

STATE GOVERNMENT

CHAPTER 442

HOUSE BILL NO. 1415

(Representatives Grosz, Mahoney)

LEGISLATIVE ASSEMBLY MEMBER COMPENSATION

AN ACT to amend and reenact section 54-03-20 of the North Dakota Century Code, relating to compensation of members of the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03-20 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly. Each member of the legislative assembly of the state of North Dakota is entitled to receive as compensation for services the sum of one hundred eleven dollars for each calendar day during any organizational, special, or regular legislative session. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of six hundred fifty dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed six hundred fifty dollars per month. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.

A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session must be included as a calendar day during a legislative session for the purposes of this section.

In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of two hundred fifty dollars a month, which is payable every six months or monthly, at the member's option. If a member dies or resigns from office during the member's term, the member may be paid only the allowances provided for in this section for the period for which the member was actually a member. The majority and minority leaders of the house and senate are each entitled to receive as compensation, in addition to any other compensation or expense reimbursement provided by law, the sum of two hundred fifty dollars per month during the biennium for their execution of public duties.

Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances must be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)].

Approved March 31, 1999
Filed March 31, 1999

CHAPTER 443

HOUSE BILL NO. 1300

(Representatives Sandvig, Ekstrom, Kerzman)
(Senators Krauter, Kroeplin, Thompson)

PUBLIC EMPLOYEE LEGISLATIVE SERVICE

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to authorizing governmental employers to allow public employees a leave of absence for service in the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

Service in the legislative assembly - Leave of absence from public employment.

The executive officer in charge of a state agency, department, or institution or the governing body of any political subdivision may grant a leave of absence from employment to a full-time employee of that governmental entity who is a member of the legislative assembly for service during any regular or special session of the legislative assembly. The leave of absence may be without pay, and the employer may reduce or eliminate the payment of any additional benefits normally due the employee while the employee is performing legislative service. A state agency, department, or institution or a political subdivision may not terminate the employment of an employee solely due to the fact that the employee is absent from employment as the result of service in the legislative assembly.

Approved April 1, 1999

Filed April 2, 1999

CHAPTER 444**SENATE BILL NO. 2209**
(Senator G. Nelson)**LEGISLATIVE ASSEMBLY ORGANIZATIONAL
SESSION**

AN ACT to amend and reenact section 54-03.1-02 of the North Dakota Century Code, relating to the date of convening of the organizational session of the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-03.1-02 of the North Dakota Century Code is amended and reenacted as follows:

54-03.1-02. Time and place of meeting - Who must attend. In each even-numbered year on the first Tuesday after the first Monday in the month of December or on a date selected by the legislative council but not earlier than December first nor later than December fifteenth, all persons elected at the previous November general election as members of the succeeding legislative session, and members ~~of the senate~~ whose terms do not expire until the first day of December following the next November general election, shall meet in the state capitol in the city of Bismarck, or at such other place as may be designated, at the hour of nine a.m. for the purpose of conducting an organizational session. The legislative council shall call the organizational session and make such arrangements as may be necessary for its operation.

Approved March 11, 1999
Filed March 11, 1999

CHAPTER 445

SENATE BILL NO. 2116

(Government and Veterans Affairs Committee)
(At the request of the Secretary of State)

LOBBYIST REPORTS AND POSTING

AN ACT to amend and reenact subsection 2 of section 54-05.1-03 and subsection 1 of section 54-05.1-04 of the North Dakota Century Code, relating to fees for late filing of lobbyist reports and posting of lists of lobbyists in the legislative chambers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 54-05.1-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Each person so registering to act as a lobbyist shall, on or before August first following the expiration of the registration period, file with the secretary of state a detailed report. The report must include a statement as to each expenditure, if any, of twenty-five dollars or more expended on any single occasion during the legislative session or the interim, as the case may be, on any individual in carrying out the lobbyist's work or include a statement that no reportable expenditures were made during the reporting period. ~~No~~ A state official or agency may not require reporting of lobbyist expenditures other than is required under this subsection. The secretary of state shall provide a prescribed form for reporting pursuant to this chapter. The secretary of state shall charge and collect fees for late filing of the detailed expenditure report as follows:
 - a. Within sixty days after the date provided in this subsection for filing the detailed expenditure report, twenty-five dollars;
 - b. Thereafter, fifty dollars; and
 - c. If any currently registered lobbyist fails to file a detailed expenditure report and pay any late fee by October first, the lobbyist's registration is automatically revoked. The lobbyist's registration may be reinstated if the lobbyist thereafter files the detailed expenditure report and pays any outstanding late fee.

SECTION 2. AMENDMENT. Subsection 1 of section 54-05.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. It is the duty and responsibility of the secretary of state:
 - a. To grant a certificate of registration and to design and furnish a distinctive lobbyist identification badge to any person registering under section 54-05.1-03 who supplies the information therein required.

- b. To revoke the certificate of registration of any person who has been convicted of violating any of the provisions of this chapter.
- c. To refer on ~~his~~ the secretary of state's own motion or on the verified complaint of any member of the legislative assembly or on the verified complaint of any state official, board, commission, department, or agency, or on the verified complaint of any other person, to the attorney general for investigation, the activities of any person who ~~he~~ the secretary of state has reason to believe has been acting as a lobbyist and who may be in violation of the requirements of this chapter.
- d. To make available upon request of any citizen expenditures by categories reported by registered lobbyists to have been expended on each individual in carrying out ~~his~~ that person's work.
- e. To supply a current list of registered lobbyists for each legislator upon request. ~~A current list of lobbyists must be posted in the legislative chambers during the legislative session.~~

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 18, 1999
Filed March 19, 1999

CHAPTER 446

HOUSE BILL NO. 1125

(Government and Veterans Affairs Committee)
(At the request of the Secretary of State)

BIENNIAL AGENCY REPORTS

AN ACT to create and enact a new subsection to section 54-06-04 of the North Dakota Century Code, relating to biennial agency reports submitted to the secretary of state; and to amend and reenact subsection 4 of section 54-06-04 of the North Dakota Century Code, relating to biennial reports submitted to the state archivist.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 54-06-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. All officers, departments, boards, commissions, and state institutions that submit reports covering their operations for the two preceding fiscal years to the governor and the secretary of state shall submit copies of their reports in the form and style, using the materials, and having the content prescribed under subsection 2 on or before the first day of December in each year after the regular session of the legislative assembly. If submitted, one copy of each report must be distributed to the following agencies:
 - a. Governor's office.
 - b. Legislative council.
 - c. Office of management and budget.
 - d. State law library.
 - e. The libraries of each state institution of higher education.
 - f. State library.
 - g. ~~Two copies to the state~~ State archivist for official and public use.

SECTION 2. A new subsection to section 54-06-04 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

All reports required under this section to be submitted to the secretary of state must be subsequently transmitted by the secretary of state to the state archivist for official and public use following their receipt and review by the secretary of state.

Approved March 9, 1999
Filed March 9, 1999

CHAPTER 447

HOUSE BILL NO. 1174

(Government and Veterans Affairs Committee)

(At the request of the Office of Management and Budget)

STATE EMPLOYEE SUGGESTION INCENTIVE PROGRAM

AN ACT to amend and reenact section 54-06-24 of the North Dakota Century Code, relating to the state employee suggestion incentive program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-24 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-06-24. State employee suggestion incentive program.

1. There is established a suggestion incentive program for state employees. All persons employed by the state are eligible to participate in the program except state agency heads, administrators, or any supervisors considered at the management level by the state agency head.
2. A state employee may submit a recommendation or proposal to reduce expenditures within the employee's agency to a suggestion incentive committee. The suggestion incentive committee shall administer the employee suggestion incentive program created under this section and review all recommendations or proposals for reduction of expenditures. The suggestion incentive committee may consider whether the recommendation or proposal to reduce expenditures within the employee's agency applies to any other state agency. The suggestion incentive committee shall notify the office of management and budget of any recommendation that affects an agency other than the employing agency. The governor shall appoint five state agency heads to the suggestion incentive committee for four-year staggered terms to commence on August first in the year of appointment and to continue until the successors are appointed.
3.
 - a. The suggestion incentive committee shall consider legitimate savings reductions in expenditures made possible within the employing state agency and any other state agency.
 - b. The suggestion incentive committee shall determine if:
 - (1) The recommendation or proposal has been previously submitted and rejected.
 - (2) The recommendation or proposal is beyond the reasonable expectations of job performance for the employee who made the suggestion.

- (3) Implementation of the recommendation or proposal is desirable and feasible.
- (3) (4) Implementation of the recommendation or proposal will continue to provide the quality of the services presently provided by the employing state agency and any other state agency affected by the recommendation or proposal.
- c. The suggestion incentive committee shall submit to the state agency head of the employee submitting the recommendation or proposal any recommendation and proposal the committee approves.
4. The state agency head shall review and determine whether a recommendation or proposal approved by the suggestion incentive committee is capable of implementation. The state agency head shall make the final decision on acceptance or rejection of a recommendation or proposal.
5. A state employee who submits a recommendation or proposal to reduce expenditures that is approved by the suggestion incentive committee and approved for implementation by the state agency head is entitled to receive ~~ten~~ twenty percent of any savings realized up to a maximum of ~~one~~ two thousand dollars. The ~~agency~~ savings must relate directly to the employee's proposed change. The suggestion incentive must be computed on the actual savings for a twelve-month period, the period to run from the time that the proposed change is instituted. An employee is entitled to the suggestion incentive payment at the end of the twelve-month period in a lump sum from funds of the employing state agency ~~that realized the savings.~~ Any payments to an employee under this program are in addition to the employee's regular salary. Employees who qualify for the suggestion incentive are entitled to an award for the first year's savings only and not for any subsequent years.
6. On July first of each year a state agency that makes a suggestion incentive payment in the preceding twelve months shall submit a report to the office of management and budget describing the implemented recommendation or proposal. On September first of each year, the office of management and budget shall provide to all state agencies a report describing the recommendations and proposals to reduce expenditures implemented by state agencies.

Approved April 9, 1999
Filed April 9, 1999

CHAPTER 448**SENATE BILL NO. 2237**
(Senators DeMers, Wardner)
(Representatives Gorder, Winrich)**PUBLIC EMPLOYEE EMERGENCY SERVICES
VOLUNTEERS**

AN ACT to create and enact two new sections to chapter 54-06 of the North Dakota Century Code, relating to public employee emergency services volunteers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Emergency services volunteers - Leave. Upon issuance of an order or proclamation declaring a state of disaster or emergency pursuant to chapter 37-17.1, or a declaration of at least a level II disaster by the American red cross in this or any other state, the executive officer in charge of a state agency or the governing body of any political subdivision may grant a leave of absence to any full-time employee of that governmental entity who is an emergency medical service provider, a member of the civil air patrol, a firefighter, police officer, or emergency radio operator, or who performs other services necessary in an emergency. The leave of absence must be for the purpose of allowing that employee to provide voluntary emergency services. A person on leave under this section is not deemed to be an employee of the governmental entity for the purposes of workers' compensation. The cumulative leave granted under this section may not exceed five working days during any calendar year. The leave may not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible.

SECTION 2. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Emergency service volunteers - Temporary leave for firefighters, emergency radio operators, medical service providers, and civil air patrol. The executive officer in charge of a state agency or the governing body of any political subdivision may grant temporary short-term leave with compensation to any full-time employee of that governmental entity for the purpose of allowing the employee to respond to an emergency call if the employee is a volunteer emergency medical service provider, firefighter, emergency radio operator, or a member of the civil air patrol.

Approved March 15, 1999
Filed March 16, 1999

CHAPTER 449**SENATE BILL NO. 2117**

(Government and Veterans Affairs Committee)
(At the request of the Secretary of State)

STATE BOOK MARKING ELIMINATED

AN ACT to repeal section 54-09-03 of the North Dakota Century Code, relating to the marking and ownership of books delivered to officers of the state by the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-09-03 of the North Dakota Century Code is repealed.

Approved March 3, 1999
Filed March 4, 1999

CHAPTER 450

HOUSE BILL NO. 1356

(Representatives Clark, Haas, Herbel, Koppang, Pollert)
(Senator Flakoll)

SECRETARY OF STATE FEES

AN ACT to amend and reenact section 54-09-04 of the North Dakota Century Code, relating to fees collected by the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-09-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-09-04. Fees. The secretary of state, unless otherwise provided by law, shall charge and collect the following fees:

1. For a copy of any law, resolution, record, or other document or paper on file in the secretary of state's office, one dollar for every four pages or fraction thereof.
2. For affixing the signature of the secretary of state, certificate, or seal, or combination thereof to any document, ten dollars.
3. For filing a certificate of appointment of attorney, five dollars.
4. For any other document signed by the governor, except a commission, and attested by the secretary of state, five dollars.
5. For searching records and archives of the state, five dollars. For the purposes of this section, a search of records conducted by the secretary of state for which a fee must be collected includes the following:
 - a. A search of a filed document that is active or archived, an archived index, or an index of business name changes to identify specific information to satisfy a request;
 - b. A search of any record for which written verification of the facts of the search is required; and
 - c. For every search of records when the request for the search is contained in a list compiled by the requester.

The secretary of state may provide, at no charge, information from publications or reference materials published or maintained by the secretary of state and verbal confirmation of any element of information maintained in a computer data base.

6. For filing any paper not otherwise provided for, ten dollars.
7. For filing utility property transfers, five dollars, and issuing a certificate of filing, five dollars.

8. For sending a copy of a document by electronic transmission, one dollar for each page.
9. For filing any process, notice, or demand for service, twenty dollars.
10. For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, thirty-five dollars plus the actual cost for assembling and providing the information on the medium requested.

~~No~~ A member of the legislative assembly; ~~and no~~ or a state or county officer may not be charged for any search relative to matters appertaining to duties of office, ~~nor~~ be charged any fee for a certified copy of any law or resolution passed by the legislative assembly relative to the person's official duties, or for filing any process, notice, or demand for service. All fees when collected must be paid by the secretary of state into the state treasury at the end of each month and placed to the credit of the state. Unless otherwise provided by law, the secretary of state shall retain a handling charge from filing fees tendered when a document submitted to the secretary of state under any law is rejected and not perfected. The handling charge is five dollars or fifty percent of the filing fee, whichever is greater, but may not exceed one hundred dollars. This section does not apply to fees submitted for filing in, or information obtained from, the computerized central notice system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base.

Approved March 25, 1999
Filed March 25, 1999

CHAPTER 451

HOUSE BILL NO. 1066

(Representatives Sveen, Boucher, Gunter, Wentz)

INTERNATIONAL PEACE GARDEN AUDITS

AN ACT to amend and reenact section 54-10-01 of the North Dakota Century Code, relating to the authority of the state auditor to conduct audits of the international peace garden.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-10-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-10-01. Powers and duties of state auditor. The state auditor shall:

1. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of the state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
2. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies, including occupational or professional boards provided for by law. The state auditor shall audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and nongeneral fund moneys. The governing board of any occupational or professional board shall provide for an audit once every two years by a certified public accountant or licensed public accountant who shall submit the audit report to the state auditor's office. If the report is in the form and style as prescribed by the state auditor, the state auditor may not audit that board. Alternatively, an occupational or professional board may request the state auditor to do its audit, and if the state auditor agrees to do so, the state auditor shall deposit the fees charged to the occupational or professional board into the state auditor operating account. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.
3. Be vested with the authority to determine whether to audit the international peace garden at the request of the board of directors of the international peace garden.

- ~~4.~~ 4. Perform or provide for performance audits of state agencies as determined necessary by the state auditor or the legislative audit and fiscal review committee. A performance audit must be done in accordance with generally accepted auditing standards applicable to performance audits.
- ~~4.~~ 5. For the audits and reviews the state auditor is authorized to perform or provide for under this section, the audit or review may be provided for by contract with a private certified or licensed public accountant or other qualified professional. If the state auditor determines that the audit or review will be done pursuant to contract, the state auditor, except for occupational or professional boards, shall execute the contract, and any executive branch agency, including higher education institutions, shall pay the fees of the contractor.
- ~~5.~~ 6. Be responsible for the above functions and report thereon to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
- ~~6.~~ 7. Perform all other duties as prescribed by law.

Approved March 26, 1999
Filed March 26, 1999

CHAPTER 452**SENATE BILL NO. 2086**

(Judiciary Committee)

(At the request of the Attorney General)

**CHILD SEXUAL ABUSE INVESTIGATION TEAM
MEMBERSHIP**

AN ACT to amend and reenact section 54-12-04.2 of the North Dakota Century Code, relating to membership of the child sexual abuse investigation team.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-12-04.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-12-04.2. Child sexual abuse investigation and prosecution. The child sexual abuse investigation and prosecution team consists of an assistant attorney general; and an agent of the state bureau of criminal investigation; ~~and a licensed social worker employed by the attorney general.~~ On request of any state's attorney, the team shall assist, within the limits of legislative appropriation and available staff resources, with the investigation and prosecution of child sexual abuse cases.

