

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1578\*  
Committee Substitute Favorable 6/22/00

Short Title: Information Technology Governance.

(Public)

Sponsors:

Referred to:

May 18, 2000

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

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10 repealed.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) The Governor has the authority, powers, and duties over the Office that are  
2 assigned to the Governor and the head of department pursuant to Article 1 of Chapter  
3 143B of the General Statutes, G.S. 143A-6(b), and the Constitution and other laws of this  
4 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 after consultation with the Senate Committee on Information Technology and  
11 the House Committee on Technology meeting jointly (or by similar committees  
12 designated by the rules of each house).

13 (b) The Governor shall submit the name of the person to be appointed for review  
14 by the entities specified in subsection (a) of this section.

15 (c) The salary of the State Chief Information Officer shall be set by the General  
16 Assembly in the Current Operations Appropriations Act. The State Chief Information  
17 Officer shall receive longevity pay on the same basis as is provided to employees of the  
18 State who are subject to the State Personnel Act.

19 **"§ 147-33.77. Office of Information Technology Services; organization and**  
20 **operation.**

21 (a) The State Chief Information Officer may appoint a Chief Deputy Information  
22 Officer. The salary of the Chief Deputy Information Officer shall be set by the State  
23 Chief Information Officer. The State Chief Information Officer may appoint all  
24 employees, including legal counsel, necessary to carry out the powers and duties of the  
25 office. These employees shall be subject to the State Personnel Act.

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

31 (c) The State Chief Information Officer may, subject to the provisions of G.S.  
32 147-64.7(b)(2), obtain the services of independent public accountants, qualified  
33 management consultants, and other professional persons or experts to carry out powers  
34 and duties of the office.

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

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

40 (f) The State Chief Information Officer may adopt regulations for the  
41 administration of the office, the conduct of employees of the office, the distribution and  
42 performance of business, the performance of the functions assigned to the State Chief  
43 Information Officer and the Office of Information Technology Services, and the custody,

1 use, and preservation of the records, documents, and property pertaining to the business  
2 of the office.

3 **"§ 147-33.78. Information Resource Management Commission.**

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

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

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

41 The initial appointed members of the Commission shall be the members appointed to  
42 the Information Resource Management Commission who are serving unexpired terms as  
43 of July 1, 2000, who shall serve for a period equal to the remainder of their current terms

1 on the Information Resource Management Commission. Upon the expiration of the  
2 current terms of the appointed members, their successors shall be appointed for four-year  
3 terms, commencing July 1. Members of the Governor's cabinet shall be disqualified from  
4 completing a term of service on the Commission if they are no longer cabinet members.  
5 Members of the Council of State shall be disqualified from completing a term of service  
6 on the Commission if they are no longer members of the Council of State.

7 Vacancies in the two legislative appointments shall be filled as provided in G.S. 120-  
8 122.

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

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

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

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

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

22 (3) To review and approve biennially the information technology plans of  
23 the executive agencies and the Administrative Office of the Courts. This  
24 review shall include plans for the procurement and use of personal  
25 computers and workstations.

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

29 (5) To issue certification of any State agency information technology  
30 project that requires or is expected to require the expenditure of funds in  
31 excess of five hundred thousand dollars (\$500,000), whether the project  
32 is undertaken in a single phase or component or in multiple phases or  
33 components. The certification shall be issued when the Commission  
34 determines that the project complies with Commission policies,  
35 standards, and procedures. The Commission shall promptly report each  
36 certification to the Office of State Budget and Management, the Office  
37 of the State Controller, the Chairs of the Legislative Committees on  
38 Information Technology, and the Cochairs of the Joint Legislative  
39 Commission on Governmental Operations. No State agency, other than  
40 The University of North Carolina or any of its constituent institutions,  
41 shall allocate or expend funds in excess of five hundred thousand dollars  
42 (\$500,000) on any information technology project without prior  
43 certification as required by this subsection. If an agency cannot

1 determine whether a project or series of projects will require  
2 certification, the agency shall seek an opinion from the Commission.  
3 Upon review, the Commission may determine that a project is exempt  
4 from certification and shall advise the agency of its determination.

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

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

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

24 (9) To develop and promote technical requirements for the fair and  
25 competitive procurement of information technology in cooperation with  
26 the Office of Information Technology Services where different  
27 information technology hardware, software, and networks operate  
28 together easily and reliably, while considering the cost-effectiveness of  
29 managing these assets.

