

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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1

HOUSE BILL 1578*

Short Title: Information Technology Governance.

(Public)

Sponsors: Representatives Tolson; and Wainwright.

Referred to: Ways and Means.

May 18, 2000

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THE POWERS AND DUTIES OF THE SECRETARY OF
2 COMMERCE REGARDING INFORMATION TECHNOLOGY MATTERS AND
3 TO REESTABLISH THOSE POWERS AND DUTIES WITHIN THE OFFICE OF
4 THE GOVERNOR, AND TO MAKE OTHER CHANGES IN THE LAWS
5 REGARDING INFORMATION TECHNOLOGY RELATED STATE
6 GOVERNMENT FUNCTIONS.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. Part 16 of Article 10 of Chapter 143B of the General Statutes is
10 repealed.

11 Section 2. Chapter 147 of the General Statutes is amended by adding a new
12 Article to read:

13 **“ARTICLE 3D.**

14 **“OFFICE OF INFORMATION TECHNOLOGY SERVICES.**

15 **“PART 1. TRANSFER AND ORGANIZATION OF OFFICE.**

16 **“§ 147-33.75. Transfer to the Office of the Governor.**

17 (a) The Office of Information Technology Services ("Office") of the Department
18 of Commerce and the Information Resource Management Commission are hereby
19 transferred to the Office of the Governor by a Type II transfer, as defined in G.S. 143A-6.

1 (b) Except as modified in this Article, the Governor has the authority, powers, and
2 duties over the Office that are assigned to the Governor and the head of department
3 pursuant to Article 1 of Chapter 143B of the General Statutes, G.S. 143A-6(b), and the
4 Constitution and other laws of this State.

5 **"§ 147-33.76. Head of the Office of Information Technology Services; qualification**
6 **and appointment of State Chief Information Officer.**

7 (a) The Office of Information Technology Services shall be managed and
8 administered by the State Chief Information Officer. The State Chief Information Officer
9 shall be qualified by education and experience for the office and shall be appointed by the
10 Governor subject to review by the Senate Committee on Information Technology and the
11 House Committee on Technology meeting jointly (or by similar committees designated
12 by the rules of each house), and the Joint Legislative Commission on Governmental
13 Operations.

14 (b) The term of office of the State Chief Information Officer shall be four years;
15 but the initial term shall begin October 1, 2000, and expires June 30, 2002. The
16 Governor shall submit the name of the person to be appointed for review by the entities
17 specified in subsection (a) of this section.

18 (c) The State Chief Information Officer may be removed by the Governor for
19 misfeasance, malfeasance, or nonfeasance. In case of death, incapacity, resignation,
20 removal by the Governor, or vacancy for any other reason in the Office of State Chief
21 Information Officer prior to the expiration of the term of office, the Governor shall
22 submit the name of the successor to the entities specified in subsection (a) of this section
23 in the same manner as for appointment to a full term. A successor shall serve for the
24 remainder of the unexpired term.

25 (d) The salary of the State Chief Information Officer shall be set by the General
26 Assembly in the Current Operations Appropriations Act. The State Chief Information
27 Officer shall receive longevity pay on the same basis as is provided to employees of the
28 State who are subject to the State Personnel Act.

29 **"§ 147-33.77. Office of Information Technology Services; organization and**
30 **operation.**

31 (a) The State Chief Information Officer may appoint a Chief Deputy Information
32 Officer. The salary of the Chief Deputy Information Officer shall be set by the State
33 Chief Information Officer. The State Chief Information Officer may appoint all
34 employees, including legal counsel, necessary to carry out the powers and duties of the
35 office. These employees shall be subject to the State Personnel Act.

36 (b) All employees of the office shall be under the supervision, direction, and
37 control of the State Chief Information Officer. Except as otherwise provided by this
38 Article, the State Chief Information Officer may assign any function vested in the State
39 Chief Information Officer or the Office of Information Technology Services to any
40 subordinate officer or employee of the office.

41 (c) The State Chief Information Officer may, subject to the provisions of G.S.
42 147-64.7(b)(2), obtain the services of independent public accountants, qualified

1 management consultants, and other professional persons or experts to carry out powers
2 and duties of the office.

3 (d) The State Chief Information Officer shall have legal custody of all books,
4 papers, documents, and other records of the office.

5 (e) The State Chief Information Officer shall be responsible for the preparation of
6 and the presentation of the office budget request, including all funds requested and all
7 receipts expected for all elements of the budget.