Approved March 4, 1999

Filed March 5, 1999

CHAPTER 453**SENATE BILL NO. 2047**

(Legislative Council)
(Judiciary Committee)

ATTORNEY GENERAL CONTINGENT FEES

AN ACT to create and enact a new section to chapter 54-12 of the North Dakota Century Code, relating to contingent fee arrangements for compensating special assistant attorneys general.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Contingent fee arrangements. The attorney general may not appoint or allow to be employed a special assistant attorney general in a civil case in which the amount in controversy exceeds one hundred fifty thousand dollars and the special assistant attorney general is compensated by a contingent fee arrangement, unless the contingent fee arrangement is approved by the emergency commission. A state governmental entity may not contract for legal services that are compensated by a contingent fee arrangement, unless the entity receives an appointment from the attorney general for a special assistant attorney general for each case in which there is a contingent fee arrangement. Any proceeding or information used by the emergency commission under this section is not subject to sections 44-04-18 and 44-04-19, unless made public by order of the emergency commission.

Approved April 1, 1999
Filed April 2, 1999

CHAPTER 454

SENATE BILL NO. 2419

(Senators W. Stenehjem, G. Nelson, Nething)
(Representatives DeKrey, Devlin, Dorso)

ATTORNEY GENERAL FUND RECOVERY

AN ACT to create and enact a new section to chapter 54-12 of the North Dakota Century Code, relating to funds recovered by the attorney general; and to amend and reenact section 54-12-18 of the North Dakota Century Code, relating to the attorney general refund fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Recovery of funds - Limitations. All funds recovered by the attorney general as a result of negotiated settlements or court proceedings must be deposited in a special fund in the state treasury and may be appropriated only by the legislative assembly, except when:

1. A specific fund or special account is otherwise designated by law; or
2. The options open to the attorney general leave no choice as to the disposition of the proceeds if the state is to recover funds in a multistate settlement.

SECTION 2. AMENDMENT. Section 54-12-18 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-12-18. Special fund established - Continuing appropriation. A special fund is established in the state treasury and designated as the attorney general refund fund. The attorney general shall deposit all moneys recovered by the consumer protection division for refunds to consumers in cases where persons or parties are found to have violated the consumer fraud laws, all costs, expenses, attorney's fees, and civil penalties collected by the division regarding any consumer protection or antitrust matter, all cash deposit bonds paid by applicants for a transient merchant's license who do not provide a surety bond, and all funds and fees collected by the gaming section for licensing tribal gaming and for the investigation of gaming employees, applicants, organizations, manufacturers, distributors, or tribes involved in state or tribal gaming. The moneys in the fund are appropriated, as necessary, for the following purposes:

1. To provide refunds of moneys recovered by the consumer protection and antitrust division on behalf of specifically named consumers;
2. To pay valid claims against cash deposit bonds posted by transient merchant licensees;
3. To refund, upon expiration of the two-year period after the expiration of the transient merchant's license, the balance of any cash deposit bond remaining after the payment of valid claims;

4. To pay costs, expenses, and attorney's fees and salaries incurred in the operation of the consumer protection division; and
5. To pay the actual costs of background investigations, licensing, and enforcement of gaming in the state or pursuant to Indian gaming compacts.

At the end of each fiscal year any moneys in the fund in excess of the amounts required for subsections 1, 2, 3, and 5 must be deposited in the general fund. The attorney general, with the concurrence of the director of the office of management and budget, shall establish the necessary accounting procedures for use of the attorney general refund fund, particularly with respect to expenditures under subsection 4.

Approved April 16, 1999

Filed April 16, 1999

CHAPTER 455**HOUSE BILL NO. 1205**
(Representative Koppelman)
(Senator W. Stenehjem)**LAW ENFORCEMENT SEXUAL OFFENDER
INFORMATION ACCESSIBILITY**

AN ACT to provide for the accessibility of sexual offender and crimes against children information to law enforcement officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Accessibility of registration information. The attorney general shall provide to a law enforcement dispatch center access to registration information on individuals required to register under section 12.1-32-15 through any feasible electronic means that includes direct access to a computerized registration information data base. The attorney general shall provide the information in a form that is referenced by driver's license number or number plate characters. The department of transportation shall provide the necessary information to the attorney general in any feasible form requested by the attorney general. The attorney general may require the cooperation of the state radio broadcasting system to provide the access required by this section.

Approved March 11, 1999
Filed March 11, 1999

CHAPTER 456

SENATE BILL NO. 2062

(Senators Cook, T. Mathern, Wardner)
(Representatives Devlin, Glasheim, Timm)

HOUSING AUTHORITY AID ACCEPTANCE

AN ACT to amend and reenact section 54-17-07.6 of the North Dakota Century Code, relating to the acceptance of grants, contributions, loans, and other aid by a local housing authority.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17-07.6 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-17-07.6. Acceptance of grants, contributions, loans, or other aid. Acting in its capacity as a state housing finance agency, the industrial commission may contract for, accept, and administer any grant, contribution, or loan of funds, property, or other aid in any form from the federal government or from any other source, and may do all things necessary to qualify for any grant, contribution, or loan under any federal program, including those things necessary to qualify for assistance under the federal housing programs in effect from time to time. A Upon submission of written notice to the industrial commission, a housing authority established under chapter 23-11 which elects may elect to exercise the authority granted to the industrial commission under this section preempts and preempt the industrial commission from acting with regard to tenant-based housing certificates and vouchers or successor programs within the area of operation of that housing authority. A local housing authority may elect to exercise the authority granted to the industrial commission under this section only within two years of August 1, 1993. For transition of housing certificates and vouchers, a local housing authority that elects to exercise the authority granted to the industrial commission and that would administer three hundred or more units of certificates and vouchers administered by the industrial commission shall agree to accept a rate of seventy percent of the total contract administrative fees for the affected certificates and vouchers for two years of August 1, 1993, or until all local housing authorities in the state have entered into the administration of their certificates and vouchers, whichever is sooner. The remaining thirty percent of the fees remain with the industrial commission until that time to assure the provision of housing services to rural areas until local administration is implemented or may elect to enter an agreement with the industrial commission to accept, exercise, and administer any housing aid or assistance upon the terms and conditions agreed upon by the parties. For the purposes of this section, "area of operation" includes any political subdivision that lawfully contracts with the local housing authority to act as a local housing authority for that political subdivision and any political subdivision that has its certificates and vouchers or successor programs assigned by the industrial commission to the local housing authority under an agreement between the local housing authority and the industrial commission.

Approved March 3, 1999
Filed March 4, 1999

CHAPTER 457**HOUSE BILL NO. 1114**

(Political Subdivisions Committee)

(At the request of the Industrial Commission)

**INDUSTRIAL COMMISSION RIVERDALE GRANT
AUTHORITY REPEAL**

AN ACT to repeal sections 54-17-21, 54-17-22, and 54-17-23 of the North Dakota Century Code, relating to planning grant authority for the industrial commission for the city of Riverdale.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 54-17-21 and 54-17-23 of the North Dakota Century Code and section 54-17-22 of the 1997 Supplement to the North Dakota Century Code are repealed.

Approved March 9, 1999

Filed March 9, 1999

CHAPTER 458

SENATE BILL NO. 2312

(Senators St. Aubyn, Holmberg, W. Stenehjem)
(Representatives Delmore, Nottestad, Poolman)

STATE FACILITY ENERGY IMPROVEMENT PROGRAM

AN ACT to create and enact a new subsection to section 54-17.2-03, a new subsection to section 54-44.5-04, and a new section to chapter 54-44.5 of the North Dakota Century Code, relating to powers of the North Dakota building authority and the office of governmental assistance to implement a state facility energy improvement program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-17.2-03 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding any other provision of law, issue evidences of indebtedness to implement the state facility energy improvement program under section 3 of this Act.

²⁸³ **SECTION 2.** A new subsection to section 54-44.5-04 of the North Dakota Century Code is created and enacted as follows:

Implement a state facility energy improvement program.

SECTION 3. A new section to chapter 54-44.5 of the North Dakota Century Code is created and enacted as follows:

State facility energy improvement program. By August fifteenth of each odd-numbered year, the office shall inform all state agencies and institutions of the state facility energy improvement program. The office shall work with interested agencies and institutions to identify potential state facility energy improvement programs and select facilities for indepth energy audits designed to provide information on project costs along with estimated energy savings from implementation of those projects. The office shall notify affected utilities to discuss the potential impact on the utility and its customers of the proposed energy savings or conservation project. Upon completion of the energy audit, the office, in consultation with the interested agencies or institutions, shall submit a list of proposed projects to the governor, accompanied with the estimated cost of each project and energy savings resulting from the projects. The office shall submit a report listing the proposed energy savings or conservation projects to the governor by September first of each even-numbered year. The governor shall include the proposed energy efficiency or conservation projects in the biennial budget. The governor shall make available to the legislative assembly a report prepared by the office on each energy efficiency or conservation project, a description of the

²⁸³ Section 54-44.5-04 was also amended by section 8 of Senate Bill No. 2179, chapter 475.

improvements to be financed, the estimated cost of each project, the total cost of the program, and the proposed method of financing the program. If the office proposes that evidences of indebtedness be issued to finance the energy efficiency or conservation improvements, the office shall provide an assurance that energy savings resulting from the improvements will be sufficient to equal or exceed the annual debt service of the evidences of indebtedness. In determining whether the energy savings will be sufficient to equal or exceed the annual debt service, the office, in consultation with the interested agencies or institutions, may analyze state agency utility data to identify potential projects; perform detailed energy audits of state facilities, including contracting for audits if necessary; and provide training to facility maintenance staff to ensure that sufficient cost-savings are realized from projects to cover the debt service. The governor shall include in the executive budget recommendation for each state agency or institution participating in the state facility energy improvement program an estimate of the annual energy cost-savings expected for that agency, and, if needed, a projection of the debt service on program bonds that is apportioned to that agency. The executive budget recommendation must then reduce the current level of utility appropriations by the amount needed for debt service retirement and recommend an appropriation of that amount to the state building authority. Any appropriation of an amount needed for debt service retirement to the state building authority is not subject to the limitation contained in section 54-17.2-23.

Approved March 18, 1999

Filed March 19, 1999

CHAPTER 459

HOUSE BILL NO. 1115

(Finance and Taxation Committee)

(At the request of the Industrial Commission)

STATE MILL AND ELEVATOR BONDS

AN ACT to create and enact two new sections to chapter 54-18 of the North Dakota Century Code, relating to the issuance of bonds by the industrial commission for the mill and elevator association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new sections to chapter 54-18 of the North Dakota Century Code are created and enacted as follows:

Bonds of association. In order to fund the association's buildings and enterprises, related structures, parking facilities, equipment, improvements, real and personal property, and any other appurtenances, fixtures, or facilities necessary or convenient for the use or disposition of the association's buildings and enterprises, the industrial commission is authorized to issue, sell, and refund revenue bonds or evidences of indebtedness of the state. The principal and interest on the bonds are payable only from revenues of the association. The bonds may not constitute a debt of the state of North Dakota and must contain a statement to that effect on their face. The bonds may be sold at public or private sale, must mature not more than twenty years from their date or dates, and must contain such terms, conditions, and provisions as the industrial commission determines. The industrial commission may capitalize from bond proceeds all expenses incidental to the issuance of the bonds including any reserves for the payment of bonds, costs of issuance, interest during construction, and costs of any credit enhancement for the bonds including the costs of any letter of credit, bond insurance, surety bond, or liquidity facility. Bonds may not be issued under this section until the legislative assembly by law has authorized the specific project and declared the project to be in the public interest. The bonds and any interest thereon are not subject to taxation by the state or by any political subdivision of the state. Bonds issued under this section may be acquired and held by banks and by savings and loan associations of the state as well as by all public trust funds and fiduciaries. The industrial commission may make and enter into and enforce all contracts or agreements necessary, convenient, or desirable for the purposes of the commission or pertaining to any purchase or sale of the bonds or to the performance of its duties and the execution or carrying out of any of its powers under this section.

Mill association renovation project. The industrial commission is authorized to arrange for the funding of a mill association renovation project which is hereby declared to be in the public interest through the issuance of evidences of indebtedness during the biennium beginning July 1, 1999, and ending June 30, 2001, with the construction costs not exceeding nineteen million five hundred thousand dollars. The authority of the commission to issue evidences of indebtedness ends

June 30, 2001, but the industrial commission may continue to exercise all other powers granted to it under this Act and to comply with any covenants entered into before that date.

Approved April 7, 1999
Filed April 8, 1999

CHAPTER 460**HOUSE BILL NO. 1116**

(Agriculture Committee)

(At the request of the Industrial Commission)

**MILL AND ELEVATOR INFORMATION
CONFIDENTIALITY REPEAL**

AN ACT to repeal section 54-18-04.2 of the North Dakota Century Code, relating to confidentiality of North Dakota mill and elevator information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-18-04.2 of the North Dakota Century Code is repealed.

Approved March 9, 1999

Filed March 9, 1999

CHAPTER 461

HOUSE BILL NO. 1475 (Representative Dalrymple) (Senator Nething)

TOBACCO SETTLEMENT FUND ALLOCATION

AN ACT to provide for allocation of funds from settlements with tobacco product manufacturers; and to create and enact a new subsection to section 54-44-04 of the North Dakota Century Code, relating to monitoring tobacco product manufacturers settlement funds by the office of management and budget.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Tobacco settlement trust fund - Interest on fund - Uses. There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under sections IX (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 (Civil No. 98-3778). All moneys received by the state pursuant to the judgment and all moneys received by the state for enforcement of the judgment must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund. The principal and interest of the fund must be allocated as follows:

1. Transfers to a community health trust fund to be administered by the state department of health. The state department of health may use funds as appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection must equal ten percent of total annual transfers from the tobacco settlement trust fund.
2. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal forty-five percent of total annual transfers from the tobacco settlement trust fund.
3. Transfers to the water development trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal forty-five percent of the total annual transfers from the tobacco settlement trust fund.

Notwithstanding the provisions of this section, during each biennium transfers that would be made to the common schools trust fund under subsection 2 must instead be transferred to the water development trust fund until the state water commission certifies to the state treasurer that deposits in the water development trust fund during that biennium are sufficient to pay the principal and interest for that biennium on bonds authorized under section 61-02.1-01. When that certification is received, the state treasurer shall determine the amount deposited in the water development trust fund during that biennium and transfers that would be made to the water development trust fund under subsection 3 must instead be transferred to the common schools trust fund until deposits in the common schools

trust fund during that biennium are equal to the amount deposited in the water development trust fund during that biennium or until the end of the biennium, whichever occurs first.

Transfers to the funds under this section must be made within thirty days of receipt by the tobacco settlement trust fund.

SECTION 2. A new subsection to section 54-44-04 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

Shall account for and monitor all funds received by the state from any tobacco settlement dollars described in section 1 of this Act and all associated settlements and related funds and shall report to the budget section of the legislative council on the status of such funds, settlements, offsets, and net resulting revenues and any other related information the budget section requires.

Approved April 22, 1999

Filed April 22, 1999

CHAPTER 462

HOUSE BILL NO. 1141

(Industry, Business and Labor Committee)

(At the request of the Department of Economic Development and Finance)

DEPARTMENT OF ECONOMIC DEVELOPMENT AND FINANCE STRUCTURE AND DUTIES

AN ACT to amend and reenact section 54-34.3-03 and subsection 8 of section 54-34.3-04 of the North Dakota Century Code, relating to the structure and duties of the department of economic development and finance; and to repeal section 54-34-06.1 of the North Dakota Century Code, relating to dissemination of in-state manufacturer product listings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-34.3-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-34.3-03. Department structure. The department consists of:

1. A division of finance; and
2. ~~A division of science and technology; and~~
3. Other divisions that the director organizes and establishes as necessary to carry out most efficiently and effectively the mission and duties of the department.

SECTION 2. AMENDMENT. Subsection 8 of section 54-34.3-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8. Report at least annually to an interim committee designated by the legislative council on ~~loan performance and performance of the department of economic development and finance, including evaluations of the division of finance, the division of marketing and technical assistance, and the division of science and technology. A report must include a comparison of dollars spent to the jobs created of all programs administered or supervised by the director and a review of the timeliness of the loan processing practices including a log of activities from application to final determination of all divisions of the department of economic development and finance. The report must include the amount of success and satisfaction the department of economic development and finance has in meeting business-client, economic-developer, and community-client needs and expectations. The report must also include a comparison of dollars spent to the economic benefits created of all programs administered or supervised by the director; and~~

SECTION 3. REPEAL. Section 54-34-06.1 of the 1997 Supplement to the North Dakota Century Code is repealed.

