

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2037

Introduced by

Legislative Council

(Information Technology Committee)

1 A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota
2 Century Code, relating to higher education information technology; and to amend and reenact
3 subsection 11 of section 28-32-01 and sections 54-35-15.2, 54-59-02.1, 54-59-05, 54-59-07,
4 54-59-09, 54-59-11, 54-59-19, 54-59-21, and 54-59-22 of the North Dakota Century Code,
5 relating to exclusion of certain policies, standards, and guidelines of the information technology
6 department from compliance with the Administrative Agencies Practice Act, powers and duties
7 of the information technology committee and the information technology department,
8 prioritization of proposed major information technology projects, access to the criminal justice
9 information sharing system, and information technology plans and reports.

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

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

13 **Higher education information technology - Reports.**

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

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

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

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

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

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

30 **54-35-15.2. Information technology committee - Powers and duties.** The
31 information technology committee has continuing existence and may meet and conduct its

1 business during the legislative session and in the interim between sessions. The committee
2 shall:

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

1 ~~financial, or human resources records or data and is provided primarily for~~
2 ~~administrative purposes.~~

3 12. ~~Perform periodic reviews to ensure that a major information technology project is~~
4 ~~on its projected schedule and within its cost projections. Receive a report from the~~
5 ~~chief information officer regarding the recommendations of the state information~~
6 ~~technology advisory committee relating to the prioritization of proposed major~~
7 ~~information technology projects and other information technology issues.~~

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

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

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

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

3 **54-59-05. Powers and duties of department.** The department:

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

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

1 10. Shall collaborate with the state board of higher education on guidelines for reports
2 to be provided by institutions under control of the state board of higher education
3 on information technology in those entities.

4 11. Shall review the information technology management of executive branch
5 agencies or institutions.

6 ~~44.~~ 12. Shall perform all other duties necessary to carry out this chapter.

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

17 ~~43.~~ 14. Shall assure proper measures for security, firewalls, and internet protocol
18 addressing at the state's interface with other facilities.

19 ~~44.~~ 15. Notwithstanding subsection ~~42~~ 13, the department may provide wide area network
20 services for a period not to exceed four years to an occupant of a technology park
21 associated with an institution of higher education or to a business located in a
22 business incubator associated with an institution of higher education.

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

25 **54-59-07. State information technology advisory committee.** The state information
26 technology advisory committee consists of the chief information officer; the commissioner of
27 higher education or the commissioner's designee; the attorney general or the attorney general's
28 designee; the secretary of state or the secretary of state's designee; the tax commissioner or
29 the commissioner's designee; the chief justice of the supreme court or the chief justice's
30 designee; two members of the legislative assembly appointed by the legislative council; a
31 minimum of eight members representing state agencies, appointed by the governor; and two

1 members with technology management expertise representing private industry, appointed by
2 the governor. The appointees of the governor serve at the pleasure of the governor. The
3 governor shall designate the chairman of the committee. Additional members may be asked to
4 participate at the request of the chairman. The department shall provide staff services to the
5 committee. The members of the committee representing private industry are entitled to be
6 compensated for time spent in attendance at meetings of the committee and for other travel as
7 approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per
8 day and are entitled to reimbursement for actual and necessary expenses incurred in the same
9 manner as other state officials. The compensation and expenses are to be paid from
10 appropriations for the department. The committee shall advise the department regarding
11 statewide information technology planning and budgeting, services of the information
12 technology department, and statewide information technology initiatives and policy; oversee the
13 enterprise architecture process, including the makeup and responsibilities of domain teams, the
14 architecture team, and the architecture review board; and review and approve or reject policies,
15 standards, and guidelines developed through the enterprise architecture process. The chief
16 information officer shall submit recommendations of the committee regarding information
17 technology issues to the information technology committee for its consideration.

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

20 **54-59-09. Information technology standards.** ~~Based on information from state~~
21 ~~agencies and institutions, the~~ The department and the office of management and budget shall
22 develop statewide information technology policies, standards, and guidelines using the
23 enterprise architecture process and advice from state agencies and institutions. The policies,
24 standards, and guidelines must recognize the uniqueness of certain agencies and state which
25 agencies are included or exempted from the policies, standards, and guidelines. The policies,
26 standards, and guidelines must be reviewed and approved by the state information technology
27 advisory committee. Unless an exemption is granted by the chief information officer, each
28 executive branch state agency and institution, excluding the institutions under the control of the
29 board of higher education ~~with respect to academic and research uses of information~~
30 ~~technology,~~ shall comply with the policies and standards developed ~~by the department and the~~
31 ~~office of management and budget~~ under this section. Unless an exemption is granted by the

1 chief information officer, each entity receiving wide area network services provided by the
2 department shall comply with the policies and standards developed ~~by the department~~ under
3 this section with respect to access to or use of wide area network services.