8 (f) The State Chief Information Officer may adopt regulations for the
9 administration of the office, the conduct of employees of the office, the distribution and
10 performance of business, the performance of the functions assigned to the State Chief
11 Information Officer and the Office of Information Technology Services, and the custody,
12 use, and preservation of the records, documents, and property pertaining to the business
13 of the office.

14 **"§ 147-33.78. Information Resource Management Commission.**

15 (a) Creation; Membership. – The Information Resource Management Commission
16 is established and shall be located within the Office for organizational, budgetary, and
17 administrative purposes. The Commission consists of the following members:

- 18 (1) Four members of the Council of State, appointed by the Governor.
19 (2) The Secretary of State.
20 (3) The Secretary of Administration.
21 (4) The State Budget Officer.
22 (5) Two members of the Governor's cabinet, appointed by the Governor.
23 (6) One citizen of the State of North Carolina with a background in and
24 familiarity with information systems or telecommunications, appointed
25 by the General Assembly upon the recommendation of the President Pro
26 Tempore of the Senate in accordance with G.S. 120-121.
27 (7) One citizen of the State of North Carolina with a background in and
28 familiarity with information systems or telecommunications, appointed
29 by the General Assembly upon the recommendation of the Speaker of
30 the House of Representatives in accordance with G.S. 120-121.
31 (8) The Chair of the Information Technology Management Advisory
32 Council.
33 (9) The Chair of the Criminal Justice Information Network Governing
34 Board.
35 (10) The State Controller.
36 (11) The Director of the Administrative Office of the Courts or the Director's
37 designee.
38 (12) The President of The University of North Carolina or the President's
39 designee.
40 (13) The President of the Community Colleges System Office, or the
41 President's designee.
42 (14) The Executive Director of the North Carolina League of Municipalities,
43 or the Executive Director's designee, who shall be a nonvoting member.

1 (15) The Executive Director of the North Carolina Association of County
2 Commissioners, or the Executive Director's designee, who shall be a
3 nonvoting member.

4 Members of the Commission shall not be employed by or serve on the board of
5 directors or other corporate governing body of any information systems, computer
6 hardware, computer software, or telecommunications vendor of goods and services to the
7 State of North Carolina.

8 The initial appointed members of the Commission shall be the members appointed to
9 the Information Resource Management Commission who are serving unexpired terms as
10 of July 1, 2000, who shall serve for a period equal to the remainder of their current terms
11 on the Information Resource Management Commission. Upon the expiration of the
12 current terms of the appointed members, their successors shall be appointed for four-year
13 terms, commencing July 1. Members of the Governor's cabinet shall be disqualified from
14 completing a term of service on the Commission if they are no longer cabinet members.
15 Members of the Council of State shall be disqualified from completing a term of service
16 on the Commission if they are no longer members of the Council of State.

17 Vacancies in the two legislative appointments shall be filled as provided in G.S. 120-
18 122.

19 The Commission chair shall be elected in the first meeting of each calendar year from
20 among the appointees of the Governor from the Council of State and shall serve a term of
21 one year. The State Chief Information Officer shall be secretary to the Commission.

22 No member of the Information Resource Management Commission shall vote on an
23 action affecting solely his or her own State agency.

24 (b) Powers and Duties. – The Commission has the following powers and duties:

25 (1) To develop, approve, and publish a statewide information technology
26 strategy covering the current and following biennium that shall be
27 updated annually and shall be submitted to the General Assembly on the
28 first day of each regular session.

29 (2) To develop, approve, and sponsor statewide technology initiatives and
30 to report on those initiatives in the annual update of the statewide
31 information technology strategy.

32 (3) To review and approve biennially the information technology plans of
33 the executive agencies and the Administrative Office of the Courts. This
34 review shall include plans for the procurement and use of personal
35 computers and workstations.

36 (4) To recommend to the Governor and the Office of State Budget and
37 Management the relative priorities across executive agency and
38 Administrative Office of the Courts information technology plans.

