

**SECOND ENGROSSMENT
with Senate Amendments**

Fifty-fifth
Legislative Assembly
of North Dakota

REENGROSSED 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 four new sections to chapter 54-44.2 of the North Dakota
2 Century Code, relating to information technology planning, standards, setting, and reviews by
3 the information services division; to amend and reenact sections 15-65-01, 15-65-02, 15-65-03,
4 15-65-06, 54-35-15, 54-44.2-00.1, 54-44.2-01, 54-44.2-02, 54-44.2-04, 54-44.2-06, 54-44.2-07,
5 and 54-44.2-08 of the North Dakota Century Code, relating to the educational
6 telecommunications council, information technology responsibilities of the legislative council,
7 and duties and responsibilities of the information services division; to repeal sections 15-65-04,
8 54-44.2-02.1, 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
9 Century Code, relating to the educational telecommunications council and duties and
10 responsibilities of the information services division; and to provide an appropriation.

11 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

12 **SECTION 1. AMENDMENT.** Section 15-65-01 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **15-65-01. North Dakota educational telecommunications council - Creation -**
15 **Purpose.** The North Dakota educational telecommunications council shall encourage and
16 ~~direct promote the creation of educational telecommunication programs and~~ use of technology
17 for educational purposes and the development of technology systems to improve educational
18 opportunity within the state.

19 **SECTION 2. AMENDMENT.** Section 15-65-02 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **15-65-02. Membership - Appointment - Term - No compensation - Expenses -**

22 **Organization.** The North Dakota educational telecommunications council consists of:

- 23 1. The commissioner of higher education or the commissioner's designee.
24 2. The superintendent of public instruction or the superintendent's designee.

1 3. ~~One citizen member appointed by the governor giving preference to users of a~~
2 telecommunications system.

3 4. The director of the information services division of the office of management and
4 budget.

5 5. ~~A representative of prairie public broadcasting, appointed by the governor.~~

6 6- 4. A representative of the telephone industry, appointed by the governor.

7 7. ~~A representative of the North Dakota association of telephone cooperatives,~~
8 ~~appointed by the governor.~~

9 8. ~~A representative of the North Dakota cable television association, appointed by the~~
10 ~~governor.~~

11 9- 5. A school board member, appointed by the governor.

12 10- 6. A school administrator, appointed by the governor.

13 14- 7. A schoolteacher, appointed by the governor.

14 The term of office of the appointed members is three years, ~~except that of the original~~
15 ~~appointees, three shall serve one year, three shall serve two years, and two shall serve three~~
16 ~~years, which appointees to be determined by lot.~~ At all times either the school board member
17 or the school administrator must be from a school with an enrollment of ~~less~~ fewer than five
18 hundred students.

19 The ~~two citizen members, the school board member, the school administrator, and the~~
20 ~~schoolteacher~~ appointed by the governor must be reimbursed for actual necessary expenses
21 incurred in the performance of their duties as members of the council at the same rates as
22 provided by law for other state officers and employees. The costs incurred in reimbursing the
23 ~~two citizen~~ members of the council for their actual necessary expenses must be paid by the
24 superintendent of public instruction. The other members of the council are not entitled to any
25 compensation or reimbursement for expenses incurred in performing their duties. ~~The~~
26 ~~superintendent of public instruction shall call the initial meeting of the council at which time the~~
27 ~~council shall elect its chairman and other officers and take such other action as it deems~~
28 ~~appropriate.~~

29 **SECTION 3. AMENDMENT.** Section 15-65-03 of the North Dakota Century Code is
30 amended and reenacted as follows:

31 **15-65-03. Powers and duties.** The council shall:

- 1 1. ~~Direct the implementation of telecommunication systems that are compatible and~~
2 ~~that can be connected with each other.~~ Promote the use of technology and the
3 development of technology systems to enhance educational opportunities within
4 the state.
- 5 2. ~~Develop a comprehensive written plan for the development of telecommunications~~
6 ~~in this state.~~ Cooperate with state agencies and other organizations to develop
7 statewide educational technology systems.
- 8 3. ~~Be concerned with the development and use of statewide educational~~
9 ~~telecommunication programs and systems.~~
- 10 4. ~~Hold coordinating authority for the development of such statewide educational~~
11 ~~telecommunication programs and systems as may be required to serve the entire~~
12 ~~state.~~
- 13 5. ~~Assist any organization, state agencies, or both in the preparation, filing, and~~
14 ~~prosecution before federal agencies such applications, reports, or other documents~~
15 ~~or requests of any kind that may be necessary or appropriate to achieve the~~
16 ~~purposes of this chapter.~~
- 17 6. ~~Receive gifts and contributions from public and private sources to be expended to~~
18 ~~provide educational telecommunication programs and systems.~~
- 19 7. ~~Be concerned with the activation of educational broadcasting channels presently~~
20 ~~assigned to North Dakota, or the reallocation or addition of the channels, or both,~~
21 ~~as are determined to be in the best interests of the people of the state.~~
- 22 8. ~~Actively cooperate with the state department of public instruction and the state~~
23 ~~board of higher education and other agencies and private organizations for the~~
24 ~~purpose of developing statewide educational telecommunication projects.~~
- 25 9. ~~Adopt bylaws for the conduct of its affairs.~~
- 26 40. 4. ~~Publish the informational material it deems necessary.~~
- 27 44. 5. ~~Carry on~~ Conduct a continuing study ~~relating to~~ assess the needs, resources, and
28 facilities which are available or may be required to establish educational
29 ~~telecommunication programs and~~ technology systems throughout the entire state.
- 30 42. 6. ~~Contract with eligible applicants to build and operate public television stations in~~
31 ~~this state. Eligible applicants are those licensed by the federal communications~~

~~commission to operate noncommercial public television stations. Operational~~
~~contracts may not exceed the amount raised within the preceding fiscal year by the~~
~~applicant from nontax sources in this state. Receive gifts and grants from private~~
~~and public sources to be expended for educational technology projects.~~

SECTION 4. AMENDMENT. Section 15-65-06 of the North Dakota Century Code is amended and reenacted as follows:

15-65-06. Plan for statewide system of ~~interactive telecommunications~~
educational technology - Solicitation of grants. In developing and implementing a plan for a
statewide system of ~~interactive telecommunications~~ educational technology, the educational
telecommunications council shall solicit grants to be used in conjunction with moneys
appropriated by the legislative assembly for ~~telecommunications~~ educational technology. Any
moneys appropriated by the legislative assembly for ~~telecommunications~~ educational
technology, unless specifically provided otherwise, and any grants received in accordance with
this section must be used to implement the ~~plan~~ systems developed by the educational
telecommunications council pursuant to this chapter.

SECTION 5. AMENDMENT. Section 54-35-15 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The legislative council, or its designee, shall provide ~~scientific and technological~~
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 ~~the scientific and technological~~
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 ~~scientific and~~
~~technological~~ 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.

- 1 4. The council, or its designee, shall study emerging technology and evaluate its
2 impact on the state's system of information technology, and report and make
3 recommendations to the legislative council and the legislative assembly regarding
4 information technology in state government.
- 5 5. The council, or its designee, shall develop guidelines for reports to be provided by
6 each executive branch agency, institution, or department, the institutions under the
7 control of the board of higher education, and agencies of the judicial and legislative
8 branches on information technology in those entities.
- 9 6. The council, or its designee, shall review the information technology management
10 of executive branch agencies, institutions, or departments, institutions under the
11 control of the board of higher education, and agencies of the judicial and legislative
12 branches as determined necessary by the council or its designee.
- 13 7. The council, or its designee, shall perform information systems reviews and audits
14 of information technology systems or applications of executive branch state
15 agencies, institutions, and departments, institutions under the control of the state
16 board of higher education, and agencies of the judicial and legislative branches, as
17 determined necessary by the council, or its designee. The reviews and audits may
18 include evaluating compliance with system or application requirements, data
19 integrity, security, controls, audit trails, backup and recovery methods, and the
20 effectiveness and appropriateness of the system in achieving its intended purpose,
21 as applicable.
- 22 8. The council, or its designee, shall monitor the implementation of information
23 technology systems development projects and application development projects
24 for conformance with the agency's strategic plan and compliance with statewide
25 policies and standards as determined necessary by the council, or its designee,
26 and report any nonconformance or noncompliance discovered to the council or its
27 designated committee.
- 28 9. As used in this section, "information technology" means computing and data
29 communications systems and their supporting infrastructure used in the
30 acquisition, processing, management, analysis, storage, and delivery of
31 information.

