

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota  
2 Century Code, relating to higher education information technology; and to amend and reenact  
3 subsection 11 of section 28-32-01, section 54-35-15.2, 54-59-02.1, 54-59-05, 54-59-07,  
4 54-59-09, 54-59-11, 54-59-19, and 54-59-22, relating to exclusion of certain policies, standards,  
5 and guidelines of the information technology department from compliance with the  
6 Administrative Agencies Practice Act, powers and duties of the information technology  
7 committee and the information technology department, prioritization of proposed major  
8 information technology projects, and information technology plans and reports.

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

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

12 **Higher education information technology.**

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

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

11           **SECTION 2. AMENDMENT.** Subsection 11 of section 28-32-01 of the North Dakota  
12 Century Code is amended and reenacted as follows:

- 13           11.    "Rule" means the whole or a part of an agency statement of general applicability  
14                    which implements or prescribes law or policy or the organization, procedure, or  
15                    practice requirements of the agency. The term includes the adoption of new rules  
16                    and the amendment, repeal, or suspension of an existing rule. The term does not  
17                    include:
  - 18                    a.    A rule concerning only the internal management of an agency which does not  
19                            directly or substantially affect the substantive or procedural rights or duties of  
20                            any segment of the public.
  - 21                    b.    A rule that sets forth criteria or guidelines to be used by the staff of an agency  
22                            in the performance of audits, investigations, inspections, and settling  
23                            commercial disputes or negotiating commercial arrangements, or in the  
24                            defense, prosecution, or settlement of cases, if the disclosure of the statement  
25                            would:
    - 26                            (1)    Enable law violators to avoid detection;
    - 27                            (2)    Facilitate disregard of requirements imposed by law; or
    - 28                            (3)    Give a clearly improper advantage to persons who are in an adverse  
29                            position to the state.
  - 30                    c.    A rule establishing specific prices to be charged for particular goods or  
31                            services sold by an agency.

- 1 d. A rule concerning only the physical servicing, maintenance, or care of
- 2 agency-owned or agency-operated facilities or property.
- 3 e. A rule relating only to the use of a particular facility or property owned,
- 4 operated, or maintained by the state or any of its subdivisions, if the
- 5 substance of the rule is adequately indicated by means of signs or signals to
- 6 persons who use the facility or property.
- 7 f. A rule concerning only inmates of a correctional or detention facility, students
- 8 enrolled in an educational institution, or patients admitted to a hospital, if
- 9 adopted by that facility, institution, or hospital.
- 10 g. A form whose contents or substantive requirements are prescribed by rule or
- 11 statute or are instructions for the execution or use of the form.
- 12 h. An agency budget.
- 13 i. An opinion of the attorney general.
- 14 j. A rule adopted by an agency selection committee under section 54-44.7-03.
- 15 k. Any material, including a guideline, interpretive statement, statement of
- 16 general policy, manual, brochure, or pamphlet, which is explanatory and not
- 17 intended to have the force and effect of law.
- 18 l. Policies, standards, and guidelines adopted by the information technology
- 19 department under chapter 54-59, including product and service standards and
- 20 best practice standards, primarily intended to affect state agencies and with
- 21 respect to access to or use of wide area network services, institutions under
- 22 the control of the board of higher education, counties, cities, and school
- 23 districts if those policies, standards, or guidelines have been reviewed by the
- 24 state information technology advisory committee.

25 **SECTION 3. AMENDMENT.** Section 54-35-15.2 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **54-35-15.2. Information technology committee - Powers and duties.** The  
28 information technology committee has continuing existence and may meet and conduct its  
29 business during the legislative session and in the interim between sessions. The committee  
30 shall:

- 31 1. Meet at least once each calendar quarter.

