

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2037

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2037

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2037

**Senate Government and Veterans Affairs**

☐ Conference Committee

Hearing Date January 13, 2005

Tape Number	Side A	Side B	Meter #
1	x		5,625-end
2	x	x	0-3311
Committee Clerk Signature			

**Chairman Krebsbach** opens hearing on **SB2037**.

**Tape 1 - meter 5625**

**Representative Bob Skarphol** - Vice- Chair for the IT Committee - Would like to achieve a parallel system of information technology over siting higher education to what we have in the state agencies and to make them cooperate and work together on a similar systems. See written testimony. He states that there is some inconsistencies in the law that make questionable who has authority over what particular information technology between higher education and state agencies primarily. This is to make things achievable. This is about the agencies being able to plan for long term.

(tape 2 )

**Senator Lee** - Stated she is not completely convinced and does believe there should be some sort of legislative involvement in this.

**Rep. Skarphol** - Said there is an opportunity for substantial participation on the part of the agencies, it is there option. He said he has sat on the SITAC Committee for the last 2 years and said it was a great learning experience. Not all agencies are operating in the same environment. He told of Human Services Dept. being on a six year computer replacement. The level of communication has been extremely bad. Said they have attempted to bring all agencies together to discuss the issue.

**Senator Robinson** - Chairperson for the IT Committee - He stated that anytime you try implement a state system it is extremely difficult but has tried to do that. They welcome input. Stated they had a bipartisan approach and tried to meet everyone's needs. What they are doing is not much of a departure from what they were doing years ago. Pace of change in world of ITD is rapid. Stated we need additional flexibility to respond. Asked to please keep an open mind. The consultant told them we are doing a lot of things right in ND, there is always room for improvement. We need to feel good about Higher Education and State Government working together.

**Senator Lee** - Concerned that folks would not have any where to go with their concerns if IT was not under administrative rule.

**Senator Robinson** - Disagreed. Said that we have the Governor and the SITAC Committee that they go to. Stated that the SITAC Committee is very open and receptive. He also said that the structure they have put in place provides any number safeguards and safety nets.



**Senator Krebsbach** - Asked what his interim committee studied what and what is the committee that Senator Wardner sits on and do you chair that committee.

**Senator Robinson** - Our interim committee addresses IT concerns. Monitors a number of issues in the Legislature. Brought in consultants to make sure they were on the right road. Referred to the IT report. The SITAC Committee fills a big void. The fact that we have that committee in place we cover a lot of bases.

(meter #1300)

**Roxanne Woeste** - Legislative Council - gave a brief rundown of the bill.

(meter# 1906)

**Senator Rich Wardner** - He is on the Administrative Rules Committee, also on SITAC.

He addressed the concerns a lot of people have and agencies that do not want to be a part of ITD. In his opinion their issues are separate and should not be included in this bill. He states that ITD needs flexibility. ITD is a Cabinet to the Governor. The Governor has control of his Cabinet. The University system is not a part of ITD. Believes this is a good bill.

**Curt Wolf** - Chief Information Officer for the State - See written testimony.

(meter #2898-#4800)

**Senator Nelson** - Asked if there is a conflict of interest when you ask the legislature for a cost benefit analysis.

**Wolf** - It is the feeling of the IT Committee that every branch of government should have the same responsibility to present their business case and make the IT Committee aware of it. It is an information gathering.

**Senator Nelson** - Does the Interim IT Committee need to get approved by you to do something.

**Wolf** - No, there is no approval here, more like suggest and review. He then continues to go over his written testimony.

**Senator Krebsbach** - Asked where we are at on the plans?

**Wolf** - All were in before budget was finalized. ITD does an annual report every year and a Technology Plan every 2 years. End of summary of the bill. (**meter #5863**)

**Sandi Tabor** - Deputy Attorney General - Clarify and Cleanup having to do with the Criminal Justice sharing system. See written testimony.

**End of tape, side A (meter #6230)**

**Tape side B**

**Sandi Tabor** continued - She is on the SITAC Board. She reassures the SITAC Board is good and the process in place seems to be working.

**Senator Lee** - What do you think about pulling it out of administrative rule?

**Tabor** - Says her own personal opinion is that she is an advocate for that. They have a broader range of discussion that she believes you do not get with administrative rule.

**Grant Crawford** - Chief Information Officer of ND University System- see written testimony

**Meter #480**

**Senator Lee** - Asks if they want any changes.

**Crawford** - responds they are very happy with the bill.

**Senator Krebsbach** - Asks, to clarify, you are requesting that the management be shifted from ITD to the University System, to the board.

**Crawford** -To the University System and that is in the bill draft.

**Senator Krebsbach** - Would the State Board of Higher Education have the expertise and the knowledge that ITD has in assisting you.

**Crawford** - Responds Years ago no, but now yes. Explains what they now have in place.

**Pam Sharp** - Office of Management and Budget - Also is a member SITAC and very comfortable with this bill.

**Illona Jeffcoat-Sacco** - Executive Secretary for the Public Service Commission - let the record show that she is now in a neutral position. Was initially against because of the section on the rule making. They would be happy with an amendment on that section. See written testimony.  
(meter #2000)

**Wolf** - Stated we must comply with Central Purchasing. We work very closely with Central Purchasing on every major IT purchase. We are not here to violate the rules. Nothing we have affects private sector companies from doing business as a private sector business. Stated they have plenty of checks and balances.

**Senator Lee** - Question to Pam Sharp - in response to Illona Jeffcoat-Saccos' reference to page 12. Do you have any reservations with the way its stated. Is it okay the way it is written or do we need to change.

**Pam Sharp** - Responded, I don't have strong feelings one way or another. Most of the issues have been technical and I don't have that expertise. There could be situations that are broader than just technical .

**Senator Lee** - Asks if we could have Illona Jeffcoat-Sacco come up with some specific suggestions on behalf of the Public Service Commission.

**Senator Krebsbach** - Could you, Illona, Pam, Curt resolve this issue for the committee.

Page 6  
Senate Government and Veterans Affairs Committee  
Bill/Resolution Number **SB 2037**  
Hearing Date January 13, 2005

**Senator Krebsbach** - Illona, you may submit an amended testimony.

**Senator Krebsbach** - closed the hearing

**Meter #3311**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2037

**Senate Government and Veterans Affairs**

☐ Conference Committee

Hearing Date 1/27, 2005

Tape Number	Side A	Side B	Meter #
1	x		4,497-5648
Committee Clerk Signature <i>Diane Davis</i>			

**Chairman Krebsbach** opens committee work on 2037

Discussion on the ITD bill

**Senator Krebsbach** said the Water Commission does not have a problem with this bill.

See written testimony from Illona Jeffcoat-Sacco. Will run this by Mr. Wolf before we act on this.

**Senator Brown** - Said that SITAC is a very good committee but he would suggest Mr. Wolf not be chairman. It could be more independent.

**Senator Nelson** and **Senator Lee** agreed.

**Senator Lee** - Thinks it would be appropriate to have someone else and maybe a rotating head of the board.

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number **SB 2037**

Hearing Date January 27, 2005

There is discussion about the IT Board.

**Senator Krebsbach** - Thought it would be proper to visit with him before a change is made.

**Senator Syverson** - Said there might be a need to speak to the Governor as well.

**Senator Krebsbach** - The main concern comes from PSC and Oil and Gas. She said they would not exempt the Water Commission at this time because they are not dissatisfied..

**Senator Brown** - Said he would not be in favor of totally exempting Oil and Gas but that we should address their concerns.

**Senator Krebsbach** and **Senator Brown** will go see the Governor and Mr. Wolf.

(meter #5542)

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2037**

**Senate Government and Veterans Affairs**

☐ Conference Committee

Hearing Date February 10, 2005

Tape Number	Side A	Side B	Meter #
1	x	x	3210-4066
Committee Clerk Signature <i>Diane Davis</i>			

**Chairman** Krebsbach opens committee work on 2037

**Relating to information technology**

**Senator Krebsbach** - Said the big problem seems to be the question who should be exempt. She has received from the water commission and oil and gas division and still waiting for public service. Addressed any other concerns.

**Senator Lee** motioned for a do pass on the amendment by Sandy Tabor

**Senator Brown** seconded.

End

(meter #4066)

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **SB 2037**

**Senate Government and Veterans Affairs**

☐ Conference Committee

Hearing Date February 11, 2005

Tape Number	Side A	Side B	Meter #
1	x		2520-3728
Committee Clerk Signature <i>Shane Davis</i>			

**Chairman Krebsbach** opens committee work on 2037

**Relating to information technology**

**(meter #2520)**

**Senator Krebsbach** discussed what she has worked on between the parties of this bill. She has worked on language in the amendments and has come to the conclusion that the best thing to do would be to grant them their exemptions. This amendment is agreed upon by the parties involved at this time. They are still incorporating Sandy Tabor's amendment as well.

**Senator Brown** - moves the amendment 0201.

**Senator Nelson** - seconded

**Senator Brown** - move do pass on amended bill

**Senator Lee** - seconded



**Senator Syverson** - Concerned we are excluding a lot agencies from the IT dept.

**Senator Krebsbach** - Agreed, but says sometimes you must go with something that evolves on its own to be inclusive or that it doesn't need to be there.

**Senator Lee** -Told of the Water Commission by going central has increased their costs dramatically and even worse has cut back on what they are able to do.

**Senator Syverson** - Compliments the chair on putting this together. Still thinks we are spending a ton of money on a computer system in this state and if we were to take some of the costs that will be expended and create an architecture that will address everyone.

**Senator Krebsbach** - Said she had visited with Mr. Wolf about the fact that the most common complaint she hears on this whole program is that their cost is much greater than what they could get it done otherwise. He said he hears those complaints too and has analyzed it and found it is not that much greater.

**Senator Syverson** - Said if they were to higher programers to establish it to everyone's needs over a period of years we would realize a significant amount of savings.

Took roll-call

(meter #3681)

Do Pass on amended bill

**Senator Krebsbach** will carry

**FISCAL NOTE**  
Requested by Legislative Council  
03/23/2005

Amendment to:        Engrossed  
                             SB 2037

**1A. 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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Senate Bill No. 2037 will not require any additional funding or appropriation.

**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.*

**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.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

<b>Name:</b>	Mike J. Ressler	<b>Agency:</b>	ITD
<b>Phone Number:</b>	328-1001	<b>Date Prepared:</b>	03/23/2005

**FISCAL NOTE**  
**Requested by Legislative Council**  
12/17/2004

Bill/Resolution No.: SB 2037

**1A. 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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
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<b>Name:</b>	Mike J. Ressler	<b>Agency:</b>	ITD
<b>Phone Number:</b>	328-1001	<b>Date</b>	12/20/2004
		<b>Prepared:</b>	

Date: 2/10/05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2037**

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Accept proposed amendment by Dandy Tabor

Motion Made By Senator Lee Seconded By Senator Brown

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2037

Page 3, line 22, replace "primarily intended to affect state agencies" with "which does not materially affect the public and is not intended to have the force and effect of law."

Page 3, line 25, replace "reviewed" with "approved"

Page 9, line 12, after "policy" insert "; oversee the enterprise architecture process, including the makeup and responsibilities of domain teams, the architecture team, and the architecture review board." and remove "shall"

Page 9, line 13, after "review" insert "and approve or reject" and replace "by the department" with "through the enterprise architecture process"

Page 9, line 20, replace "a" with "the enterprise architecture" and after "process" insert "and"

Page 9, line 21, remove "involving"

Page 9, line 24, after "reviewed" insert "and approved"

Page 9, line 28, overstrike "by the department" and after "budget" insert "under this section"

Page 9, line 30, overstrike the second "by"

Page 9, line 31, overstrike "the department" and insert immediately thereafter "under this section"

Page 12, line 3, after the second comma insert "the oil and gas division and the geological survey of the industrial commission, the public service commission, the water commission," and remove the overstrike over "office of"

Page 12, line 4, remove the overstrike over "management and budget after advisement by the"

Page 12, line 7, remove the overstrike over "in conjunction with the office of management and budget"

Page 12, line 8, remove the overstrike over "office of management and budget, after receiving advice from the"

Renumber accordingly

Date: 4/11/05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2037**

Senate Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adoption of amendment .0201

Motion Made By Senator Brown Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2037

Page 1, line 4, after the third comma insert "54-59-21,"

Page 1, line 8, after the comma insert "access to the criminal justice information sharing system,"

Page 3, line 22, replace "primarily intended to affect state agencies" with "which does not materially affect the public and is not intended to have the force and effect of law."

Page 3, line 25, replace "reviewed" with "approved"

Page 9, line 12, after "policy" insert "; oversee the enterprise architecture process, including the makeup and responsibilities of domain teams, the architecture team, and the architecture review board;" and remove "shall"

Page 9, line 13, after "review" insert "and approve or reject" and replace "by the department" with "through the enterprise architecture process"

Page 9, line 20, replace "a" with "the enterprise architecture" and after "process" insert "and"

Page 9, line 21, remove "involving"

Page 9, line 24, after "reviewed" insert "and approved"

Page 9, line 28, overstrike "by the department" and after "~~budget~~" insert "under this section"

Page 9, line 30, overstrike the second "by"

Page 9, line 31, overstrike "the department" and insert immediately thereafter "under this section"

Page 11, after line 27, insert:

**"SECTION 10. AMENDMENT.** Section 54-59-21 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-21. Criminal justice information sharing board - Membership - Duties and powers.** The criminal justice information sharing board consists of the chief justice of the supreme court or the chief justice's designee, the attorney general or the attorney general's designee, and the chief information officer of the state. The chief information officer is chairman of the board. The information technology department shall provide staff support to the board. The board shall set policy relating to the collection, storage, and sharing of criminal justice information and the systems necessary to perform those functions. The board shall provide operational oversight for criminal justice information sharing activities and shall approve and provide oversight of criminal justice information sharing budgets. Access to the criminal justice information sharing system is limited to entities within the criminal justice system and to those

entities approved by the board. The board may appoint an executive committee and an advisory committee that would serve in an advisory capacity to the board."

Page 12, line 3, after the second comma insert "the oil and gas division and the geological survey of the industrial commission, the public service commission, the water commission," and remove the overstrike over "office of"

Page 12, line 4, remove the overstrike over "management and budget after advisement by the"

Page 12, line 7, remove the overstrike over "in conjunction with the office of management and budget"

Page 12, line 8, remove the overstrike over "office of management and budget, after receiving advice from the"

Page 12, line 9, remove the overstrike over the overstruck comma

Renumber accordingly



Date: 2/11/05  
Roll Call Vote #: 2

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2037**

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Senator Brown Seconded By Senator Lee

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	<del>X</del>	X			

Total (Yes) 4 No 1

Absent 0

Floor Assignment Senator Krebsbach

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

**REPORT OF STANDING COMMITTEE**

**SB 2037: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2037 was placed on the Sixth order on the calendar.

Page 1, line 4, after the third comma insert "54-59-21,"

Page 1, line 8, after the comma insert "access to the criminal justice information sharing system,"

Page 3, line 22, replace "primarily intended to affect state agencies" with "which does not materially affect the public and is not intended to have the force and effect of law."

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Page 12, line 8, remove the overstrike over "~~office of management and budget, after receiving advice from the~~"

Page 12, line 9, remove the overstrike over the overstruck comma

Renumber accordingly

2005 HOUSE APPROPRIATIONS

SB 2037

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2037

House Government Performance Division

☐ Conference Committee

Hearing Date March 7, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-6000
Committee Clerk Signature <i>Stephanie Thomas</i>			

Minutes: **Chair Carlson** opened hearing on SB 2037, relating to exclusion of certain policies, standards, and guidelines of the information technology department from compliance with the Administrative Agencies Practice Act.

**Senator Rich Wardner, District 37:** The part I'm going to address in this bill is the administrative rules part, where the information technology is exempt from administrative rules. I'd like to point out that I think it's critical that the IT Department have flexibility, and they've got to be able to react quickly. When you deal with administrative rules, it's a 9 month process. Many times during that 9 month process, they do not have the ability to respond to things in a timely manner. With the flexibility some of you are going to say, where's the accountability, well believe me they're accountable. There accountable through SITAC, and the SITAC is a group of individuals that represent different agencies, not only in the executive branch, but also agencies that come under the preview of the Governor. When they talk about Enterprise Architecture, when they talk about projects that need to be taken care of, that goes through a

process by the people on the front lines, and then it's brought forward, then they're rated. The SITAC thing, in my opinion, is working. The Information Technology Department then has to report to the ITD Information Technology committee, the interim committee. They report to the budget committee, they also report at different times to the Audit and Fiscal review, and one of the other things that people are always concerned about is their purchasing and hiring procedures. They still have to follow the Office of Management and Budget central personnel rules, and they have to follow the central purchasing.

**Rep. Skarphol:** In the proposed language, it is unusual in that it does say that this is applicable to those policies, standards, and guidelines that do not materially affect the public. Would you not agree to that?

**Sen. Wardner:** I would. I believe that the things we're talking about here are inner agency, giving this agency the ability to react in a timely manner to different issues.

**Senator Larry Robinson, District 24:** This is an important bill. We worked extensively over the course of the interim on this particular package. The bill makes sense. I certainly support it, and I would encourage this committee to do likewise.

**Chair Carlson:** Bypassing the administrative rule process so that you would be able to be a little more reactionary to things that came up in the interim is what Sen. Wardner's comments centered on. Have you got any other parts of the bill you'd like to stress?

**Sen. Robinson:** I would not, other than that language is very important for all of the above reasons. We're not trying to do anything here that is not normal within the technology community. If we're going to be aggressive and respond in a proactive way, we need to have this language. The safeguards with Information Technology, and there's always a lot of questions

regarding if we have the safety net in place. I think you're all aware that we have a safe information technology advisory committee, we have two legislatures on that committee, there's a number of other agency heads and representatives of various agencies that monitor technology projects and technology policies and figures in the state very carefully. We also have the Information Technology Interim committee. There is another step in monitoring the activity and projects of ITD throughout state government. Then we have the budget section and the legislature as a whole, so I think the safeguards are in place, and I would encourage you to get behind this bill. I might also add that at the direction of the last legislature, we did hire a consultant. I think I'm accurately capturing the message that they delivered back to our IT committee, in that you folks can feel pretty good about what your doing in ITD. They were overall very impressed with what's happening here. We're trying to fine tune it even one step further.

**Rep. Skarphol:** On page 9, lines 12-17. Was that not a Senate amendment that you folks put on to this bill in order to better define the Enterprise Architecture process, asked and requested by an agency or agencies?

**Sen. Robinson:** That's exactly the case. There's a lot of confusion over the ITD acronyms and that type of thing, and I think our comfort level is getting better. Hopefully this will again move it even further yet. When we went down this road of organizing and It committee back in 1995, we took some criticism that we in fact were maybe stepping into territory that we did not want to really step into. We have come a long ways. There are still pressing concerns, there's ongoing issues, but I need to tell you that we have not had a major technology project failure in ND.

**Curt Wolf:** I'll give you an overview of some of the things contained in this bill. The first one was that one of our purposes was to resolve some inconsistencies between sections of 54-59, which is ITD's section of the Century Code. Secondly, we wanted to clarify the roles and responsibilities of various groups, OMB, ITD the SITAC, and the interim IT committee. The third item was to have some more distinctive separation between higher education and state government. Fourth, this issue of the administrative rule making whether it should apply or should not apply to policy standards and guidelines. Finally, there's a couple of documents that ITD publishes annually and every two years, one is the IT plan, and one is the annual report. Within this bill we shift some reporting requirements between the two documents to more in line with what makes sense.

Discussion of Handout #1. (SEE HANDOUT #1)

**Rep. Skarphol:** On the bottom of page 4, how do people get to participate in those? Are they invited? Is anyone that wants to participate allowed to participate?

**Curt:** We encourage all state agencies to participate in this process where they're interested. As we form a team to deal with one of these technologies, we invite agencies to enter participants into the process.

**Rep. Skarphol:** If an agency had a particular concern similar to those listed, could they raise that issue and possibly create a discussion about that particular issue?

**Curt:** Absolutely. They can do that at any level here in this process. They certainly do at the technical level, we may decide to do it at a policy level as well.



**Rep. Skarphol:** Under the Enterprise Architecture review board, you said that it's the agency CIO's. The one right below it, the Enterprise Architecture team, can you give us some idea of who primarily comprises that?

**Curt:** The very technically qualified architects. That caliber of people that are specialists in various technology areas that can comment on a standard that's been put together by these other teams as they were formed.

Discussion of handout #2. (SEE HANDOUT #2)

Discussion of sections of bill. (SEE SB 2037)

**Chair Carlson:** We're going to have two systems when we're all done?

**Curt:** Your going to have two systems of Enterprise Architecture that are different, because we're dealing with two types of different organizations.

**Chair Carlson:** So the tie of the chain of command, instead of having administrative rules, will be approval of the SITAC committee which reports to the Information Technology committee which in turn reports to the Legislature. Correct?

**Curt:** That's certainly correct. Right now the way it works, and the way it will work even after this is that it will go through those layers on that organization chart, and that all goes up to the SITAC, and the SITAC represents all these state agencies, elected officials, etc. Once we approve it, then that standards in place, and we use that as a guideline for agencies when they're trying to do something.

**Chair Carlson:** This is inner agency only. Is there any opportunity for it to be outside of agencies?

**Curt:** None of these standards will have any direct impact on the public. It only impacts agencies.

**Chair Carlson:** So when someone doesn't like what happens here, when does it show up at our door?

**Curt:** Well, they have to comply to administrative rules. They would have to have a really good example, they certainly can come to the IT committee and make an issue about whether there should be administrative rules. I think at this point there is pretty much consensus among everybody that this shouldn't have to comply with administrative rule making, because these don't have to have rule of law, and they don't directly impact the public.

**Rep. Skarphol:** If there's a policy standard and guideline established and approved and put in place, and somebody has reason to want to question whether or not they should be subjected to it, is there an appeal mechanism that they can follow? Can they come to you and asked to be exempt from that standard policy and guideline?

**Curt:** Yes they can. There's already an existing statute in the Century Code under policies standards and guidelines, ability to ask for an exemption from a particular standard.

**Rep. Skarphol:** If it were an administrative rule, would they have anybody anyway to get an exemption to it other than to change the rule?

**Curt:** I don't think they can. You can't deviate from that rule without changing the rule.

**Rep. Swedjan:** The Attorney General's opinion didn't say that this policies, standards, and guidelines had to be subject to rule, they had to be because that's the way the law is right now. So what your requesting here is a change in the law, and with the change in the law the Attorney General would not rule the same way.

**Curt:** That's exactly right.

**Chair Carlson:** Does that just assume that then, when it says that it will be highlighted in the Peoplesoft plan?

**Curt:** We don't reference Peoplesoft, but we're going to be using the asset module of Peoplesoft for the collection of that information.

**Rep. Skarphol:** That's germane only to their technology assets?

**Curt:** This only speaks to the technology assets.

**Rep. Skarphol:** Are we utilizing that asset management plan for other assets of state government?

**Curt:** Yes, it will be except for the agency that's been exempt from using Peoplesoft.

**Rep. Skarphol:** With regard to the new language on the top of page 12. Your going to report regarding the delivery of services to agencies including service dependability, agency complaints, and information technology department responsiveness. If an agency had problems with those issues, what assurance should they have that what your going to say is objective? What avenue does an agency have to be able to respond to what you're suggesting here? How can we address that?

**Curt:** They always have the ability to go to the interim IT committee and raise issues of concern.

**Rep. Skarphol:** How are you going to develop metrics that's going to allow you to adequately measure those things, so that there can be some real basis of objectivity to evaluate them from?

Discussion of handouts #3 and #4. **(SEE HANDOUTS #3 AND #4)**

**Rep. Skarphol:** In section 11, the three entities that are added to having an exemption never even made a request for an exemption.

**Curt:** The reason they didn't is when we went to the consolidation process we work with every agency and we looked at their requirements. We looked at what made sense to consolidate, what didn't make sense to consolidate, and if we exempted them from some part of consolidation, which we did to several agencies, that was conveyed in the final report from consolidation that was contained in that notebook we handed out at the start of the section. In that document we had exempted the Bank of ND, and the Seed Department. There were a number of agencies that got exempted through that process. The six that are contained on that second handout are ones that once an agency was consolidated, if they had a new requirement for a new server and they felt instead of hosting it at ITD they wanted to host it somewhere else, that we have an ongoing process for asking for an exemption. Those six represent exemptions asked for subsequent to the completion of consolidation with all the agencies.

**Rick Clayburgh, Tax Commissioner:** I'm hear in support of engrossed SB 2037, specifically section 2. Last legislative session, I stood in front of the House Judiciary Committee concerned over the section that would have exempted ITD from the administrative rules. With the formation of the SITAC committee, I serve as one of the statutory members of the SITAC committee. I appreciate the relationship the SITAC committee has with the Information Technology Department, and also the Information committee with the Legislature. I have taken full circle on this issue, and I for one support, and I think it makes sense to exempt a state agency that deals with creating rules that effect rules and standards and policies that affect just state agencies and its relationship specifically with Information Technology, the Architecture, and all

of the rules that go along with providing services that allow state agencies to do their business in creating services to their tax payers, their customers. As a member of the SITAC committee, and formerly somebody opposed to this section, I've gained a lot of respect for the process, and I support section 2 specifically exempting ITD on the numerated aspects of the administrative rule procedure.

