

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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**SENATE BILL 869**  
Commerce Committee Substitute Adopted 4/29/97

Short Title: Transfer Technology Functions.

(Public)

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Sponsors:

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Referred to:

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April 15, 1997

**A BILL TO BE ENTITLED**

**AN ACT TO TRANSFER TECHNOLOGY-RELATED FUNCTIONS OF STATE GOVERNMENT TO THE DEPARTMENT OF COMMERCE.**

The General Assembly of North Carolina enacts:

Section 1. (a) The following agencies, including all functions, powers, and duties of each, are transferred from the Office of State Controller to the Department of Commerce:

(1) Information Resource Management Commission.

(2) State Information Processing Services.

(3) State Telecommunications Services.

(b) Budgetary responsibilities for the agencies and services listed in subsection (a) of this section are transferred from the Office of State Controller to the Department of Commerce. The positions, funds, equipment, supplies, records, and other property to support the functions transferred by this section are also transferred from the Office of State Controller to the Department of Commerce. Any disputes arising out of this transfer shall be resolved by the Director of the Budget.

Section 2. Part 23 of Article 9 of Chapter 143B of the General Statutes is recodified as Part 16 of Article 10 of Chapter 143B of the General Statutes, to be entitled

1 "Information Technology Related State Government Functions", and G.S. 143B-426.21  
2 is recodified as G.S. 143B-472.41.

3 Section 3. G.S. 143B-426.39(14), (15), and (16) are recodified as G.S. 143B-  
4 472.42(1), (2), and (3).

5 Section 4. G.S. 143B-426.39A is recodified as G.S. 143B-472.43.

6 Section 5. G.S. 143B-426.40 is recodified as G.S. 143B-472.44.

7 Section 6. Part 16 of Article 10 of Chapter 143B of the General Statutes, as  
8 created by this act, reads as rewritten:

9 **"PART 16. INFORMATION TECHNOLOGY RELATED FUNCTIONS.**  
10 **"§ 143B-472.41. Information Resource Management Commission.**

11 (a) Creation; Membership. – The Information Resource Management Commission  
12 is created in the ~~Office of the State Controller.~~ Department of Commerce. The Commission  
13 consists of the following members:

- 14 (1) Four members of the Council of State, appointed by the Governor.
- 15 (2) The Secretary of Administration.
- 16 (3) The State Budget Officer.
- 17 (4) Two members of the Governor's cabinet, appointed by the Governor.
- 18 (5) One citizen of the State of North Carolina with a background in and  
19 familiarity with information systems or telecommunications, appointed  
20 by the General Assembly upon the recommendation of the President Pro  
21 Tempore of the Senate in accordance with G.S. 120-121.
- 22 (6) One citizen of the State of North Carolina with a background in and  
23 familiarity with information systems or telecommunications, appointed  
24 by the General Assembly upon the recommendation of the Speaker of  
25 the House of Representatives in accordance with G.S. 120-121.
- 26 (7) The Chair of the Governor's Committee on Data Processing and  
27 Information Systems.
- 28 (8) The Chair of the State Information Processing Services Advisory Board.
- 29 (9) The Chair of the Criminal Justice Information Network Governing  
30 Board.

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

35 The two initial cabinet members appointed by the Governor and the two initial citizen  
36 members appointed by the General Assembly shall each serve a term beginning  
37 September 1, 1992, and expiring on June 30, 1995. Thereafter, their successors shall be  
38 appointed for four-year terms, commencing July 1. Members of the Governor's cabinet  
39 shall be disqualified from completing a term of service of the Commission if they are no  
40 longer cabinet members.

41 The appointees by the Governor from the Council of State shall each serve a term  
42 beginning on September 1, 1992, and expiring on June 30, 1993. Thereafter, their  
43 successors shall be appointed for four-year terms, commencing July 1. Members of the

1 Council of State shall be disqualified from completing a term of service on the  
2 Commission if they are no longer members of the Council of State.

3 Vacancies in the two legislative appointments shall be filled as provided in G.S. 120-  
4 122.

5 The Commission chair shall be elected in the first meeting of each calendar year from  
6 among the appointees of the Governor from the Council of State and shall serve a term of  
7 one year. The Secretary of ~~Administration~~ Commerce shall be secretary to the  
8 Commission.

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

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

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

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

19 (3) To review and approve biennially the information technology plans of  
20 the executive agencies, including their plans for the procurement and  
21 use of personal computers and workstations.

22 (4) To recommend to the Governor and the Office of State Budget and  
23 Management the relative priorities across executive agency information  
24 technology plans.

