

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1034

Introduced by

Legislative Council

(Budget Committee on Agriculture and Information Services)

(Representative Byerly)

(Senators Robinson, C. Nelson)

1 A BILL for an Act to create and enact a new section to chapter 54-10, a new subsection to
2 section 54-10-01, and four new sections to chapter 54-44.2 of the North Dakota Century Code,
3 relating to information technology systems reviews by the state auditor and information
4 technology planning, standards setting, and reviews by the information services division; to
5 amend and reenact sections 54-44.2-00.1, 54-44.2-01, 54-44.2-02, 54-44.2-04, 54-44.2-06,
6 54-44.2-07, and 54-44.2-08 of the North Dakota Century Code, relating to duties and
7 responsibilities of the information services division; and to repeal sections 54-44.2-02.1,
8 54-44.2-02.2, 54-44.2-02.3, 54-44.2-02.4, and 54-44.2-02.5 of the North Dakota Century Code,
9 relating to duties and responsibilities of the information services division.

10 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 **SECTION 1.** A new section to chapter 54-10 of the North Dakota Century Code is
12 created and enacted as follows:

13 **Information technology defined.** As used in this chapter, "information technology"
14 means computing and data communications systems and their supporting infrastructure used in
15 the acquisition, processing, management, analysis, storage, and delivery of information.

16 **SECTION 2.** A new subsection to section 54-10-01 of the North Dakota Century Code
17 is created and enacted as follows:

18 Perform or provide for information systems audits of information technology
19 systems or applications as determined necessary by the state auditor. An
20 information systems audit should include an evaluation of compliance with system
21 or application requirements, data integrity, security, controls, audit trails, backup
22 and recovery methods, and the effectiveness and appropriateness of the system in
23 achieving its intended purpose, as applicable.

1 **SECTION 3.** Four new sections to chapter 54-44.2 of the North Dakota Century Code
2 are created and enacted as follows:

3 **Information technology standards.** The information services division, based on input
4 from state agencies, institutions, and departments, shall develop statewide information
5 technology policies, standards, and guidelines. Unless an exception is granted by the
6 information services division, each executive branch state agency, institution, or department,
7 except the institutions under the control of the board of higher education, shall comply with the
8 policies and standards developed by the information services division.

9 **Information technology planning.** Each executive branch state agency, institution, or
10 department, except the institutions under the control of the board of higher education, shall
11 prepare an information technology strategic plan, subject to approval by the information
12 services division. The plan must be submitted to the information services division by January
13 fifteenth of each even-numbered year. The plan must be prepared based on guidelines
14 developed by the information services division and must provide the information technology
15 goals, objectives, and activities of the organization for the next five years. Each agency,
16 institution, or department shall provide interim updates to its plan if major information
17 technology changes occur which affect its plan. The information services division shall review
18 each agency, institution, or department's strategic plan for compliance with statewide
19 information technology policies and standards and may require an agency, institution, or
20 department to change its strategic plan to comply with statewide policies or standards or to
21 resolve conflicting directions among plans. Based on the plans prepared by agencies,
22 institutions, and departments, the information services division shall prepare a statewide
23 information technology strategic plan and distribute copies of that plan to members of the
24 legislative assembly.

25 **Information technology coordination - Report to legislative council.** The director of
26 the information services division and the commissioner of the board of higher education shall
27 meet at least twice each year to plan and coordinate their information technology systems and
28 services. The director and commissioner shall consider areas in which joint or coordinated
29 information technology systems and services may result in more efficient and effective state
30 government operations. The director and commissioner shall report their findings and

1 recommendations to the legislative council or its designated committee before November of
2 each even-numbered year.

