

Fifty-sixth  
Legislative Assembly  
of North Dakota

## 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, 54-44.8-01, 54-44.8-02, 54-44.8-03, 54-44.8-04, 54-44.8-05,  
4 54-44.8-07, 54-44.8-08, 54-46-03, and 54-46.1-01 of the North Dakota Century Code, relating  
5 to references to the information services division, the information services operating fund, the  
6 legislative council, and the state records administrator; to repeal chapter 54-44.2 of the North  
7 Dakota Century Code, relating to the information services division; and to provide an effective  
8 date.

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

10 **SECTION 1. Definitions.** As used in sections 1 through 19 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. "Board" means the information technology board.
- 14 3. "Department" means the information technology department.
- 15 4. "Information technology" means the use of hardware, software, services, and  
16 supporting infrastructure to manage and deliver information using voice, data, and  
17 video.
- 18 5. "Network services" means the equipment, software, and services necessary to  
19 transmit voice, data, or video.

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

1 necessary to transmit voice, data, or video outside the county, city, or school district. In  
2 exercising its powers and duties, the department is responsible for computer support services,  
3 host software development, statewide communications services, standards for providing  
4 information to other state agencies and the public through the internet, technology planning,  
5 process redesign, and quality assurance.

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

12 **SECTION 4. Duties of chief information officer.** The chief information officer shall:  
13 1. Administer the department.  
14 2. Employ any personnel determined to be necessary to carry out the responsibilities  
15 of the department and duties as prescribed by law.  
16 3. Fix the salaries of all employees within the department, within the limits of  
17 legislative appropriation. All personnel within the department are entitled to actual  
18 and necessary travel expenses at the same rate as for other employees of the  
19 state.  
20 4. Participate on the information technology board as a nonvoting member.

21 **SECTION 5. Powers and duties of department.** The department:  
22 1. Shall provide, supervise, and regulate information technology of all executive  
23 branch state entities, excluding the institutions under the control of the board of  
24 higher education.  
25 2. Shall provide network services in a way that ensures the network requirements of  
26 a single entity do not adversely affect the functionality of the whole network,  
27 facilitates open communications with the citizens of the state, minimizes the state's  
28 investment in human resources, accommodates an ever-increasing amount of  
29 traffic, supports rapid detection and resolution of problems, protects the network  
30 infrastructure from damage and security breaches, provides for the aggregation of  
31 data, voice, video, and multimedia into a statewide transport mechanism or

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

- 1           9. Shall review the information technology management of executive branch  
2                   agencies or institutions, including institutions under the control of the board of  
3                   higher education as provided in section 15 of this Act.
- 4           10. Shall perform all other duties necessary to carry out sections 1 through 19 of this  
5                   Act.

6           **SECTION 6. Business plan.** The department shall develop and maintain a business  
7 plan. Before final adoption, the chief information officer shall submit the business plan to the  
8 board for its review, and the plan is subject to the review of the board. The business plan must:

- 9           1. Define the department's overall organization, mission, and delivery of services.
- 10          2. Define the strategies for improving personnel productivity and workflow processes  
11                   of the department.
- 12          3. Determine how use of the statewide network will improve learning in the state, as  
13                   defined by the board.
- 14          4. Determine how the statewide networks can provide network services for the  
15                   benefit of noncommercial public television stations licensed by the federal  
16                   communications commission to operate in this state.
- 17          5. Determine the specific strategies and processes to ensure that agencies share  
18                   information, systems, and the statewide network.
- 19          6. Define the processes that will ensure that counties, cities, and school districts  
20                   receive maximum benefit of the statewide network.
- 21          7. Define a fair and equitable billing structure that provides for payback of the initial  
22                   investments and ongoing operations of the statewide network.
- 23          8. Address the processes that will be put in place to ensure that an entity receiving  
24                   services from the department is aware of the technology available and to ensure  
25                   training on its use.
- 26          9. Address the deployment of encryption and the administration of digital signatures.
- 27          10. Address information and system backup and disaster recovery.

28           **SECTION 7. State information technology board.** The board consists of the chief  
29 information officer, who is a nonvoting member; the state court administrator, with the approval  
30 of the chief justice of the supreme court; the commissioner of higher education; and eight  
31 members appointed by the governor. The governor shall appoint two members representing

1 state agencies, one member representing a county, one member representing a city, two  
2 members representing elementary and secondary education, and two members from private  
3 industry who are knowledgeable in the deployment of major technology projects. The  
4 governor's appointees from private industry serve two-year terms, and other appointees of the  
5 governor serve at the pleasure of the governor. The governor shall designate the chairman of  
6 the board. The department shall provide staff services to the board. Except for the  
7 commissioner of higher education and the representatives of state agencies who receive  
8 compensation for their duties as state officers or employees, members of the board are entitled  
9 to be compensated for time spent in attendance at meetings of the board and for other travel as  
10 approved by the chairman of the board at the rate of sixty-two dollars and fifty cents per day  
11 and are entitled to reimbursement for their actual and necessary expenses incurred in the same  
12 manner as other state officials. The compensation and expenses are to be paid from  
13 appropriations for the department.

14 **SECTION 8. Responsibilities of board.** The board is responsible for:

- 15 1. Approving the business plan of the department.
- 16 2. Addressing macrolevel operational questions.
- 17 3. Reviewing and approving statewide information technology standards.
- 18 4. Reviewing and approving the statewide information technology plan.
- 19 5. Providing comment to the legislative council regarding the appropriateness of any  
20 major project.
- 21 6. Reporting to the governor and the legislative council on matters concerning  
22 information technology.