25 (5) To establish a quality assurance policy for all agency information  
26 technology projects, information systems training programs, and  
27 information systems documentation.

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

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

33 (8) To develop and promote a policy and procedures for the fair and  
34 competitive procurement of information technology consistent with the  
35 rules of the Department of Administration and consistent with published  
36 industry standards for open systems that provide agencies with a  
37 vendor-neutral operating environment where different information  
38 technology hardware, software, and networks operate together easily  
39 and reliably.

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

43 **"§ 143B-472.42. Powers and duties of the Secretary of Commerce.**

1       The Secretary of Commerce shall:

2           (1) With respect to State agencies, exercise general coordinating authority  
3           for all telecommunications matters relating to the internal management  
4           and operations of these agencies. In discharging that responsibility the  
5           ~~State Controller~~ Secretary of Commerce may in cooperation with  
6           affected State agency heads, do such of the following things as ~~he~~ the  
7           Secretary of Commerce deems necessary and advisable:

- 8           a. Provide for the establishment, management, and operation,  
9           through either State ownership or commercial leasing, of the  
10           following systems and services as they affect the internal  
11           management and operation of State agencies:
- 12               1. Central telephone systems and telephone networks;
  - 13               2. Teleprocessing systems;
  - 14               3. Teletype and facsimile services;
  - 15               4. Satellite services;
  - 16               5. Closed-circuit TV systems;
  - 17               6. Two-way radio systems;
  - 18               7. Microwave systems;
  - 19               8. Related systems based on telecommunication  
20               technologies.
- 21           b. With the approval of the Information Technology Council,  
22           coordinate the development of cost-sharing systems for  
23           respective user agencies for their proportionate parts of the cost  
24           of maintenance and operation of the systems and services listed  
25           in item 'a.' of this subdivision.
- 26           c. Assist in the development of coordinated telecommunications  
27           services or systems within and among all State agencies and  
28           recommend, where appropriate, cooperative utilization of  
29           telecommunication facilities by aggregating users.
- 30           d. Perform traffic analysis and engineering for all  
31           telecommunications services and systems listed in item 'a.' of this  
32           subdivision.
- 33           e. Pursuant to G.S. 143-49, establish telecommunications  
34           specifications and designs so as to promote and support  
35           compatibility of the systems within State agencies.
- 36           f. Pursuant to G.S. 143-49 and G.S. 143-50, coordinate the review  
37           of requests by State agencies for the procurement of  
38           telecommunications systems or services.
- 39           g. Pursuant to G.S. 143-341 and Chapter 146 of the General  
40           Statutes, coordinate the review of requests by State agencies for  
41           State government property acquisition, disposition, or  
42           construction for telecommunications systems requirements.

- 1 h. Provide a periodic inventory of telecommunications costs,  
2 facilities, systems, and personnel within State agencies.
- 3 i. Promote, coordinate, and assist in the design and engineering of  
4 emergency telecommunications systems, including but not  
5 limited to the 911 emergency telephone number program,  
6 Emergency Medical Services, and other emergency  
7 telecommunications services.
- 8 j. Perform frequency coordination and management for State  
9 agencies and local governments, including all public safety radio  
10 service frequencies, in accordance with the rules and regulations  
11 of the Federal Communications Commission or any successor  
12 federal agency.
- 13 k. Advise all State agencies on telecommunications management  
14 planning and related matters and provide through the State  
15 Personnel Training Center or the State Information Processing  
16 Services training to users within State agencies in  
17 telecommunications technology and systems.
- 18 l. Assist and coordinate the development of policies and long-range  
19 plans, consistent with the protection of citizens' rights to privacy  
20 and access to information, for the acquisition and use of  
21 telecommunications systems; and base such policies and plans on  
22 current information about State telecommunications activities in  
23 relation to the full range of emerging technologies.
- 24 m. Work cooperatively with the North Carolina Agency for Public  
25 Telecommunications in furthering the purpose of this  
26 subdivision.

27 The provisions of this subdivision shall not apply to the Criminal  
28 Information Division of the Department of Justice or to the Judicial  
29 Information System in the Judicial Department.