39 (5) To issue certification of any State agency information technology
40 project that requires or is expected to require the expenditure of funds in
41 excess of five hundred thousand dollars (\$500,000), whether the project
42 is undertaken in a single phase or component or in multiple phases or
43 components. The certification shall be issued when the Commission

1 determines that the project complies with Commission policies,
2 standards, and procedures. The Commission shall promptly report each
3 certification to the Office of State Budget and Management, the Office
4 of the State Controller, the Chairs of the Legislative Committees on
5 Information Technology, and the Cochairs of the Joint Legislative
6 Commission on Governmental Operations. No State agency, other than
7 The University of North Carolina or any of its constituent institutions,
8 shall allocate or expend funds in excess of five hundred thousand dollars
9 (\$500,000) on any information technology project without prior
10 certification as required by this subsection. If an agency cannot
11 determine whether a project or series of projects will require
12 certification, the agency shall seek an opinion from the Commission.
13 Upon review, the Commission may determine that a project is exempt
14 from certification and shall advise the agency of its determination.

15 (6) To establish a quality assurance policy for all agency information
16 technology projects, information systems training programs, and
17 information systems documentation. If at any time a certified agency
18 information technology project is not in compliance with Commission
19 policies, standards, or procedures, the Commission may suspend project
20 certification and shall report the suspension to the Office of the State
21 Controller, the Office of State Budget and Management, the Chairs of
22 the Legislative Committees on Information Technology, and the
23 Cochairs of the Joint Legislative Commission on Governmental
24 Operations. Upon recommendation of the Commission, the Joint
25 Legislative Commission on Governmental Operations may request the
26 State Budget Office and the State Controller to take appropriate
27 remedial action, up to and including the suspension of appropriations or
28 the nonrelease of funds to the project.

29 (7) To establish and enforce a quality review and expenditure review
30 procedure for major agency information technology projects.

31 (8) To review and approve expenditures from appropriations made to the
32 Office of State Budget and Management for the purpose of creating a
33 Computer Reserve Fund.

34 (9) To develop and promote technical requirements for the fair and
35 competitive procurement of information technology in cooperation with
36 the Office of Information Technology Services where different
37 information technology hardware, software, and networks operate
38 together easily and reliably, while considering the cost-effectiveness of
39 managing these assets.

40 (c) Meetings. – The Information Resources Management Commission shall adopt
41 bylaws containing rules governing its meeting procedures. The Information Resources
42 Management Commission shall meet at least monthly.

43 **§ 147-33.79. Information Resources Management Commission staff.**

1 (a) There is established in the Office an independent staff for the Information
2 Resources Management Commission. The staff shall consist of an executive director and
3 such other professional, administrative, technical, and clerical personnel as authorized by
4 the General Assembly as may be necessary to assist the Commission in carrying out its
5 powers and duties.

6 (b) All independent staff shall be appointed, supervised, and directed by the
7 Commission. The executive director shall be exempt from the provisions of Chapter 126
8 of the General Statutes, except for Articles 6 and 7 of Chapter 126 of the General
9 Statutes. All other staff personnel shall be subject to the provisions of Chapter 126 of the
10 General Statutes. The independent staff shall not be subject to the supervision, direction,
11 or control of the Office.

12 (c) Except for the executive director, salaries and compensation of all staff
13 personnel shall be fixed in the manner provided by law for fixing and regulating salaries
14 and compensation by other State agencies.

15 (d) Expenses of the Commission and the salaries of the independent staff shall be
16 paid out of funds from receipts available to the Office of Information Technology
17 Services as requested by the Commission.

18 **"PART 2. GENERAL POWERS AND DUTIES.**

19 **"§ 147-33.80. Definitions.**

20 As used in this Article:

21 (1) "Distributed information technology assets" means hardware, software,
22 and communications equipment not classified as traditional mainframe-
23 based items, including personal computers, local area networks (LANs),
24 servers, mobile computers, peripheral equipment, and other related
25 hardware and software items.

26 (2) "Information technology" means electronic data processing goods and
27 services and telecommunications goods and services, microprocessors,
28 software, information processing, office systems, any services related to
29 the foregoing, and consulting or other services for design or redesign of
30 information technology supporting business processes.

31 (3) "Information technology enterprise management" means a method for
32 managing distributed information technology assets from acquisition
33 through retirement so that total ownership costs (purchase, operation,
34 maintenance, disposal, etc.) are minimized while maximum benefits are
35 realized.

36 (4) "Information technology portfolio management" means a business-based
37 approach for analyzing and ranking potential technology investments
38 and selecting those investments that are the most cost-effective in
39 supporting the strategic business and program objectives of the agency.

40 (5) "Office" means the Office of Information Technology Services as
41 established in this Article.