**Grant Crawford, Chief Information Officer for the ND University System: (SEE WRITTEN TESTIMONY)**

**Chair Carlson:** So your saying that you need to be separate?

**Grant:** We need to move it over to Higher Education. I'm not trying to get anybody out from under doing any of the oversight project planning, or IT plans.

**Chair Carlson:** Do you have the same kind of format in Higher Education that they have in terms of planning? So you have a chain of command, and an involvement of all the agencies, and those kind of things in the Higher Education system?

**Grant:** Yes, we do. As much as Higher Education sense that we are different from everybody, the one thing that is common in the University system is we're all in the business of education. So, some of the things actually become simpler if we're just looking at Higher Education.

Recessed Hearing on SB 2037 until a later date.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2037

House Government Performance Division

☐ Conference Committee

Hearing Date March 11, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-End
		X	1-5724
Committee Clerk Signature <i>Stephanie N. Thomas</i>			

Minutes: **Chair Carlson** reopened hearing on SB 2037, relating to exclusion of certain policies, standards, and guidelines of the information technology department from compliance with the Administrative Agencies Practice Act.

Reconvened with hearing on SB 2037.

**Grant Crawford, Chief Information Officer for the ND University System: (CONTINUE WRITTEN TESTIMONY)**

**Rep. Skarphol:** In some ways, because of the economy of Higher Education, I wonder why you even have to be involved in the state aspect of the IT discussion.

**Grant:** It is important that we remain involved with the state, because Higher Education is something that serves the state. It's also important that we continue to work closely with ITD, and also with state government and matters with security. Security is something that effects all of us.

**Chair Carlson:** We had a bill in the first half that dealt with having tests for security, hire hackers to come in. Was Higher Ed part of that, or were they not?

**Grant:** We weren't directly included in it, but for matters of the network and security issues or systems such as ConnectND. If you start an examination in those systems, they're going to spill over into Higher Ed anyway.

**Chair Carlson:** So you felt that there would be some testing done anyway, that would have flowed into your system?

**Grant:** We've already seen that with the State Auditors office and ConnectND.

**Chair Carlson:** As I understand it under current law you have to file your IT plan with ITD, and your subject to an oversight by ITD. Are you asking that not happen anymore with the establishment of your organization?

**Grant:** We're looking for a shifting of responsibility to the Board of Higher Education. Our standards would be necessarily different than what ITD uses for state agencies.

**Rep. Skarphol:** What your saying is it's correct, and that you have to realize that there are really two systems out there. This tries to clean up the language, and segregate the two to where they have somewhat parallel systems, although the establishment of standards, policies, and guidelines are going to be very different in the two systems. We have two Information Technology systems out there, one for government and one for Higher Education.

**Chair Carlson:** Does this bill do this, or does it not do this?

**Grant:** Yes, it is. We're very happy with the bill, and the way it was drafted by the interim IT committee.

**Chair Carlson:** So you're comfortable with the language in the way it reads?

**Curt Wolf:** Yes, I think one of the points that's there is that Grant still has the responsibility at the request of the interim IT committee, to record on projects similar to what we do for state government.

**Chair Carlson:** Are we in fact coordinating and becoming more efficient, or are we not?

**Curt:** In reality as it comes it's a joint project, and we certainly work closely together. As far as driving it at the campus level, that was all handled by Higher Education. I don't know a better way to do that. I think Higher Ed does need to have responsibility for driving their own project there, but I think on coordinated projects in particular, where we continue to coordinate that as well as testify to the interim IT committee.

**Rep. Glassheim:** Where in that process do you find out that it has happened?

**Grant:** It's in Higher Ed's best interest to make sure you know what's happened, because if you can see where we are going, you can see what advantage that may be to the state.

**Rep. Glassheim:** Does it go outside the Higher Ed system at all?

**Grant:** It does, because we will need to report to the interim IT committee.

**Rep. Skarphol:** Were there any Higher Education projects that were ranked by SITAC?

**Grant:** No.

**Rep. Skarphol:** Does Higher Education have a system similar to SITAC, in which they evaluate the projects within Higher Education and choose which ones to prioritize and which ones there going to authorize?

**Grant:** Yes, they do. We're changing how it works, because of what we've learned and the benefits of Enterprise Architecture.



**Rep. Skarphol:** I don't think that we've ever seen that report. What I'm getting at is because of the roundtable, you do have a large degree of economy which allows you to do things within Higher Education, if Higher Education thinks they can afford it within their budget. We don't typically see your projects and rank your projects and fund your projects, they're part of the overall budget of Higher Education. Is that not correct?

**Grant:** Yes, they are.

**John Dwyer, President Lignite Energy Council:** (SEE WRITTEN TESTIMONY)

**Rep. Skarphol:** Your concern is primarily two things, cost and speed of services.

**John:** Correct. We don't want to lose what we have.

**Rep. Skarphol:** In your reference to the investments, are some of those investments for the hardware length, I think you said?

**John:** The hardware and the software. We have our own hardware and software systems, and we've made them compatible with the PSC.

**Rep. Skarphol:** So you have the system I your industry somewhere, and that communicates with the system at the PSC. You need the ability to relay that information as quickly as possible, because of size from one entity to the other.

**John:** Correct.

**Chair Carlson:** Instead of permitting and fees, you said you invested time. Your cost would have been in the fees that they charged you, correct?

**John:** Some of them, not all of them. We invest in the systems to make sure that they're compatible.

**Rep. Skarphol:** If we could find a way to make your system faster and better, would that be OK?

**John:** Certainly, at no cost to us. On the flip side, we have these other things in motion that this committee doesn't control that you get caught up in. We're very heavily regulated.

**Rep. Skarphol:** If adequate communication takes place, and people are creative enough, we could conceivably improve your system at no cost to you. It would help you, it would help the PSC, but unless we have that conversation we don't make ourselves aware of the potential that's there. What I'm referring to is the fact that as a state we could mandate, at the length between your industry and the Public Service Commission. That would enable us to install equipment that would vastly increase the capacity of your system, but we have to mandate that. The PSC can't do it, and you can't do it.

**John:** I don't disagree, but I also would contend that there's also the possibility to increase our costs. The adoption that was put in on the Senate side, was to ensure that what we've done will continue to work.

**Rep. Glassheim:** What is the current level of understanding of your system by ITD? Is there any cross communication at this point?

**John:** We don't work directly with ITD. All I'm concerned about is the poor business entity up here.

**Kevin Kramer, Commissioner with the ND Public Service Commission:** All I would say is that we support the bill just as it is 100%. We see no reason to change it.

**Chair Carlson:** I'm trying to understand why you need to be excluded from the process?

**Kevin:** The best way I can put it is this. Technologically or technically we could be consolidated, which is why the technical aspects of this are of little to no concern to me. What does concern me is our relationship with our federal partners, and our relationship with our business partners, and the ability to provide a responsive product for the betterment of our economy, environment, and workforce investment in our state. It works very well. We've received lots of acknowledgment from our federal partners, to the point where the Office of Surface and Mining uses our system as their backup system.

**Rep. Monson:** Have you had conversations with IT personal to see if anything would change, or to see if they would recommend ways that it could even be made better? Are you just worried that if you did have to go through ITD that things would all of a sudden change, and everything would be more costly and not as efficient?

**Kevin:** Yes, we have. We have been quite supportive of a lot of aspects of consolidation.

**Rep. Skarphol:** One of the things that concerned us about functional consolidation was that we didn't want service to deteriorate, and we did ask agencies if they had a problem, to communicate with someone with those concerns.

**Kevin:** We do that quite regularly with ITD, and they respond to some of those things.

**Rep. Skarphol:** My point is that our expectations of ITD are equally as high as of the agencies, if not higher. We did anticipate functional consolidation would have a temporary different services as any software application would. We also have expectations that it will get better, and it will be better than it was in the past, and if those expectations aren't met, the ramifications will be to ITD.

**Kevin:** I appreciate that, and I agree. That's part of why we expect any transitions whether it's technology or anything else. Transitions are transitions, and there are bugs to be worked out.

**Rep. Skarphol:** You refer to the Office of Surface and Mining, and that's a federal entity. Do they have requirements that you need to meet from a technological aspect?

**Kevin:** They certainly do, and we meet those and exceed them in many cases.

**Rep. Skarphol:** Sometimes, we would like to have a say in whether or not you agree, and unless we're made aware of that potential policy decision, we have no way to have that option.

**Kevin:** I understand. I have no knowledge of whether we've ever exceeded an expectation of a stakeholder, or partner that was contrary to the will of the legislature.

**Chair Carlson:** Are you in the system today, or not?

**Kevin:** We are consolidated in several areas, and we have a temporary exemption in a few areas. They are the only areas that we really are requesting, that are print and file servers.

**Chair Carlson:** How did you get that temporary exemption?

**Kevin:** We did that through the committee that was set up to give exemptions. That committee being the OMB Director, the Chief of Staff, the Governors office, and IT.

**Dale Frink, ND State Water Commission:** I'm here to report on section 11. Our relation overall with ITD and the state system has been very positive. We have had a good working relationship with GIS, and the GIS hub. I think there is some commonality between the three agencies that are listed. First of all, I think we're all science based agencies, and science and engineering. I think when you get into the science and engineering area, the word standard makes it a little bit nervous, because there's always new products out there on the street, and most of them aren't going to meet a particular standard. Also, we're all very involved in GIS.

When we talk about GIS, I think one of the things that bothers us is the potential for increased costs associated with GIS. Just an example, GIS requires just a tremendous amount of storage, and if you've ever put a photograph on a computer, you will notice that the photograph takes a lot more storage.

**Chair Carlson:** Your main concern is the cost part of it to transfer things over?

**Dale:** We're going to be left with a real difficult decision. First of all, I can't believe that the legislature is going to give us 2 million dollars of general fund money to do this.

**Rep. Monson:** If your doing this so efficiently and so cheaply, then you should be sharing that with the rest of the state, and we should be having you run our ITD system.

**Dale:** One of the advantages of working on the GIS system, we've been trying to convince the GIS person to switch to our system, because of the storage.

**Rep. Monson:** If yours is that cheap, I'd have no doubt that our ITD system would look at this and check it out, and we'd all be going to that system if it was that cheap. Something just isn't working right hear.

**Chair Carlson:** Are you excluded now, or are you asking to be excluded, or were you given a temporary exclusion?

**Dale:** We have a temporary exclusion, and I don't know if it covers everything or not. I believe that we can do this for a lot less cost than we are doing it right now.

**Ryan Copsing, Vice President of the Missouri River Royalty Cooperation:** Currently, we operate oil and natural gas wells at the Williston Basin. They have an interest in another approximately 50. Further we have mineral company that own 37, 495 mineral exists in the Williston Basin, and have ten's of thousands exploratory acres under a lease. It was brought to

my attention that legislatures considering consolidating it's computer services with other state agencies, and I'm here to suggest that we don't do that. The information that they have in their records needs to be very accurate for our industry. Literally million dollar decisions are based on the information that I have, and that information can't be compromised for any reason, or it will have disastrous effects on our industry.

**Chair Carlson:** What do you mean by compromised?

**Ryan:** One piece of paper that's misplaced, or put somewhere inaccurately, it will cause possibly a well not to be drilled, because every well that is drilled in ND, that information goes into an archives that causes further things to happen or not happen. If anything is missing, things will not happen.

**Chair Carlson:** Couldn't that happen under today's system?

**Ryan:** It could, but I guess you have to look at their track record. It's flawless, and sure we could probably save some money by consolidating, but I believe the oil and gas industry is maybe the most important industry.

**Lyne Helms, Director of the ND Industrial Commission Oil & Gas Division:** Submitting testimony for Gary Johnson. (SEE WRITTEN TESTIMONY)

**Rep. Monson:** What's there reason? They feel it isn't secure or what?

**Lyne:** No. The Groundwater Protection Council has installed this database in 20 states across the United States. They spent 10 million dollars on it, and have had a bad experience in seven different states where there was either a central IT group that was functionally consolidated, or it wasn't administered by individuals located in the oil and gas division. Those states were Michigan, Ohio, Florida, California, Arkansas, Alabama, and Mississippi. In seven of the 20

states they've gotten no return on investment from that type of system, so they've said we will not invest any more money in those type of systems.

**Rep. Monson:** What do you mean they don't get their return on their investment?

**Lyne:** The Groundwater Protection Council did something kind of unique here, in that they formed a committee of these 20 states where they've installed RBDMS. They hold quarterly meetings, and they bring IT people or people from the oil and gas divisions into these 20 states together to talk to consultants, to dream up improvements, and to come up with new processes to make RBDMS better. The 7 states that I've listed for you give them nothing back. They continually apply for grants, spend money on consultants, but they don't come to the quarterly meetings, they don't generate new ideas, they don't fully participate. So the Water Protection Council said we don't want to do that business anymore. We have limited funds, and we want a return on our investment.

**Rep. Monson:** I don't see that makes any difference whether we're consolidated or not. If that's what they would like to have happen, I can't imagine that we wouldn't send an IT person down there and the people from our oil and gas division. I don't see that would make any difference, I don't see what the connection is there.

**Lyne:** I don't know how else to explain it other than they've got a track record with exactly what you're talking about here, and those 7 states have dropped out and not given them anything back, and they're not interested in adding an 8th state to that list.

**Rep. Skarphol:** It sounds to me like it's not a function of whether or not they have a centralized IT system, it sounds to me like it's a function of whether or not the head oil and gas wants to participate.

**Lyne:** I think the real difference is that Michigan, Ohio, Florida, California, Arkansas, Alabama, and Mississippi, the IT people don't work for the head of oil and gas. They're in a central IT agency, they're administrating the database, they don't report to the oil and gas division director, and it's not his call whether they go or whether they participate.

**Rep. Skarphol:** What functional consolidation does is it effects the basic elements of your IT. It has absolutely nothing to do with the business practice, other than the speed you can entertain the information. That shouldn't be affected. That was one of the conditions of all of this, is that if your service was not going to decline. Now, if that premise can be assumed, how does it change anything?

**Lyne:** I can't except that premises for the following reasons. When we discussed functional consolidation of the oil and gas division and RBDMS into ITD, we were on a replication process where the field inspectors laptop computers replicate at least once a day with the Bismarck computer, and the Minot computer. On a regular basis, conflicts arise, and they have to be resolved. So who resolves conflicts? The service goes down. The second thing is we're statutorily required to maintain the confidentiality of oil and gas information on new wells once requested for 6 months. Finally, the cost will rise. IDT estimates 25,000 a year, we estimate 35,000.

**Chair Carlson:** What do they supply us that we have to have from them?

**Lyne:** They installed the database using federal money from DOE and EPA, and they supply the sequel licenses that allows to run the database.

**Chair Carlson:** So, what happens if we're going to create our own database, and say that we're not going to be subject to some other state telling us how to run our system?



**Lyne:** We could do that. We could spend 10 million dollars, and develop our own new database.

**Chair Carlson:** Do you pay them an annual fee, or how do they get paid for the programs you're using?

**Lyne:** The state of ND pays dues to Groundwater Protection Council. Half are paid by the Health Department, half by the Industrial Commission.

**Chair Carlson:** What kind of dollars are we talking there?

**Lyne:** 4,000 dollars a year.

**Chair Carlson:** So we're paying 4,000 dollars out of your budget, which would basically be for the use of the software that we run our stuff on?

**Lyne:** We're paying 4,000 dollars a year. 2,000 out of my budget, 2,000 out of the Health Department. Then Groundwater Protection Council goes to EPA and DOE, and last year they got about 950,000 in federal funds to operate, and hire consultants to do their whole process.

**Rep. Monson:** So the Health Department, how do they run their data? So they use the same database?

**Lyne:** To some extent they do for the spill recording. For releases of oil and saltwater, they use our database. We have a replication system with Health Department computers and their inspectors that go out on saltwater and oil releases or spills as well. Then they have a different database that they're using for things like the diesel spill in Mandan.

**Rep. Monson:** I don't see the Health Department in this list that's being excluded, so isn't there going to be contamination between your system and their system through that, if we don't have all of the systems under the same controls?

**Lyne:** I'm not familiar with that legislation. The Health Department simply replicates with this database just like the field inspector does.

**Rep. Monson:** Do they have firewalls between, or do they have separate computers?

**Lyne:** It is all behind the firewall. All of this replication and everything that goes on happens behind the firewall inside state government, so it's not moving from outside inside allowing hackers to dig into it.

**Chair Carlson:** Are you on a temporary exemption now?

**Lyne:** We are on a temporary exemption. It was granted as a temporary limited exemption that carries through to July 1 of this year. It's limited to this particular sequel application and the servers upon which it resides.

**Rep. Monson:** Rather than give a permanent exclusion, would you be comfortable if we just put in some kind of appeal system, or a way for you to just keep in contact with ITD, and have ways to get exclusions in the future if everybody was on the same page. Would you feel comfortable with that?

**Lyne:** We might. I haven't seen it. I know that the Groundwater Protection Council is looking for something long-term.

**Rep. Monson:** You have to realize, and they have to realize that every two years we meet, and we can give you a permanent exemption that is as good as two years, and that's about it.

**Lyne:** I understand that. They see it as more permanent than what an agency director or an administrative person could give.

**Curt Wolf:** Review of sections of SB 2037. (SEE SB 2037)

**Rep. Monson:** Section 8 on page 10 where you except the Information Technology plans, that's fine with you, you see no problem there?

**Curt:** We asked for that change. We don't believe it's are responsibility to improve an agencies plan. We do review it to make sure it's consistent with policies, standards, and guidelines. If there's an inconsistency we have to have clarification, but we believe the agency should be driving their IT plan.

**Rep. Monson:** Wouldn't this give the agencies a little comfort in knowing all they have to do, even if they are not exempted from this, that they just have to do their IT plan and submit it?

**Curt:** The IT plan specifically doesn't get into the consolidation piece. It's just more of a plan where they're going with technology for the next biennium, and what their plan is for new systems, and system replacements.

**Chair Carlson:** In that section, are all those temporary exemptions right now? Pers, the Attorney General, Oil and Gas, Geological, the Public Service and Water Commission, are they all temporary?

**Curt:** No, those are permanent exemptions. We never met with any of those agencies to talk.

**Rep. Skarphol:** Pers and Rio have both agreed to be removed from this section, because they no longer have the concerns that they had during consolidation. They've provided us with the language that they need to have to protect their agencies on the basis of their IRS needs.

Discussion of proposed amendment. **(SEE PROPOSED AMENDMENT 50187.0301)**

**Rep. Glassheim:** Starting from the question of investing money, and also the new information that there are now agencies that we exempted that are OK with being taken out. I wonder if we shouldn't have the permanent exemptions in law, and then let the CIO start the process of

removal through the SITAC, rather than have agencies forced every two years to go and reconfirm their exemption.

**Rep. Skarphol:** I think your right. I think rather than put the exemption in law, part of the exemption should say that they are exempt until such time that new technology makes available the ability to reevaluate.

**Rep. Monson:** Based on the amendment, I really think we could almost eliminate section 11, other than possible Higher Ed. My goal here would be to get away from any permanent exemptions myself.

**Chair Carlson:** Do any of the agencies that have asked for exemptions, are they going to have to be migrated off the Mainframe?

**Curt:** No.

Closed Hearing on SB 2037.

*Govt Performance  
2037*

### General Discussion

- ☐ Committee on Committees
- ☐ Rules Committee
- ☐ Confirmation Hearings
- ☐ Delayed Bills Committee
- ☒ House Appropriations
- ☐ Senate Appropriations
- ☐ Other

Date March 16, 2005			
Tape Number	Side A	B Side	Meter #
1	X		1-End
		X	1-4440
Committee Clerk Signature <i>Stephanie N Thomas</i>			

Minutes: **Chair Carlson** opened general discussion on SB 2037, relating to exclusion of certain policies, standards, and guidelines of the information technology department from compliance with the Administrative Agencies Practice Act.

**Curt Wolf:** Overview of diagram. (SEE ENTERPRISE ARCHITECTURE GOVERNANCE DIAGRAM)

**Rep. Skarphol:** 1275 is going to go to conference committee, and the Senate included Higher Education in that particular piece of legislation. The reason I bring it up is that I do not want to include this aspect of Higher Education, but I think it's important that we include the common systems as potentially needing to be tested. We need to figure out language that will accomplish that.

2037

**Curt:** 1275 is the one on projects and the 20% milestone deviations, it's not the one on penetration testing. Higher Ed wants to be excluded from that.

**Rep. Skarphol:** I don't have a problem with Higher Ed being excluded, except for the common systems. The university systems does have a rather unique situation that they do a lot of research, they've got a lot of things that they do with regard to software involving that we don't want to put under the same umbrella as we have under state government. Anything that is common to us for testing or anything, I think they need to be included.

**Curt:** I think 2037 certainly has made that distinction between Higher Ed and Higher Ed reporting in state government. I think it's covered in that particular bill, and I think this 1275 is an issue where we have it explicitly stated in there that it doesn't apply to Higher Ed.

**Sheriff Paul Hendrickson, Griggs County:** I'm hear to represent the ND Sheriff's and Deputy's Association. I've been sitting on the CJIS board executive committee. I think the importance of the CJIS project that we're going through right now, is our unity that we have in this state. Last week I was down in Atlanta attending a national conference for National Crime Information, and they're also dealing with the information sharing projects that are going around nationwide. We're very unique in ND, and we found that out when we were at the National Governor's Association for Center for Best Practices. When we testified at that, we were the only state that could actually brag that we had a statewide system in place for sharing and exchanging of information of Law Enforcement between all agencies. The big push is the sharing of information, so it's timely to our Law Enforcement officers so they can be more effective. By having this in place, and what they're looking at doing is allowing some of these larger agencies to integrate in with our statewide system. This isn't forcing them into creating a

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new records Management System, so it ties into our system, and provides a linkage. Information will go into the system in a very timely manner, to where if we make a traffic stop involving that suspect again, we have that information much quicker, and a lot more accurate. It doesn't enhance the state system, it enhances the local system controlled by the state, but it really benefits our own local communities by having the CJIS project up and running.

**Chair Carlson:** Do you have laptops in your patrol cars?

**Paul:** Yes.

**Chair Carlson:** How many sheriff's departments across the state have that?

**Paul:** Maybe 10%.

**Chair Carlson:** Would they have it back at their sheriff's office, if they didn't have it in the car?

**Paul:** Yes. All agencies have the ability beyond the state network, and sharing into the central hub.

**Chair Carlson:** Was there a reduction in the CJIS?

**Curt:** Yes, the Governor's recommendation was 700,000, and that was cut down to 381,000.

**Rep. Skarphol:** Do you think more of our law enforcement agencies out there, the locals would utilize the service if it was fully functional?

**Paul:** Yes, even in the small networking that we've been doing, a lot of them have existing Records Management System of one form or another. With this it's going to allow that ability to integrate.

**Rep. Skarphol:** We have another bill that we've discussed about cost for law enforcement training, 400,000 dollars. Are you familiar with that training program with the Highway Patrol, with regard to helping train local law enforcement people?

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**Paul:** Yes. In it's fine details of what's in that bill no, but as far as the statewide training system yes. It benefits all of us that we have that ability to send our officers for their training. We are required to have 60 hours of training every three years, so a lot of our advertisement that we get in for outside training is fees of 400 to 500 dollars for the training plus hotel, lodging, and stuff like that. The system that we have in place, the training is for all law enforcement, and we can even bring in our emergency services for training as well.

**Rep. Skarphol:** Do you pick up computer training to use these mobile laptops?

**Paul:** They have not quite stepped to that threshold yet. This is still pretty cutting edge.

**Rep. Skarphol:** So where do you get your training? How do you get trained to be able to utilize this service?

**Paul:** The training that has come about at this point with our Records Management System has come through the funding and the use of some of IT dollars, some Homeland Security dollars. When we bought this system from the vendor, they came in and have been training us. The process that we put in place is those that were part of the test group were basically training the trainers. Now we've become the trainers, and we're training everybody that we can in their local agencies that have a go to person in that agency. They also created a help desk.

**Rep. Skarphol:** Was that part of the CJIS then?

**Paul:** It was part of CJIS, and it was something that you had to do. You just couldn't throw this system out here and say figure it out.

**Rep. Skarphol:** The application and utilization of CJIS is important if it's going to be of value, and I just want to ensure your getting the proper dollars for the training aspect of it.



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**Paul:** I think within the training academy, it would just be a matter of requesting it from the post board, and they would definitely put something in out there at the academy and make it available to us.

**Rep. Glassheim:** Can you use any Federal Homeland Security money instead of, or to replace some of the money for computers and cars and the CJIS system?

**Paul:** Yes, that money has been used for purchasing of laptops, and software. It is an eligible expense under our Homeland Security. The development of this has not been without Homeland Security money.

**Rep. Glassheim:** Who would make the decision of how much to use? Is that State Emergency Management, or local folks?

**Paul:** That's above my paygrade to answer that.

**Curt:** DEM tells us how much Homeland Security dollars they'll give us for CJIS.

Overview of SB 2037. (SEE SB 2037)

**Rep. Glassheim:** On the second page, section 4 it says Higher Ed will present information on the request of the IT committee. I wonder if they shouldn't be required to give information for large projects, so the IT committee doesn't have to go out of it's way to make a special request.

**Curt:** The Higher Ed reporting, certainly the interim IT committee will want to hear reporting of large projects on a regular basis just like we do at the state level.

**Roxanne, Legislative Council:** It is in the powers and duties of the Legislative IT committee that they will be receiving information regarding large projects.

**Chair Carlson:** Anytime we talk exemption from rules we get people pretty excited in our chamber. Give me one good reason that I should be comfortable with that?

