

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 268*

Short Title: Create Department of Information Technology.-AB (Public)

Sponsors: Senators Tarte, Brock, Hise (Primary Sponsors); Clark, Pate, Rabin, and Sanderson.

Referred to: Rules and Operations of the Senate.

March 12, 2015

A BILL TO BE ENTITLED
AN ACT TO CREATE THE DEPARTMENT OF INFORMATION TECHNOLOGY AS AN
EXECUTIVE DEPARTMENT OF THE STATE.

The General Assembly of North Carolina enacts:

PART I. LEGISLATIVE FINDINGS, MISSION OF THE DEPARTMENT OF INFORMATION TECHNOLOGY

SECTION 1.1. Findings. – The General Assembly finds that consolidating information technology functions and resources of the principal departments under the Department of Information Technology will improve efficiencies and management of information technology. Specifically, the General Assembly finds that such a consolidation will:

- (1) Enhance citizen interaction and satisfaction.
- (2) Create more efficient information technology operations.
- (3) Establish quality-driven project performance standards.
- (4) Implement streamlined and effective sourcing practices.
- (5) Institutionalize business and Information Technology planning procedures.
- (6) Create clear accountability and transparency.
- (7) Enhance the State's data and analytics capabilities.
- (8) Integrate risk and security management practices.
- (9) Provide effective Information Technology management and governance standards.

SECTION 1.2. Purpose. – The purpose of the Department of Information Technology is to ensure efficient and effective use of information technology operations, management and resources. The Department will provide strategic information technology planning, budgeting, project oversight and management, procurement, maintain secure and reliable information technology environments, and deliver shared services to State agencies, local governments, and educational institutions across the State. The Department's purpose shall be achieved by:

- (1) Establishing a consistent process for planning, maintaining, and acquiring the State's information technology resources.
- (2) Developing standards and accountability measures for information technology projects, including criteria for effective project management.
- (3) Implementing enterprise procurement procedures that result in cost-savings on information technology purchases.



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- 1 (4) Managing the Information Technology Fund for statewide information
2 technology efforts.
- 3 (5) Improving the State's technology infrastructure and increasing State
4 agencies' delivery of services to citizens.
- 5 (6) Operating as the State enterprise organization for information technology
6 governance.
- 7 (7) Advancing the State's technology and data management capabilities.
8

9 PART II. DEPARTMENT ESTABLISHED/TRANSFERS

10 **SECTION 2.1.** The Department of Information Technology is established as a
11 single, unified cabinet-level department that consolidates information technology functions,
12 powers, duties, obligations and services existing within the principal departments.
13 Notwithstanding G.S. 143B-9 and G.S. 143B-10, all information technology functions, powers,
14 duties, obligations and services vested in the State entities listed in G.S. 143B-6 are transferred
15 to, vested in, and consolidated within the Department of Information Technology. Further, the
16 following transfers from the Office of Information Technology Services are made:

- 17 (1) A Type I transfer, as defined in G.S. 143A-6, of the:
18 a. Office of the State Chief Information Officer.
19 b. Office of Information Technology Services.
- 20 (2) A Type II transfer, as defined in G.S. 143A-6, of the:
21 a. North Carolina 911 Board.
22 b. Center for Geographic Information and Analysis.
23 c. Criminal Justice Information Network.
24 d. Government Data Analytics Center.
25 e. North Carolina Geographic Information Coordinating Council.

26 **SECTION 2.2.** G.S. 143B-2 reads as rewritten:

27 "§ 143B-2. Interim applicability of the Executive Organization Act of 1973.

28 The Executive Organization Act of 1973 shall be applicable only to the following named
29 departments:

- 30 (1) Department of Cultural Resources.
- 31 (2) Department of Health and Human Services.
- 32 (3) Department of Revenue.
- 33 (4) Department of Public Safety.
- 34 (5) Repealed by Session Laws 2012-83, s. 47, effective June 26, 2012.
- 35 (6) Department of Environment and Natural Resources.
- 36 (7) Department of Transportation.
- 37 (8) Department of Administration.
- 38 (9) Department of Commerce.
- 39 (10) Repealed by Session Laws 2012-83, s. 47, effective June 26, 2012.
- 40 (11) Department of Information Technology.

41 **SECTION 2.3.** G.S. 143B-6 reads as rewritten:

42 "§ 143B-6. Principal departments.

43 In addition to the principal departments enumerated in the Executive Organization Act of
44 1971, all executive and administrative powers, duties, and functions not including those of the
45 General Assembly and its agencies, the General Court of Justice and the administrative
46 agencies created pursuant to Article IV of the Constitution of North Carolina, and higher
47 education previously vested by law in the several State agencies, are vested in the following
48 principal departments:

- 49 (1) Department of Cultural Resources.
- 50 (2) Department of Health and Human Services.
- 51 (3) Department of Revenue.

- (4) Department of Public Safety.
- (5) Repealed by Session Laws 2012-83, s. 48, effective June 26, 2012.
- (6) Department of Environment and Natural Resources.
- (7) Department of Transportation.
- (8) Department of Administration.
- (9) Department of Commerce.
- (10) Community Colleges System Office.
- (11) Repealed by Session Laws 2012-83, s. 48, effective June 26, 2012.
- (12) Department of Information Technology."

SECTION 2.4. Article 3D of Chapter 147 of the General Statutes is repealed.

SECTION 2.5. Chapter 143B of the General Statutes is amended by adding a new

Article to read:

"Article 14.

"Department of Information Technology.

"Part 1. General Provisions.

"§ 143B-1300. Definitions.

The following definitions apply in this Article:

- (1) Cooperative purchasing agreement. - An agreement between a vendor and one or more states or state agencies providing that the parties may collaboratively or collectively purchase information technology goods and services in order to increase economies of scale and reduce costs.
- (2) Department. – The Department of Information Technology.
- (3) Distributed information technology assets. – Hardware, software, and communications equipment not classified as traditional mainframe-based items, including personal computers, local area networks, servers, mobile computers, peripheral equipment, and other related hardware and software items.
- (4) Information technology. – Hardware, software and telecommunications equipment, including, but not limited to, personal computers, servers, mainframes, wide and local area networks (wired and wireless), broadband, mobile or portable computers, peripheral equipment, telephones, wireless communication, handheld devices, public safety radio services, facsimile machines, technology facilities, including, but not limited to, data centers, dedicated training facilities, switching facilities, and other relevant hardware and software items as well as personnel tasked with planning, implementation, and support of technology, including hosting or vendor-managed service solutions.
- (5) Information technology security incident. – A computer-, network-, or paper-based activity that results directly or indirectly in misuse, damage, denial of service, compromise of integrity, or loss of confidentiality of a network, computer, application, or data.
- (6) Secretary. – The Secretary of the Department of Information Technology, who is the head of the Department and a member of the Governor's cabinet.
- (7) State agency. - Any department, institution, commission, committee, board, division, bureau, office, officer, or official of the State. The term does not include any State entity excluded from coverage under this Article by G.S. 143B-1302, unless otherwise expressly provided.

"§ 143B-1301. Departmental organization; Secretary of Information Technology.

(a) The Secretary of Information Technology shall be qualified by education and experience for the office and shall be appointed by and serve at the pleasure of the Governor. The salary of the Secretary of Information Technology shall be set by the Governor. The

1 Secretary of Information Technology shall receive longevity pay on the same basis as is
2 provided to employees of the State who are subject to the North Carolina Human Resources
3 Act.

