

FISCAL NOTE
Requested by Legislative Council
03/13/2015

Amendment to: HB 1051

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$350,000		\$350,000	
Appropriations			\$350,000		\$350,000	

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Requires all NDUS institutions to utilize a systemwide electronic mail service; requires NDUS have an electronic mail retention policy, which requires all e-mail to be retained at least five years.
 15.0369.04001 requires only "nonstudent" email to be retained for a period of two years.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 requires:

--all NDUS institutions to utilize a systemwide electronic mail service (no additional cost anticipated);
 --requires NDUS have an electronic mail retention policy (no additional cost anticipated)
 --requires all e-mail to be retained at least five years (additional cost for email archiving); 15.0369.04001 requires only "nonstudent" email to be retained for a period of two years.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Estimated \$800,000 ongoing biennial cost for storage, software and/or subscription services to retain email for at least five years.
 15.0369.04001 requires only "nonstudent" email to be retained for a period of two years-estimated cost \$350,000/biennium

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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15.0369.04001 requires only "nonstudent" email to be retained for a period of two years-estimated cost \$350,000/biennium

Name: Laura Glatt

Agency: ND University System Office

Telephone: 701-328-4116

Date Prepared: 03/15/2015

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Amendment to: HB 1051

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
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Appropriations			\$800,000		\$800,000	

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Estimated \$800,000 ongoing biennial cost for storage, software and/or subscription services to retain email for at least five years.

Name: Laura Glatt

Agency: ND University System Office

Telephone: 701-328-4116

Date Prepared: 01/12/2015

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Amendment to: HB 1051

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Name: Laura Glatt

Agency: ND University System Office

Telephone: 701-328-4116

Date Prepared: 01/12/2015

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Bill/Resolution No.: HB 1051

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Name: Laura Glatt

Agency: ND University System Office

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Date Prepared: 01/12/2015

2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1051

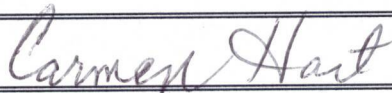
2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1051
1/15/2015
22018

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to electronic mail services and retention for institutions of higher ed.

Minutes:

Attachments 1-3

Chairman Kasper opened the hearing on HB 1051.

Rep. Robin Weisz, District 14, appeared in support of this bill. He chaired the interim IT Committee. This bill requires that institutions under the control of higher ed. retain their email records for five years. As many of you are aware, there have been issues in the past of emails that appeared to have been either lost or deleted, and there were a lot of questions that came up as what were retention policies? Did they vary from institution to institution? The committee decided that it made sense to require a uniform retention policy across all the institutions. You will notice the fiscal note of \$800,000.

Rep. Amerman Do you recall if the vote of the interim committee was unanimous?

Rep. Weisz Yes it was.

Rep. Amerman Is the fiscal note cost of \$800,000 to university systems, IT, or both?

Rep. Weisz That would be a cost to the university system. I do believe they have a bid from Microsoft that came in around \$700,000. It does cost money to store the data. There is no question about that.

Rep. Wallman It looks like there are two parts to this. One is for all the universities to go under one email system that is administered through the ND university system. Do you happen to know if the universities operate their own email systems right now?

Rep. Weisz You are correct. That would require that the university system put everyone under. No, they aren't all under the same. I believe there are already transitions taking place to become unified.

Rep. Wallman Is there a reason why that is happening and what was the cost to transition to one email system?

Rep. Weisz I don't believe we ever received any testimony of the cost if any additional costs there might be. It had to do with trying to have a uniform system.

Rep. Wallman My husband is the CIO at NDSU. In the spirit of transparency I want to make sure that everybody is aware that on the State Board of Higher Education, the CEO of Microsoft serves. We are putting an email system in place and it will be funded by a fellow who actually runs Microsoft. I personally think that is a conflict of interest.

Chairman Kasper Let us stay with the questions. We will get into your discussion in committee discussion.

Rep. B. Koppelman Who prepared fiscal note?

Rep. Weisz Laura Glatt of the university system.

Rep. Streyle appeared in support of this bill. (#1 Attachment) Not too long ago the university system finally did implement a global records retention policy. The state of North Dakota has one that applies to all agencies. I would argue that it applies to the Board as well if you read the section of Code. There is no magical number with the 5. In my current job as CIO at a bank, we archive 10 years. State government determines themselves what is public record. If we would archive them, it takes the decision out of the person's hand, and in my mind, it protects the employee. They are on Office 365 right now, so to add the archiving piece is not a big deal. The two institutions that are not consolidated into email right now are Minot State and Valley City State. They are planned on transitioning them in. NDSU is off the global system. They did agree to come back in. A couple other entities that would probably be put in if this passes are EERC and Aerospace. A unified system has many benefits--security costs, the integrity of the open records, and the integrity of the emails in general, uniformity, and a centralized management point.

Rep. Wallman Can you speak to the security issues.

Rep. Streyle Everybody is using Microsoft 365 outside of the two institutions I mentioned which will be put in. It is a cloud based product, so there is no data per say on any university system servers. Obviously, Microsoft is one of the largest companies in the world and has some of the best security technology.

Rep. Wallman In the IT committee, was there an analysis of which systems are more secure?

Rep. Streyle No, because it is not pertinent to the discussion being they are already on Microsoft 365. It is simply moving them all into one big bucket called tenant.

Chairman Kasper We heard an earlier comment that Microsoft may be working toward providing either some free services or some software that might work in this area. Would

this bill prohibit Microsoft from providing free services to the university system so that they could retain these records in their email systems?

Rep. Streyle I don't see how that would affect it at all. This is saying every campus should be on one unified system.

Chairman Kasper If this bill were to pass, university system could continue to utilize the email system that they have in place, or they could put a new system in place if Microsoft gave them some free software, hardware, or both. The only thing is our bill here says they must retain the records for five years in whatever system they choose to use. Is that correct?

Rep. Streyle That is absolutely correct. Two or three years would be fine which would lower the cost a little bit because you wouldn't be archiving as much data.

Lisa Feldner, CIO for the University System, appeared in support and presented testimony. (Attachment #2) (17:11-19:28)

Rep. Laning Could you explain to us how the bid process was conducted? Did IT do the entire bid process on their own and then make recommendations to the university system board?

Lisa Feldner We didn't do a bid yet. We looked in the market for vendors who did email archiving and asked them for a quote for the number of records and the number of years. We didn't realize we needed the fiscal note, so we did this very quickly. That is why we have to go back for a bid.

Rep. Laning Was that handled by IT?

Lisa Feldner It was handled by my staff at Core Technology Services with the university system. So, IT staff, yes.

Rep. Laning Then you made a recommendation to the university system board or how was the decision made there?

Lisa Feldner We haven't made a decision.

Rep. Steiner Is it in the Governor's budget since you knew you were moving to this policy?

Lisa Feldner The email archiving part is not, because we didn't know we were moving to email archiving. The other piece, records retention, has no fiscal note on that, and the unified system is already covered in our present budget.

Rep. Amerman Do you have any idea to satisfy the archiving in this bill the timeframe when this would be done?

Lisa Feldner We would develop the rfp which probably takes a couple weeks. Then it would be on the street for upwards of a month, evaluate it, and then award and

implementation. It wouldn't take as long as it would if it were 11 different email systems. I am guessing at the end of the calendar year.

Chairman Kasper I want to clarify what you are saying. The university system was going to do this anyway whether this bill was here or not. Is that correct?

Lisa Feldner That is fair to say. We were moving that way on the part of the records retention and the unified email system. We have been looking at the email archiving, because with the amount of open records requests we get, it is really hard to pull them with the existing system.

Chairman Kasper We heard earlier comments that Microsoft may be offering some free services. In the process that you have to go through for rfps, are you able to consider the free services that might be available as well as cost for services so that might even soften the fiscal note further if that would occur?

Lisa Feldner Yes.

Rep. Wallman You said you are receiving a huge amount of open records requests. Can you just illuminate why?

Lisa Feldner Anyone that opens the newspaper knows why we get these. We just seem to shoot ourselves in the foot a lot. We get a lot of media open records requests.

Rep. B. Koppelman Since this process seems to be in agreement to what you were planning to do anyway, is the \$800,000 fiscal note completely unique to this bill? Is there some money in your budget that would have assisted with that cost to transitioning over?

Lisa Feldner We didn't start talking about it until after our budget was submitted. It is kind of a combination of both. If we were to narrow down the perimeters, we could probably get the fiscal note down. I don't know.

Chairman Kasper Committee, for your information. Because this has a fiscal note and if the action of this committee is to move forward, we will rerefer it to the appropriations committee and they will be looking at the fiscal note.

Mike Ressler, CIO of the Information Technology Department, appeared in support with Attachment #3. (26:48-27:54)

Chairman Kasper From your perspective there will be no additional fiscal impact to your department because you are already doing a lot of what is in the bill?