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**Curt:** I think it's an issue of is it worth wasting state resource time and effort to go around and comply with the normal rule making process.

**Chair Carlson:** It's an inner agency, is it not?

**Curt:** It's an inner agency, and driven by Attorney General's opinion that said this fit under that definition, otherwise we wouldn't even have it in the bill.

**Chair Carlson:** It gives you the flexibility is what you are saying?

**Curt:** Yes, that's exactly right.

**Rep. Glassheim:** From the point of view of agencies and the process under which they are regulated by IT, are there methods elsewhere for them to appeal the policies, standards, and guidelines that they're going to be governed by?

**Rep. Skarphol:** The proposed amendment should address that.

**Rep. Monson:** There's 18 people in this committee. How many more legislators would you be looking at?

**Curt:** I think the group has worked well at this point in time. The size of it hasn't been a limitation to good dialog and discussions, so I'm not concerned about 1 or 2 more. One from the House, and one from the Senate would be logical here.

**Rep. Glassheim:** Shouldn't OMB be in charge of IT?

**Curt:** There's never been an issue. These are all technical kinds of things that OMB would rely ITD for input and the SITAC for input anyway to make a decision.

**Chair Carlson:** I'm assuming that's a very high level of reporting there?

**Curt:** Exactly. It's very high level, but also a good summary was going on in government and education related to technology, whereas the annual report gets into more specific things regarding ITD.

**Chair Carlson:** So the annual report you just remove some of the information and put it into your high level report, and then you got more detailed information in your departments annual report?

**Curt:** That's correct.

**Chair Carlson:** On your annual report on page 12 where it talks about regarding the delivery of services, dependability complaints, and Information Technology Department responsiveness. Has that not been part of the plan before?

**Curt:** I think there was language very explicit like that as part of the 1505, which was the consolidation section from the previous session. We just put it here to have it cover all of our services for everybody, not anything specific to consolidation, but every service that we provide.

**Chair Carlson:** How do you handle your customer service?

**Curt:** We have established just recently a new division of customer service as headed by a person responsible for implementing better accountability for customer service reporting, and working closer to the agencies to resolve issues. So, we elevated the importance of that job function within our department to be at the highest level with every other division director that we have.

**Rep. Skarphol:** Is there a mechanism in Enterprise Architecture for grievances?

**Curt:** They obviously come to the people they are dealing with on a day to day basis, which are people within ITD.

**Rep. Skarphol:** Is there a way that we can improve that process? Can we put some kind of mechanism together to help agencies delineate if they got problems, and what the resolution to that would be?

**Curt:** I would think our performance measurements, particularly those dealing with customer service, they should give you that information. I think they can still go to the department head.

**Rep. Monson:** About a week ago we had an agency complaining to us that nothing works. So we call, and send one of your guys over there, and everything is just fine. This is a good thing to do, is to have a grievance procedure that maybe you can develop in your own department, and give to these agencies.

**Curt:** That could be a standard. That could be a policy defined as a standard.

**Chair Carlson:** My concern with this is that I think that we're always going to have certain agencies that feel that it doesn't fit for them. I just need to be comfortable with the process, whatever those steps are that you have to go through to receive the exemption without it being just a mandate from the Governor. What is the process that's in place? What is an appeal process that they have if they don't like the recommendation?

**Curt:** There's two pieces to this. When we went through the consolidation process, we made determinations agency by agency whether there would be for or partial exemptions just by the process itself, and there were some of both. The representation, however, is that every two years we're going to review that to see if issues have changed that makes consolidation practical.

**Chair Carlson:** How do we more clearly identify the process, and identify where the final decision rests?

**Curt:** When we started consolidation we set up an executive committee, and when we got to a decision on an exemption related to the first pass of consolidation, we collectively made the discussion whether we were going to approve it or not.

Overview of amendment. (SEE PROPOSED AMENDMENT 50187.0304)

**Rep. Monson:** This exemption only refers to everyone other than Higher Ed. So, this is all the other agencies, correct?

**Curt:** Correct.

**Rep. Glassheim:** I was just focusing on the consolidation thing, because I'm confused about what we ought to do. It does seem to me that the final steps of the process should be interim IT committee, and then law. I'm also not sure that I want the Governor referenced.

**Rep. Skarphol:** I don't disagree with what you said, but I cannot emphasize strongly enough the need for communication about technology. I also feel very strongly that the Governor is the ultimate power in state government with regard to resolving problems between elected offices and his executive agencies. I think that he needs to be mentioned in here, because I think it's just courtesy on our part to acknowledge that.

**Rep. Glassheim:** The process to come to resolution and to have appeal, and I had start with OMB, go to the CIO, go to SITAC, go to IT committee, and go to Legislature. At each point somebody should say yes or no.

**Curt:** It really needs to be the other way around. It needs to come from the ground up, because these are many times very technical issues. Exemptions to section 22 come directly to ITD, and then we go an discuss it with OMB. It doesn't go through SITAC at all.

Overview of amendment. (SEE AMENDMENT 50187.0302)

*Govt Performance  
2037*

### General Discussion

- ☐ Committee on Committees
- ☐ Rules Committee
- ☐ Confirmation Hearings
- ☐ Delayed Bills Committee
- ☒ House Appropriations
- ☐ Senate Appropriations
- ☐ Other

Date March 18, 2005			
Tape Number	Side A	B Side	Meter #
1	X		1-End
		X	1-261
Committee Clerk Signature <i>Stephanie N Thomas</i>			

Minutes: **Chair Carlson** opened general discussion hearing on SB 2037, relating to exclusion of certain policies, standards, and guidelines of the information technology department from compliance with the Administrative Agencies Practice Act.

Discussion of handout. (SEE PUBLIC SERVICE COMMISSION HANDOUT)

Discussion of handout. (SEE IT FLOW CHART HANDOUT)

**Chair Carlson:** When we pass this bill, does that take precedence over the letter that's out there, or the schedule that you are on?

**Curt Wolf:** This just elaborates on the process of how to deal with an appeal.

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**Rep. Glassheim:** On #2, what is this 10 year replacement of critical business applications? Is this to do with consolidation, or is this separate from consolidation and only has to do with planning for the business needs?

**Rep. Skarphol:** What I was hoping to accomplish with regard to this language is to just get the agencies to recognize and be willing to bring forward their suggestions for replacements in a fashion which would help us prioritize projects based on cost effectiveness, and how critical the need for replacement. Help us understand their business requirements.

**Rep. Glassheim:** Is this just another way to force them into doing things they don't want to do?

**Rep. Skarphol:** No. We're not trying to consolidate business applications at all.

**Rep. Glassheim:** I have a fundamental disagreement in #3. The whole process than, it never comes to the legislature, and we're not going to write exemptions into the code.

**Rep. Skarphol:** The hope is that we have good enough communication that we don't need to do that.

Discussion of section 4 of amendment. (SEE AMENDMENT)

**Rep. Glassheim:** Why wouldn't they just go in with you as they have done, and provide testimony in support of your request to be exempted?

**Commissioner Rich Clayburgh:** I think that this is a clear illustration of how desperately industry wants the Public Service Commission exempt from consolidation.

**Rep. Skarphol:** I would move amendment 0305 to SB 2037 with the changes as recommended.

**Rep. Monson:** Second.

**Rep. Glassheim:** I would like to further amend by deleting the removal of Oil and Gas, Geological Survey, Public Service Commission, and Water Commission.

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**Chair Carlson:** So, on the amendments you would like to remove page 12, line 23-25, and put that to original form?

**Rep. Glassheim:** Half of the 24 I'd like to keep, overstrike the investment office.

**Rep. Monson:** Second.

**Chair Carlson:** We have a substitute motion, and a second.

**Rep. Monson:** I'd like to speak against that, because my goal is that we would get away from all permanent exemptions. I feel very comfortable that we've added some language that will grant these, or let them have an exemption, if they can make the case through the proper channels.

**Chair Carlson:** Roll call vote on substitute motion to adjust lines 24, and 25. Motion fails. We are back to the original amendment with the changes. Roll call vote, amendment passes.

**Rep. Skarphol:** I would move engrossed SB 2037 do pass, as amended.

**Rep. Monson:** Second.

**Chair Carlson:** Roll call vote on SB 2037.

SB 2037 is a do pass, as amended.

Closed General Discussion Hearing.



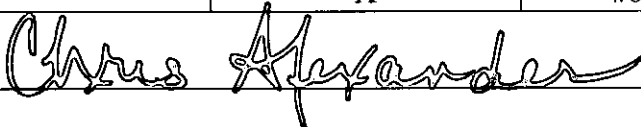
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2037  
Higher Education Information Technology Planning

House Appropriations Full Committee

☐ Conference Committee

Hearing Date March 21, 2005

Tape Number	Side A	Side B	Meter #
1	X		#7.7 - # end
1		X	#0 - #12.5
Committee Clerk Signature 			

Minutes:

**Rep. Ken Svedjan, Chairman** opened the discussion on SB2037.

**Rep. Bob Skarphol** explained that this bill addresses the seemingly conflicting statutes of law that need to be resolved concerning the roles of higher education and ITD. This clarifies the roles of OMB, the State Information Technology Advisory Committee (SITAC) and the interim IT committee. This bill addresses exemption for higher education in that it provides a parallel structure for higher education similar to what we have today in state agencies with Higher Education having its own CIO. This also addresses the administrative rules issue that was raised in the interim regarding whether or not ITD needs to subject its standards, policies and guidelines to the administrative rules process, and this bill provides for an exemption to that need because the standards, policies and guidelines that are used by ITD are much more flexible than what the administrative rules typically allow and the agencies are aware of and involved in establishing these guidelines. The exemption for this only effect those guidelines that are interagency and do

not effect the private sector. This bill also changes the requirements of some of the documents that are published and delineates better what is required in each of those plans. In section 11 the Senate provided for specific exemptions for 3 entities in state government that currently have exemptions granted by the CIO. We worked hard to not have exemptions in the law with regards to functional consolidation. The amendment does remove 2 of the existing agencies that have exemptions and sets in place a mechanism for agencies to address any concerns that they have that are not being adequately addressed by the CIO.

**Rep. Bob Skarphol** moved to adopt amendment #0306 to SB2037

**Rep. David Monson** seconded

**Rep. Mike Timm, Vice Chairman** asked if Rep Skarphol could review the exemptions one more time, was oil and gas in the list of exemptions.. (meter Tape #1, side A, #11.1)

**Rep. Bob Skarphol** answered that the committee removed oil and gas, industrial commission and public services from having a listed exemption. Under the current scenario these agencies have an exemption granted by the CIO which, he assured us, would remain in place until June of 2006 at which time it would be reevaluated and probably be reissued unless there were changes in technology that warranted some additional consideration and then these agencies would be requested to provide more information for the continued discussion. Rep Skarphol explained that section 12 was changed to provide a long term future vision for technology. One goal listed is to migrate to 2-3 platforms instead of the 8 we have currently. Another is that ITD has to come up with a long term, 10 year plan, of what each agency needs to have replaced and when so we have in general an idea of what the costs will be down the road as we migrate to these fewer platforms. Agencies and institutions will be involved in developing these plans. Agencies need

to come forward with their plans for their business applications that comply with the standards, policies and guidelines, but there is also the chance to make your case regarding exemptions from consolidation to these fewer platforms. The plan is to have everyone together in these fewer platforms unless they present a unique business need that would exempt them from this consolidation. Section three of the bill sets up the mechanism for requesting exemptions from the consolidation. The first step is to request an exemption from the CIO. If the request is appropriate the CIO will take the request to the Office of Management and Budget and they will grant the exemption and sign off on it. There is an appeals process if the CIO turns down the requested exemption. This appeals process is begun with a discussion in SITAC. SITAC is 3 or 4 elected agencies, the supreme court, and 8 agency heads appointed by the Governor, 2 private sector folks, and 2 legislators. SITAC can make a recommendation regarding the request for the exemption that may or may not change the mind of the CIO. This gives the agencies the ability hold ITD accountable for the quality of their service. We've never been able to ITD accountable before this.

**Rep. Mike Timm, Vice Chairman** asked if the Governor was the last access for exemption

**Rep. Bob Skarphol** answered that SITAC is the location for this discussion. Agency can go to ITD if everyone else turns them down for an exemption. The order for appeal is SITAC, then CIO, then, Interim Committee, then Governor's Office and then ITD. The regulated industry also has this same process for appeal if they believe they are not being heard. For the regulated industry, the Governor's office is their last chance to appeal.

**Rep. Mike Timm, Vice Chairman** commented that Oil and Gas gave a good argument for an exemption to this. Will they be able to continue their exemption to this if this bill passes.

**Rep. Bob Skarphol** answered that oil and gas appeared before our committee with their case as well. They were arguing that the federal system does not work well with a state that has a fully consolidated system. Our system is not a fully consolidated system, it is a functional consolidation and should not effect the system of the agencies, and if it does we will be made aware of it and if the service being provide by ITD is not up to standard then the agencies would deserve an exemption, but the process needs to be started so we can have a system for dealing with all of this. Oil and Gas will keep their exemption and be reevaluated in June of 2006.

**Rep. Ken Svedjan, Chairman** commented that there are other states that are working with this 10 year plan (meter Tape #1, side A, #21.9)

**Rep. Bob Skarphol** answered that this was correct.

**Rep. Francis J. Wald** asked if Worker's Compensation appeared before your committee and discussed any unique needs that they have in their systems.

**Rep. Bob Skarphol** answered that Worker's Compensation did not appear before the subcommittee.

**Rep. Mike Timm, Vice Chairman** asked if it was documented that the Oil and Gas are exempted through June of 2006.

**Rep. Bob Skarphol** answered that Mr. Wolf explained to our committee that their exemption was in place and would be honored until June of 2006. It is their intention to reevaluate these exemptions every two years unless it is apparent that there is no need to reevaluate them. There is no documentation in the amendment, but the intention is in the minutes of the meeting. There is no need to put this in code, we need to take the word of the agency that they will honor this exemption.

**Rep. Eliot Glassheim** explained that there was a disagreement in committee as to whether the emphasis for the exemptions should be placed on the process within the agencies or have these exemptions written into law. My preference would be to have the exemptions written in law. Although we can change the law every two years, it would give the agencies a greater comfort level to know that the whole legislative body has looked at this and has agreed that they have made their case.

**Rep. Ken Svedjan, Chairman** commented that with regard to the date of June 2006, it must be written somewhere. The exemption was granted somewhere. (meter Tape #1, side A, #25.8)

**Rep. Bob Skarphol** explained that this was his assumption, but he did not know where it is written. In answer to Rep Glassheim's comment, having exceptions in law means that it inhibits the discussion that needs to take place concerning the quality of service. We want ITD and the CIO to be accountable for providing high quality service. The only way we can ensure this is if we have documented evidence of inadequate service. This is established in discussions in a common environment, which also gives agencies the opportunity to become aware of systems and applications that are available to them for their business.

**Rep. Al Carlson** discussed functional consolidation. \$100 million spent on IT directions and there seemed to be no direction for it. This functional consolidation seems to give us direction and its working. If there is a special need in an agency that does not fit with this, there are a number of ways to request exemptions. During testimony there were no compelling reasons given for exemptions, other than agencies wanting to do their own thing. This process will work and it will save the state money.

**Rep. David Monson** commented on putting exemptions in law. As legislators, who are we to grant exemptions above those who work with these agencies everyday. This process sets up dialog and communication.

**Rep. James Kerzman** asked for clarification regarding the 8 platforms

**Rep. Bob Skarphol** explained operating platforms and explained that the point of reducing the number is to save on the amount of people we would need to support them.

**Rep. Jeff Delzer** asked why there needed to be an exemption from the administrative rules

**Rep. Bob Skarphol** explained that technology has something called Moore's Law that says every generation of new technology will take half as long to be brought forward as the last one. Ultimately new technology will be coming at us so fast that administrative rules are too inhibiting because there process takes nine months.

**Rep. Jeff Delzer** asked why would you spend money to do a 10 year plan if Moore's Law is true. Who would write the 10 year plan and how often would it be reviewed and by whom.

**Rep. Bob Skarphol** explained the logic behind the 10 year plan is to ensure that we don't get software packages that are 43 years old, like the one we currently have in the tax department. We need to stay current so we don't need to make up for the large costs to support them and to replace them. You could compare this to the highway system and how they have a planned replacement cycle to coordinate this work. The plan would help us identify those systems that we currently have that are at highest risk. (meter Tape #1, side A, #34.4)

**Rep. Jeff Delzer** asked if IT would write the plan or if the agency would write the plan.

**Rep. Bob Skarphol** answered that the agency would evaluate their business needs and the risks of the software in their particular agency and those assessments will be brought to SITAC who

will prioritize the recommendations of the various agencies. ITD coordinates the accomplishment of the plan after the discussion takes place in SITAC. Functional consolidation has been critiqued some but it has resulted in 102 servers already.

**Rep. Eliot Glassheim** commented that the interim study also said that consolidation ought not to happen if a strong business case could be made for why it should not happen. This is not just about saving money. Some agencies have given compelling reasons for their request for exemption through a business case, not just because they didn't want to do it. When the agencies can make that business case, we should be able then to make a policy decision, (not a technical decision), to write these exemptions in code. As things change and progress we can review these exemptions and take them out when they are no longer needed. It does not have to be an either/or between internal discussion and writing exemptions in code, since both can happen.

**Rep. Bob Skarphol** commented that the legislature does not understand the technical systems and if we don't know this stuff and won't take the time to learn it, then we should seek the advice of specialists and let them make the decisions. A policy decision based on persuasive arguments is not the best way to run technology. This discussion needs to take place in a technical environment. This is enterprise architecture. For us to inhibit this process in any way is blatantly wrong.

**Rep. Mike Timm, Vice Chairman** asked if we could insert June 30, 2006 in the amendment to go to code for the Oil and Gas agency exemption. (meter Tape #1, side A, #43.7)

**Rep. Bob Skarphol** answered that as long as it is correctly referenced

**Rep. Ken Svedjan, Chairman** called for a voice vote on the motion to adopt amendment #0306 to SB2037. Motion carried.

**Rep. Mike Timm, Vice Chairman** moved to further amend to add the date June 30, 2006 for the Oil and Gas, Industrial Commission, Public Service Commission, and the Water Commission

**Rep. Bob Skarphol** seconded

**Ms Roxanne Woeste** explained that there may be other agencies that should be listed in here as well

**Rep. Bob Skarphol** commented that he would have no objection to stating that any other entity granted partial exemption should also be covered in this until June of 2006 when they would be reevaluated.

**Rep. Mike Timm, Vice Chairman** commented that he hope the agencies would be named.

**Rep. Keith Kempenich** commented that the consultant on this said that communication is the biggest problem.

**Rep. Eliot Glassheim** moved a substitute motion to amend SB2037 restoring the 3 agencies who were removed on page 12, lines 24 and 25 thereby making this special exemption unnecessary.

**Rep. Ole Aarsvold** seconded

**Rep. Ken Svedjan, Chairman** restated the motion.

**Rep. Mike Timm, Vice Chairman** commented that the date is necessary and the original motion is a good compromise to the recommendations made by the committee who put in a lot of work on this.

**Rep. Eliot Glassheim** commented that putting this in code puts in a presumption in the agency's favor which would give them a level of comfort. We don't know a lot about any of the things we make decisions on, we depend on technical testimony on both sides and make our best policy



decisions. The presumption is what needs to be in code. Doing this would not take away anything from the rest of the bill. The discussion and the process can all happen before it gets to the legislature, but once it gets to us we should make a decision and commit to it in code.

**Rep. David Monson** resists this amendment saying that if we give agencies permanent exemptions they would have no reason to come to the table for discussions about consolidation and we will have this same argument every 2 years.

**Rep. Ken Svedjan, Chairman** called for a voice vote on the substitute motion to restore the names of the agencies removed with the earlier amendment. Motion failed. Rep Svedjan explained that we again have before the committee a motion to add agency names and place the date of June 2006 in the amendment for this bill

**Rep. David Monson** commented that this date may not be correct and that agencies may have differing expiration dates.

**Rep. Ken Svedjan, Chairman** called for a voice vote on this motion to amend. Motion carried (meter Tape #1, side B, #2.0)

**Rep. Eliot Glassheim** moved to further amend SB2037 by deleting subsection 4 of amendment #0306.

**Rep. Pam Gulleon** seconded

**Rep. Eliot Glassheim** explained that this amendment gives industry a special place in the whole exemption process higher than the agencies that regulate them. We have been reluctant to put anything in code regulating our own agencies but here we are willing to give industry equal status in code with agencies to request exemptions. The assumption would be that industry and the

agency would be talking with each other and bringing a plan that is agreeable to both. But this sets up a situation for conflict between the agency and the industry.

**Rep. David Monson** asked the committee to resist this motion because industry needs to be able to make their case at the table too, together with the agency. Industry on its own will not be able to convince this entire process that it needs the exemption without having the agency supporting them.

**Rep. Eliot Glassheim** agreed with Rep Monson and asked why we even needed this section in the bill. Industry could come to the table with the Agency in section three, but section four says that industry can go to the Governor with or without technical justification and the Governor can exempt them, with or without the support of the agency.

**Rep. Bob Skarphol** commented that section 4 was important and was asked for by the industry because there are instances where government becomes extremely demanding of industry. If the technical demands of the agency becomes exorbitant, then the industry needs the opportunity to communicate their concerns. This would only grant them a voice in the discussion.

**Rep. Ken Svedjan, Chairman** called for a voice vote on the motion to delete subsection 4 from amendment. Motion failed.

**Rep. Jeff Delzer** asked if there should be language in section 4 to give the legislature the right to override the Governor's decision.

**Rep. Bob Skarphol** answered that the last sentence in section 4 addresses this. Technological changes would allow the legislature to review the Governor's decision.

**Rep. Jeff Delzer** commented that the legislature can change this every two years but that the exemption language says that it is for 10 years.

**Rep. Bob Skarphol** clarified that the code states "up to" 10 years.

**Rep. David Monson** commented that the legislative intent would give us the right to review this any time within the "up to" 10 years.

**Rep. Bob Skarphol** moved a Do Pass As Amended motion for SB2037

**Rep. David Monson** seconded.

**Rep. Ken Svedjan, Chairman** called for a roll call vote on the Do Pass As Amended motion for SB2037. Motion carried with a vote of 16 yeas, 6 nays and 1 absence. Rep Skarphol will carry the bill to the house floor.

**Rep. Ken Svedjan, Chairman** closed the discussion on SB2037.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2037

Page 1, line 1, after "15-10" insert "and a new section to chapter 54-59"

Page 1, line 2, after "technology" insert "and information technology planning"

Page 13, after line 3, insert:

**"SECTION 12.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Information technology planning - Exemptions - Appeals.**

1. The department shall establish specific standards, policies, and guidelines to support the future vision of migrating to a small number of operating system platforms. The standards and guidelines must be developed through the enterprise architecture process in accordance with section 54-59-09.
2. An agency or institution information technology plan required by section 54-59-11 must include data regarding business application assets, including age, and a planned replacement cycle. The department shall develop a long-term plan for the cost-effective, needs-based, replacement of all critical business applications over a period of ten years or more. The process must include participation of affected agencies and institutions and must incorporate the standards, policies, and guidelines developed by the enterprise architecture process. The state information technology advisory committee shall prioritize application replacement projects in accordance with section 54-59-02.1. An agency or institution implementing a replacement application shall comply with the standards, policies, and guidelines developed under section 54-59-09 and shall obtain the services as provided by section 54-59-22.
3. The chief information officer shall request advice from the state information technology advisory committee regarding each exemption requested under section 54-59-09. If the chief information officer denies a request for an exemption, the agency may appeal to the governor. The governor may approve or deny the request. If the governor denies a request for an exemption, the agency may appeal to the legislative council's information technology committee. If the information technology committee approves an exemption, the exemption may not extend beyond the adjournment of the next regular session of the legislative assembly.
4. The office of management and budget shall request advice from the state information technology advisory committee regarding each exemption requested under section 54-59-22. If the office of management and budget denies a request for an exemption, the agency or institution may appeal to the governor. The governor may approve or deny the request. If the governor denies a request for an exemption, the agency may appeal to the legislative council's information technology committee. If the information technology committee approves an exemption, the exemption may not

extend beyond the adjournment of the next regular session of the  
legislative assembly."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2037

Page 12, line 23, overstrike "the public employees retirement system, the retirement"

Page 12, line 24, overstrike "and investment office,"

Page 13, line 3, after the period insert "This chapter does not require or permit the public employees retirement system or the retirement and investment office to engage in activities or make expenditures that may affect their compliance with the qualification statutes and regulations promulgated by the internal revenue service."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2037

Page 1, line 1, after "15-10" insert "and a new section to chapter 54-59"

Page 1, line 2, after "technology" insert "and information technology planning"

Page 13, after line 3, insert:

**"SECTION 12.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Information technology planning - Exemptions - Appeals.**

1. The department shall establish specific standards, policies, and guidelines to support the future vision of migrating to a small number of operating system platforms. The standards and guidelines must be developed through the enterprise architecture process in accordance with section 54-59-09.
2. An agency or institution information technology plan required by section 54-59-11 must include data regarding business application assets, including age, and a planned replacement cycle. The department shall develop a long-term plan for the cost-effective, needs-based replacement of all critical business applications over a period of ten years or more. The process must include participation of affected agencies and institutions and must incorporate the standards, policies, and guidelines developed by the enterprise architecture process. The state information technology advisory committee shall prioritize application replacement projects in accordance with section 54-59-02.1. An agency or institution implementing a replacement application shall comply with the standards, policies, and guidelines developed under section 54-59-09 and shall obtain the services as provided by section 54-59-22.
3. If an agency requests an exemption under section 54-59-09, the agency shall submit to the state information technology advisory committee any information it considers necessary to support its request for an exemption. The chief information officer shall request advice from the state information technology advisory committee regarding the exemption. If the chief information officer denies a request for an exemption, the agency may appeal to the governor. The governor may approve or deny the request. If the governor denies a request for an exemption, the agency may appeal to the legislative council's information technology committee. If the information technology committee approves an exemption, the exemption may not extend beyond the adjournment of the next regular session of the legislative assembly.
4. If an agency requests an exemption from the requirements of section 54-59-22, the agency shall submit to the state information technology advisory committee any information it considers necessary to support its request for an exemption. The office of management and budget shall request advice from the state information technology advisory committee regarding the exemption. If the office of management and budget denies a

request for an exemption, the agency or institution may appeal to the governor. The governor may approve or deny the request. If the governor denies a request for an exemption, the agency may appeal to the legislative council's information technology committee. If the information technology committee approves an exemption, the exemption may not extend beyond the adjournment of the next regular session of the legislative assembly.