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

6 **54-59-11. Information technology plans.** Each executive branch state agency or
7 institution, ~~including~~ excluding the institutions under the control of the board of higher
8 education, shall prepare an information technology plan, subject to ~~approval~~ acceptance by the
9 department. The plan must be submitted to the department by July fifteenth of each
10 even-numbered year. The plan must be prepared based on guidelines developed by the
11 department; must provide the information technology goals, objectives, and activities of the
12 entity for the current biennium and the next two bienniums; and must include ~~information~~
13 regarding an asset management plan relating to the inventory of information technology assets
14 owned, leased, or employed by the entity. Each entity required to file a plan shall provide
15 interim updates to its plan if major information technology changes occur which affect its plan.
16 The department shall review each entity's plan for compliance with statewide information
17 technology policies and standards and may require an entity to change its plan to comply with
18 statewide policies or standards or to resolve conflicting directions among plans. Agencies of
19 the judicial and legislative branches shall file their information technology plans with the
20 department by July fifteenth of each even-numbered year. Each ~~state~~ entity required to file a
21 plan shall prepare its budget request for the next biennium based on its information technology
22 plan. The agency's budget request and the governor's budget recommendation must include
23 supporting information describing in detail how the information technology plan relates to the
24 budget request and recommendation. Any budget adjustment by the budget office must
25 include the corresponding change to the plan. Based on the plans, the department shall
26 prepare a statewide information technology plan and distribute copies of that plan to members
27 of the legislative assembly as requested by the legislative council or its designee. The
28 statewide information technology plan must be developed with emphasis on long-term strategic
29 goals ~~and~~, objectives, and accomplishments. The statewide information technology plan must
30 contain:

- 1 1. A list of major projects started, ongoing, and completed during the biennium,
2 including related budgeted and actual costs and the estimated implementation
3 date for each project, as well as the actual implementation date for completed
4 projects.
- 5 2. Information regarding evaluations of cost-benefit analyses for completed projects.
- 6 3. Information regarding the information technology plans, including the department's
7 plan review process, the number of plans reviewed, and the number of plans
8 accepted.
- 9 4. A description of the benefits to the state resulting from its investment in information
10 technology.

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

13 **54-59-19. Information technology department annual report.** The department shall
14 prepare and present an annual report to the information technology committee. In addition to
15 the presentation of the annual report to the information technology committee, the department
16 shall present a summary of the annual report to the budget section and to the legislative audit
17 and fiscal review committee. The report must contain:

- 18 1. ~~A list of major projects started, ongoing, and completed during the year including~~
19 ~~related budgeted and actual costs and the estimated implementation date for each~~
20 ~~project as well as the actual implementation date for completed projects.~~
- 21 2. A list of all projects for which financing agreements have been executed.
- 22 3. ~~Information regarding evaluations of cost benefit analyses for completed projects.~~
- 23 4. 2. A comparison of the department's rates charged for services compared to rates
24 charged for comparable services in other states and in the private sector.
- 25 5. ~~Information regarding the information technology plans including the department's~~
26 ~~plan review process, the number of plans reviewed, and the number of plans~~
27 ~~approved.~~
- 28 6. ~~A description of the benefits to the state resulting from its investment in information~~
29 ~~technology.~~

1 3. Information regarding the delivery of services to agencies, including service
2 dependability, agency complaints, and information technology department
3 responsiveness.

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

6 **54-59-21. Criminal justice information sharing board - Membership - Duties and**
7 **powers.** The criminal justice information sharing board consists of the chief justice of the
8 supreme court or the chief justice's designee, the attorney general or the attorney general's
9 designee, and the chief information officer of the state. The chief information officer is
10 chairman of the board. The information technology department shall provide staff support to
11 the board. The board shall set policy relating to the collection, storage, and sharing of criminal
12 justice information and the systems necessary to perform those functions. The board shall
13 provide operational oversight for criminal justice information sharing activities and shall approve
14 and provide oversight of criminal justice information sharing budgets. Access to the criminal
15 justice information sharing system is limited to entities within the criminal justice system and to
16 those entities approved by the board. The board may appoint an executive committee and an
17 advisory committee that would serve in an advisory capacity to the board.

18 **SECTION 11. AMENDMENT.** Section 54-59-22 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **54-59-22. Required use of electronic mail, file and print server administration,**
21 **data base administration, application server, and hosting services.** Each state agency
22 and institution, excluding the legislative and judicial branches, the institutions under the control
23 of the state board of higher education, the public employees retirement system, the retirement
24 and investment office, the attorney general, the oil and gas division and the geological survey
25 of the industrial commission, the public service commission, the water commission, and any
26 entity exempted by the office of management and budget after advisement by the information
27 technology department, shall obtain electronic mail, file and print server administration, data
28 base administration, storage, application server, and hosting services through a delivery
29 system established by the information technology department in conjunction with the office of
30 management and budget. The office of management and budget, after receiving advice from
31 the information technology department, shall establish policies and guidelines for the delivery of

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- 1 services, including the transition from existing systems to functional consolidation, with
- 2 consideration given to the creation of efficiencies, cost-savings, and improved quality of
- 3 service.