4 (b) The Department of Information Technology shall be funded through appropriations,
5 the Information Technology Fund as provided in G.S. 143B-1305, and operating an internal
6 service fund for receipts.

7 (c) Secretary of Information Technology. – The Department of Information Technology
8 shall be managed under the administration of the Secretary of Information Technology. The
9 Secretary shall do all of the following:

10 (1) Prepare and present the Department's budget in accordance with Chapter
11 143C of the General Statutes, the State Budget Act. The Department's
12 budget shall incorporate information technology costs and anticipated
13 expenditures of State agencies identified as principal departments in
14 G.S. 143B-6, together with all divisions, boards, commissions or other State
15 entities for which the principal departments have budgetary authority.

16 (2) Obtain, review and maintain, on an ongoing basis, records of the
17 appropriations, allotments, expenditures, and revenues of each State agency
18 for information technology.

19 (3) Adopt rules for the administration of the Department and implementing this
20 Article, pursuant to the Administrative Procedures Act, Chapter 150B of the
21 General Statutes.

22 (4) Be responsible for developing and administering a comprehensive
23 long-range plan to ensure the proper management of the State's information
24 technology resources.

25 (5) Set technical standards for information technology, review and approve
26 information technology projects and budgets, establish information
27 technology security standards, provide for the procurement of information
28 technology resources, and develop a schedule for the replacement or
29 modification of information technology systems.

30 (6) Require reports by State departments, institutions, or agencies of information
31 technology assets, systems, personnel and projects and prescribing the form
32 of such reports.

33 (7) Prescribe the manner in which information technology assets, systems, and
34 personnel shall be provided and distributed among agencies.

35 (8) Prescribe the manner of inspecting or testing information technology assets,
36 systems or personnel to determine compliance with information technology
37 plans, specifications and requirements.

38 **"§ 143B-1302. Exemptions; deviations for agencies.**

39 (a) Except as otherwise specifically provided by law, this Article shall not apply to the
40 General Assembly, the Judicial Department, or The University of North Carolina and its
41 constituent institutions. These agencies may elect to participate in the information technology
42 programs, services, or contracts offered by the Department, including information technology
43 procurement, in accordance with the statutes, policies, and rules of the Department.

44 (b) Deviations. – Any State agency may apply in writing to the Secretary for authority
45 to deviate from any provision of Part 3, Shared Information Technology Services, or Part 5,
46 Information Technology Procurement, of this Article. If granted, any deviation shall be
47 consistent with available funding and shall be subject to such terms and conditions as may be
48 specified by the Secretary. If the agency's request for deviation is denied by the Secretary, the
49 agency may request a review of the decision pursuant to G.S. 143B-1316. The authority for
50 deviations shall not supersede G.S. 143B-426.38A or Part 6, Security of Information
51 Technology, of this Article.

1 (c) Notwithstanding subsection (b) of this section, any principal department or Council
2 of State agency shall review and evaluate any deviation authorized and shall, in consultation
3 with the Department of Information Technology, adopt a plan to phase out any deviations that
4 the Secretary of Information Technology determines to be unnecessary in carrying out
5 functions and responsibilities unique to the agency having a deviation. The plan adopted by the
6 agency shall include a strategy to coordinate its general information processing functions with
7 the Department of Information Technology in the manner prescribed by this act, and provide
8 for its compliance with policies, procedures, and guidelines adopted by the Department of
9 Information Technology. Any agency receiving a deviation shall submit its plan to the Office
10 of State Budget and Management as directed by the Secretary.

11 **"§ 143B-1303. Departmental human resources.**

12 (a) The Secretary may appoint all employees of the Department of Information
13 Technology necessary to carry out the powers and duties of the Department. All employees of
14 the Department are under the supervision, direction, and control of the Secretary, who may
15 assign any function vested in his or her office to any subordinate employee of the Department.

16 (b) The Secretary may appoint one or more deputy secretaries as necessary for the
17 administration and operation of the Department, each of whom shall be under the control and
18 direction of the Secretary. The salaries of the deputy secretaries shall be set by the Secretary.
19 The deputy secretaries are exempt from the North Carolina Human Resources Act.

20 (c) Subject to approval of the Governor and limitations of G.S. 126-5, the Secretary
21 may appoint or designate additional managerial and policymaking positions, including, but not
22 limited to, Agency IT Executives and Agency IT Leaders, chief financial officer, and general
23 counsel. These employees shall be subject to the North Carolina Human Resources Act, except
24 that employees in positions designated as exempt under G.S. 126-5(d)(1) are not subject to the
25 Act, in accordance with the provisions of that section.

26 (d) The Secretary may, subject to the provisions of G.S. 147-64.7(b)(2), obtain the
27 services of independent public accountants, qualified management consultants, and other
28 professional persons or experts to carry out the powers and duties of this Article.

29 (e) Criminal Records Checks. – The Secretary shall require background investigations
30 of any employee or prospective employee, including a criminal history record check, which
31 may include a search of the State and National Repositories of Criminal Histories based on the
32 person's fingerprints. A criminal history record check shall be conducted by the State Bureau of
33 Investigation upon receiving fingerprints and other information provided by the employee or
34 prospective employee. If the employee or prospective employee has been a resident of the State
35 for less than five years, the background report shall include a review of criminal information
36 from both the State and National Repositories of Criminal Histories. The criminal background
37 report shall be provided to the Secretary of Information Technology and is not a public record
38 under Chapter 132 of the General Statutes.

39 "Part 2. Information Technology Planning, Funding, and Reporting.

40 **"§ 143B-1304. Planning and financing State information technology resources.**

41 (a) The Secretary shall develop policies for agency information technology planning
42 and financing to achieve the legislative purposes of this act. Agencies, whether within principal
43 departments or the Council of State agencies, shall prepare and submit such plans as required in
44 this section.

- 45 (1) The Department shall analyze the State's legacy information technology
46 systems and develop a plan to ascertain the needs, costs, and time frame
47 required for State agencies to efficiently use information technology
48 systems, resources, security, and data management, to achieve the legislative
49 purposes of this act. The plan may include legacy applications and
50 infrastructure, migration from legacy environments and other information
51 necessary for fiscal or technology planning.

1 (2) The Secretary shall develop a biennial State Information Technology Plan
2 (Plan). The Plan shall be transmitted to the General Assembly in conjunction
3 with the Governor's budget of each regular session.

4 (3) The Secretary shall develop one or more strategic plans for information
5 technology. The Secretary shall determine whether strategic plans are
6 needed for any agency and shall consider an agency's operational needs,
7 functions and capabilities when making such determinations.

8 (b) The biennial State Information Technology Plan shall be transmitted to the General
9 Assembly in conjunction with the Governor's budget of each regular session. The Plan shall
10 include the following elements:

11 (1) An inventory of current information technology assets and major projects.
12 As used in this subdivision, the term "major project" includes projects
13 costing more than five hundred thousand dollars (\$500,000) to implement.

14 (2) Significant unmet needs for information technology resources over a
15 five-year time period. The Plan shall rank the unmet needs in priority order
16 according to their urgency.

17 (3) A statement of the financial requirements, together with a recommended
18 funding schedule for major projects in progress or anticipated for approval
19 during the upcoming fiscal biennium.

20 (4) An analysis of opportunities for statewide initiatives that would yield
21 significant efficiencies or improve effectiveness in State programs.