3 **Information technology management reviews - Report to legislative audit and**
4 **fiscal review committee.** The information services division shall review the information
5 technology management of executive branch state agencies, institutions, or departments,
6 except the institutions under the control of the board of higher education, as determined by the
7 director of the information services division. The review must include an evaluation of the
8 organization's planning effectiveness, conformance to its strategic plan, compliance with
9 statewide policies and standards, asset quality, and training methods, and for an organization
10 that contracts for information technology services, an analysis of the organization's contract
11 management system and the contractor's compliance with contract provisions. If an agency,
12 institution, or department is found not to be in compliance with statewide policies and standards
13 and does not agree to come into compliance, the information services division may report the
14 issue to the legislative audit and fiscal review committee. The information services division
15 shall report recurring issues of noncompliance to the legislative audit and fiscal review
16 committee.

17 **SECTION 4. AMENDMENT.** Section 54-44.2-00.1 of the North Dakota Century Code
18 is amended and reenacted as follows:

19 **54-44.2-00.1. Definitions.** As used in this chapter:

- 20 1. ~~"Data processing" or "electronic data processing" means the systematic~~
21 ~~sequencing of operations performed by data processing equipment or programs, or~~
22 ~~both, upon data stored or entered in alphabetic, numeric, or alphanumeric format.~~
23 "Information technology" means computing and data communications systems and
24 their supporting infrastructure used in the acquisition, processing, management,
25 analysis, storage, and delivery of information.
- 26 2. ~~"Data processing equipment" means an electronic device or associated devices,~~
27 ~~except calculators and stand-alone noncommunicating word processors, which~~
28 ~~perform logical, arithmetic, and memory functions by the manipulation of electronic~~
29 ~~or magnetic impulses and includes all compiling and related input, output, and~~
30 ~~storage, equipment, programs and procedures, and data processing~~
31 ~~communications facilities.~~ "Information technology services" means the

equipment, software, and services necessary for the acquisition, processing,
management, analysis, storage, and delivery of information.

3. ~~"Telecommunications" means the electronic exchange of voice, data, image, and~~
~~video information.~~ "Telephone services" means the equipment, software, and
services necessary to transmit voice, data, or video through the public telephone
network.

4. ~~"Transmission facilities" means terrestrial lines, and microwave, lightwave, and~~
~~satellite facilities.~~

5. ~~"Word processing" means the textual formatting, correcting, editing, and~~
~~rearranging of language elements, designed to convey full messages in English~~
~~syntax, through manipulation of electronic or magnetic impulses. "Word~~
~~processors" are devices on which word processing can be carried out.~~

SECTION 5. AMENDMENT. Section 54-44.2-01 of the 1995 Supplement to the North
Dakota Century Code is amended and reenacted as follows:

54-44.2-01. Information services division - Creation. The information services
division is established in the office of management and budget. The director of the office of
management and budget shall appoint a director of the information services division. The
director of the information services division shall supervise and regulate ~~electronic data~~
~~processing activities~~ the information technology of all executive branch state agencies,
institutions, departments, and boards, except the ~~job service North Dakota and the office of the~~
~~adjutant general~~ institutions under the control of the board of higher education. ~~The division~~
~~shall establish an electronic data processing center which must, unless excepted by the~~
~~director, be used by all executive branch state agencies, departments, and institutions except~~
~~the institutions under the control of the board of higher education, the job service North Dakota,~~
~~and the office of the adjutant general. The division shall provide data processing services to the~~
~~legislative and judicial branches of government. If the division is unable to fulfill a request for~~
~~service from the legislative or judicial branch of government, the service may be procured by~~
~~the legislative or judicial branch within the limits of legislative appropriations.~~

The director of the information services division must be appointed upon the basis of
education, experience, and other qualifications in data processing information technology and
administration. ~~The position of director is not a classified position and the director, without~~

1 reference to partisan politics, and must serve at the pleasure of the director of the office of
2 management and budget. The director of the information services division shall employ such
3 other professional, technical, and clerical personnel as the director determines to be necessary
4 to carry out the duties prescribed in this chapter and ~~shall~~, within the limits of the legislative
5 appropriation, shall fix the salaries of all employees within the division. All personnel within the
6 division must be allowed their actual and necessary travel expenses at the same rate as for
7 other employees of the state.

