

**FIRST ENGROSSMENT  
with Conference Committee Amendments****ENGROSSED SENATE BILL NO. 2043**

Introduced by

Legislative Council

(Information Technology Committee)

1 A BILL for an Act to provide for the information technology department and transition of  
2 responsibilities to the department; to amend and reenact sections 15-65-02, 41-09-46,  
3 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,  
4 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  
5 Code, relating to references to the information services division, the information services  
6 operating fund, the legislative council, and the state records administrator; to repeal chapter  
7 54-44.2 of the North Dakota Century Code, relating to the information services division; and to  
8 provide an effective date.

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

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

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

19 **SECTION 2. Information technology department - Responsibility.** The information  
20 technology department is established with the responsibility for all wide area network services  
21 planning, selection, and implementation for all state agencies, including institutions under the  
22 control of the board of higher education, counties, cities, and school districts in this state. With  
23 respect to a county, city, or school district, wide area network services are those services  
24 necessary to transmit voice, data, or video outside the county, city, or school district. In

1 exercising its powers and duties, the department is responsible for computer support services,  
2 host software development, statewide communications services, standards for providing  
3 information to other state agencies and the public through the internet, technology planning,  
4 process redesign, and quality assurance.

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

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

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

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

- 20 1. Shall provide, supervise, and regulate information technology of all executive  
21 branch state entities, excluding the institutions under the control of the board of  
22 higher education.
- 23 2. Shall provide network services in a way that ensures the network requirements of  
24 a single entity do not adversely affect the functionality of the whole network,  
25 facilitates open communications with the citizens of the state, minimizes the state's  
26 investment in human resources, accommodates an ever-increasing amount of  
27 traffic, supports rapid detection and resolution of problems, protects the network  
28 infrastructure from damage and security breaches, provides for the aggregation of  
29 data, voice, video, and multimedia into a statewide transport mechanism or  
30 backbone, and provides for the network support for the entity to carry out its  
31 mission.

- 1           3. May review and approve additional network services that are not provided by the  
2           department.
- 3           4. May purchase or lease equipment or replace, including by trade or resale,  
4           equipment as may be necessary to carry out sections 1 through 16 of this Act.  
5           Each executive branch agency or institution, except the institutions under the  
6           control of the board of higher education, shall submit to the department, in  
7           accordance with guidelines established by the department, a written request for  
8           the lease, purchase, or other contractual acquisition of information technology.  
9           The department shall review requests for conformance with the requesting entity's  
10           information technology plan and compliance with statewide policies and standards.  
11           If the request is not in conformance or compliance, the department may  
12           disapprove the request or require justification for the departure from the plan or  
13           statewide policy or standard.
- 14           5. Shall provide information technology, including assistance and advisory service, to  
15           the executive, legislative, and judicial branches. If the department is unable to  
16           fulfill a request for service from the legislative or judicial branch, the information  
17           technology may be procured by the legislative or judicial branch within the limits of  
18           legislative appropriations.
- 19           6. May request information on or review information technology, applications, system  
20           development projects, and application development projects of executive branch  
21           agencies.
- 22           7. Shall study emerging technology and evaluate its impact on the state's system of  
23           information technology.
- 24           8. Shall develop guidelines for reports to be provided by each executive branch  
25           agency, institution, or department, the institutions under the control of the board of  
26           higher education, and agencies of the judicial and legislative branches on  
27           information technology in those entities.
- 28           9. Shall review the information technology management of executive branch  
29           agencies or institutions, including institutions under the control of the board of  
30           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