5. If an industry regulated by a state agency incurs or anticipates incurring additional costs or permitting delays as a result of the effect on the regulating state agency of specific standards, policies, or guidelines established by the department under chapter 54-09, the industry may submit to the state information technology advisory committee a request for an exemption for the regulating state agency. The request must include any information the industry considers necessary to support its request for an exemption. The chief information officer shall request advice from the state information technology committee regarding the exemption. If the chief information officer denies a request for an exemption, the industry may appeal to the governor for the regulating state agency. The governor may approve or deny the request. If the governor denies a request for an exemption, the industry may appeal to the legislative council's information technology committee. If the governor or information technology committee approves an exemption, the exemption is effective for a ten-year period. An exemption request made by an industry under this section is presumed to be meritorious."

Renumber accordingly



PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2037

Page 1, line 1, after "15-10" insert "and a new section to chapter 54-59"

Page 1, line 2, after "technology" insert "and information technology planning"

Page 5, line 20, after "~~systems~~" insert an underscored comma

Page 5, line 27, after "the" insert "state information technology", remove the overstrike over "~~advisory~~", and after "committee" insert "and the information technology committee"

Page 8, line 30, overstrike "two" and insert immediately thereafter "four"

Page 12, line 23, overstrike "the public employees retirement system, the retirement"

Page 12, line 24, overstrike "and investment office," and remove "the oil and gas division and the geological survey"

Page 12, line 25, remove "of the industrial commission, the public service commission, the water commission,"

Page 13, line 3, after the period insert "This chapter does not require or permit the public employees retirement system or the retirement and investment office to engage in activities or make expenditures that may affect their compliance with the qualification statutes and regulations promulgated by the internal revenue service."

**SECTION 12.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

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2. An agency or institution information technology plan required by section 54-59-11 must include data regarding business application assets, including age, and a planned replacement cycle. The department shall develop a long-term plan for the cost-effective, needs-based replacement of all critical business applications over a period of ten years or more. The process must include participation of affected agencies and institutions and must incorporate the standards, policies, and guidelines developed by the enterprise architecture process. The state information technology advisory committee shall prioritize application replacement projects in accordance

with section 54-59-02.1. An agency or institution implementing a replacement application shall comply with the standards, policies, and guidelines developed under section 54-59-09 and shall obtain the services as provided by section 54-59-22.

3. If an agency request for an exemption from the requirements of section 54-59-22 is denied by the office of management and budget, the agency may submit to the state information technology advisory committee any information it considers necessary to support its request for an exemption. The state information technology advisory committee may request the office of management and budget to reconsider the request for the exemption. If the office of management and budget denies the request for reconsideration or again denies the exemption, the agency may appeal to the governor. The governor may approve or deny the request. If the governor denies a request for an exemption, the agency may appeal to the legislative council's information technology committee. If an exemption is granted, the exemption may not extend beyond the adjournment of the next regular session of the legislative assembly.
4. If an industry regulated by a state agency incurs or anticipates incurring additional costs or permitting delays as a result of the effect on the regulating state agency of specific standards, policies, or guidelines established by the department under chapter 54-59, the industry may submit to the state information technology advisory committee a request for an exemption for the regulating state agency. The request must include any information the industry considers necessary to support its request for an exemption. The chief information officer shall request advice from the state information technology committee regarding the exemption. If the chief information officer denies a request for an exemption, the industry may appeal to the legislative council's information technology committee for the regulating state agency. The information technology committee may approve or deny the request. If the committee denies a request for an exemption, the industry may appeal to the governor. If the information technology committee or the governor approves an exemption, the exemption is effective for a period of up to ten years unless changes in technology require reconsideration of the exemption. An exemption request made by an industry under this section is presumed to be meritorious."

Renumber accordingly

Date: March 18, 2005  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2037

House Government Performance Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50187.0305 Substitute Motion

Action Taken DO NOT PASS

Motion Made By Rep. Glassheim Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlson		X	Rep. Glassheim	X	
Vice Chairman Skarphol		X			
Rep. Monson		X			

Total (Yes) 1 No 3

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: March 18, 2005  
Roll Call Vote #: 2

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 30 2037**

House ~~U.S.~~ Governments Performance Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50187.0305

Action Taken DO Pass, AS Amended

Motion Made By Rep. Skarphol Seconded By Rep. Monson

[illegible]

Total (Yes) 3 No 1

Absent 0

Floor Assignment Rep. Skarphol

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

March 18, 2005

## PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2037

Page 1, line 1, after "15-10" insert "and a new section to chapter 54-59"

Page 1, line 2, after "technology" insert "and information technology planning"

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Page 5, line 27, after "the" insert "state information technology", remove the overstrike over "~~advisory~~", and after "committee" insert "and the information technology committee"

Page 12, line 23, overstrike "the public employees retirement system, the retirement"

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as provided by section 54-59-22. This subsection does not require the consolidation of business applications.

3. If an agency request for an exemption from the requirements of section 54-59-22 is denied by the office of management and budget, the agency may submit to the state information technology advisory committee any information it considers necessary to support its request for an exemption. The state information technology advisory committee may request the office of management and budget to reconsider the request for the exemption. If the office of management and budget denies the request for reconsideration or again denies the exemption, the agency may appeal to the governor. The governor may approve or deny the request. If the governor denies a request for an exemption, the agency may appeal to the legislative council's information technology committee. If an exemption is granted, the legislative assembly, at the next regular session of the legislative assembly, shall consider extending the exemption. If the legislative assembly does not extend the exemption, the exemption may not extend beyond the adjournment of that session of the legislative assembly.
4. If an industry regulated by a state agency incurs or anticipates incurring additional costs or permitting delays as a result of the effect on the regulating state agency of specific standards, policies, or guidelines established by the department under chapter 54-59, the industry may submit to the state information technology advisory committee a request for an exemption for the regulating state agency. The request must include any information the industry considers necessary to support its request for an exemption. The chief information officer shall request advice from the state information technology committee regarding the exemption. If the chief information officer denies a request for an exemption, the industry may appeal to the legislative council's information technology committee for the regulating state agency. The information technology committee may approve or deny the request. If the committee denies a request for an exemption, the industry may appeal to the governor. If the information technology committee or the governor approves an exemption, the exemption is effective for a period of up to ten years unless changes in technology require reconsideration of the exemption."

Renumber accordingly

Date: March 21, 2005  
Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. SB2037**

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50187.0307

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Skarphol** Seconded By **Rep Monson**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim		X
Rep. Tom Brusegaard	AB		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold		X	Rep. Alon C. Wieland	X	
Rep. Pam Gulleeson		X	Rep. James Kerzman		X
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber		X			
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **16** No **6**

Absent **1**

Floor Assignment **Rep Skarphol**

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

**REPORT OF STANDING COMMITTEE**

SB 2037, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2037 was placed on the Sixth order on the calendar.

Page 1, line 1, after "15-10" insert "and a new section to chapter 54-59"

Page 1, line 2, after "technology" insert "and information technology planning"

Page 5, line 20, after "systems" insert an underscored comma

Page 5, line 27, after "the" insert "state information technology", remove the overstrike over "advisory", and after "committee" insert "and the information technology committee"

Page 12, line 23, overstrike "the public employees retirement system, the retirement"

Page 12, line 24, overstrike "and investment office," and remove "the oil and gas division and the geological survey"

Page 12, line 25, remove "of the industrial commission, the public service commission, the water commission,"

Page 13, line 3, after the period insert "An exemption granted under this section before the effective date of this Act may continue in effect until July 1, 2006. This chapter does not require or permit the public employees retirement system or the retirement and investment office to engage in activities or make expenditures that may affect their compliance with the qualification statutes and regulations promulgated by the internal revenue service."

**SECTION 12.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Information technology planning - Exemptions - Appeals.

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Renumber accordingly

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

CONFERENCE COMMITTEE

SB 2037

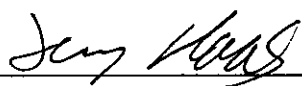
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2037

Senate Government and Veterans Affairs Committee

☒ Conference Committee

Hearing Date April 5, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-2300
Committee Clerk Signature 			

Minutes:

**Chairman Krebsbach called the conference committee to order to discuss SB 2037. All members were present: Senators Fischer & Nelson, Representatives Skarphol, Monson, & Glassheim.**

**Representative Skarphol** explained the House amendments to the committee. See attached amendments (50187.0307) There has not been sufficient communication across the lines of state government when it comes to technology. These amendments are encouraging agencies to bring their technology concerns and problems forward to the state information technology committee.

**Chairman Krebsbach-** Where does an agency go for a request?

**Representative Skarphol-** It goes to OMB, they are the ones that grant the exemption. This amendment does not change the practice that an agency has the option of going to the (chief information officer) CIO, or the OMB.

**Representative Glassheim-** So, any exemption would be for 2 years, can they apply for an exemption after that period?

**Representative Skarphol-** They can certainly apply again.

**Senator Fischer-** I feel that some of these issues are being made more difficult than they need to be. It is premature to deny people that have requested exemptions, I think it needs to be integrated into a plan.

**Representative Skarphol-** The changes that the House is recommending does not do away with the exemptions.

**Senator Fischer-** For example, the Water Commission has a platform that will last them 5 years, for IT storage. How long would it take them to gravitate into the new system?

**Representative Skarphol-** That is a business application. In section 2, when they commence the process of replacing their system, they will migrate toward one of the smaller numbers of platforms that exist. We aren't asking them to change the system.

**Representative Monson-** The agency will continue to be exempt because of Section 2, it is a business application.

**Chairman Krebsbach-** For clarification, business applications within divisions will remain exempt?

**Representative Skarphol-** Yes, it has never been intended to affect business applications. As technology advances and storage costs continue to decline, the GIS builds a larger capacity. It is more logical to place all the information there in one place. These agencies have a legitimate reason to have an exemption.

**Chairman Krebsbach-** It is very difficult to project funding for technology because it changes so rapidly.

**Representative Skarphol-** We invested \$20 million dollars a few years ago in Connect ND, but in this session we are investing over \$30 million to upgrade information technology systems. We need to develop a priority list with a long term vision in regards to technology to be able to afford it.

**Representative Monson-** We have some systems in the state government that are 30-40 years old that need to be upgraded.

**Senator Nelson-** Why was it necessary to have section 2 listed as Section 8 in SB 2121 (the industrial commission budget). Why is that section in another bill?

**Representative Skarphol-** That is the one issue that is the most critical when it comes to IT. Every generation of new technology is going to take half as long to develop as the previous one. Trying to create accountability has been extremely difficult.

**Chairman Krebsbach closed the conference committee meeting on SB 2037. No action was taken.**


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2037

Senate Government and Veterans Affairs Committee

☐ X Conference Committee

Hearing Date April 12, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-3060
Committee Clerk Signature 			

Minutes: **Chairman Krebsbach called the conference committee to order to discuss SB 2037. All members were present: Senators Fischer & Nelson, Representatives Skarphol, Monson, & Glassheim.**

**Representative Skarphol-** The House amendments create a mechanism for state agencies in addressing the potential need for an exemption to some aspects for functional consolidation. Right now, there only mechanism is to appeal to the CIO. Other entities need to have some degree of input.

**Chairman Krebsbach-** I feel there is already a proper process in place with the SITC committee with exemptions that are needed. We felt that these agencies are cooperating with other functions. Their needs are such that they could stand to lose dollars, if they are not granted long term exemptions.

**Representative Monson-** What are the needs that you are referring to that are not addressed in the House version?

**Chairman Krebsbach-** The fact that it is not specific to the time and date of the exemption.

**Representative Monson-** What programs are you referring to that are necessary for exemption?

**Chairman Krebsbach-** I have heard from the oil and gas industry, that they could lose a substantial amount in the upcoming biennium.

**Representative Monson-** What causes them to lose that because we pass our version?

**Chairman Krebsbach-** Because of the length of the exemption, they don't want to invest money in their programs, if they won't cooperate.

**Representative Monson-** That's why subsection is in there for a 10 year exemption.

**Chairman Krebsbach-** It says the exemption is effective for up to 10 years, unless changes in technology require reconsideration of the exemption. I think that the exemptions section is very complicated.

**Representative Skarphol-** The efforts of section 12 is to increase the level of communication between state agencies, so they can help us understand. There is no required discussion with the current system. The intent of the discussion between the agencies is to bring forth solutions.

**Senator Fischer-** Did you discuss it with the PSC, Oil and Gas Division, and the Water Commission on whether or not they would like an exemption?

**Representative Skarphol-** The exemptions are good until 2006, under current law they will be reevaluated. If technology changes and would give them better service at a lower cost, then a discussion would take place. A 4 year exemption would discourage that discussion from taking place. The Water commission has an issue with storage, the Industrial Commission has concerns about a federal program being mandated.

**Senator Fischer-** I haven't seen any of the cost-effectiveness in budgets. The Water Commission runs on a different platform and doesn't integrate with ITD, if you were to convert everything they would lose what they already have. I don't think we should be ordering mandates to people on being exempt.

**Representative Glassheim-** It seems that we are moving towards greater consolidation, and a smaller number of platforms. There has to be some process in getting exemptions. In sub-sections 2 & 3, there needs to be a list of agency's need for exemptions. It seems that in the process of getting exemptions, we need to be the final arbiter. I support the Senate's desire to keep those 3 agencies listed at the end of the process that they go through in getting exemptions internally.

**Senator Krebsbach-** I think that we do need an integrated program in the state, we also need a comfort level. It became too complicated to get it program specific for agency exemptions. Our committee's thought was to grant them an exemption.

**Representative Monson-** That is a defeatist attitude. Our procedure is very useable, we have exempted business applications, with a process in place. The legislature has the final say when it comes to exemptions. The exemptions in place now will be in effect until July 2006. Everybody should be able to go through the same process when it comes to exemptions.

**Senator Krebsbach-** I am not taking this on with a defeatist attitude. I am looking at resolving a problem that is agreeable to the legislative body and the agencies that are involved.

**Senator Fischer-** One of the problems I have with the effective date for exemptions is it is in the middle of the interim session. I don't see the reason to change at this time.



**Representative Monson-** If the bill doesn't pass, that is still the time they will expire in regards to an exemption.

**Chairman Krebsbach-** The process would go through ITD, OMB and SITC before the Governor and Legislature become involved.

**Representative Skarphol-** What is the discomfort with the agencies along the lines of being granted an additional exemption?

**Senator Fischer-** Those agencies have received the exemption for a good cause, why make them go through additional difficulties to continue an exemption?

**Representative Monson-** Subsections 3 & 4 are the only parts of Section 12 that deal with an exemption. The last sentence in subsection 2 does not require the consolidation of business applications.

**Representative Skarphol-** Functional consolidation seeks to achieve a uniform system of operations for state government to abide by. ITD is expected to provide the power to the agencies to run the business they need to do, that's what consolidation is about in this case. There is a confusion on what functional consolidation is and what the business applications of the agency are. If the water commission decides to replace their business application, our amendment asks to plan ahead for it.

**Senator Fischer-** Could ITD not decide this is a critical business application and require a functional consolidation?

**Representative Skarphol-** Subsections 1 & 2 are attempting to help agencies get a comfort level with the intent of the legislature. We need to develop a long range plan of what we will do with technology. We need a small number of operating systems platforms, we want agencies to work

with ITD in developing a long term plan in replacing their business applications under the platforms. The intent would be to have the systems replaced in a cost effective manner, needs based over a period of 10 years or more.

**Chairman Krebsbach-** We all want to get to the same goal. I think with the advisory committee and SITC we still have those mechanisms in place to see those plans through. The agencies are currently coordinating with ITD, and don't see that changing. A complete exemption will allow them to go through with their plans. I think agencies need the tools necessary to work the best for the public.

**Representative Skarphol-** We have some systems that need to be replaced in the near future, because they are extremely outdated. Lets work together toward a limited number of platforms, and plan our business applications to work along those lines.

**Representative Monson-** If an agency has something that is working for them now that is a business application, they are exempted, and don't have to worry about subsections 3 & 4. The main thing is we want these agencies to communicate.

**Chairman Krebsbach closed the conference committee meeting on SB 2037. No action was taken.**

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2037

Senate Government and Veterans Affairs Committee

☒ Conference Committee

Hearing Date April 18, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-686
Committee Clerk Signature <i>Jerry Haas</i>			

Minutes:

**Chairman Krebsbach called the conference committee meeting to order. All members were present: Senators Fischer & Nelson, Representatives Skarphol, Monson, & Glassheim.**

**Chairman Krebsbach-** She introduced some amendments to the committee. (See attached amendments from April 18). Some of the language has been cleaned up, along with some additions in Section 8. It would revert back to the three exemptions with section 12 added. If there is a replacement to any of the programs that they are utilizing on an application database storage or server, it would go back to the Chief Information Officer. The CIO would either allow continuation of the exemption, or would go back to the State Information Technology Advisory Committee. The amendments attempt to simplify the legislative process. I understand the exemption is the main concern, these programs are unique and are not like a lot of other agency needs.

**Representative Skarphol-** I don't have a problem with coming up with a process or an event that would trigger the reevaluation of an exemption. The problem is placing those exemptions into the code. We need to agree on a mechanism for the exemptions, stating that it continues up to a specific time. If we are going to amend this bill, we should put into place an appeal mechanism for any type of grievance that an agency has. It would have to be discussed in an open environment based on technological merit. Concerning an amendment, any purchases of new equipment that do not follow the policies, standards, and guidelines of ITD, must be approved by ITD. There are ways that we can improve the language of this bill, and one of those ways is not listed exemptions.

**Chairman Krebsbach-** Would you be amenable to working with an exemption such as the one I had drafted in my amendments?

**Representative Skarphol-** No. I prefer a mechanism so that anybody who is granted an exemption or has a grievance would address the issues, not just perpetuate the current environment.

**Chairman Krebsbach closed the conference committee meeting on SB 2037. No action was taken.**

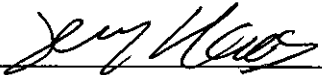
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2037

Senate Government and Veterans Affairs Committee

☒ X Conference Committee

Hearing Date April 20, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-1085
Committee Clerk Signature 			

Minutes: **Chairman Krebsbach called the conference committee to order to discuss SB**

**2037. All members were present: Senators Fischer & Nelson, and Representatives Skarphol, Monson, & Glassheim.**

**Representative Monson made a Do Pass recommendation for the amendment (50187.0312).**

**In addition, page 13, line 3 should remove the period after "act," and add "or July 1, 2009, whichever occurs first." This would mean a 4 year sunset clause. He would like to have a definitions section after they are agreed on by all parties. Seconded by Representative Skarphol.**

**Senator Krebsbach** asked for an explanation of why the July 1, 2009 version was being put into place?

**Representative Monson-** The 4 year sunset was what the Senate wanted. The amendments also further defines business applications, and makes it clear that it includes mineral explorations such as oil, gas, and coal.

**Senator Nelson-** Please provide an explanation on why you took out the oil, gas, and coal groups on why they are exempted on lines 24-25?

**Representative Skarphol-** It says an exemption granted under this section before the effective date of this act, may continue until being discontinued by the director of OMB. Any existing exemption continues to exist, it doesn't name single anything out.

**Senator Krebsbach-** The only problem that I currently see, is that we would be better off leaving the certain agencies exempt, but including the sunset clause. That way there is a total clarity in the bill.

**Representative Monson-** This is as close as we are going to get on the House side. As we've stated before we don't think that we need to name any agency. The definition of business applications is very clear in the proposed amendment, there is no way it can be misinterpreted.

**Senator Krebsbach-** We have documentation where one agency lost \$30,000 one year, and \$40,000 the following year. As a state we cannot afford that to take place. If we can spell them out as exempt, they can forward it to other government agencies, it would remove the doubt.

**Representative Skarphol-** Has the oil and gas association not been working with the RBDMS project?

**Senator Krebsbach-** Not sure.

**Representative Skarphol-** If they are going to continue to contribute to the ND project, it would require a professional service level agreement. We need these agreements between ITD and all agencies, it would give them all the same guarantee. I don't believe it singling out agencies and giving them a 4 year exemption. An agency could possibly go off on a tangent that would not be

conducive with our long term goals, they could spend dollars that would permit themselves to technology that we would not see fit down the road.

**Senator Krebsbach-** The intent is if they upgrade, they would have to come back.

**Senator Fischer-** Wouldn't it curb their expenditures, knowing that they would only have 4 years? Therefore to improve software, the agency would be more apt to shorten their exemption to change software packages?

**Representative Skarphol-** Before this legislative session, there was an expenditure made by a state agency, that went in a different direction than our long term goals would have been. That expenditure was made because they had an exemption, which is the main issue at hand today.

**Representative Glassheim-** It is not spelled out who makes the final decision? You can appeal to OMB from SITAC, but it doesn't say who has the authority to make any decision. It basically says if you disagree you go to SITAC?

**Representative Glassheim made a motion to table the amendment until a further meeting.**

**Seconded by Senator Nelson. The vote was unanimous to table the amendment until the next meeting.**

**Chairman Krebsbach closed the conference committee on SB 2037. No further action was taken.**

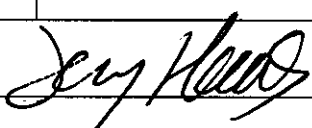
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2037

Senate Government and Veterans Affairs Committee

☒ X Conference Committee

Hearing Date April 21, 2005

Tape Number	Side A	Side B	Meter #
1	X		1-932
Committee Clerk Signature 			

Minutes:

**Chairman Krebsbach called the conference committee to order. All members were present: Senators Fischer & Nelson, Representatives Skarphol, Monson, & Glassheim.**

**Representative Monson moved to withdraw his motion on passing the amendment (0312).**

**Seconded by Skarphol. The motion to withdraw passed unanimously.**

**Representative Monson** distributed amendments to the committee, see attached (0317).

**Chairman Krebsbach** distributed two sets of amendments to the committee, see attached (0315) & (0316).

**Chairman Krebsbach-** The set of amendments (0315) exclude the 3 agencies. The other set of amendments (0316) accomplishes the same thing, only the wording is different on page 13, line 3. There is a 4 year time period for the exclusions to be exempt. We are reversing the exclusion of the Public Employment Retirees System and the Retirement Investment office.



**Chairman Krebsbach-** The reason the amendments (0315) have been offered is because we have been unable to get input as of yet from Lynn Helms of the Oil and Gas Division. He has been out of town, and will be returning this evening.

**Senator Nelson-** Please explain section 12 on the three different sets of amendments.

**Chairman Krebsbach-** On (0315), the 3 entities are listed as exclusions, however with that exclusion we felt there was a necessity for a review. The CIO shall decide on the continuation of the exclusion, if the agency is not satisfied they go to the SITAC committee, and the final decision is left with the OMB. On the (0316) set of amendments we are granting exemptions to be extended until August of 2009, that is the difference in the wording between the two sets.

**Representative Monson-** The set of amendments that I prefer is (0316), they provide closure to the process.

**Carleen Fine, of the Industrial Commission** appeared before the committee- The Industrial Commission has come close to an agreement on the (0316) amendments.

**Chairman Krebsbach-** We will recess until we hear from Lynn Helms this evening, and then meet again tomorrow.

**Chairman Krebsbach** closed the conference committee on SB 2037. No further action was taken.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2037

Senate Government and Veterans Affairs

☒ Conference Committee

Hearing Date 4/22/05

Tape Number	Side A	Side B	Meter #
1	x		0-2250
Committee Clerk Signature <i>Patty Wilkens</i>			

**Minutes :**

**Senator Krebsbach** called the committee to order **SB 2037**

**All members were present.**

**Senator Krebsbach** indicated there were some amendments they needed to adopt yet. Possibly .0318 and .0319, said as she understood the only change that was to be included was that the change was to be the listing of the names of the three entities, some wording change as well that would change the concept of it somewhat, so I had amendments of .0319 drafted, understanding it to be the changes that we had requested. Mr. Bjornson will explain both of these amendments to us.

**John Bjornson** : From Legislative Council, explained the changes that were made, pg. 3 line 13 there were four entities having exemptions except as provided in section 12. Four years will apply to those entities.

**Rep. Monson :** So on .0318 only those 4 agencies would be exempt??, Only until they make any changes what so ever? Exemptions would be to what is granted? What would trigger a review under .0318.

