

INFORMATION TECHNOLOGY COMMITTEE - BACKGROUND MEMORANDUM

North Dakota Century Code (NDCC) Section 54-35-15.1 requires the Legislative Council, during each biennium, to appoint an Information Technology Committee in the same manner as the Council appoints other interim committees. The committee is to consist of six members of the House of Representatives and five members of the Senate. The Chief Information Officer of the state serves as an ex officio nonvoting member of the committee.

COMMITTEE STATUTORY AND ASSIGNED RESPONSIBILITIES

North Dakota Century Code Section 54-35-15.2 requires the committee to:

1. Meet at least once each calendar quarter.
2. Receive a report from the Chief Information Officer of the state at each meeting.
3. Review the business plan of the Information Technology Department.
4. Review macro-level issues relating to information technology.
5. Review the activities of the Information Technology Department.
6. Review statewide information technology standards.
7. Review the statewide information technology plan.
8. Review information technology efficiency and security.
9. Review established or proposed information technology programs and information technology acquisitions by the executive and judicial branches.
10. Receive and review information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the Information Technology Department and the affected agency regarding any major information technology project of an **executive branch agency**. A major project is a project with a total cost of \$250,000 or more.
11. Receive and review information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the Information Technology Department and the affected institution regarding any major project of the **State Board of Higher Education or any institution** under the control of the State Board of Higher Education. A major project is a project that significantly impacts the statewide wide area network, impacts the statewide library system, or is an administrative project and is a project with a cost of \$250,000 or more in one biennium or a total cost of \$500,000 or more.
12. Receive and review information from the Information Technology Department and the affected agency regarding any information technology project of an executive branch agency with a total cost of between \$100,000 and \$250,000 as determined necessary by the Information Technology Department.
13. Receive a report from the Chief Information Officer regarding the recommendation of the State Information Technology Advisory Committee relating to the prioritization of proposed major information technology projects and other information technology issues.
14. Receive and review information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the affected **legislative or judicial branch agency** regarding any information technology project of the legislative or judicial branch with a total cost of \$250,000 or more.
15. Receive information from the State Board of Higher Education regarding higher education information technology planning, services, and major projects.

North Dakota Century Code Section 54-35-15.3 authorizes the Information Technology Committee to review any information technology project or information technology plan. The section provides that if the committee determines that a project or plan is at risk of failing to achieve its intended results, the committee may recommend to the Office of Management and Budget the suspension of the expenditure or funding appropriated for a project or plan. The Office of Management and Budget may suspend the expenditure authority if the office agrees with the recommendation of the committee.

North Dakota Century Code Section 54-35-15.4 provides that the Information Technology Committee may request the State Auditor to conduct an information technology compliance review. The

review may consist of an audit of an agency's information technology management, information technology planning, compliance with information technology plans, and compliance with information technology standards and policies or an audit of statewide compliance with specific information technology standards and policies.

The committee has the responsibility for reviewing the activities of the Information Technology Department, the business plan of the department, statewide information technology standards, the statewide information technology plan, and major information technology projects as provided in NDCC Section 54-35-15.2, as discussed earlier; for determining information technology compliance reviews to be conducted by the State Auditor as provided in Section 54-35-15.4; and for receiving:

- A report from the State Board of Higher Education regarding higher education information technology planning, services, and major projects (Sections 15-10-44 and 54-35-15.2).
- A report from the Statewide Longitudinal Data System Committee on the status of the statewide longitudinal data system, including recommendations for further development, cost proposals, proposals for legislation, and data sharing governance (Section 15.1-02-18).
- A report from the Chief Information Officer regarding the recommendations of the State Information Technology Advisory Committee relating to the prioritization of proposed major information technology projects and other information technology issues (Section 54-35-15.2).
- A report from the Chief Information Officer regarding the coordination of services with political subdivisions and a report from the Chief Information Officer and the commissioner of the State Board of Higher Education regarding coordination of information technology between the Information Technology Department and higher education (Section 54-59-12).
- A report from the Information Technology Department regarding any executive branch agency or institution that does not agree to conform to its information technology plan or comply with statewide policies and standards (Section 54-59-13).
- The annual report from the Information Technology Department (Section 54-59-19).
- A report from the Information Technology Department regarding the department's level of outsourcing information technology services, former employees who provide consulting services, and the department's efforts to assist in the creation of North Dakota technology-related companies (Section 9 of 2009 Senate Bill No. 2021).
- Periodic reports from the Health Information Technology Office and the Health Information Technology Advisory Committee on the status of health information technology activities (Section 7 of 2009 Senate Bill No. 2332).

PREVIOUS COMMITTEE RECOMMENDATIONS 2005-06 Interim

The 2005-06 Information Technology Committee recommended two bills, both of which were approved by the 2007 Legislative Assembly, as follows:

1. Senate Bill No. 2037 (2007):
 - a. Provided that the Chief Information Officer may require as a condition of contracting with the Information Technology Department or other state agencies or departments with respect to an information technology project that any individual employed by the contractor or subcontractor to perform the work under the contract submit to a criminal history record check.
 - b. Revised the powers and duties of the Information Technology Committee and the Information Technology Department, including requiring the committee to receive and review project startup reports and project closeout reports for any major information technology project of an executive branch agency, the State Board of Higher Education, or any institution under the control of the State Board of Higher Education.
 - c. Provided that information technology plans are subject to acceptance by the Information Technology Department.
 - d. Revised the contents of the statewide information technology plan and the Information Technology Department annual report.
 - e. Provided that only entities approved by the Criminal Justice Information Sharing Board may access the criminal justice system.
2. Senate Bill No. 2038 (2007) required the Information Technology Department and the Office of Management and Budget to develop policies, standards, and guidelines based on information from state agencies and institutions. Executive branch state agencies, excluding entities under the control of the State Board of Higher Education, must comply with the policies and standards unless the Chief Information Officer exempts an agency to address situations unique to that agency. The bill also provided that the State Information Technology Advisory Committee is to review policies, standards, and guidelines developed by the Information Technology Department and prioritize proposed major

information technology projects of executive branch state agencies, excluding institutions under the control of the State Board of Higher Education and agencies of the judicial and legislative branches.

The 2005-06 Information Technology Committee considered, but did not recommend, a bill draft relating to higher education information technology planning services and major projects and a bill draft relating to the exclusion of policies, standards, and guidelines from compliance with the Administrative Agencies Practice Act. The 2007 Legislative Assembly did however approve House Bill No. 1461 relating to higher education information technology planning, services, and major projects. The bill:

- Provided that the State Board of Higher Education is responsible for managing and regulating information technology planning and services for institutions under its control; collaborating with the Information Technology Department to coordinate higher education information technology planning with statewide information technology planning; providing 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; and presenting information regarding information technology planning, services, and major projects to the Information Technology Committee.
- Provided that 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 University System. The 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, and the University System may not resell any portion of the Northern Tier Network infrastructure to nonuniversity entities other than research collaborators.
- Exempted institutions under the control of the State Board of Higher Education from complying with policies, standards, and guidelines developed by the Information Technology Department.
- Provided that institutions under the control of the State Board of Higher Education are not required to prepare information technology plans.

2007-08 Interim

The 2007-08 Information Technology Committee recommended Senate Bill No. 2041 (2009), which was approved by the Legislative Assembly. The bill amends NDCC Section 54-59-21 relating to the Criminal Justice Information Sharing Board to expand the board's membership to include the existing three

members--the Chief Justice of the Supreme Court, the Attorney General, and the Chief Information Officer--and nine additional members, including the director of the Department of Emergency Services, the director of the Department of Corrections and Rehabilitation, the superintendent of the Highway Patrol, the chief of the Bureau of Criminal Investigation, the director of the Department of Transportation, a representative of a city police department, a representative of a county sheriff's office, a state's attorney, and one at-large member appointed by the Governor. The bill also provides that board members who are not state employees are entitled to compensation of \$75 per day and mileage and expenses as provided by law for state employees to be paid by the Information Technology Department.