22 (c) Each State agency shall actively participate in preparing, testing and implementing
23 an information technology plan required under subsection (a) of this section. Agencies shall
24 provide all financial information to the Secretary necessary to determine full costs and
25 expenditures for information technology assets, resources provided by the agencies or through
26 contracts or grants. The Department shall consult with and assist State agencies in the
27 preparation of these plans; and shall provide appropriate personnel or other resources to the
28 principal departments identified in G.S. 143B-6; and to Council of State agencies upon request
29 pursuant to Part 3, Shared Information Technology Services, of this Article. Plans shall be
30 submitted to the Secretary of Information Technology by October 1 of each even-numbered
31 year.

32 **"§ 143B-1305. Information Technology Fund.**

33 There is established a special revenue fund to be known as the Information Technology
34 Fund, which may receive transfers or other credits as authorized by the General Assembly.
35 Money may be appropriated from the Information Technology Fund to meet statewide
36 requirements, including, but not limited to, project management, security, electronic mail and
37 State portal operations. Expenditures involving funds appropriated to the Department from the
38 Information Technology Fund shall be made by the Secretary. Interest earnings on the
39 Information Technology Fund balance shall be credited to the Information Technology Fund.

40 **"§ 143B-1306. Information technology reports.**

41 (a) The Secretary shall report to the Joint Legislative Oversight Committee on
42 Information Technology and to the Fiscal Research Division regarding the Internal Service
43 Fund on a quarterly basis, no later than the first day of the second month following the end of
44 the quarter. The report shall include current cash balances, line-item detail on expenditures
45 from the previous quarter, and anticipated expenditures and revenues. The Secretary shall
46 report to the Joint Legislative Oversight Committee on Information Technology and the Fiscal
47 Research Division on expenditures for the upcoming quarter, projected year-end balance, and
48 the status report on personnel position changes, including new positions created and existing
49 positions eliminated. Spending reports shall comply with the State Accounting System object
50 codes.

1 (b) Information Technology Fund Reporting. – By October 1 of each year, the Secretary
2 shall submit to the Joint Legislative Oversight Committee on Information Technology a report
3 on all expenditures involving funds appropriated to the Department from the Information
4 Technology Fund for the preceding fiscal year.

5 **"§ 143B-1307. Financial reporting and accountability for information technology**
6 **investments and expenditures.**

7 The Department, along with the Office of State Budget and Management and the Office of
8 the State Controller, shall develop processes for budgeting and accounting of expenditures for
9 information technology operations, services, projects, infrastructure, and assets for State
10 agencies, notwithstanding any deviations permitted pursuant to G.S. 143B-1303(b) or
11 G.S. 143B-1303(c). The budgeting and accounting processes may include hardware, software,
12 personnel, training, contractual services, and other items relevant to information technology,
13 and the sources of funding for each. Annual reports regarding information technology shall be
14 coordinated by the Department with the Office of State Budget and Management and the Office
15 of the State Controller, and submitted to the Governor and the General Assembly on or before
16 October 1 of each year.

17 **"§ 143B-1308. Information technology procurement policy; reporting requirements.**

18 (a) Policy. – In order to further the policy of the State to encourage and promote the use
19 of small, minority, physically handicapped, and women contractors in State purchasing of
20 goods and services, principal department and Council of State agencies shall cooperate with the
21 Department in efforts to encourage the use of small, minority, physically handicapped, and
22 women contractors in achieving the purposes of this Article, which is to provide for the
23 effective and economical acquisition, management, and disposition of information technology.

24 (b) Bids. – A vendor submitting a bid shall disclose in a statement, provided
25 contemporaneously with the bid, where services will be performed under the contract sought,
26 including any subcontracts and whether any services under that contract, including any
27 subcontracts, are anticipated to be performed outside the United States. Nothing in this section
28 is intended to contravene any existing treaty, law, agreement, or regulation of the United States.
29 The Secretary of Information Technology shall retain the statements required by this subsection
30 regardless of the State entity that awards the contract and shall report annually to the Secretary
31 of Administration on the number of contracts which are anticipated to be performed outside the
32 United States.

33 (c) Reporting. – Every State agency that makes a direct purchase of information
34 technology using the services of the Department of Information Technology shall report
35 directly to the Department of Administration all information required by G.S. 143-48(b).

36 (d) Data from Department of Administration. – The Department of Administration shall
37 collect and compile the data described in this section and report it annually to the Department
38 of Information Technology.

39 **"§ 143B-1309. Statewide electronic portal; annual report.**

40 (a) The Department of Information Technology shall plan, develop, implement, and
41 operate a statewide electronic portal (i) to increase the convenience of members of the public in
42 conducting online transactions with, and obtaining information from, State government and (ii)
43 to facilitate their interactions and communications with government agencies.

44 (b) Beginning June 30, 2015, and then annually thereafter, the Secretary shall report to
45 the General Assembly and to the Fiscal Research Division on the following information:

- 46 (1) Services currently provided and associated transaction volumes or other
47 relevant indicators of utilization by user type.
- 48 (2) New services added during the previous year.
- 49 (3) Services added that are currently available in other states.
- 50 (4) The total amount collected for each service.
- 51 (5) The total amount remitted to the State for each service.

- 1 (6) The total amount remitted to the vendor for each service.
- 2 (7) Any other use of State data by the vendor and the total amount of revenue
- 3 collected per each use and in total.
- 4 (8) Customer satisfaction with each service.
- 5 (9) Any other issues associated with the provision of each service.

6 **"§ 143B-1310. Business continuity planning.**

7 The Secretary shall oversee the manner and means by which information technology
8 business and disaster recovery plans for the principal department and Council of State agencies
9 are created, reviewed and updated. Each principal department and Council of State agency shall
10 establish a disaster recovery planning team to work with the Department, or other resources
11 designated by the Secretary, to develop the disaster recovery plan and to administer
12 implementation of the plan. In developing the plan, all of the following shall be completed:

- 13 (1) Consider the organizational, managerial, and technical environments in
14 which the disaster recovery plan must be implemented.
- 15 (2) Assess the types and likely parameters of disasters most likely to occur and
16 the resultant impacts on the agency's ability to perform its mission.
- 17 (3) List protective measures to be implemented in anticipation of a natural or
18 man-made disaster.
- 19 (4) Determine whether the plan is adequate to address information technology
20 security incidents.
- 21 (5) Each principal department and Council of State agency shall submit its
22 disaster recovery plan to the Secretary on an annual basis and as otherwise
23 requested by the Secretary.

24 "Part 3. Shared Information Technology Services.

25 **"§ 143B-1311. Information technology operations.**

26 (a) Functions. – In addition to other functions authorized or required by this Article, the
27 Department of Information Technology shall do the following:

- 28 (1) Submit all rates and fees for common, shared, and State government-wide
29 technology services provided by the Department to the Office of State
30 Budget and Management for approval.
- 31 (2) Establish and operate centers of expertise for specific information
32 technologies and services to serve two or more agencies on a cost-sharing
33 basis, if the Secretary, after consultation with the Office of State Budget and
34 Management, decides it is advisable from the standpoint of efficiency and
35 economy to establish these centers and services.
- 36 (3) Charge each State agency for which services are performed its proportionate
37 part of the cost of maintaining and operating the shared centers and services,
38 subject to approval by the Office of State Budget and Management.
- 39 (4) Require any State agency served to transfer to the Department ownership,
40 custody, or control of information-processing equipment, supplies, and
41 positions required by the shared centers and services.
- 42 (5) Adopt plans, policies, and procedures for the acquisition, management, and
43 use of information technology resources in State agencies to facilitate more
44 efficient and economic use of information technology in the agencies.
- 45 (6) Develop and promote training programs to efficiently implement, use, and
46 manage information technology resources throughout State government.
- 47 (7) Provide cities, counties, and other local governmental units with access to
48 the Department's information resource centers and services as authorized in
49 this section for State agencies. Access shall be provided on the same cost
50 basis that applies to State agencies.

