

## INFORMATION TECHNOLOGY-RELATED STATUTORY PROVISIONS

This memorandum provides information regarding statutory provisions relating to the Information Technology Committee and the Information Technology Department.

### INFORMATION TECHNOLOGY COMMITTEE - STATUTORY PROVISIONS

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 it 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.

The following is a summary of statutory responsibilities and duties of the Information Technology Committee. A copy of the North Dakota Century Code sections is attached as [Appendix A](#).

Section	Responsibilities and Duties
54-35-15.2	<p>Requires the Information Technology Committee to:</p> <ul style="list-style-type: none"> <li>• <b>Meet</b> at least once each calendar quarter</li> <li>• <b>Receive a report from the Chief Information Officer</b> of the state at each meeting</li> <li>• <b>Review the business plan</b> of the Information Technology Department</li> <li>• <b>Review macro-level issues</b> relating to information technology</li> <li>• <b>Review the activities</b> of the Information Technology Department</li> <li>• <b>Review statewide information technology standards</b></li> <li>• <b>Review the statewide information technology plan</b></li> <li>• <b>Review</b> information technology efficiency and security</li> <li>• <b>Review</b> established or proposed information technology programs and information technology acquisition by the executive and judicial branches</li> <li>• <b>Receive and review information, including a project startup report and a project closeout report</b>, regarding any major information technology project of an <b>executive branch agency</b>. A major project is a project with a total cost of \$250,000 or more.</li> <li>• <b>Receive and review information, including a project startup report and a project closeout report</b>, regarding any major information technology project of the <b>State Board of Higher Education</b> 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.</li> <li>• <b>Receive and review information regarding any information technology project of an executive branch agency</b> with a total cost between <b>\$100,000 and \$250,000</b> as determined necessary by the Information Technology Department</li> <li>• <b>Receive a report regarding the recommendations</b> of the State Information Technology Advisory Committee relating to the <b>prioritization of proposed major information technology projects</b> and other information technology issues</li> <li>• <b>Receive and review information, including a project startup report and a project closeout report</b>, regarding any information technology project of the <b>legislative or judicial branch</b> with a total cost of \$250,000 or more</li> <li>• <b>Receive information</b> from the State Board of Higher Education <b>regarding higher education information technology planning, services, and major projects</b></li> </ul>
54-35-15.3	<p>Authorizes the committee to <b>review any information technology project or information technology plan</b> and provides that if the committee determines that a project or plan is at risk of failing to achieve its intended results, the committee <b>may recommend</b> to the Office of Management and Budget (OMB) the <b>suspension of the expenditure of money appropriated</b> for a project or plan. The Office of Management and Budget may suspend the expenditure authority if the department agrees with the recommendation of the committee.</p>
54-35-15.4	<p>Provides that the committee may request the State Auditor to conduct an <b>information technology compliance review</b>. 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.</p>

## INFORMATION TECHNOLOGY DEPARTMENT - STATUTORY PROVISIONS

Chapter 54-59 establishes an Information Technology Department. The following is a summary of statutory provisions relating to the Information Technology Department. A copy of the North Dakota Century Code sections is attached as [Appendix B](#).