- 1           2.    Receive a report from the chief information officer of the state at each meeting.
- 2           3.    Review the business plan of the information technology department.
- 3           4.    ~~Address~~ Review macro-level ~~questions~~ issues relating to the information
- 4            technology department.
- 5           5.    Review the activities of the information technology department.
- 6           6.    Review statewide information technology standards.
- 7           7.    Review the statewide information technology plan.
- 8           8.    ~~Conduct studies of~~ Review information technology efficiency and security.
- 9           9.    ~~Make recommendations regarding~~ Review established or proposed information
- 10          technology programs and information technology acquisition by the executive and
- 11          judicial branches.
- 12          10.   ~~Except as provided in subsection 11, receive and review the information, including~~
- 13          a cost-benefit analysis of, a projected schedule, and cost projections, from the
- 14          information technology department and the affected agency regarding any major
- 15          information technology project of an executive or judicial branch agency. A major
- 16          project is a project with a cost of two hundred fifty thousand dollars or more in one
- 17          biennium or a total cost of five hundred thousand dollars or more.
- 18          11.   ~~Review the~~ Receive and review information, including a cost-benefit analysis of, a
- 19          projected schedule, and cost projections, from the information technology
- 20          department and the affected institution regarding any major project of the state
- 21          board of higher education or any institution under the control of the state board of
- 22          higher education if the project:
- 23            a.    Significantly impacts the statewide wide area network, including the campus
- 24            access routers;
- 25            b.    Impacts the statewide library system; or
- 26            c.    Is an administrative project. An administrative project is a project that directly
- 27            collects, aggregates, modifies, stores, or reports institutional student,
- 28            financial, or human resources records or data and is provided primarily for
- 29            administrative purposes.
- 30          12.   ~~Perform periodic reviews to ensure that a major information technology project is~~
- 31          ~~on its projected schedule and within its cost projections~~ Receive a report from the

1           chief information officer regarding the recommendations of the state information  
2           technology advisory committee relating to the prioritization of proposed major  
3           information technology projects and other information technology issues.

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

6           **SECTION 4. AMENDMENT.** Section 54-59-02.1 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **54-59-02.1. ~~Department shall establish certain standards for agencies—Advisory~~**  
9 **~~committee—Exceptions~~ Prioritization of proposed major information technology**  
10 **projects.** The department shall ~~appoint an advisory committee consisting of representatives of~~  
11 ~~state agencies for the purposes of prioritizing major computer software projects and~~  
12 ~~establishing policies, standards, and guidelines~~ submit information regarding proposed major  
13 information technology projects for executive branch state agencies, departments, and  
14 institutions, excluding institutions under control of the state board of higher education and  
15 agencies of the judicial and legislative branches ~~with respect to the purchase of computer~~  
16 ~~software and computer systems~~ to the state information technology advisory committee. The  
17 committee shall review the projects and rank those projects that receive the committee's  
18 affirmative recommendation. The chief information officer shall submit recommendations of the  
19 ~~advisory~~ committee regarding the prioritization of major software information technology  
20 projects to the information technology committee ~~for consideration by the committee and the~~  
21 ~~drafting of appropriate legislation to implement the recommendations, the office of management~~  
22 ~~and budget, and the appropriations committees of the legislative assembly.~~ The judicial and  
23 legislative branches shall ~~annually~~ biennially the ~~advisory~~ committee on their major  
24 ~~computer software~~ information technology projects and priorities. ~~The chief information officer~~  
25 ~~may exempt an agency from the policies, standards, and guidelines established by the~~  
26 ~~committee to address situations unique to that agency.~~

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

29           **54-59-05. Powers and duties of department.** The department:

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

- 1 lease, purchase, or other contractual acquisition of information technology. The  
2 department shall review requests for conformance with the requesting entity's  
3 information technology plan and compliance with statewide policies and standards.  
4 If the request is not in conformance or compliance, the department may disapprove  
5 the request or require justification for the departure from the plan or statewide  
6 policy or standard.
- 7 6. Shall provide information technology, including assistance and advisory service, to  
8 the executive, legislative, and judicial branches. If the department is unable to  
9 fulfill a request for service from the legislative or judicial branch, the information  
10 technology may be procured by the legislative or judicial branch within the limits of  
11 legislative appropriations.
- 12 7. Shall request and review information ~~on or review information technology,~~  
13 ~~applications, system development projects, and application development projects~~  
14 ~~of executive branch agencies, including a cost-benefit analysis, a projected~~  
15 schedule, and cost projections, regarding any major information technology project  
16 of an executive or judicial branch agency, the state board of higher education, or  
17 any institution under the control of the state board of higher education as provided  
18 in section 54-35-15.2. The department shall present the information to the  
19 information technology committee on request of the committee.
- 20 8. Shall study emerging technology and evaluate its impact on the state's system of  
21 information technology.
- 22 9. Shall develop guidelines for reports to be provided by ~~each~~ agencies of the  
23 executive, legislative, and judicial ~~branch agency, institution, or department,~~ the  
24 institutions under the control of the board of higher education, ~~and agencies of the~~  
25 ~~judicial and legislative branches~~ on information technology in those entities.
- 26 10. Shall collaborate with the state board of higher education on guidelines for reports  
27 to be provided by institutions under control of the state board of higher education  
28 on information technology in those entities.
- 29 ~~40.~~ 11. Shall review the information technology management of executive branch agencies  
30 or institutions.
- 31 ~~44.~~ 12. Shall perform all other duties necessary to carry out this chapter.