1 (8) Provide geographic information systems services through the Center for
2 Geographic Information and Analysis on a cost recovery basis. The
3 Department and the Center for Geographic Information and Analysis may
4 contract for funding from federal or other sources to conduct or provide
5 geographic information systems services for public purposes.

6 (b) Confidentiality. – No data of a confidential nature, as defined in the General
7 Statutes or federal law, may be entered into or processed through any information technology
8 system or network established under this Article until safeguards for the data's security
9 satisfactory to the Secretary have been designed and installed and are fully operational. This
10 section does not affect the provisions of G.S. 147-64.6 or G.S. 147-64.7.

11 (c) Cost-Sharing with Other Branches. – Notwithstanding any other provision of law,
12 the Department shall provide information technology services on a cost-sharing basis to the
13 judicial branch as requested by the Chief Justice and to the General Assembly and its agencies
14 as requested by the Legislative Services Commission.

15 (d) It shall be the duty of all principal departments and Council of State agencies of the
16 State government to furnish to the Secretary when requested, and on forms as prescribed,
17 estimates of all information technology goods and services needed and required by such
18 department, institution or agency for such periods in advance as may be designated by the
19 Secretary. In addition to the report required, all departments, institutions, or agencies of the
20 State government shall furnish to the Secretary when requested, and on forms as prescribed,
21 actual expenditures for all goods and services needed and required by the department,
22 institution, or agency for such periods after the expenditures have been made as may be
23 designated by the Secretary.

24 **"§ 143B-1312. Communications services.**

25 (a) The Secretary of Information Technology shall exercise authority for
26 telecommunications and other communications included in information technology relating to
27 the internal management and operations of State agencies. In discharging that responsibility,
28 the Secretary of Information Technology shall do the following:

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

33 a. Central telephone systems and telephone networks, including Voice
34 over Internet Protocol and Commercial Mobile Radio Systems.

35 b. Satellite services.

36 c. Closed-circuit TV systems.

37 d. Two-way radio systems.

38 e. Microwave systems.

39 f. Related systems based on telecommunication technologies.

40 g. The "State Network," managed by the Department, which means any
41 connectivity designed for the purpose of providing Internet Protocol
42 transport of information to any building.

43 h. Broadband.

44 (2) Coordinate the development of cost-sharing systems for respective user
45 agencies for their proportionate parts of the cost of maintenance and
46 operation of the systems and services listed in subdivision (1) of this
47 subsection.

48 (3) Assist in the development of coordinated telecommunications services or
49 systems within and among all State agencies and recommend, where
50 appropriate, cooperative utilization of telecommunication facilities by
51 aggregating users.

- 1 (4) Perform traffic analysis and engineering for all telecommunications services
2 and systems listed in subdivision (1) of this subsection.
- 3 (5) Establish telecommunications specifications and designs so as to promote
4 and support compatibility of the systems within State agencies.
- 5 (6) Provide a periodic inventory of telecommunications costs, facilities,
6 systems, and personnel within State agencies.
- 7 (7) Promote, coordinate, and assist in the design and engineering of emergency
8 telecommunications systems, including, but not limited to, the 911
9 emergency telephone number program, Emergency Medical Services, and
10 other emergency telecommunications services.
- 11 (8) Perform frequency coordination and management for State agencies and
12 local governments, including all public safety radio service frequencies, in
13 accordance with the rules and regulations of the Federal Communications
14 Commission or any successor federal agency.
- 15 (9) Advise all State agencies on telecommunications management planning and
16 related matters and provide through the State Personnel Training Center or
17 the Department of Information Technology training to users within State
18 agencies in telecommunications technology and systems.
- 19 (10) Assist and coordinate the development of policies and long-range plans,
20 consistent with the protection of citizens' rights to privacy and access to
21 information, for the acquisition and use of telecommunications systems, and
22 base such policies and plans on current information about State
23 telecommunications activities in relation to the full range of emerging
24 technologies.

25 (b) The provisions of this section shall not apply to the Judicial Information System in
26 the Judicial Department.

27 "**§ 143B-1313. Communications services for local governmental entities and other**
28 **entities.**

29 (a) The Secretary of Information Technology shall provide cities, counties, and other
30 local governmental entities with access to communications systems or services established by
31 the Department under this Part for State agencies. Access shall be provided on the same cost
32 basis that applies to State agencies.

33 (b) The Secretary of Information Technology shall establish broadband
34 communications services and permit, in addition to State agencies, cities, counties, and other
35 local government entities, the following organizations and entities to share on a not-for-profit
36 basis:

- 37 (1) Nonprofit educational institutions as defined in G.S. 116-280.
- 38 (2) MCNC and research affiliates of MCNC for use only in connection with
39 research activities sponsored or funded, in whole or in part, by MCNC, if
40 such research activities relate to health care or education in North Carolina.
- 41 (3) Agencies of the United States government operating in North Carolina for
42 use only in connection with activities that relate to health care or education
43 in North Carolina.
- 44 (4) Hospitals, clinics, and other health care facilities for use only in connection
45 with activities that relate to health care or education in North Carolina.

46 (c) Provided, however, that communications or broadband telecommunications services
47 provided pursuant to this section shall not cause the State or the Department of Information
48 Technology to be classified as a public utility as that term is defined in G.S. 62-3(23)a.6., nor
49 as a retailer as that term is defined in G.S. 105-164.3. Nor shall the State or the Department of
50 Information Technology engage in any activities that may cause those entities to be classified
51 as a common carrier as that term is defined in the Communications Act of 1934, 47 U.S.C. §

1 153(10). Provided further, authority to share communications services with the non-State
2 agencies set forth in subdivisions (1) through (4) of this subsection shall terminate not later
3 than one year from the effective date of a tariff for such service or federal law that preempts
4 this section.

5 "Part 4. Information Technology Projects and Management.

6 "**§ 143B-1314. Project approval standards.**

7 (a) Project Review and Approval. – The Secretary shall review all information
8 technology projects for the principal departments and Council of State agencies. Project
9 approval may be granted upon the Secretary's determination that the project conforms to project
10 management procedures and policies, procurement rules and policies, and that sufficient funds
11 are available.

12 (b) Project Implementation. – No State agency, unless expressly exempt within this
13 Article, shall proceed with an information technology project until the Secretary approves the
14 project. If a project is not approved, the Secretary shall specify in writing to the agency the
15 grounds for denying the approval. The Secretary shall provide this information to the agency
16 and the Office of State Budget and Management within five business days of the denial.

17 (c) Suspension of Approval. – The Secretary of Information Technology may suspend
18 the approval of any information technology project that does not continue to meet the
19 applicable quality assurance standards. If the Secretary suspends approval of a project, the
20 Secretary shall specify in writing to the agency the grounds for suspending the approval. The
21 Secretary shall provide this information to the agency within five business days of the
22 suspension.

23 The Department shall report any suspension immediately to the Office of the State
24 Controller and the Office of State Budget and Management. The Office of State Budget and
25 Management shall not allow any additional expenditure of funds for a project that is no longer
26 approved by the Secretary of Information Technology.

27 (d) General Quality Assurance. – Information technology projects authorized pursuant
28 to G.S. 143B-1302 shall meet all project standards and requirements established under this Part.