Mike Ressler Absolutely correct, from the records management standpoint. We have nothing to do with the email retention that is the other portion of the bill.

No opposition.

Tag Anderson, Director of the Risk Management Division, appeared in a neutral position. I want to provide some information to the committee as it relates to the actual length of time that the email records would be retained. There could be litigation costs that involve the university system. The cost of retrieval and review often comes down to having an attorney review the records themselves to make sure that we are not disclosing privileged or confidential information in the litigation process. That is a cost of the Risk Management Fund, not the university system. It is important to retain records for many purposes. Often, it is the opposite and knowing when to get rid of records that is the difficult question. The more records you have, the more costs to the litigation that can result.

Vice Chair Rohr We just heard that record retention varies within the institution. Do you know what that range is?

Tag Anderson I do not know that. Our position at Risk Management is to essentially tell agencies that we think their records should be retained as long as they have a business need for them. Once there is no longer a business need for it, they should dispose of it.

The hearing was closed.

Chairman Kasper Before we move on, we see an obvious amendment that needs to be done. Why don't we deal with that amendment in correcting Line 3 from 54-56-02 to 54-46-02?

Rep. Laning made a motion to amend the bill to reflect 54-46-02 in Line 3.

Rep. Seibel seconded the motion.

Voice vote was taken. Motion carries.

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1051
1/15/2015
22046

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to electronic mail services and retention for institutions of higher ed.

Minutes:

"Click to enter attachment information."

Chairman Kasper opened the discussion of HB 1051. We had a cleanup amendment on Line 3 where we changed 54-56-02 to 54-46-02. This bill deals with the records management and the retention for institutions of higher learning of records. It requires that the electronic retention be for at least five years.

Rep. Wallman I can't remember if this fiscal note was for the email system or for record retention.

Chairman Kasper We had testimony that said five years isn't a magic number. It could be three, and the retention might be less. They had the bids that they received \$680,000 up to \$920,000.

Rep. Wallman Did anyone testify about students? There are a lot of student workers at our universities who do a job their senior year and then leave. That email would have to be stored for five years even if they weren't students anymore? The scope might be a little bigger than we thought.

Chairman Kasper I don't think it was, but I would assume that they addressed all possibilities.

Rep. Louser Nobody seemed to be set on the five years. That \$800,000 seems pretty expensive. I think two or three years would be appropriate.

Chairman Kasper When we go back a year or two when we had the email requests at North Dakota State University, all the terrible public relations that went on because of that. This bill says we are going to secure them and we are going to keep records because we have an open records law. NDSU indicated they were going to change.

Rep. Amerman If we amend it to two or three years, then before it goes to appropriations, they would have to provide a different fiscal note for you to present at appropriations probably in a lesser amount?

Chairman Kasper If we pass the bill, the motion will be to rerefer to appropriations. We want to pass legislation out of here that we think is probably the best way the bill could be put together.

Rep. B. Koppelman I have to assume that because this is a new process and a new vendor to do a system wide storage, your gigabyte storage is not the main driving cost here. It is the system that is running it. I think it would be foolish to drop the cost by 20% or 30%. I think we would be better off leaving it.

Rep. Amerman If we send it to appropriations, they can't change the 5 years. They are not supposed to.

Vice Chair Rohr made a motion for a DO PASS AS AMENDED AND REREFER TO APPROPRIATIONS.

Rep. B. Koppelman seconded the motion.

Rep. Seibel Is the five years too long? Is three better?

Chairman Kasper You will recall that Rep. Streyle said in his testimony that banks keep their records 10 years. As Rep. Koppelman said four years, five years wouldn't be much difference in cost. Good observation.

Rep. Wallman Rep. Streyle said he works at a bank with 60 employees. Ten years for 60 employees is a lot less. Obviously, it is a question of scale, but I am not sure that setting is generalizable to the discussion.

Rep. Dockter I own a payroll business. For tax returns, we have to keep 7 years and for a lot of our payroll W-2s, 10 years. We have thousands and thousands of W-2s. I don't think five is too excessive.

Rep. Wallman Does your organization receive many open record requests? The longer you keep the records, the more record requests you will get. Remember, spam is safe under this too.

Rep. Dockter We do get quite a few requests. People get audited, banks need information, divorces, etc.

Rep. Wallman Do you have to redact certain things from those documents?

Chairman Kasper That is not germane to the bill. We are talking about this bill, not his business.

Rep. Wallman There is a cost to that. He brought it up as an example. I am just saying that public policy that requires the university system to store five years of emails that include spam, that also may include students who leave campus--I am not sure this fiscal note is reflective of the cost for five years, because I know there are things included in here that may not be included in a personal business.

Chairman Kasper Some of the anecdotal stuff is thrown out by committee members because they have experience in their private life, but that doesn't mean when we are debating the bill or the merits of the bill that we want to start debating what is going on in a private business.

Rep. B. Koppelman We didn't necessarily hear negative testimony to the length of time. We heard Rep. Streyle would like to see at least two to three years, but the bill was five. We heard that some agencies are instructed to keep it as long as they need it for their business purposes. Some testimony given stated it was nice to have a number so they know how long to keep it. The university system has probably earned this for good or bad in terms of some of the past things that have come out and the loss of records, etc.

A roll call vote was taken. 11 Yeas, 1 Nay, 2 Absent.

Vice Chair Rohr will carry the bill.

15.0369.02001
Title.03000

Adopted by the Government and Veterans
Affairs Committee
January 15, 2015

JS
1-15-15
JS
1-15-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1051

Page 1, line 3, replace "54-56-02" with "54-46-02"

Renumber accordingly

Date: 1-15-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1051

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Laning Seconded By Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper			Rep. Bill Amerman		
Vice Chair Karen Rohr			Rep. Gail Mooney		
Rep. Jason Dockter			Rep. Mary Schneider		
Rep. Mary C. Johnson			Rep. Kris Wallman		
Rep. Karen Karls					
Rep. Ben Koppelman					
Rep. Vernon Laning					
Rep. Scott Louser					
Rep. Jay Seibel					
Rep. Vicky Steiner					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Correcting line 3 from
54-56-02 to 54-46-02

Voice
Vote
Motion
Carries

Date: 1-15-15
Roll Call Vote #: _____

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1051

House Government and Veterans Affairs

Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☒ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rohr Seconded By Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chair Karen Rohr	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Mary Schneider	X	
Rep. Mary C. Johnson			Rep. Kris Wallman		X
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner					

Total (Yes) 10-11 No 1

Absent 2 Rohr

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1051: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS,
1 NAYS, 2 ABSENT AND NOT VOTING). HB 1051 was placed on the Sixth order on
the calendar.

Page 1, line 3, replace "54-56-02" with "54-46-02"

Renumber accordingly

2015 HOUSE APPROPRIATIONS


HB 1051

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Education and Environment Division Roughrider Room, State Capitol

HB1051
1/26/2015
22528

☒ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact two new subdivisions to subsection 1 of section 15-10-44 of the North Dakota Century Code, relating to electronic mail services and retention for Institutions of higher education; and to amend and reenact subsection 1 of section 54-56-02 of the North Dakota Century Code, relating to records management.

Minutes:

Attachments: 1-2-3

Chairman Monson: Called the meeting to order.

Adam Legislative Council explained the bill and the fiscal note.

Rep. Dosch : How is it being handled now?

Mathiak: not sure on the technical aspects of it; someone from Higher Education could explain. Retention policy needs to be standardized.

Rep. Dosch: So is someone from Higher Education going to explain this?

Vice Chairman Streyle: I can explain some of that. Referred to Attachment #1 handout which explains the cost estimates from the four vendors they polled. Every agency including Higher Education abides by one records retention policy. This is transparency in government and is good general business practice.

Rep. Boe: Is this subject to filters before its archived?

Vice Chairman Streyle: the intent is emails coming in nothing that is spam would be archived.

Lisa Feldner, North Dakota University Systems Chief Information Officer offered to answer any questions.

Feldner: That is correct. The storage is unlimited.

Rep. Guggisberg: How far off of current policy is this? What's going to change if this bill passes?

Feldner: it would archive emails for 5 years. Retention policy is just for emails.

Rep. Guggisberg: Where did these numbers come from? If this bill passes we will write an RFP and bid it.

Chairman Monson: This is your best guess.

Feldner: yes.

Hearing closed.

*ATTACHMENT #3 - EMAIL FROM LISA FELDNER
Submitted after hearing.*

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Education and Environment Division Roughrider Room, State Capitol

HB 1051
2/4/2015
23197

☐ Subcommittee
☐ Conference Committee

Amanda Muschia

Explanation or reason for introduction of bill/resolution:

A Bill relating to records management.

Minutes:

Vice Chairman Streyle: opens HB 1051

Vice Chairman Streyle: This is the records retention bill that was referred from Government and Veterans Affairs. The fiscal note is 800,000 dollars; I feel it could easily be dropped to 675,000 dollars. That could be easily split between general fund, and they can define the rest in their operating budget.