1    ~~42.~~ 13.    May provide wide area network services to a state agency, city, county, school  
2                    district, or other political subdivision of this state. The information technology  
3                    department may not provide wide area network service to any private, charitable,  
4                    or nonprofit entity except the information technology department may continue to  
5                    provide the wide area network service the department provided to the private,  
6                    charitable, and nonprofit entities receiving services from the department on  
7                    January 1, 2003. The department shall file with the state auditor before  
8                    September 1, 2003, a description of the wide area network service the department  
9                    provided to each private, charitable, and nonprofit entity receiving services from the  
10                    department on January 1, 2003.

11   ~~43.~~ 14.    Shall assure proper measures for security, firewalls, and internet protocol  
12                    addressing at the state's interface with other facilities.

13   ~~44.~~ 15.    Notwithstanding subsection ~~42~~ 13, the department may provide wide area network  
14                    services for a period not to exceed four years to an occupant of a technology park  
15                    associated with an institution of higher education or to a business located in a  
16                    business incubator associated with an institution of higher education.

17                    **SECTION 6. AMENDMENT.** Section 54-59-07 of the North Dakota Century Code is  
18    amended and reenacted as follows:

19                    **54-59-07. State information technology advisory committee.** The state information  
20    technology advisory committee consists of the chief information officer; the commissioner of  
21    higher education or the commissioner's designee; the attorney general or the attorney general's  
22    designee; the secretary of state or the secretary of state's designee; the tax commissioner or  
23    the commissioner's designee; the chief justice of the supreme court or the chief justice's  
24    designee; two members of the legislative assembly appointed by the legislative council; a  
25    minimum of eight members representing state agencies, appointed by the governor; and two  
26    members with technology management expertise representing private industry, appointed by  
27    the governor. The appointees of the governor serve at the pleasure of the governor. The  
28    governor shall designate the chairman of the committee. Additional members may be asked to  
29    participate at the request of the chairman. The department shall provide staff services to the  
30    committee. The members of the committee representing private industry are entitled to be  
31    compensated for time spent in attendance at meetings of the committee and for other travel as

1 approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per  
2 day and are entitled to reimbursement for actual and necessary expenses incurred in the same  
3 manner as other state officials. The compensation and expenses are to be paid from  
4 appropriations for the department. The committee shall advise the department regarding  
5 statewide information technology planning and budgeting, services of the information  
6 technology department, and statewide information technology initiatives and policy and shall  
7 review policies, standards, and guidelines developed by the department. The chief information  
8 officer shall submit recommendations of the committee regarding information technology issues  
9 to the information technology committee for its consideration.

10 **SECTION 7. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **54-59-09. Information technology standards.** ~~Based on information from state~~  
13 ~~agencies and institutions, the~~ The department ~~and the office of management and budget~~ shall  
14 develop statewide information technology policies, standards, and guidelines using a process  
15 involving advice from state agencies and institutions. The policies, standards, and guidelines  
16 must recognize the uniqueness of certain agencies and state which agencies are included or  
17 exempted from the policies, standards, and guidelines. The policies, standards, and guidelines  
18 must be reviewed by the state information technology advisory committee. Unless an  
19 exemption is granted by the chief information officer, each executive branch state agency and  
20 institution, excluding the institutions under the control of the board of higher education ~~with~~  
21 ~~respect to academic and research uses of information technology,~~ shall comply with the policies  
22 and standards developed by the department ~~and the office of management and budget.~~ Unless  
23 an exemption is granted by the chief information officer, each entity receiving wide area network  
24 services provided by the department shall comply with the policies and standards developed by  
25 the department with respect to access to or use of wide area network services.