29 (e) Performance Contracting. – All contracts between a State agency and a private party
30 for information technology projects shall include provisions for vendor performance review
31 and accountability, contract suspension or termination, and termination of funding. The
32 Secretary may require that these contract provisions include a performance bond, monetary
33 penalties, or require other performance assurance measures for projects that are not completed
34 within the specified time period or that involve costs in excess of those specified in the
35 contract. The Secretary may utilize cost-savings realized on government vendor partnerships,
36 as defined by G.S. 143-135.9, as performance incentives for an information technology vendor.

37 (f) Notwithstanding the provisions of G.S. 114-2.3, any State agency developing and
38 implementing an information technology project with a total cost of ownership in excess of five
39 million dollars (\$5,000,000) may be required by the Secretary of Information Technology to
40 engage the services of private counsel or subject matter experts with the appropriate
41 information technology and intellectual property expertise. The private counsel or subject
42 matter expert may review requests for proposals; review and provide advice and assistance
43 during the evaluation of proposals and selection of any vendors; and review and negotiate
44 contracts associated with the development, implementation, operation, and maintenance of the
45 project. This requirement may also apply to information technology programs that are
46 separated into individual projects, if the total cost of ownership for the overall program exceeds
47 five million dollars (\$5,000,000).

48 "**§ 143B-1315. Project management standards.**

49 (a) Principal Department Agency Responsibilities. – Each agency shall provide
50 personnel to participate in IT project management, implementation, testing and other activities
51 for any information technology project. Agency personnel shall provide periodic reports to the

1 project management assistant assigned to the project by the Secretary under subsection (b) of
2 this section. The reports shall include information regarding the agency's business
3 requirements, applicable laws and regulations, project costs, issues related to hardware,
4 software, or training, projected and actual completion dates, and any other information related
5 to the implementation of the information technology project.

6 (b) Council of State Agency Responsibilities. – Each agency shall provide for one or
7 more project managers who meet the applicable quality assurance standards for each
8 information technology project that is subject to approval by the Secretary. Each project
9 manager shall be subject to the review and approval of the Secretary. Each agency project
10 manager shall provide periodic reports to the project management assistant assigned to the
11 project by the Secretary under subsection (c) of this section. The reports shall include
12 information regarding project costs, issues related to hardware, software, or training, projected
13 and actual completion dates, and any other information related to the implementation of the
14 information technology project.

15 (c) Secretary Responsibilities. – The Secretary of Information Technology shall provide
16 a project management assistant from the Department for any approved project, whether the
17 project is undertaken in single or multiple phases or components. The Secretary may designate
18 a project management assistant for any other information technology project.

19 The project management assistant shall advise the agency with the initial planning of a
20 project, the content and design of any request for proposals, contract development,
21 procurement, and architectural and other technical reviews. The project management assistant
22 shall also monitor progress in the development and implementation of the project and shall
23 provide status reports to the agency and the Secretary of Information Technology, including
24 recommendations regarding continued approval of the project.

25 **"§ 143B-1316. Dispute resolution.**

26 (a) Agency Request for Review. – In any instance where the Secretary has denied or
27 suspended the approval of an information technology project, or has denied an agency's request
28 for deviation pursuant to G.S. 143B-1302, the affected State agency may request a committee
29 review of the Secretary's decision. The agency shall submit a written request for review to the
30 State Controller within 15 working days following the agency's receipt of the Secretary's
31 written grounds for denial or suspension. The agency's request for review shall specify the
32 grounds for its disagreement with the Secretary's determination. The agency shall include with
33 its request for review a copy of the Secretary's written grounds for denial or suspension.

34 (b) Review Process. – The review committee shall consist of the State Controller, the
35 State Budget Officer, and the Secretary of Administration. The State Controller shall serve as
36 the chair of the review committee. If the chair or one of the members of the review committee
37 is an official of the agency that has requested the review, that person is deemed to have a
38 conflict of interest and is ineligible to participate in the consideration of the matter, and the two
39 remaining members of the review committee shall select an alternate official to serve as a
40 member of the review committee for that specific matter. Within 10 business days following
41 receipt of an agency's request for review, the committee shall meet to consider the matter.

42 The committee shall review the information provided and may request additional
43 information from either the agency or the Secretary. The committee may affirm, reverse, or
44 modify the decision of the Secretary, or may remand the matter back to the Secretary for
45 additional findings. Within 30 days after initial receipt of the agency's request for review, the
46 committee shall notify the agency and the Secretary of its decision in the matter. The
47 notification shall be in writing, and shall specify the grounds for the committee's decision.

48 The committee may reverse or modify a decision of the Secretary when the committee finds
49 at least one of the following:

1 (1) The decision of the Secretary is unsupported by substantial evidence that the
2 agency project fails to meet one or more standards of efficiency and quality
3 of State government information technology as required under this Article.

4 (2) The Secretary did not have the requisite statutory authority or jurisdiction to
5 render the decision.

6 (3) The decision of the Secretary was rendered in a manner that was arbitrary,
7 capricious, or indicative of an abuse of discretion.

8 (c) In addition to the powers granted pursuant to Article 6B of this Chapter or by any
9 other provision of law, the Department of Information Technology may go before a panel
10 consisting of the State Treasurer, the State Controller, and the State Budget Officer, or their
11 designees, to resolve disputes concerning services, fees, and charges incurred by Council of
12 State agencies receiving information technology services from the Department. The State
13 Treasurer shall adopt rules for the dispute resolution process. The decisions of the panel shall
14 be final in the settlement of all fee disputes that come before it.

15 "Part 5. Information Technology Procurement.

16 **"§ 143B-1317. Procurement of information technology.**

17 (a) Notwithstanding any other provision of law, the Department of Information
18 Technology shall procure all information technology for principal department and Council of
19 State agencies. The Department shall integrate technological review, cost analysis, and
20 procurement for all information technology needs of those State agencies in order to make
21 procurement and implementation of technology more responsive, efficient and cost-effective.
22 G.S. 143-135.9 shall apply to information technology procurements.

23 (b) The Department shall have the authority and responsibility, subject to the provisions
24 of this Part, to do the following:

25 (1) Purchase or contract for all information technology for State agencies.

26 (2) Establish processes, specifications, and standards that shall apply to all
27 information technology to be purchased, licensed, or leased by State
28 agencies and relating to information technology personal services contract
29 requirements for State agencies.

30 (3) Establish procedures to permit State agencies and local government agencies
31 to use the General Services Administration (GSA) Cooperative Purchasing
32 Program to purchase information technology (i) awarded under General
33 Services Administration Supply Schedule 70 Information Technology and
34 (ii) from contracts under the GSA's Consolidated Schedule containing
35 information technology special item numbers.

36 (4) Comply with the State government-wide technical architecture, as required
37 by the Secretary.

38 (5) Utilize the purchasing benchmarks established by the Secretary of
39 Administration pursuant to G.S. 143-53.1.

40 (6) Provide strategic sourcing resources and planning to compile and
41 consolidate all estimates of information technology goods and services
42 needed and required by State agencies.

43 (c) Confidentiality. – Contract information compiled by the Department shall be made a
44 matter of public record after the award of contract. Trade secrets, test data, similar proprietary
45 information, and security information protected under G.S. 132-6.1(c) or other law shall remain
46 confidential.