42 **"§ 147-33.81. Powers and duties of the Office of Information Technology Services.**

43 (a) The Office of Information Technology Services shall:

- 1 (1) Procure all information technology for State agencies, except The
2 University of North Carolina and its constituent institutions.
- 3 (2) Submit for approval of the Information Resources Management
4 Commission all rates and fees for common, shared State government-
5 wide technology services provided by the Office.
- 6 (3) Submit for approval of the Information Resources Management
7 Commission recommended State government-wide, enterprise-level
8 policies for information technology.
- 9 (4) Develop standards, procedures, and processes to implement policies
10 approved by the Information Resources Management Commission.
- 11 (5) Assure that State agencies implement and manage information
12 technology portfolio-based management of State information
13 technology resources, in accordance with the direction set by the State
14 Chief Information Officer.
- 15 (6) Assure that State agencies implement and manage information
16 technology enterprise management efforts of State government, in
17 accordance with the direction set by the State Chief Information Officer.
- 18 (7) Provide recommendations to the Information Resources Management
19 Commission for its biennial technology strategy and to develop State
20 government-wide technology initiatives to be approved by the
21 Information Resources Management Commission.
- 22 (8) Develop a project management, quality assurance, and architectural
23 review process that adheres to the Information Resources Management
24 Commission's certification program and portfolio-based management
25 initiative.
- 26 (9) Establish and utilize the Information Technology Management Advisory
27 Council to consist of representatives from other State agencies to advise
28 the Office on information technology business management and
29 technology matters.

30 (b) Other State agencies and local governmental entities may use the information
31 technology programs, services, or contracts offered by the Office in accordance with the
32 policies and rules adopted by the Information Resources Management Commission.

33 **"§ 147-33.82. Information resources centers and services.**

34 (a) With respect to all executive departments and agencies of State government,
35 except the Department of Justice and The University of North Carolina, the Office of
36 Information Technology Services shall have all of the following powers and duties:

- 37 (1) To establish and operate information resource centers and services to
38 serve two or more departments on a cost-sharing basis, if the
39 Information Resources Management Commission decides it is advisable
40 from the standpoint of efficiency and economy to establish these centers
41 and services.
- 42 (2) With the approval of the Information Resources Management
43 Commission, to charge each department for which services are

1 performed its proportionate part of the cost of maintaining and operating
2 the shared centers and services.

3 (3) With the approval of the Information Resources Management
4 Commission, to require any department served to transfer to the Office
5 ownership, custody, or control of information processing equipment,
6 supplies, and positions required by the shared centers and services.

7 (4) With the approval of the Information Resources Management
8 Commission, to adopt reasonable rules for the efficient and economical
9 management and operation of the shared centers, services, and the
10 integrated State telecommunications network.

11 (5) With the approval of the Information Resources Management
12 Commission, to adopt plans, policies, procedures, and rules for the
13 acquisition, management, and use of information technology resources
14 in the departments affected by this section to facilitate more efficient
15 and economic use of information technology in these departments.

16 (6) To develop and promote training programs to efficiently implement,
17 use, and manage information technology resources.

18 (7) To provide cities, counties, and other local governmental units with
19 access to Office of Information Technology Services information
20 resource centers and services as authorized in this section for State
21 agencies. Access shall be provided on the same cost basis that applies to
22 State agencies.

23 (b) No data of a confidential nature, as defined in the General Statutes or federal
24 law, may be entered into or processed through any cost-sharing information resource
25 center or network established under this section until safeguards for the data's security
26 satisfactory to the department head and the State Chief Information Officer have been
27 designed and installed and are fully operational. Nothing in this section may be construed
28 to prescribe what programs to satisfy a department's objectives are to be undertaken, nor
29 to remove from the control and administration of the departments the responsibility for
30 program efforts, regardless whether these efforts are specifically required by statute or
31 are administered under the general program authority and responsibility of the
32 department. This section does not affect the provisions of G.S. 147-64.6, 147-64.7, or
33 147-33.88. Notwithstanding any other provision of law, the Office of Information
34 Technology Services shall provide information technology services on a cost-sharing
35 basis to the General Assembly and its agencies as requested by the Legislative Services
36 Commission.

37 **"§ 147-33.83. Deviations authorized for Department of Revenue.**

38 (a) The Department of Revenue is authorized to deviate from any provision in
39 G.S. 147-33.82(a) that requires departments or agencies to consolidate information
40 processing functions on equipment owned, controlled, or under custody of the Office of
41 Information Technology Services. All deviations pursuant to this section shall be
42 reported in writing within 15 days by the Department of Revenue to the Information
43 Resources Management Commission and shall be consistent with available funding.