2009 LEGISLATIVE ASSEMBLY - RELATED LEGISLATION

Senate Bill No. 2021 - Statewide Longitudinal Data System Expenditures

Section 7 provides that the Department of Public Instruction may spend only the federal funds appropriated in House Bill No. 1013 for costs associated with the statewide longitudinal data system upon approval of the expenditures by the Information Technology Department.

Senate Bill No. 2021 - Statewide Longitudinal Data System Committee

Section 10 amends NDCC Section 15.1-02-18 to expand the membership of the Statewide Longitudinal Data System Committee, provides that the committee may solicit and receive money from public and private sources and those funds are appropriated on a continuing basis for the support of the longitudinal data system, and provides that the Information Technology Department is to provide staff and other necessary support to the committee.

Senate Bill No. 2041 - Criminal Justice Information Sharing Board

Senate Bill No. 2041 expands the membership of the Criminal Justice Information Sharing Board and provides that board members who are not state employees are entitled to compensation and expense reimbursement.

Senate Bill No. 2142 - Information Technology Planning

Senate Bill No. 2142 provides for the following relating to information technology planning:

- Allows the Chief Information Officer to exempt state agencies from submitting an information technology plan.
- Changes the date information technology plans are due from July 15 to August 15 of each even-numbered year.

- Allows the Chief Information Officer to grant state agencies an extension relating to the due date for information technology plans.
- Deletes state agency information technology plan requirements, including that the plan provide the information technology goals, objectives, and activities for the current biennium and the next two bienniums and include an asset management relating to information technology assets owned, leased, or employed.
- Deletes the statewide information technology plan requirements, including a list of major projects started, ongoing, and completed during the biennium, information regarding evaluation of cost-benefit analyses for completed projects, and a description of the benefits to the state resulting from its investment in information technology.

Senate Bill No. 2332 - Health Information Technology

Senate Bill No. 2332 provides for the following relating to health information technology:

- Establishes a Health Information Technology Advisory Committee consisting of the Chief Information Officer, the State Health Officer, the Governor, the executive director of the Department of Human Services, and individuals appointed by the Governor and the State Health Officer to represent a broad range of public and private health information technology stakeholders.
- Establishes a Health Information Technology Office in the Information Technology Department. The Health Information Technology Advisory Committee is to make recommendations to the Health Information Technology Office for implementing a statewide interoperable health information infrastructure that is consistent with emerging national standards, promote the adoption and use of electronic health records and other health information technologies, and promote interoperability of health information systems.
- Establishes an electronic health information exchange fund consisting of the money deposited in the fund from federal or other sources or money transferred into the fund as directed by the Legislative Assembly. The Health Information Technology Office is to administer the fund. Moneys in the fund are to be used to facilitate and expand electronic health information exchange.
- Provides that the Health Information Technology Office and the Health Information Technology Advisory Committee provide periodic reports to the Legislative Council and the Budget Section on the status of the health information technology activities.
- Establishes a health information technology loan fund at the Bank of North Dakota for providing loans to health care providers to purchase and upgrade electronic health record technology, train personnel in its use, improve security of information exchange, and for other purposes as determined by the Health Information Technology Office. This fund is a revolving loan fund. All money transferred into the fund, interest on money in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement.
- Establishes a health information technology planning loan fund at the Bank of North Dakota for providing low-interest loans to health care entities to assist those entities in improving health information technology infrastructure. This fund is a revolving loan fund. All money transferred into the fund, interest on money in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement.
- Provides a \$350,000 general fund appropriation to the Information Technology Department for costs of the Health Information Technology Advisory Committee and the Health Information Technology Office.
- Provides that the Industrial Commission transfer, during the 2009-11 biennium, as requested by the Health Information Technology Office director, up to \$8 million from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology loan fund to meet any required match for federal funds or to the electronic health information exchange fund to meet any required match for federal funds or as directed, a portion to both funds to meet any required match for federal funds. The Health Information Technology Office director is to request fund transfers from the Bank only as necessary to comply with federal requirements and to meet cashflow needs of the funds.
- Provides that if the actual general fund revenues for the period July 1, 2009, through September 30, 2009, exceed estimated general fund revenues for that period by at least \$22.5 million, as determined by the Office of Management and Budget, based on the legislative estimates made at the close of the 2009 legislative session and upon certification by the Health Information Technology Office director to the director of the Office of Management and Budget of a demonstrated need for health information technology planning loans, the Industrial Commission transfer up to \$5 million from the current earnings and accumulated undivided profits of the Bank of North Dakota to the health information technology planning loan fund. The Health