Rep. Schmidt: What did you say on the bid?

Vice Chairman Streyle: There was a document that went out for a bid. Microsoft gave the cheapest bid at 686,000 dollars for the biennium. The 800,000 was put in before the bid, because they weren't sure where it would come in. We have a firm bid. The state can kick in a portion; they can come back the next biennium and put that in their base. I think that is a fair compromise.

Dosch: I will motion for the 350,000 dollars one-time money for the purpose of record retention.

Rep. Sanford: Seconded

Vice Chairman Streyle: The current bill as sits is at an estimated 800,000 dollar. It has been bid for 686,000 dollars. As Rep. Dosch stated, the state would provide one time funding of 350,000 they would pick up the rest through operating money.

Roll Call was Taken: Yes: 7 No: 0 Absent: 1

Motion carries

Vice Chairman Streyle: This would require the consolidation of the EVNO which has already been agreed to. This is just putting it in code. It would require them to use the current state records retention policy which they adopted essentially but this would clarify language in statute and also would be 5 year retention.

Rep. Rep. Boe: I make a motion for a Do Not Pass

Rep. Guggisberg: Seconded

Vice Chairman Streyle: I hope you resist this motion; it was worked on in the interim on the ITTA and came out of there unanimously. It came out of GVA with a strong vote also.

Roll Call was taken: Yes: 3 No: 4 Absent: 1

Motion Failed

Rep. Dosch: Motioned do pass

Rep. Sanford: Seconded

Vice Chairman Streyle: There is a motion for 350,000 one time money, not the 800 that is in the bill.

Representative Guggisberg: I understand the 650,000 makes sense but to say that it only cost 350,000 so we can change the fiscal note is not being honest in my opinion and we are just taking money from someone else so we can pretend this bill only costs 350,000 when it really costs 650,000.

Vice Chairman Streyle: It's not trying to hide anything, it is just saying they can pay the additional cost and that the state can provide some support to get this going, which I think is a good idea. In CTS's budget I believe it is 40 some million dollars. They can easily find 350,000 in their budget to make this possible.

Rep. Boe: I don't support this because we will be spending at least 686,000 of our money and the university money which is our money for a product we won't be getting a lot of use out of. If they know this is being retained they will get themselves a google account or whatever and that is where they will do their correspondence to do what we are looking for. I don't see this will solve anything.

Vice Chairman Streyle: Then they would be in violation of the law because public business cannot be done through a personal account and if it is done, then it's open records request. It's a protection issue, it all falls on the individual on what is an actual business record that needs to be saved in the policy they just adopted. You would have to be an expert to know what you should keep and how long it should be kept. This takes that out of the hands. It is a retained period and a safe guard for the employees. It is a transparency issue. Tax records need to be saved for 7 years, anything that we do in the financial industry that is saved 10 years. There are multiple schedules and that is how the retention of those is set up. They automatically drop. When the consolidation piece of the email, that was agreed

upon in committee even though there is was institution that is not consolidated. It would need to come back in and this puts the language in basically as a safe guard. They only put the policies in because our committee passed them out. This just clarifies, they would still have their records, and nothing would change. If you read in section 2 it clarifies. Good bill.

Rep. Guggisberg: I'm interested in how that works when we can get public employees private email so are you saying if we suspect that there is public business going on in private email we can get access to all of their private email and look for it? How do they differentiate between what they can and can't look at?

Vice Chairman Streyle: There was Attorney General's opinion I forget what the number is off-hand but it explains in detail.

Rep. Schmidt: I went in and looked the higher ed response to our bill we have and this bill requires all of NDUS to receive mail services through one consolidated system upgraded by higher ed and requires our emails to be retained for 5 years. Clarifies university system is included in the state's record retention policies and their position on the bill is neutral.

Vice Chairman Streyle: I believe in committee and GVA what they were for there.

Rep. Schmidt: They do have bills down here that they oppose so if they really do oppose doing this they would say so.

Roll Call was taken: Yes: 7 No: 0 Absent: 1

Motion Carries

Vice Chairman Streyle closes HB 1051

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1051
2/18/2015
24072

- ☐ Subcommittee
☐ Conference Committee

Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to electronic mail services and retention for institutions of higher education

Minutes:

Chairman Jeff Delzer: opened the hearing on HB 1051. Recognized and welcomed the students from Beulah ND. This is a bill that does the e-mail services from Higher Education making them go through IT. It is currently listed at \$800,000, there is a proposed amendment.

Representative Streyle: What we did in committee in this is provide one time funding of \$350,000 with the rest absorbed in the CTS's budget. The bid on this from Microsoft was about \$680,000 so that would provide about ½ the funding for that on a one time basis and they can absorb the other \$300,000 and some through the various funds they have and going forward they would budget for that cost.

Chairman Jeff Delzer: But by our reckoning this will add \$350,000 on the bottom line. We have the proposed amendments.

Representative Streyle: Motion to adopt the amendment 15.0369.03001 that removes the first "and" and after management inserts "and to provide an appropriation" and gives it an appropriation of \$350,000 to HB 1051..

Representative Monson: seconded.

Chairman Jeff Delzer: That is to the 3000. Why would that be a 3000 bill to start with?

Brady Larson: Legislative Counsel Analyst: It must have come out of an interim committee and it must have been revised by the interim and it was introduced as a 2000 version.

Chairman Jeff Delzer: OK. Is there any other discussion? Representative Streyle, did you talk about passing this bill forward without any money for the first half? Did you have any discussion about that?

Representative Streyle: Yes we did and I am totally fine with the either or, we did provide a good increase to the IT department at the University System and they could probably absorb it. We thought providing them one-time funding for them was appropriate, but I am agreeable to not putting in any money again.

Chairman Jeff Delzer: The question is what happens with the March forecast, if we send it over even without the amendment on it the issue is still alive. I know Higher Education is going over to the Senate as well and they would probably look at it again. Any further discussion on HB 1051? We have a motion to amend HB 1051 with amendment # .03001..

Voice Vote taken: Unable to distinguish. Clerk will call the roll.

A Roll Call Vote was taken. Yes: 12 No: 9 Absent: 0. Motion Carried.

Chairman Jeff Delzer: We have an amended bill before us and whoever deals with Higher Education on conference committee we need to be cognizant of this bill being out there at the end of the session as well.

Representative Streyle: I move Do Pass as Amended on HB 1051.

Representative Skarphol: seconded. I would suggest there will be a cost associated with this but if this is done properly it will serve a real value to both the University System and the public. I would suggest if they eliminated the trails, I think it would be good public policy on their part and I would be fascinated to find the reason they think they should resist it.

Chairman Jeff Delzer: Do you believe the bill before us will constitute them having to do it right?

Representative Skarphol: I am not sure how to respond to that.

Representative Streyle: The \$350,000 does that go to the IT or to the University System or where does it go?

Chairman Jeff Delzer: The amendment says the State Board of Higher Education.

Representative Streyle: This really is a three part bill. We are just talking about the one piece. In section one the first requires that all of them go through Core Technology Services, the IT department and the University System. Currently there is one outside of that and two migrating in. Minot and Valley City will be migrated in. NDSU moved out of it and in the interim committee they agreed to come back in. The second part of it says that all records should be maintained for five years which is common practice in any accounting firm. The third part of Section two deals with the retention records policy. This specifically says the States record retention policy applies to the State Board of Higher Education.

They have since adopted a policy. This would clarify and codify it as well. There are three parts to it and they all work together.

Representative Holman: My question is was there discussion regarding the volume? I case this being a big deal when you are talking five years of email. Was there discussion regarding the Family Rights and Privacy Act (FERPA) rules as regarding to retention of e-mails and how that could be handled to stay within the guidelines?

Representative Streyle: Right now the policy is an individual policy. So you as an administrator self-determine what will be archived. To me that creates a lot of problems for the staff, they don't know what the law requires. As far as the cost they are in the cloud, it's unlimited and archived where the e-mail is hosted right now. There is 4 bids one is \$1 million dollars and one was \$686,000. When you compress these things down it is small compared to the actual record is.

Chairman Jeff Delzer: What about FERPA and the privacy issues?

Representative Streyle: That did come up in the interim committee. You could argue the more data you keep the more it opens you up to lawsuits because you have the data to sift through. As far as FERPA they take that information out before they give it to you anyway. Everything is still protected.

Representative Skarphol: If they had a policy that required that they be stored after they have been redacted according to FRPA they would have no issue with any open records request. We wouldn't have this need for the delay and the angst over the time it takes for people to get the information. The policy needs to be today's policy. What is the best practice and how is the right way to do it? That would be redact them as you are putting them into storage and you are done with it.

Representative Holman: Was there discussion regarding the fact that everyone has 2 or 3 email accounts this will probably go on anyway? I don't think we are changing anything there.