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

33 **§ 147-33.79. Information Resources Management Commission staff.**

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

39 (b) All independent staff shall be appointed, supervised, and directed by the  
40 Commission. The executive director shall be exempt from the provisions of Chapter 126  
41 of the General Statutes, except for Articles 6 and 7 of Chapter 126 of the General  
42 Statutes. All other staff personnel shall be subject to the provisions of Chapter 126 of the

1 General Statutes. The independent staff shall not be subject to the supervision, direction,  
2 or control of the Office.

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

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

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

10 **"§ 147-33.80. Exempt agencies.**

11 Except as otherwise specifically provided by law, this Article shall not apply to the  
12 General Assembly or The University of North Carolina and its constituent institutions.

13 **"§ 147-33.81. Definitions.**

14 As used in this Article:

15 (1) "Distributed information technology assets" means hardware, software,  
16 and communications equipment not classified as traditional mainframe-  
17 based items, including personal computers, local area networks (LANs),  
18 servers, mobile computers, peripheral equipment, and other related  
19 hardware and software items.

20 (2) "Information technology" means electronic data processing goods and  
21 services and telecommunications goods and services, microprocessors,  
22 software, information processing, office systems, any services related to  
23 the foregoing, and consulting or other services for design or redesign of  
24 information technology supporting business processes.

25 (3) "Information technology enterprise management" means a method for  
26 managing distributed information technology assets from acquisition  
27 through retirement so that total ownership costs (purchase, operation,  
28 maintenance, disposal, etc.) are minimized while maximum benefits are  
29 realized.

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

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

36 **"§ 147-33.82. Powers and duties of the Office of Information Technology Services.**

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

38 (1) Procure all information technology for State agencies, as provided in  
39 Part 4 of this Article. The University of North Carolina and its  
40 constituent institutions, and the Judicial Department, may elect to  
41 participate in information technology procurement under this Article or  
42 may obtain information technology in compliance with Department of  
43 Administration requirements.

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

28       (b) Notwithstanding any other provision of law, local governmental entities may  
29 use the information technology programs, services, or contracts offered by the Office,  
30 including information technology procurement, in accordance with the statutes, policies,  
31 and rules of the Office. For purposes of this subsection, "local governmental  
32 entities" includes local school administrative units, as defined in G.S. 115C-5, and  
33 community colleges. Local governmental entities are not required to comply with  
34 otherwise applicable competitive bidding requirements when using contracts established  
35 by the Office. Any other State entities, including The University of North Carolina and  
36 its constituent institutions, may also use the information technology programs, services,  
37 or contracts offered by the Office, including information technology procurement, in  
38 accordance with the statutes, policies, and rules of the Office.

39 **"§ 147-33.83. Information resources centers and services.**

40       (a) With respect to all executive departments and agencies of State government,  
41 except the Department of Justice and The University of North Carolina if they do not  
42 elect at their option to participate, the Office of Information Technology Services shall  
43 have all of the following powers and duties:

- 1           (1)   To establish and operate information resource centers and services to  
2           serve two or more departments on a cost-sharing basis, if the  
3           Information Resources Management Commission decides it is advisable  
4           from the standpoint of efficiency and economy to establish these centers  
5           and services.
- 6           (2)   With the approval of the Information Resources Management  
7           Commission, to charge each department for which services are  
8           performed its proportionate part of the cost of maintaining and operating  
9           the shared centers and services.
- 10          (3)   With the approval of the Information Resources Management  
11          Commission, to require any department served to transfer to the Office  
12          ownership, custody, or control of information processing equipment,  
13          supplies, and positions required by the shared centers and services.
- 14          (4)   With the approval of the Information Resources Management  
15          Commission, to adopt reasonable rules for the efficient and economical  
16          management and operation of the shared centers, services, and the  
17          integrated State telecommunications network.
- 18          (5)   With the approval of the Information Resources Management  
19          Commission, to adopt plans, policies, procedures, and rules for the  
20          acquisition, management, and use of information technology resources  
21          in the departments affected by this section to facilitate more efficient  
22          and economic use of information technology in these departments.
- 23          (6)   To develop and promote training programs to efficiently implement,  
24          use, and manage information technology resources.
- 25          (7)   To provide cities, counties, and other local governmental units with  
26          access to the Office of Information Technology Services, information  
27          resource centers and services as authorized in this section for State  
28          agencies. Access shall be provided on the same cost basis that applies to  
29          State agencies.