Section	Responsibilities and Duties
54-59-01	Definitions relating to Chapter 54-59
54-59-02	Identifies the <b>responsibilities of the Information Technology Department</b> , including wide area network services, 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 may not exercise its powers and duties in a manner that competes or otherwise interferes with the provision of telecommunications service to a private, charitable, or nonprofit entity by a privately or cooperatively owned telecommunications company.
54-59-02.1	Requires the Information Technology Department to <b>submit information regarding proposed major information technology projects</b> for executive branch state agencies, excluding the institutions under the control of the State Board of Higher Education and agencies of the judicial and legislative branches, to the State Information Technology Advisory Committee. The committee is to review the projects and rank those that receive the committee's affirmative recommendation. The Chief Information Officer is to submit recommendations of the committee regarding the prioritization of major information technology projects to the Information Technology Committee, OMB, and the Appropriations Committees of the Legislative Assembly. The judicial and legislative branches are to biennially notify the committee on their major computer software projects and priorities.
54-59-03	Requires the Governor to <b>appoint the Chief Information Officer</b> of the state
54-59-04	Identifies the <b>duties for the Chief Information Officer</b>
54-59-05	Provides for the <b>powers and duties of the Information Technology Department</b> , including to: <ul style="list-style-type: none"> <li>• <b>Provide, supervise, and regulate information technology</b> of all executive branch state entities, excluding the institutions under the control of the State Board of Higher Education</li> <li>• <b>Provide network services</b></li> <li>• <b>Review and approve additional network services</b> that are not provided by the department</li> <li>• <b>Purchase, finance</b> the purchase, or <b>lease equipment, software, or implementation services</b> or replace equipment or software as necessary to carry out Chapter 54-59. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years, and the department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services which is in excess of \$1 million to the Budget Section or the Legislative Assembly prior to executing a financing agreement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed 7.5 percent of the amount appropriated to the department during that biennium.</li> <li>• <b>Review and approve the acquisition of information technology</b> for all executive branch state entities, excluding the institutions under the control of the State Board of Higher Education</li> <li>• <b>Provide information technology</b>, including assistance and advisory service, to the executive, legislative, and judicial branches</li> <li>• <b>Request and review information, including a project startup report and a project closeout report, regarding any major information technology project</b> of executive branch agencies</li> <li>• <b>Request and review information</b> regarding any <b>information technology project</b> of an <b>executive branch agency</b> with a total cost between <b>\$100,000 and \$250,000</b> as determined necessary by the department</li> <li>• <b>Study emerging technology</b> and evaluate its impact on the state's system of information technology</li> <li>• <b>Develop guidelines for reports</b> to be provided by each executive, legislative, and judicial branch agency, excluding the institutions under the control of the State Board of Higher Education, on information technology in those entities</li> <li>• <b>Collaborate</b> with the <b>State Board of Higher Education</b> on <b>guidelines</b> for reports to be provided by institutions under the control of the State Board of Higher Education on information technology in those entities</li> <li>• <b>Perform all other duties necessary</b> to carry out Chapter 54-59</li> <li>• <b>Provide wide area network services</b> to state agencies, cities, counties, school districts, and other political subdivisions and not provide wide area network services to any private, charitable, or nonprofit entities</li> <li>• Assure proper measures for <b>security, firewalls, and Internet protocol addressing</b></li> <li>• <b>Provide wide area network services</b> for a period not to exceed four years to occupants of <b>technology parks</b> and businesses in <b>business incubators</b> associated with higher education institutions</li> </ul>