**John Bjornson :** Any determination by one of those entities to replace a database would trigger a review.

**Rep. Nelson :** Would service purchase trigger a review? This would not be a trigger for a review b/c it is not an application or a data base.

**Rep. Skarphol :** Servers or storage? So this would not trigger a review? Is this anything after section 12? anything after that is pertinent?

**Senator Krebsbach :** It's got finality on it.

**Rep. Monson :** So if they determine that they need to replace some application, if they knew, lets say somebody from the Fed's, or somebody they work with, here is a new program we want you to use, what happens.

**John Bjornson :** This would trigger the review of the exemption, if that or any application I would assume.

**Rep. Monson :** That isn't what they agreed on yesterday there, what I am understanding here is that anything, or any little thing in that line would be enough to trigger it. We didn't quite want that to happen.

**Rep. Glassheim :** What happens after 2009, is there some provision in 2009 or is there some provision until 2007?

**Rep. Krebsback :** Unless process reverts back to today, the process of applying for an exemption

**Rep. Skarphol :** Would there be any reason why we couldn't state an application for database storage or servers?

**Rep. Nelson :** Does every agency use their same server?

**Rep Nelson moved to adopt amendment .0319**

**Rep. Glassheim** second this motion.

**Rep. Skarphol :** Informing this committee that on SB 2021 that the House has agreed that the administrative rule aspect in that budget be removed.

**Rep. Monson :** I am uneasy about the unlimited purchase of servers and storage.

**Rep. Krebsbach :** There is flexibility to certain agencies, that are having difficulties, however they may and will consult with ITD

**Rep Monson :** I hope they get the message, we will watch their budgets.

**Rep Glassheim :** In 319 and section 12 indicated that the CIO shall consider information and government efficiencies. I would like to add in the language the business case for an exemption. The intent of the study would be to consolidate. I would like to move to further amend.

**Rep Glassheim :** After institution, add business case for an exemption. We should consolidate serves except where a business case is strong. Wanting that retained in here to give the agencies some direction and someplace to stand on of what they are going to present.

**Rep. Skarphol :** We do respect this and I know your intentions are quite good here. I don't have difficulty with what you are proposing.

**Rep. Krebsback :** We will let John Bjornson to know where to put it, is there a second?

**Rep. Glassheim** second this motion.

**Hearing no other discussion roll call was taken: Vote 6-0-0**

Page 5  
Senate GVA  
Bill/Resolution Number 2037  
Hearing Date 4/22/05

**Rep Glassheim** move to for an adoption of .0319 as amended. With additional comments of

Rep. Glassheim

**Rep. Skarphol** second this motion.

**Hearing no other discussion, clerk took roll, Vote : 6-0-0**

**Rep. Krebsbach** adjourned the meeting.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2037

That the House recede from its amendments as printed on pages 971 and 972 of the Senate Journal and pages 1238-1240 of the House Journal and that Engrossed Senate Bill No. 2037 be amended as follows:

Page 1, line 1, after "15-10" insert "and a new section to chapter 54-59"

Page 1, line 2, after "technology" insert "and information technology planning"

Page 5, line 20, after "~~systems~~" insert an underscored comma

Page 5, line 27, after "the" insert "state information technology", remove the overstrike over "~~advisory~~", and after "committee" insert "and the information technology committee"

Page 8, after line 22, insert:

"16. Shall establish specific standards, policies, and guidelines to support the migration to a smaller number of operating system platforms."

Page 10, line 6, after the second boldfaced period insert:

"1."

Page 10, line 14, after the period insert "The asset management plan must include data regarding each business application asset of the entity, the age of the asset, and the planned replacement cycle for the asset."

2."

Page 10, line 20, after the period insert:

"3."

Page 10, line 25, after the period insert:

"4."

Page 11, line 1, replace "1." with "a."

Page 11, line 5, replace "2." with "b."

Page 11, line 6, replace "3." with "c."

Page 11, line 9, replace "4." with "d."

Page 11, after line 10, insert:

- "5. The department shall develop a long-term plan for the cost-effective, needs-based replacement of all business applications over a period of ten years or more. The replacement process must include participation of affected agencies and institutions and must incorporate the standards, policies, and guidelines developed by the enterprise architecture process. The state information technology advisory committee shall prioritize each application replacement project as provided in section 54-59-02.1."

Page 12, line 23, overstrike "the public employees retirement system, the retirement"

Page 12, line 24, overstrike "and investment office,"

Page 13, line 3, after the period insert "This chapter does not require or permit the public employees retirement system or the retirement and investment office to engage in activities or make expenditures that may affect their compliance with the qualification statutes and regulations promulgated by the internal revenue service."

**SECTION 12.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Information technology planning - Exemptions - Appeals.** The department shall review any exemption granted under section 54-59-22 to the industrial commission, the public service commission, or the water commission when any of those entities determines to replace an application, data base, or storage or application server. Based upon the information provided by the entity, the chief information officer shall determine whether to allow the continuation of the exemption. In making the determination whether to continue an exemption, the chief information officer shall consider the information provided in the entity's technology plan and the need to create overall government efficiencies, cost-savings, and improvement of services. If the entity disagrees with the decision of the chief information office, the entity may appeal the decision to the state information technology advisory committee."

Renumber accordingly

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Page 10, line 6, after the second boldfaced period insert:

"1."

Page 10, line 14, after the period insert "The asset management plan must include data regarding each business application asset of the entity, the age of the asset, and the planned replacement cycle for the asset."

"2."

Page 10, line 20, after the period insert:

"3."

Page 10, line 25, after the period insert:

"4."



Page 11, line 1, replace "1." with "a."

Page 11, line 5, replace "2." with "b."

Page 11, line 6, replace "3." with "c."

Page 11, line 9, replace "4." with "d."

Page 11, after line 10, insert:

- "5. The department shall develop a long-term plan for the cost-effective, needs-based replacement of all business applications over a period of ten years or more. The replacement process must include participation of affected agencies and institutions and must incorporate the standards, policies, and guidelines developed by the enterprise architecture process. The state information technology advisory committee shall prioritize each application replacement project as provided in section 54-59-02.1."

Page 12, line 23, overstrike "the public employees retirement system, the retirement"

Page 12, line 24, overstrike "and investment office," and remove "the oil and gas division and the geological survey"

Page 12, line 25, remove "of the industrial commission, the public service commission, the water commission,"

Page 13, line 3, after the period insert "An exemption granted under this section before the effective date of this Act may continue in effect until discontinued by the director of the office of management and budget under section 12 of this Act. This chapter does not require or permit the public employees retirement system or the retirement and investment office to engage in activities or make expenditures that may affect their compliance with the qualification statutes and regulations promulgated by the internal revenue service."

**SECTION 12.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

**Information technology planning - Exemptions - Appeals.** The department shall review any exemption granted under section 54-59-22 when the exempted agency or institution determines to replace or purchase an application, data base, or storage or application server. Based upon the information provided by the agency or institution, the chief information officer shall make a recommendation to the director of the office of management and budget regarding whether to allow the continuation of the exemption. In making the determination whether to continue an exemption, the director of the office of management and budget shall consider the information provided in the technology plan of the agency or institution and the need to create overall government efficiencies, cost-savings, and improvement of services. If the agency or institution disagrees with the decision of the director, the agency or institution may appeal the decision to the state information technology advisory committee."

Renumber accordingly

*Or July 15, 2009  
which ever occurs  
first*

Date: 4-20-05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2037**

Senate **Government and Veterans Affairs** Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number 0.0312

Action Taken Do Pass - Further Amended

Motion Made By Monson Seconded By Skarphol

Senators	Yes	No	Representatives	Yes	No
Karen Krebsbach, Chairman			Bob Skarphol		
Tom Fischer			David Monson		
Carolyn Nelson			Elliot Glassheim		

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Tabled until next meeting  
Withdrawn

Date: 21-22-05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2037**

Senate **Government and Veterans Affairs** Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number

(0319)

Action Taken

no adopt amendment (SP)

Motion Made By

Nelson

Seconded By

Glasheim

Senators	Yes	No	Representatives	Yes	No
Karen Krebsbach, Chairman	X		Bob Skarphol	X	
Tom Fischer	X		David Monson	X	
Carolyn Nelson	X		Elliot Glassheim	X	

Total (Yes)

6

No

0

Absent

0

Floor Assignment

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

Date: 4/22/05  
Roll Call Vote #: 2

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2037**

Senate **Government and Veterans Affairs** Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken 319 added

Motion Made By Glassheim Seconded By Monson Skarphol

Senators	Yes	No	Representatives	Yes	No
Karen Krebsbach, Chairman	X		Bob Skarphol	X	
Tom Fischer	X		David Monson	X	
Carolyn Nelson	X		Elliot Glassheim	X	

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

**REPORT OF CONFERENCE COMMITTEE**

**SB 2037, as engrossed:** Your conference committee (Sens. Krebsbach, Fischer, Nelson and Reps. Skarphol, Monson, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 971-972, adopt amendments as follows, and place SB 2037 on the Seventh order:

That the House recede from its amendments as printed on pages 971 and 972 of the Senate Journal and pages 1238-1240 of the House Journal and that Engrossed Senate Bill No. 2037 be amended as follows:

Page 1, line 1, after "15-10" insert "and a new section to chapter 54-59"

Page 1, line 2, after "technology" insert "and information technology planning"

Page 4, line 28, remove "or"

Page 4, line 29, remove the overstrike over "~~or~~"

Page 4, remove the overstrike over lines 30 and 31

Page 5, remove the overstrike over lines 1 and 2

Page 5, line 20, after "~~systems~~" insert an underscored comma

Page 5, line 27, after "the" insert "state information technology", remove the overstrike over "~~advisory~~", and after "committee" insert "and the information technology committee"

Page 8, after line 22, insert:

"16. Shall establish specific standards, policies, and guidelines to support the migration to a small number of operating system platforms."

Page 10, line 6, after the second boldfaced period insert:

"1."

Page 10, line 14, after the period insert "The asset management plan must include data regarding each business application asset of the entity, the age of the asset, and the planned replacement cycle for the asset."

2."

Page 10, line 20, after the period insert:

"3."

Page 10, line 25, after the period insert:

"4."

Page 11, line 1, replace "1." with "a."

Page 11, line 5, replace "2." with "b."

Page 11, line 6, replace "3." with "c."

Page 11, line 9, replace "4." with "d."

Page 11, after line 10, insert:

- "5. The department shall develop a long-term plan for the cost-effective, needs-based replacement or upgrade of all business applications over a period of ten years or more. The process must include participation of affected agencies and institutions and must incorporate the standards, policies, and guidelines developed by the enterprise architecture process. The state information technology advisory committee shall prioritize each application replacement project as provided in section 54-59-02.1."

Page 12, line 23, overstrike "the public employees retirement system, the retirement"

Page 12, line 24, overstrike "and investment office," and remove "the oil and gas division and the geological survey"

Page 12, line 25, remove "of the industrial commission, the public service commission, the water commission,"

Page 13, line 3, after the period insert "This chapter does not require or permit the public employees retirement system or the retirement and investment office to engage in activities or make expenditures that may affect their compliance with the qualification statutes and regulations promulgated by the internal revenue service. Notwithstanding section 12 of this Act, an exemption granted to the oil and gas division and the geological survey of the industrial commission, the public service commission, or the water commission by the office of management and budget under this section before the effective date of this Act must continue in effect until August 1, 2009."

**SECTION 12.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Information technology planning - Exemptions - Appeals. Except as otherwise provided in section 54-59-22, the department shall review any exemption granted under section 54-59-22 when the exempted agency or institution determines to replace an application or data base. Based upon the information provided by the agency or institution, the chief information officer shall determine whether to allow the continuation of the exemption. In making the determination whether to continue an exemption, the chief information officer shall consider the information provided in the technology plan of the agency or institution, the business case of the agency or institution for the exemption, and the need to create overall government efficiencies, cost-savings, and improvement of services. If the agency or institution disagrees with the decision of the chief information officer, the agency or institution may appeal the decision to the state information technology advisory committee. An agency or institution may appeal a decision of the state information technology advisory committee to the director of the office of management and budget, who may make a final decision regarding the continuation of an exemption."

Renumber accordingly

Engrossed SB 2037 was placed on the Seventh order of business on the calendar.

**2005 TESTIMONY**

SB 2037

## Governance

### State IT Advisory Committee (SITAC)

The State Information Technology Advisory Committee (SITAC) is responsible for providing input to ITD on the deployment of new and existing products and services. ITD will consult with the committee to obtain advice and feedback during ITD's annual business planning process and other planning efforts. Members will assist in developing and prioritizing strategic initiatives for state government for the statewide information technology plan.

**During the 2003 legislative session, House Bill 1043 established this committee in statute and identified the membership as follows:**

**State information technology advisory committee.** The state information technology advisory committee consists of the chief information officer; the commissioner of higher education or the commissioner's designee; the attorney general or the attorney general's designee; the secretary of state or the secretary of state's designee; the tax commissioner or the commissioner's designee; the chief justice of the supreme court or the chief justice's designee; two members of the legislative assembly appointed by the legislative council; a minimum of eight members representing state agencies, appointed by the governor; and two members with technology management expertise representing private industry, appointed by the governor. The appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. Additional members may be asked to participate at the request of the chairman. The department shall provide staff services to the committee. The members of the committee representing private industry 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 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 regarding statewide information technology planning, and developing other budgeting, services of the information technology department, and statewide information technology initiatives and policy.

This committee will also fulfill the requirements established by the 2003 legislative session in House Bill 1505 as follows:

**Department shall establish certain standards for agencies - Advisory committee -**

**Exceptions.** The department shall appoint an advisory committee consisting of representatives of state agencies for the purposes of prioritizing major computer software projects and establishing policies, standards, and guidelines for executive branch state agencies, departments, and institutions, excluding institutions under control of the state board of higher education and agencies of the judicial and legislative branches with respect to the purchase of computer software and computer systems. The chief information officer shall submit recommendations of the advisory committee regarding major software projects to the information technology committee for consideration by the



committee and the drafting of appropriate legislation to implement the recommendations. The judicial and legislative branches shall annually notify the advisory committee on their major computer software projects and priorities. The chief information officer may exempt an agency from the policies, standards, and guidelines established by the committee to address situations unique to that agency.

### **SITAC Membership**

<b>Member</b>	<b>Agency</b>
Curtis L. Wolfe	Information Technology Department
Eric Hardmeyer	Bank of North Dakota
Laura Glatt	University Systems
Carol K. Olson	Department of Human Services
David A. Sprynczynatyk	Department of Transportation
Maren Daley	Job Service North Dakota
Pam Sharp	Office of Management and Budget
Sandy Blunt	Workers Safety and Insurance
Arvy Smith	North Dakota Department of Health
Sparb Collins	North Dakota Public Employees Retirement System
Sandi Tabor	Office of Attorney General
Alvin A. Jaeger	Secretary of State
Rick Clayburgh	Office of State Tax Commissioner
Ted Gladden	North Dakota Supreme Court
Representative Bob Skarphol	Legislative Assembly
Senator Rich Wardner	Legislative Assembly
Dan Fisher	Community First Bankshares, Inc.
Craig Hewitt	MeritCare Health

## **Enterprise Architecture**

### **Mission Statement**

To provide a process that sets common goals and coordinates the delivery of information technology services to state government that are responsive and cost effective.

### **The Goals of Enterprise Architecture**

For state government to be as responsive and cost effective as possible, it is essential to have a clear view of enterprise goals and how to achieve them. EA offers a model that

connects business objectives to IT strategy, and creates a formal communication structure to support the attainment of a common vision.

Through the Enterprise Architecture (EA) process, state agencies will guide the future direction of information technology. The success of this highly collaborative process will depend on the strength of its governance structure and the commitment of the participants to its goals and guiding principles.

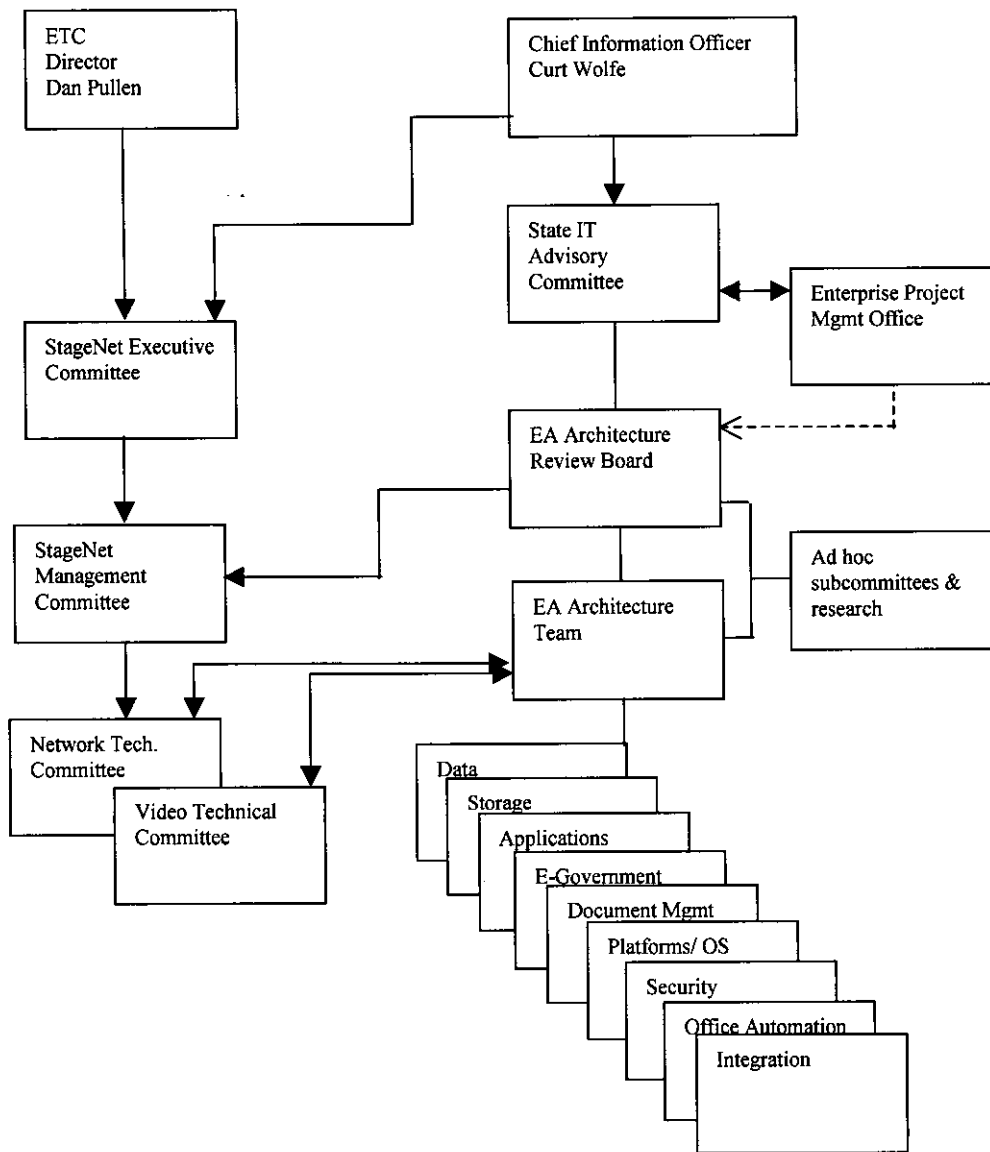
Enterprise Architecture is not a one-time event, nor limited to specific projects or agencies. EA is an on-going, iterative process that provides:

- A common vision of the future shared by business and information.
- Guidance in the selection, creation and implementation of solutions driven by business requirements.
- Support for the business of government through improved information sharing.
- A means to control growing complexities of technology by setting enterprise-wide, leveragable, standards for information technology.
- Assurance to policy-makers that agencies are creating new systems and migrating old systems through a consistent process.

Enterprise Architecture is critical because it provides the plan for the integration of information and services at the design level across agency boundaries.

For more information visit the Enterprise Architecture web site at <http://www.state.nd.us/ea/>.

Figure 1. Enterprise Architecture Governance Diagram



38  
2037

## Reasons for Flexible Changes to Standards, Policies and Guidelines

Twenty-four standards and 3 guidelines were created or updated in 2004. Standards exist to ensure compatibility across state government. Standards also help optimize expenditures on technology. Standards and guidelines are first and foremost a communication tool. Along with "future state" documentation they describe to vendors and agency IT staff the expectations with regard to technology deployment. It is important to keep this documentation current. The process for updating standards must be flexible.

- If IT staff feel that putting something in a standard means that it will rarely change, they will be reluctant to create standards and standards will not be used as a primary means of communicating expectations.
- Technology changes at a fairly rapid rate. It is difficult to predict the market more than 6 months in advance but we don't want this to prevent us from making decisions and moving forward.
- New products appear or old products disappear. IT companies merge or go out of business. This changes the business assumptions that were used to select a standard and may require a change in direction.
- Once a standard is established, feedback may indicate that the wording of the standard is unclear. If the standard establishes a process, continuous improvement of the process may warrant changes.
- Business requirements of a single agency may drive creation of a standard that others with less pressing needs will eventually follow. The lead agency may have time constraints that require expediting the standards process. The other agencies may find changes are needed to the standard once they get further experience with the technology.
- If an agency submits an exception request, and it is determined that the standard should be changed for all agencies rather than approve exception requests, then the change should be handled as expeditiously as possible.
- The high volume of standards is not conducive to a long, rigid approval process. The enterprise architecture process promotes stakeholder involvement in the development process with a fairly straightforward review and approval process. Enterprise architecture also encourages continuous change and updating.

## Examples of standards that may change frequently:

Following are examples of standards that may change frequently because they include lists of tools or products that have been approved for use. The intent is to share information and training across agencies. It should be an easy process for an agency to get a tool added to the list if they can show that it could provide a benefit for state government.

### Imaging Standard, November 3, 2004

#### TOOLS

1. Verity Teleform
2. FileNet Capture
3. Open Scan – Mail Scan
4. Wappapello
5. Neuroscanner – specific to the Neurolog brand scanner

### Application Development Tools/Languages, October 8, 2004

#### APPLICATION DEVELOPMENT TOOLS/LANGUAGES LIST

\* Indicates the direction the enterprise is heading or is a preferred tool/language

Direction *	Tool/Language	Additional Information
Design Tools - Database and UML Modeling		
	IBM Rational Rose	
	Oracle Designer	
	Sybase	
	PowerDesigner	
Development Tools/Platforms		
*	Allround Automations PL/SQL Developer	Developing Oracle RDBMS objects
*	Altova XMLSPY	XML
*	ESRI	GIS
*	IBM WSAD/Eclipse	Java
*	Java	J2EE, J2SE, J2ME
*	Macromedia Dreamweaver/Hom esite	Web site/page design and development
*	Microsoft.NET	Microsoft Visual Studio .NET, .NET Framework, ASP.NET
	Microsoft Access	End user database tool
	Oracle JDeveloper	Java
	SeeBeyond	Message translation and queuing and HIPAA Translator
	Sybase PowerBuilder	Client/Server

## Examples of Standards

Following are excerpts from various types of standards and guidelines developed through the enterprise architecture process. During the standard setting process, standards are not distinctly identified as product, process or policy standards. The standards stem from architecture principles and the future state direction. The full standards and guidelines can be found at <http://www.state.nd.us/ea/standards/>.

### Examples of product or specification standards used to ensure compatibility and consistency:

#### Databases Standard, January 28, 2004

- All new applications shall use databases specified in the "Approved Databases" list. New databases will be presented to the Data/Information domain team for review and evaluation. The list will be updated accordingly.
- If data for new applications require features of an Enterprise Database, the application must utilize an Enterprise Database. Otherwise, an approved Non-Enterprise Database may be utilized.

##### SUPPORTED DATABASE LIST

Database	Data Base Type	Enterprise Database
Oracle	RDBMS	Y
MS SQL Server	RDBMS	Y
IBM DB2 UDB	RDBMS	Y
MS Access	RDBMS	N

#### Groupware Standards, January 31, 2004

##### ENTERPRISE GROUPWARE SYSTEM COMPONENTS

###### Email, Calendaring/Scheduling

- Microsoft Outlook / Exchange
- Lotus Notes / Domino – (*End-of-life: June 2007*)
- POP3/SMTP service

###### Faxing

- Captaris RightFax

###### Instant Messaging, Presence Detection, Desktop Audio/Video Conferencing, Chat Services, Whiteboarding, File Transfer, Application Sharing

- Microsoft NetMeeting
- Public MSN, Yahoo Messenger, and AIM
- Evaluate corporate solution – (*Projected completion: June 2004*)

###### Collaborative Applications and Team-rooms

- Evaluate corporate solution – (*Projected completion: December 2004*)

## **Video Conference Standards, September 9, 1998**

To assure interoperability within and outside North Dakota, agencies and institutions shall utilize equipment conforming to the ITU-H.320 or ITU-H.323 videoconferencing standard.

(Copies of these standards may be obtained from ITU - [www.itu.ch](http://www.itu.ch))

Overall H.320 and H.323

Data Sharing T.120

Bandwidth:

- Minimum – T-1 connection (The minimum bandwidth provided on the State ATM network for individual locations.)
- General Videoconferences – 384K (The standard bandwidth for meeting and general videoconferences (not distance learning).)
- Distance Education – 768K (The standard bandwidth for K-12/IVN distance learning type video conferencing.)

ITD and IVN certified end point video equipment.