8 **SECTION 6. AMENDMENT.** Section 54-44.2-02 of the 1995 Supplement to the North
9 Dakota Century Code is amended and reenacted as follows:

10 **54-44.2-02. Information services division - Powers and duties.** The information
11 services division shall:

- 12 1. ~~Provide systems design, programming, and other data processing information~~
13 technology services.
- 14 2. ~~Design, plan, justify, and implement all data processing systems within and~~
15 ~~between state agencies that utilize the services of the division. Provide telephone~~
16 services.
- 17 3. Have the authority to purchase or lease ~~such additional~~ equipment or replace,
18 including by trade or resale, present equipment as may be necessary to carry out
19 this chapter. Each executive branch department, agency, or institution, except the
20 institutions under the control of the board of higher education, ~~the job service North~~
21 ~~Dakota, and the office of adjutant general,~~ shall submit to the ~~director of the~~
22 information services division for approval or disapproval, in accordance with
23 guidelines established by the division, a written request for ~~data processing~~
24 ~~services that require new data processing applications. A request must also be~~
25 ~~submitted for modifications to existing data processing applications which are~~
26 ~~expected to increase the cost of operating such data processing applications by~~
27 ~~more than fifteen percent. The director may approve or disapprove the lease,~~
28 purchase, or other contractual acquisition of ~~additional or new electronic data~~
29 processing information technology services or equipment by executive branch
30 ~~agencies, except the institutions under the control of the board of higher education,~~
31 ~~the job service North Dakota, and the office of adjutant general. The director may~~

1 ~~authorize a user agency to house and operate electronic data processing~~
2 ~~equipment. The information services division shall review requests for~~
3 ~~conformance with the requesting organization's strategic plan and compliance with~~
4 ~~statewide policies and standards. If the request is not in conformance or~~
5 ~~compliance, the information services division may disapprove the request or~~
6 ~~require justification for the departure from the strategic plan or statewide policy or~~
7 ~~standard.~~

- 8 4. Provide ~~data processing~~ information technology services, including assistance and
9 advisory service to the legislative, executive, and judicial branches. If the division
10 is unable to fulfill a request for service from the legislative or judicial branch, the
11 service may be procured by the legislative or judicial branch within the limits of
12 legislative appropriations.

- 13 5. ~~Establish and justify data processing activities and costs in order that effectiveness~~
14 ~~can be measured.~~

- 15 6. ~~Establish a data bank to eliminate the duplicate storage of common data and~~
16 ~~thereby develop more economical and efficient use of the data processing system.~~
17 ~~The data bank must consist of data, except where data is restricted from such use~~
18 ~~by law and such confidentiality cannot be reasonably maintained in the data bank,~~
19 ~~contained within the files of all agencies, departments, and institutions being~~
20 ~~provided services by the division. If the data bank contains data of use to other~~
21 ~~departments, agencies, and institutions, the data may be made available to such~~
22 ~~departments, agencies, and institutions after notice has been given to the agency,~~
23 ~~department, or institution from which the data was originally received.~~

- 24 7. ~~Analyze proposals for executive branch agency word processing equipment and~~
25 ~~facility acquisitions and make such comments and recommendations as it may~~
26 ~~believe necessary so that such equipment and facilities will be compatible with~~
27 ~~electronic data processing equipment and programs under the supervision of the~~
28 ~~division. The office of management and budget may not approve vouchers for~~
29 ~~acquisition of word processing equipment and facilities by executive branch~~
30 ~~agencies unless the vouchers have attached to them the division's comments and~~
31 ~~recommendations.~~

8- ~~Conduct conferences and meetings with various state agencies, departments, institutions, and political subdivisions to review proposals and provide information on improving telecommunications and transmission facilities in government and coordinate information technology services.~~