SECTION 6. AMENDMENT. Section 54-44.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~"Data processing" or "electronic data processing" means the systematic sequencing of operations performed by data processing equipment or programs, or both, upon data stored or entered in alphabetic, numeric, or alphanumeric format.~~ "Information technology" means computing and data communications systems and their supporting infrastructure used in the acquisition, processing, management, analysis, storage, and delivery of information.
2. ~~"Data processing equipment" means an electronic device or associated devices, except calculators and stand-alone noncommunicating word processors, which perform logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all compiling and related input, output, and storage, equipment, programs and procedures, and data processing 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 7. 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

1 management and budget shall appoint a director of the information services division. The
2 director of the information services division shall supervise and regulate ~~electronic data~~
3 ~~processing activities~~ the information technology of all executive branch state agencies,
4 institutions, departments, and boards, ~~except the job service North Dakota and the office of the~~
5 ~~adjutant general~~ excluding the institutions under the control of the board of higher education.
6 ~~The division shall establish an electronic data processing center which must, unless excepted~~
7 ~~by the director, be used by all executive branch state agencies, departments, and institutions~~
8 ~~except the institutions under the control of the board of higher education, the job service North~~
9 ~~Dakota, and the office of the adjutant general. The division shall provide data processing~~
10 ~~services to the legislative and judicial branches of government. If the division is unable to fulfill~~
11 ~~a request for service from the legislative or judicial branch of government, the service may be~~
12 ~~procured by the legislative or judicial branch within the limits of legislative appropriations.~~

13 The director of the information services division must be appointed upon the basis of
14 education, experience, and other qualifications in ~~data processing~~ information technology and
15 administration. ~~The position of director is not a classified position and the director, without~~
16 ~~reference to partisan politics, and~~ must serve at the pleasure of the director of the office of
17 management and budget. The director of the information services division shall employ such
18 other professional, technical, and clerical personnel as the director determines to be necessary
19 to carry out the duties prescribed in this chapter and ~~shall~~, within the limits of the legislative
20 appropriation, shall fix the salaries of all employees within the division. All personnel within the
21 division must be allowed their actual and necessary travel expenses at the same rate as for
22 other employees of the state.

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

25 **54-44.2-02. Information services division - Powers and duties.** The information
26 services division shall:

- 27 1. Provide ~~systems design, programming, and other data processing~~ information
28 technology services.
- 29 2. ~~Design, plan, justify, and implement all data processing systems within and~~
30 ~~between state agencies that utilize the services of the division. Provide telephone~~
31 services.

- 1 3. Have the authority to purchase or lease ~~such additional~~ equipment or replace,
2 including by trade or resale, present equipment as may be necessary to carry out
3 this chapter. Each executive branch department, agency, or institution, except the
4 institutions under the control of the board of higher education, ~~the job service North~~
5 ~~Dakota, and the office of adjutant general,~~ shall submit to the ~~director of the~~
6 information services division for approval or disapproval and the legislative council,
7 or its designee, in accordance with guidelines established by the division, a written
8 request for ~~data processing services that require new data processing~~
9 ~~applications. A request must also be submitted for modifications to existing data~~
10 ~~processing applications which are expected to increase the cost of operating such~~
11 ~~data processing applications by more than fifteen percent. The director may~~
12 ~~approve or disapprove~~ the lease, purchase, or other contractual acquisition of
13 ~~additional or new electronic data processing~~ information technology services or
14 ~~equipment by executive branch agencies, except the institutions under the control~~
15 ~~of the board of higher education, the job service North Dakota, and the office of~~
16 ~~adjutant general. The director may authorize a user agency to house and operate~~
17 ~~electronic data processing equipment. The information services division shall~~
18 review requests for conformance with the requesting organization's strategic plan
19 and compliance with statewide policies and standards. If the request is not in
20 conformance or compliance, the information services division may disapprove the
21 request or require justification for the departure from the strategic plan or statewide
22 policy or standard. The division shall inform the legislative council, or its designee,
23 of any requests disapproved or additional justification received relating to a
24 request.
- 25 4. Provide ~~data processing~~ information technology services, including assistance and
26 advisory service to the legislative, executive, and judicial branches. If the division
27 is unable to fulfill a request for service from the legislative or judicial branch, the
28 service may be procured by the legislative or judicial branch within the limits of
29 legislative appropriations.
- 30 5. ~~Establish and justify data processing activities and costs in order that effectiveness~~
31 ~~can be measured.~~