Approved March 25, 1999

Filed March 25, 1999

CHAPTER 463**SENATE BILL NO. 2436**

(Senator G. Nelson)
(Representative Carlson)

LEGISLATIVE COUNCIL COMPOSITION

AN ACT to amend and reenact section 54-35-01 of the North Dakota Century Code, relating to the composition of the North Dakota legislative council; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-35-01. Council - Created - Members - Vacancy - Terms. The North Dakota legislative council, ~~hereinafter in this chapter~~ referred to as the legislative council or the council, consists of the majority and minority leaders of the house and of the senate plus ~~five~~ six senators and ~~six~~ seven representatives chosen biennially before the close of each regular legislative session. In the house of representatives the speaker of the house shall appoint ~~as to the council members three~~ four members recommended by the majority leader ~~of each political faction~~ and three members recommended by the minority leader, except that the speaker must by virtue of office be one of the ~~three~~ four members appointed from the speaker's faction. In the senate the lieutenant governor shall appoint ~~as to the council members three~~ four members recommended by the majority leader and two members recommended by the minority leader. Any vacancy occurring when the legislative assembly is not in session must be filled by the selection of another member of the legislative assembly belonging to the same faction as the member originally appointed, the selection to be made by the remaining senate or house members of the council, depending upon which body has the vacancy. Each senator and each representative chosen to serve on the council shall serve until a new council has been selected at the next regular legislative session; provided, however, that no senator, not a holdover, who is not reelected to the senate, and no representative, who is not reelected to the house of representatives, may serve as a member of the council beyond the closing day of the term to which elected. Any vacancy occurring because any member of the council is not reelected must be filled for the period from the beginning of the session until a new council is selected, in the same manner as the original council is selected.

SECTION 2. EFFECTIVE DATE. This Act becomes effective January 1, 2001.

Approved March 19, 1999
Filed March 22, 1999

CHAPTER 464**SENATE BILL NO. 2208**

(Senator G. Nelson)
(Representative Dorso)

**EMPLOYEE BENEFITS PROGRAMS COMMITTEE
RECOMMENDATIONS**

AN ACT to amend and reenact subsection 1 of section 54-35-02.4 of the North Dakota Century Code, relating to recommendations of the employee benefits programs committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 54-35-02.4 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must include in the report of the committee a statement that the proposal would allow future changes without legislative involvement. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative council and to the legislative assembly.

Approved March 15, 1999
Filed March 16, 1999

CHAPTER 465**SENATE BILL NO. 2055**

(Appropriations Committee)

(At the request of the Legislative Compensation Commission)

LEGISLATIVE COUNCIL MEETING COMPENSATION

AN ACT to amend and reenact subsection 1 of section 54-35-10 of the North Dakota Century Code, relating to compensation paid to members of the legislative assembly for attending sessions of the legislative council and its committees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 54-35-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The members of the council and the members of any committee of the council must be compensated for the time spent in attendance at sessions of the council and of its committees at the rate of ~~sixty-two~~ seventy-five dollars ~~and fifty cents~~ per day and must also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.

Approved April 1, 1999

Filed April 2, 1999

CHAPTER 466

SENATE BILL NO. 2044

(Legislative Council)
(Information Technology Committee)

LEGISLATIVE COUNCIL INFORMATION TECHNOLOGY COMMITTEE

AN ACT to create and enact three new sections to chapter 54-35 of the North Dakota Century Code, relating to the legislative council information technology committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Information technology committee - Appointment. The legislative council, during each biennium, shall appoint an information technology committee in the same manner as the council appoints other interim committees. The council shall appoint four members of the house of representatives and three members of the senate to the committee. The chief information officer of the state is an ex officio, nonvoting member of the committee. The council shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative council interim committees.

SECTION 2. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Information technology committee - Powers and duties. The information technology committee has continuing existence and may meet and conduct its business during the legislative session and in the interim between sessions. The committee shall:

1. Meet at least once each calendar quarter.
2. Receive a report from the chief information officer of the state at each meeting.
3. Review the business plan of the information technology department.
4. Address macro-level questions relating to the information technology department.
5. Review the activities of the information technology department.
6. Review statewide information technology standards.
7. Review the statewide information technology plan.
8. Conduct studies of information technology efficiency and security.

9. Make recommendations regarding established or proposed information technology programs and information technology acquisition by the executive and judicial branches.
10. Review the cost-benefit analysis of any major information technology project of an executive or judicial branch agency. A major project is a project with a cost of two hundred fifty thousand dollars or more in one biennium or a total cost of five hundred thousand dollars or more.
11. Perform periodic reviews to ensure that a major information technology project is on its projected schedule and within its cost projections.

SECTION 3. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Information technology project quality assurance - Information technology committee review - Suspension of funds. The information technology committee may review any information technology project or information technology plan. If the committee determines that the project or plan is at risk of failing to achieve its intended results, the committee may recommend to the office of management and budget the suspension of the expenditure of moneys appropriated for a project or plan. The office of management and budget may suspend the expenditure authority if the office of management and budget agrees with the recommendation of the committee.

Approved April 20, 1999

Filed April 20, 1999

CHAPTER 467**SENATE BILL NO. 2389**

(Senators St. Aubyn, Fischer, B. Stenehjem)
(Representatives Hawken, Keiser, Timm)

**ELECTRIC INDUSTRY COMPETITION COMMITTEE
TERRITORIAL INTEGRITY STUDY**

AN ACT to create and enact a new subsection to section 54-35-18.2 and a new section to chapter 54-35 of the North Dakota Century Code, relating to study areas of the electric industry competition committee; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 54-35-18.2 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

Study chapter 49-03 and other relevant statutes relating to the extension of electric lines and facilities and the provision of electric service by public utilities and rural electric cooperatives within and outside the corporate limits of a municipality. The study must specifically address and include the criteria used by the public service commission under chapter 49-03 in determining whether to grant a public utility a certificate of public convenience and necessity to extend its electric lines and facilities to serve customers outside the corporate limits of a municipality and the circumstances, if any, under chapter 49-03 and other relevant statutes under which a rural electric cooperative may provide electric facilities and service to new customers and existing customers within municipalities being served totally or primarily by a public utility.

SECTION 2. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Electric industry competition committee - Recommendations. Notwithstanding section 54-35-18.2, the electric industry competition committee shall submit proposed legislation, if necessary, as a result of the study conducted pursuant to section 1 of this Act to the fifty-seventh legislative assembly.

SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2001, and after that date is ineffective.

Approved March 16, 1999
Filed March 16, 1999

CHAPTER 468**SENATE BILL NO. 2028**

(Legislative Council)

(Advisory Commission on Intergovernmental Relations)

EFFICIENCY PLANNING GRANTS ELIMINATED

AN ACT to repeal section 54-35.2-02.1 of the North Dakota Century Code, relating to local government efficiency planning grants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 54-35.2-02.1 of the 1997 Supplement to the North Dakota Century Code is repealed.

Approved March 3, 1999

Filed March 4, 1999

CHAPTER 469

SENATE BILL NO. 2294

(Senators DeMers, Bercier)
(Representatives D. Johnson, Lemieux)

STATE-TRIBAL AGREEMENTS

AN ACT to amend and reenact sections 54-40.2-01, 54-40.2-02, and 54-40.2-09 of the North Dakota Century Code, relating to agreements between Indian tribes and the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-40.2-01 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-01. Definitions. In this chapter:

1. "Public agency" means any political subdivision, including municipalities, counties, school districts, and any agency or department of North Dakota.
2. "Secretary" means the secretary of interior of the United States.
3. "Tribal government" means the officially recognized government of any Indian tribe, nation, or other organized group or community located in North Dakota exercising self-government powers and recognized as eligible for services provided by the United States. The term does not include any entity owned, organized, or chartered by a tribe which exists as a separate entity authorized by a tribe to enter agreements of any kind without further approval by the government of the tribe.

SECTION 2. AMENDMENT. Section 54-40.2-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.2-02. Authorization to enter agreements - General contents. Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments are authorized to perform by law and to resolve any disputes, in accordance with this chapter or any other law that authorizes a public agency to enter an agreement. The agreement must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement. The Indian affairs commission may propose agreements entered into pursuant to this chapter and may assist, at the request of any tribe affected by such an agreement, in the negotiation and development of such agreements. This chapter does not apply to agreements entered into under section 24-02-02.3 and chapter 54-38 or agreements entered with one or more tribal governments pursuant to a state or federally funded program or other activity, including any publicly announced offer of a grant, loan, request for proposal, bid, or other contract originating with a public agency, for which the tribal government is otherwise eligible under federal, state, or local law.

SECTION 3. AMENDMENT. Section 54-40.2-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-40.2-09. Validity of existing agreements. This chapter does not affect the validity of any agreement entered into between a tribe and a public agency ~~prior to July 3, 1994~~ before August 1, 1999.

Approved April 1, 1999

Filed April 2, 1999

CHAPTER 470**SENATE BILL NO. 2111**

(Appropriations Committee)

(At the request of the Office of Management and Budget)

**STATE PERSONNEL TRAINING AND DEVELOPMENT
OPERATING FUND**

AN ACT to amend and reenact subsection 4 of section 54-44-11 of the North Dakota Century Code, relating to a continuing appropriation for the state personnel training and development operating fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁴ **SECTION 1. AMENDMENT.** Subsection 4 of section 54-44-11 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. The office of management and budget shall establish a state personnel training and development operating fund to be used for the coordination of employee training and career development data, supplies, equipment, and services and for providing or arranging necessary training and development programs to state departments and agencies. Funds in the state personnel training and development operating fund are appropriated on a continuing basis to the office of management and budget and may be spent for the purposes identified in this subsection. Any surplus in this fund in excess of twenty-five thousand dollars on June thirtieth of each year must be transferred to the state general fund.

Approved March 5, 1999

Filed March 5, 1999

²⁸⁴ Section 54-44-11 was also amended by section 22 of Senate Bill No. 2043, chapter 483.

CHAPTER 471**HOUSE BILL NO. 1046**

(Legislative Council)
(Legislative Audit and Fiscal Review Committee)

OMB BUDGET DATA

AN ACT to amend and reenact subsection 8 of section 54-44.1-06 of the North Dakota Century Code, relating to the contents of budget data prepared by the director of the budget.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 8 of section 54-44.1-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8. A list of every individual ~~leased~~ asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of ~~leased assets and services~~ comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include ~~leased~~ assets or services acquired in the current biennium and anticipated ~~leased~~ assets or services to be acquired in the next biennium.

Approved April 7, 1999
Filed April 8, 1999

CHAPTER 472

HOUSE BILL NO. 1171

(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

PERSONNEL BOARD MEMBERSHIP, VOTING, AND COMPLAINTS

AN ACT to amend and reenact sections 54-44.3-03, 54-44.3-12.2, 54-44.3-15, and 54-44.3-16 of the North Dakota Century Code, relating to membership and voting on the state personnel board, employee complaints, certification of payroll by the central personnel division director, and agency personnel officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.3-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.3-03. State personnel board - Composition - Terms - Vacancies - Qualifications.

1. The state personnel board is composed of the director, who must be the chairman of the board; ~~a member appointed by the board of higher education;~~ one member appointed by the governor; ~~and two members elected by employees classified under sections 54-44.3-19 and 54-44.3-20;~~ and one member with a professional human resource background appointed by the governor.
2. The term of ~~the each~~ member of the board ~~appointed by the governor and the respective terms of the members of the board elected by classified employees,~~ except the director, must be for six years. ~~However, the member of the board appointed by the governor in 1995 shall serve for a period of six years. Thereafter, all appointments and elections to the personnel board must be for six years' duration. The director's term coincides with employment as director.~~
- ~~3.~~ Any permanent vacancy in office must be filled for the unexpired term in the same manner as the selection of the person vacating the office. ~~However, if a board member voluntarily withdraws from deliberation and voting on an appeal where there may be a possible conflict of interest, the vacancy will be filled temporarily in the same manner as the selection of the person vacating the office. When a temporary vacancy involves a member of the board elected by classified employees, the automatic substitute must be the candidate that received the second highest number of votes in the election that elected the board member. Temporary board members will be used only in situations when a permanent board member voluntarily vacates the position due to a possible conflict of interest.~~
- ~~4.~~ 3. ~~The~~ Each member of the board ~~appointed by the governor~~ must be a resident of the state for at least sixty days and must be known to be in

sympathy with the application of merit principles to public employment. ~~Each member of the board elected by classified employees must be a resident of the state for at least sixty days and must be known to be in sympathy with the application of merit principles to public employment. No member of the board appointed by the governor or elected by classified employees may have held a position in a political party within four years immediately preceding the member's appointment or election to the board, and those members of the board elected by classified employees must be full-time employees in good standing of the classified service.~~

SECTION 2. AMENDMENT. Section 54-44.3-12.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.3-12.2. Employee complaints - Cooperation in development and implementation of basic agency grievance procedures and a statewide appeal mechanism - Appeals. It is the intent of the state of North Dakota to assure fair and equitable treatment and promote harmony between and among all classified employees. To ensure this the state desires to resolve bona fide employee complaints as quickly as possible. The division shall cooperate with and assist the various departments, agencies, and institutions of the state in the development and implementation of basic agency grievance procedures and a statewide appeal mechanism. The division shall certify appeals from nonprobationary employees in the classified service which are related to discrimination, merit system qualification, reprisals, reduction in force, forced relocation, demotion with loss of pay, suspension without pay, and dismissal, and from applicants for positions in the classified service related to discrimination. Upon receipt of an appeal, the division shall submit a written request to the director of the office of administrative hearings to designate an administrative hearing officer for the division to conduct the hearing and related proceedings, including receiving evidence and preparing findings of fact, conclusions of law, and issuing a final decision. The moving party in the initial action bears the burden of proof in the appeal. An appeal to the district court from the determination of the ~~office of administrative hearings~~ hearing officer must be filed according to chapter 28-32, but neither the division nor the office of administrative hearings may be named as a party to the appeal under chapter 23-32 unless an employee of one of those two agencies is involved in the grievance.

SECTION 3. AMENDMENT. Section 54-44.3-15 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-15. Payrolls must be certified by director before payment can be made Payment disapproved by director. ~~No state disbursing or auditing officer~~ The director may make or approve or take any part in making or approving any ~~disapprove the payment for personal service to~~ for any person holding a position in the classified service, except a person appointed to a position for the duration of an emergency, unless if the director or the director's authorized agent has certified ~~determines that the person named therein has not been classified and is not imminently to receive classification in accordance with the provisions of this chapter and the rules and orders thereunder and or that the rate of pay is legal not~~ authorized.

SECTION 4. AMENDMENT. Section 54-44.3-16 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-16. Agency personnel officers. The elected or appointed chief officer of each agency or department of the service shall designate a staff employee to serve as personnel officer for that division of the service to assist ~~him~~ the chief officer in ~~his~~ that person's duty to administer personnel responsibilities specified in this chapter and by the personnel rules ~~and regulations~~. The designated personnel officer of each agency or department shall certify to the agency elected or appointed chief officer that each person holding a position in the classified service authorized for payment through payroll has been classified in accordance with the provisions of this chapter and the rules and orders under this chapter and that the rate of pay is within established current salary ranges or excepted from the ranges by written authorization by the director.

Approved April 14, 1999

Filed April 14, 1999

CHAPTER 473

SENATE BILL NO. 2291

(Senators W. Stenejem, Kringstad, Robinson)
(Representatives Aarsvold, Bernstein, Martinson)

HIGHER EDUCATION TEACHING STAFF CLASSIFICATION EXEMPTION

AN ACT to amend and reenact section 54-44.3-20 of the North Dakota Century Code, relating to exemption of the teaching staff of institutions of higher education from the state classified service.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁵ **SECTION 1. AMENDMENT.** Section 54-44.3-20 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.3-20. Categories of positions in the state service. All positions in the state service are included in the classified service except:

1. Each official elected by popular vote and each person appointed to fill vacancies in an elective office, one principal assistant, and one private secretary.
2. Members of boards and commissions required by law.
3. Administrative heads of departments required by law, other than the superintendent of the school for the blind, the superintendent of the school for the deaf, and the state librarian.
4. Officers and employees of the legislative branch of government.
5. Members of the judicial branch of government of the state of North Dakota and their employees and jurors.
6. Persons temporarily employed in a professional or scientific capacity as consultants or to conduct a temporary and special inquiry, investigation, or examination for the legislative branch of government or a department of the state government.
7. ~~Officers and members of the teaching staff of universities and other institutions of higher education.~~
8. Positions deemed to be inappropriate to the classified service due to the special nature of the position as determined by the division and approved by the board.

²⁸⁵ Section 54-44.3-20 was also amended by section 12 of House Bill No. 1019, chapter 19, and section 45 of House Bill No. 1188, chapter 162.