30          (b)   No data of a confidential nature, as defined in the General Statutes or federal  
31          law, may be entered into or processed through any cost-sharing information resource  
32          center or network established under this section until safeguards for the data's security  
33          satisfactory to the department head and the State Chief Information Officer have been  
34          designed and installed and are fully operational. Nothing in this section may be construed  
35          to prescribe what programs to satisfy a department's objectives are to be undertaken, nor  
36          to remove from the control and administration of the departments the responsibility for  
37          program efforts, regardless whether these efforts are specifically required by statute or  
38          are administered under the general program authority and responsibility of the  
39          department. This section does not affect the provisions of G.S. 147-64.6, 147-64.7, or  
40          147-33.89. Notwithstanding any other provision of law, the Office of Information  
41          Technology Services shall provide information technology services on a cost-sharing  
42          basis to the General Assembly and its agencies as requested by the Legislative Services  
43          Commission.



1 **"§ 147-33.84. Deviations authorized for Department of Revenue.**

2 (a) The Department of Revenue is authorized to deviate from any provision in  
3 G.S. 147-33.83(a) that requires departments or agencies to consolidate information  
4 processing functions on equipment owned, controlled, or under custody of the Office of  
5 Information Technology Services. All deviations pursuant to this section shall be  
6 reported in writing within 15 days by the Department of Revenue to the Information  
7 Resources Management Commission and shall be consistent with available funding.

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

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

29 **"§ 147-33.85. Information technology portfolio-based management.**

- 30 (a) The purposes of information technology portfolio-based management are to:
- 31 (1) Ensure agencies link agency information technology investments with  
32 business plans.
  - 33 (2) Facilitate risk assessment of information technology projects and  
34 investments.
  - 35 (3) Ensure agencies justify information technology investments on the basis  
36 of sound business cases.
  - 37 (4) Ensure agencies facilitate development and review of information  
38 technology performance related to business operations.
  - 39 (5) Identify projects that can cross agency and program lines in order to  
40 leverage resources.
  - 41 (6) Assist in State government-wide planning for common, shared  
42 information technology infrastructure.

1 (b) The Office shall coordinate with the Office of State Budget and Management  
2 and the Office of State Planning to integrate agency strategic and business planning,  
3 technology planning and budgeting, and project expenditure processes into the Office's  
4 information technology portfolio-based management. The Office shall provide  
5 recommendations for agency annual budget requests for information technology  
6 investments, projects, and initiatives to the Office of State Budget and Management.

7 (c) In cooperation with State agencies, the Office shall conduct and maintain a  
8 continuous inventory of each State agency's current and planned investments in  
9 information technology, a compilation of information about these assets, and the total life  
10 cycle costs of these assets. In implementing the provisions of this subsection, the Office  
11 shall submit State government-wide policies for review and approval to the Information  
12 Resources Management Commission. The Office shall consult with the Office of the  
13 State Controller to establish and implement the State government-wide information  
14 technology inventory. The Office shall develop and implement State government-wide  
15 standards, processes, and procedures for the required inventory and for the management  
16 of the State government-wide information technology portfolio. State agencies shall  
17 participate in the information technology portfolio management and shall comply with  
18 the standards and processes established by the Office in accordance with this subsection.  
19 The provisions of this subsection shall not relieve any department, institution, or agency  
20 of the State government from accountability for equipment, materials, supplies, and  
21 tangible and intangible personal property under its control.

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

26 **"§ 147-33.86. Enterprise management of information technology assets.**

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

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

37 (c) Upon receiving approval by the Information Resources Management  
38 Commission, the Office shall ensure agency implementation of the plan, including the  
39 development of appropriate standards, processes, and procedures. The implementation  
40 effort shall follow Information Resources Management Commission project-reporting  
41 policies. State agencies must participate in the enterprise management of information  
42 technology assets and must comply with the standards and processes of the Office.

1 **"§ 147-33.87. Financial reporting and accountability for information technology**  
2 **investments and expenditures.**

3 The Office of Information Technology Services, the Office of State Budget and  
4 Management, and the Office of the State Controller shall jointly develop a system for  
5 budgeting and accounting of expenditures for information technology operations,  
6 services, projects, infrastructure, and assets. The system shall include hardware, software,  
7 personnel, training, contractual services, and other items relevant to information  
8 technology, and the sources of funding for each. This system must integrate seamlessly  
9 with the enterprise portfolio management system. Annual reports regarding information  
10 technology shall be coordinated by the Office with the Office of State Budget and  
11 Management and the Office of the State Controller, and submitted to the Governor,  
12 General Assembly, and the Information Resources Management Commission on or  
13 before October 1 of each year.