- 30 (2) Provide cities, counties, and other local governmental units with access  
31 to a central telecommunications system or service established under  
32 subdivision ~~(14)~~(1) of this section for State agencies. Access shall be  
33 provided on the same cost basis that applies to State agencies.
- 34 (3) Establish switched broadband telecommunications services and permit  
35 in addition to State agencies, cities, counties, and other local  
36 government units, the following organizations and entities to share on a  
37 not-for-profit basis:
- 38 a. Nonprofit educational institutions;
- 39 b. ~~The Microelectronics Center of North Carolina~~ ("MCNC");  
40 MCNC;
- 41 c. Research affiliates of MCNC for use only in connection with  
42 research activities sponsored or funded, in whole or in part, by

1 MCNC, if such research activities relate to health care or  
2 education in North Carolina;

3 d. Agencies of the United States government operating in North  
4 Carolina for use only in connection with activities that relate to  
5 health care or education in North Carolina; or

6 e. Hospitals, clinics, and other health care facilities for use only in  
7 connection with activities that relate to health care or education  
8 in North Carolina.

9 Provided, however, that sharing of the switched broadband  
10 telecommunications services by State agencies with entities or  
11 organizations in the categories set forth herein shall not cause the State,  
12 the ~~Office of State Controller, Department of Commerce,~~ or the MCNC to  
13 be classified as a public utility as that term is defined in G.S. 62-  
14 3(23)a.6. Nor shall the State, the ~~Office of State Controller, Department of~~  
15 Commerce, or the MCNC engage in any activities that may cause those  
16 entities to be classified as a common carrier as that term is defined in  
17 the ~~federal~~ Communications Act of 1934, 47 U.S.C. § 153(h). Provided  
18 further, authority to share the switched broadband telecommunications  
19 services with the non-State agencies set forth above in subdivision ~~(16)a-~~  
20 through subdivision (16)e. a. through e. of this subdivision shall terminate  
21 one year from the effective date of a tariff that makes the broadband  
22 services available to any customer.

23 **"§ 143B-472.43. Information Highway Grants Advisory Council.**

24 (a) The Information Highway Grants Advisory Council is created within the ~~Office~~  
25 ~~of the State Controller.~~ Department of Commerce. The Council shall consist of 18  
26 members as follows:

- 27 (1) Five members to be appointed by the Governor.  
28 (2) Four members to be appointed by the Speaker of the House of  
29 Representatives, at least one of whom shall be a public member.  
30 (3) Four members to be appointed by the President Pro Tempore of the  
31 Senate, at least one of whom shall be a public member.  
32 (4) One representative from the Department of Public Instruction to be  
33 designated by the Superintendent of Public Instruction.  
34 (5) One representative from the Department of Community Colleges to be  
35 designated by the President of the Community College System.  
36 (6) One representative from The University of North Carolina to be  
37 designated by the President of The University of North Carolina.  
38 (7) One representative from the ~~Office of the State Controller, to be designated~~  
39 by the State Controller, Department of Commerce, to be designated by the  
40 Secretary of Commerce.  
41 (8) One representative from the North Carolina School of Science and  
42 Mathematics, to designated by the Board of Trustees.

1 Members of the Council shall be appointed by September 1, 1994, and shall serve  
2 two-year terms. The Speaker of the House of Representatives and the President Pro  
3 Tempore of the Senate shall each designate a cochair from among the members of the  
4 General Assembly they appoint to the Council. Vacancies on the Council shall be filled  
5 in the same manner as the original appointment.

6 The members of the Council shall not receive compensation but may receive  
7 subsistence and travel in accordance with G.S. 120-3.1, G.S. 138-5, and G.S. 138-6 as  
8 appropriate.

9 (b) The Information Highway Grants Advisory Council shall meet as often as  
10 needed to transact its business. The first meeting of the Council shall be called by the  
11 cochairs. A majority of the members of the Council shall constitute a quorum. The  
12 ~~Office of the State Controller~~ Department of Commerce shall provide staff and space to the  
13 Council.

14 (c) The Information Highway Grants Advisory Council shall advise the Governor,  
15 the General Assembly, and ~~Office of the State Controller~~ Department of Commerce on  
16 matters pertaining to the North Carolina Information Highway. The Information  
17 Highway Grants Advisory Council shall, by September 30, 1994, develop criteria for  
18 evaluating grant applications under this section. The Information Highway Grants  
19 Advisory Council shall evaluate the grant applications and make recommendations to the  
20 State Controller regarding grant recipients by December 1, 1994. The State Controller  
21 shall not award grants before December 15, 1994. The State Controller shall notify the  
22 Information Highway Grants Advisory Council as to whom the intended grant recipients  
23 are 15 days prior to awarding the grants.