9. ~~8.~~ ~~The classified employees at~~ Employees of the institutions of higher education under the control of the state board of higher education; ~~until July 1, 1976.~~
- ~~40.~~ 9. Members and employees of occupational and professional boards.
- ~~44.~~ 10. Officers and employees of the North Dakota mill and elevator association.
- ~~42.~~ 11. The director of the committee on employment of people with disabilities of the department of human services.
- ~~43.~~ 12. Positions referred to under law as serving at the pleasure of or at the will of the appointing authority.
- ~~44.~~ 13. Certificated teachers engaged in teaching at the North Dakota youth correctional center, the school for the blind, and the school for the deaf.
- ~~45.~~ 14. Officers and employees of the workers compensation bureau.

Approved March 5, 1999

Filed March 5, 1999

CHAPTER 474

HOUSE BILL NO. 1170

(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

STATE PURCHASING AND PRINTING

AN ACT to create and enact a new section to chapter 54-44.4 of the North Dakota Century Code, relating to approved vendors under state purchasing laws; to amend and reenact sections 12-48-07, 24-03-14, 46-01-02, 46-02-01, 46-02-09, 46-05-03, 54-23.2-02, 54-24-09, 54-44-04.5, 54-44-04.6, subsection 3 of section 54-44.2-02, subsections 4, 5, and 8 of section 54-44.4-02, sections 54-44.4-03, 54-44.4-05, 54-44.4-07, and 54-44.4-08 of the North Dakota Century Code, relating to state purchasing and printing practices and the responsibilities of the office of management and budget; to repeal section 54-44-09 of the North Dakota Century Code, relating to the requirement that state purchases comply with United States bureau of standards; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-48-07 of the North Dakota Century Code is amended and reenacted as follows:

12-48-07. Tools and equipment. The warden, under the direction of the director of the division of adult services, shall procure the machinery, tools, and equipment necessary to carry on and conduct the work and industries of the penitentiary. Procurement must be made by the warden according to chapter 54-44.4 and rules adopted under that chapter.

SECTION 2. AMENDMENT. Section 24-03-14 of the North Dakota Century Code is amended and reenacted as follows:

24-03-14. Authority to acquire buildings for equipment. ~~The office of management and budget has the authority to acquire buildings for equipment under its purchasing powers; however, the office of management and budget may delegate such authority to the director, and in such instances the director has authority to construct, rent, or purchase for the state the necessary land and buildings for the storage and housing of road materials, road machinery, equipment, and tools.~~

SECTION 3. AMENDMENT. Section 46-01-02 of the North Dakota Century Code is amended and reenacted as follows:

46-01-02. Printing duties of office of management and budget. The office of management and budget shall:

1. Bid all printing requisitions as requested and let all contracts.
2. ~~Examine all work to determine if it conforms to the contract.~~
3. ~~Examine all accounts let to contract to determine if the charges are correct.~~

4. Determine the price of any legal notice or publication when requested by any state agency or department, or by any political subdivision. Its decision on the proper fee for ~~such~~ the publication is binding and final, subject to review by the courts.

SECTION 4. AMENDMENT. Section 46-02-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

46-02-01. Printing and binding - Duties of the office of management and budget. The office of management and budget shall have charge of all the printing required to be done for ~~the several departments of the~~ all state government agencies except as otherwise provided by section 46-02-09. ~~No printing required by any state officer as provided in this chapter may be paid for unless it was authorized by the legislative assembly or by the office of management and budget for seven hundred fifty dollars and over.~~

SECTION 5. AMENDMENT. Section 46-02-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

46-02-09. Sixth-class items - When bids or quotations required. All work on sixth-class items amounting to seven hundred fifty dollars or over, not done by the central duplicating service of the office of management and budget or by departments, institutions, or state offices, must be let by competitive bidding or by the solicitation of at least two quotations by the office of management and budget, or by the departments, institutions, or state offices authorized to bid their own printing needs. Printing items amounting to less than seven hundred fifty dollars may be given by the department head to a printer selected by the department head and accompanied by a purchase order ~~of which one copy must be sent to the office of management and budget.~~ Where If practical, all departments, institutions, or state offices authorized to do their own bidding shall take advantage of annual contracts established by the office of management and budget.

SECTION 6. AMENDMENT. Section 46-05-03 of the North Dakota Century Code is amended and reenacted as follows:

46-05-03. Legal notices - Fees. To effect uniformity, the office of management and budget may compute a standard price on those legal notices which are widely published such as ballots, insurance statements, and official proclamations. All newspapers must use the rates, type size, and column width as shown on its legal notice rate certification issued by ~~the state printing agent~~ of the office of management and budget. Certifications must be issued within fifteen days after samples are submitted.

The office of management and budget shall annually review and adjust rates to reflect changes in economic conditions within the newspaper industry and the general economy, and those adjustments become effective on each July first following the review. These annual changes may be percentage increases or decreases in the base rates, and they may incorporate revisions in the base rate structure. Whenever the office of management and budget considers an adjustment in the legal publication rates contained herein, it shall consult with representatives of the daily and weekly newspaper industry of the state and with representatives of state and local units of government.

SECTION 7. AMENDMENT. Section 54-23.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-23.2-02. State radio broadcasting system. The director may purchase the necessary apparatus and equipment to construct or establish a radio broadcasting system for the state of North Dakota, which system must be used solely for the transmission of state business and information. The director is further authorized and empowered to purchase shortwave radio receiving and transmitting sets in ~~such~~ quantities as may be most economical and to equip with shortwave radio receiving and transmitting sets all state-owned cars used in connection with law enforcement, ~~such~~ road maintainers as ~~he~~ the director shall determine advisable, the state penitentiary, and ~~such~~ any other places as may furnish the speedy transmission of messages and state information. Purchases must be made by the director according to chapter 54-44.4 and rules adopted thereunder. The director is charged with the operation and maintenance of said system.

SECTION 8. AMENDMENT. Section 54-24-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-24-09. Distribution of certain state publications for certain libraries required. ~~The state purchasing and printing agent~~ office of management and budget shall arrange to deposit with the state library eight copies of all publications issued by all executive, legislative, and judicial agencies of state government intended for general public distribution. These publications must be provided to the state library without charge. If expense and limited supply of state publications, particularly audiovisual items, make compliance with the depository requirement impossible, the state library shall accept as many copies as an agency can afford to provide. However, each agency shall provide no less than two copies to the state library. State publications refer to any informational materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. In circumstances not directly involving the ~~state purchasing and printing agent~~ office of management and budget, a state agency shall comply with the depository requirement by arranging with the necessary parties for the printing and deposit of eight copies of any state publication issued. State publications are specifically defined as public documents appearing as reports, directories, statistical compendiums, bibliographies, laws or bills, rules, regulations, newsletters, bulletins, state plans, brochures, periodicals, committee minutes, transcripts of public hearings, other printed matter, audiotapes, videotapes, films, filmstrips, or slides, but not those administrative or training materials used only within the issuing agency. As the document acquisition and distribution agency, the state library shall retain for its document collection two copies of every state document received and transmit the remaining copies to the depository libraries. These are the libraries of the state historical board, the university of North Dakota, North Dakota state university, library of Congress, and two others to be designated by the state library. All nondepository North Dakota libraries may receive state documents under an optional selection program developed by the state library. The state library shall catalog state publications and arrange for their conversion to microfilm or to optical disk storage prescribed by the state records administrator and shall make available for distribution the same to the designated depository libraries.

SECTION 9. AMENDMENT. Section 54-44-04.5 of the North Dakota Century Code is amended and reenacted as follows:

54-44-04.5. Federal surplus property - Office of management and budget responsible for distribution - Powers and duties of director.

1. The office of management and budget is responsible for the fair and equitable distribution, through donation, of all federal surplus property transferred to the state in accordance with the Federal Property and Administrative Services Act of 1949, as amended [63 Stat. 378; 40 U.S.C. 484 (j)], hereinafter referred to as the federal Act.
2. The director of the office of management and budget, or ~~such subordinate officer~~ as the director shall designate director's designee:
 - a. May receive, investigate, and make recommendations on applications for federal surplus property available under the federal Act.
 - b. May acquire any federal surplus property transferred to the state under the federal Act.
 - c. May distribute any federal surplus property pursuant to the federal Act to:
 - (1) Any public agency for use in carrying out or promoting for the residents of a given political subdivision one or more public purposes; or
 - (2) Nonprofit educational institutions, public health institutions, or organizations which are exempt from taxation under section 501 of the federal Internal Revenue Code, for purposes of education or public health or research for those purposes.
 - d. May store the federal surplus property.
 - e. Shall develop, submit, and implement a state plan of operation for distribution of federal surplus property and comply with the federal Act and rules and regulations adopted thereunder. Provided, the director may continue the state plan of operation developed by the department of public instruction.
 - f. May cooperate and enter into agreements with other surplus property agencies and federal agencies to screen and acquire surplus property and exchange property, facilities, personnel, and services.
 - g. May provide information and assistance for acquiring federal surplus property to entities listed in subdivision c.
 - h. May assess and collect service charges from participating recipients to cover direct and reasonable cost of services under this section. The service charges must be deposited with the state treasurer in a surplus property special fund and used pursuant to the federal Act. The state treasurer shall credit all interest earned to the fund if the director requests the state treasurer to invest portions of the fund.

- i. Adopt rules and take other action necessary to distribute federal surplus property pursuant to the federal Act.
- 3. The director of the office of management and budget or the director's designee may purchase available federal property under applicable federal property management regulations for distribution according to this section.

²⁸⁶ **SECTION 10. AMENDMENT.** Section 54-44-04.6 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44-04.6. State surplus property - Department heads to inform director - Disposition of property - Proceeds - Exchange of property.

- 1. The person in charge of any department, agency, or institution of the state shall inform the director of the office of management and budget or the director's designee whenever that department, agency, or institution possesses property surplus to its needs, whether originally obtained with state or other funds.
- 2. Political subdivisions may provide their surplus property to the office of management and budget for disposition according to subsections 3, 4, and 5.
- 3. ~~State surplus~~ Surplus property must be transferred at fair market value to state agencies, political subdivisions, and nonprofit organizations eligible to receive federal surplus property under the Federal Property Administrative Services Act of 1949, as amended. Eligible organizations must be notified of the availability of property on a regular basis.
- ~~3.~~ 4. If not disposed of under subsection ~~2~~ 3, then by sale on sealed bids or at public auction to the highest and best bidder for property valued at more than three thousand dollars, with no money deposit required prior to sale, or by sealed bids, public auction, or negotiation at fair value for property valued at less than three thousand dollars.
- ~~4.~~ 5. All proceeds received from the transfer or sale of ~~state~~ surplus property must be deposited into the state or political subdivision fund from which the property was originally purchased, less administrative expenses.
- ~~5.~~ ~~No department, agency, or institution may exchange items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the office of management and budget. The director shall approve the exchange only if the director has determined that the item has been valued at fair value.~~

²⁸⁶ Section 54-44-04.6 was also amended by section 35 of Senate Bill No. 2015, chapter 37.

SECTION 11. AMENDMENT. Subsection 3 of section 54-44.2-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Have the authority to purchase or lease equipment or replace, including by trade or resale, present equipment as may be necessary to carry out this chapter. Each executive branch department, agency, or institution, except the institutions under the control of the board of higher education, shall submit to the information services division and the legislative council, or its designee, in accordance with guidelines established by the division, a written request for the lease, purchase, or other contractual acquisition of information technology services or equipment. The information services division shall review requests for conformance with the requesting organization's strategic plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the information services division may disapprove the request or require justification for the departure from the strategic plan or statewide policy or standard. The division shall inform the legislative council, or its designee, of any requests disapproved or additional justification received relating to a request. All acquisitions made by the division under this section must be done according to chapter 54-44.4 and rules adopted under that chapter.

SECTION 12. AMENDMENT. Subsections 4, 5, and 8 of section 54-44.4-02 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

4. Department of transportation materials, equipment, and supplies in accordance with ~~the provisions of chapters 24-02 and 24-03~~ section 24-02-16.
5. Professional services ~~pursuant to written contract,~~ unless the office of management and budget agrees to procure professional services in response to an agency's written request.
8. Such specific items or items costing less than a specified amount as determined and indicated by written directive by the director of the office of management and budget. The director may organize and administer, including by contract with a provider, a system of procurement for items agencies are authorized to purchase under this subsection which includes use of a procurement card.

SECTION 13. AMENDMENT. Section 54-44.4-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.4-03. Director of the office of management and budget may delegate purchasing authority. The director of the office of management and budget or the director's designee may delegate to state agencies and institutions the authority to make purchases of items not otherwise exempted by law. Any delegation of purchasing authority must be in writing and must specify what may be purchased by the agency or institution and the duration of the delegation.

SECTION 14. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Approved vendors.

1. Every person or business entity that desires to bid or submit a proposal on contracts awarded under this chapter must be an approved vendor in order to receive a request for bids or proposals. Unless waived by the director of the office of management and budget, or the director's designee, a bid or proposal may not be considered under this section from any vendor that is not approved.
2. To become an approved vendor a person or business entity shall file an application with the office of management and budget. The application must contain information requested by the office of management and budget, including business and persons' names, phone numbers, addresses, federal tax identification numbers, type of business organization, other permits or licenses issued by this state and related numbers, the nature of the business and the products sold, the types of bids or proposals in which the applicant is interested, references, and other business information. The application must also contain a statement appointing the secretary of state as the applicant's agent for service of process pursuant to subsection 3. The application must be signed and certified by an owner, partner, or company officer authorized by company bylaws or other organizational document to bind the company. The office of management and budget may require proof of the signing person's authority by certified copy of appropriate company documents.
3. At the time of filing the application to become an approved vendor, the applicant, if organized as a corporation, limited liability company, limited liability partnership, or limited partnership, must be properly and currently registered with the secretary of state according to its type of business organization as a corporation under chapter 10-19.1, a limited liability company under chapter 10-32, a limited liability partnership under chapter 45-22, or a limited partnership under chapter 45-10.1. Any exemptions to registration under the above chapters that would otherwise apply to those entities organized as such do not apply to this section and registration must be made for the applicant to become an approved vendor. Applicants for approved vendor status using a trade name or a fictitious partnership name must be in full compliance with chapter 47-25 or chapter 45-11 at the time of making the application. Whenever any registration required by this section is cancelled, revoked, or not renewed, the vendor ceases to be an approved vendor.

By signing and filing the application, the vendor applicant appoints the secretary of state as its true and lawful agent for service of process in this state upon whom may be served all lawful process in any action or proceeding against the vendor if the vendor or its registered agent cannot be found for service of process in this state. The signed application is written evidence of the applicant's consent that any process served against the applicant that is so served upon the secretary of state is of the same legal force and effect as if served upon the applicant personally within this state. Within ten days after service of the summons upon the secretary of state pursuant to this subsection, notice of the service with

the summons and complaint in the action must be sent to the defendant vendor at the vendor's last known address by certified mail with return receipt requested and proof of mailing must be attached to the summons. The secretary of state shall keep a record of all process served upon the secretary of state under this section showing the day and hour of service. When service of process is made as provided in this subsection, the court, before entering a default judgment, or at any stage of the proceeding, may order a continuance as may be necessary to afford the defendant vendor reasonable opportunity to defend any action pending against the vendor.

4. The director of the office of management and budget, or the director's designee, may waive the requirements for registration with the secretary of state as provided in this section and authorize receipt of a bid or proposal from a vendor that unqualifiedly refuses to register as provided in this section if the director or the director's designee makes a written determination that:
 - a. A commodity is so unique and possesses such specific characteristics essential to the government program in question that it is available only from one source and not through wholesalers or retailers; or
 - b. An emergency as defined in subsection 7 of section 54-44.4-02 exists.

SECTION 15. AMENDMENT. Section 54-44.4-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.4-05. Competitive bidding on purchases - Exempt records. Except as otherwise provided in section 44-08-01 and section 25-16.2-02, purchasing contracts must be awarded to the lowest responsible bidder considering conformity with specifications, terms of delivery, and quality and serviceability. The office of management and budget may reject any or all bids or negotiate for a lower price with a successful bidder. Each bid received, with the name of the bidder, must be recorded. The office of management and budget may make multiple awards for term commodity contracts when it deems a multiple award to be in the best interests of the state. Until the date and time set for receiving and opening bids and proposals pursuant to a request for bids or proposals, all bids and proposals received under this chapter are exempt records under subsection 5 of section 44-04-17.1.

