

INFORMATION TECHNOLOGY COMMITTEE - BACKGROUND MEMORANDUM

North Dakota Century Code Section 54-35-15.1 requires the Legislative Management during each biennium to appoint an Information Technology Committee in the same manner as the Legislative Management 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

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 (ITD).
4. Review macro-level issues relating to information technology.
5. Review the activities of ITD.
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 ITD 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 \$500,000 or more. The 2013 Legislative Assembly changed the definition of a major information technology project from a project with a total cost of \$250,000 to a project with a total cost of \$500,000.
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 ITD 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 total cost of \$500,000 or more.
12. Receive and review information from ITD and the affected agency regarding any information technology project of an executive branch agency with a total cost of between \$100,000 and \$500,000 as determined necessary by ITD. The 2013 Legislative Assembly changed the definition of a major information technology project from a project with a total cost of \$250,000 to a project with a total cost of \$500,000.
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 \$500,000 or more. The 2013 Legislative Assembly changed the definition of a major information technology project from a project with a total cost of \$250,000 to a project with a total cost of \$500,000.
15. Receive information from the State Board of Higher Education regarding higher education information technology planning, services, and major projects.

Section 54-35-15.3 authorizes the Information Technology Committee to review any information technology project or information technology plan. The section provides if the committee determines 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 (OMB) 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.

Section 54-35-15.4 provides 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 ITD, the business plan of the department, statewide information technology standards, the statewide information technology plan, and major information technology projects as provided in 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 ITD and higher education (Section 54-59-12).
- The annual report from ITD (Section 54-59-19).

In addition to its statutory responsibilities for the 2013-14 interim, the Legislative Management assigned the committee the responsibility to study:

- Voice over Internet Protocol service and the effect of this service and other technologies on the telecommunications industry, including any recommended changes in regulation and taxation (2013 Senate Bill No. 2234).
- Issues related to the development of the current radio communication plan, its costs and components, and evolving technologies that will better serve the public (2013 Senate Bill No. 2353).

PREVIOUS COMMITTEE RECOMMENDATIONS

2005-06 Interim

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

1. Senate Bill No. 2037:
 - a. Provided the Chief Information Officer may require as a condition of contracting with ITD 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 ITD, 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 information technology plans are subject to acceptance by ITD.

- d. Revised the contents of the statewide information technology plan and ITD annual report.
 - e. Provided only entities approved by the Criminal Justice Information Sharing Board may access the criminal justice system.
2. Senate Bill No. 2038 required ITD and OMB 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 the State Information Technology Advisory Committee is to review policies, standards, and guidelines developed by ITD 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 interim 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 the State Board of Higher Education is responsible for managing and regulating information technology planning and services for institutions under its control; collaborating with ITD to coordinate higher education information technology planning with statewide information technology planning; providing advice to ITD 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 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 ITD.
- Provided 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 interim Information Technology Committee recommended 2009 Senate Bill No. 2041, which was approved by the Legislative Assembly. The bill amended 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 provided 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 ITD.

2009-10 Interim

The 2009-10 interim Information Technology Committee recommended the following two bills for consideration by the 2011 Legislative Assembly:

1. Senate Bill No. 2036, which was defeated by the Legislative Assembly, amended Sections 54-59-02 and 54-59-05(13) relating to the responsibilities and powers and duties of ITD to provide the department may connect to a wide area network service for health information exchange in accordance with federal requirements for health information technology exchange.
2. Senate Bill No. 2037, which was approved by the Legislative Assembly, relates to the establishment and participation in the health information exchange. The bill:

- a. Created four new sections to Century Code relating to the confidentiality of health information under the health information exchange and participation in the health information exchange.
- b. Amended Section 23-06.5-19 to transfer responsibilities associated with the health care record registry from the Secretary of State to ITD.
- c. Amended Sections 54-59-25 and 54-59-26 relating to the Health Information Technology Advisory Committee and the Health Information Technology Office.

2011-12 Interim

The 2011-12 interim Information Technology Committee recommended the following two bills for consideration by the 2013 Legislative Assembly:

1. Senate Bill No. 2033, which was approved by the Legislative Assembly, amended Sections 54-35-15.2, 54-59-05(8), and 54-59-23 to change the definition of a large information technology project from a project with a total cost of \$250,000 or more to a project with a total cost of \$500,000 or more.
2. Senate Bill No. 2034, which was approved by the Legislative Assembly, created a new section to Chapter 54-59 to establish an executive steering committee for information technology projects. The bill provided:
 - a. An executive branch state agency, excluding institutions under the control of the State Board of Higher Education, proposing a major technology project must collaborate with ITD and OMB and consult with the Attorney General's office to approve and administer the contract for a project.
 - b. The procurement officer and primary project manager for a major information technology project must meet the qualifications established by ITD and OMB.
 - c. The executive steering committee consists of the Director of OMB, the Chief Information Officer, the head of the agency contracting for the project, the project sponsor, and a large project oversight analyst designated by the Chief Information Officer. The committee must monitor the overall status of the project and review project decisions. Any project decision declared by a member of the committee to be a major project decision requires at least four affirmative votes.
 - d. Contracts and any changes to a contract for a major information technology project must be signed by the head of the contracting agency and the Chief Information Officer.

