing board - Membership - Duties and**
18 **powers - Exempt records.** The criminal justice information sharing board consists of the chief
19 justice of the supreme court or the chief justice's designee, the attorney general or the attorney
20 general's designee, and the chief information officer of the state. The chief information officer is
21 chairman of the board. The information technology department, at the direction of the board,
22 shall maintain a criminal justice data information sharing system to facilitate the exchange of
23 criminal justice information among judicial, law enforcement, and emergency personnel. Only a
24 criminal justice agency, as defined in section 12-60-16.1, and any other person designated by
25 the board may access the system. The system only may be accessed for the purposes set
26 forth by the board. Any law enforcement record in the possession of the department is an
27 exempt record. The information technology department shall provide staff and other necessary
28 support to the board. The board shall set policy and adopt rules relating to the access to and
29 the collection, storage, and sharing of criminal justice information and the systems necessary to
30 perform those functions. The board shall provide operational oversight for criminal justice
31 information sharing activities and shall approve and provide oversight of criminal justice

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- 1 information sharing budgets. The board may appoint an executive committee and an advisory
- 2 committee that would serve in an advisory capacity to the board.