Information Technology Office director is to request transfers from the Bank only as necessary to meet cashflow needs of the fund.

- Provides an \$88 million special funds appropriation out of money in the electronic health information exchange fund, including up to \$80 million of federal funds from the federal American Recovery and Reinvestment Act of 2009 and \$8 million of earnings and profits of the Bank of North Dakota, to the Information Technology Department for facilitating and expanding electronic health information exchange.

OTHER RELATED BACKGROUND INFORMATION Information Technology Department

The Information Technology Department was established by the 1999 Legislative Assembly to assume the responsibilities of the Information Services Division of the Office of Management and Budget. The department is responsible for all wide area network services, planning, selection, and implementation for all state agencies, including institutions under the control of the State Board of Higher Education, counties, cities, and school districts in the state. The department is also responsible for computer support services, host software development, statewide communications services, standards for providing information to other state agencies and the public through the Internet, technology planning, process redesign, and quality assurance. The department is headed by the Chief Information Officer of the state who serves at the pleasure of the Governor and is to be appointed on the basis of education, experience, and other qualifications in information technology and administration.

Information Technology Department Funding

The 2009 Legislative Assembly provided funding of \$228,276,839, of which \$19,105,785 is from the general fund and \$209,171,054 is from special funds, to the Information Technology Department for the 2009-11 biennium. The 2009-11 appropriation of \$228,276,839 represents an increase in funding of \$103,369,063 from the 2007-09 appropriation of \$124,907,776. The following are summaries of the department's legislative appropriations for the 2007-09 and 2009-11 bienniums:

	General Fund	Special Funds	Total
2009-11 legislative appropriation	\$19,105,785	\$209,171,054	\$228,276,839
2007-09 legislative appropriation	11,659,411	113,248,365	124,907,776
Increase (decrease)	\$7,446,374	\$95,922,689	\$103,369,063

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2009-11 legislative appropriation	\$14,918,554	\$4,187,231	\$19,105,785
2007-09 legislative appropriation	10,047,921	1,611,490	11,659,411
Increase (decrease)	\$4,870,633	\$2,575,741	\$7,446,374
Percentage increase (decrease)	48.5%	159.8%	63.9%

The following is a summary of the department's legislative appropriation for the 2009-11 biennium:

	General Fund	Special Funds	Total
Information Technology Department operations (salaries and wages, operating expenses, and capital assets)	\$628,297	\$109,115,942	\$109,744,239
Center for Distance Education	1,229,232	5,058,685	6,287,917
Deferred maintenance		60,000	60,000
Statewide Longitudinal Data System Initiative	2,466,325	2,263,883	4,730,208
Educational Technology Council	974,986		974,986
EduTech	5,104,699	2,648,903	7,753,602
Wide area network	5,568,970	408,000	5,976,970
Geographic information system	714,678	75,000	789,678
Criminal Justice Information System (CJIS) Initiative	2,068,598	1,540,641	3,609,239
Health information technology	350,000	88,000,000	88,350,000
Total	\$19,105,785	\$209,171,054	\$228,276,839