- Polycom SP
- Polycom FX
- Polycom VS4000
- PictureTel 970

## **Examples of process standards used to communicate expectations for consistent methods to ensure statewide service levels are met:**

### **Anti-Virus Standard, February 10, 2004**

- Anti-virus software shall be installed and active on all servers and workstations and virus signature files shall be kept current.
- All incoming files will be scanned for viruses. If a file contains a virus and cannot be cleaned, the file will be deleted.
- All files will be scanned on a weekly basis.
- Log files will be reviewed on a regular basis.
- All email entering the state's network from the Internet will be scanned to detect infected or purposely blocked attachments. All emails with infected or purposely blocked attachments will be dropped. They will not be delivered to the recipient.

### **Microsoft Critical Updates Standard, March 15, 2004**

- Microsoft critical updates will be installed within 30 days on all workstations running a Microsoft Operating System.

## **Examples of policy standards used to ensure consistent implementation of policy decisions:**

### **E-Services Privacy Standard, March 15, 2004**

1. All e-services accepting personally identifiable information shall provide privacy policy information.

2. Privacy policies shall state:

- a. What and why personally identifiable information is collected.
- b. How the information will be used and under what circumstances it will be released, or if applicable the specific laws providing that the information is confidential.
- c. Choices available to the individual for reviewing and correcting customer submitted information.
- d. Contact information.
- e. If social security numbers are collected, notification as required in the Privacy Act of 1974 must be given.
- f. Reference to a security policy.
- g. The web pages/applications or specific type of information/service areas covered by this policy.
- h. If and how cookies are used.

**Accessible Web Development Standard, November 3, 2004**

- Web sites shall validate to the World Wide Web Consortium (W3C) specification for Web Content Accessibility Guidelines 1.0 (WCAG) priority 2.  
Exception:
  - Internal Web sites deployed before July 1, 2004 until it undergoes major enhancements or otherwise challenged by an employee.
  - Technical tools or applications used by a limited number of internal staff for administrative purposes.

**Examples of guidelines or best practices developed to assist agencies in deploying technology:**

**Web Development Best Practices, February 10, 2004**

Page Content

1. HTML pages over 80kb should be avoided.
2. Information about file size should be provided when offering a large file download.
3. Web sites should be tested in multi-browser/version environments.
4. HTML pages should include keyword and content-language meta tags/information.
5. Proprietary document formats such as Microsoft or Lotus are not universally friendly and should be converted to formats such as Rich Text or HTML.
6. When designing a page that is lengthy (like FAQs, Glossary, List of Terms) provide an alphabetical/ navigational index at the top of the page that allows users to jump to a section of the page. Also, provide "back to top" links consistently throughout the length of the page.  
Links to the privacy policy, security policy, and contact information should be included in the footer of every page.

<more>



## **Definitions of Information Technology Terms**

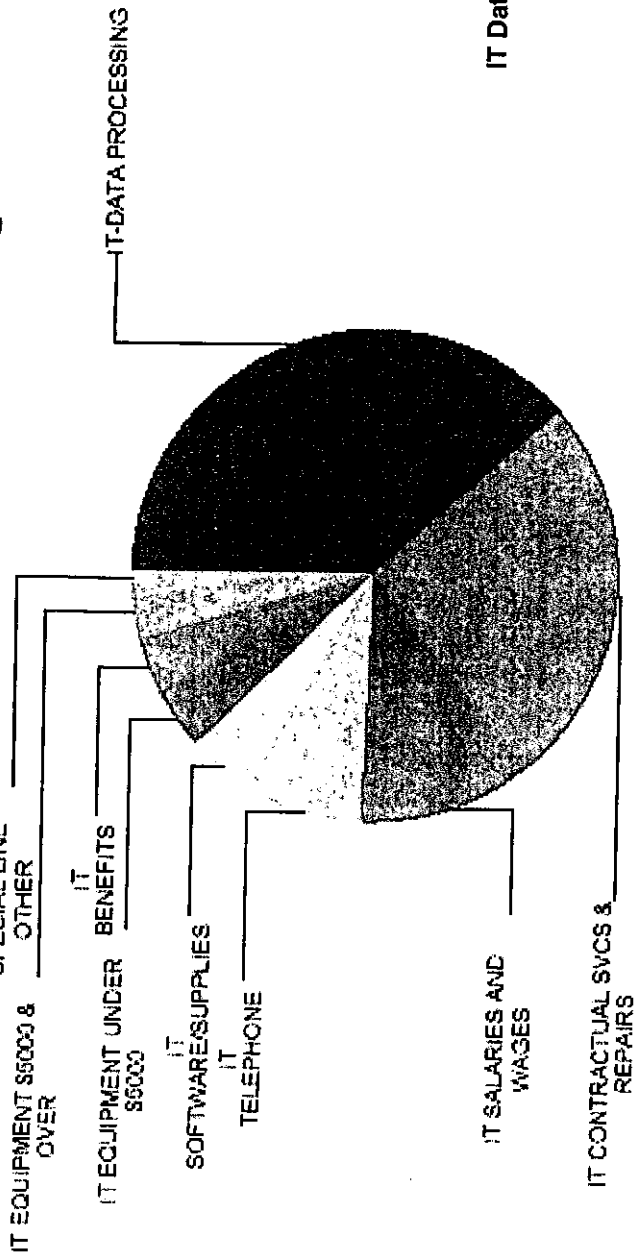
**Database:** A database is a general purpose software system which provides an updateable collection of persistent data arranged for ease and speed of search and retrieval by applications of a given entity. Databases include, but are not limited to, Sybase, Oracle, IBM DB2, Microsoft Access and Microsoft SQL Server.

**Application:** Software that accomplishes one or more business processes.

**Business Application:** A business application is any application used to accomplish the business of the agency. Business applications include, but are not limited to, database, mapping, engineering, geology, internet, or file sharing applications and associated infrastructure that is used to manipulate or analyze data, including, but not limited to, collecting, storing, analyzing, and disseminating business data, including but not limited to, oil & gas, coal exploration, mineral exploration, paleontological, geothermal, water resource, utility, siting or mine data.

# 05-07 IT Executive Recommendation

Excludes ITD Agency Billing and Higher Ed



## IT Object Code Definitions

### IT Data Processing:

Network Charges: Device Fees, Wide Area Network Connection Fees (T1, Fiber)  
Hosting: Monthly server fees (Mainframe, Web, BARS, etc.) and Disk Storage  
Software Development: Programming and Analyst time

### IT Contractual Services and Repairs:

Services obtained from outside vendors - other than ITD

### IT Salaries and Wages:

IT employees' salaries and wages within ITD and other agencies

### IT Telephone:

Local, long distance and cell phone service

### IT Software:

Software purchases and maintenance agreements  
**IT Equipment Under \$5000:**

Computers, printers, faxes, small copiers, other small equipment and computer peripherals

### IT Benefits:

IT employee benefits (health, retirement, taxes) within ITD and other agencies

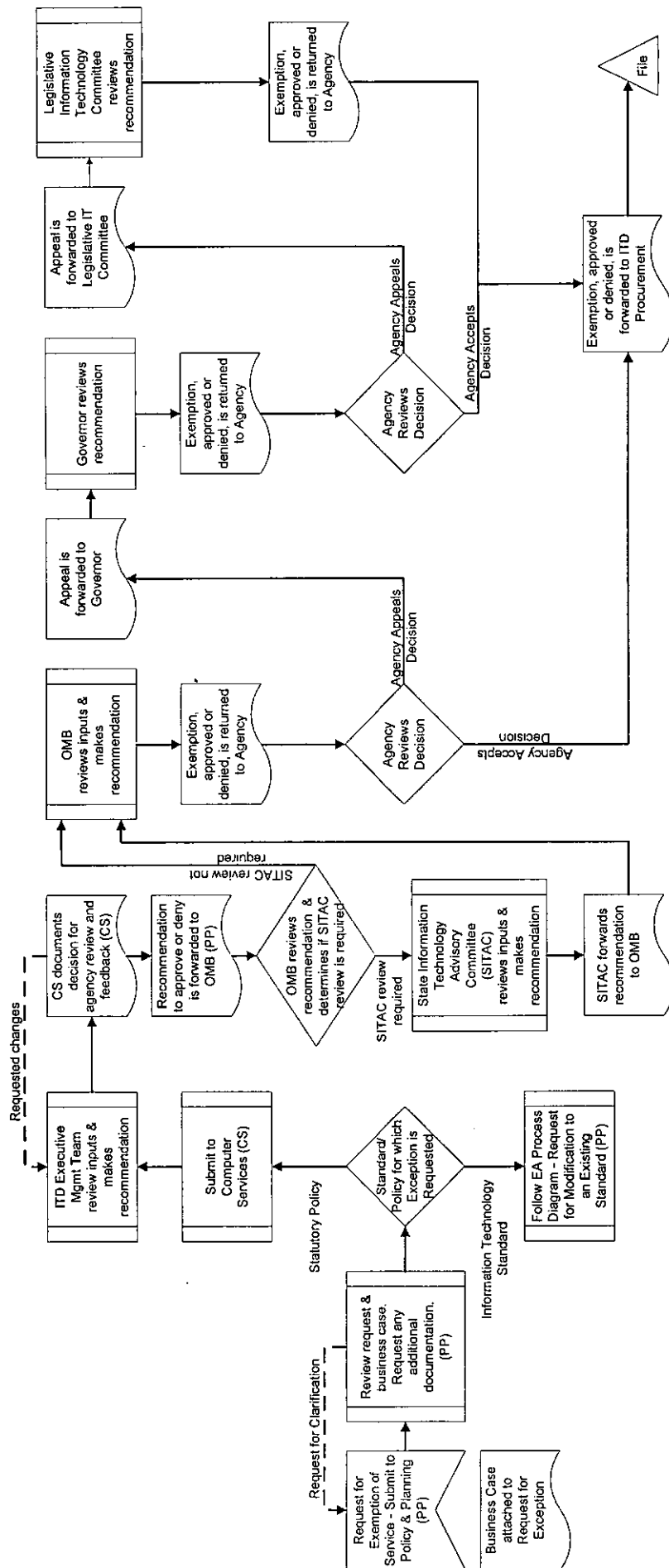
### IT Equipment \$5000 and over:

Servers, Storage Units, Printers, Copiers

### Special Line Other:

IT Grants such as EduTech and ETC

IT-DATA PROCESSING	\$67,279,198	38.4%
IT CONTRACTUAL SVCS & REPAIRS	\$44,912,403	25.6%
IT SALARIES AND WAGES	\$19,952,487	11.4%
IT TELEPHONE	\$13,820,476	7.8%
IT SOFTWARE/SUPPLIES	\$8,120,611	4.6%
IT EQUIPMENT UNDER \$5000	\$7,059,860	4.0%
IT BENEFITS	\$6,308,650	3.6%
IT EQUIPMENT \$5000 & OVER	\$6,208,948	3.5%
SPECIAL LINE OTHER	\$1,717,000	1.0%
IT OPERATING BUDGET ADJUSTMENT	\$0	0.0%
<b>Total:</b>	<b>\$175,179,632</b>	<b>100.0%</b>




SB 2037

**Points related to the PSC's request for an exemption from IT consolidation**

- The PSC's needs to maintain control over the specialized suite of software that has been provided by the federal Office of Surface Mining (OSM) for use in the coal regulatory and abandoned mined land reclamation programs. This federal IT equipment and software is integrated with that otherwise used by the Commission and we need the ability to quickly and economically acquire new IT products that are essential for interfacing with our business partners. Consolidation of IT services will greatly diminish the PSC's ability to react quickly and remain current with these business partners.
- The daily work of staff in the Commission's Reclamation Division involves the use of multiple data sets and large files that contain maps and other drawings. The specialized hardware and software provided by OSM is used for managing, analyzing and evaluating these data sets. This is needed to maximize staff's efficiency and effectiveness in reviewing mining related applications.
- The Commission's IT development has primarily occurred through the interaction of their staff with counterparts in the mining industry and with OSM. Efficiencies are achieved by having software that is compatible with that used by the mining companies in order to exchange work files electronically. Commission control over its IT system is needed to allow this interaction to continue.
- The PSC's IT evolution has allowed and encouraged specialized end-user development in conjunction with the companies to maximize performance and minimize total costs. An example of an example of this is electronic permitting system that allows mine related applications to be processed faster and more efficiently than paper filings.
- Future cost of IT consolidation is a major concern. Many of the mine related electronic files are very large due to the large number of maps and other data that is involved. If ITD's current fee structure is applied to this data, it is very unlikely the PSC will obtain sufficient federal matching funds to cover the storage costs for maintaining the electronic permit documents and other large files.

10-05

ew. Karen Krebsbach, just a short note to say  
North American Coal supports the PSC's request  
for an exemption from IT consolidation and the  
points mentioned above. Thank for your  
consideration -  


## **S.B. 2037**

**Presented by:** Illona A. Jeffcoat-Sacco  
Executive Secretary  
Public Service Commission

**Before:** Senate Government and Veterans Affairs  
Honorable Karen K. Krebsbach, Chair

**Date:** 13 January 2005

### **TESTIMONY**

Madam Chairman and committee members, I am Illona Jeffcoat-Sacco, I am the Executive Secretary of the Public Service Commission and Director of the Public Utilities Division. The Commission asked me to appear here today to testify against Senate Bill 2037.

The Commission is very concerned with SB 2037 because the bill would remove a substantial, important portion of the decision making process of the Information Technology Department (and consequently, of each agency) from the protections provided to interested parties and the public in the Administrative Agencies Practices Act. We believe there is need for public input and oversight of ITD's rulemaking process because the rules ITD promulgates affect agencies, industry and the public.

The proposed exception is limited to a "policy, standard or guideline" primarily intended to affect agencies related to their use of wide area network services, if approved by SITAC (state information

technology advisory committee). The limitation does not address our concerns. Pure ITD guidelines are already exempt from the rulemaking process, as are provisions regarding the use and maintenance of state property, prices charged by an agency and internal guidelines, so long as they do not affect the substantive or procedural rights and duties of any segment of the public. These are all acceptable exceptions to the due process afforded by the rulemaking process. What ITD is proposing here is not.

It is important that ITD's rules, decisions and practices be subject to the same standards and review processes that govern all other agencies, and that ITD's processes provide for input from interested parties and the public. ITD's standards, guidelines and best practices clearly affect the public, which is why the "guideline" exception does not apply now.

The best analogy that I can provide is an analogy to the state's centralized purchasing policy. Policymakers have concluded that substantial benefits can accrue to the state from centralized purchasing. This power, however, is not exercised without constraints, and is not consolidated in the hands of one executive office. Rather, specific laws apply to the state's centralized purchasing program, administered by the Office of Management and Budget, and that office is specifically authorized by law to ***promulgate formal rules*** to implement the authority, with all the protections of provided by Chapter 28-32.

This is so because the state's purchasing policy and procedures affect the public. The same is true of the policies, best practices and guidelines ITD hopes to impose under this proposed

loophole. It is the public with which the state can or could do business that will be harmed by this proposed exception, and it is precisely for this reason that the exception should not be granted.

I would like to provide you with some examples. ITD may propose purchase approval limits for software and hardware. Similar limits for other purchases under OMB's authority are promulgated by rule. ITD may propose specific procurement processes for competitive and noncompetitive procurement of hardware and software. These are also areas where OMB has promulgated formal rules under Chapter 28-32. Similarly, ITD approval of purchases and contracts is proposed in ITD policy, while OMB's analogous approval requirements and exceptions are specified by formal rule. Many of OMB's purchasing rules could be considered by some to be "best practices" in procurement, yet the law requires that they be promulgated by the formal rulemaking process to protect the public's due process. ITD proposes to adopt and implement what it calls best practices outside the rulemaking process, yet these will similarly affect the public but without benefit of the protections of Chapter 28-32.

These examples are just a few of the areas with the potential to affect a substantial component of the public, but they serve to illustrate our serious concern with the proposed exception. We respectfully recommend a DO NOT PASS on SB 2037.

This completes my testimony. I will be happy to answer any questions you may have.

## Consolidation Summary

January 20, 2005

### Public Service Commission

#### Consolidated Services

- E-Mail
- Web Server

#### Exempted Services

- File and print servers (2)  
Exempted due to issues with the Federal Office of Surface Mining (OSM).

ITD felt that our current consolidation model would provide the PSC with the same functionality as they have today. ITD felt that we should be able to address the OSM issues if we could get the PSC to coordinate with us in discussions with the OSM regarding the consolidation model at the State of North Dakota.

- Network attached storage  
Exempted by OMB since it is associated with the file and print servers

ITD felt that large storage purchases should be made by our office to make sure that such purchases fit with ITD's overall strategic direction for storage platforms. ITD provided two options for the PSC to choose from that would allow the disk to reside at the PSC with ownership remaining at ITD. The cost of these proposals was the same as if the PSC would have acquired the storage on their own.

- Sybase/Sun hardware and applications  
Exempted due to Sybase application development environment

ITD felt that we had sufficient Sun/Oracle processing capacity to absorb the PSC's Sybase applications. ITD was going to work with the PSC to determine a cost/benefit for migrating the Sybase applications to an Oracle environment.

### Industrial Commission

#### Consolidated Services

- E-Mail
- File and Print Services (2)

#### Exempted Services

- SQL hardware and applications (2)
- SQL associated Web Server (1)  
Exempted due to funding issues with the Ground Water Protection Council.

ITD felt that we had sufficient SQL processing capacity to absorb the Oil and Gas RDBMS application. ITD felt that we should be able to address the GWPC issues if we could get Oil and Gas staff to coordinate with us in discussions with the GWPC. The Chief of Staff from the Governor's office and Oil and Gas staff were going to have initial conversations with the GWPC to see if we could clarify and resolve the issues the GWPC has with consolidation.

The ESC did not approve a request from Oil and Gas to replace the primary SQL server since the Industrial Commission did not identify server replacement funds in the original consolidation budget and we had not yet attempted to resolve issues with the GWPC.



## **Water Commission**

### **Consolidated Services**

- E-Mail

### **Exempted Services**

- File and print servers
- Web Servers
- Network attached storage
- Apple 4-D hardware and applications

All these services were exempted since they are an Apple platform and we would need to conduct a cost benefit analysis on the cost to re-write the applications.

The Water Commission voluntarily converted to the state's central e-mail service. In addition we have had on-going dialogue regarding a proposed storage area network at the Water Commission versus using ITD's existing storage services.

2037



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Tony Clark, President  
Susan E. Wefald  
Kevin Cramer

Executive Secretary  
Illona A. Jeffcoat-Sacco

26 January 2005

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Honorable Karen K. Krebsbach, Chairman  
Senate Government and Veterans Affairs Committee  
600 East Boulevard Avenue  
Bismarck, ND 58505

Re: Amended Testimony on S.B. 2037

Dear Senator Krebsbach:

Enclosed is the Public Service Commission's amended testimony on SB 2037, together with proposed amendments implementing our recommendations. I apologize for the delay in providing you this information and for any inconvenience this may have caused.

Both of these documents have previously been discussed with Curt Wolfe and Mike Ressler of ITD and Lynn Helms of the Oil and Gas Division of the Industrial Commission. I also provided Pam Sharp with a copy of an early draft of our amendments. We did make a change to the proposed amendments to incorporate Mr. Wolf's comment about SITAC's role. We will provide Mr. Wolfe, Mr. Ressler and Ms. Sharp with copies of this final package, as well.

Generally, the amendments are intended to do the following:

- Clarify SITAC's role in overseeing the enterprise architecture process.
- Exempt ITD, standards, guidelines and best practices from rulemaking requirements when three circumstances exist. They are:
  - The standard, guideline or best practice does not materially affect the public;
  - The standard, guideline or best practices is not intended to have the force and effect of law;
  - The standard guideline or best practice is reviewed and approved by SITAC.
- Maintain the role of OMB in the exemption process.
- Exempt the PSC, Oil and Gas, the Geological Survey and the Water Commission from mandatory consolidation.

Honorable Karen K. Krebsbach  
26 January 2005  
Page 2

Thank you again for the opportunity to provide this information and these proposed amendments. If you have any questions, please do not hesitate to call or e-mail.

Sincerely,

A handwritten signature in black ink, appearing to read "Illona A. Jeffcoat Sacco". The signature is fluid and cursive, with the first name "Illona" being more prominent.

Illona A. Jeffcoat Sacco  
Executive Secretary  
Public Utilities Director

Enclosure

cc: Senator Richard L. Brown, Vice Chairman  
Senator Judy Lee  
Senator John O. Syverson  
Senator Carolyn Nelson  
Curtis Wolfe, ITD  
Mike Ressler, ITD  
Pam Sharp, OMB  
Lynn Helms, Oil & Gas Div., Industrial Commission

## **S.B. 2037**

**Presented by:** Illona A. Jeffcoat-Sacco  
Executive Secretary  
Public Service Commission

**Before:** Senate Government and Veterans Affairs  
Honorable Karen K. Krebsbach, Chair

**Date:** 26 January 2005

### **AMENDED TESTIMONY**

Madam Chairman and committee members, I am Illona Jeffcoat-Sacco, I am the Executive Secretary of the Public Service Commission and Director of the Public Utilities Division. The Commission asked me to appear here to testify against certain portions of Senate Bill 2037. We hope the Committee will consider an amendment to address our concerns.

The Commission is very concerned with SB 2037 because the bill would remove a substantial, important portion of the decision making process of the Information Technology Department (and consequently, of each agency) from the protections provided to interested parties and the public in the Administrative Agencies Practices Act. We believe there is need for public input and oversight of ITD's rulemaking process because the rules ITD promulgates affect agencies, industry and the public.

The proposed exception is limited to a "policy, standard or guideline" primarily intended to affect agencies related to their use of wide area network services, if approved by SITAC (state information technology advisory committee). The limitation does not address our concerns. Pure ITD guidelines are already exempt from the rulemaking process, as are provisions regarding the use and maintenance of state property, prices charged by an agency and internal guidelines, so long as they do not affect the substantive or procedural rights and

duties of any segment of the public. These are all acceptable exceptions to the due process afforded by the rulemaking process. What ITD is proposing here is not.

It is important that ITD's rules, decisions and practices be subject to the same standards and review processes that govern all other agencies, and that ITD's processes provide for input from interested parties and the public. ITD's standards, guidelines and best practices clearly affect the public, which is why the "guideline" exception does not apply now.

The best analogy that I can provide is an analogy to the state's centralized purchasing policy. Policymakers have concluded that substantial benefits can accrue to the state from centralized purchasing. This power, however, is not exercised without constraints, and is not consolidated in the hands of one executive office. Rather, specific laws apply to the state's centralized purchasing program, administered by the Office of Management and Budget, and that office is specifically authorized by law to *promulgate formal rules* to implement the authority, with all the protections of provided by Chapter 28-32.

This is so because the state's purchasing policy and procedures affect the public. The same is true of the policies, best practices and guidelines ITD hopes to impose under this proposed loophole. It is the public with which the state can or could do business that will be harmed by this proposed exception, and it is precisely for this reason that the exception should not be granted.

I would like to provide you with some examples. ITD may propose purchase approval limits for software and hardware. Similar limits for other purchases under OMB's authority are promulgated by rule. ITD may propose specific procurement processes for competitive and noncompetitive procurement of hardware and software. These are also areas where OMB has promulgated formal rules under Chapter 28-32. Similarly, ITD approval of purchases and contracts is proposed in ITD policy, while OMB's analogous approval requirements and exceptions are specified by formal rule. Many of OMB's purchasing rules could be considered by some to be "best practices" in procurement, yet the law requires that they be promulgated by the formal

rulemaking process to protect the public's due process. ITD proposes to adopt and implement what it calls best practices outside the rulemaking process, yet these will similarly affect the public but without benefit of the protections of Chapter 28-32.

These examples are just a few of the areas with the potential to affect a substantial component of the public, but they serve to illustrate our serious concern with the proposed exception.

In addition to our concerns about the rulemaking exception, we have concerns with the last section of the bill. We are one of the agencies that asked for and received a temporary exemption from consolidation for part of our file and print functions. We are concerned if this exemption decision rests solely in the hands of ITD without any input from professionals versed in the business functions and budget of our agency, or any agency that may be the subject of an exemption request. Technical ability or inability is not and should not be the only consideration when an exemption request is reviewed. The impact of consolidation or exemption on the business functions of the agency and on the agency's budget should be given equal consideration. We believe this can only occur if the exemption decision is made after input from professionals representing these different aspects of government work.

Since the hearing on this bill on 13 January 2005, we have discussed our concerns with representatives of the oil and gas division of the industrial commission and ITD. Based on those discussions, we have prepared the attached amendment, which I will explain below.

The purpose of the amendment is to make more formal the role of State Information Technology Advisory Committee (SITAC) and the enterprise architecture process in the ITD rulemaking issues we addressed in our testimony. We agree with everyone who testified that the enterprise architecture process is a very good one and one in which our concerns and suggestions, as well as those of other agencies, can be thoroughly discussed and reviewed, and refined as necessary and appropriate. The process can result in efficient, well-coordinated and innovative statewide IT standards and guidelines.

Consequently, we believe that formalizing the SITAC and enterprise architecture process and focusing one part of that process on the rulemaking exception will go far toward eliminating our concerns with section 2 of the bill. The proposed amendment implements these suggestions.

Additionally, the two aspects of rulemaking that especially concern us are the potential for a formal rule to affect the public and the fact that formal rules have the force and effect of law. We understand from the hearing on the bill that the guidelines, standards and best practices contemplated by ITD are not intended to impact the public nor have the force and effect of law. Consequently, we propose inserting these two qualifiers (not affecting the public and not having the force and effect of law) into the ITD exception in section 2, and the proposed amendments implement this recommendation.