- 1 6. ~~Establish a data bank to eliminate the duplicate storage of common data and~~
2 ~~thereby develop more economical and efficient use of the data processing system.~~
3 ~~The data bank must consist of data, except where data is restricted from such use~~
4 ~~by law and such confidentiality cannot be reasonably maintained in the data bank,~~
5 ~~contained within the files of all agencies, departments, and institutions being~~
6 ~~provided services by the division. If the data bank contains data of use to other~~
7 ~~departments, agencies, and institutions, the data may be made available to such~~
8 ~~departments, agencies, and institutions after notice has been given to the agency,~~
9 ~~department, or institution from which the data was originally received.~~
- 10 7. ~~Analyze proposals for executive branch agency word processing equipment and~~
11 ~~facility acquisitions and make such comments and recommendations as it may~~
12 ~~believe necessary so that such equipment and facilities will be compatible with~~
13 ~~electronic data processing equipment and programs under the supervision of the~~
14 ~~division. The office of management and budget may not approve vouchers for~~
15 ~~acquisition of word processing equipment and facilities by executive branch~~
16 ~~agencies unless the vouchers have attached to them the division's comments and~~
17 ~~recommendations.~~
- 18 8. ~~Conduct conferences and meetings with various state agencies, departments,~~
19 ~~institutions, and political subdivisions to review proposals and provide information~~
20 ~~on improving telecommunications and transmission facilities in government and~~
21 coordinate information technology services. The information services division shall
22 report annually to the legislative council or its designated committee regarding the
23 coordination of services with political subdivisions.
- 24 9. ~~Implement improvements in the state telecommunications and transmission~~
25 ~~facilities as are feasible and within the limitations of appropriated funds.~~
- 26 10. ~~Adopt any rules determined to be necessary to establish standard procedures and~~
27 ~~practices in the development and use of telecommunications and transmission~~
28 ~~facilities provided by the division.~~
- 29 11. ~~Provide advice, general guidelines, and information to political subdivisions on the~~
30 ~~compatibility and interactive capacity of computers and other electronic information~~

~~systems with the goal of developing a statewide compatible electronic
communications network by 1996.~~

~~42- 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 9. Four new sections to chapter 54-44.2 of the North Dakota Century Code
are created and enacted as follows:

Information technology standards. The information services division, based on
information from state agencies, institutions, and departments, and in consultation with the
legislative council, shall develop statewide information technology policies, standards, and
guidelines. Unless an exception is granted by the information services division, each executive
branch state agency, institution, or department, excluding the institutions under the control of
the board of higher education, shall comply with the policies and standards developed by the
information services division.