9- ~~Implement improvements in the state telecommunications and transmission facilities as are feasible and within the limitations of appropriated funds.~~

10- ~~Adopt any rules determined to be necessary to establish standard procedures and practices in the development and use of telecommunications and transmission facilities provided by the division.~~

11- ~~Provide advice, general guidelines, and information to political subdivisions on the compatibility and interactive capacity of computers and other electronic information systems with the goal of developing a statewide compatible electronic communications network by 1996.~~

12- 6. Have authority to request information on or review information technology systems, applications, system development projects, and application development projects of executive branch departments, agencies, and institutions.

7. Perform all other duties necessary to carry out this chapter.

SECTION 7. AMENDMENT. Section 54-44.2-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44.2-04. Appointment of ~~data processing~~ information technology coordinators. Each agency, department, or institution ~~of this state utilizing the services and equipment provided by the information services division~~ shall appoint an ~~electronic data processing~~ information technology coordinator. The coordinator shall maintain liaison with the division and assist the division in ~~such activities as the establishment of priorities, rescheduling, reports~~ developing formats and guidelines for strategic plans, developing statewide policies, standards, and guidelines for information technology, and other areas related to making the most economical use of the data processing services and equipment information technology.

SECTION 8. AMENDMENT. Section 54-44.2-06 of the North Dakota Century Code is amended and reenacted as follows:

54-44.2-06. ~~Secrecy provision~~ Confidentiality. The personnel of the information services division may receive from ~~the various departments, and the employees of the various~~

1 departments may provide to the division, any information from the files and records of the
2 ~~various~~ departments necessary to effect the purposes of this chapter without regard to the
3 confidential ~~or secret~~ nature of the information; provided, however, the ~~personnel of the~~ division
4 ~~are~~ is subject to the same restrictions and penalties regarding the dissemination of this
5 information as ~~are the personnel of~~ the department involved.

6 **SECTION 9. AMENDMENT.** Section 54-44.2-07 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-44.2-07. Acceptance of federal and other funds.** ~~Funds received by a state~~
9 ~~agency or institution from the government of the United States for the purpose of matching state~~
10 ~~funds for the purpose of improving normal or emergency telecommunication systems may be~~
11 ~~deposited in the information services operating fund, unless the funds have been specifically~~
12 ~~appropriated by the legislative assembly for some other purpose or unless transfer would be~~
13 ~~contrary to the federal regulations governing the grant. The information services division may~~
14 accept federal or other funds which must be deposited in the information services operating
15 fund and which may be spent subject to legislative appropriations. ~~The director of the~~
16 information services division may apply for any public or private grants available for the
17 improvement of ~~telecommunication systems~~ information technology.

18 **SECTION 10. AMENDMENT.** Section 54-44.2-08 of the 1995 Supplement of the North
19 Dakota Century Code is amended and reenacted as follows:

20 **54-44.2-08. Access to electronically stored information - Coordination by**
21 **information services division.** An entity of the state may establish procedures for providing
22 access to any computer data base or electronically filed or stored information maintained by
23 that entity. The procedures must address the measures that are necessary to maintain the
24 confidentiality of information protected by federal or state law. The entity may charge a
25 reasonable fee for providing that access. ~~If the original information is keyed, entered, provided,~~
26 ~~compiled, or submitted by any political subdivision, the fees must be shared by the state and~~
27 ~~the political subdivision based on their proportional costs to make the data available.~~ The
28 information services division shall cooperate with each state entity providing access to any
29 computer data base or electronically filed or stored information to assist in providing
30 economical, efficient, and compatible access.

- 1 **SECTION 11. REPEAL.** Sections 54-44.2-02.1, 54-44.2-02.2, 54-44.2-02.3, and
- 2 54-44.2-02.4 of the North Dakota Century Code and section 54-44.2-02.5 of the 1995
- 3 Supplement to the North Dakota Century Code are repealed.