24 **"§ 143B-472.44. State Information Processing Services.**

25 With respect to all executive departments and agencies of State government, except  
26 the Department of Justice and The University of North Carolina, the ~~Office of State~~  
27 ~~Controller~~ Department of Commerce shall have the following powers and duties:

- 28 (1) To establish and operate information resource centers and services to  
29 serve two or more departments on a cost-sharing basis, if the  
30 Information Resources Management Commission decides it is advisable  
31 from the standpoint of efficiency and economy to establish these centers  
32 and services;
- 33 (2) With the approval of the Information Resources Management  
34 Commission, to charge each department for which services are  
35 performed its proportionate part of the cost of maintaining and operating  
36 the shared centers and services;
- 37 (3) With the approval of the Information Resources Management  
38 Commission, to require any department served to transfer to the ~~Office~~  
39 ~~of the State Controller~~ Department of Commerce ownership, custody, or  
40 control of information processing equipment, supplies, and positions  
41 required by the shared centers and services;
- 42 (4) With the approval of the Information Resources Management  
43 Commission, to adopt reasonable rules for the efficient and economical

1 management and operation of the shared centers, services, and the  
2 integrated State telecommunications network;

3 (5) With the approval of the Information Resources Management  
4 Commission, to adopt plans, policies, procedures, and rules for the  
5 acquisition, management, and use of information technology resources  
6 in the departments affected by this subdivision to facilitate more  
7 efficient and economic use of information technology in these  
8 departments; and

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

11 The Department of Revenue is authorized to deviate from this subsection's  
12 requirements that departments or agencies consolidate information processing functions  
13 on equipment owned, controlled or under custody of the State Information Processing  
14 Services. All deviations from this subsection's requirements shall be reported in writing  
15 within 15 days by the Department of Revenue to the Information Resources Management  
16 Commission and shall be consistent with available funding. The Department of Revenue  
17 is authorized to adopt and shall adopt plans, policies, procedures, requirements and rules  
18 for the acquisition, management, and use of information processing equipment,  
19 information processing programs, data communications capabilities, and information  
20 systems personnel in the Department of Revenue. If the plans, policies, procedures,  
21 requirements, rules, or standards adopted by the Department of Revenue deviate from the  
22 policies, procedures, or guidelines adopted by the State Information Processing Services  
23 or the Information Resources Management Commission, those deviations shall be  
24 allowed and shall be reported in writing within 15 days by the Department of Revenue to  
25 the Information Resources Management Commission. The Department of Revenue and  
26 the State Information Processing Services shall develop data communications capabilities  
27 between the two computer centers utilizing the North Carolina Integrated Network,  
28 subject to a security review by the Secretary of Revenue.

29 The Department of Revenue shall prepare a plan to allow for substantial recovery and  
30 operation of major, critical computer applications. The plan shall include the names of  
31 the computer programs, databases, and data communications capabilities, identify the  
32 maximum amount of outage that can occur prior to the initiation of the plan and  
33 resumption of operation. The plan shall be consistent with commonly accepted practices  
34 for disaster recovery in the information processing industry. The plan shall be tested as  
35 soon as practical, but not later than six months, after the establishment of the Department  
36 of Revenue information processing capability.

37 No data of a confidential nature, as defined in the General Statutes or federal law,  
38 may be entered into or processed through any cost-sharing information resource center or  
39 network established under this subdivision until safeguards for the data's security  
40 satisfactory to the department head and the ~~State Controller~~ Secretary of Commerce have  
41 been designed and installed and are fully operational. Nothing in this subsection may be  
42 construed to prescribe what programs to satisfy a department's objectives are to be  
43 undertaken, nor to remove from the control and administration of the departments the



1 responsibility for program efforts, regardless whether these efforts are specifically  
2 required by statute or are administered under the general program authority and  
3 responsibility of the department. This subdivision does not affect the provisions of G.S.  
4 147-64.6, ~~G.S. 147-64.7~~, or ~~G.S. 143B-426.39(14)~~. ~~143B-472.42(1)~~. Notwithstanding any  
5 other provision of law, the ~~Office of the State Controller~~ Department of Commerce shall  
6 provide information technology services on a cost-sharing basis to the General Assembly  
7 and its agencies as requested by the Legislative Services Commission."

8 Section 7. G.S. 115C-102.5(b)(4) reads as rewritten:

9 "(4) ~~The Deputy Controller for the Information Resources Management~~  
10 ~~Commission in the Office of the State Controller~~ A person with management  
11 responsibility concerning information technology related State  
12 Government functions, designated by the Secretary of Commerce;"

13 Section 8. G.S. 20-123(57) reads as rewritten:

14 "(57) The Information Resource Management Commission, as established  
15 by ~~G.S. 143B-426.21~~. ~~143B-472.41~~."

16 Section 9. This act is effective when it becomes law.