47 (d) Electronic Procurement. - The Secretary may authorize the use of the electronic
48 procurement system established by G.S. 143-48.3, or other systems, to conduct reverse auctions
49 and electronic bidding. For purposes of this Part, "reverse auction" means a real-time
50 purchasing process in which vendors compete to provide goods or services at the lowest selling
51 price in an open and interactive electronic environment. The vendor's price may be revealed

1 during the reverse auction. The Department may contract with a third-party vendor to conduct
2 the reverse auction. "Electronic bidding" means the electronic solicitation and receipt of offers
3 to contract. Offers may be accepted and contracts may be entered by use of electronic bidding.
4 All requirements relating to formal and competitive bids, including advertisement, seal, and
5 signature, are satisfied when a procurement is conducted or a contract is entered in compliance
6 with the reverse auction or electronic bidding requirements established by the Department.

7 (e) Bulk Purchasing. – The Secretary shall establish procedures for the procurement of
8 information technology. The procedures may include aggregation of hardware purchases, the
9 use of formal bid procedures, restrictions on supplemental staffing, enterprise software
10 licensing, hosting, and multi-year maintenance agreements. The Secretary may require agencies
11 to submit information technology procurement requests to the Department on October 1,
12 January 1, and June 1, or another regularly occurring schedule, of each fiscal year in order to
13 allow for bulk purchasing.

14 (f) All offers to contract, whether through competitive bidding or other procurement
15 method, shall be subject to evaluation and selection by acceptance of the most advantageous
16 offer to the State. Evaluation shall include best value, as the term is defined in
17 G.S. 143-135.9(a)(1); compliance with information technology project management policies,
18 compliance with information technology security standards and policies, substantial conformity
19 with the specifications and other conditions set forth in the solicitation.

20 (g) Exceptions. - In addition to permitted waivers of competition, the requirements of
21 competitive bidding shall not apply to information technology contracts and procurements:

22 (1) In cases of pressing need or emergency arising from a security incident;

23 (2) In the use of master licensing or purchasing agreements governing the
24 Department's acquisition of proprietary intellectual property;

25 (3) The Secretary may award a cost plus percentage of cost contract for
26 information technology projects. As needed, the Secretary shall report to the
27 Joint Legislative Oversight Committee on Information Technology on any
28 cost plus percentage contracts awarded.

29 **§ 143B-1318. Restriction on State agency contractual authority with regard to**
30 **information technology; local governments.**

31 (a) All State agencies covered by this Article shall use contracts for information
32 technology established by the Department. Notwithstanding any other statute, the authority of
33 State agencies to procure or obtain information technology shall be subject to compliance with
34 the provisions of this Part. The Department may exercise the authority of State agencies to
35 procure or obtain information technology as otherwise provided by statute.

36 (b) Notwithstanding any other provision of law, local governmental entities may use the
37 information technology programs, services, or contracts offered by the Department, including
38 information technology procurement, in accordance with the statutes, policies, and rules of the
39 Department. For purposes of this subsection, "local governmental entities" includes local
40 school administrative units, as defined in G.S. 115C-5, and community colleges. Local
41 governmental entities are not required to comply with otherwise applicable competitive bidding
42 requirements when using contracts established by the Departments. Any other State entities
43 exempt from Part 3 or Part 5 of this Article may also use the information technology programs,
44 services, or contracts offered by the Department, including information technology
45 procurement, in accordance with the statutes, policies, and rules of the Department.

46 **§ 143B-1319. Unauthorized use of public purchase or contract procedures for private**
47 **benefit prohibited.**

48 (a) It is unlawful for any person, by the use of the powers, policies, or procedures
49 described in this Part or established hereunder, to purchase, attempt to purchase, procure, or
50 attempt to procure any property or services for private use or benefit.

51 (b) This prohibition shall not apply if:

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

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

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

10 (d) Any employee or official of the State who violates this Part shall be liable to the
11 State to repay any amount expended in violation of this Part, together with any court costs.

12 **"§ 143B-1320. Financial interest of officers in sources of supply; acceptance of bribes.**

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

24 **"§ 143B-1321. Certification that information technology bid submitted without collusion.**

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

28 **"§ 143B-1322. Award review.**

29 (a) When the dollar value of a contract for the procurement of information technology
30 equipment, materials, and supplies exceeds the benchmark established by G.S. 143B-1317, an
31 award recommendation shall be submitted to the Secretary of Information Technology for
32 approval or other action. The Secretary shall promptly notify the agency or institution making
33 the recommendation, or for which the purchase is to be made, of the action taken.

34 (b) Prior to submission for review pursuant to this section for any contract for
35 information technology being acquired for the benefit of an agency authorized to deviate from
36 this Article pursuant to G.S. 143B-1302(b), the Secretary shall review and approve the
37 procurement to ensure compliance with the established processes, specifications, and standards
38 applicable to all information technology purchased, licensed, or leased in State government,
39 including established procurement processes, and compliance with the State government-wide
40 technical architecture and standards established by the Secretary.

41 (c) The Secretary shall provide a report of all contract awards approved through the
42 Statewide Procurement Office as indicated below. The report shall include the amount of the
43 award, the contract term, the award recipient, the using agency, and a short description of the
44 nature of the award, as follows:

45 (1) For contract awards greater than twenty-five thousand dollars (\$25,000), to
46 the Cochairs of the Joint Legislative Oversight Committee on Information
47 Technology and the Fiscal Research Division on a monthly basis.

48 (2) For all contract awards outside the established purchasing system, to the
49 Secretary of the Department of Administration on a quarterly basis.

50 **"§ 143B-1323. Attorney General contract assistance.**

1 At the request of the Secretary, the Attorney General shall provide legal advice and services
2 necessary to implement this Part.

3 **"§ 143B-1324. Purchase of certain computer equipment and televisions by State agencies**
4 **and governmental entities prohibited.**

5 (a) No State agency, local political subdivision of the State, or other public body shall
6 purchase computer equipment or televisions, as defined in G.S. 130A-309.131, or enter into a
7 contract with any manufacturer that the Secretary determines is not in compliance with the
8 requirements of G.S. 130A-309.134 or G.S. 130A-309.135 as determined from the list provided
9 by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.138. The
10 Secretary shall issue written findings upon a determination of noncompliance. A determination
11 of noncompliance by the Secretary is reviewable under Article 3 of Chapter 150B of the
12 General Statutes.

13 (b) The Department shall make the list available to local political subdivisions of the
14 State and other public bodies. A manufacturer that is not in compliance with the requirements
15 of G.S. 130A-309.134 or G.S. 130A-309.135 shall not sell or offer for sale computer equipment
16 or televisions to the State, a local political subdivision of the State, or other public body.

17 **"§ 143B-1325. Refurbished computer equipment purchasing program.**

18 (a) The Department of Information Technology and the Department of Administration,
19 with the administrative support of the Statewide Procurement Office, shall offer State and local
20 governmental entities the option of purchasing refurbished computer equipment from registered
21 computer equipment refurbishers whenever most appropriate to meet the needs of State and
22 local governmental entities.

23 (b) State and local governmental entities shall document savings resulting from the
24 purchase of the refurbished computer equipment, including, but not limited to, the initial
25 acquisition cost as well as operations and maintenance costs. These savings shall be reported
26 quarterly to the Department of Information Technology.

27 (c) The Statewide Procurement Office shall administer the refurbished computer
28 equipment program by establishing a competitive purchasing process to support this initiative
29 that meets all State information technology procurement laws and procedures and ensures that
30 agencies receive the best value.

31 (d) Participating computer equipment refurbishers must meet all procurement
32 requirements established by the Department of Information Technology and the Department of
33 Administration.

34 **"§ 143B-1326. Configuration and specification requirements same as for new computers.**

35 Refurbished computer equipment purchased under this act must conform to the same
36 standards as the State may establish as to the configuration and specification requirements for
37 the purchase of new computers.