Section	Responsibilities and Duties
54-59-06	Requires the Information Technology Department to <b>develop and maintain a business plan</b>
54-59-07	Establishes a <b>State Information Technology Advisory Committee</b> to advise the Information Technology Department regarding statewide information technology planning and budgeting, services of the department, and statewide information technology initiatives and policy and shall review reports on major information technology projects as required by Chapter 54-59
54-59-08	Requires each state agency and institution that desires access to <b>wide area network services</b> and each county, city, and school district that desires access to wide area network services to transmit voice, data, or video outside that county, city, or school district to obtain those services from the Information Technology Department
54-59-09	Requires the Information Technology Department and OMB to develop <b>statewide information technology policies, standards, and guidelines</b> . The policies, standards, and guidelines must recognize the uniqueness of certain agencies and be reviewed by the State Information Technology Advisory Committee. All executive branch agencies, excluding the institutions 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.
54-59-10	Requires each agency or institution to appoint an <b>information technology coordinator</b> to maintain a liaison with the Information Technology Department
54-59-11	Requires each executive branch state agency or institution, excluding institutions under the control of the State Board of Higher Education, to prepare an <b>information technology plan</b> and submit the plan to the Information Technology Department by August 15 of each even-numbered year unless the Chief Information Officer grants an extension. The Information Technology Department is to review each entity's plan for compliance with statewide information technology policies and standards. Based on the plans, the Information Technology Department is to prepare a statewide information technology plan and distribute the plan to members of the Legislative Assembly.
54-59-12	Requires the Information Technology Department to cooperate with state entities to provide access to any computer database or electronically filed or stored information and the Chief Information Officer to conduct meetings with political subdivisions and the commissioner of the State Board of Higher Education to <b>review and coordinate information technology</b> . The Chief Information Officer is to report to the Legislative Council regarding coordination of services with political subdivisions and higher education.
54-59-13	Repealed
54-59-14	Authorizes the Information Technology Department to establish a <b>state information technology operating account</b>
54-59-15	Authorizes the Information Technology Department to <b>accept federal or other funds</b>
54-59-16	Provides for the <b>confidentiality of records</b>
54-59-17	Establishes an <b>Educational Technology Council</b> for coordinating educational technology initiatives for elementary and secondary education
54-59-18	Provides for the <b>powers and duties for the Educational Technology Council</b>
54-59-19	Requires the Information Technology Department to prepare and present an <b>annual report</b> to the Information Technology Committee and the Budget Section and identifies the report contents
54-59-20	Requires the Information Technology Department to obtain <b>security background information</b> for all individuals who have unescorted physical access to the facilities or other security-sensitive areas and allows the Chief Information Officer to require as a condition of contracting with respect to an information technology project that any individual employed by the contractor or a subcontractor submit to a record check
54-59-21	Establishes a <b>Criminal Justice Information Sharing Board</b> to set policy relating to the collection, storage, and sharing of criminal justice information; provide operational oversight for criminal justice sharing activities; and approve and provide oversight of criminal justice sharing budgets
54-59-22	Requires each state agency and institution, excluding the legislative and judicial branches, institutions under the control of the State Board of Higher Education, the Public Employees Retirement System, the Retirement and Investment Office, the Attorney General's office, and any entity exempted by OMB, to <b>obtain information technology services</b> , including electronic mail, file and print server administration, storage, application server, and hosting services, through a delivery system established by the Information Technology Department in conjunction with OMB
54-59-23	Requires executive, legislative, or judicial branch agencies, except for institutions under the control of the State Board of Higher Education, to <b>report</b> to the State Information Technology Advisory Committee regarding the <b>plan for and status of any information technology project</b> that is estimated to cost more than \$250,000
54-59-24	Allows the Information Technology Department to <b>borrow from the Bank of North Dakota</b> , subject to approval from the Emergency Commission, an amount necessary to pay telecommunications costs for connecting approved schools and libraries in the event federal e-rate funding is not received by the department. The department is to request a deficiency appropriation from the Legislative Assembly to repay any loan obtained.

Section	Responsibilities and Duties
54-59-25	Establishes a <b>Health Information Technology Advisory Committee</b>
54-59-26	Establishes a <b>Health Information Technology Office</b> within the Information Technology Department. The director of the Health Information Technology Office, in collaboration with the Health Information Technology Advisory Committee, is to: <ul style="list-style-type: none"> <li>• Apply for federal funds that may be available to assist health care providers in implementing and improving health information technology.</li> <li>• Implement and administer a health information exchange to facilitate the collection, storage, and transmission of health records.</li> <li>• Establish a health information technology loan program.</li> <li>• Establish a health information technology planning loan program.</li> <li>• Facilitate and expand electronic health information exchange in the state.</li> </ul>
54-59-27	Establishes an <b>electronic health information exchange fund</b> to be used to facilitate and expand electronic health information exchange
54-59-28	Requires each executive branch state agency and each institution of higher education that implements, acquires, or upgrades health information technology systems, by January 1, 2015, to use health information technology systems and products that meet minimum standards adopted by the Health Information Technology Office for accessing the health information exchange
54-59-29	Relates to the confidentiality of information in the health information exchange
54-59-30	Relates to immunity for reliance on data from the health information exchange
54-59-31	Provides that effective January 1, 2015, an executive branch state agency, an institution of higher education, and any health care provider or other person participating in the health information exchange may use only an electronic health record system for use in the exchange which is certified under rules adopted by the Office of the National Coordinator for Health Information Technology

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