1 (b) The Department of Revenue is authorized to adopt and shall adopt plans,
2 policies, procedures, requirements, and rules for the acquisition, management, and use of
3 information processing equipment, information processing programs, data
4 communications capabilities, and information systems personnel in the Department of
5 Revenue. If the plans, policies, procedures, requirements, rules, or standards adopted by
6 the Department of Revenue deviate from the policies, procedures, or guidelines adopted
7 by the Office of Information Technology Services or the Information Resources
8 Management Commission, those deviations shall be allowed and shall be reported in
9 writing within 15 days by the Department of Revenue to the Information Resources
10 Management Commission. The Department of Revenue and the Office of Information
11 Technology Services shall develop data communications capabilities between the two
12 computer centers utilizing the North Carolina Integrated Network, subject to a security
13 review by the Secretary of Revenue.

14 (c) The Department of Revenue shall prepare a plan to allow for substantial
15 recovery and operation of major, critical computer applications. The plan shall include
16 the names of the computer programs, databases, and data communications capabilities,
17 identify the maximum amount of outage that can occur prior to the initiation of the plan
18 and resumption of operation. The plan shall be consistent with commonly accepted
19 practices for disaster recovery in the information processing industry. The plan shall be
20 tested as soon as practical, but not later than six months, after the establishment of the
21 Department of Revenue information processing capability.

22 **"§ 147-33.84. Information technology portfolio-based management.**

23 (a) The purposes of information technology portfolio-based management are to:

- 24 (1) Ensure agencies link agency information technology investments with
25 business plans.
- 26 (2) Facilitate risk assessment of information technology projects and
27 investments.
- 28 (3) Ensure agencies justify information technology investments on the basis
29 of sound business cases.
- 30 (4) Ensure agencies facilitate development and review of information
31 technology performance related to business operations.
- 32 (5) Identify projects that can cross agency and program lines in order to
33 leverage resources.
- 34 (6) Assist in State government-wide planning for common, shared
35 information technology infrastructure.

36 (b) The Office shall coordinate with the Office of State Budget and Management
37 and the Office of State Planning to integrate agency strategic and business planning,
38 technology planning and budgeting, and project expenditure processes into the Office's
39 information technology portfolio-based management. The Office shall provide
40 recommendations for agency annual budget requests for information technology
41 investments, projects, and initiatives to the Office of State Budget and Management.

42 (c) In cooperation with State agencies, the Office shall conduct and maintain a
43 continuous inventory of each State agency's current and planned investments in

1 information technology, a compilation of information about these assets, and the total life
2 cycle costs of these assets. In implementing the provisions of this subsection, the Office
3 shall submit State government-wide policies for review and approval to the Information
4 Resources Management Commission. The Office shall consult with the Office of the
5 State Controller to establish and implement the State government-wide information
6 technology inventory. The Office shall develop and implement State government-wide
7 standards, processes, and procedures for the required inventory and for the management
8 of the State government-wide information technology portfolio. State agencies shall
9 participate in the information technology portfolio management and shall comply with
10 the standards and processes established by the Office in accordance with this subsection.
11 The provisions of this subsection shall not relieve any department, institution, or agency
12 of the State government from accountability for equipment, materials, supplies, and
13 tangible and intangible personal property under its control.

14 (d) No State agency information technology project shall proceed without the prior
15 certification by the Information Resources Management Commission of the project. The
16 Information Resources Management Commission may establish thresholds at an agency
17 level based on project cost, potential project risk, or agency size and budget.

18 **"§ 147-33.85. Enterprise management of information technology assets.**

19 (a) The purpose of enterprise management is to create a plan and implement a
20 State government-wide approach for managing distributed information technology assets
21 to minimize total life cycle costs of assets, defined as total ownership costs from
22 acquisition through retirement, while realizing maximum benefits for transacting the
23 State's business and delivering services to its citizens.

24 (b) With input and recommendations from State agencies, the Office shall develop
25 a plan for the State government-wide management of distributed information technology
26 assets. The plan shall prescribe the State government-wide infrastructure and services for
27 managing these assets. The plan shall be submitted to the Information Resources
28 Management Commission for approval.

29 (c) Upon receiving approval by the Information Resources Management
30 Commission, the Office shall ensure agency implementation of the plan, including the
31 development of appropriate standards, processes, and procedures. The implementation
32 effort shall follow Information Resources Management Commission project reporting
33 policies. State agencies must participate in the enterprise management of information
34 technology assets and must comply with the standards and processes of the Office.

