

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1461  
(Representatives Skarphol, Monson)  
(Senators Grindberg, Robinson, Wardner)

AN ACT to create and enact two new sections to chapter 15-10 and a new subsection to section 54-35-15.2 of the North Dakota Century Code, relating to higher education information technology, telecommunications and information services competition, and powers and duties of the information technology committee; and to amend and reenact sections 54-59-05, 54-59-09, and 54-59-11 of the North Dakota Century Code, relating to the information technology department, information technology standards, and information technology plans.

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

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

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

1. The state board of higher education shall manage and regulate information technology planning and services for institutions under its control, including:
  - a. Development of information technology policies, standards, and guidelines in coordination with the information technology department.
  - b. Implementation of a process for project management oversight and reporting.
  - c. Integration of higher education information technology planning and reporting with the board's strategic planning process and annual performance and accountability report required by section 15-10-14.2.
  - d. Participation in internet2 or other advanced higher education or research-related networking projects as provided in section 54-59-08.
  - e. Development of an annual report concerning higher education information technology planning and services.
2. The state board of higher education shall collaborate with the information technology department to coordinate higher education information technology planning with statewide information technology planning.
3. The state board of higher education shall provide advice to the information technology department regarding the development of policies, standards, and guidelines relating to access to or use of wide area network services as provided by section 54-59-09.
4. The state board of higher education shall present information regarding higher education information technology planning, services, and major projects to the information technology committee on request of the committee.

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

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

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

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

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

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

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

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

5. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request information on or review information technology, applications, system development projects, and application development projects of executive branch agencies.
8. Shall study emerging technology and evaluate its impact on the state's system of information technology.
9. Shall develop guidelines for reports to be provided by each agency of the executive branch agency, institution, or department, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.
10. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
11. Shall review the information technology management of executive branch agencies or institutions.
- 44: 12. Shall perform all other duties necessary to carry out this chapter.
- 42: 13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003. The department shall file with the state auditor before September 1, 2003, a description of the wide area network service the department provided to each private, charitable, and nonprofit entity receiving services from the department on January 1, 2003.
- 43: 14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
- 44: 15. Notwithstanding subsection ~~42 13,~~ the department may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.

**SECTION 5. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-09. Information technology standards.** Based on information from state agencies and institutions, the department and the office of management and budget shall develop statewide information technology policies, standards, and guidelines. The policies, standards, and guidelines

must recognize the uniqueness of certain agencies and state which agencies are included or exempted from the policies, standards, and guidelines. The policies, standards, and guidelines must be reviewed by the state information technology advisory committee. Unless an exemption is granted by the chief information officer, each executive branch state agency and institution, excluding the institutions under the control of the board of higher education ~~with respect to academic and research uses of information technology~~, shall comply with the policies and standards developed by the department and the office of management and budget. Unless an exemption is granted by the chief information officer, each entity receiving wide area network services provided by the department shall comply with the policies and standards developed by the department with respect to access to or use of wide area network services.

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

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

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1461.

House Vote:      Yeas    89      Nays    0      Absent    5

Senate Vote:    Yeas    44      Nays    0      Absent    3

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State