14 **"§ 147-33.88. Information technology reports.**

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

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

27 **"PART 3. TELECOMMUNICATIONS SERVICES.**

28 **"§ 147-33.89. Telecommunications services; duties of State Chief Information**  
29 **Officer with respect to State agencies.**

30 With respect to State agencies, the State Chief Information Officer shall exercise  
31 general coordinating authority for all telecommunications matters relating to the internal  
32 management and operations of those agencies. In discharging that responsibility, the  
33 State Chief Information Officer may in cooperation with affected State agency heads, do  
34 such of the following things as the State Chief Information Officer deems necessary and  
35 advisable:

36 (1) Provide for the establishment, management, and operation, through  
37 either State ownership or commercial leasing, of the following systems  
38 and services as they affect the internal management and operation of  
39 State agencies:

40 a. Central telephone systems and telephone networks;

41 b. Teleprocessing systems;

42 c. Teletype and facsimile services;

43 d. Satellite services;

- 1           e.     Closed-circuit TV systems;  
2           f.     Two-way radio systems;  
3           g.     Microwave systems; and  
4           h.     Related systems based on telecommunication technologies.
- 5       (2)   With the approval of the Information Resources Management  
6       Commission, coordinate the development of cost-sharing systems for  
7       respective user agencies for their proportionate parts of the cost of  
8       maintenance and operation of the systems and services listed in  
9       subdivision (1) of this section.
- 10       (3)   Assist in the development of coordinated telecommunications services  
11       or systems within and among all State agencies and recommend, where  
12       appropriate, cooperative utilization of telecommunication facilities by  
13       aggregating users.
- 14       (4)   Perform traffic analysis and engineering for all telecommunications  
15       services and systems listed in subdivision (1) of this subsection.
- 16       (5)   Pursuant to G.S. 143-49, establish telecommunications specifications  
17       and designs so as to promote and support compatibility of the systems  
18       within State agencies.
- 19       (6)   Pursuant to G.S. 143-49 and G.S. 143-50, coordinate the review of  
20       requests by State agencies for the procurement of telecommunications  
21       systems or services.
- 22       (7)   Pursuant to G.S. 143-341 and Chapter 146 of the General Statutes,  
23       coordinate the review of requests by State agencies for State  
24       government property acquisition, disposition, or construction for  
25       telecommunications systems requirements.
- 26       (8)   Provide a periodic inventory of telecommunications costs, facilities,  
27       systems, and personnel within State agencies.
- 28       (9)   Promote, coordinate, and assist in the design and engineering of  
29       emergency telecommunications systems, including, but not limited to,  
30       the 911 emergency telephone number program, Emergency Medical  
31       Services, and other emergency telecommunications services.
- 32       (10)   Perform frequency coordination and management for State agencies and  
33       local governments, including all public safety radio service frequencies,  
34       in accordance with the rules and regulations of the Federal  
35       Communications Commission or any successor federal agency.
- 36       (11)   Advise all State agencies on telecommunications management planning  
37       and related matters and provide through the State Personnel Training  
38       Center or the Office of Information Technology Services training to  
39       users within State agencies in telecommunications technology and  
40       systems.
- 41       (12)   Assist and coordinate the development of policies and long-range plans,  
42       consistent with the protection of citizens' rights to privacy and access to  
43       information, for the acquisition and use of telecommunications systems,

1           and base such policies and plans on current information about State  
2           telecommunications activities in relation to the full range of emerging  
3           technologies.

- 4           (13) Work cooperatively with the North Carolina Agency for Public  
5           Telecommunications in furthering the purpose of this section.

6           The provisions of this section shall not apply to the Criminal Information Division of  
7           the Department of Justice or to the Judicial Information System in the Judicial  
8           Department.

9           **"§ 147-33.90. Telecommunications services for local governmental units and other**  
10           **entities.**

11           (a) The State Chief Information Officer shall provide cities, counties, and other  
12           local governmental units with access to a central telecommunications system or service  
13           established under G.S. 147-33.89 for State agencies. Access shall be provided on the  
14           same cost basis that applies to State agencies.

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

19           (1) Nonprofit educational institutions.

20           (2) MCNC.