SECTION 16. AMENDMENT. Section 54-44.4-07 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-07. Specification for paper products and inks. The office of management and budget, the institutions of higher education, and any other state agency or institution that has authority to purchase products, are encouraged, whenever possible, when purchasing newsprint printing services, to specify the use of soybean-based ink. ~~By July 1, 1990, at least fifteen percent of the garbage can liners purchased by the office of management and budget, the institutions of higher education, or a state agency or institution to which authority to purchase has been delegated must be starch based. The percentage of starch-based garbage can liners purchased must increase by five percent annually until at least fifty percent of the garbage can liners purchased are starch based. The office of management and budget shall review the procurement specifications currently used by the state to~~

eliminate, wherever possible, discrimination against the procurement of products manufactured with starch-based plastics and soybean-based inks. The North Dakota corn growers association and the commissioner of agriculture shall assist the office of management and budget in locating suppliers of starch-based plastics and in collecting data on the purchase of starch-based plastics. The North Dakota soybean council and the commissioner of agriculture shall assist the office of management and budget in locating suppliers of soybean-based inks and in collecting data on the purchase of soybean-based inks. In requesting bids for paper products, ~~starch-based plastic products, and soybean-based inks,~~ the office of management and budget must request information on the recycled content of such products.

SECTION 17. AMENDMENT. Section 54-44.4-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.4-08. Purchase of recycled paper products. The office of management and budget, and any state agency or institution that has authority to purchase products, shall ensure that beginning July 1, 1993, at least ten percent of the total volume of paper and paper products being purchased for state agencies and institutions contain at least twenty-five percent recycled material; beginning January 1, 1994, at least thirty percent of the total volume of paper and paper products being purchased contain at least twenty-five percent recycled material; beginning January 1, 1996, at least forty percent of the total volume of paper and paper products being purchased contain at least twenty-five percent recycled material; and beginning January 1, 1998, at least sixty percent of the total volume of paper and paper products being purchased contain at least twenty-five percent recycled material; ~~and beginning January 1, 2000, at least eighty percent of the total volume of paper and paper products being purchased contain at least twenty-five percent recycled material.~~

SECTION 18. REPEAL. Section 54-44-09 of the North Dakota Century Code is repealed.

SECTION 19. EMERGENCY. Section 15 of this Act is declared to be an emergency measure.

Approved March 29, 1999
Filed March 29, 1999

CHAPTER 475

SENATE BILL NO. 2179

(Government and Veterans Affairs Committee)

(At the request of the Office of Management and Budget)

DIVISION OF COMMUNITY SERVICES

AN ACT to amend and reenact subsection 3 of section 20.1-02-17.1, sections 20.1-02-18.1, 54-01.1-08, 54-21.3-04.1, subsections 3 and 4 of section 54-44.5-01, sections 54-44.5-02, 54-44.5-03, 54-44.5-04, 54-44.5-05, and subsections 2, 3, and 4 of section 54-44.5-07 of the North Dakota Century Code, relating to changing the name of the office of intergovernmental assistance to the division of community services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 20.1-02-17.1 of the North Dakota Century Code is amended and reenacted as follows:

3. A detailed impact analysis from the state game and fish department shall be included with the acquisition proposal for board of county commissioner consideration in making recommendations. The analysis by the game and fish department shall include, but shall not be limited to, the recreational and wildlife impacts. In addition, the county agent of the affected county or counties shall prepare an impact analysis for board of county commissioner consideration which shall include the fiscal, social, and agricultural impacts of the proposed acquisition. The state game and fish department shall reimburse the county or counties for any expenses incurred by the county agent in preparing the analysis. The analyses shall also be forwarded to the ~~office of intergovernmental assistance~~ division of community services which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions shall have thirty days to review the analyses and return their comments to the ~~office of intergovernmental assistance~~ division of community services. Upon expiration of the thirty-day period, all comments received by the ~~office of intergovernmental assistance~~ division of community services shall be forwarded to the state game and fish department. The state game and fish department may, after consideration of such comments, file a final impact analysis with the ~~office of intergovernmental assistance~~ division of community services and the board of county commissioners.

SECTION 2. AMENDMENT. Section 20.1-02-18.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-18.1. Federal wildlife area acquisitions - Submission to county commissioners, opportunity for public comment, and impact analysis required. The governor, the director, or their designees, responsible under federal law for final approval of land, wetland, and water acquisitions by the United States department of the interior, its bureaus or agencies, for waterfowl production areas, wildlife refuges, or other wildlife or waterfowl purposes, shall submit the proposed acquisitions by certified mail with return receipt to the board of county commissioners of the county

or counties in which the land, wetland, and water areas are located for the board's recommendations.

The board of county commissioners of the county affected, or a designee or designees of the board, shall, within twenty-one days of receipt of an acquisition proposal, physically inspect the proposed acquisition areas. The board shall give public notice of the date, hour, and place where the public may comment on the proposed acquisitions. The notice must be published once each week for two successive weeks in the official newspaper of the county or counties in which the land and water areas are located. The notice must set forth the substance of the proposed action, and must include a legal description of the proposed acquisitions. The board of county commissioners shall make its recommendations by certified mail with return receipt within sixty days after receipt of an acquisition proposal.

A detailed impact analysis from the federal agency involved must be included with the acquisition proposal for board of county commissioner consideration in making recommendations. The analysis must include the recreational and wildlife impacts. In addition, the county agent of the affected county or counties shall prepare an impact analysis for board of county commissioner consideration which must include the fiscal, social, and agricultural impacts of the proposed acquisitions. The department of the interior shall reimburse the county or counties for any expenses incurred by the county agent in preparing the analysis. The analyses must also be forwarded to the office of intergovernmental assistance division of community services which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions have thirty days to review the analyses and return their comments to the office of intergovernmental assistance division of community services. Upon expiration of the thirty-day period, all comments received by the office of intergovernmental assistance division of community services must be forwarded to the federal agency involved and to the state official or agency responsible for final acquisition approval. The federal agency may, after consideration of the comments, file a final impact analysis with the governor, the board of county commissioners, and any other state official or agency responsible for final acquisition approval.

SECTION 3. AMENDMENT. Section 54-01.1-08 of the North Dakota Century Code is amended and reenacted as follows:

54-01.1-08. ~~Promulgation~~ Adoption of rules and regulations. State agencies may consult with the office of intergovernmental assistance division of community services to establish regulations and procedures for implementation of the provisions of this chapter and to establish such regulations and procedures necessary to assure:

1. That the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;
2. That a displaced person who makes proper application for a payment authorized by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and
3. That any displaced person aggrieved by a determination as to eligibility for a payment, or as to the amount of a payment, may have the application reviewed by the head or governing body of the state agency.

SECTION 4. AMENDMENT. Section 54-21.3-04.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-21.3-04.1. Accessibility standards. Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the accessibility standards of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36]. State and political subdivision entities may not claim the exceptions to the requirement that elevators be installed in certain buildings as those exceptions are stated in exception 1 to section 4.1.3(5) and in section 4.1.6(1)(k)(i) in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36. A structural change to an existing state or political subdivision building or facility is not required if another method is effective in achieving compliance with regulations adopted under Public Law 101-336. For public accommodations, an alternative to a structural change in existing buildings or facilities is permitted only after it has been documented, in accordance with regulations adopted under Public Law 101-336, that a particular structural change is not readily achievable. A state agency or the governing body of a political subdivision shall require from any person preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that person, in conformance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36, subject to the exception stated in this section. A statement of conformance must be submitted to the ~~office of intergovernmental assistance~~ division of community services for recording.

SECTION 5. AMENDMENT. Subsections 3 and 4 of section 54-44.5-01 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. "Director" means the director of the ~~office of intergovernmental assistance~~ division of community services.
4. "~~Office~~" "Division" means the ~~office of intergovernmental assistance~~ division of community services.

SECTION 6. AMENDMENT. Section 54-44.5-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.5-02. ~~Office of intergovernmental assistance~~ Division of community services - Creation. The ~~office of intergovernmental assistance~~ division of community services is established in the office of management and budget to provide technical assistance to local governments, state agencies, and the executive branch in the area of community and rural planning and development, policy research and development, and grant program implementation. The director of the office of management and budget shall appoint a director of the ~~office~~ division upon the basis of education and experience. The position of director is not a classified position and the director shall serve at the pleasure of the director of the office of management and budget. The director of the ~~office~~ division may employ such other professional, technical, and clerical persons as may be necessary and may fix their compensation within the limits of legislative appropriation. All personnel within the ~~office~~ division must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

SECTION 7. AMENDMENT. Section 54-44.5-03 of the North Dakota Century Code is amended and reenacted as follows:

54-44.5-03. Powers and duties of the director. The director shall direct and supervise, with the approval of the director of the office of management and budget, all the administrative and technical activities of the ~~office~~ division.

²⁸⁷ **SECTION 8. AMENDMENT.** Section 54-44.5-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44.5-04. ~~Office of intergovernmental assistance~~ Division of community services - Powers and duties. The ~~office of intergovernmental assistance~~ division of community services shall:

1. Provide relevant information on pertinent topics and issues which relate to public policy development, interpretation, modification, and implementation.
2. Research, analyze, and recommend public policy for the office of management and budget and the executive office.
3. Coordinate public policy implementation within the state. Powers conferred upon departments, agencies, or instrumentalities of the state, counties, townships, or cities by any existing state or local law may not be derogated by this duty.
4. Develop state energy conservation policy and manage federal energy conservation program activities between all levels of the public and private sectors regarding the prudent and efficient use of energy resources.
5. Develop, implement, and administer federal categorical and block grant programs assigned to the ~~office~~ division.
6. Advise, coordinate, and assist cities, political subdivisions, and the state in all phases of state and local planning for the physical development of the state.
7. Render financial assistance to any government planning agency within federal law or regulation.
8. Advise, consult, coordinate, assist, and contract with or on behalf of the various planning agencies in developing and harmonizing planning activities of the state.

SECTION 9. AMENDMENT. Section 54-44.5-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.5-05. Continuing appropriation. There is hereby appropriated as a standing and continuing appropriation to the ~~office of intergovernmental assistance~~ division of community services for the purpose of carrying out the provisions of this chapter, including the administration of such provisions, all moneys returned as repayments of federal or other funds granted under the community development

²⁸⁷ Section 54-44.5-04 was also amended by section 2 of Senate Bill No. 2312, chapter 458.

loan fund, and all earnings from the investment of such moneys, which may be received from time to time by the office division. Administrative expenses may only be charged against such moneys to the extent permitted by federal law or regulations.

SECTION 10. AMENDMENT. Subsections 2, 3, and 4 of section 54-44.5-07 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. The office division shall distribute the federal community services block grant funds received under the federal Community Service Block Grant Act [Pub. L. 97-35; 95 Stat. 511; 42 U.S.C. 9903] and shall allocate the funds as follows:
 - a. At least ninety percent must be allocated to community action agencies;
 - b. The greater of fifty-five thousand dollars or five percent may be allocated for state administrative expenses; and
 - c. Not more than five percent may be allocated for state discretionary projects.
3. Each community action agency, in accordance with procedures established by the office division, is entitled to receive a portion of available federal Community Services Block Grant Act [Pub. L. 97-35; 95 Stat. 511; 42 U.S.C. 9903] funds based on that agency's poverty population relative to the state's total poverty population. The office division shall determine poverty levels using criteria established by the United States office of management and budget.
4. Each community action agency is governed by procedures established by the office division as it relates to the community services block grant program.

Approved March 5, 1999
Filed March 5, 1999

CHAPTER 476

HOUSE BILL NO. 1122

(Natural Resources Committee)

(At the request of the Department of Human Services)

COMMUNICATIONS-IMPAIRED TELECOMMUNICATIONS SERVICES

AN ACT to amend and reenact sections 54-44.8-01, 54-44.8-03, and 54-44.8-06 of the North Dakota Century Code, relating to administration of the program for telecommunications services for communications-impaired persons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸⁸ **SECTION 1. AMENDMENT.** Section 54-44.8-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the individual employed by the division to oversee administration of the program.
2. "Commission" means the public service commission.
3. "Communications impaired" means the condition of an individual who is deaf, hearing impaired, ~~or~~ speech impaired, or mobility impaired so as to be unable to use a telephone readily purchased from a retail store.
4. "Disadvantaged" means residing in a household that has a median income not more than the applicable median income in this state, except the term includes residing in a household that has a median income not more than one hundred fifty percent of the applicable median income in this state if the resident is deaf.
5. "Division" means the information services division of the office of management and budget.
- ~~5.~~ 6. "Local exchange company" means a telecommunications company that provides telephone access lines to members of the general public who are its customers.
- ~~6.~~ 7. "Program" means the program established under section 54-44.8-03.
- ~~7.~~ 8. "Radio communications access" means the radio access between a customer of a radio communications service provider and the provider.

²⁸⁸ Section 54-44.8-01 was also amended by section 24 of Senate Bill No. 2043, chapter 483.

8. 9. "Radio communications service provider" means a telecommunications company that provides radio communication service or cellular service to members of the general public who are its customers.
9. 10. "Specialized telecommunications equipment" means a device that, when connected to a telephone, enables or assists a person who is communications impaired to communicate with another person utilizing the telephone network. The term may include telecommunications devices for the deaf, amplifiers, and signaling devices.
40. 11. "Telecommunications relay service" means a statewide service through which a communications-impaired individual, using specialized telecommunications equipment, may send and receive messages to and from a noncommunications-impaired individual whose telephone is not equipped with specialized telecommunications equipment and through which a noncommunications-impaired individual, by using voice communication, may send and receive messages to and from a communications-impaired individual.
44. 12. "Telephone access line" means the facilities between a serving central office and the customer of a local exchange company which are required to provide access to the local and toll network.

²⁸⁹ **SECTION 2. AMENDMENT.** Section 54-44.8-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-03. Program established - Purpose.

1. The division shall establish and administer a program to provide telecommunications relay service to persons who are communications impaired.
2. The program shall provide a telecommunications relay service to allow persons who are communications impaired to communicate via the telecommunications network with noncommunications-impaired persons.
3. The ~~vocational rehabilitation division~~ of the department of human services shall furnish specialized telecommunications equipment to meet the needs of individuals who are communications impaired and who might be otherwise disadvantaged in their ability to obtain such equipment. The ~~vocational rehabilitation division~~ department shall determine eligibility and may provide the specialized telecommunications equipment to individuals determined eligible within the limits of funding made available to the ~~vocational rehabilitation division~~ department through gifts and grants received under section 54-44.8-06 and from funding made available by the information services division from the surcharge collected pursuant to section 54-44.8-08, which are hereby appropriated.

²⁸⁹ Section 54-44.8-03 was also amended by section 26 of Senate Bill No. 2043, chapter 483.

SECTION 3. AMENDMENT. Section 54-44.8-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-06. Gifts and grants. The ~~vocational rehabilitation division~~ department of human services may accept contributions and gifts and may apply for and accept grants, in money or otherwise, to the program. Monetary contributions, gifts, and grants must be deposited in the state treasury to be credited to the department of human services operating account.

Approved March 19, 1999
Filed March 22, 1999

CHAPTER 477

SENATE BILL NO. 2411

(Senator Kilzer)

MICROFILM SERVICES

AN ACT to amend and reenact section 54-46.1-01 of the North Dakota Century Code, relating to the provision of microfilm services; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹⁰ **SECTION 1. AMENDMENT.** Section 54-46.1-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-46.1-01. Central microfilm unit - Contracting for services. The state records administrator shall establish and maintain a central microfilm unit and microfilm any record of any state office, agency, or department in either the executive, legislative, or judicial branch of state government, if the administrator determines the cost of ~~such~~ the microfilming is reasonable in relation to the record's historical significance or the frequency and type of use of the record. If the administrator and the office of management and budget determine that the services called for in this chapter can be provided more efficiently and economically through contracting with private contractors, the administrator may enter into such contracts or require an agency to use the services of a contractor as allowed by section 54-46.1-05. Release of records to a contractor for microfilming under this section or section 54-46.1-05 is not a violation of section 12.1-13-01, 54-46.1-07, or any other law that provides for any civil or criminal penalty for the release of certain records. A contractor hired by the administrator under this section or by an agency under section 54-46.1-05 may not disclose any information from any record, disclose any record the contractor receives for microfilming services, or make or retain a copy or other reproduction of a record not required by the contract to be made. Any contractor hired by the administrator under this section or by an agency under section 54-46.1-05 is subject to the penalties provided by law for unauthorized release of public records, and the contractor must agree to fully comply with all applicable state or federal laws or rules prohibiting release of public records. Each office, agency, and department shall reimburse the central microfilm unit for the actual costs incurred in microfilming its records. The administrator shall deposit moneys received under this section in the information services operating fund. The administrator shall employ professional, technical, and clerical personnel as the administrator determines to be necessary to carry out the duties prescribed in this chapter and, within the limits of the legislative appropriation, shall fix the salaries of all employees within the central microfilm unit. All personnel within the central microfilm unit must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state. The administrator may perform microfilm services for any state institution and for any county, when the institution

²⁹⁰ Section 54-46.1-01 was also amended by section 32 of Senate Bill No. 2043, chapter 483.

or county requests such services and the administrator agrees that the request is consistent with good records management practices.

