

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED 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 eight new sections to chapter 54-35 and a new section to
2 chapter 54-44.2 of the North Dakota Century Code, relating to establishing an information
3 technology management division of the legislative council and providing for information
4 technology planning, standards setting, and reviews; to amend and reenact sections
5 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, and 54-44.2-08 of
6 the North Dakota Century Code, relating to duties and responsibilities of the information
7 services division; and to repeal sections 54-44.2-02.1, 54-44.2-02.2, 54-44.2-02.3,
8 54-44.2-02.4, and 54-44.2-02.5 of the North Dakota Century Code, relating to duties and
9 responsibilities of the information services division.

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

11 **SECTION 1.** Eight new sections to chapter 54-35 of the North Dakota Century Code
12 are 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 **Director of information technology management division.** The legislative council
17 shall appoint a director of the information technology management division of the legislative
18 council. The appointment of the director must be based upon qualifications of eligible persons
19 without reference to partisan politics. The director's salary must be determined by the council
20 and it may employ such additional persons as may be necessary to carry out the provisions of
21 section 1 of this Act.

22 **Personnel - Compensation - Expenses.** The salaries, travel, and other expenses of
23 the director of the information technology management division and other personnel within the

1 division must be submitted, approved, and paid in the same manner as other employees of the
2 legislative council.

3 **Powers and duties of the director of the information technology management**

4 **division.** The director of the information technology management division shall receive reports
5 and information technology strategic plans of all executive branch state agencies, institutions,
6 and departments; institutions under the control of the board of higher education; and agencies
7 of the judicial and legislative branches. The director shall study emerging technology and
8 evaluate its impact on the state's system, advise state agencies regarding information
9 technology, and report and make recommendations to the legislative council and the legislative
10 assembly regarding information technology of state government. Each state agency,
11 institution, or department shall furnish any records and information to the director of the
12 information technology management division that the director may request in the performance
13 of the director's duties.

14 **Information technology standards.** The information technology management
15 division, based on input from state agencies, institutions, and departments, shall develop
16 statewide information technology policies, standards, and guidelines. Unless an exception is
17 granted by the information technology management division, each executive branch state
18 agency, institution, or department; the institutions under the control of the board of higher
19 education; and agencies of the judicial and legislative branches shall prepare that entity's
20 information technology strategic plan based on the policies and standards developed by the
21 information technology management division. Each agency's information technology
22 coordinator, appointed pursuant to section 54-44.2-04, and the director of the information
23 services division shall assist the division in developing formats and guidelines for strategic
24 plans, developing statewide policies, standards, and guidelines for information technology, and
25 other related areas as requested by the division.

26 **Information technology planning.** Each executive branch state agency, institution, or
27 department; each institution under the control of the board of higher education; and each
28 agency of the judicial and legislative branches, shall prepare an information technology
29 strategic plan. The plan must be submitted to the information technology management division
30 as requested by the division. The plan must be prepared based on guidelines developed by
31 the information technology management division; must provide the information technology

1 goals, objectives, and activities of the organization for the next five years; and must include a
2 detailed list of information technology assets owned, leased, or employed by the agency,
3 institution, or department. Each agency, institution, or department shall provide interim updates
4 to its plan if major information technology changes occur which affect its plan. The information
5 technology management division shall review each agency, institution, or department's
6 strategic plan for compliance with statewide information technology policies and standards.
7 Each agency, institution, or department shall prepare its budget request for the next biennium
8 based on its information technology strategic plan. Based on the plans prepared by agencies,
9 institutions, and departments, the information technology management division shall prepare a
10 statewide information technology strategic plan and distribute copies of that plan to members of
11 the legislative assembly. The statewide plan must include a list of approved agency projects in
12 priority order as determined by the director of the information technology management division.

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

28 **Information technology systems and projects - Auditing and monitoring.** The
29 information technology management division shall perform information systems reviews and
30 audits of information technology systems or applications of executive branch state agencies,
31 institutions, and departments; institutions under the control of the board of higher education;

1 and agencies of the judicial and legislative branches as determined necessary by the director of
2 the information technology management division. An information systems audit should include
3 an evaluation of compliance with system or application requirements, data integrity, security,
4 controls, audit trails, backup and recovery methods, and the effectiveness and appropriateness
5 of the system in achieving its intended purpose, as applicable. The information technology
6 management division may examine all books, papers, records, and documents in an agency,
7 institution, or department, and may require any officer of the agency to furnish information or
8 statements necessary to carry out provisions included in section 1 of this Act. The information
9 technology management division shall monitor the implementation of information technology
10 systems development projects and application development projects for conformance with the
11 agency's strategic plan and compliance with statewide policies and standards as determined
12 necessary by the director of the information technology management division. The information
13 technology management division may report any nonconformance or noncompliance
14 discovered during the auditing, reviewing, or monitoring process to the legislative council or its
15 designated committee.