Representative Skarphol: It is obvious that I made a pretty substantial request a couple of years ago. There were 230,000 emails involved, 100,000 were from Dickinson State University. I still haven't received them all. It is beyond 18 months and I still haven't received them all. I have asked for an Attorney General's opinion on Oct. 2 and still haven't gotten that back. It is an issue. They know how to delay.

Chairman Jeff Delzer: The clerk will call the roll on a Do Pass as Amended on HB 1051.

A Roll Call Vote was taken. Yes: 17 No: 4 Absent: 2. Motion Carried.

Representative Streyle: will carry the bill.

848
2/18/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1051

Page 1, line 3, remove the first "and"

Page 1, line 4, after "management" insert "; and to provide an appropriation"

Page 1, after line 21, insert:

"SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of defraying expenses related to the retention of all electronic mail messages, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item."

Renumber accordingly

Date: 2-4-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1051

House Appropriations - Education and Environment Division Committee

Amendment LC# or Description: ☐ Subcommittee recommendation to full committee

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Dosch Seconded By Sanford

Representatives	Yes	No	Representatives	Yes	No
Chairman Monson	<u>A</u>		Rep. Boe	<u>✓</u>	
Vice Chairman Streyle	<u>✓</u>		Rep. Guggisberg	<u>✓</u>	
Rep. Dosch	<u>✓</u>				
Rep. Martinson	<u>✓</u>				
Rep. Sanford	<u>✓</u>				
Rep. Schmidt	<u>✓</u>				

Total Yes 7 No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Motion Passed
to add 350,000 one-time money
for the purpose of retention.

Date: 2-4-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1051

House Appropriations - Education and Environment Division Committee

Amendment LC# or Description: ☐ Subcommittee
Recommendation to full committee

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Boe Seconded By Guggisberg

Representatives	Yes	No	Representatives	Yes	No
Chairman Monson	<u>A</u>		Rep. Boe	<u>✓</u>	
Vice Chairman Streyle		<u>✓</u>	Rep. Guggisberg	<u>✓</u>	
Rep. Dosch		<u>✓</u>			
Rep. Martinson	<u>✓</u>				
Rep. Sanford		<u>✓</u>			
Rep. Schmidt		<u>✓</u>			

Total Yes 3 No 4

Absent 1

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Motion failed

Motion made to fail the 350,000 addition

Date: 2-4-15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1051

House Appropriations - Education and Environment Division Committee

Amendment LC# or Description: ☐ Subcommittee
Recommendation to full committee

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Dosch Seconded By Sanford

Representatives	Yes	No	Representatives	Yes	No
Chairman Monson	<u>A</u>		Rep. Boe	<u>✓</u>	
Vice Chairman Streyle	<u>✓</u>		Rep. Guggisberg	<u>✓</u>	
Rep. Dosch	<u>✓</u>				
Rep. Martinson	<u>✓</u>				
Rep. Sanford	<u>✓</u>				
Rep. Schmidt	<u>✓</u>				

Total Yes 7 No 0

Absent 1

Floor Assignment Streyle

If the vote is on an amendment, briefly indicate intent:

Motion Carried

motion made to pass the 350,000

Date: 2/18/15

Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1051

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
 Other Actions: ☐ Reconsider ☐ _____

Motion Made By: Streyle Seconded By: Monson

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer		✓		Representative Nelson	✓			Representative Boe	✓		
Vice Chairman Keith Kempenich		✓		Representative Pollert		✓		Representative Glassheim	✓		
Representative Bellew		✓		Representative Sanford	✓			Representative Guggisberg	✓		
Representative Brandenburg		✓		Representative Schmidt	✓			Representative Hogan	✓		
Representative Boehning		✓		Representative Silbernagel		✓		Representative Holman	✓		
Representative Dosch			—	Representative Skarphol	✓						
Representative Kreidt		✓		Representative Streyle	✓						
Representative Martinson	✓			Representative Thoreson			—				
Representative Monson	✓			Representative Vigasaa		✓					
<u>2</u>	<u>6</u>	<u>1</u>		<u>5</u>	<u>3</u>	<u>1</u>		<u>5</u>	<u>0</u>	<u>0</u>	

Totals

(Yes)	<u>12</u>
No	<u>9</u>
Absent	<u>2</u>
Grand Total	<u>23</u>

Motion carries 12-9-2
Yea

Floor Assignment: _____
 If the vote is on an amendment, briefly indicate intent: _____

Copy of Amendment on
I have Febr. 4th 2015
03001

Date: 2/18/15
 Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1051

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 15.0369.03001

Recommendation: ☒ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
 Other Actions: ☐ Reconsider ☐ _____

Motion Made By: Streyle Seconded By: Skarphol

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer	✓			Representative Nelson	✓			Representative Boe	✓		
Vice Chairman Keith Kempenich	✓			Representative Pollert	✓			Representative Glassheim		✓	
Representative Bellew	✓			Representative Sanford	✓			Representative Guggisberg		✓	
Representative Brandenburg	✓			Representative Schmidt	✓			Representative Hogan		✓	
Representative Boehning	✓			Representative Silbernagel	✓			Representative Holman		✓	
Representative Dosch			A	Representative Skarphol	✓						
Representative Kreidt	✓			Representative Streyle	✓						
Representative Martinson	✓			Representative Thoreson			A				
Representative Monson	✓			Representative Vigasaa	✓						
<u>8</u>			<u>1</u>	<u>8</u>			<u>1</u>	<u>1</u>	<u>4</u>		

Totals

(Yes)	<u>17</u>
No	<u>4</u>
Absent	<u>2</u>
Grand Total	<u>23</u>

Motion Corr. 2

Floor Assignment: Streyle

If the vote is on an amendment, briefly indicate intent: _____

REPORT OF STANDING COMMITTEE

HB 1051, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (17 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1051
was placed on the Sixth order on the calendar.

Page 1, line 3, remove the first "and"

Page 1, line 4, after "management" insert "; and to provide an appropriation"

Page 1, after line 21, insert:

"SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of defraying expenses related to the retention of all electronic mail messages, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item."

Renumber accordingly

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1051

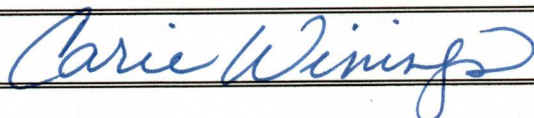
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Missouri River Room, State Capitol

HB 1051
3/12/2015
Job # 24709

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact two new subdivisions to subsection 1 of section 15-10-44 of the North Dakota Century Code, relating to electronic mail services and retention for institutions of higher education; to amend and reenact subsection 1 of section 54-46-02 of the North Dakota Century Code, relating to records management; and to provide an appropriation.

Minutes:

Attachments 1 - 3

Chairman Dever: Opened the hearing on HB 1051.

Representative Weisz, District 14: Testified as chairman of the interim committee, in support of the bill, and to explain the bill. It merely states that the university system is to retain e-mail records for 5 years. Appropriations did appropriate \$350,000 to help offset the cost of retaining the e-mail records. The fiscal note estimate is \$800,000 and I do know that they got a bid from Microsoft for \$686,000. It was felt that because of some of the issues that arose over the last two years having to do with both some of the requests for e-mails that there should be some uniform policy across all of higher ed. The five years was an arbitrary number. There were discussions of what should be a reasonable time and the committee ended up with five.

(3:37) Chairman Dever: The fiscal note includes the \$350,000 appropriation for the coming biennium and there will need to be another appropriation next session?

Representative Weisz: The fiscal note is just based on the estimated cost at the time of what it would cost to retain the records for 5 years. Appropriations wanted to offset the cost so they then appropriated the \$350,000 of the \$686,000 that it would cost to retain those. Basically you are buying the server space for that amount of information. You are making an estimated cost on how much space you will need to hold five years' worth of information.

Chairman Dever: So it is intended that the \$350,000 apply to the five year contract?

Representative Weisz: That is correct. It would offset the cost.

Senator Nelson: I had tons of e mails when I worked for higher ed. I had no idea how to store them except to keep them on my records. How will this happen? Do you have to retain e-mails that students send you requesting assistance on work?

Representative Weisz: That was part of the reason for this policy and to allocate that space because there are a lot of questions on what should and should not retain. This would set up a system where everything is automatically archived and you do not have to worry about which records you should have saved or not. Will there be records that don't need to be? Of course, but at least it makes it simple from a standpoint that you don't have to worry about the abilities to back-up and it is just retained until it gets dumped in five years.

Senator Nelson: So basically I would not need a delete key?

Senator Flakoll: You cannot delete your e-mails according to this - am I reading that correctly?

Representative Weisz: It does not apply to personal e-mails. These are related to the business. It is only university system correspondence.

Senator Flakoll: Do you keep 5 years' worth of legislative e-mails?

Representative Weisz: I have retained e mails back from 2001.

Senator Flakoll: We all have e-mails from days gone by but we do not have the capacity to keep them all. Would you support an amendment that would require us to retain ours too?

Representative Weisz: Our e-mails are not subject to open records requests.