SECTION 2. LEGISLATIVE COUNCIL STUDY OF PRIVATIZATION OF SERVICES PROVIDED BY STATE AGENCIES. During the 1999-2001 interim, the legislative council shall conduct a study of privatizing and contracting for services provided by state agencies. In conducting the study, the legislative council shall request information from representatives of the executive branch, the judicial branch, higher education, public employee organizations, entities that have contracted with state agencies for services, and businesses or other entities that are interested in providing services for or in place of state agencies. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-seventh legislative assembly.

Approved April 1, 1999

Filed April 2, 1999

CHAPTER 478

SENATE BILL NO. 2071

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

PERS VESTING AND BENEFITS

AN ACT to create and enact a new subsection to section 54-52-17 and a new section to chapter 54-52 of the North Dakota Century Code, relating to acceptance of rollovers from other qualified plans and vesting of employer contributions under the public employees retirement system; to amend and reenact subsection 1 of section 54-52-01, subdivisions b and d of subsection 3 of section 54-52-17, paragraphs 1 and 2 of subdivision a of subsection 4 of section 54-52-17, subdivision d of subsection 4 of section 54-52-17, subsections 5, 6, and 7 of section 54-52-17, sections 54-52-17.5, and 54-52-17.10 of the North Dakota Century Code, relating to definitions, determination of retirement dates, computation of benefits, eligibility for early retirement benefits, vesting, postretirement adjustments, and prior service retiree adjustments under the public employees retirement system; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹¹ **SECTION 1. AMENDMENT.** Subsection 1 of section 54-52-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 9 of this Act, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.

²⁹² **SECTION 2. AMENDMENT.** Subdivisions b and d of subsection 3 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least five three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.
- d. Early retirement date, except for a national guard security officer or firefighter, is the first day of the month next following the month in

²⁹¹ Section 54-52-01 was also amended by section 46 of House Bill No. 1188, chapter 162, and section 1 of House Bill No. 1257, chapter 482.

²⁹² Section 54-52-17 was also amended by sections 2 and 3 of House Bill No. 1071, chapter 480.

which the member attains the age of fifty-five years and has completed ~~five~~ three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least ~~five~~ three years of eligible employment.

²⁹³ **SECTION 3. AMENDMENT.** Paragraphs 1 and 2 of subdivision a of subsection 4 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- (1) Service benefit equals one and ~~seventy-seven~~ eighty-nine hundredths percent of final average salary multiplied by the number of years of service employment.
- (2) Prior service benefit equals one and ~~seventy-seven~~ eighty-nine hundredths percent of final average salary multiplied by the number of years of prior service employment.

²⁹⁴ **SECTION 4. AMENDMENT.** Subdivision d of subsection 4 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed ~~five~~ three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.

²⁹⁵ **SECTION 5. AMENDMENT.** Subsections 5, 6, and 7 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

5. Upon termination of employment after completing ~~five~~ three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date equal to one hundred percent of the member's accrued single life benefits.

²⁹³ Section 54-52-17 was also amended by sections 2 and 3 of House Bill No. 1071, chapter 480.

²⁹⁴ Section 54-52-17 was also amended by sections 2 and 3 of House Bill No. 1071, chapter 480.

²⁹⁵ Section 54-52-17 was also amended by sections 2 and 3 of House Bill No. 1071, chapter 480.

6. If before retiring a member dies after completing ~~five~~ three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the board shall pay the member's account balance to the member's surviving spouse. However, if there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing, the board shall pay the member's account balance to the member's beneficiary or, if there is no named beneficiary, to the member's estate. If the member has not designated an alternate beneficiary, the surviving spouse of the member may select one of the following optional forms of payment:
 - a. A lump sum payment of the member's retirement account as of the date of death.
 - b. Payments for sixty months as calculated for the deceased member as if the member was of normal retirement age at the date of death.
 - c. Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
 - d. If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The board shall automatically refund a member's account balance if the member has completed less than ~~five~~ three years of eligible employment and was not a supreme or district court judge. If the member was a supreme or district court judge, the board shall automatically refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the board, within thirty days after termination, requesting that the member's account balance remain in the fund.

²⁹⁶ **SECTION 6.** A new subsection to section 54-52-17 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

²⁹⁶ Section 54-52-17 was also amended by sections 2 and 3 of House Bill No. 1071, chapter 480.

The fund may accept rollovers from other qualified plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code.

SECTION 7. AMENDMENT. Section 54-52-17.5 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-17.5. Postretirement adjustments. An individual who, on July 31, ~~1997~~ 1999, is receiving retirement benefits under subdivision a of subsection 4 of section 54-52-17, or disability retirement benefits under subdivision e of subsection 4 of section 54-52-17, is entitled to receive an increase in benefits equal to ~~three~~ eight percent of the individual's present benefits with the increase payable beginning August 1, ~~1997~~ 1999.

SECTION 8. AMENDMENT. Section 54-52-17.10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-17.10. Prior service retiree adjustment. Prior service retirees who are receiving benefits under this chapter on July 31, ~~1997~~ 1999, are entitled to receive an increase in benefits equal to ~~five~~ eight percent of the individual's present benefit, with the increased benefits payable beginning August 1, ~~1997~~ 1999. A prior service retiree is a former participating employee who receives a supplemental monthly payment from the retirement system based upon the original prior service credit system.

SECTION 9. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Vesting of employer contributions. Except for supreme and district court judges, who are not eligible for benefits under this section, a member's account balance includes vested employer contributions equal to the member's contributions to the deferred compensation plan for public employees under chapter 54-52.2, or member contributions to other participating employer supplemental Internal Revenue Code section 457 or 403(b) retirement programs as approved by the board, with the minimum member contribution being twenty-five dollars. However, the vested employer contribution may not exceed:

1. For months one through twelve of service credit, twenty-five dollars or one percent of the member's monthly salary, whichever is greater.
2. For months thirteen through twenty-four of service credit, twenty-five dollars or two percent of the member's monthly salary, whichever is greater.
3. For months twenty-five through thirty-six of service credit, twenty-five dollars or three percent of the member's monthly salary, whichever is greater.
4. For service exceeding thirty-six months, twenty-five dollars or four percent of the member's monthly salary, whichever is greater.
5. The vested employer contribution may not exceed four percent of the member's monthly salary.

Vested employer contributions must be credited monthly to the member's account balance.

SECTION 10. APPROPRIATION. There is hereby appropriated out of any moneys received by the public employees retirement system board, not otherwise appropriated, the sum of \$87,181, or so much of the sum as may be necessary, to the public employees retirement system for the purpose of administering this Act for the biennium beginning July 1, 1999, and ending June 30, 2001. The board is authorized one additional full-time equivalent position to implement this Act.

SECTION 11. EFFECTIVE DATE. Section 9 of this Act becomes effective on January 1, 2000.

Approved April 9, 1999
Filed April 9, 1999

CHAPTER 479

HOUSE BILL NO. 1069 (Representative Wald)

PERS EMPLOYEE CONTRIBUTIONS

AN ACT to amend and reenact subsection 3 of section 54-52-05 of the North Dakota Century Code, relating to employer payment of employee contributions under the public employees retirement system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 54-52-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay the employee contributions required by subsection 2 and ~~section~~ sections 54-52-06.1 ~~for all compensation earned after June 30, 1983, and may pay the employee contributions required by section and~~ 54-52-06.2 ~~for all compensation earned after June 30, 1994.~~ The amount paid must be paid by the employer in lieu of contributions by the employee. If the state ~~decides~~ determines not to pay the contributions, the amount that would have been paid ~~will~~ must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they ~~shall~~ may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer ~~shall exercise~~ exercising its option under this subsection ~~by July 15, 1983, and shall report its choice to the board in writing. The option chosen may not be revoked for the remainder of the biennium. Thereafter, the option choice must be forwarded to the board, in writing,~~ by June fifteenth of each odd-numbered year.

Approved March 19, 1999
Filed March 22, 1999

CHAPTER 480

HOUSE BILL NO. 1071

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

JUDGES POSTRETIREMENT, DISABILITY, AND SURVIVOR'S BENEFITS

AN ACT to create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to postretirement adjustments for supreme and district court judges under the public employees retirement system; to amend and reenact subdivision e of subsection 4 of section 54-52-17 and subsection 6 of section 54-52-17 of the North Dakota Century Code, relating to disability retirement and survivor's benefits for supreme and district court judges under the public employees retirement system; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Judges postretirement adjustments. A supreme or district court judge who, on December 31, 1999, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2000. A supreme or district court judge who, on December 31, 2000, is receiving retirement benefits under subdivision b of subsection 4 of section 54-52-17 is entitled to receive an increase in benefits equal to two percent of the individual's present benefits with the increase payable beginning January 1, 2001.

²⁹⁷ **SECTION 2. AMENDMENT.** Subdivision e of subsection 4 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- e. Disability Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workers' compensation benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars. A participant who, on July 31, 1997, is receiving disability retirement benefits that are not based upon the benefit multiplier is entitled to receive an increase in benefits equal to five percent of the individual's present benefit with the increased benefits payable beginning August 1, 1997.

²⁹⁷ Section 54-52-17 was also amended by sections 2, 3, 4, 5, and 6 of Senate Bill No. 2071, chapter 478.

²⁹⁸ **SECTION 3. AMENDMENT.** Subsection 6 of section 54-52-17 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. If before retiring a member dies after completing five years of eligible employment, the board shall pay the member's account balance to the member's surviving spouse. However, if there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing, the board shall pay the member's account balance to the member's beneficiary or, if there is no named beneficiary, to the member's estate. If the member has not designated an alternate beneficiary, the surviving spouse of the member may select ~~one of the following optional forms of payment~~ a form of payment as follows:
 - a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
 - (1) A lump sum payment of the member's retirement account as of the date of death.
 - (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
 - b. The surviving spouse of all other members may select one of the following options:
 - a- (1) A lump sum payment of the member's retirement account as of the date of death.
 - b- (2) Payments for sixty months as calculated for the deceased member as if the member was of normal retirement age at the date of death.
 - e- (3) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
 - e- (4) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal

²⁹⁸ Section 54-52-17 was also amended by sections 2, 3, 4, 5, and 6 of Senate Bill No. 2071, chapter 478.

retirement age, with the increase payable beginning August 1, 1995.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 1999

Filed March 25, 1999

CHAPTER 481

SENATE BILL NO. 2072

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

NON-MEDICARE RETIREE HEALTH INSURANCE PREMIUMS

AN ACT to amend and reenact subsection 1 of section 54-52.1-02 of the North Dakota Century Code, relating to determination of health insurance premiums for retired public employees not eligible for medicare.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 54-52.1-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare. In determining premiums for coverage under this subsection for ~~active eligible employees, the total projected premium requirements of the entire subgroup must be reduced by the projected aggregate monthly credit toward hospital and medical benefits coverage allowed retired employees not eligible for medicare under sections 54-52.1-03.2 and 54-52.1-03.3. The reduced premium requirements must then be divided by the number of subgroup members to determine the premiums for active eligible employees. Premiums for coverage under this subsection for retired employees not eligible for medicare must be calculated based on the projected premium requirements of the entire subgroup less the total projected premium income as determined under this subsection for active eligible employees, the rate for a non-medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-medicare retiree family plan of two people is twice the non-medicare retiree single plan rate, and the rate for a non-medicare retiree family plan of three or more persons is two and one-half times the non-medicare retiree single plan rate.~~

Approved March 4, 1999
Filed March 4, 1999

CHAPTER 482

HOUSE BILL NO. 1257

(Representatives Wald, Grande, Klein)
(Senators Grindberg, Krebsbach, Wardner)

STATE DEFINED CONTRIBUTION RETIREMENT PLAN

AN ACT to create and enact chapter 54-52.6 of the North Dakota Century Code, relating to a defined contribution retirement plan for nonclassified state employees; to amend and reenact subsection 3 of section 54-52-01, sections 54-52-02.5, 54-52-26, and subsection 1 of section 54-52.1-03.2 of the North Dakota Century Code, relating to definitions, participation by newly appointed officials in a defined contribution retirement plan, confidentiality of records, and retiree health benefit fund contributions under the public employees retirement system; to provide a penalty; and to provide an appropriation and a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹⁹ **SECTION 1. AMENDMENT.** Subsection 3 of section 54-52-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials ~~at their sole election~~ who elect to remain members of the retirement system; provided, that judges of the supreme and district courts eligible under section 54-52-02.3 and appointed officials ~~eligible~~ who elect to participate under section 54-52-02.5 are eligible employees and shall participate in the public employees retirement system. Eligible employee does not include nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.

SECTION 2. AMENDMENT. Section 54-52-02.5 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.5. Newly appointed officials. After ~~July 4, 1979, any~~ December 31, 1999, a person appointed to an office for the first time must, from and after the date ~~he~~ that person qualifies and takes office, be a participating member of the public employees retirement system unless that person makes an election at any time during the first six months after the date the person takes office to participate in the retirement plan established under chapter 54-52.6. As used in this section, the phrase "for the first time" means a person appointed, who, after ~~July 4, 1979~~

²⁹⁹ Section 54-52-01 was also amended by section 46 of House Bill No. 1188, chapter 162, and section 1 of Senate Bill No. 2071, chapter 478.

December 31, 1999, does not hold office as an appointed official at the time of ~~his~~ that person's appointment.

SECTION 3. AMENDMENT. Section 54-52-26 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-52-26. Confidentiality of records. All records relating to the retirement benefits of a member or a beneficiary under this chapter ~~and~~, chapter 54-52.2, and chapter 54-52.6 are confidential and are not public records. This section does not prohibit any party from obtaining this information from other agencies or governmental sources. Information and records may be disclosed, under rules adopted by the board, only to:

1. A person to whom the member has given written consent to have the information disclosed.
2. A person legally representing the member, upon proper proof of representation, and unless the member specifically withholds consent.
3. A person authorized by a court order.
4. A member's participating employer, limited to information concerning the member's years of service credit and years of age. Any information provided to the member's participating employer under this subsection must remain confidential.

SECTION 4. AMENDMENT. Subsection 1 of section 54-52.1-03.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The

board, as trustee of the fund and in exclusive control of its administration, shall:

- a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended.
- b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.

SECTION 5. Chapter 54-52.6 of the North Dakota Century Code is created and enacted as follows:

54-52.6-01. Definition of terms. As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
3. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by the central personnel division.
4. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
5. "Employer" means the state of North Dakota.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.
7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workers' compensation benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be

considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

54-52.6-02. Election.

1. The board shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on December 31, 1999, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by an eligible employee under this section is irrevocable. The board shall accept written elections under this section from eligible employees during the period beginning on the effective date of this Act and ending 12:01 a.m. January 1, 2000. An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, 1999; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2000; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, 1999. This section does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after December 31, 1999, may make an election at any time during the first six months after the date of employment to participate in the defined contribution retirement plan established under this chapter.
2. If an individual who is a deferred member of the public employees retirement system on December 31, 1999, is reemployed and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The board shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's reemployment and ending upon the expiration of sixty days after the date of that reemployment. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the

defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.

3. An employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service.
4. After consultation with its actuary, the board shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the board receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

54-52.6-03. Transfer of accumulated fund balances. For an individual who elects to terminate membership in the public employees retirement system under chapter 54-52, the board shall transfer a lump sum amount from the retirement fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made under section 54-52.6-02 is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and benefits provided under that chapter. The board shall calculate the amount to be transferred for employees electing to transfer prior to January 1, 2000, using the two following formulas, and shall transfer the greater of the two amounts obtained:

1. The actuarial present value of the individual's accumulated benefit obligation under the public employees retirement system based on the assumption that the individual will retire under the earliest applicable normal retirement age, plus interest from January 1, 2000, to the date of transfer, at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election; or
2. The actual employer and employee contributions made pursuant to sections 54-52-05 and 54-52-06, plus interest at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election.

The board shall calculate the amount to be transferred for persons employed after December 31, 1999, using only the formula contained in subsection 2.

54-52.6-04. Administration. The board shall administer the defined contribution retirement plan established under this chapter and the board or vendors

contracted for by the board shall invest the assets of the plan. The board is the fiduciary and the trustee of the plan. The board has the exclusive authority and responsibility to employ or contract with personnel and for services that the board determines necessary for the proper administration of and investment of assets of the plan, including managerial, professional, legal, clerical, technical, and administrative personnel or services.

54-52.6-05. Direction of investments. Each participating member shall direct the investment of the individual's accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the board.

54-52.6-06. Administrative expenses - Continuing appropriation. The administrative expenses of the plan must be paid by the participating members in a manner determined by the board. The board or vendors contracted for by the board may charge reasonable administrative expenses and deduct those expenses from a participating member's account in the defined contribution retirement plan established under this chapter. The board shall place any money deducted in an administrative expenses account with the state treasurer. The board may also use funds from the payroll clearing account established pursuant to section 54-52.3-03 to pay for consulting expenses. All moneys in the payroll clearing account, not otherwise appropriated, or so much of the moneys as may be necessary, are appropriated to the board on a continuing basis for the purpose of retaining a consultant as required for the administration of this chapter.