38 **"§ 143B-1327. Data on reliability and other issues; report.**

39 The Department of Information Technology shall maintain data on equipment reliability,
40 potential cost-savings, and any issues associated with the refurbished computer equipment
41 initiative and shall report the results of the initiative to the Joint Legislative Oversight
42 Committee on Information Technology and the Fiscal Research Division by March 1, 2016,
43 and then quarterly thereafter.

44 "Part 6. Security of Information Technology.

45 **"§ 143B-1328. Statewide security standards.**

46 The Secretary of Information Technology shall establish a statewide set of standards for
47 information technology security to maximize the functionality, security, and interoperability of
48 the State's distributed information technology assets, including data classification and
49 management, communications and encryption technologies. The Secretary shall review and
50 revise the security standards annually. As part of this function, the Secretary of Information
51 Technology shall review periodically existing security standards and practices in place among

1 the various State agencies to determine whether those standards and practices meet statewide
2 security and encryption requirements. The Secretary of Information Technology may assume
3 the direct responsibility of providing for the information technology security of any State
4 agency that fails to adhere to security standards adopted under this Article.

5 **"§ 143B-1329. Secretary approval of security standards and risk assessments.**

6 (a) Notwithstanding G.S. 143-48.3, G.S. 143B-1302(b) or (c), or any other provision of
7 law, and except as otherwise provided by this Article, all information technology security
8 goods, software or services purchased using State funds, or for use by a State agency or in a
9 State facility, shall be subject to approval by the Secretary of Information Technology in
10 accordance with security standards adopted under this Part.

11 (b) The Secretary of Information Technology shall conduct risk assessments to identify
12 compliance, operational and strategic risks to the enterprise network. These assessments may
13 include methods such as penetration testing or similar assessment methodologies. The
14 Secretary of Information Technology may contract with another party or parties to perform the
15 assessments. Detailed reports of the risk and security issues identified shall be kept confidential
16 as provided in G.S. 132-6.1(c).

17 (c) If the legislative branch or the judicial branch develop their own security standards,
18 taking into consideration the mission and functions of that entity, that are comparable to or
19 exceed those set by the Secretary of Information Technology under this section, then those
20 entities may elect to be governed by their own respective security standards. In these instances,
21 approval of the Secretary of Information Technology shall not be required before the purchase
22 of information technology security devices and services. If requested, the Secretary of
23 Information Technology shall consult with the legislative branch and the judicial branch in
24 reviewing the security standards adopted by those entities.

25 (d) Before a State agency may enter into any contract with another party for an
26 assessment of network vulnerability, the State agency shall notify the Secretary of Information
27 Technology and obtain approval of the request. If the State agency enters into a contract with
28 another party for assessment and testing, after approval of the Secretary of Information
29 Technology, the State agency shall issue public reports on the general results of the reviews.
30 The contractor shall provide the State agency with detailed reports of the security issues
31 identified that shall not be disclosed as provided in G.S. 132-6.1(c). The State agency shall
32 provide the Secretary of Information Technology with copies of the detailed reports that shall
33 not be disclosed as provided in G.S. 132-6.1(c).

34 (e) Nothing in this section shall be construed to preclude the Office of the State Auditor
35 from assessing the security practices of State information technology systems as part of its
36 statutory duties and responsibilities.

37 **"§ 143B-1330. Assessment of agency compliance with security standards.**

38 At a minimum, the Secretary of Information Technology shall annually assess the ability of
39 each State agency, and each agency's contracted vendors, to comply with the current security
40 enterprise-wide set of standards established pursuant to this section. The assessment shall
41 include, at a minimum, the rate of compliance with the enterprise-wide security standards and
42 an assessment of security organization, security practices, security information standards,
43 network security architecture, and current expenditures of State funds for information
44 technology security. The assessment of a State agency shall also estimate the cost to implement
45 the security measures needed for agencies to fully comply with the standards. Each State
46 agency shall submit information required by the Secretary of Information Technology for
47 purposes of this assessment. The Secretary of Information Technology shall include the
48 information obtained from the assessment in the State Information Technology Plan.

49 **"§ 143B-1331. State agency cooperation; liaisons.**

1 (a) The head of each principal department and Council of State agency shall cooperate
2 with the Secretary of Information Technology in the discharge of the Secretary's duties by
3 providing the following information to the Department:

- 4 (1) The full details of the State agency's information technology and operational
5 requirements and of all the agency's information technology security
6 incidents within 24 hours of confirmation.
- 7 (2) Comprehensive information concerning the information technology security
8 employed to protect the agency's information technology.
- 9 (3) A forecast of the parameters of the agency's projected future information
10 technology security needs and capabilities.
- 11 (4) Designating an agency liaison in the information technology area to
12 coordinate with the State Chief Information Officer. The liaison shall be
13 subject to a criminal background report from the State Repository of
14 Criminal Histories, which shall be provided by the State Bureau of
15 Investigation upon its receiving fingerprints from the liaison. If the liaison
16 has been a resident of this State for less than five years, the background
17 report shall include a review of criminal information from both the State and
18 National Repositories of Criminal Histories. The criminal background report
19 shall be provided to the State Chief Information Officer and the head of the
20 agency. In addition, all personnel in the Office of the State Auditor who are
21 responsible for information technology security reviews pursuant to
22 G.S. 147-64.6(c)(18) shall be subject to a criminal background report from
23 the State Repository of Criminal Histories, which shall be provided by the
24 State Bureau of Investigation upon receiving fingerprints from the personnel
25 designated by the State Auditor. For designated personnel who have been
26 residents of this State for less than five years, the background report shall
27 include a review of criminal information from both the State and National
28 Repositories of Criminal Histories. The criminal background reports shall be
29 provided to the State Auditor. Criminal histories provided pursuant to this
30 subdivision are not public records under Chapter 132 of the General Statutes.

31 (b) The information provided by State agencies to the Secretary of Information
32 Technology under this section is protected from public disclosure pursuant to G.S. 132-6.1(c)."
33

34 **PART III. APPROPRIATIONS/BUDGETING**

35 **SECTION 3.1.** The Department of Information Technology, along with the Office
36 of State Budget and Management and the State Controller, shall develop and implement a plan
37 to manage all information technology funding, including State and other receipts, as soon as
38 practicable. As part of the plan and implementation:

- 39 (1) Funding for information technology resources, projects, and contracts shall
40 be appropriated to and managed by the Department of Information
41 Technology.
- 42 (2) Funding for Department of Information Technology Shared Services and
43 approved contracts should remain with the agencies.
- 44 (3) Information technology budget codes and fund codes shall be created as
45 required.

46 **SECTION 3.2.** All employees and all positions in State agencies identified as
47 principal departments in G.S. 143B-6 who serve in the position of, or exercise responsibilities
48 for, information technology described in this act are hereby transferred to the Department of
49 Information Technology. Transfers of employees shall not affect any individual employee's
50 current compensation or benefits. Such employees and positions shall remain in their current
51 locations within the respective agencies until such time as the Department of Information

1 Technology, the Office of State Human Resources and the State agency implement a plan to
2 redeploy such employees.

3 **SECTION 3.3.** The provisions in this Part become effective July 1, 2015.
4

5 **PART IV. CONFORMING CHANGES**

6 **SECTION 4.1.** G.S. 66-58.20(b) reads as rewritten:

7 "(b) Each State ~~department, agency, and institution under the review of the State Chief~~
8 ~~Information Officer~~ agency as defined in G.S. 143B-1300(9) shall functionally link its Internet
9 or electronic services to a centralized Web portal system established pursuant to subsection (a)
10 of this section."