Information technology planning. Each executive branch state agency, institution, or
department, including the institutions under the control of the board of higher education, shall
prepare an information technology strategic plan, subject to approval by the information
services division. The plan must be submitted to the information services division and the
legislative council by January fifteenth of each even-numbered year. The plan must be
prepared based on guidelines developed by the information services division in consultation
with the legislative council; must provide the information technology goals, objectives, and
activities of the organization for the next five years; and must include a detailed list of
information technology assets owned, leased, or employed by the agency, institution, or
department. Each agency, institution, or department shall provide interim updates to its plan if
major information technology changes occur which affect its plan. The information services
division shall review each agency's, institution's, or department's strategic plan for compliance
with statewide information technology policies and standards and may require an agency,
institution, or department to change its strategic 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 strategic plans with the information

1 services division and the legislative council by January fifteenth of each even-numbered year.
2 Each agency, institution, or department shall prepare its budget request for the next biennium
3 based on its information technology strategic plan. Based on the plans prepared by agencies,
4 institutions, and departments, the information services division shall prepare a statewide
5 information technology strategic plan and distribute copies of that plan to members of the
6 legislative assembly as requested by the legislative council or its designee.

7 **Information technology coordination - Report to legislative council.** The director
8 of the information services division and the commissioner of the board of higher education shall
9 meet at least twice each year to plan and coordinate their information technology systems and
10 services. The director and commissioner shall consider areas in which joint or coordinated
11 information technology systems and services may result in more efficient and effective state
12 government operations. The director and commissioner shall report their findings and
13 recommendations to the legislative council or its designated committee before November of
14 each year.

15 **Information technology management reviews - Report to legislative audit and**
16 **fiscal review committee.** The information services division shall review the information
17 technology management of executive branch state agencies, institutions, or departments,
18 including the institutions under the control of the board of higher education, as determined by
19 the director of the information services division. The review must include an evaluation of the
20 organization's planning effectiveness, conformance to its strategic plan, compliance with
21 statewide policies and standards, asset quality, and training methods, and for an organization
22 that contracts for information technology services, an analysis of the organization's contract
23 management system and the contractor's compliance with contract provisions. If an agency,
24 institution, or department is found not to be in compliance with statewide policies and standards
25 and does not agree to come into compliance, the information services division may report the
26 issue to the legislative audit and fiscal review committee. The information services division
27 shall report recurring issues of noncompliance to the legislative audit and fiscal review
28 committee.

29 **SECTION 10. AMENDMENT.** Section 54-44.2-04 of the North Dakota Century Code is
30 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, and other~~ areas related to making the most economical use of ~~the data processing services and equipment~~ information technology.

SECTION 11. 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~~ departments may provide to the division; any information from the files and records of the ~~various~~ departments necessary to effect the purposes of this chapter without regard to the confidential ~~or secret~~ nature of the information; provided, however, the ~~personnel of the~~ division ~~are~~ is subject to the same restrictions and penalties regarding the dissemination of this information as ~~are the personnel of the~~ department involved.

SECTION 12. AMENDMENT. Section 54-44.2-07 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 13. AMENDMENT. Section 54-44.2-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1 **54-44.2-08. Access to electronically stored information - Coordination by**
2 **information services division.** An entity of the state may establish procedures for providing
3 access to any computer data base or electronically filed or stored information maintained by
4 that entity. The procedures must address the measures that are necessary to maintain the
5 confidentiality of information protected by federal or state law. The entity may charge a
6 reasonable fee for providing that access. ~~If the original information is keyed, entered, provided,~~
7 ~~compiled, or submitted by any political subdivision, the fees must be shared by the state and~~
8 ~~the political subdivision based on their proportional costs to make the data available.~~ The
9 information services division shall cooperate with each state entity providing access to any
10 computer data base or electronically filed or stored information to assist in providing
11 economical, efficient, and compatible access.

12 **SECTION 14. REPEAL.** Sections 15-65-04, 54-44.2-02.1, 54-44.2-02.2, 54-44.2-02.3,
13 and 54-44.2-02.4 of the North Dakota Century Code and section 54-44.2-02.5 of the 1995
14 Supplement to the North Dakota Century Code are repealed.

15 **SECTION 15. APPROPRIATION.** There is hereby appropriated out of any moneys in
16 the general fund in the state treasury, not otherwise appropriated, the sum of \$774,508, or so
17 much of the sum as may be necessary, to the legislative council for the purpose of defraying
18 the expenses of its information technology program for the biennium beginning July 1, 1997,
19 and ending June 30, 1999.