54-52.6-07. Participation in other plans. A participating member may not participate in any other public sector retirement benefits plan for simultaneous service rendered to the same public sector employer. However, this section does not prohibit a participating member from participating in a retirement plan established by this state or other public sector employer under the federal Internal Revenue Code.

54-52.6-08. Credit of transfers. The board shall promptly credit the plan account of a participating member who makes an election under this chapter to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system.

54-52.6-09. Contributions - Penalty.

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter.
2. The employer shall contribute an amount equal to four and twelve hundredths percent of the monthly salary or wage of a participating member. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.

3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by December 1, 1999, and shall report its choice to the board in writing. The option chosen may not be revoked for the remainder of the biennium. Thereafter, the option choice must be forwarded to the board, in writing, by June fifteenth of each odd-numbered year.

54-52.6-10. Vesting. A participating member is immediately one hundred percent vested in that member's contributions made to that member's account under this chapter. A participating member vests in the employer contributions made on that member's behalf to an account under this chapter according to the following schedule:

1. Upon completion of two years of service, fifty percent.
2. Upon completion of three years of service, seventy-five percent.
3. Upon completion of four years of service, one hundred percent.

A participating member who was a member or deferred member of the public employees retirement system under chapter 54-52 who makes an election to participate in the defined contribution retirement plan pursuant to this chapter, must be credited with the years of service accrued under the public employees retirement system on the effective date of participation in the defined contribution retirement plan for the purpose of meeting vesting requirements for benefits under this section. Any forfeiture as a result of the failure of a participating member to vest in the employer contribution must be deposited in the administrative expenses account.

54-52.6-11. Refund beneficiaries. A participating or former participating member may nominate one or more individuals as a refund beneficiary by filing written notice of nomination with the board. If the participating member or former participating member is married at the time of the nomination and the participant's spouse is not the refund beneficiary for one hundred percent of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

54-52.6-12. Qualified domestic relations orders.

1. The board or a vendor contracted for by the board shall apportion a participating member's account in the defined contribution retirement plan under this chapter in accordance with the applicable requirements of any qualified domestic relations order. The board shall review a domestic relations order submitted to it to determine if the domestic relations order is qualified under this section and under rules adopted by the board for determining the qualified status of domestic relations orders, administering distributions, and apportioning accounts under the qualified orders. Upon determination of the domestic relations order as qualified, the board shall notify the participating member, the named alternate payee, and the vendor, if applicable, of its receipt of the qualified domestic relations order.
2. A "qualified domestic relations order" for purposes of this section means any judgment, decree, or order, including approval of a property settlement agreement, which relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child, or other dependent of a participating member, is made pursuant to a North Dakota domestic relations law, which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a part of a participating member's account in the defined contribution retirement plan under this chapter. A qualified domestic relations order may not require the board to provide any type or form of benefit, or any option, not otherwise allowed under this chapter. However, a qualified domestic relations order may require distribution from an account in the defined contribution retirement plan under this chapter notwithstanding that the participating member has not terminated eligible employment. A qualified domestic relations order must specify:
 - a. The name and last known mailing address of the participating member and the name of the mailing address of each alternate payee covered by the order;
 - b. The amount or percentage of the participating member's account to be paid to each alternate payee;
 - c. The number of payments or period to which the order applies; and
 - d. Each retirement plan to which the order applies.

54-52.6-13. Distributions.

1. A participating member is eligible to receive distribution of that person's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the accumulated balance of that deceased participant is considered to belong to the refund beneficiary, if any, of that deceased participant. If a valid nomination of refund beneficiary is not on file with the board, the board, in a lump sum distribution, shall distribute the accumulated balance to a legal representative, if any, of the deceased

participant or, if there is no legal representative, to the deceased participant's estate.

3. A deferred member or refund beneficiary may elect one or a combination of several of the following methods of distribution of the accumulated balance:
 - a. A lump sum distribution to the recipient.
 - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
 - c. Periodic distributions, as authorized by the board.
 - d. No current distribution, in which case the accumulated balance must remain in the plan until the deferred member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.

54-52.6-14. Disability benefits. The board shall provide a procedure whereby a participating member may use a portion of that person's account contributions under this chapter to purchase disability insurance.

54-52.6-15. Board to provide information. The board shall provide information to employees who are eligible to elect to become participating members under this chapter. The information must include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter. Notwithstanding any other provision of law, the board is not liable for any election or investment decision made by an employee based upon information provided to an employee under this chapter.

54-52.6-16. State income tax deductions. For the purposes of state income tax, the assessment imposed by this chapter on the employee must be treated in accordance with existing state statutes on state income tax.

54-52.6-17. Exemption from state premium tax. Premiums, consideration for annuities, and membership fees are exempt from premium taxes payable pursuant to section 26.1-03-17.

54-52.6-18. Savings clause. If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

54-52.6-19. Overpayments. The board has the right of setoff to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a participating member, deferred member, refund beneficiary, or other person who has a claim to a distribution or any other benefit from a plan governed by this chapter.

54-52.6-20. Correction of records. The board shall correct errors in the records and actions in plans under this chapter and shall seek to recover overpayments and shall seek to collect underpayments.

SECTION 6. APPROPRIATION. There is hereby appropriated out of any moneys in the administrative expense account under section 54-52.6-06 and the payroll clearing account under section 54-52.3-03, in the state treasury, not otherwise appropriated, the sum of \$197,000, or so much of the sum as may be necessary, to the public employees retirement system board for the purpose of administering this chapter, including consulting expenses, for the biennium beginning July 1, 1999, and ending June 30, 2001. The public employees retirement system board is authorized one additional full-time equivalent position to implement this Act.

Approved April 1, 1999

Filed April 2, 1999

CHAPTER 483

SENATE BILL NO. 2043

(Legislative Council)

(Information Technology Committee)

INFORMATION TECHNOLOGY DEPARTMENT

AN ACT to provide for the information technology department and transition of responsibilities to the department; to amend and reenact sections 15-65-02, 41-09-46, 54-16-11.1, 54-35-15, 54-44-11, 54-44.6-03, 54-44.8-01, 54-44.8-02, 54-44.8-03, 54-44.8-04, 54-44.8-05, 54-44.8-07, 54-44.8-08, 54-46-03, and 54-46.1-01 of the North Dakota Century Code, relating to references to the information services division, the information services operating fund, the legislative council, and the state records administrator; to repeal chapter 54-44.2 of the North Dakota Century Code, relating to the information services division; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in sections 1 through 16 of this Act:

1. "Agency" or "entity" does not include any agricultural commodity promotion group or any occupational or professional board.
2. "Department" means the information technology department.
3. "Information technology" means the use of hardware, software, services, and supporting infrastructure to manage and deliver information using voice, data, and video.
4. "Network services" means the equipment, software, and services necessary to transmit voice, data, or video.

SECTION 2. Information technology department - Responsibility. The information technology department is established with the responsibility for all wide area network services planning, selection, and implementation for all state agencies, including institutions under the control of the board of higher education, counties, cities, and school districts in this state. With respect to a county, city, or school district, wide area network services are those services necessary to transmit voice, data, or video outside the county, city, or school district. In exercising its powers and duties, the department is responsible for computer support services, host software development, statewide communications services, standards for providing information to other state agencies and the public through the internet, technology planning, process redesign, and quality assurance.

SECTION 3. Chief information officer of the state. The governor shall appoint the chief information officer of the state. The governor shall appoint the chief information officer on the basis of education, experience, and other qualifications in information technology and administration. The position of chief information officer is not a classified position. The chief information officer serves at the pleasure of the governor. The governor shall set the salary of the chief information officer within the limits of legislative appropriations.

SECTION 4. Duties of chief information officer. The chief information officer shall:

1. Administer the department.
2. Employ any personnel determined to be necessary to carry out the responsibilities of the department and duties as prescribed by law.
3. Fix the salaries of all employees within the department, within the limits of legislative appropriation. All personnel within the department are entitled to actual and necessary travel expenses at the same rate as for other employees of the state.

SECTION 5. Powers and duties of department. The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase or lease equipment or replace, including by trade or resale, equipment as may be necessary to carry out sections 1 through 16 of this Act. Each executive branch agency or institution, except the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
5. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
6. May request information on or review information technology, applications, system development projects, and application development projects of executive branch agencies.

7. Shall study emerging technology and evaluate its impact on the state's system of information technology.
8. Shall develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.
9. Shall review the information technology management of executive branch agencies or institutions, including institutions under the control of the board of higher education as provided in section 13 of this Act.
10. Shall perform all other duties necessary to carry out sections 1 through 16 of this Act.

SECTION 6. Business plan. The department shall develop and maintain a business plan. The business plan must:

1. Define the department's overall organization, mission, and delivery of services.
2. Define the strategies for improving personnel productivity and workflow processes of the department.
3. Determine how use of the statewide network will improve learning in the state.
4. Determine how the statewide networks can provide network services for the benefit of Indian tribes, nonprofit organizations, and noncommercial public television stations licensed by the federal communications commission to operate in this state.
5. Determine the specific strategies and processes to ensure that agencies share information, systems, and the statewide network.
6. Define the processes that will ensure that counties, cities, and school districts receive maximum benefit of the statewide network.
7. Define a fair and equitable billing structure that provides for payback of the initial investments and ongoing operations of the statewide network.
8. Address the processes that will be put in place to ensure that the department exercises its powers and duties with minimal delay, cost, and procedural burden to an entity receiving services from the department; to ensure that the department provides prompt, high-quality services to an entity receiving services from the department; to ensure that an entity receiving services from the department is aware of the technology available and to ensure training on its use; and to foster information technology innovation by state entities.
9. Address the deployment of encryption and the administration of digital signatures.
10. Address information and system backup and disaster recovery.

SECTION 7. Statewide wide area network advisory committee. The statewide wide area network committee consists of the chief information officer or the officer's designee, who is a nonvoting member; the state court administrator or the administrator's designee, with the approval of the chief justice of the supreme court; the commissioner of higher education or the commissioner's designee; and nine members appointed by the governor. The governor shall appoint two members representing state agencies, one member representing a county, one member representing a city, two members representing elementary and secondary education, one member representing noncommercial public television stations licensed by the federal communications commission to operate in this state, and two members from private industry who are knowledgeable in the deployment of major technology projects. The governor's appointees from private industry serve two-year terms, and other appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. The department shall provide staff services to the committee. Except for the commissioner of higher education and the representatives of state agencies who receive compensation for their duties as state officers or employees, members of the committee are entitled to be compensated for time spent in attendance at meetings of the committee and for other travel as approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per day and are entitled to reimbursement for their actual and necessary expenses incurred in the same manner as other state officials. The compensation and expenses are to be paid from appropriations for the department. The committee shall advise the department with respect to planning and implementation of wide area network services provided by the department.

SECTION 8. Required use of wide area network services. Each state agency and institution that desires access to wide area network services and each county, city, and school district that desires access to wide area network services to transmit voice, data, or video outside that county, city, or school district shall obtain those services from the department. The chief information officer may exempt from the application of this section a county, city, or school district that demonstrates its current wide area network services are more cost-effective for or more appropriate for the specific needs of that county, city, or school district than wide area network services available from the department. The chief information officer shall exempt from the application of this section a county, city, or school district that is under contract to receive wide area network services from an entity other than the department, for the term of that contract, but that political subdivision may not extend or renew that contract beyond July 31, 2001.

SECTION 9. Information technology standards. Based on information from state agencies and institutions, the department shall develop statewide information technology policies, standards, and guidelines. Unless an exemption is granted by the department, each executive branch state agency and institution, excluding the institutions under the control of the board of higher education with respect to academic and research uses of information technology, shall comply with the policies and standards developed by the department. Unless an exemption is granted by the department, each entity receiving wide area network services provided by the department shall comply with the policies and standards developed by the department with respect to access to or use of wide area network services.

SECTION 10. Information technology coordinators. Each agency or institution shall appoint an information technology coordinator. The coordinator shall maintain liaison with the department and assist the department in areas related to making the most economical use of information technology.

SECTION 11. Information technology plans. Each executive branch state agency or institution, including the institutions under the control of the board of higher education, shall prepare an information technology plan, subject to approval by the department. The plan must be submitted to the department by January fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the department; must provide the information technology goals, objectives, and activities of the entity for the current biennium and the next two bienniums; and must include a list of information technology assets owned, leased, or employed by the entity. Each entity required to file a plan shall provide interim updates to its plan if major information technology changes occur which affect its plan. The department shall review each entity's plan for compliance with statewide information technology policies and standards and may require an entity to change its plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology plans with the department by January fifteenth of each even-numbered year. Each state entity shall prepare its budget request for the next biennium based on its information technology plan. The agency's budget request and the governor's budget recommendation must include supporting information describing in detail how the information technology plan relates to the budget request and recommendation. Any budget adjustment by the budget office must include the corresponding change to the plan. Based on the plans, the department shall prepare a statewide information technology plan and distribute copies of that plan to members of the legislative assembly as requested by the legislative council or its designee. The statewide information technology plan must be developed with emphasis on long-term strategic goals and objectives. Any state agency or institution, county, city, school district, or other entity that uses the statewide network or is a user of services of the department shall file a plan that includes and identifies all requirements for voice, data, or video.

SECTION 12. Coordination of activities - Reports. The department shall cooperate with each state entity providing access to any computer data base or electronically filed or stored information under subsection 4 of section 44-04-18 to assist in providing economical, efficient, and compatible access. The chief information officer shall conduct conferences and meetings with political subdivisions to review and coordinate information technology. The chief information officer and the commissioner of the board of higher education shall meet at least twice each year to plan and coordinate their information technology. The chief information officer and commissioner shall consider areas in which joint or coordinated information technology may result in more efficient and effective state government operations. Upon request, the chief information officer shall report to the legislative council or its designated committee regarding the coordination of services with political subdivisions, and the chief information officer and commissioner shall report to the legislative council or its designated committee regarding their findings and recommendations.

SECTION 13. Compliance reviews. The department shall review the information technology management of executive branch state agencies and institutions, including the institutions under the control of the board of higher education, as determined by the chief information officer. The review must include an evaluation of the entity's planning effectiveness, conformance to its information technology plan, compliance with statewide policies and standards, asset quality, and training methods, and for an entity that contracts for information technology services, an analysis of the entity's contract management system and the contractor's compliance with contract provisions. If an agency or institution is found not to be in conformance to its plan or in compliance with statewide policies and standards and

does not agree to come into conformance or compliance, the department shall report the issue to the legislative council.

SECTION 14. Information technology operating account. The department shall establish a state information technology operating account in the state treasury to be used, in accordance with legislative appropriation, for procuring and maintaining information technology, network services, and central microfilm unit equipment and supplies, and for providing information technology, network services, and central microfilm unit services to state entities and network services to users of the state network. Unless exempted by law, each agency or institution provided with information technology or network services shall pay to the department the charges as determined by the department. The department shall deposit the amounts received in the information technology operating account or the information technology development account, as appropriate.

SECTION 15. Acceptance of funds. The department may accept federal or other funds, which must be deposited in the information technology operating account and which may be spent subject to legislative appropriation. The department may apply for any public or private grants available for the improvement of information technology.

SECTION 16. Confidentiality. The department may receive from various agencies and various agencies may provide to the department any information from the agencies necessary to effect the purposes of sections 1 through 16 of this Act without regard to the confidential nature of the information. The department is subject to the same restrictions and penalties regarding the dissemination of this information as the entity involved. Except for a request for access authorized by section 54-10-22.1, the department shall refer a request for access to or inspection of information provided by an agency to that agency for response. Referral to the agency satisfies any responsibility of the department to provide that information under open records requirements. Upon court order the department shall provide access to or inspection of this information in accordance with restrictions of that entity involved governing dissemination of that information.

SECTION 17. TRANSITION. The governor, director of the office of management and budget, and director of the information services division shall take appropriate actions before August 1, 1999, to ensure the transition of the information services division into the information technology department. Before October 15, 1999, the chief information officer shall develop the business plan for the department.

SECTION 18. AMENDMENT. Section 15-65-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15-65-02. Membership - Appointment - Term - No compensation - Expenses - Organization. The North Dakota educational telecommunications council consists of:

1. The commissioner of higher education or the commissioner's designee.
2. The superintendent of public instruction or the superintendent's designee.
3. The ~~director of the~~ chief information services division of the office of management and budget officer of the state.
4. A representative of the telephone industry, appointed by the governor.

5. A school board member, appointed by the governor.
6. A school administrator, appointed by the governor.
7. A schoolteacher, appointed by the governor.