The following is a summary of major appropriation increases and decreases included in the department's legislative appropriation for the 2009-11 biennium:

	General Fund	Special Funds	Total
Increased funding for the Statewide Longitudinal Data System Initiative	\$2,238,371	\$2,263,883	\$4,502,254
Increased funding for the statewide wide area network	1,797,064		1,797,064
Increased funding for the CJIS Initiative	774,702	1,123,609	1,898,311
Increased funding for Edutech	2,048,954	2,648,903	4,697,857
Provided funding for health information technology	350,000	88,000,000	88,350,000
Other	237,283	1,886,294	2,123,577
Total	\$7,446,374	\$95,922,689	\$103,369,063

The Legislative Assembly authorized a total of 328.2 full-time equivalent (FTE) positions for the 2009-11 biennium, an increase of 22 FTE positions from the 2007-09 biennium authorized level of 306.2 FTE positions. The following is a summary of the 22 new FTE positions:

EduTech - Statewide deployment of the PowerSchool application, including the transfer of 22 FTE positions from North Dakota State University and 5 new FTE positions	27.00
Criminal Justice Information Sharing Initiative - New position relating to the statewide automated victim information notification system	1.00
Statewide Longitudinal Data System Initiative	1.00
Other - Positions not requested by the agency	(7.00)
Total	22.00

Statewide Information Technology Funding

The 2009 Legislative Assembly provided funding of \$103,425,160, of which \$56,117,149 is from the general fund and \$47,308,011 is from special funds, for information technology projects for the 2009-11 biennium. A summary of the funding is attached as an [appendix](#).

PROPOSED STUDY PLAN

The following is a proposed study plan for the committee's consideration relating to its statutory responsibilities and assigned study responsibilities:

1. Review the activities of the Information Technology Department, the business plan of the department, statewide information

technology standards, the statewide information technology plan, and major information technology projects (NDCC Section 54-35-15.2).

2. Determine information technology compliance reviews to be conducted by the State Auditor and receive the results of those reviews (Section 54-35-15.4).
3. Receive a report from the Chief Information Officer regarding the recommendations of the State Information Technology Advisory Committee relating to the prioritization of proposed major information technology projects and other information technology issues (Section 54-35-15.2).
4. Receive reports from the Chief Information Officer of the state regarding the coordination of services with political subdivisions and the Chief Information Officer and the commissioner of the State Board of Higher Education regarding coordination of information technology between the Information Technology Department and higher education (Section 54-59-12).
5. Receive the following from the Information Technology Department:
 - a. A report regarding any executive branch agency or institution that does not agree to conform to its information technology plan or comply with statewide policies and standards (Section 54-59-13).
 - b. An annual report regarding information technology projects, services, plans, and benefits (Section 54-59-19).
 - c. Information regarding the statewide information technology budget for the 2009-11 and 2011-13 bienniums.
 - d. A report regarding the department's level of outsourcing information technology services, former employees who provide consulting services, and the department's efforts to assist in the creation of North Dakota technology-related companies (Section 9 of 2009 Senate Bill No. 2021).
6. Review current information technology-related statutory provisions.
7. Receive reports from the State Board of Higher Education regarding higher education information technology planning, services, and major projects (Sections 15-10-44 and 54-35-15.2).
8. Receive a report from the Statewide Longitudinal Data System Committee on the status of the statewide longitudinal data system, including recommendations for further development, cost proposals, proposals for legislation, and data sharing governance (Section 15.1-02-18).
9. Receive periodic reports from the Health Information Technology Office and the Health Information Technology Advisory Committee

on the status of the health information technology activities (Section 7 of 2009 Senate Bill No. 2332).

10. Develop recommendations and any necessary legislation to implement the committee's recommendations.
11. Prepare a final report for submission to the Legislative Council.

ATTACH:1