16 **SECTION 2.** A new section to chapter 54-44.2 of the North Dakota Century Code is
17 created and enacted as follows:

18 **Information technology coordination - Report to legislative council.** The director
19 of the information services division and the commissioner of the board of higher education shall
20 meet at least twice each year to plan and coordinate their information technology systems and
21 services. The director and commissioner shall consider areas in which joint or coordinated
22 information technology systems and services may result in more efficient and effective state
23 government operations. The director and commissioner shall report their findings and
24 recommendations annually to the legislative council or its designated committee.

25 **SECTION 3. AMENDMENT.** Section 54-44.2-00.1 of the North Dakota Century Code
26 is amended and reenacted as follows:

27 **54-44.2-00.1. Definitions.** As used in this chapter:

- 28 1. ~~"Data processing" or "electronic data processing" means the systematic~~
29 ~~sequencing of operations performed by data processing equipment or programs,~~
30 ~~or both, upon data stored or entered in alphabetic, numeric, or alphanumeric~~
31 ~~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 4. 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~~ reference to partisan politics, and must serve at the pleasure of the director of the office of management and budget. The director of the information services division shall employ such other professional, technical, and clerical personnel as the director determines to be necessary to carry out the duties prescribed in this chapter and ~~shall~~, within the limits of the legislative appropriation, shall fix the salaries of all employees within the division. All personnel within the division must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

SECTION 5. AMENDMENT. Section 54-44.2-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. Provide ~~systems design, programming, and other data processing~~ information technology services.
2. ~~Design, plan, justify, and implement all data processing systems within and between state agencies that utilize the services of the division.~~ Provide telephone services.
3. Have the authority to purchase or lease ~~such additional~~ equipment or replace, including by trade or resale, present equipment as may be necessary to carry out this chapter. Each executive branch department, agency, or institution, except the institutions under the control of the board of higher education, ~~the job service North Dakota, and the office of adjutant general,~~ shall submit to the ~~director of the~~ information services division ~~for approval or disapproval, in accordance with~~ guidelines established by the division, and consistent with the information

technology policies, standards, and guidelines of the information technology management division of the legislative council a written request for ~~data processing services that require new data processing applications. A request must also be submitted for modifications to existing data processing applications which are expected to increase the cost of operating such data processing applications by more than fifteen percent. The director may approve or disapprove the lease, purchase, or other contractual acquisition of additional or new electronic data processing information technology services or equipment by executive branch agencies, except the institutions under the control of the board of higher education, the job service North Dakota, and the office of adjutant general. The director may authorize a user agency to house and operate electronic data processing equipment. The information services division shall review requests for conformance with the requesting organization's strategic plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the information services division may disapprove the request or require justification for the departure from the strategic plan or statewide policy or standard.~~

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

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

6. ~~Establish a data bank to eliminate the duplicate storage of common data and thereby develop more economical and efficient use of the data processing system. The data bank must consist of data, except where data is restricted from such use by law and such confidentiality cannot be reasonably maintained in the data bank, contained within the files of all agencies, departments, and institutions being provided services by the division. If the data bank contains data of use to other departments, agencies, and institutions, the data may be made available to such~~

- 1 ~~departments, agencies, and institutions after notice has been given to the agency,~~
2 ~~department, or institution from which the data was originally received.~~
- 3 7. ~~Analyze proposals for executive branch agency word processing equipment and~~
4 ~~facility acquisitions and make such comments and recommendations as it may~~
5 ~~believe necessary so that such equipment and facilities will be compatible with~~
6 ~~electronic data processing equipment and programs under the supervision of the~~
7 ~~division. The office of management and budget may not approve vouchers for~~
8 ~~acquisition of word processing equipment and facilities by executive branch~~
9 ~~agencies unless the vouchers have attached to them the division's comments and~~
10 ~~recommendations.~~
- 11 8. ~~Conduct conferences and meetings with various state agencies, departments,~~
12 ~~institutions, and political subdivisions to review proposals and provide information~~
13 ~~on improving telecommunications and transmission facilities in government and~~
14 ~~coordinate information technology services. The information services division shall~~
15 ~~report annually to the legislative council or its designated committee regarding the~~
16 ~~coordination of services with political subdivisions.~~
- 17 9. ~~Implement improvements in the state telecommunications and transmission~~
18 ~~facilities as are feasible and within the limitations of appropriated funds.~~
- 19 10. ~~Adopt any rules determined to be necessary to establish standard procedures and~~
20 ~~practices in the development and use of telecommunications and transmission~~
21 ~~facilities provided by the division.~~
- 22 11. ~~Provide advice, general guidelines, and information to political subdivisions on the~~
23 ~~compatibility and interactive capacity of computers and other electronic information~~
24 ~~systems with the goal of developing a statewide compatible electronic~~
25 ~~communications network by 1996.~~
- 26 42. 6. Have authority to request information on or review information technology systems,
27 applications, system development projects, and application development projects
28 of executive branch departments, agencies, and institutions.
- 29 7. Perform all other duties necessary to carry out this chapter.

30 **SECTION 6. AMENDMENT.** Section 54-44.2-04 of the North Dakota Century Code is
31 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 7. 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 8. 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 9. AMENDMENT. Section 54-44.2-08 of the 1995 Supplement of 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 10. REPEAL.** Sections 54-44.2-02.1, 54-44.2-02.2, 54-44.2-02.3, and
13 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.