The term of office of the appointed members is three years. At all times either the school board member or the school administrator must be from a school with an enrollment of fewer than five hundred students.

The members appointed by the governor must be reimbursed for actual necessary expenses incurred in the performance of their duties as members of the council at the same rates as provided by law for other state officers and employees. The costs incurred in reimbursing the members of the council for their actual necessary expenses must be paid by the superintendent of public instruction. The other members of the council are not entitled to any compensation or reimbursement for expenses incurred in performing their duties.

³⁰⁰ **SECTION 19. AMENDMENT.** Section 41-09-46 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

41-09-46. (9-407) Information from filing officer - Computerized central notice system - Secretary of state to compile lists for crops and livestock - Distribution of lists.

1. If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer upon request shall note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.
2. Upon request of any person, the filing officer shall issue a certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment and if there is, giving the date and hour of filing of each statement and the names and addresses of each secured party. The fee for this certificate is as provided by section 41-09-42. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a fee as provided by section 41-09-42.
3. The secretary of state shall develop and implement a computerized central notice system which must contain the information filed with the office of the secretary of state or with any of the offices of the registers of deeds in this state pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, and 41-09-40. The system must connect each register of deeds' office to the secretary of state's office through the information services division technology department. The system must allow access to financing statement information by equipment that conforms to requirements determined by the ~~information services~~

³⁰⁰ Section 41-09-46 was also amended by section 5 of House Bill No. 1180, chapter 313.

~~division~~ department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state. Within one working day of receipt of a financing statement, continuation statement, amendment, or termination statement filed pursuant to this chapter or a statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the register of deeds or secretary of state shall record the information contained in the statement in the computerized central notice system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. From the computerized central notice system, the secretary of state or a designee shall produce each month one list for crops and one list for livestock which contain the information as filed on the forms pursuant to section 41-09-40. The secretary of state shall also include the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The list must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form and on microfiche. Each list must conspicuously note its effective date.

4. The lists prepared pursuant to subsection 3 must be distributed monthly by mail at least five business days in advance of their effective date. If requested, the secretary of state shall mail the lists to any person making a request at a fee as provided in section 41-09-42.
5. Upon a verbal request of any person, the secretary of state or a designee or a register of deeds shall verbally provide information contained on the list generated through the computerized central notice system when the collateral is crops or livestock. The requesting party may request a certificate from the secretary of state or the register of deeds and the secretary of state or the register of deeds shall confirm the information given. Direct computer access is equivalent to oral confirmation and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central notice system to lose its federal certification. The fee for a verbal request and such a certificate must be as provided by section 41-09-42.
6. A computer printout from the computerized central notice system constitutes the certificate of the secretary of state or the register of deeds as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

SECTION 20. AMENDMENT. Section 54-16-11.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-16-11.1. Emergency commission may increase revenues and appropriation authority for intergovernmental service fund agencies. Upon presentation of the verified petition under section 54-16-10, the emergency commission shall meet to determine if additional demand from state agencies requires an increase in appropriation authority and revenue receipts for the information ~~services division~~ technology department, central duplicating, surplus property, or roughrider

industries division of the department of corrections and rehabilitation; ~~or central microfilm.~~

SECTION 21. AMENDMENT. Section 54-35-15 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-35-15. Information technology program - Staff - Powers and duties.

1. The legislative council, or its designee, shall provide information technology research and staff services to the legislative branch. The services must be provided in accordance with the existing statutory authority of the legislative council and within the framework of its other staff services.
2. The legislative council staff office shall provide information technology services, and the council, or its designee, may hire such additional staff as are necessary, and set compensation for any additional staff within the limits of legislative appropriations.
3. The council, or its designee, shall structure the provision of information technology services and assistance to the legislative assembly; and shall receive such cooperation and assistance from other state agencies as it may reasonably request.
4. ~~The council, or its designee, shall study emerging technology and evaluate its impact on the state's system of information technology, and report and make recommendations to the legislative council and the legislative assembly regarding information technology in state government.~~
5. ~~The council, or its designee, shall develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.~~
6. ~~The council, or its designee, shall review the information technology management of executive branch agencies, institutions, or departments, institutions under the control of the board of higher education, and agencies of the judicial and legislative branches as determined necessary by the council or its designee.~~
7. ~~The council, or its designee, shall perform information systems reviews and audits of information technology systems or applications of executive branch state agencies, institutions, and departments, institutions under the control of the state board of higher education, and agencies of the judicial and legislative branches, as determined necessary by the council, or its designee. The reviews and audits may include evaluating compliance with system or application requirements, data integrity, security, controls, audit trails, backup and recovery methods, and the effectiveness and appropriateness of the system in achieving its intended purpose, as applicable.~~
8. The council, or its designee, shall monitor the implementation of information technology systems development projects and application development projects for conformance with the agency's strategic plan

and compliance with statewide policies and standards as determined necessary by the council, or its designee, and report any nonconformance or noncompliance discovered to the council or its designated committee.

9. As used in this section, "information technology" means computing and data communications systems and their supporting infrastructure used in the acquisition, processing, management, analysis, storage, and delivery of information.

³⁰¹ **SECTION 22. AMENDMENT.** Section 54-44-11 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44-11. Office's operating funds creation - Continuing appropriation.

1. The office of management and budget shall establish a state purchasing operating fund to be used for the procurement and maintenance of an inventory of equipment and supplies for the state departments and agencies. Funds in the state purchasing operating fund are hereby appropriated on a continuing basis and may be spent by the office of management and budget for the procurement and maintenance of an inventory of equipment and supplies as provided in this subsection. The director of the office of management and budget shall transfer any unobligated balance in the fund, in excess of one hundred twenty-five thousand dollars, to the state general fund at the end of each fiscal year.
2. The office of management and budget shall establish a state printing operating fund to be used for the procurement and maintenance of an inventory of printing equipment and supplies for the state departments and agencies.
3. ~~The office of management and budget shall establish a state information services operating fund to be used for the procurement and maintenance of data processing equipment and supplies, telecommunications equipment and supplies, and central microfilm unit equipment and supplies, and for providing data processing, telecommunication, and central microfilm unit services to state departments and agencies.~~
4. The office of management and budget shall establish a state personnel training and development operating fund to be used for the coordination of employee training and career development data, supplies, equipment, and services and for providing or arranging necessary training and development programs to state departments and agencies. Any surplus in this fund in excess of twenty-five thousand dollars on June thirtieth of each year must be transferred to the state general fund.
5. 4. Each office, agency, or institution provided with printing, ~~information services,~~ or personnel training services, unless exempted by law, shall pay to the office of management and budget a proportionate share of the cost of such service as determined by the director of the office of

³⁰¹ Section 54-44-11 was also amended by section 1 of Senate Bill No. 2111, chapter 470.

management and budget, based on actual costs and actual usage. The amounts paid to the office of management and budget by the various offices, agencies, and institutions must be deposited in the appropriate operating fund and must be expended in accordance with legislative appropriations.

SECTION 23. AMENDMENT. Section 54-44.6-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.6-03. State forms manager. The ~~director of the office of management and budget or an individual designated by the director~~ chief information officer of the state shall serve as the state forms manager. The manager shall administer in the executive branch of state government the forms management program established by this chapter. The program must apply efficient and economical management methods to the creation and utilization of state forms.

³⁰² **SECTION 24. AMENDMENT.** Section 54-44.8-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the individual employed by the ~~division~~ chief information officer of the state to oversee administration of the program.
2. "Commission" means the public service commission.
3. "Communications impaired" means the condition of an individual who is deaf, hearing impaired, or speech impaired.
4. "~~Division~~ Department" means the information ~~services division of the office of management and budget~~ technology department.
5. "Local exchange company" means a telecommunications company that provides telephone access lines to members of the general public who are its customers.
6. "Program" means the program established under section 54-44.8-03.
7. "Radio communications access" means the radio access between a customer of a radio communications service provider and the provider.
8. "Radio communications service provider" means a telecommunications company that provides radio communication service or cellular service to members of the general public who are its customers.
9. "Specialized telecommunications equipment" means a device that, when connected to a telephone, enables or assists a person who is communications impaired to communicate with another person utilizing

³⁰² Section 54-44.8-01 was also amended by section 1 of House Bill No. 1122, chapter 476.

the telephone network. The term may include telecommunications devices for the deaf, amplifiers, and signaling devices.

10. "Telecommunications relay service" means a statewide service through which a communications-impaired individual, using specialized telecommunications equipment, may send and receive messages to and from a noncommunications-impaired individual whose telephone is not equipped with specialized telecommunications equipment and through which a noncommunications-impaired individual, by using voice communication, may send and receive messages to and from a communications-impaired individual.
11. "Telephone access line" means the facilities between a serving central office and the customer of a local exchange company which are required to provide access to the local and toll network.

SECTION 25. AMENDMENT. Section 54-44.8-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-02. Responsibilities of the administrator. The administrator shall oversee the ~~division's~~ department's administration of the program. The administrator shall:

1. Review and recommend policies and procedures governing administration of the program and ensure the program is in compliance with any applicable state or federal law or rule;
2. Prepare a budget for administration of services under the program;
3. Monitor the expenditures of funds for the program;
4. Monitor the quality of the program and the satisfaction of the users; and
5. Perform any other duties necessary to oversee administration of the program.

³⁰³ **SECTION 26. AMENDMENT.** Section 54-44.8-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-03. Program established - Purpose.

1. The ~~division~~ department shall establish and administer a program to provide telecommunications relay service to persons who are communications impaired.
2. The program shall provide a telecommunications relay service to allow persons who are communications impaired to communicate via the telecommunications network with noncommunications-impaired persons.

³⁰³ Section 54-44.8-03 was also amended by section 2 of House Bill No. 1122, chapter 476.

3. The vocational rehabilitation division of the department of human services shall furnish specialized telecommunications equipment to meet the needs of individuals who are communications impaired and who might be otherwise disadvantaged in their ability to obtain such equipment. The vocational rehabilitation division shall determine eligibility and may provide the specialized telecommunications equipment to individuals determined eligible within the limits of funding made available to the vocational rehabilitation division through gifts and grants received under section 54-44.8-06 and from funding made available by the ~~information services division~~ technology department from the surcharge collected pursuant to section 54-44.8-08, which are ~~hereby~~ appropriated.

SECTION 27. AMENDMENT. Section 54-44.8-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-04. Responsibilities of the ~~division~~ department. The ~~division~~ department shall:

1. Develop rules, policies, and procedures, as may be necessary, to govern administration of the program.
2. Implement the telecommunications relay service as described in subsection 2 of section 54-44.8-03 by July 26, 1993, to the extent funds generated by the surcharge described in section 54-44.8-10 are available.
3. Perform any other duties necessary to properly administer the program.

SECTION 28. AMENDMENT. Section 54-44.8-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-05. Telecommunications relay service - Requirements.

1. The ~~division~~ department shall contract with a qualified provider to design and implement a telecommunications relay service that fulfills the requirement of subsection 2 of section 54-44.8-03. The ~~division~~ department shall award the contract for this service to the offeror whose proposal is the most advantageous to the state; considering price, the interests of the communications-impaired community in having access to a high quality and technologically advanced telecommunications system, and all other factors listed in the request for proposals.
2. Except in cases of willful misconduct, gross negligence, or bad faith, neither the ~~division~~ department nor the provider of the telecommunications relay service, nor the employees of the provider, are liable for any damages or claims for relief arising out of or resulting from the establishment of, participation in, or operation of the telecommunications relay service.
3. The ~~division~~ department shall require, under the terms of the contract, that:
 - a. The service be available statewide for operation seven days a week, twenty-four hours per day, including holidays, for both interstate and intrastate calls.

- b. The service relay all messages promptly and accurately.
- c. The service maintain the privacy of persons using the system.
- d. The provider preserve the confidentiality of all telephone communications.
- e. The service conform to any standards established by applicable state or federal laws or rules.

SECTION 29. AMENDMENT. Section 54-44.8-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-07. Telecommunications services account for the communications impaired. The telecommunications services account for the communications impaired consists of all surcharges billed and collected pursuant to section 54-44.8-08. Subject to legislative appropriation, the ~~division~~ department may expend moneys from the account for purposes of implementing this chapter.

SECTION 30. AMENDMENT. Section 54-44.8-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.8-08. Telephone access line and radio communications access surcharge.

1. Before May first of each year, the ~~division~~ department shall report all cost data and other information to the commission. Each local exchange company and radio communications service provider shall report all information requested by the ~~division~~ department in order to determine the number of telephone access lines and radio communications access service numbers. Before June first of each year, the commission shall determine the amount of a surcharge, not to exceed eleven cents per telephone access line per month, based upon available cost data and other information provided by the ~~division~~ department necessary to cover the costs of providing intrastate telecommunications relay service as provided in section 401 of the federal Americans with Disabilities Act of 1990 [47 U.S.C. 225], including the cost of implementing and administering this chapter which includes the provision of specialized equipment to eligible persons, and taking into consideration any surplus in the telecommunications services account. The surcharge is imposed effective on its determination by the commission and must be billed and collected as provided in this chapter. The surcharge is subject to section 49-21-01.3. Funding for the interstate portion of the state telecommunications relay service must be provided in a manner consistent with rules and orders adopted by the federal communications commission in implementing the federal Americans with Disabilities Act. The ~~division~~ department shall notify each local exchange company and radio communications service provider, in writing, of the amount of the monthly surcharge determined by the commission.
2. Each local exchange company and radio communications service provider shall include and identify the surcharge determined under subsection 1 in its monthly billing for service to a customer of the company or provider.

3. Each customer of a local exchange company or radio communications service provider is liable for payment to the local exchange company or radio communications service provider of any surcharge imposed pursuant to this chapter. The local exchange company or radio communications service provider is not liable for any uncollected surcharge, nor does the company have an obligation to take any legal action to enforce the collection of any surcharge that is unpaid by its customers.
4. No customer of a local exchange company may be required to pay the surcharge on more than one hundred telephone access lines per account and no customer of a radio communications service provider may be required to pay the surcharge on more than one hundred radio communications access service numbers per account in this state.
5. Except as provided in subsection 6, a local exchange company or radio communications service provider shall transmit all surcharges billed and collected to the ~~division~~ department no later than the last day of the month following the end of the calendar quarter in which the surcharge is collected. The administrator shall remit the surcharges received to the state treasurer. The state treasurer shall deposit all surcharges received in the state treasury to the credit of the telecommunications services account for the communications impaired.
6. Each local exchange company or radio communications service provider may deduct and retain five percent of the total surcharges billed and collected each month to cover its administrative expense in complying with the requirements of subsections 2, 3, 4, and 5.

SECTION 31. AMENDMENT. Section 54-46-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-46-03. State records administrator. The ~~director~~ chief information officer of the ~~office of management and budget state~~ or an individual designated by the ~~director~~ chief information officer shall serve as the state records administrator, in this chapter referred to as the administrator. The administrator shall establish and administer in the executive branch of state government a records management program, which will apply efficient and economical management methods to the creation, utilization, maintenance, retention, and final disposition of state records.

³⁰⁴ **SECTION 32. AMENDMENT.** Section 54-46.1-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-46.1-01. Central microfilm unit. The state records administrator shall establish and maintain a central microfilm unit and microfilm any record of any state office, agency, or department in either the executive, legislative, or judicial branch of state government, if the administrator determines the cost of such microfilming is reasonable in relation to the record's historical significance or the frequency and type of use of the record. Each office, agency, and department shall reimburse the central microfilm unit for the actual costs incurred in microfilming its

³⁰⁴ Section 54-46.1-01 was also amended by section 1 of Senate Bill No. 2411, chapter 477.

records. The administrator shall deposit moneys received under this section in the information ~~services~~ technology operating ~~fund~~ account. The administrator shall employ professional, technical, and clerical personnel as the administrator determines to be necessary to carry out the duties prescribed in this chapter and, within the limits of the legislative appropriation, shall fix the salaries of all employees within the central microfilm unit. All personnel within the central microfilm unit must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state. The administrator may perform microfilm services for any state institution and for any county, when the institution or county requests such services and the administrator agrees that the request is consistent with good records management practices.

SECTION 33. REPEAL. Chapter 54-44.2 of the North Dakota Century Code is repealed.

SECTION 34. EFFECTIVE DATE. Sections 2 and 8 take effect as provided in this section. Notwithstanding section 33, until July 1, 2000, state agencies and institutions shall continue to receive wide area network services from the department under the conditions and requirements the agencies and institutions received wide area network services from the division before August 1, 1999. With respect to state agencies and institutions, sections 2 and 8 become effective July 1, 2000, and with respect to counties, cities, and school districts, sections 2 and 8 become effective August 1, 2001.

SECTION 35. DEPARTMENT AUTHORIZATION. The information technology department may employ a business analyst to perform its responsibilities under this Act, including development of the requests for proposals for the statewide network to be established under this Act.

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