Senator Flakoll: If that was part of the amendment, would you?

Representative Weisz: It is because our e mails are not subject to open records and there is a reason for that. There is a personal nature between you and the constituent.

Senator Flakoll: So are some student records. They could redact ours much like they could redact the student records. Their social security numbers, medical information. Etc.

Representative Weisz: I am not clear on your question. The university system is part of the government and that is part of open record. If this committee wants to make our e-mails open record that is your decision. It does not mean that every record that is being retained would be subject to open records.

Chairman Dever: I doubt that we would bring that issue up.

Senator Flakoll: It somewhat shows a double standard. With smart phones how is that going to work?

Representative Weisz: Part of the contract is for the archiving of all those records. If they are personal e-mails on your computer or even on your smart phone, they are not subject to this. There is a policy of e-mail retention and it varies from university to university. From the testimony that we received, there appears to be a lot of confusion on what should be kept and for how long and that it should be even across the board.

Senator Flakoll: Has the university system adopted a policy?

Representative Weisz: I do not know.

(13:28)Representative Streyle, District 3: See Attachment #1 for testimony in support of the bill.

(17:37)Chairman Dever: Is the \$687,000 cost a biennial cost?

Representative Streyle: Yes it is and then after this biennium it would be part of their budget. The \$350,000 would help with that expense initially. They should be able to find \$300,000 in their budget easily.

Chairman Dever: House amendments appeared to just clean up language but the appropriation committee is the one that added the appropriation.

Representative Streyle: Yes. It is a small add on to the current e-mail system that they have right now. It is just an additional subscription.

Chairman Dever: So the intent of the bill is only university business related?

Representative Streyle: Anything in and out would be archived except for spam mail that is filtered out. A shorter time period might be more appropriate.

Senator Davison: Can you point out were it does not include student?

Representative Streyle: That was talked about and maybe there need to be an amendment to exclude them.

Senator Davison: Were the bids based on an annual basis so if we reduce the number of years that we need to store that it will be less?

Representative Streyle: It is unlimited for that \$2.20 times the 13,000 accounts.

Chairman Dever: Is the 13,000 the number of e-mails?

Representative Streyle: It is the estimated number of accounts.

Senator Flakoll: Earlier this week I was I asked on another bill about a provision for professional development that was optional and we pay 80% of that from the state. The state only pays 25-40% of it for higher Ed; how about the local control there?

Representative Streyle: I do not disagree. This is saying that they should do something. We are the policy makers and there have been enough incidents in the last couple of years. The policy up until they finally passed the policy - they did not have one; which is mind boggling to me that there is no record retention policy. The state has had one for years and all they had to do was adopt the state records retention policy. It is essentially what they did. Two of these sections they have essentially agreed to do already. This would codify it and it is important for clarity.

Senator Flakoll: My big issue is the five years and determining what is personal and what is work. There is gray area.

Representative Streyle: The e-mails are automatically archived so you can still clear your inbox every day. We need to address this as a state.

Senator Flakoll: How does it work with those inappropriate e-mails that would sometimes be spam and sometimes not? How is that managed?

Representative Streyle: All e-mails come to the cloud provider and it gets scrubbed by them, they archive it, and then it comes to our e-mail server in house. All those records are retained in the cloud. It does have the spam that it doesn't catch. With this bid, it is unlimited so it really doesn't matter. A small amount of spam may be archived.

Senator Flakoll: In an open records request there could be stuff that we would not be proud of to have that we had no choice of getting and keeping - can you make me more comfortable about that?

Representative Streyle: I get your concern but unless someone would make a request then it would not be looked at. Right now it is self-determined. If you think that it is business you keep it and if you don't then you trash it. That is scary to me that there are no consequences. I could think none of it is business and delete it all. This creates clarity and transparency.

Chairman Dever: Our e-mails are not a matter of public record so if I receive an e-mail from a constituent and if I forward it someone in a state agency and ask them to help, and then it becomes public record. If students send an e-mail to each other, friends, or family that would not be a matter of public record, but if they e-mailed their professor, that would be.

Representative Streyle: They take those all out in the record screening process. It is all redacted before you get it. A person would never receive the student information that cannot be disclosed if it is done properly. The intent is strictly staff so if that needs to be clarified in here that is fine.

(27:37)Lisa Feldner, Vice Chancellor, North Dakota University System: See Attachment #2 for testimony in support of part of the bill and neutral on other parts of the bill and suggested an amendment. I would like "all" to be replaced with "employee" on line 13. Risk management is recommending two years instead of the five.

(31:28) Senator Marcellais: You mentioned risk management. Is that the security part of this? Is that considered risk management?

Lisa Feldner: That is the state's risk management. They testified on the House side and were unable to be here so I said that I would address it. It is partly security but is also when there is litigation. When you archive that many documents, it becomes very costly for the state to defend because you have to go back and search and redact a lot of documentation.

Chairman Dever: If you receive an e mail from someone that is of absolutely no interest to anyone, is there a way to filter that out?

Lisa Felder: If we were following a records retention schedule that would be non-business related e-mail and you would delete it. It has to have a business purpose and therefore it would be deleted.

Senator Marcellais: When you are talking retention system, are you talking about the grandfather system like you do on the updates and things or are you just talking about retention of all records?

Lisa Feldner: I am talking about retention of all records; paper, electronic, the whole records retention system as the state agencies do.

Senator Flakoll: When you are talking about all employees - what about student employees?

Lisa Feldner: Student employees do get tricky. If they are employed, they would be in the system and we would have to archive that e-mail. With FIRPA issues we would have to redact anything that is student related of the students e-mail.

Senator Flakoll: Under the proposed system that we are talking about here, you can still retain something beyond what is specified?

Lisa Feldner: That is correct.

Senator Nelson: Clarified what she thought Lisa Feldner wanted the bill to look like.

Lisa Feldner: Right. I do not think we need lines 8-10 and I do think we need lines 15 to 20, and if you do 11 to 14 we need section 3.

Chairman Dever: Can you put your thoughts on paper?

(37:25) Mike Ressler, CIO, Information Technology Department: See Attachment #3 for testimony in support.

(38:11) Senator Nelson: Would you prefer 2 years?

Mike Ressler: Yes that would be sufficient.

Chairman Dever: Are you aware of any information requests that go beyond two years?

Mike Ressler: Depending on the time of the season, requests will come for all data and as you heard Lisa talk about, and if you have data that goes way back and a records request comes in, you need to report all that information. I agree that you need to purge data and it is just as important as retention. When there is a new record, electronic or paper, that gets catalogued and then it gets routed to three entities. The agency determines how long they think they need to keep it. The State Auditor's office weighs in, and then the Attorney General's office weighs in and they propose a date and that is kept for the longest of the three. That gets put into a retention schedule and you hope your employees follow that.

Chairman Dever: Is what we are looking at on the university system similar to policy for other state agencies?

Mike Ressler: From a records management standpoint it is.

Senator Flakoll: Under this system, if the e-mails were being dumped and they would be in the cloud, would IT have to retrieve those as opposed to doing it internally?

Mike Ressler: The mechanics I am not sure of because the state does not have the contract with Microsoft in the cloud, but I am assuming that someone in IT would contact Microsoft and get that information. It is not the cost of storing the data. It is the flexibility and the functionality of that tool. I do not know if the employee would have that ability to use that tool to go out and pull their own e-mail. IT would never release that information. If we would give it back to whom the owner of the data is because they may need to redact or to determine if it can be released.

Chairman Dever: You are not talking about the employee but the agency correct?

Mike Ressler: Sometimes it may come down to the employee. Management in that agency should make the final determination.

Tag Anderson, Director, Risk Management Division: I am available for any questions. We do have a concern with records being unnecessarily retained given that it does increase the litigation and discovery costs. Certainly public accountability is an important governmental function. The length of time that we retain record for that purpose is a policy decision that you all have to make. I think you need to understand that it has a real cost.

Chairman Dever: Over two years is not a real benefit.

Tag Anderson: Again that is a policy decision for you to make. Personally I agree with that.

Chairman Dever: Closed the hearing on HB 1051.

2015 SENATE STANDING COMMITTEE MINUTES

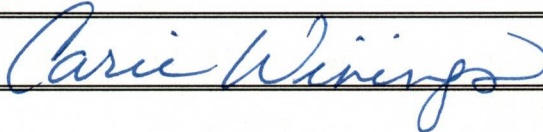
Government and Veterans Affairs Committee

Missouri River Room, State Capitol

HB 1051
3/12/2015
Job # 24752

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

Attachments 1

Chairman Dever: Opened HB 1051 for committee discussion. See Attachment #1 for a marked up copy of the bill.

Senator Flakoll: Should we take what we like from HB 1051 and put it into HB 1052?

Committee Discussion: The committee proceeded to discuss what parts of the bill that they liked and what the best way to deal with the issue would be. A few of the committee member preferred that the bill address non-student employees and excluded students that work for the university system. Other committee members were comfortable with changing five years to two years and all to employee.