1 commissioner's designee; and nine members appointed by the governor. The governor shall  
2 appoint two members representing state agencies, one member representing a county, one  
3 member representing a city, two members representing elementary and secondary education,  
4 one member representing noncommercial public television stations licensed by the federal  
5 communications commission to operate in this state, and two members from private industry  
6 who are knowledgeable in the deployment of major technology projects. The governor's  
7 appointees from private industry serve two-year terms, and other appointees of the governor  
8 serve at the pleasure of the governor. The governor shall designate the chairman of the  
9 committee. The department shall provide staff services to the committee. Except for the  
10 commissioner of higher education and the representatives of state agencies who receive  
11 compensation for their duties as state officers or employees, members of the committee are  
12 entitled to be compensated for time spent in attendance at meetings of the committee and for  
13 other travel as approved by the chairman of the committee at the rate of sixty-two dollars and  
14 fifty cents per day and are entitled to reimbursement for their actual and necessary expenses  
15 incurred in the same manner as other state officials. The compensation and expenses are to  
16 be paid from appropriations for the department. The committee shall advise the department  
17 with respect to planning and implementation of wide area network services provided by the  
18 department.

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

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

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

14           **SECTION 11. Information technology plans.** Each executive branch state agency or  
15 institution, including the institutions under the control of the board of higher education, shall  
16 prepare an information technology plan, subject to approval by the department. The plan must  
17 be submitted to the department by January fifteenth of each even-numbered year. The plan  
18 must be prepared based on guidelines developed by the department; must provide the  
19 information technology goals, objectives, and activities of the entity for the current biennium  
20 and the next two bienniums; and must include a list of information technology assets owned,  
21 leased, or employed by the entity. Each entity required to file a plan shall provide interim  
22 updates to its plan if major information technology changes occur which affect its plan. The  
23 department shall review each entity's plan for compliance with statewide information technology  
24 policies and standards and may require an entity to change its plan to comply with statewide  
25 policies or standards or to resolve conflicting directions among plans. Agencies of the judicial  
26 and legislative branches shall file their information technology plans with the department by  
27 January fifteenth of each even-numbered year. Each state entity shall prepare its budget  
28 request for the next biennium based on its information technology plan. The agency's budget  
29 request and the governor's budget recommendation must include supporting information  
30 describing in detail how the information technology plan relates to the budget request and  
31 recommendation. Any budget adjustment by the budget office must include the corresponding

1 change to the plan. Based on the plans, the department shall prepare a statewide information  
2 technology plan and distribute copies of that plan to members of the legislative assembly as  
3 requested by the legislative council or its designee. The statewide information technology plan  
4 must be developed with emphasis on long-term strategic goals and objectives. Any state  
5 agency or institution, county, city, school district, or other entity that uses the statewide network  
6 or is a user of services of the department shall file a plan that includes and identifies all  
7 requirements for voice, data, or video.

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

21       **SECTION 13. Compliance reviews.** The department shall review the information  
22 technology management of executive branch state agencies and institutions, including the  
23 institutions under the control of the board of higher education, as determined by the chief  
24 information officer. The review must include an evaluation of the entity's planning  
25 effectiveness, conformance to its information technology plan, compliance with statewide  
26 policies and standards, asset quality, and training methods, and for an entity that contracts for  
27 information technology services, an analysis of the entity's contract management system and  
28 the contractor's compliance with contract provisions. If an agency or institution is found not to  
29 be in conformance to its plan or in compliance with statewide policies and standards and does  
30 not agree to come into conformance or compliance, the department shall report the issue to the  
31 legislative council.

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

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

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

26           **SECTION 17. TRANSITION.** The governor, director of the office of management and  
27 budget, and director of the information services division shall take appropriate actions before  
28 August 1, 1999, to ensure the transition of the information services division into the information  
29 technology department. Before October 15, 1999, the chief information officer shall develop  
30 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.

**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

1 financing statement naming a particular debtor and any statement of assignment  
2 and if there is, giving the date and hour of filing of each statement and the names  
3 and addresses of each secured party. The fee for this certificate is as provided by  
4 section 41-09-42. Upon request the filing officer shall furnish a copy of any filed  
5 financing statement or statement of assignment for a fee as provided by section  
6 41-09-42.

