

**FIRST ENGROSSMENT  
with Senate Amendments**

Sixtieth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1461**

Introduced by

Representatives Skarphol, Monson

Senators Grindberg, Robinson, Wardner

1 A BILL for an Act to create and enact two new sections to chapter 15-10 and a new subsection  
2 to section 54-35-15.2 of the North Dakota Century Code, relating to higher education  
3 information technology, telecommunications and information services competition, and powers  
4 and duties of the information technology committee; and to amend and reenact sections  
5 54-59-05, 54-59-09, and 54-59-11 of the North Dakota Century Code, relating to the  
6 information technology department, information technology standards, and information  
7 technology plans.

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

9 **SECTION 1.** A new section to chapter 15-10 of the North Dakota Century Code is  
10 created and enacted as follows:

11 **Higher education information technology - Board duties - Reports.**

- 12 1. The state board of higher education shall manage and regulate information  
13 technology planning and services for institutions under its control, including:  
14 a. Development of information technology policies, standards, and guidelines in  
15 coordination with the information technology department.  
16 b. Implementation of a process for project management oversight and reporting.  
17 c. Integration of higher education information technology planning and reporting  
18 with the board's strategic planning process and annual performance and  
19 accountability report required by section 15-10-14.2.  
20 d. Participation in internet2 or other advanced higher education or  
21 research-related networking projects as provided in section 54-59-08.  
22 e. Development of an annual report concerning higher education information  
23 technology planning and services.

- 1           2.   The state board of higher education shall collaborate with the information  
2                   technology department to coordinate higher education information technology  
3                   planning with statewide information technology planning.
- 4           3.   The state board of higher education shall provide advice to the information  
5                   technology department regarding the development of policies, standards, and  
6                   guidelines relating to access to or use of wide area network services as provided  
7                   by section 54-59-09.
- 8           4.   The state board of higher education shall present information regarding higher  
9                   education information technology planning, services, and major projects to the  
10                  information technology committee on request of the committee.

11           **SECTION 2.** A new section to chapter 15-10 of the North Dakota Century Code is  
12 created and enacted as follows:

13           **Telecommunications and information services competition prohibited - Report.**

- 14           1.   The northern tier network, part of a national research network infrastructure,  
15                   serves entities within and outside this state. The North Dakota university system  
16                   may use the northern tier network infrastructure only for the purpose of supporting  
17                   the research and education missions of the North Dakota university system. The  
18                   North Dakota university system may not use the northern tier network  
19                   infrastructure for traditional internet, voice, video, or other telecommunications  
20                   services beyond those required for research networks.
- 21           2.   The North Dakota university system or any entity associated with the university  
22                   system may not resell any portion of the northern tier network infrastructure to  
23                   nonuniversity entities other than research collaborators.
- 24           3.   The northern tier network may not replace any wide area network services to any  
25                   city, county, or school district which are provided by the information technology  
26                   department under section 54-59-08.
- 27           4.   The North Dakota university system shall provide a comprehensive biennial report  
28                   of northern tier network activities for the 2007-09 biennium and must submit to a  
29                   biennial audit of the northern tier network activities beginning with the 2009-11  
30                   biennium.

1           **SECTION 3.** A new subsection to section 54-35-15.2 of the North Dakota Century  
2 Code is created and enacted as follows:

3           Receive information from the state board of higher education regarding higher  
4           education information technology planning, services, and major projects.

5           **SECTION 4. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7           **54-59-05. Powers and duties of department.** The department:

- 8           1. Shall provide, supervise, and regulate information technology of all executive  
9           branch state entities, excluding the institutions under the control of the board of  
10           higher education.
- 11          2. Shall provide network services in a way that ensures the network requirements of  
12           a single entity do not adversely affect the functionality of the whole network,  
13           facilitates open communications with the citizens of the state, minimizes the state's  
14           investment in human resources, accommodates an ever-increasing amount of  
15           traffic, supports rapid detection and resolution of problems, protects the network  
16           infrastructure from damage and security breaches, provides for the aggregation of  
17           data, voice, video, and multimedia into a statewide transport mechanism or  
18           backbone, and provides for the network support for the entity to carry out its  
19           mission.
- 20          3. May review and approve additional network services that are not provided by the  
21           department.
- 22          4. May purchase, finance the purchase, or lease equipment, software, or  
23           implementation services or replace, including by trade or resale, equipment or  
24           software as may be necessary to carry out this chapter. An agreement to finance  
25           the purchase of software, equipment, or implementation services may not exceed  
26           a period of five years. The department shall submit any intended financing  
27           proposal for the purchase of software, equipment, or implementation services  
28           under this subsection, which is in excess of one million dollars, to the budget  
29           section of the legislative council or the legislative assembly before executing a  
30           financing agreement. If the budget section or the legislative assembly does not  
31           approve the execution of a financing agreement, the department may not proceed