Finally, we propose deleting the overstrike over the references to OMB in the exemption section, and ask the Committee to act favorably on our request to statutorily exempt the Public Service Commission, the Oil and Gas Division and Geological Survey of the Industrial Commission, and the Water Commission from mandatory consolidation. We request this exemption because these agencies are technical and scientific agencies in which all or most of their responsibilities require highly educated, technical personnel. The daily work of these individuals involves the use of multiple data sets and large files that contain maps and other drawings. Specialized hardware and software is used for managing, analyzing and evaluating these data sets. This is needed to maximize their efficiency and effectiveness.

The Public Service Commission's IT development occurs primarily through the interaction between the agency's technical professionals and their counterparts in the mining industry and with the federal Office of Surface Mining (OSM), which oversees the state's mine reclamation program.. Many efficiencies are achieved by having software that is compatible with that used by the mining companies in order to exchange work files electronically. The PSC's IT evolution has allowed and encouraged specialized end-user development in conjunction with these companies to maximize performance and minimize total costs. An

example of this is the electronic mine permitting system that was developed through negotiation and cooperation between the mines, the PSC and the Office of Surface Mining. This has resulted in several mining permits being converted to an entirely electronic format. The electronic applications are processed faster and more efficiently than paper filings, and are more easily and cheaply maintained long term.

The PSC's reclamation and abandoned mine lands staff use a specialized suite of software that has been provided by the federal Office of Surface Mining for use in these programs. The PSC needs to maintain control of this federally owned equipment and software in order for OSM to be comfortable providing us with updates and new products that are available for coal related programs. This federal IT equipment and software is integrated with that otherwise used by the Commission. We need the ability to quickly and economically acquire these new IT products that are essential for interfacing with our business partners. Consolidation of IT services will greatly diminish our ability to react quickly and remain current with these business partners on a daily basis.

Flexibility is also needed to allow the Commission to implement technological advances to minimize cost and maximize effectiveness, in step with private enterprise. The interaction with business partners effectively leverages an optimum mix of state and federal equipment and software, while maintaining strict compatibility with industry and other regulatory jurisdictions. This process provides benefits and efficiencies far above and beyond simply the federal dollars that help support our agency. This process allows us to provide the highest quality service to the state at the lowest possible cost.

The cost of IT consolidation is another major concern. Based on the storage costs under ITD's current fee structure, it is very unlikely the PSC can obtain sufficient federal matching funds to cover the storage costs for maintaining the electronic permit documents and other large files at the levels needed for efficient technical analyses. Current discussions with ITD indicate that ITD's published fee structure is negotiable, and our discussions with ITD are ongoing. If the final costs are higher than can be recovered through the federal grant, it will



greatly hinder our current electronic permitting process and any future development of new applications involving use of large files.

The proposed amendment also exempts the Oil and Gas Division and Geological Survey of the Industrial Commission from mandatory consolidation. In 2002 the Oil and Gas Division obtained federal Department of Energy and Environmental Protection Agency funds through the Ground Water Protection Council (GWPC) to acquire file servers, database licenses, and the Risk Based Data Management System (RBDMS) used in 20 of 33 oil and gas producing states. Risk Based Data Management System stores all North Dakota oil and gas data in an incredibly complex 180 table, 4.5 million record, relational database that links to electronic images of over 50,000 well logs, 15,600 well files, 9,000 case files, thousands of digital pictures, and geographic information system mapping data for every location. It provides instantaneous access for Bismarck office employees and replicates with Risk Based Data Management System on the Oil & Gas Division's web server, their ArcIMS server, and 13 field inspector computers located in Dickinson, Minot, and Williston.

The Oil & Gas Division and Geological Survey servers should be exempt because the Risk Based Data Management System was funded by the Ground Water Protection Council with federal funds from the Department of Energy and the Environmental Protection Agency, it must remain consistent with 20 other Ground Water Protection Council states, it contains extremely complex replication functions and data relationships that require detailed knowledge of oil and gas terminology, and it requires multiple versions that replicate to maintain data confidentiality required by statute.

Thank you for the opportunity to correct and supplement our testimony. We respectfully recommend that SB 2037 be amended as proposed in the attached draft.

This completes my testimony. I will be happy to answer any questions you may have.

PROPOSED AMENDMENT TO SENATE BILL NO. 2037

Page 3, line 22, after the comma remove "primarily intended to affect state agencies" and insert immediately thereafter "that does not materially affect the public and is not intended to have the force and effect of law,"

Page 3, line 25, replace "reviewed" with "approved"

Page 9, line 12, after "policy" insert ", oversee the enterprise architecture process, including the make-up and responsibilities of domain teams, the architecture team and the architecture review board"

Page 9, line 13, after "review" insert "and approve or reject", remove "by the department" and insert immediately thereafter "and through the enterprise architecture process"

Page 9, line 20, remove "a" and insert "the enterprise architecture process and"

Page 9, line 21, remove "involving"

Page 9, line 24, after "reviewed" insert "and approved"

Page 9, line 28, overstrike "by the department", insert after "budget" "under this section"

Page 9, line 30, overstrike the second "by" and immediately insert thereafter "under this section"

Page 9, line 31, overstrike "the department"

Page 12, line 3, after second comma insert "the oil and gas division and the geological survey of the industrial commission, the public service commission, the water commission," remove the overstrike over "office of"

Page 12, line 4, remove the overstrike over "~~management and budget after advisement by the~~ "

Page 12, line 7, remove the overstrike over "~~in conjunction with the office of management and budget.~~"

Page 12, line 8, remove the overstrike over "~~office of management and budget, after receiving advice from the~~"

Renumber accordingly



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Tony Clark, President  
Susan E. Wefald  
Kevin Cramer

Executive Secretary  
Illona A. Jeffcoat-Sacco

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10 February 2005

Honorable Karen K. Krebsbach, Chairman  
Senate Government and Veterans Affairs Committee  
600 E. Boulevard Ave.  
Bismarck, ND 58505

Re: S. B. 2037

Dear Chairman Krebsbach:

The Commission is currently using consolidated services for e-mail and web hosting. The Commission's current exemption from consolidation includes database hosting and administration, file and print services, and disk storage.

If our proposed exemption is adopted, the Commission intends to continue to use consolidated IT services for e-mail and web hosting because we recognize that, at least at this time, the best and most economical way to provide these services is through consolidation. We also intend to continue to evaluate all IT services to determine whether consolidation is the most appropriate way for the Commission to carry out its duties and serve the citizens of North Dakota and the regulated community.

The PSC's IT development occurs through the interaction of the agency's technical professionals and their counterparts in the mining industry and federal Office of Surface Mining. This allows us to maximize performance and minimize costs. While it may be technologically possible to consolidate nearly all IT services, it would have negative consequences for those we regulate and the citizens protected by that regulation.

We must be careful that in optimizing IT infrastructure, we do not negatively impact the efficacy of highly technical systems. Significant flexibility is essential to the collaborative and negotiated process of integrating federal, state and industry solutions. We believe that the only way for the Commission to have this flexibility is through an exemption from mandatory consolidation.

We understand that the committee may be considering a statutory exemption for the Commission that specifies certain IT services as exempt, or in

the alternative, a statutory provision that specifies certain IT services as consolidated. We do not think this approach is appropriate. Identifying certain services as exempt or not exempt restricts the ability of the Commission to provide new services in conjunction with the federal Office of Surface Mining and the mining companies. The same problem applies if the exemption itemizes certain pieces of equipment. A piecemeal exemption will not provide the flexibility needed to support a negotiated and collaborative process with industry and federal Office of Surface Mining.

Thank you for the opportunity to provide this additional information. If you have any questions or need more information, please call or e-mail.

Sincerely,



Illona A. Jeffcoat-Sacco  
Executive Secretary

cc: Senator Richard L. Brown, Vice Chairman  
Senator Judy Lee  
Senator John O. Syverson  
Senator Carolyn Nelson  
Curtis Wolfe, ITD  
Mike Ressler, ITD  
Dan Sipes, ITD  
Pam Sharp, OMB



# Public Service Commission

## State of North Dakota

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COMMISSIONERS

Tony Clark, President  
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Executive Secretary  
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March 15, 2004

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Honorable Al Carlson, Chairman  
Government Performance Division  
House Appropriations Committee  
600 East Boulevard Ave  
Bismarck, ND 58505

RE: Additional Information Regarding SB 2037

Dear Chairman Carlson:

This letter is in response to the committee's request for additional information regarding SB 2037. The committee asked us to identify service problems associated with consolidation of the PSC's e-mail servers, and areas where technologies used in the mining program exceed expectations set by the federal Office of Surface Mining (OSM).

With regard to e-mail consolidation, the following are some problems we have encountered:

- Some attachments to e-mail messages associated with electronic filings have been blocked. One example was a filing by Qwest for one of their telephone cases. These instances hinder the PSC's efforts to move toward complete electronic filing.
- There are often delays in the delivery time for e-mail messages and in response time for problem resolution. As we attempt to continue to provide high quality service with fewer FTEs, these delays lower our service level.
- The size limit set by ITD on e-mail accounts prevents the receipt of some large incoming messages when the account is near the size limit. Before consolidation, storage could be shared among all accounts in the agency. After consolidation, storage is specific to each account.
- The amount of spam that the PSC e-mail accounts receive has increased significantly since consolidation.
- Although this was also a problem before consolidation, there are some problems with the message size limit set by ITD at the incoming e-mail gateway.

These issues and concerns about e-mail consolidation have been brought to the attention of ITD and related oversight committees several times in the past.


In regard to the second question, OSM does not have specific standards that states are required to meet, but OSM strongly encourages states to develop electronic permitting and paperless filing systems for the state coal regulatory programs. Over the last several years, OSM has provided various forms of assistance to the states for this objective. Through coordination, cooperation and negotiation among industry, the PSC and OSM, North Dakota was the first state to issue a fully electronic mining permit for a large scale surface mine. Based on this success in North Dakota, OSM has provided the PSC with additional software and hardware to support these initiatives. This hardware and software is fully integrated with the Commission's computer systems.

Our results in the electronic permitting area lead OSM to provide the PSC with additional assistance in developing a geographic information system (GIS) to store, manage and analyze the vast amount of data and information we receive from the mining companies. This includes technical assistance from OSM staff, GIS training, and specialized software. OSM has also paid for consultants with expertise in GIS and mining to assist in the development and deployment of our GIS. In addition, OSM recently provided the PSC with specialized GIS software to handle large amounts of mine data for multiple users.

Also, OSM provides each state regulatory agency with state-of-the-art software for analyzing mine related data. The suite of software available to the PSC and other states with mining programs would otherwise cost each state around \$175,000. Annual software maintenance cost would be about \$35,000. This suite of software provided to each state at no cost includes the base software for GIS. However, the use of this OSM provided software must be controlled by the PSC and limited to mine related purposes.

If you have any questions, please feel free to contact me.

Sincerely,



Kevin Cramer  
Commissioner

cc: Representative Skarphol  
Representative Monson  
Representative Glassheim

## ITD Response to PSC letter to the Government Performance Division

### Dated: March 15, 2004

1. Email attachments: The fact that attachments are being blocked is by design. The amount of viruses and phishing techniques spread through email is an internet wide problem. This is at the core of theft identity and the like. The practice of blocking attachments is very common by industries using the internet, and in fact is a best practice. Accordingly, the government of Canada, several education systems and several industry trade magazines have already identified this as a best practice. See accompanying documents.
  - <http://e-com.ic.gc.ca/epic/internet/inecic-ceac.nsf/en/gv00286e.html>
  - <http://www.uwsp.edu/it/news/modMar0204.htm>
  - [http://www.gcn.com/vol1\\_no1/daily-updates/27859-1.html](http://www.gcn.com/vol1_no1/daily-updates/27859-1.html)
  - <http://64.233.167.104/search?q=cache:W7EfEzE06kwJ:darkwing.uoregon.edu/~joe/jt-email-security/jt-email-security-tutorial.ppt+email+attachments+blocking+best+practice+eweek.com&hl=en>

In regular discussion on internet blogs, the future of email even having the ability to have email attachments is of great security debate. Specifically to the PSC's instance, without knowing the specifics of the Qwest attachment we can only speculate that this particular attachment was stripped by the internet gateway. All email passes through the gateway servers whether it is intended for delivery to an ITD email server or an agency email server. The blocking of attachments is done as a security measure to assist in the containment of virus activity. Several file formats are known transport mechanisms for viruses and are blocked for the protection of state owned data and systems. This mechanism has been in place long before consolidation and is a common business practice to assist in providing a more secure email environment.

2. Email Delays: We have not received any reports of slow email from the PSC since November 4, 2004 when we completed the migration of their server to ITD infrastructure. For purpose of speculation, we are aware of two incidents that may have contributed to the slow response times. The first incident was a problem at the gateway where ITD worked with the software vendor for a resolution to the problem. Since this was a gateway issue, it would have equally impacted email destined for both ITD email servers and agency email servers. The second possibility is a known profile corruption issue with the Outlook client. The only known solution to this problem is to recreate the profile for those users that experience the problem. This known issue was disclosed to the PSC during a meeting on November 4, 2004. Here again, *this issue is a client issue that is unrelated to who is providing the hosting services.* At that time ITD encouraged PSC to contact the help desk in the event of any issues relating to email.
3. Email quotas: Email quotas are implemented on email accounts to provide some level of protection for denial of service attacks against the system. If limits were not set, spammers could lock up any email system by sending large and repeated emails. PSC demonstrated a business requirement to maintain very high limits and ITD provided PSC with 2G limits on their mailboxes to meet those requirements. This limit far exceeds the standard mailbox size of 50Mb offered to most state employees. In addition, we have provided PSC with two email accounts that have no limits per their request. The current email limits in place were provided as a result of a request by PSC during the consolidation process. Since that time we have not received a request from PSC to increase these accounts. A review of their current mailbox size would indicate the largest account is at 1.3G which leaves 700Mb of free space remaining.
4. SPAM: The function that provide SPAM filtering is a gateway function and is the same service that would be provide whether the email is delivered to an ITD email server or an agency email server. The same service that was provided prior to consolidation continues to remain in existence today post



consolidation. Currently ITD is quarantining approximately 70% of all scanned incoming email as spam. The people whose livelihood depends on spam are very creative and continuously work to find ways to get their email through spam filtering technology. This is certainly not a problem unique to state government as this is a worldwide problem and will likely continue to be an ongoing battle for the foreseeable future. Consolidation actually helps this situation by eliminating the need for each agency to purchase SPAM gateways (Sophos PureMessage). ITD paid \$25,323 for a 3 year contract with a 2 year contract remaining. (Currently the street price is about \$436,496). Through consolidation we are able to get volume discounts. If each agency negotiated their own SPAM gateway the cost would be significantly higher to state government.

5. Enterprise Architecture: The message size limit is again a service provided as a gateway function and is the same service that would be provided whether the email is delivered to an ITD email server or an agency email server. The current size limitation is set to 50Mb and established by the ND Enterprise Architecture process via standard OA002a-04.1. This standard was recently reviewed with an effective date of December 9, 2004. The Architecture Review Board voted in favor of this standard on October 28, 2004 where the PSC has representation. If the PSC would like to re-visit the size limit specified within the standard, the appropriate forum would be to present their business case to the Office Automation domain team for review and go through the remaining EA process.
6. OSM: As a general rule the infrastructure specifically dedicated to hosting applications and software *relating to OSM was exempted from consolidation*. This is not to say however that ITD does not have expertise or infrastructure that the PSC could take advantage of to assist with these applications



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

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Executive Secretary  
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18 March 2005

Honorable Al Carlson, Chairman  
House Appropriations  
Government Performance Division  
600 East Boulevard Avenue  
Bismarck, ND 58505

Dear Chairman Carlson:

Thank you for the opportunity to participate in the discussion of SB 2037 and to provide additional information to the committee.

We understand from the Committee Clerk that substantial changes have been or are being made to the proposed amendments passed out earlier this week. Consequently, rather than addressing specific language in the draft amendments, we will provide more general comments about the process envisioned by the amendments. We respectfully ask that we have an opportunity to comment on the specific revised proposed amendments when they are available.

The Commission generally agrees that the proposed exemption and appeal process (items four and five of the 14 March 2005 proposed amendments 50187.0304) is appropriate. It has consistently been our position that consolidation decisions should not be made in a technological vacuum, but rather incorporate a broader analysis of the relationship between the technology and the agency's business functions. The proposed exemption and appeal process provides this broader approach and for this reason is a positive addition to the law. However, we do recognize that some language changes are needed to provide better clarity. Also, we recommend that the provisions be added to Section 11 (N.D.C.C. section 54-59-22), the section on consolidation and exemptions, rather than incorporating exemption and appeal provisions into another new section.

We have similar concerns regarding the proposed new subsection authorizing industry requests for exemption. This provision requires some

language revisions to remove ambiguities and make the provision more precise. Also, we believe this provision more appropriately fits as an addition or subsection to Section 11 of the bill, rather than as a new section or subsection.

While we recognize the benefits of the proposed exemption and appeal process, we do not believe it is a substitute for a statutory exemption for the Public Service Commission, the Oil and Gas Division of the Industrial Commission and the Water Commission. The Public Service Commission still strongly believes that the statutory exemption for these agencies in Section 11 of Engrossed SB 2037 must be retained. The proposed industry exemption request clearly exemplifies why a statutory exemption is required. The business needs of the Commission and the other two agencies, as well as the industries with which these agencies interact, require the certainty that only a statutory exemption provides. This is demonstrated by the following:

- Several heavily regulated industries in North Dakota depend on very efficient operations to remain profitable, and this includes maintaining the ability to quickly adapt to new technologies. Seemingly minor changes or disruptions in the regulatory process to accommodate technology changes can be extremely detrimental to the industries and consequently to North Dakota.
- Agencies need the ability and flexibility to quickly adapt to the changes made by the regulated industry. Any process that makes this a more lengthy or uncertain endeavor, no matter how fair and reasonable it seems on the surface, can have devastating results. A great process which results in a poor outcome is of very little consolation.
- The exemptions proposed for the three technical and scientific agencies in Section 11 of Engrossed SB 2037 are needed in part due to the close and constant interaction these agencies have with the industries they regulate. This interaction and the ability to quickly respond to their needs helps these industries remain competitive and economically viable.
- The types and vast amount of information used by these agencies, their relationships with industry and federal oversight agencies, and the type of experts working in these agencies are very different from those in most of state government. Consequently, the business processes used in these agencies and their impacts on industry and others is not always fully understood or appreciated.
- The agencies need control over their computer servers to receive and maintain specialized applications that are provided by the federal government or other entities, often free or at minimal cost. Most of this software must be dedicated and used only for specific regulatory

programs. It would cost North Dakota several hundred thousand dollars or more to buy and maintain this software.

For all of these reasons, the Commission believes it is not only appropriate, but also necessary, for the legislature to exempt these agencies in statute. Statutory exemptions are better suited to addressing the long term certainty needs of these agencies and the industries they regulate.

The Commission fully appreciates the fact we have legislative sessions every two years, as well as an interim information technology committee. The interim committee provides a forum for reviewing all IT issues, including exemptions, and the legislature has the opportunity to re-examine the statutory exemptions each session, if necessary. For the reasons stated above, the legislative process, supplemented by the work of the interim committee, is the most appropriate process to use to perform any re-examination that may be necessary. Reviews in this manner also afford due process to industry, ITD, the agencies and the general public.

The Commission fully intends to continue using consolidated IT services for e-mail and web hosting because we recognize that, at least at this time, the best and most economical way to provide these services is through consolidation. We also intend to continue to evaluate all IT services to determine whether consolidation is the most appropriate way for the Commission to carry out its duties and serve the citizens of North Dakota and the regulated community. This ongoing analysis includes discussion and review of all aspects of our IT matters with ITD. ITD employs many fine and talented people who have provided valuable expertise and assistance to the Commission in the past, and we believe will continue to so provide in the future. The Commission also is in constant communication with other technical and scientific agencies, industry, our counterparts in other states, and the federal government in order to provide a high level of service to our constituents.

Similarly, the Commission believes the Enterprise Architecture (EA) process is a very valuable and necessary process for state government. The Commission is, and has been, very heavily involved with Enterprise Architecture. Commission employees have been involved in the process at the Domain Team level, at the Architecture Review Board and on special projects for EA. We recognized very early the importance of EA, both to the Commission and to all of state government. We have consistently both contributed to and received value from the EA process. In fact, the majority of the Senate amendments to the EA sections of SB 2037 were proposed by the Commission to clarify and strengthen a process we fully believe in and support.

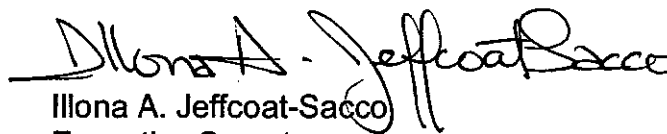
The Commission is responsible for ensuring that its employees provide high quality services in the most cost-effective, efficient way possible. As a

Honorable Al Carlson  
18 March 2005  
Page 4

constitutional agency headed by three state-wide elected officials, it is the Commission's responsibility to make the business decisions necessary to accomplish this objective. Part of this decision making involves the Commission's ongoing assessment of its IT options, and its commitment to the success of the Enterprise Architecture process. The statutory exemption from mandatory consolidation that we request is a key component in this endeavor, and is necessary to ensure that the choices available to the Commission are not artificially limited.

Thank you again for the opportunity to prove this information. If you have any questions, please do not hesitate to call or e-mail.

Best regards,

  
Illona A. Jeffcoat-Sacco  
Executive Secretary

c: Representative Bob Skarphol, Vice Chairman  
Representative David Monson  
Representative Eliot Glassheim

## Testimony to Senate GVA

on SB 2037

Grant Crawford

Chief Information Officer, North Dakota University System

January 13, 2005

*Same given to House Appropriates*

Although we agree with the other provisions of this bill and support those who speak in its favor, my purpose here today is to highlight the provisions that affect your University System and briefly explain the rationale behind them.

Current law requires the University System:

- to file biennial IT plans with ITD
- be subject to oversight of large administrative IT projects by ITD
- to adhere to IT standards enacted by ITD.

The net effect of these requirements makes it more frustrating for ITD to comply with the legislation and more difficult for the State Board of Higher Education to follow the Higher Education Roundtable recommendations since we must be accountable to two masters. Let me explain why:

### IT Plans

The currently-legislated IT planning process has actually fractured our planning activities by separating research and teaching from administrative uses of technology in such a way that it makes it more difficult for us to achieve our goals. To be most effective our IT plans need to be integrated with the remainder of the SBHE planning, reporting and accountability framework. This would end the confusion over which parts of higher ed need to submit IT plans for which part of their IT activities (and to whom), and how those plans should be tied to the budget. It would also clarify our involvement in the biennial statewide information technology plan.

1. Higher education budgets and operates on a yearly planning cycle. To effectively integrate information technology priorities with the other campus priorities, we need a planning cycle and process that considers all campus initiatives at the same time; otherwise information technology will *not* be connected to the rest of our agency's planning.
2. Because of the breadth of the activities on even a single campus, and a need to often respond quickly to funding opportunities beyond our appropriation, our planning activities often encompass initiatives far beyond the boundaries of our budget. For example we are currently looking at an advanced-networking initiative that would span the

northern tier of states at a cost of \$20-25 million. Projects of this nature are often in the formative stages for years before they become reality. This intentional behavior is necessary if we are to act swiftly when funding opportunities arise, yet wreaks havoc with the state planning system when we do it because it skews budget requests beyond all reason.

3. We need to consider IT plans that also include research and teaching initiatives; rather than just administrative ones because the work products of our enterprise center around teaching and research; not administration. Although we want our administration to be effective and well-run (and are measured on that through accountability measures), it is even more important for us to use the same diligence in creating plans for all areas within higher education. Two approval paths weakens our effectiveness noticeably.

For these reasons we request the move of IT planning responsibility to the SBHE. For continuity and effective state-wide planning, regular reporting to the interim IT committee and participation in the state-wide technology plan must also continue

### ***Project Oversight***

The current biennium has shown the value of project oversight for agency IT projects:

1. Current law requires formal oversight of our administrative projects only. In particular we have seen the value of such oversight in the management of our ODIN library system replacement and ancillary systems projects. We also oversee academic and teaching projects, but have difficulty doing so effectively without combining that oversight for all of our IT projects under the SBHE's mantle, rather than splitting some to ITD, and some to the SBHE.
2. Many of our projects serve more than one community. For example, one of our current projects covers a system-wide learning management system. It could be argued to be a project in support of teaching, or a project in support of administration. Similarly, the development and growth of advanced networking capabilities fundamentally needs to be a research activity. At the same time it needs to be used by researchers 'in production' to see if it meets its design goals.
3. Other agencies reasonably have no interest in projects that are well outside the administrative realm because it may well be many years before the products of these projects become available to them for use. It makes no sense to burden them with our projects in this area.

For these reasons we request the move of large IT project oversight to be the responsibility of the SBHE. We fully intend to continue working with ITD on formal project management policies and procedures, and are

pleased to work with them from the same project management handbook as we currently do. Oversight of projects that potentially impact the state-wide network, or library system would of necessity continue with ITD as at present. As provided in the bill draft, continuing to keep the interim IT committee informed is both prudent and desirable.