- 7 3. The secretary of state shall develop and implement a computerized central notice  
8 system which must contain the information filed with the office of the secretary of  
9 state or with any of the offices of the registers of deeds in this state pursuant to  
10 sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, and 41-09-40. The  
11 system must connect each register of deeds' office to the secretary of state's office  
12 through the information ~~services division~~ technology department. The system  
13 must allow access to financing statement information by equipment that conforms  
14 to requirements determined by the ~~information services division~~ department. The  
15 system must have safeguards to allow access to information that is in the system  
16 relating to security interests or liens and to prevent unauthorized alteration or  
17 deletion of that information and to allow access to other information in the system  
18 as prescribed by the secretary of state. Within one working day of receipt of a  
19 financing statement, continuation statement, amendment, or termination statement  
20 filed pursuant to this chapter or a statement filed pursuant to section 35-13-02,  
21 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the register of deeds or secretary of  
22 state shall record the information contained in the statement in the computerized  
23 central notice system. A computer printout of information from the system is prima  
24 facie evidence of the existence or nonexistence of the filing of a financing  
25 statement or lien. From the computerized central notice system, the secretary of  
26 state or a designee shall produce each month one list for crops and one list for  
27 livestock which contain the information as filed on the forms pursuant to section  
28 41-09-40. The secretary of state shall also include the information filed for crops  
29 and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The list  
30 must be in alphabetical order according to the last name of, or in numerical order  
31 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~~.

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

3           **54-35-15. Information technology program - Staff - Powers and duties.**

- 4           1. The legislative council, or its designee, shall provide information technology  
5 research and staff services to the legislative branch. The services must be  
6 provided in accordance with the existing statutory authority of the legislative  
7 council and within the framework of its other staff services.
- 8           2. The legislative council staff office shall provide information technology services,  
9 and the council, or its designee, may hire such additional staff as are necessary,  
10 and set compensation for any additional staff within the limits of legislative  
11 appropriations.
- 12          3. The council, or its designee, shall structure the provision of information technology  
13 services and assistance to the legislative assembly; and shall receive such  
14 cooperation and assistance from other state agencies as it may reasonably  
15 request.
- 16          4. ~~The council, or its designee, shall study emerging technology and evaluate its~~  
17 ~~impact on the state's system of information technology, and report and make~~  
18 ~~recommendations to the legislative council and the legislative assembly regarding~~  
19 ~~information technology in state government.~~
- 20          5. ~~The council, or its designee, shall develop guidelines for reports to be provided by~~  
21 ~~each executive branch agency, institution, or department, the institutions under the~~  
22 ~~control of the board of higher education, and agencies of the judicial and legislative~~  
23 ~~branches on information technology in those entities.~~
- 24          6. ~~The council, or its designee, shall review the information technology management~~  
25 ~~of executive branch agencies, institutions, or departments, institutions under the~~  
26 ~~control of the board of higher education, and agencies of the judicial and legislative~~  
27 ~~branches as determined necessary by the council or its designee.~~
- 28          7. ~~The council, or its designee, shall perform information systems reviews and audits~~  
29 ~~of information technology systems or applications of executive branch state~~  
30 ~~agencies, institutions, and departments, institutions under the control of the state~~  
31 ~~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.~~

**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 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.

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

1           **54-44.8-01. Definitions.** As used in this chapter, unless the context otherwise  
2 requires:

- 3           1. "Administrator" means the individual employed by the ~~division~~ chief information  
4           officer of the state to oversee administration of the program.
- 5           2. "Commission" means the public service commission.
- 6           3. "Communications impaired" means the condition of an individual who is deaf,  
7           hearing impaired, or speech impaired.
- 8           4. "~~Division~~ Department" means the information ~~services division of the office of~~  
9           ~~management and budget~~ technology department.
- 10          5. "Local exchange company" means a telecommunications company that provides  
11          telephone access lines to members of the general public who are its customers.
- 12          6. "Program" means the program established under section 54-44.8-03.
- 13          7. "Radio communications access" means the radio access between a customer of a  
14          radio communications service provider and the provider.
- 15          8. "Radio communications service provider" means a telecommunications company  
16          that provides radio communication service or cellular service to members of the  
17          general public who are its customers.
- 18          9. "Specialized telecommunications equipment" means a device that, when  
19          connected to a telephone, enables or assists a person who is communications  
20          impaired to communicate with another person utilizing the telephone network. The  
21          term may include telecommunications devices for the deaf, amplifiers, and  
22          signaling devices.
- 23          10. "Telecommunications relay service" means a statewide service through which a  
24          communications-impaired individual, using specialized telecommunications  
25          equipment, may send and receive messages to and from a  
26          noncommunications-impaired individual whose telephone is not equipped with  
27          specialized telecommunications equipment and through which a  
28          noncommunications-impaired individual, by using voice communication, may send  
29          and receive messages to and from a communications-impaired individual.

- 1           11. "Telephone access line" means the facilities between a serving central office and  
2                   the customer of a local exchange company which are required to provide access to  
3                   the local and toll network.

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

6           **54-44.8-02. Responsibilities of the administrator.** The administrator shall oversee  
7 the ~~division's~~ department's administration of the program. The administrator shall:

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

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

17          **54-44.8-03. Program established - Purpose.**

- 18          1. The ~~division~~ department shall establish and administer a program to provide  
19                  telecommunications relay service to persons who are communications impaired.  
20          2. The program shall provide a telecommunications relay service to allow persons  
21                  who are communications impaired to communicate via the telecommunications  
22                  network with noncommunications-impaired persons.  
23          3. The vocational rehabilitation division of the department of human services shall  
24                  furnish specialized telecommunications equipment to meet the needs of individuals  
25                  who are communications impaired and who might be otherwise disadvantaged in  
26                  their ability to obtain such equipment. The vocational rehabilitation division shall  
27                  determine eligibility and may provide the specialized telecommunications  
28                  equipment to individuals determined eligible within the limits of funding made  
29                  available to the vocational rehabilitation division through gifts and grants received  
30                  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

1 surcharge is imposed effective on its determination by the commission and must  
2 be billed and collected as provided in this chapter. The surcharge is subject to  
3 section 49-21-01.3. Funding for the interstate portion of the state  
4 telecommunications relay service must be provided in a manner consistent with  
5 rules and orders adopted by the federal communications commission in  
6 implementing the federal Americans with Disabilities Act. The ~~division~~ department  
7 shall notify each local exchange company and radio communications service  
8 provider, in writing, of the amount of the monthly surcharge determined by the  
9 commission.

- 10 2. Each local exchange company and radio communications service provider shall  
11 include and identify the surcharge determined under subsection 1 in its monthly  
12 billing for service to a customer of the company or provider.
- 13 3. Each customer of a local exchange company or radio communications service  
14 provider is liable for payment to the local exchange company or radio  
15 communications service provider of any surcharge imposed pursuant to this  
16 chapter. The local exchange company or radio communications service provider is  
17 not liable for any uncollected surcharge, nor does the company have an obligation  
18 to take any legal action to enforce the collection of any surcharge that is unpaid by  
19 its customers.
- 20 4. No customer of a local exchange company may be required to pay the surcharge  
21 on more than one hundred telephone access lines per account and no customer of  
22 a radio communications service provider may be required to pay the surcharge on  
23 more than one hundred radio communications access service numbers per  
24 account in this state.
- 25 5. Except as provided in subsection 6, a local exchange company or radio  
26 communications service provider shall transmit all surcharges billed and collected  
27 to the ~~division~~ department no later than the last day of the month following the end  
28 of the calendar quarter in which the surcharge is collected. The administrator shall  
29 remit the surcharges received to the state treasurer. The state treasurer shall  
30 deposit all surcharges received in the state treasury to the credit of the  
31 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.

**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 records. The administrator shall deposit moneys received under this section in the information ~~services~~ technology operating fund ~~and~~ 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.

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

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

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