1 with the proposed financing arrangement. The department may finance the  
2 purchase of software, equipment, or implementation services only to the extent the  
3 purchase amount does not exceed seven and one-half percent of the amount  
4 appropriated to the department during that biennium.

- 5 5. Each executive branch agency or institution, excluding the institutions under the  
6 control of the board of higher education, shall submit to the department, in  
7 accordance with guidelines established by the department, a written request for  
8 the lease, purchase, or other contractual acquisition of information technology.  
9 The department shall review requests for conformance with the requesting entity's  
10 information technology plan and compliance with statewide policies and standards.  
11 If the request is not in conformance or compliance, the department may  
12 disapprove the request or require justification for the departure from the plan or  
13 statewide policy or standard.

- 14 6. Shall provide information technology, including assistance and advisory service, to  
15 the executive, legislative, and judicial branches. If the department is unable to  
16 fulfill a request for service from the legislative or judicial branch, the information  
17 technology may be procured by the legislative or judicial branch within the limits of  
18 legislative appropriations.

- 19 7. Shall request information on or review information technology, applications, system  
20 development projects, and application development projects of executive branch  
21 agencies.

- 22 8. Shall study emerging technology and evaluate its impact on the state's system of  
23 information technology.

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

- 29 10. Shall collaborate with the state board of higher education on guidelines for reports  
30 to be provided by institutions under control of the state board of higher education  
31 on information technology in those entities.

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.

~~42.~~ 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.

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

~~14.~~ 15. Notwithstanding subsection 42 ~~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 5. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-09. Information technology standards.** Based on information from state agencies and institutions, the department and the office of management and budget shall develop statewide information technology policies, standards, and guidelines. The policies, standards, and guidelines must recognize the uniqueness of certain agencies and state which agencies are included or exempted from the policies, standards, and guidelines. The policies, standards, and guidelines must be reviewed by the state information technology advisory committee. Unless an exemption is granted by the chief information officer, each executive branch state agency and institution, excluding the institutions under the control of the board of higher education ~~with respect to academic and research uses of information technology~~, shall comply with the policies and standards developed by the department and the office of

1 management and budget. Unless an exemption is granted by the chief information officer,  
2 each entity receiving wide area network services provided by the department shall comply with  
3 the policies and standards developed by the department with respect to access to or use of  
4 wide area network services.

5 **SECTION 6. AMENDMENT.** Section 54-59-11 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **54-59-11. Information technology plans.** Each executive branch state agency or  
8 institution, ~~including~~ excluding the institutions under the control of the board of higher  
9 education, shall prepare an information technology plan, subject to approval by the department.  
10 The plan must be submitted to the department by July fifteenth of each even-numbered year.  
11 The plan must be prepared based on guidelines developed by the department; must provide  
12 the information technology goals, objectives, and activities of the entity for the current biennium  
13 and the next two bienniums; and must include information regarding the information technology  
14 assets owned, leased, or employed by the entity. Each entity required to file a plan shall  
15 provide interim updates to its plan if major information technology changes occur which affect  
16 its plan. The department shall review each entity's plan for compliance with statewide  
17 information technology policies and standards and may require an entity to change its plan to  
18 comply with statewide policies or standards or to resolve conflicting directions among plans.  
19 Agencies of the judicial and legislative branches shall file their information technology plans  
20 with the department by July fifteenth of each even-numbered year. Each state entity shall  
21 prepare its budget request for the next biennium based on its information technology plan. The  
22 agency's budget request and the governor's budget recommendation must include supporting  
23 information describing in detail how the information technology plan relates to the budget  
24 request and recommendation. Any budget adjustment by the budget office must include the  
25 corresponding change to the plan. Based on the plans, the department shall prepare a  
26 statewide information technology plan and distribute copies of that plan to members of the  
27 legislative assembly as requested by the legislative council or its designee. The statewide  
28 information technology plan must be developed with emphasis on long-term strategic goals and  
29 objectives.