35 **"§ 147-33.86. Financial reporting and accountability for information technology**
36 **investments and expenditures.**

37 The Office of Information Technology Services, the Office of State Budget and
38 Management, and the Office of the State Controller shall jointly develop a system for
39 budgeting and accounting of expenditures for information technology operations,
40 services, projects, infrastructure, and assets. The system shall include hardware, software,
41 personnel, training, contractual services, and other items relevant to information
42 technology, and the sources of funding for each. This system must integrate seamlessly
43 with the enterprise portfolio management system. Annual reports regarding information

1 technology shall be coordinated by the Office with the Office of State Budget and
2 Management and the Office of the State Controller, and submitted to the Governor,
3 General Assembly, and the Information Resources Management Commission on or
4 before October 1 of each year.

5 **"§ 147-33.87. Information technology reports.**

6 (a) The Office shall develop an annual budget for review and approval by the
7 Information Resources Management Commission prior to April 1 of each year. A copy of
8 the approved budget shall be submitted to the Joint Select Committee on Information
9 Technology and the Fiscal Research Division.

10 (b) The Office shall report to the Joint Select Committee on Information
11 Technology and the Fiscal Research Division on the Office's Internal Service Fund on a
12 quarterly basis, no later than the first day of the second month following the end of the
13 quarter. The report shall include current cash balances, line-item detail on expenditures
14 from the previous quarter and anticipated expenditures for the upcoming quarter,
15 projected year-end balance, and the status report on personnel position changes including
16 new positions created and existing positions eliminated. The Office spending reports shall
17 comply with the State Accounting System object codes.

18 **"PART 3. TELECOMMUNICATIONS SERVICES.**

19 **"§ 147-33.88. Telecommunications services; duties of State Chief Information**
20 **Officer with respect to State agencies.**

21 With respect to State agencies, the State Chief Information Officer shall exercise
22 general coordinating authority for all telecommunications matters relating to the internal
23 management and operations of those agencies. In discharging that responsibility, the
24 State Chief Information Officer may in cooperation with affected State agency heads, do
25 such of the following things as the State Chief Information Officer deems necessary and
26 advisable:

27 (1) Provide for the establishment, management, and operation, through
28 either State ownership or commercial leasing, of the following systems
29 and services as they affect the internal management and operation of
30 State agencies:

31 a. Central telephone systems and telephone networks;

32 b. Teleprocessing systems;

33 c. Teletype and facsimile services;

34 d. Satellite services;

35 e. Closed-circuit TV systems;

36 f. Two-way radio systems;

37 g. Microwave systems; and

38 h. Related systems based on telecommunication technologies.

39 (2) With the approval of the Information Resources Management
40 Commission, coordinate the development of cost-sharing systems for
41 respective user agencies for their proportionate parts of the cost of
42 maintenance and operation of the systems and services listed in
43 subdivision (1) of this subsection.

- 1 (3) Assist in the development of coordinated telecommunications services
2 or systems within and among all State agencies and recommend, where
3 appropriate, cooperative utilization of telecommunication facilities by
4 aggregating users.
- 5 (4) Perform traffic analysis and engineering for all telecommunications
6 services and systems listed in subdivision (1) of this subsection.
- 7 (5) Pursuant to G.S. 143-49, establish telecommunications specifications
8 and designs so as to promote and support compatibility of the systems
9 within State agencies.
- 10 (6) Pursuant to G.S. 143-49 and G.S. 143-50, coordinate the review of
11 requests by State agencies for the procurement of telecommunications
12 systems or services.
- 13 (7) Pursuant to G.S. 143-341 and Chapter 146 of the General Statutes,
14 coordinate the review of requests by State agencies for State
15 government property acquisition, disposition, or construction for
16 telecommunications systems requirements.
- 17 (8) Provide a periodic inventory of telecommunications costs, facilities,
18 systems, and personnel within State agencies.
- 19 (9) Promote, coordinate, and assist in the design and engineering of
20 emergency telecommunications systems, including, but not limited to,
21 the 911 emergency telephone number program, Emergency Medical
22 Services, and other emergency telecommunications services.
- 23 (10) Perform frequency coordination and management for State agencies and
24 local governments, including all public safety radio service frequencies,
25 in accordance with the rules and regulations of the Federal
26 Communications Commission or any successor federal agency.
- 27 (11) Advise all State agencies on telecommunications management planning
28 and related matters and provide through the State Personnel Training
29 Center or the Office of Information Technology Services training to
30 users within State agencies in telecommunications technology and
31 systems.
- 32 (12) Assist and coordinate the development of policies and long-range plans,
33 consistent with the protection of citizens' rights to privacy and access to
34 information, for the acquisition and use of telecommunications systems,
35 and base such policies and plans on current information about State
36 telecommunications activities in relation to the full range of emerging
37 technologies.
- 38 (13) Work cooperatively with the North Carolina Agency for Public
39 Telecommunications in furthering the purpose of this section.