26 **SECTION 8. AMENDMENT.** Section 54-59-11 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **54-59-11. Information technology plans.** Each executive branch state agency or  
29 institution, ~~including~~ excluding institutions under the control of the board of higher education,  
30 shall prepare an information technology plan, subject to ~~approval~~ acceptance by the  
31 department. The plan must be submitted to the department by July fifteenth of each

1 even-numbered year. The plan must be prepared based on guidelines developed by the  
2 department; must provide the information technology goals, objectives, and activities of the  
3 entity for the current biennium and the next two bienniums; and must include ~~information~~  
4 regarding an asset management plan relating to the inventory of information technology assets  
5 owned, leased, or employed by the entity. Each entity required to file a plan shall provide  
6 interim updates to its plan if major information technology changes occur which affect its plan.  
7 The department shall review each entity's plan for compliance with statewide information  
8 technology policies and standards and may require an entity to change its plan to comply with  
9 statewide policies or standards or to resolve conflicting directions among plans. Agencies of  
10 the judicial and legislative branches shall file their information technology plans with the  
11 department by July fifteenth of each even-numbered year. Each ~~state~~ entity required to file a  
12 plan shall prepare its budget request for the next biennium based on its information technology  
13 plan. The agency's budget request and the governor's budget recommendation must include  
14 supporting information describing in detail how the information technology plan relates to the  
15 budget request and recommendation. Any budget adjustment by the budget office must include  
16 the corresponding change to the plan. Based on the plans, the department shall prepare a  
17 statewide information technology plan and distribute copies of that plan to members of the  
18 legislative assembly as requested by the legislative council or its designee. The statewide  
19 information technology plan must be developed with emphasis on long-term strategic goals  
20 ~~and~~, objectives, and accomplishments. The statewide information technology plan must  
21 contain:

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

1           **SECTION 9. AMENDMENT.** Section 54-59-19 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **54-59-19. Information technology department annual report.** The department shall  
4 prepare and present an annual report to the information technology committee. In addition to  
5 the presentation of the annual report to the information technology committee, the department  
6 shall present a summary of the annual report to the budget section and to the legislative audit  
7 and fiscal review committee. The report must contain:

- 8           1. ~~A list of major projects started, ongoing, and completed during the year including~~  
9           ~~related budgeted and actual costs and the estimated implementation date for each~~  
10           ~~project as well as the actual implementation date for completed projects.~~
- 11           ~~2.~~ A list of all projects for which financing agreements have been executed.
- 12           ~~3. Information regarding evaluations of cost benefit analyses for completed projects.~~
- 13           4. 2. A comparison of the department's rates charged for services compared to rates  
14           charged for comparable services in other states and in the private sector.
- 15           ~~5. Information regarding the information technology plans including the department's~~  
16           ~~plan review process, the number of plans reviewed, and the number of plans~~  
17           ~~approved.~~
- 18           ~~6. A description of the benefits to the state resulting from its investment in information~~  
19           ~~technology.~~
- 20           3. Information regarding the delivery of services to agencies, including service  
21           dependability, agency complaints, and information technology department  
22           responsiveness.

23           **SECTION 10. AMENDMENT.** Section 54-59-22 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25           **54-59-22. Required use of electronic mail, file and print server administration,**  
26 **data base administration, application server, and hosting services.** Each state agency  
27 and institution, excluding the legislative and judicial branches, the institutions under the control  
28 of the state board of higher education, the public employees retirement system, the retirement  
29 and investment office, the attorney general, and any entity exempted by the ~~office of~~  
30 ~~management and budget after advisement by~~ the information technology department, shall  
31 obtain electronic mail, file and print server administration, data base administration, storage,

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- 1 application server, and hosting services through a delivery system established by the
- 2 information technology department ~~in conjunction with the office of management and budget.~~
- 3 ~~The office of management and budget, after receiving advice from the~~ information technology
- 4 department; shall establish policies and guidelines for the delivery of services, including the
- 5 transition from existing systems to functional consolidation, with consideration given to the
- 6 creation of efficiencies, cost-savings, and improved quality of service.