Chairman Dever: Asked Lisa Feldner about a few lines in the bill.

Lisa Feldner, NDUS: I do not mind those lines. The attorney's feeling was, because the board put it into policy in the meantime, that we did not need it codified. That was all. It is one of those crossing the line into Higher Ed domain is what the attorneys were saying. If it was up to me personally, I would leave it in.

Chairman Dever: It seems to me that it enforces the legislative intent that we are only talking about business related e-mails.

Senator Poolman: I agree that the best way to amend the bill is to change all to employee and five to two and I think the bill is good. I don't think that student employees should be protected at a different level than a regular employee if you are somehow on staff at the university. I think it is fair game.

Senator Flakoll: But they would not be on staff. When I was in undergraduate I got paid \$10 to give tours.

Senator Poolman: And the university gave you an address as an employee?

Senator Flakoll: You retained your student e-mail address that they would have full access to them.

Senator Poolman: Why would they have access to that? So, all student e-mails would be subject to this?

Senator Flakoll: Thousands would.

Senator Nelson: If they are work study or any kind of business.

Senator Poolman: If they are conducting university business in any way, shape, or form then it should be.

Senator Cook: I am just agreeing with Lisa's written testimony. This should be simple. Others have made this a confusing bill.

Senator Nelson: (Question to Lisa Feldner) What is your interpretation of employee?

Lisa Feldner: I think you are all right. If they are student employees, then they are employees and we would have to capture that e-mail. I was going along the line of FTE's but then the problem is that you would not catch part time staff. I have gone over and over this and if they are student employees they are doing business on behalf of whatever campus they are working for.

Senator Flakoll: How does this variety of options here differ from what is the policy that has been adopted by the university system?

Lisa Feldner: Now that there is the records retention policy, they are supposed to follow the state records retention policy. We did not have records retention and we did not consider e-mail as a record and so thus became the situation that we had. They still don't understand that e-mail is a record. It is going to take so training.

Chairman Dever: The bill calls for a development of a policy so does that suggest that there is no policy?

Lisa Feldner: There was not a policy when the bill was drafted. They passed the records retention policy at the November board meeting.

Senator Nelson: Can we leave it up to them to define what an employee is?

Chairman Dever: That is an option.

Committee Discussion: The committee discussed the possibility of going to conference committee if the bills were merged. They also discussed if the fiscal note would change if the bill was amended. The contract would be for the first biennium and that is what the fiscal note is for.

(12:37)Senator Poolman: Moved to amend the bill on Line 13 - change all to employee, and change five to two.

Senator Cook: Seconded.

Senator Flakoll: (Question to Lisa Feldner) All of e-mails are saved in the cloud and sifting will not be done there correct?

Lisa Feldner: They scrub them for spam and all of those things before they are archived. A lot of the garbage will go before it goes into the cloud and is archived. In the other GVA hearing the two representatives said that they would drop it to two years because risk management was there and then when it got to the committee for a vote they forgot about that part to be honest and it went through the way that it is.

Senator Davison: The cost is about utilizing the tool to access it; it is not really the space in the cloud?

Lisa Feldner: That is correct.

Senator Davison: So, regardless of how many employees we get out there in the cloud that will not increase or decrease our cost because it is really more of a tool we are paying for.

Lisa Feldner: Right they are license fees. It is based on the 13,000 licenses.

Senator Flakoll: So it would be the employees university assigned e-mail?

Lisa Feldner: Correct.

Senator Nelson: It is obvious by the number of accounts estimated that the fiscal note was not intended to include students.

Lisa Feldner: That is correct. We did not want to include students.

Chairman Dever: The focus is what e-mails, not who's e-mails.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Flakoll: Moved to further amend Line 13 by inserting non-student before employee.

Senator Nelson: Seconded.

Chairman Dever: I think I am going to resist the motion because I think the focus is on business related correspondence, not who's business related correspondence.

A Roll Call Vote Was Taken: 4 yeas, 3 nays, 0 absent.

Motion Carried.

Senator Poolman: Moved a Do Pass As Amended and Rerefer to Appropriations.

Senator Davison: Seconded.

A Roll Call Vote Was Taken: 4 yeas, 3 nays, 0 absent.

Motion Carried.

Senator Poolman will carry the bill.

15.0369.04001
Title.05000

Adopted by the Government and Veterans
Affairs Committee

March 12, 2015

3/12/15
JLE

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1051

Page 1, line 13, replace "all" with "nonstudent employee"

Page 1, line 13, replace "five" with "two"

Page 2, line 1, replace "all" with "nonstudent employee"

Renumber accordingly

3/12
Date:
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1051

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: Line 13 all → employee

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Poolman Seconded By Cook

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/12
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1051

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: line 13 insert non-student

Recommendation: ☒ Adopt Amendment before employee
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Flakoll Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Chairman Dever		✓	Senator Marcellais	✓	
Vice Chairman Poolman		✓	Senator Nelson	✓	
Senator Cook		✓			
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 4 No 3

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/12
Roll Call Vote #: 3

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1051

Senate Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☒ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Poolman Seconded By Davison

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais		✓
Vice Chairman Poolman	✓		Senator Nelson		✓
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll		✓			

Total (Yes) 4 No 3

Absent 0

Floor Assignment Poolman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1051, as reengrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1051 was placed on the Sixth order on the calendar.

Page 1, line 13, replace "all" with "nonstudent employee"

Page 1, line 13, replace "five" with "two"

Page 2, line 1, replace "all" with "nonstudent employee"

Renumber accordingly

2015 SENATE APPROPRIATIONS

HB 1051

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

HB 1051
3/26/2015
Job # 25445

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Alice Grove for Rae Loring

Explanation or reason for introduction of bill/resolution:

A Bill relating to electronic mail services and retention for institutions of higher education

Minutes:

Attachment 1

Legislative Council - Adam Mathiak
OMB - Tammy Dolan

Chairman Holmberg called the committee to order on HB 1051. Roll Call was taken. All committee members were present.

Adam Mathiak, Legislative Council: Neutral Position

The bill was part of the information technology committee's work over the past interim and the main part of this bill is to talk about the university's system being required to implement the e-mail and to retain the e-mail for 5 years to implement a consolidated e-mail system. The most recent change was to identify the e-mail messages that needed to be retained for non-student employee e-mails. It would eliminate the need to retain student e-mails and originally it was for 5 years and this one would take it down to 2 years. There was a fiscal note attached to it, the dollar amount is \$350,000.

Chairman Holmberg: Does that fiscal note reflect the changes that were made about non-student and about 2 years rather than 5 years?

Adam Mathiak: At the bottom, in the expenditure section of the fiscal note, it talks about the estimated cost of retaining non-student emails for 2 years is \$350,000 per biennium.

This fiscal note is from the 13th of March. The \$350,000 is reflected in the bill. You will see that as an appropriation on the bottom of the bill. I know there were some network issues so LAWS may still be down for some people.

Lisa Feldner, Vice Chancellor for Information Technology and Institutional Research, North Dakota University System: Testified in favor of HB 1051. Attachment 1.
Purging old emails is most important part of bill.

Senator G. Lee: How many state institutions are on the uniform now, is there just a couple that aren't?

Lisa Feldner: We have migrated all accounts. There is one giant e-mail system just as the state uses. The university system wants to do the same model so we've got all the employees and students on one for about 6 or 7. We've got a couple more student migrations to go then that would leave Valley City, Mayville, Minot and NDSU.

Senator G. Lee: In terms of the storage, do you just buy storage devices or do you have it out on a cloud somewhere? Where does the information go?

Lisa Feldner: Are you referring to the archiving? We will do an RFP if this bill passes. There is a couple of ways, they can do it in the cloud, or they can do it as an appliance which has the storage itself and you could keep the appliance in a data center. It depends on how the bids come in.

Chairman Holmberg: So you have flexibility to go either direction?

Lisa Feldner: Correct.

Senator Heckaman: Who supervises the state records management office, what agency is that under? Is that under the university system?

Lisa Feldner: That's under ITD.

Senator Mathern: The end result, how would it work? I taught one course, for example, and in the process, I got 3 email addresses. I had to have an e-mail to teach this course at NDSU, so I got an NDSU e-mail; the course was from Minot, so I got a Minot e-mail; and it was run through the university system, so I had a university system e-mail. They were all required to do the reporting, it was very confusing for me. At the end of this, how does this work on the street? You have a professor that comes to teach one course, will all of those things be combined?

Lisa Feldner: Yes. That's the whole idea behind the unified e-mail system. State government used to have all different ones and they combined them and it has worked very well. This is the same idea, particularly for students who take courses from different universities, they will only have to have the one e-mail address.

Senator Mathern: When would that be actually implemented?

Lisa Feldner: We did Williston yesterday. NDSU and UND are following and then the ones that will take a little longer are Valley City, Mayville and Minot because they have their own systems. We hope by Fall, if not, by the end of December, 2015.