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

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

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

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

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

42           **"§ 147-33.91. Procurement of information technology.**

1 (a) Notwithstanding any other provision of law, the Office of Information  
2 Technology Services shall procure all information technology for State agencies. For  
3 purposes of this section, agency means any department, institution, commission,  
4 committee, board, division, bureau, office, officer, or official of the State, unless  
5 specifically exempted in this Article. The University of North Carolina and its  
6 constituent institutions, and the Judicial Department, may elect to participate in  
7 information technology procurement under this Part or may obtain information  
8 technology in compliance with Department of Administration requirements. The Office  
9 shall integrate technological review, cost analysis, and procurement for all information  
10 technology needs of those State agencies in order to make procurement and  
11 implementation of technology more responsive, efficient, and cost-effective. Responses  
12 to solicitations and all information and documentation relative to the development of a  
13 contractual document shall be deemed confidential in nature and shall be made a matter  
14 of public record after the contract is awarded. Award information determined by the  
15 State Chief Information Officer to be confidential due to the nature of the purchase, such  
16 as security or privacy-related information, shall remain confidential.

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

19 (1) Purchase or to contract for, by suitable means in conformity with G.S.  
20 143-135.9, all information technology in the State government, or any  
21 of its departments, institutions, or agencies covered by this Part, or to  
22 authorize any department, institution, or agency covered by this Part to  
23 purchase or contract for such information technology.

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

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

30 **"§ 147-33.92. Restriction on State agency contractual authority with regard to**  
31 **information technology; local governments.**

32 (a) All State agencies covered by this Part shall use contracts for information  
33 technology acquired by the Office for any information technology required by the State  
34 agency that is provided by these contracts. Notwithstanding any other statute, the  
35 authority of State agencies to procure or obtain information technology shall be subject to  
36 compliance with the provisions of this Part. The Office shall have the authority to  
37 exercise the authority of State agencies to procure or obtain information technology as  
38 otherwise provided by statute.

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

41 **"§ 147-33.93. Information technology procurement policy; reporting requirements.**

42 (a) Policy. – In order to further the policy of the State to encourage and promote  
43 the use of small, minority, physically handicapped, and women contractors in State

1 purchasing of goods and services, all State agencies covered by this Part shall cooperate  
2 with the Office in efforts to encourage the use of small, minority, physically handicapped,  
3 and women contractors in achieving the purpose of this Part, which is to provide for the  
4 effective and economical acquisition, management, and disposition of information  
5 technology.

6 (b) Reporting. – Every State agency that makes a direct purchase of information  
7 technology using the services of the Office shall report directly to the Department of  
8 Administration all information required by G.S. 143-48(b).

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

11 **"§ 147-33.94. Unauthorized use of public purchase or contract procedures for**  
12 **private benefit prohibited.**

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

17 (b) This prohibition shall not apply if:

18 (1) The department, institution, or agency through which the property or  
19 services are procured had theretofore established policies and  
20 procedures permitting such purchases or procurement by a class or  
21 classes of persons in order to provide for the mutual benefit of such  
22 persons and the department, institution, or agency involved, or the  
23 public benefit or convenience; and

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

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

29 **"§ 147-33.95. Financial interest of officers in sources of supply; acceptance of bribes.**

30 Neither the State Chief Information Officer nor the Chief Deputy State Information  
31 Officer shall be financially interested, or have any personal beneficial interest, either  
32 directly or indirectly, in the purchase of, or contract for, any information technology, nor  
33 in any firm, corporation, partnership, or association furnishing any information  
34 technology to the State government, or any of its departments, institutions, or agencies,  
35 nor shall either of these persons or any other Office employee accept or receive, directly  
36 or indirectly, from any person, firm, or corporation to whom any contract may be  
37 awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or  
38 any promise, obligation, or contract for future reward or compensation. Violation of this  
39 section is a Class F felony, and any person found guilty of a violation of this section  
40 shall, upon conviction, be removed from State office or employment.

41 **"§ 147-33.96. Certification that information technology bid submitted without**  
42 **collusion.**

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

4 **"§ 147-33.97. Board of Awards review.**

5       (a) When the dollar value of a contract for the procurement of information  
6 technology equipment, materials, and supplies exceeds the benchmark established by the  
7 Chief State Information Officer, the contract shall be reviewed by the Board of Awards  
8 pursuant to G.S. 143-52.1 prior to the contract being awarded.

9       (b) Prior to submission of any contract for review by the Board of Awards  
10 pursuant to this section for any contract for information technology being acquired for the  
11 benefit of the Office and not on behalf of any other State agency, the Director of the  
12 Budget shall review and approve the procurement to ensure compliance with the  
13 established processes, specifications, and standards applicable to all information  
14 technology purchased, licensed, or leased in State government, including established  
15 procurement processes, and compliance with the State government-wide technical  
16 architecture as established by the Information Resources Management Commission.

17 **"§ 147-33.98. Penalty for violations; costs.**

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

20 **"§ 147-33.99. Attorney General contract assistance; rule-making authority.**

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

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

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