40 The provisions of this section shall not apply to the Criminal Information Division of
41 the Department of Justice or to the Judicial Information System in the Judicial
42 Department.

1 **"§ 147-33.89. Telecommunications services for local governmental units and other**
2 **entities.**

3 (a) The State Chief Information Officer shall provide cities, counties, and other
4 local governmental units with access to a central telecommunications system or service
5 established under G.S. 147-33.88 for State agencies. Access shall be provided on the
6 same cost basis that applies to State agencies.

7 (b) The State Chief Information Officer shall establish switched broadband
8 telecommunications services and permit in addition to State agencies, cities, counties, and
9 other local government units, the following organizations and entities to share on a not-
10 for-profit basis:

11 (1) Nonprofit educational institutions.

12 (2) MCNC.

13 (3) Research affiliates of MCNC for use only in connection with research
14 activities sponsored or funded, in whole or in part, by MCNC, if such
15 research activities relate to health care or education in North Carolina.

16 (4) Agencies of the United States government operating in North Carolina
17 for use only in connection with activities that relate to health care or
18 education in North Carolina.

19 (5) Hospitals, clinics, and other health care facilities for use only in
20 connection with activities that relate to health care or education in North
21 Carolina.

22 Provided, however, that sharing of the switched broadband telecommunications
23 services by State agencies with entities or organizations in the categories set forth in this
24 subsection shall not cause the State, the Office of Information Technology Services, or
25 the MCNC to be classified as a public utility as that term is defined in G.S. 62-3(23)a.6.
26 Nor shall the State, the Office of Information Technology Services, or the MCNC engage
27 in any activities that may cause those entities to be classified as a common carrier as that
28 term is defined in the Communications Act of 1934, 47 U.S.C. § 153(h). Provided
29 further, authority to share the switched broadband telecommunications services with the
30 non-State agencies set forth in subdivisions (1) through (5) of this subsection shall
31 terminate one year from the effective date of a tariff that makes the broadband services
32 available to any customer.

33 **"PART 4. PROCUREMENT OF INFORMATION TECHNOLOGY.**

34 **"§ 147-33.90. Procurement of information technology.**

35 (a) Notwithstanding any other provision of law, the Office of Information
36 Technology Services shall procure all information technology for State agencies except
37 The University of North Carolina and its constituent institutions. The Office shall
38 integrate technological review, cost analysis, and procurement for all information
39 technology needs of those State agencies in order to make procurement and
40 implementation of technology more responsive, efficient, and cost-effective.

41 (b) The Office shall have the authority and responsibility, subject to the provisions
42 of this Part, to:

1 (1) Purchase or to contract for, by suitable means in conformity with G.S.
2 143-135.9, all information technology in the State government, or any
3 of its departments, institutions, or agencies covered by this Part, or to
4 authorize any department, institution, or agency covered by this Part to
5 purchase or contract for such information technology.

6 (2) Establish processes, specifications, and standards which shall apply to
7 all information technology to be purchased, licensed, or leased in the
8 State government or any of its departments, institutions, or agencies
9 covered by this Part.

10 (3) Comply with the State government-wide technical architecture, as
11 required by the Information Resources Management Commission.

12 **"§ 147-33.91. Restriction on State agency contractual authority with regard to**
13 **information technology; local governments.**

14 (a) All State agencies covered by this Part shall use contracts for information
15 technology acquired by the Office for any information technology required by the State
16 agency that is provided by these contracts. Notwithstanding any other statute, the
17 authority of State agencies to procure or obtain information technology shall be subject to
18 compliance with the provisions of this Part. The Office shall have the authority to
19 exercise the authority of State agencies to procure or obtain information technology as
20 otherwise provided by statute.

21 (b) Local governmental entities are not required to comply with otherwise
22 applicable competitive bidding requirements when using contracts offered by the Office.