Chairman Holmberg: Senator Robinson, you were on this committee.

Senator Robinson: I did and we are very supportive. It's a good step in the right direction and I think you'll see more efforts to refine and bring some uniformity to higher ed as Lisa did with the ITD system.

Senator Robinson moved Do Pass on HB 1051.

Senator Heckaman seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0

The bill goes back to the GVA committee and Senator Poolman will carry the bill on the floor.

Date: 3-26-15
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1051

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Robinson Seconded By Heckaman

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	<input checked="" type="checkbox"/>		Senator Heckaman	<input checked="" type="checkbox"/>	
Senator Bowman	<input checked="" type="checkbox"/>		Senator Mathern	<input checked="" type="checkbox"/>	
Senator Krebsbach	<input checked="" type="checkbox"/>		Senator O'Connell	<input checked="" type="checkbox"/>	
Senator Carlisle	<input checked="" type="checkbox"/>		Senator Robinson	<input checked="" type="checkbox"/>	
Senator Sorvaag	<input checked="" type="checkbox"/>				
Senator G. Lee	<input checked="" type="checkbox"/>				
Senator Kilzer	<input checked="" type="checkbox"/>				
Senator Erbele	<input checked="" type="checkbox"/>				
Senator Wanzek	<input checked="" type="checkbox"/>				

Total (Yes) 13 No 0

Absent 0

Floor Assignment EVA Poolman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1051, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1051, as amended, was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1051

1051 #1
1-15-15

Est Quantity
13,000

GlobalRelay	Price	
Setup Fee	\$ 995.00	\$ 995.00
Storage		Monthly Total
Unlimited	\$ 2.50	\$ 32,500.00
	Total Y1	\$ 390,995.00 Biennial Total
	Annual Cost	\$ 390,000.00 \$ 780,995.00

Options

Import	\$20/GB	
Search	\$ 5.00	\$ 65,000.00 * Allows user search from web, Outlook or mobile - Quote waived

Symantec	Price	
Setup Fee	\$ 580.00	\$ 580.00
Storage		Monthly Total
Unlimited	\$ 2.95	\$ 38,350.00
	Total Y1	\$ 460,780.00 Biennial Total
	Annual Cost	\$ 460,200.00 \$ 920,980.00

Options

Import	\$10/GB
--------	---------

ProofPoint	Price	
Setup Fee		\$ -
Storage		Monthly Total
2GB		\$ -
5GB		
10GB		
Search		\$ -
	Total Y1	\$ - Biennial Total
	Annual Cost	\$ - \$ -

Options

Import	\$??/GB
--------	---------

Microsoft	Price	
Setup Fee	\$ -	\$ -
Storage		Monthly Total
Unlimited	\$ 2.20	\$ 28,600.00
	Total Y1	\$ 343,200.00 Biennial Total
	Annual Cost	\$ 343,200.00 \$ 686,400.00

Options

Import	
--------	--

HB1051

House Government & Veterans Affairs
January 13, 2015
Lisa Feldner, Vice Chancellor
701.328.1510 | lisa.feldner@ndus.edu

Chair and Committee Members: I am Lisa Feldner, CIO for the University System and I'm here today in support of HB1051 with ITD's suggested amendment. The bill would direct a unified email system, require email archiving, and require the NDUS to follow the records retention schedule developed by the State Records Management Office.

The first section of the bill requires the NDUS to provide a uniform email system used by all campuses.

The records retention is especially important with regard to IT security. Part of a good IT security plan is to minimize the information available to hackers. Just as important as it is to retain records, it is even more important to know when to purge them. The records retention schedule developed for the NDUS by the State Records Management Office has guidelines for the length of time to keep each type of record as well as purging guidelines. This applies to systemwide.

The fiscal note provided is an average cost of three vendor solutions in the market for the email archiving section of the bill. These figures were obtained as quotes, and would become more precise following the RFP process.

I ask for a do pass on HB 1051 and am available to answer your questions. Thank you.

1051 #3
1-15-15

***HB 1051 TESTIMONY
HOUSE GOVERNMENT & VETERANS AFFAIRS COMMITTEE
BY: MIKE RESSLER, CIO
INFORMATION TECHNOLOGY DEPARTMENT (ITD)
JANUARY 15, 2015***

Chairman Kasper and members of the committee, my name is Mike Ressler. I am the State Chief Information Officer with the Information Technology Department. I am here to indicate ITD is in support of the language change to subsection 1 of section 54-46-02 in House Bill 1051.

ITD has operated under the belief the current law includes the state board of higher education and the entities under the control of the state board of higher education.

There should be a correction to the bill in line 3 referencing section 54-56-02, as it should say 54-46-02.

This concludes my remarks. I would be happy to answer any questions.

Mike Ressler
ND Chief Information Officer
Information Technology Department
(701) 328-1001
mressler@nd.gov

Attachment #1
HB 1051
January 26, 2015

Est Quantity
13,000

GlobalRelay	Price	
Setup Fee	\$ 995.00	\$ 995.00
Storage		Monthly Total
Unlimited	\$ 2.50	\$ 32,500.00
	Total Y1	\$ 390,995.00
	Annual Cost	\$ 390,000.00
		Biennial Total
		\$ 780,995.00

Options

Import	\$20/GB	
Search	\$ 5.00	\$ 65,000.00

* Allows user search from web, Outlook or mobile - Quot

Symantec	Price	
Setup Fee	\$ 580.00	\$ 580.00
Storage		Monthly Total
Unlimited	\$ 2.95	\$ 38,350.00
	Total Y1	\$ 460,780.00
	Annual Cost	\$ 460,200.00
		Biennial Total
		\$ 920,980.00

Options

Import	\$10/GB
--------	---------

ProofPoint	Price	
Setup Fee	\$ 4,000.00	\$ 4,000.00
Storage		Monthly Total
Unlimited	\$ 3.225	\$ 41,925.00
	Total Y1	\$ 507,100.00
	Annual Cost	\$ 503,100.00
		Biennial Total
		\$ 1,010,200.00

Options

Import	\$??/GB
--------	---------

Microsoft	Price	
Setup Fee	\$ -	\$ -
Storage		Monthly Total
Unlimited	\$ 2.20	\$ 28,600.00
	Total Y1	\$ 343,200.00
	Annual Cost	\$ 343,200.00
		Biennial Total
		\$ 686,400.00

Options

Import	
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All Headcount Enrollments by Tuition Residency Status
Fall 2014

Residency Status	BSC	DCB	LRSC	NDSCS	WSC	DSU	MaSU	MISU ¹	VCSU	NDSU	UND	Total	Percent of Total
Resident													
North Dakota	3,037	509	1,533	2,119	571	990	671	3,410	820	5,994	5,890	25,544	53.6%
North Dakota Military	9	7	124	25	2	3	8		5	262	757	1,202	2.5%
Alumni Dependent										13	9	22	<0.1%
Resident Sub-Total	3,046	516	1,657	2,144	573	993	679	3,410	825	6,269	6,656	26,768	56.2%
Non Resident													
Minnesota Reciprocity	6	4	35	482		14	115		137	5,696	4,337	10,826	22.7%
Minnesota Professional										150	47	197	0.4%
Contiguous	92	22	17	98	65	174	23		39	267	362	1,159	2.4%
Midwest Higher Ed ²													
Compact	205	28	147	143	50	23	99		67	851	833	2,446	5.1%
Western Exchange ³	213	39	29	17	81	154	86		189	127	616	1,551	3.3%
Non Resident	440	144	103	149	114	121	79		121	1,387	2,055	4,713	9.9%
Non Resident Total	956	237	331	889	310	486	402	0	553	8,478	8,250	20,892	43.8%
Totals	4,002	753	1,988	3,033	883	1,479	1,081	3,410	1,378	14,747	14,906	47,660	100.0%

Data Definitions:

¹MISU: Beginning August 2009, Minot State University students pay the North Dakota in-state tuition rate regardless of residency when enrolling in on-campus courses.

²Midwest Higher Ed (MHEC) - A non-profit regional organization, established by compact statute, to assist Midwestern states in advancing higher education through interstate cooperation and resource sharing. Members are: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

³Western Exchange (WICHE) - A regional organization created by the Western Regional Education Compact and adopted in the 1950s by western states. WICHE was created to facilitate resources sharing among the higher education systems of the west. Members are: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

Sources:

Campus Solutions> NDU02SRD> Student Data Statistics.

As of 09.24.2014

Submitted after hearing

HB 1051

ATTACHMENT #3 ~~attached to~~

January 26, 2015

NDLA, H APP EE - Hrdlicka, Gail

Sent: [Redacted]
To: Larson, Brady A.
Cc: Monday, January 26, 2015 10:09 AM
Subject: -Grp-NDLA House Education & Environment Div
Attachments: NDLA, H APP EE - Hrdlicka, Gail
FW: House EE - Out of state tuition
Enrollment by Tuition Residency.pdf

See below and attached for responses to questions asked this morning.