2013 LEGISLATIVE ASSEMBLY - RELATED LEGISLATION

Senate Bill No. 2021 - Statewide Longitudinal Data System Expenditures

Section 4 provided the Department of Public Instruction may spend only the federal funds for costs associated with the statewide longitudinal data system upon approval by ITD for the 2013-15 biennium.

Senate Bill No. 2021 - Information Technology Project Planning

Section 5 created a new section to Chapter 54-59 to require executive branch state agencies, except entities under the control of the State Board of Higher Education, to include ITD in the planning process for an information technology project with an estimated cost of \$100,000 or more.

Senate Bill No. 2033 - Definition of Large Information Technology Projects

Senate Bill No. 2033 amended Sections 54-35-15.2, 54-59-05(8), and 54-59-23 to change the definition of a large information technology project from a project with a total cost of \$250,000 or more to a project with a total cost of \$500,000 or more.

Senate Bill No. 2034 - Executive Steering Committee for Information Technology Projects

Senate Bill No. 2034 created an executive steering committee and outlined the committee's responsibilities related to major information technology projects.

OTHER RELATED BACKGROUND INFORMATION

The Information Technology Department was established by the 1999 Legislative Assembly to assume the responsibilities of the Information Services Division of OMB. 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 2013 Legislative Assembly provided funding of \$170,928,981, of which \$21,254,428 is from the general fund and \$149,674,553 is from special funds, to ITD for the 2013-15 biennium. The 2013-15 appropriation of \$170,928,981 reflects a decrease of \$12,745,983 from the 2011-13 biennium appropriation of \$183,674,964. The following are summaries of the department's legislative appropriations for the 2011-13 and 2013-15 bienniums:

	General Fund	Special Funds	Total
2013-15 legislative appropriation	\$21,254,428	\$149,674,553	\$170,928,981
2011-13 legislative appropriation	19,252,204	164,422,760	183,674,964
Increase (decrease)	\$2,002,224	(\$14,748,207)	(\$12,745,983)

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total
2013-15 legislative appropriation	\$19,939,428	\$1,315,000	\$21,254,428
2011-13 legislative appropriation	17,294,580	1,957,624	19,252,204
Increase (decrease)	\$2,644,848	(\$642,624)	\$2,002,224
Percentage increase (decrease)	15.3%	(32.8%)	10.4%

The following is a summary of the department's legislative appropriation for the 2013-15 biennium:

	General Fund	Special Funds	Total
ITD operations (salaries and wages, accrued leave payments, operating expenses, and capital assets)	\$1,622,937	\$129,891,641	\$131,514,578
Center for Distance Education	3,891,900	1,976,491	5,868,391
Statewide longitudinal data system	1,870,754	0	1,870,754
Educational Technology Council	1,214,609	600,000	1,814,609
EduTech	3,054,720	4,997,374	8,052,094
Wide area network	4,828,177	100,000	4,928,177
Geographic information system	1,385,294	75,000	1,460,294
Health Information Technology Office	358,676	4,392,047	4,750,723
Criminal Justice Information Sharing System	3,027,361	842,000	3,869,361
Federal fiscal stimulus funds	0	6,800,000	6,800,000
Total	\$21,254,428	\$149,674,553	\$170,928,981

The following is a summary of major appropriation increases and decreases included in the department's legislative appropriation for the 2013-15 biennium:

	General Fund	Special Funds	Total
Decreased funding for ITD operations (salaries and wages, accrued leave payments, operating expenses, and capital assets)	\$917,917	(\$2,540,659)	(\$1,622,742)
Decreased funding for the Center for Distance Education	1,266,505	(2,047,352)	(780,847)
Decreased funding for the statewide longitudinal data system	(1,756,113)	0	(1,756,113)
Increased funding for the Educational Technology Council	214,206	525,000	739,206
Increased funding for EduTech	10,624	115,023	125,647
Decreased funding for the wide area network	29,185	(308,000)	(278,815)
Increased funding for the geographic information system	348,229	0	348,229
Decreased funding for the Health Information Technology Office	(4,296)	(9,204,219)	(9,208,515)
Increased funding for the Criminal Justice Information Sharing System	975,967	(88,000)	887,967
Decreased funding for federal fiscal stimulus	0	(1,200,000)	(1,200,000)
Total	\$2,002,224	(\$14,748,207)	(\$12,745,983)