23 **"§ 147-33.92. Information technology procurement policy; reporting requirements.**

24 (a) Policy. – In order to further the policy of the State to encourage and promote
25 the use of small, minority, physically handicapped, and women contractors in State
26 purchasing of goods and services, all State agencies covered by this Part shall cooperate
27 with the Office in efforts to encourage the use of small, minority, physically handicapped,
28 and women contractors in achieving the purpose of this Part, which is to provide for the
29 effective and economical acquisition, management, and disposition of information
30 technology.

31 (b) Reporting. – Every State agency required by this Part to use the services of the
32 Office in the procurement of information technology which purchases information
33 technology directly shall report to the Office the information required by G.S. 143-48(b),
34 and the Office shall report to the Department of Administration in accordance with G.S.
35 143-48(b).

36 (c) The Department of Administration shall collect and compile the data described
37 in this section and report it annually to the Office.

38 **"§ 147-33.93. Unauthorized use of public purchase or contract procedures for**
39 **private benefit prohibited.**

40 (a) It shall be unlawful for any person, by the use of the powers, policies, or
41 procedures described in this Part or established hereunder, to purchase, attempt to
42 purchase, procure, or attempt to procure any property or services for private use or
43 benefit.

1 (b) This prohibition shall not apply if:

2 (1) The department, institution, or agency through which the property or
3 services are procured had theretofore established policies and
4 procedures permitting such purchases or procurement by a class or
5 classes of persons in order to provide for the mutual benefit of such
6 persons and the department, institution, or agency involved, or the
7 public benefit or convenience; and

8 (2) Such policies and procedures, including any reimbursement policies, are
9 complied with by the person permitted thereunder to use the purchasing
10 or procurement procedures described in this Part or established
11 thereunder.

12 (c) Any violation of this section is a Class 1 misdemeanor.

13 **"§ 147-33.94. Financial interest of officers in sources of supply; acceptance of bribes.**

14 Neither the State Chief Information Officer nor the Chief Deputy State Information
15 Officer shall be financially interested, or have any personal beneficial interest, either
16 directly or indirectly, in the purchase of, or contract for, any information technology, nor
17 in any firm, corporation, partnership, or association furnishing any information
18 technology to the State government, or any of its departments, institutions, or agencies,
19 nor shall either of these persons or any other Office employee accept or receive, directly
20 or indirectly, from any person, firm, or corporation to whom any contract may be
21 awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or
22 any promise, obligation, or contract for future reward or compensation. Violation of this
23 section is a Class F felony, and any person found guilty of a violation of this section
24 shall, upon conviction, be removed from State office or employment.

25 **"§ 147-33.95. Certification that information technology bid submitted without**
26 **collusion.**

27 The Office shall require bidders to certify that each bid on information technology
28 contracts overseen by the Office is submitted competitively and without collusion. False
29 certification is a Class I felony.

30 **"§ 147-33.96. Board of Award review.**

31 (a) When the dollar value of a contract for the procurement of information
32 technology exceeds the benchmark established by the Chief State Information Officer,
33 the contract shall be reviewed by the Board of Awards pursuant to G.S. 143-52.1 prior to
34 the contract being awarded.

35 (b) Prior to submission of any contract for review by the Board of Awards
36 pursuant to this section for any contract for information technology being acquired for the
37 benefit of the Office and not on behalf of any other State agency, the Director of the
38 Budget shall review and approve the procurement to ensure compliance with the
39 established processes, specifications, and standards applicable to all information
40 technology purchased, licensed, or leased in State government, including established
41 procurement processes, and compliance with the State government-wide technical
42 architecture as established by the Information Resources Management Commission.

43 **"§ 147-33.97. Penalty for violations; costs.**

1 Any employee or official of the State who violates this Part shall be liable to the State
2 to repay any amount expended in violation of this Part, together with any court costs.

3 **"§ 147-33.98. Attorney General contract assistance; rule-making authority.**

4 (a) At the request of the State Chief Information Officer, the Attorney General
5 shall provide legal advice and services necessary to implement this Part.

6 (b) The State Chief Information Officer is authorized to adopt rules deemed
7 necessary to implement the provisions of this Part.

8 **"§ 147-33.99. Exempt agencies.**

9 Nothing in this Part shall apply to the General Assembly or The University of North
10 Carolina and its constituent institutions."

11 Section 3. This act becomes effective July 1, 2000.