From: Feldner, Lisa
Sent: Monday, January 26, 2015 9:45 AM
To: Cronquist, Alex J.
Subject: out of state tuition

Hi Alex

This morning, the committee asked for the numbers of students receiving out of state tuition. It's in the fall enrollment report

See table 12 at: <https://www.ndus.edu/uploads/reports/131/2014-fall-enrollment-report.pdf>

On the other faculty load report, we should be done this afternoon. We are waiting on one campus.

Lisa
[Redacted] **Feldner**
Vice Chancellor for Institutional Research and Information Technology

NORTH DAKOTA
University System
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HB 1051: Interim Information Technology Committee – NDUS Records Retention/Consolidation - DO PASS

Rep. Roscoe Strey, District 3 Testimony – Senate GVA 3/12/15 @ 9:00am

Overview:

This bill is related to NDUS email consolidation, SBHE records retention policy, and archiving email records for period of 5 years.

Interim IT Committee Vote: Unanimous Do Pass

North Dakota House Vote: 70-23

On-going Cost: \$686,400/biennium

One-Time General Funding: \$350,000

Email Consolidation & Retention - Section 1

It's essential NDUS archive all email correspondences to provide transparency and accountability. This bill has 5 years, but I'm open to reducing that to 2, 3, or 4 years. SBHE finally implemented a record retentions policy after this bill was passed out of interim committee, but it's important that we codify and clarify that SBHE is in fact a "board". This change/clarification simply says SBHE will be part of the state's records retention policy, just like all other state agencies.

In the current policy each employee self-determines what should be saved or archived; this is bad public policy and places an undue stress and burden on the employee. By archiving all emails for set period of time the employee is free to do their jobs and not worry about breaking record retention policies or responding to open record requests. There will be productivity improvements for each employee as we know there will be less time dedicated to maintaining individual records and responding to records requests. This will also speed up and streamline the open records response and process.

The archiving of email records is common practice in private industry (my employer is 10 years), federal government, and most state governments.

Records Retention Policy - Section 2

All institutions under the control of the SBHE shall have consolidated email. Minot State University and Valley City State University are currently not consolidated, but will be converted in the next few months. NDSU is the only one currently on its own, but agree to be converted back into NDUS CTS at a committee meeting. A unified system is essential for many reasons including; security, cost, open record requests integrity, uniformity, and easy of management.

Appropriation - Section 3

Microsoft proposal is \$686,400/biennium and being NDUS CTS already uses Microsoft Office 365 online for email, this would be a more accurate fiscal note.

The House Appropriations Committee added one-time funding of \$350,000 to help defray the costs for the 2015-2017 biennium. This is a small price to pay to ensure the integrity of public records.

#1 pg 2

Est. Quantity
13,000

GlobalRelay	Price			
Setup Fee	\$ 995.00	\$ 995.00		
Storage		Monthly Total		
Unlimited	\$ 2.50	\$ 32,500.00		
		Total Y1	\$ 390,995.00	Biennial Total
		Annual Cost	\$ 390,000.00	\$ 780,995.00

Options

Import	\$20/GB			
Search	\$ 5.00	\$ 65,000.00	* Allows user search from web, Outlook or mobile - Quo	

Symantec	Price			
Setup Fee	\$ 580.00	\$ 580.00		
Storage		Monthly Total		
Unlimited	\$ 2.95	\$ 38,350.00		
		Total Y1	\$ 460,780.00	Biennial Total
		Annual Cost	\$ 460,200.00	\$ 920,980.00

Options

Import	\$10/GB
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ProofPoint	Price			
Setup Fee	\$ 4,000.00	\$ 4,000.00		
Storage		Monthly Total		
Unlimited	\$ 3.225	\$ 41,925.00		
		Total Y1	\$ 507,100.00	Biennial Total
		Annual Cost	\$ 503,100.00	\$ 1,010,200.00

Options

Import	\$??/GB
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Microsoft	Price			
Setup Fee	\$ -	\$ -		
Storage		Monthly Total		
Unlimited	\$ 2.20	\$ 28,600.00		
		Total Y1	\$ 343,200.00	Biennial Total
		Annual Cost	\$ 343,200.00	\$ 686,400.00

Options

Import	
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HB 1051

Senate Government & Veterans Affairs
March 12, 2015
Lisa Feldner, Vice Chancellor
701.328.1510 | lisa.feldner@ndus.edu

Chair and Committee Members: I am Lisa Feldner, CIO for the University System and I'm here today in support of HB 1051 with a suggested amendment. The bill would direct a unified email system, require email archiving, and require the NDUS to follow the records retention schedule developed by the State Records Management Office.

The first section of the bill requires the NDUS to provide a uniform email system used by all campuses. However, the ND State Board of Higher Education has already established this directive for the system.

Risk management has recommended we reduce the number of years for email archiving. In the event there is litigation, it is very costly to search and redact email if it is not retained properly. We also recommend replacing the word "all" with the word "employee" because we do not want to archive student email.

Records retention is especially important with regard to IT security. Part of a good IT security plan is to minimize the information available to hackers. Just as important as it is to retain records, it is even more important to know when to purge them. The records retention schedule developed for the NDUS by the State Records Management Office has guidelines for the length of time to keep each type of record as well as purging guidelines. This applies to all campuses within the university system.

The fiscal note provided for email archiving is an average cost of three vendor solutions in the market. These figures were obtained as quotes, and would become more precise following an RFP process.

Thank you for your time and I am available to answer your questions.

HB 1051 TESTIMONY
SENATE GOVERNMENT & VETERANS AFFAIRS COMMITTEE
BY: MIKE RESSLER, CIO
INFORMATION TECHNOLOGY DEPARTMENT (ITD)
MARCH 12, 2015

Chairman Dever and members of the committee, my name is Mike Ressler. I am the State Chief Information Officer with the Information Technology Department. I am here to indicate ITD is in support of the language change to subsection 1 of section 54-46-02 in House Bill 1051.

ITD has operated under the belief the current law includes the state board of higher education and the entities under the control of the state board of higher education.

This concludes my remarks. I would be happy to answer any questions.

Mike Ressler
ND Chief Information Officer
Information Technology Department
(701) 328-1001
mressler@nd.gov

Sixty-fourth
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1051

Introduced by
Legislative Management

(Information Technology Committee)

1 A BILL for an Act to create and enact two new subdivisions to subsection 1 of section 15-10-44
2 of the North Dakota Century Code, relating to electronic mail services and retention for
3 institutions of higher education; to amend and reenact subsection 1 of section 54-46-02 of the
4 North Dakota Century Code, relating to records management; and to provide an appropriation.

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

6 **SECTION 1.** Two new subdivisions to subsection 1 of section 15-10-44 of the North Dakota
7 Century Code are created and enacted as follows:

8 ~~Requiring utilization by each institution under the control and supervision of the~~
9 ~~board of systemwide electronic mail services provided by the board for all public~~
10 ~~business electronic correspondence.~~

11 Development and implementation of an electronic mail retention policy for the
12 board and institutions under the supervision and control of the board which
13 requires retention of all employee electronic mail messages for at least five two
14 years after the creation or receipt of the message.

15 **SECTION 2. AMENDMENT.** Subsection 1 of section 54-46-02 of the North Dakota Century
16 Code is amended and reenacted as follows:

17 1. "Agency" means any department, office, commission, board, or other unit, however
18 designated, of the executive branch of state government, including the state board of
19 higher education and the entities under the control of the state board of higher
20 education.

21 **SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the general
22 fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the
23 sum as may be necessary, to the state board of higher education for the purpose of defraying

Sixty-fourth
Legislative Assembly

- 1 expenses related to the retention of all electronic mail messages, for the biennium beginning
- 2 July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a
- 3 one-time funding item.

HB1051

Senate Appropriations

March 26, 2015

Lisa Feldner, Vice Chancellor

701.328.1510 | lisa.feldner@ndus.edu

Chairman Holmberg and Committee Members: I am Lisa Feldner, CIO for the University System and I'm here today in support of HB1051. The bill would direct a unified email system, require email archiving, and require the NDUS to follow the records retention schedule developed by the State Records Management Office.

The first section of the bill requires the NDUS to provide a uniform email system used by all campuses. In addition, this section requires NDUS to archive nonstudent employee email for at least 2 years.

The records retention is especially important with regard to IT security. Part of a good IT security plan is to minimize the information available to hackers. Just as important as it is to retain records, it is more important to know when to purge them. The records retention schedule developed for the NDUS by the State Records Management Office has guidelines for the length of time to keep each type of record as well as purging guidelines. This applies to all campuses in the system and the system office.

The original fiscal note provided is an average cost of three vendor solutions in the market for the email archiving. These figures were obtained as quotes for 13,000 users, and would become more precise following the RFP process. The House Appropriations committee reduced the appropriation to \$350,000.

Thank you and I am available to answer your questions.