

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2043
(Legislative Council)
(Information Technology Committee)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. Meet at least once each calendar quarter.
2. Receive a report from the chief information officer of the state at each meeting.
3. Review the business plan of the information technology department.
4. Address macro-level questions relating to the information technology department.
5. Review the activities of the information technology department.
6. Review statewide information technology standards.
7. Review the statewide information technology plan.
8. Conduct studies of information technology efficiency and security.
9. Make recommendations regarding established or proposed information technology programs and information technology acquisition by the executive and judicial branches.
10. ~~Review~~ Except as provided in subsection 11, review the cost-benefit analysis of any major information technology project of an executive or judicial branch agency. A major project is a project with a cost of two hundred fifty thousand dollars or more in one biennium or a total cost of five hundred thousand dollars or more.
11. Review the cost-benefit analysis of any major project of the state board of higher education or any institution under the control of the state board of higher education if the project:
 - a. Significantly impacts the statewide wide area network, including the campus access routers;
 - b. Impacts the statewide library system; or
 - c. Is an administrative project. An administrative project is a project that directly collects, aggregates, modifies, stores, or reports institutional student, financial, or

human resources records or data and is provided primarily for administrative purposes.

12. Perform periodic reviews to ensure that a major information technology project is on its projected schedule and within its cost projections.

SECTION 2. AMENDMENT. Subsection 4 of section 54-59-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. May purchase, finance the purchase, or lease equipment or software or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of three years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the budget section of the legislative council before executing a financing agreement. If the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed the amount appropriated to the department during that biennium for equipment. Each executive branch agency or institution, except the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.

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

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

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

7. ~~Define a fair and equitable billing structure that provides for payback of the initial investments and ongoing operations of the statewide network.~~
8. 7. Address the processes that will be put in place to ensure that the department exercises its powers and duties with minimal delay, cost, and procedural burden to an entity receiving services from the department; to ensure that the department provides prompt, high-quality services to an entity receiving services from the department; to ensure that an entity receiving services from the department is aware of the technology available and to ensure training on its use; and to foster information technology innovation by state entities.
9. ~~Address the deployment of encryption and the administration of digital signatures.~~
10. ~~Address information and system backup and disaster recovery.~~

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

54-59-07. ~~Statewide wide area network~~ State information technology advisory committee. The ~~statewide wide area network~~ state information technology advisory committee consists of the chief information officer or the officer's designee, who is a nonvoting member; the ~~state court administrator~~ director of the department of economic development and finance or the ~~administrator's~~ director's designee, ~~with the approval of the chief justice of the supreme court~~; the commissioner of higher education or the commissioner's designee; the chairman of the information technology council of North Dakota or a designee; the director of the North Dakota workforce development council or a designee; the chairman of the educational telecommunications council or a designee; and ~~nine~~ eight members appointed by the governor. ~~The governor shall appoint two members representing state agencies, one member representing a county, one member representing a city, two members representing elementary or secondary education, one member representing noncommercial public television stations licensed by the federal communications commission to operate in this state, and two members from private industry who are knowledgeable in the deployment of major technology projects.~~ The governor's appointees from private industry serve two year terms, and ~~other~~ appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. The department shall provide staff services to the committee. Except for the commissioner of higher education and the representatives of state agencies who receive compensation for their duties as state officers or employees, members of the committee are entitled to be compensated for time spent in attendance at meetings of the committee and for other travel as approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per day and are entitled to reimbursement for their actual and necessary expenses incurred in the same manner as other state officials. The compensation and expenses are to be paid from appropriations for the department. The committee shall advise the department with respect to planning and implementation of wide area network services provided by the department regarding statewide information technology planning, including providing electronic government services for citizens and businesses, developing technology infrastructure to support economic development and work force training, and developing other statewide information technology initiatives and policy.

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

54-59-07. ~~Statewide wide area network~~ State information technology advisory committee. The ~~statewide wide area network~~ state information technology advisory committee consists of the chief information officer or the officer's designee, who is a nonvoting member; the ~~state court administrator~~ director of the department of economic development and finance or the ~~administrator's~~ director's designee, ~~with the approval of the chief justice of the supreme court~~; the commissioner of higher education or the commissioner's designee; the chairman of the information technology council of North Dakota or a designee; the director of the North Dakota workforce development council or a designee; the chairman of the educational technology council or a designee;

and ~~nine eight~~ members appointed by the governor. ~~The governor shall appoint two members representing state agencies, one member representing a county, one member representing a city, two members representing elementary and secondary education, one member representing noncommercial public television stations licensed by the federal communications commission to operate in this state, and two members from private industry who are knowledgeable in the deployment of major technology projects. The governor's appointees from private industry serve two year terms, and other appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. The department shall provide staff services to the committee. Except for the commissioner of higher education and the representatives of state agencies who receive compensation for their duties as state officers or employees, members of the committee are entitled to be compensated for time spent in attendance at meetings of the committee and for other travel as approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per day and are entitled to reimbursement for their actual and necessary expenses incurred in the same manner as other state officials. The compensation and expenses are to be paid from appropriations for the department. The committee shall advise the department with respect to planning and implementation of wide area network services provided by the department regarding statewide information technology planning, including providing electronic government services for citizens and businesses, developing technology infrastructure to support economic development and workforce training, and developing other statewide information technology initiatives and policy.~~

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

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

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

54-59-16. Confidentiality. The department may receive from various agencies and various agencies may provide to the department any information from the agencies necessary to effect the purposes of this chapter without regard to the confidential nature of the information. Each agency shall notify the department regarding the confidential nature of any information submitted to the department. The department is subject to the same restrictions and penalties regarding the dissemination of this information as the entity involved. Except for a request for access authorized by section 54-10-22.1 or a request to access information collected to carry out section 54-59-09, 54-59-11, or 54-59-13, the

department shall refer a request for access to or inspection of information provided by an agency to that agency for response. Referral to the agency satisfies any responsibility of the department to provide that information under open records requirements. Upon court order the department shall provide access to or inspection of this information in accordance with restrictions of that entity involved governing dissemination of that information.

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

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

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2043.

Senate Vote: Yeas 48 Nays 0 Absent 1

House Vote: Yeas 93 Nays 3 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State