11 **SECTION 4.2.** G.S. 136-89.194(g)(2) reads as rewritten:

12 "(g) Contract Exemptions. – The following provisions concerning the purchase of goods
13 and services by a State agency do not apply to the Turnpike Authority:

14 ...

15 (2) Article 3D of Chapter 147 of the General Statutes. The Authority may use
16 the services of the ~~Office of Information Technology Services~~ Department of
17 Information Technology Services in procuring goods and services that are
18 not specific to establishing and operating a toll revenue system. ~~All~~
19 However, all contract information for contracts for information technology
20 are subject to disclosure in accordance with ~~G.S. 147-33.95~~ Article 14 of
21 Chapter 143B of the General Statutes."

22 **SECTION 4.3.** G.S. 138A-3 reads as rewritten:

23 **"§ 138A-3. Definitions.**

24 The following definitions apply in this Chapter:

25 ...

26 (30) Public servants. – All of the following:

27 ...

28 p. The Secretary, deputy secretaries, chief information officer, deputy
29 chief information officers, chief financial officers, and general
30 counsel of the ~~Office of Department of Information Technology.~~"

31 **SECTION 4.4.** G.S. 143-129(e)(7) reads as rewritten:

32 "(e) Exceptions. – The requirements of this Article do not apply to:

33 ...

34 (7) Purchases of information technology through contracts established by the
35 ~~State Office of Department of Information Technology Services~~ as provided
36 in ~~G.S. 147-33.82(b) and G.S. 147-33.92(b)~~ Article 14 of Chapter 143B of
37 the General Statutes."

38 **SECTION 4.5.** G.S. 143C-3-3(e) reads as rewritten:

39 "(e) Information Technology Request. – In addition to any other information requested
40 by the ~~Director, Secretary of Information Technology (Secretary),~~ any State agency requesting
41 significant State resources, as defined by the ~~Director, Secretary,~~ for the purpose of ~~acquiring~~
42 acquiring, operating, or maintaining information technology shall accompany that request with
43 all of the following:

44 (1) A statement of its needs for information technology and related resources,
45 including expected improvements to programmatic or business operations,
46 together with a review and evaluation of that statement prepared by the ~~State~~
47 Chief Information Officer, Secretary.

48 (2) A statement setting forth the requirements for State resources, together with
49 an evaluation of those requirements by the State Chief Information Officer
50 that takes into consideration the State's current technology, the opportunities
51 for technology sharing, the requirements of ~~Article 3D of Chapter 147~~

1 Article 14 of the General Statutes, and any other factors relevant to the
 2 analysis. And, in cases of an acquisition, an explanation of the method by
 3 which the acquisition is to be financed.

- 4 (3) A statement by the ~~State Chief Information Officer~~ Secretary that sets forth
 5 viable alternatives, if any, for meeting the agency needs in an economical
 6 and efficient manner. A statement setting forth the requirements for State
 7 resources, together with an evaluation of those requirements, including
 8 expected improvements to programmatic or business operations by the
 9 Secretary that takes into consideration the State's current technology, the
 10 opportunities for technology sharing, the requirements of the General
 11 Statutes, and any other factors relevant to the analysis.

- 12 (4) In the case of an acquisition, an explanation of the method by which the
 13 acquisition is to be financed.

14 This subsection shall not apply to requests submitted by the General Assembly or the
 15 Administrative Office of the Courts."

16 **SECTION 4.6.** G.S. 150B-21.1(a)(10) reads as rewritten:

17 "(a) Adoption. – An agency may adopt a temporary rule when it finds that adherence to
 18 the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest
 19 and that the immediate adoption of the rule is required by one or more of the following:

- 20 ...
 21 (10) The need for the ~~Chief Information Officer~~ Secretary of Information
 22 Technology to implement the information technology procurement
 23 provisions of Article 3D of Chapter 147 of the General Statutes."

24 **SECTION 4.7.** G.S. 150B-38 is amended by adding a new subsection to read:

25 "(l) Standards adopted by the Secretary of Information Technology applied to
 26 information technology as defined by G.S. 143B-1300."

27 **SECTION 4.8.** G.S. 143-59.1(a) reads as rewritten:

28 "(a) Ineligible Vendors. – The Secretary of ~~Administration~~ Administration, Secretary of
 29 Information Technology, and other entities to which this Article applies shall not contract for
 30 goods or services with either of the following:

31"

32 **SECTION 4.9.** The following statutes are amended by deleting "Office of
 33 Information Technology Services" and substituting "Department of Information Technology
 34 Services." G.S. 62-3(23), 62A-41(a), 66-58.20(a), 114-19.20(a), 115C-529, 116-40.22(d),
 35 126-5(d)(1)k., 130A-309.138(1), 143-48.3, 143-49, 143-129(e)(7), 143-135.9(c),
 36 143-663(a)(2), 143B-146.13(a), 143-725, 143C-2-5(a), 143C-2-6(a), 147-86.2,
 37 163-165.7(d)(9), 143-135.9, 143-663, 143B-951, 143C-2-5, 143C-2-6, 147-86.2, and
 38 163-165.7.

39 **SECTION 4.10.** The following statutes are amended by deleting "State Chief
 40 Information Officer" and substituting "Secretary of Information Technology Services."
 41 G.S. 63-96(d)(8), 66-58.12(c), 66-58.20(a), 105-259(45), 115C-102.5(b)(9), 115C-102.6(b),
 42 116E-3(10), 120-231(b), 126-5(d)(1)k., 132-6.2(b), 143-661, 143-664, 143-725(a)(4),
 43 143-726(d)(19), and 143B-426.38A (Office of the SCIO changed to Secretary of IT, SCIO
 44 changed to Secretary).

45 **SECTION 4.11.** Modification of References. – The Revisor of Statutes may delete
 46 any reference in the General Statutes to the Office of Information Technology or any derivative
 47 thereof, and substitute references to the Department of Information Technology created by this
 48 act wherever conforming changes are necessary.

49 The Revisor of Statutes may delete any reference in the General Statutes to the State
 50 Chief Information Officer or any derivative thereof, and substitute references to the Secretary
 51 of Information Technology created by this act wherever conforming changes are necessary.

1 Further, the Revisor of Statutes shall delete all references to former Article 3D of
2 Chapter 147 of the General Statutes and may insert appropriate references to Article 14 of
3 Chapter 143B of the General Statutes as may be appropriate.
4

5 **PART V. ADMINISTRATIVE MATTERS**

6 **SECTION 5.1.** No action or proceeding pending on July 1, 2015, brought by or
7 against the Department of Information Technology shall be affected by any provision of this
8 act, but the same may be prosecuted or defended in the name of the Department of Information
9 Technology. In these actions and proceedings, the Department shall be substituted as a party
10 upon proper application to the courts or other public bodies.

11 **SECTION 5.2.** Any business or other matter undertaken or commanded by the
12 Department of Information Technology regarding any State program, office, or contract or
13 pertaining to or connected with its respective functions, powers, obligations, and duties that are
14 pending on the date this act becomes effective may be conducted and completed by the
15 Department of Information Technology in the same manner and under the same terms and
16 conditions and with the same effect as if conducted and completed by the former commission,
17 director, or office.

18 **SECTION 5.3.** Unless otherwise specifically provided by this act, any previous
19 assignment of duties within the purview of this act by the Governor or General Assembly shall
20 have continued validity.
21

22 **PART VI. EFFECTIVE DATE**

23 **SECTION 6.1.** Except as otherwise provided, this act is effective when it becomes
24 law.