The Legislative Assembly authorized a total of 340.3 full-time equivalent (FTE) positions for the 2013-15 biennium, an increase of 4 FTE positions from the 2011-13 biennium authorized level of 336.3 FTE positions. The increase is the result of transferring 4 FTE positions from Workforce Safety and Insurance. The individuals will continue to work on software systems relating to Workforce Safety and Insurance.

Statewide Information Technology Funding

The 2013 Legislative Assembly provided funding of \$43,434,647, of which \$6,180,774 is from the general fund and \$37,253,873 is from other funds, for information technology projects for the 2013-15 biennium. A summary of the funding is attached as an [appendix](#).

Health Information Technology

Health Information Technology Advisory Committee

Section 54-59-25 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, the Chairman of the House Human Services Committee, the Chairman of the Senate Human Services Committee, and individuals appointed by the Governor and the State Health Officer to represent a broad range of public and private health information technology stakeholders.

Health Information Technology Office

Section 54-59-26 establishes a Health Information Technology Office in ITD. 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.

The Health Information Technology Office Director, in collaboration with the Health Information Technology Advisory Committee, is to:

- Apply for federal funds that may be available to assist the state and health care providers in implementing and improving health information technology.
- Implement and administer a health information exchange that utilizes information infrastructure and systems in a secure and cost-effective manner to facilitate the collection, storage, and transmission of health records.
- Adopt rules for the use of health information, use of the health information exchange, and participation in the health information exchange.

Electronic Health Information Exchange Fund

Section 54-59-27 establishes an electronic health information exchange fund. The fund consists 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. The money in the fund is to be used to facilitate and expand the electronic health information exchange. Money in the fund may be used, subject to legislative appropriations, to provide services directly for grants and for costs of administration of the fund.

The estimated June 30, 2013, fund balance is \$8,158,236.

Health Information Technology Loan Fund

Section 6-09-42 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 technology exchange, and for other purposes as established by the Health Information Technology Office, in collaboration with the Health Information Technology Advisory Committee. This fund is a revolving loan fund. All money transferred into the fund, interest upon money in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement. Annually, the Bank may deduct a service fee for administering the revolving loan fund.

An application for a loan must be made to the Health Information Technology Office. The Health Information Technology Office Director, in collaboration with the Health Information Technology Advisory Committee, may approve the application of a qualified applicant that meets the criteria established by the Health Information Technology Office Director. The Health Information Technology Office forwards approved applications to the Bank of North Dakota. Upon approval of the application by the Bank, the Bank is to make the loan from the revolving fund. A loan made under this fund must be repayable over a period that may not exceed 10 years.

The federal funds anticipated for this fund were never made available; therefore, the fund has not been utilized.

Health Information Technology Planning Loan Fund

Section 6-09-43 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. Annually, the Bank may deduct a service fee for administering the revolving loan fund.

An application for a loan must be made to the Health Information Technology Office. The Health Information Technology Office Director, in collaboration with the Health Information Technology Advisory Committee, may approve the application of a qualified applicant that meets the criteria established by the Health Information Technology Office Director. The Health Information Technology Office forwards approved applications to the Bank of North Dakota. Upon approval of the application by the Bank, the Bank is to make the loan from the revolving loan fund.

It is estimated all of the money in the fund will be loaned out to health care entities by June 30, 2013.

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 ITD, the business plan of the department, statewide information technology standards, the statewide information technology plan, and major information technology projects (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 ITD and higher education (Section 54-59-12).
5. Receive the following from ITD:
 - a. An annual report regarding information technology projects, services, plans, and benefits (Section 54-59-19).
 - b. Information regarding the statewide information technology budget for the 2013-15 and 2015-17 bienniums.
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.
10. Study Voice over Internet Protocol service and the effect of this service and other technologies on the telecommunications industry, including any desired changes in regulation and taxation (2013 Senate Bill No. 2234).
11. Study issues relating to the development of the current radio communication plan, its costs and components, and evolving technologies that will better serve the public (2013 Senate Bill No. 2353).
12. Develop recommendations and any necessary legislation to implement the committee's recommendations.
13. Prepare a final report for submission to the Legislative Management.

ATTACH:1