### ***IT Standards and Policies***

Existing statute actually makes it more difficult for the Board of Higher Education to effectively set standards and policies for information technology, rather than less difficult. For example when ITD approves a standard (usually based on SITAC's recommendation), by default it applies to higher ed for administrative uses, but not for research or teaching uses. At the very least this generates confusion within higher ed, and potentially generates multiple (perhaps conflicting) standards for us. For example the recently-approved standard on electronic signatures (DM005-04) was developed without our involvement. Creation of a standard applicable to our environment will require discussion among our campuses, and will take some time due to its complexity and the breadth of our operation. We not only need to choose a standard that works across many different computer and reporting systems, but across many different funding agencies in addition to the state of North Dakota.

We are supportive of standards in these areas and want to continue the excellent working relationship we have with ITD and the interim IT committee, but need to modify the standards for our use, and also maintain a parallel approval process that covers the entirety of our efforts; not just the administrative uses of technology.

1. By agreement with ITD we are not involved in all areas of the state's enterprise architecture, because in some cases our needs are diametrically opposed to those of other state agencies. As a result, policies can be promulgated without our involvement that affect us dramatically.
2. The NDUS is in the process of implementing its own Enterprise Architecture; complimentary to the state's, but focused on the very different architectural issues that arise in a system of individual, but related campus missions.

For these reasons we request the move of IT policy creation and management for the NDUS to be the responsibility of the SBHE. As required by the draft legislation, we fully intend to continue integration with the state's Enterprise Architecture in areas of common concern, such as security and network policies.

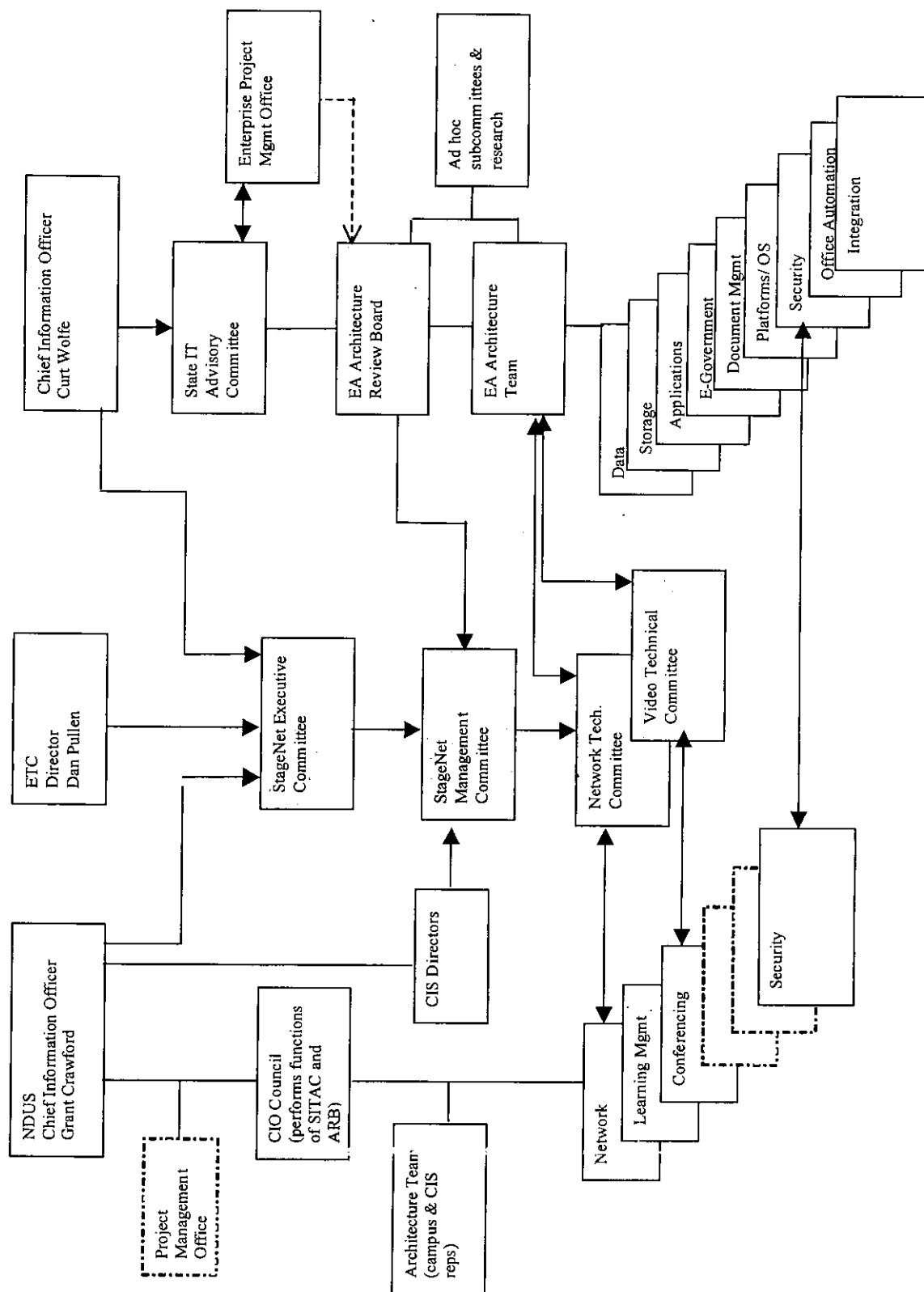
The structures and staff required to take on these new responsibility are largely in place at this time. We would welcome the opportunity to



~~consolidate our management in these areas now, and pledge to continue~~  
working with ITD and the IT committee as described in the bill draft.

I would be pleased to answer any questions you may have of me on this bill draft.

Figure 1. Enterprise Architecture Governance Diagram



562037

**Proposed Amendment to SB 2037**  
**Office of Attorney General**  
**Sandi Tabor**  
January 13, 2005

**Section 11. Amendment.** Section 54-59-21 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-21 Criminal justice information sharing board -- Membership -- Duties and powers.** The criminal justice information sharing board consists of the chief justice of the supreme court or the chief justice's designee, the attorney general or the attorney general's designee, and the chief information officer of the state. The chief information officer is chairman of the board. The information technology department shall provide staff support to the board. The board shall set policy relating to the collection, storage, and sharing of criminal justice information and the systems necessary to perform those functions. The board shall provide operational oversight for criminal justice information sharing activities and shall approve and provide oversight of criminal justice information sharing budgets. Access to the criminal justice information sharing system is limited to entities within the criminal justice system and to those entities approved by the board. The board may appoint an executive committee and an advisory committee that would serve in an advisory capacity to the board.

11  
Att  
Gen

NORTH DAKOTA INDUSTRIAL COMMISSION

OIL AND GAS DIVISION

Lynn D. Helms  
DIRECTOR

www.oilgas.nd.gov

Bruce E. Hicks  
ASSISTANT DIRECTOR

Senator Krebsbach  
Chair, Senate Government and Veterans Affairs

February 8, 2005

Re: SB 2037

You asked me to identify for you, from what ITD requirements the Oil & Gas Division and Geological Survey wish to be exempt.

**NDCC 54-59-22** Requires that all state agencies except those specifically exempted obtain electronic mail, file and print server administration, data base administration, storage, application server, and hosting services through a delivery system established by the information technology department.

The Oil & Gas Division and Geological Survey want to be exempt from the requirement to have ITD perform our file and print server administration, data base administration, storage, application server, and hosting services.

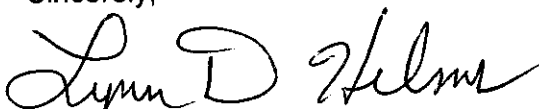
We currently use 3 servers that all perform data base, file, storage, application, and hosting functions. All 3 servers utilize replicating versions of a data base called RBDMS (Risk Based Data Management System) that was developed and funded by the Ground Water Protection Council (GWPC) with federal funds from the Department of Energy and the Environmental Protection Agency. GWPC owns the code and rights to the program and Sequel Server licenses. They require that it remain consistent with 20 other GWPC states and remain at the Oil & Gas Division (see attached letter). RBDMS contains extremely complex replication functions and data relationships that require detailed knowledge of oil and gas terminology, and requires multiple versions that replicate to maintain data confidentiality required by statute.

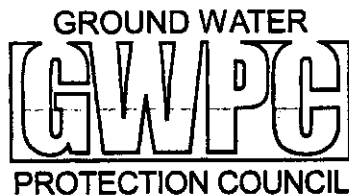
The Geological Survey should be exempted because it is being merged with the Oil & Gas Division on 7/1/05 and the agencies will thereafter share all the above equipment and services.

Both agencies are currently using ITD electronic mail services and plan to continue doing so. Neither agency uses any print servers.

If I have not adequately answered your questions or you need further information please let me know.

Sincerely,

  
Lynn D. Helms



Ground Water Protection Council  
13308 N. MacArthur Blvd.  
Oklahoma City, OK 73142

Tel: (405) 516-4972  
Fax: (405) 516-4973  
www.gwpc.org

*Dedicated to protecting our nation's ground water.*

November 2, 2004

Mark Bohrer  
North Dakota Industrial Commission  
Oil and Gas Division  
600 E. Boulevard Ave Dept 405  
Bismarck, ND 58505-0840



Dear Mark,

This letter is in response to your project application of October 7, 2004 requesting \$40,000 to support electronic commerce at the North Dakota Industrial Commission, Oil and Gas Division. Funding for projects of this nature would be potentially available from the recent grant that the Ground Water Protection Council (GWPC) received from the U.S. Department of Energy (US DOE).

Recall that at the recent GWPC Annual Forum in South Carolina, William Hochheiser US DOE outlined the conditions under which GWPC should fund projects. These conditions include:

1. Projects must have national applicability;
2. Maintain a goal of increasing oil and/or gas production while protecting the environment;
3. State Oil and Gas Agencies participation on an advisory committee which ensures the continued integrity of the RBDMS system; and
4. GWPC and Oil and Gas Directors should maintain control of the source code.

Your application appears to meet the first three requirements. However, in 2003 you indicated that the North Dakota Oil and Gas Division's RBDMS might be moved to a central computer department in North Dakota. Since you have indicated this is still possible in 2005, the GWPC remains concerned about the integrity of the source code.

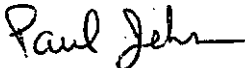
As discussed in my letter of December 11, 2003, it has been our experience that centralized technology departments result in inefficiencies in day-to-day management of the database and do not provide the type of feedback and peer networking that has been and continues to be critical to the overwhelming success of the RBDMS Project. This input and networking of the state regulatory agency personnel that built, utilize, and continue to develop RBDMS resulted in the US DOE awarding this project an Energy 100 Award, honoring it as one of the top 100 projects ever funded by the US DOE. The GWPC requires that the North Dakota Oil and Gas Division maintain real-time access to fully support the business applications of the system, full administrative authority on the database server, and an assurance that the equipment is maintained in a system with high capacity, fault-tolerant network connections to ensure reliable support for the state agency's daily operations. If the program were to be moved to a centralized technology

department, under the current operating procedures, they would necessarily become a contractor to the NDIC and a professional services agreement with GWPC would be required.

Another concern is the source of the federal grant monies used to implement the North Dakota Oil and Gas Division's version of RBDMS, which limits GWPC's ability to approve a transfer. Again, since the question of whether the transfer of a state specific customized version of RBDMS from one state agency to another can take place without permission has not been previously asked of us, we would need legal review. Regardless, in light of the fact that the North Dakota Oil and Gas Division's version of RBDMS was built and implemented with federal grant monies from the US DOE and US EPA, the GWPC would not be able to concur with the transfer until permission was obtained from both the US DOE and the US EPA. GWPC is very reluctant to seek this permission at this time because we do not want to jeopardize, in any way, the future funding of this very successful project.

In summary, if North Dakota would obtain permission from both the US DOE and the US EPA so GWPC could concur with the transfer of the North Dakota Oil and Gas Division's version of RBDMS; and the non oil and gas agency that would host North Dakota's version of RBDMS would agree to sign a professional services agreement with GWPC; or if the North Dakota Oil and Gas Division were to receive a permanent exemption from consolidation of its version of RBDMS, I would be glad to review your funding request.

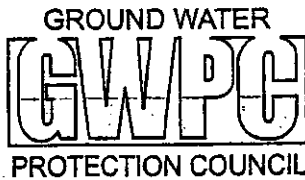
Sincerely,



Paul Jehn

Technical Director

The Ground Water Protection Council



Ground Water Protection Council  
13308 N. MacArthur  
Oklahoma City, OK 73142  
Tel: (405)516-4972  
Fax: (405)516-4973  
www.gwpc.org

*Dedicated to protecting the nation's ground water.*

October 2, 2003

Horizontal Drilling/UIC Manager  
North Dakota Industrial Commission  
Oil and Gas Division  
1016 East Calgary Ave.  
Bismarck, ND  
58503


Dear Mr. Bohrer

Thank you for submitting your recent funding application. With this application, you are requesting \$30,000 to fund the development of the North Dakota Oil and Gas electronic commerce project. The North Dakota Version of the Ground Water Protection Council's (GWPC) Risk Based Data Management System (RBDMS) is very successful thanks to the dedicated staff of the North Dakota Industrial Commission.

The GWPC and the U.S. Department of Energy have invested over 10 million dollars in 20 states in the development and implementation of the RBDMS suite of oil and gas data management utilities. This success is largely due to the partnerships we have developed with state oil and gas regulatory agencies like yours.

I regret to inform you that the GWPC will not be funding or supporting the RBDMS electronic filing/permitting initiative in North Dakota at this time. While funding for projects of this nature may be available in the future, the successful applicant will need to compete against other state oil and gas agencies. In our experience, state information systems where database servers, SQL server licenses, and server administration are consolidated or centralized are not the best candidates for investing our limited RBDMS development resources.

Please contact me at (208) 892-1400 if you have any questions.

Sincerely,  
  
Paul Jehn  
Technical Director

**Testimony in support of SB NO. 2037**

Gary Johnson  
Amerada Hess Corporation  
113 4<sup>th</sup> St. East  
Williston, ND  
Environmental Coordinator

**Amerada Hess Corporation Information:**

- Oil & Gas Producing Company
- Presence in ND for 50+ years.
- Maintain four field offices at Newburg, Tioga, Keene & Fryburg.
- Central office is located at Williston.
- Operates Tioga Gas Plant.
- Amerada Hess operates approximately 400 wells in ND.
- Employs around 100 people.
- Wells drilled in the last 5 yrs ~ 100
- Expected wells to drill in the next 5 years ~100+

**AHC supports the current version of this bill, especially in re-guard to Section 11 –**  
which excludes the Oil and Gas Division and the Geological Survey of the North Dakota Industrial Commission from the requirement to use file server administration, data base administration, application server, and hosting services of the Information Technology Department.

**Current ND Oil & Gas database & website**

The implementation of their database & website in 2002 has benefited the energy industry by offering an easier & more efficient access to:

Forms	Facts & Figures
Rules & Regulations	Historical Production data
Hearing Dockets (web based hearings)	Contacts
Publications	Well searches
GIS Map Server – access to well & field locations	Digitized logs
Seismic Data	Information on Pooling
	Proper & temporary spacing

**Results of the database & website have been easy access to critical information at “our finger tips”.**

AHC desires to see the Oil & Gas Division make the next step to electronic filing which will also increase our efficiencies, effectiveness & productivity.



The benefits to AHC to file electronically are listed below:

**1) Decrease in AHC labor.**

1. Some of the monthly or project reports that could be filed electronically are:
  - a. Workover Activity
    - i. Average 6 rigs/day
  - b. Drilling permit applications (BLM has electronic permitting, USFS is testing SUPO electronic permitting)
    - i. Last 5 yrs ~ 100 wells drilled
    - ii. Next 5 yrs ~ 100+ wells to be drilled
  - c. Oil sales meter proving reports
  - d. Allocations meters
  - e. Gas Analysis
  - f. Temporary Abandonment
  - g. Permanently Abandonment
  - h. Well Production
  - i. Water Injection Reports
  - j. Water Disposal Reports
  - k. Underground Injection Control (UIC)
  - l. Authorization of Oil Transportation
2. Increased efficiencies to AHC would result in that data is only handled once. Reports would not have to be copied and mailed.

**Summary: Data is handled once**

**2) Time factor: (in relationship to the mail)**

Mail time is eliminated.

Time to send & receive is decreased.

Administrative handling of paper is eliminated (e.g., printing, copying, and scanning)

**Summary: Transition into real-time**

**3) Accuracy of data is improved:**

Data (400+ monthly well tests) is not "handled" twice. Currently industry key punches data into their own databases and/or fills out forms to send to the Oil & Gas Division.

Oil & Gas Division then key punches the data into their database. This would be eliminated with electronic filing.

**Summary: Minimize the chance for errors**

**4) Data Transfer**

Industry could set up systems to generate:

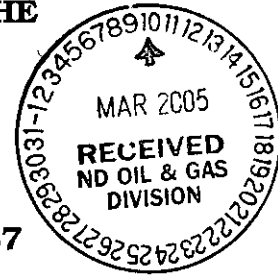
- Production filing (web form system would recognize company employee and populate related fields)
- Bulk Formatting (API compatible format provides bulk transferring of data -- no keypunching)
- Automatic tracking

**Summary: Production filing and bulk formatting**

**BEFORE THE GOVERNMENT PERFORMANCE DIVISION OF THE**

**HOUSE APPROPRIATIONS COMMITTEE**

**TESTIMONY IN SUPPORT OF ENGROSSED SENATE BILL 2037**



**LAWRENCE BENDER  
PEARCE & DURICK  
P.O. BOX 400  
BISMARCK, ND 58502**

**MARCH 11, 2005**

Mr. Chairman and distinguished Members of the Government Performance Division of the House Appropriations Committee, my name is Lawrence Bender. I am a Partner with the law firm of Pearce & Durick, located in Bismarck, North Dakota. I appear here today in support of Senate Bill 2037 and urge your support of the same.

The prospective from which I urge your support of this Bill is that of a North Dakota lawyer who represents a number of oil and gas companies operating in the state of North Dakota. In 2004, the oil companies I represented accounted for approximately one half of the crude oil produced in the state. My representation of these companies keeps me in daily contact with the Oil and Gas Division of the North

Dakota Industrial Commission. While these contacts are varied in nature, most are made to obtain information my clients want and need to operate and further explore for oil and gas in the state. Whether the request is for computer generated production information, decline curves for a particular well, field or unit or for well information and maps, prepared to my clients specifications, I can always count on getting the information in the form requested and in a timely manner — usually within hours or minutes of the request. The information I request and obtain from the Oil and Gas Division, and then pass along to my clients, in many cases is essential for them to have before making a decision to drill or recomplete a well. Being able to obtain this information from the Oil and Gas Division quickly and easily is, therefore, extremely important to my clients.

As technological advances continue, I and my clients look forward to the day when many of the applications, forms and reports that are filed with the Oil and Gas Division on a daily basis can be done so electronically. I understand from speaking with Mr. Lynn Helms, the Director of the Oil and Gas Division, that the exemption as provided in Section 11 of SB 2037 is necessary to facilitate the efforts of the Oil and Gas Division in proceeding with electronic filing. I also understand from my conversations with Representative Skarphol, a member of this Committee, that he is firmly committed to making the process of

"information technology consolidation" work in a manner that is best for the agency and regulated community.

From my own selfish interest (one who's law practice is dependent upon a strong oil and gas industry in the state), my hope is that SB 2037 will be passed in a form that will facilitate my clients and me getting information from the Oil and Gas Division in a timely fashion and that we can move towards more advancements in electronic filing. It is important to my clients and me that the Oil and Gas Division continue to provide the information which we have come to rely upon and at the same time keep pace with future technological developments.

I urge you to carefully scrutinize all the arguments which will be presented to you on this issue and choose the course which will be most beneficial to the agency involved and those that are regulated and regularly utilize the services of that agency.

Thank you for allowing me this opportunity to provide testimony.

**Testimony of John Dwyer  
President, Lignite Energy Council  
Before the  
House Appropriations, Government Performance Division  
Senate Bill 2037**

My name is John Dwyer and I serve as President of the Lignite Energy Council, which represents producers, utilities, G&T rural electric cooperatives, and nearly 300 businesses providing goods and services to the lignite industry.

I'm up here today on behalf of one of the industry groups that are affected by the state information technology and services that are provided. Of course, the agency that we are concerned about is the Public Service Commission and for your information, the mining companies and the PSC have worked together to develop a computer and software system that saves the industry time and money. In addition, it is my understanding that the systems developed to regulate utilities have worked extremely well in the past and continue to do so.

We are concerned particularly about Section 11 of the bill. We support the Public Service Commission exemption that appears in Section 11 of the Engrossed Bill. Specifically, our primary concerns are twofold:

(1) If the exemption is dropped, we are concerned about the service responsiveness by the IT Department to the PSC and eventually to industry because permits must be turned around for very large operations and they are time sensitive as to the large amounts of data that are included (such as yield data, hydrology, terrain, fish and wildlife habitat).

(2) Our second concern relates to the cost efficiency that we have been able to obtain by working with the PSC. We would be very concerned if systems were changed inappropriately and our costs then increased, particularly since there are study resolutions contained in the PSC budget bill that will examine whether more of the budget for the PSC can be paid for by permit fees from the regulated industry.

In brief, the failure to give the PSC the tools it needs could make the industry non-competitive if we are unable to timely file and revise and obtain the permits that we need. What I am trying to say is that the PSC has done a very good job from our perspective, has been very responsive and has kept costs low in developing an electronic permitting system.

If there are any questions, I would be more than happy to try to answer them.



# Public Service Commission

## State of North Dakota

### COMMISSIONERS


Tony Clark, President  
Susan E. Wefald  
Kevin Cramer

Executive Secretary  
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408  
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TDD 800-366-6888  
Fax 701-328-2410  
Phone 701-328-2400

### MEMORANDUM

To: SB 2037 Conference Committee  
Honorable Karen Krebsbach, Chair

From: Commissioner Kevin Cramer 

Re: Consolidation Exemption

Date 20 April 2005

As you all know, the Public Service Commission is strongly in favor of a statutory exemption from mandatory information technology consolidation. Although I recognize that you have been provided with more information on this issue than you ever imagined necessary, I wanted to take this opportunity to tell you about a very recent, relevant example of why this issue is so important to us.

As with other agencies, the Commission has traditionally preserved its closed cases by microfilming, a service provided by a division of the Information Technology Department. Microfilming has limitations, among them the fact that, without purchasing a new microfilm reader, we cannot print from microfilm in our office. In order to improve our ability to use our historical records, the Commission worked with ITD's Micrographics Division over the past biennium to develop a better scanning process so that the process would generate searchable electronic files, as well as microfilm. This provides case records that are easier to store and much easier to use.

Earlier this week, when reviewing the final version of a closed gas distribution system certificate case, we noticed that certain scanned pages were illegible. A printed version of one of these pages is attached to this memo. When we compared the scanned page to the original, we saw that the page was a tariff page on which the tariff language was highlighted, indicating that it was new tariff language. (The commission requires companies to indicate proposed new and deleted language in any tariff filing). A copy of the original page is also attached. It appears that the reason the scanned page was illegible is because of increased scanning speed and reduced electronic file size.

SB 2037 Conference Committee  
Honorable Karen Krebsbach, Chair  
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20 April 2005

Increasing scanning speed and decreasing file size can improve overall efficiencies, if one only considers IT efficiency without consideration of the business needs of the customer and productivity of the end user. When the technology implementation decisions are made by only IT, the result suffers from a lack of quality control, specialization, and customer service necessary for accomplishing the agency's business. The standard process is cheaper and more efficient for ITD, but is of no value to the customer. This problem is compounded by the fact that we worked with ITD for 18 months before implementing the new procedure, and had previously sent back one box due to poor quality results. As yet we have no adequate solution.

To further illustrate our concerns, I have attached a printed version of the same tariff page electronically scanned with the equipment and process we use in our Reclamation Division to archive documents required to be archived to federal Office of Surface Mining standards. Our reclamation process was developed through consultation with and advice from ITD staff, as well as the Office of Surface Mining, with equipment and software provided by OSM. This page provides a good example of the difference in results between a process in which one cares about the customer and a process in which one does not.

We have had ITD process 9 file boxes of cases in which we have asked for the electronic files and have no idea how many pages are illegible. There is no way that we have the resources to check every page to see if all are legible. We have 30 file boxes waiting to be submitted to ITD, but we in good conscience cannot send them down until we have confidence in the process.



PURCHASED GAS COST ADJUSTMENT-LINTON Rate 89

5. UNRECOVERED PURCHASED GAS COST ACCOUNT: (Cont.)

- (c) (2) Any such amortizing adjustments pursuant to this Subsection 5(c) shall be applied pro rata as between the amounts in the Unrecovered Purchased Gas Cost Account specified in Subsections 5(a)(1), (2), (3) and (5) and the amounts in the Unrecovered Purchased Gas Cost Account specified in Subsection 5(a)(4).

6. TIME AND MANNER OF FILING:

- (a) Montana-Dakota shall file each adjustment at least 30 days prior to the proposed effective date. Each such filing by Montana-Dakota shall be made by means of revised PGA sheets identifying the amounts of the adjustments and the resulting currently effective PGA rates.
- (b) Each such filing shall be accompanied by a report containing detailed computations which clearly show the derivation of the relevant amounts, a concise statement of the reasons for any change and copies of any relevant pipeline tariff sheets supporting costs claimed.

N

Date Filed: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Issued By: C. Wayne Fox, Vice President -  
Regulatory Affairs & General Services

Case No.: \_\_\_\_\_