23 **SECTION 9. Required use of wide area network services.** Each state agency and  
24 institution that desires access to wide area network services and each county, city, and school  
25 district that desires access to wide area network services to transmit voice, data, or video  
26 outside that county, city, or school district shall obtain those services from the department. The  
27 board may except from the application of this section a county, city, or school district that  
28 demonstrates its current wide area network services are more cost-effective for or more  
29 appropriate for the specific needs of that county, city, or school district than wide area network  
30 services available from the department.

1           **SECTION 10. Information technology standards.** Based on information from state  
2 agencies and institutions, and in consultation with the board, the department shall develop  
3 statewide information technology policies, standards, and guidelines. Unless an exception is  
4 granted by the department, each executive branch state agency and institution, excluding the  
5 institutions under the control of the board of higher education with respect to academic and  
6 research uses of information technology, shall comply with the policies and standards  
7 developed by the department. Unless an exception is granted by the department, each entity  
8 receiving wide area network services provided by the department shall comply with the policies  
9 and standards developed by the department with respect to access to or use of wide area  
10 network services.

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

15           **SECTION 12. Information technology plans.** Each executive branch state agency or  
16 institution, including the institutions under the control of the board of higher education, shall  
17 prepare an information technology plan, subject to approval by the department. The plan must  
18 be submitted to the department by January fifteenth of each even-numbered year. The plan  
19 must be prepared based on guidelines developed by the department in consultation with the  
20 board; must provide the information technology goals, objectives, and activities of the entity for  
21 the current biennium and the next two bienniums; and must include a list of information  
22 technology assets owned, leased, or employed by the entity. Each entity required to file a plan  
23 shall provide interim updates to its plan if major information technology changes occur which  
24 affect its plan. The department shall review each entity's plan for compliance with statewide  
25 information technology policies and standards and may require an entity to change its plan to  
26 comply with statewide policies or standards or to resolve conflicting directions among plans.  
27 Agencies of the judicial and legislative branches shall file their information technology plans  
28 with the department by January fifteenth of each even-numbered year. Each state entity shall  
29 prepare its budget request for the next biennium based on its information technology plan.  
30 Based on the plans, the department shall prepare a statewide information technology plan and  
31 distribute copies of that plan to members of the legislative assembly as requested by the

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

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

19 **SECTION 14. Quality assurance.** The chief information officer shall establish a  
20 project quality assurance process that provides an independent assessment of the status of  
21 major projects. The board shall define a major project, whether by a predefined amount or a  
22 determined risk. The personnel responsible for providing the assessment shall report on a  
23 major project as requested by the board. Notwithstanding any other provision of law, the board  
24 may suspend the expenditure of moneys appropriated for a project if the board determines that  
25 the project is at risk of failing to achieve its intended results, the moneys appropriated for the  
26 project are not adequate to complete the project, or the project does not comply with standards  
27 adopted by the department. The board shall notify the office of management and budget with  
28 respect to any suspension under this section.

29 **SECTION 15. Compliance reviews.** The department shall review the information  
30 technology management of executive branch state agencies and institutions, including the  
31 institutions under the control of the board of higher education, as determined by the chief

1 information officer. The review must include an evaluation of the entity's planning  
2 effectiveness, conformance to its information technology plan, compliance with statewide  
3 policies and standards, asset quality, and training methods, and for an entity that contracts for  
4 information technology services, an analysis of the entity's contract management system and  
5 the contractor's compliance with contract provisions. If an agency or institution is found not to  
6 be in conformance to its plan or in compliance with statewide policies and standards and does  
7 not agree to come into conformance or compliance, the department shall report the issue to the  
8 board.

9       **SECTION 16. Information technology development account.** The state treasurer  
10 shall maintain the information technology development account as a special account in the  
11 state treasury. Moneys appropriated to establish the statewide network must be deposited in  
12 the account. Subject to legislative appropriation, the department may expend moneys in the  
13 account to establish the statewide network and to evaluate emerging technologies and  
14 implement common, shared components for the users of the network.

15       **SECTION 17. Information technology operating account.** The department shall  
16 establish a state information technology operating account in the state treasury to be used, in  
17 accordance with legislative appropriation, for procuring and maintaining information technology,  
18 network services, and central microfilm unit equipment and supplies, and for providing  
19 information technology, network services, and central microfilm unit services to state entities  
20 and network services to users of the state network. Unless excepted by law, each agency or  
21 institution provided with information technology or network services shall pay to the department  
22 the charges as determined by the department. The department shall deposit the amounts  
23 received in the information technology operating account or the information technology  
24 development account, as appropriate.

25       **SECTION 18. Acceptance of funds.** The department may accept federal or other  
26 funds, which must be deposited in the information technology development account or  
27 information technology operating account, as appropriate, and which may be spent subject to  
28 legislative appropriation. The department may apply for any public or private grants available  
29 for the improvement of information technology.

30       **SECTION 19. Confidentiality.** The department may receive from various agencies  
31 and various agencies may provide to the department any information from the agencies

1 necessary to effect the purposes of sections 1 through 19 of this Act without regard to the  
2 confidential nature of the information. The department is subject to the same restrictions and  
3 penalties regarding the dissemination of this information as the entity involved. Except for a  
4 request for access authorized by section 54-10-22.1, the department may refer a request for  
5 access to or inspection of information provided by an agency to that agency for response.  
6 Referral to the agency satisfies any responsibility of the department to provide that information  
7 under open records requirements. Upon court order the department shall provide access to or  
8 inspection of this information in accordance with restrictions of that entity involved governing  
9 dissemination of that information.

10 **SECTION 20. TRANSITION.** The governor, director of the office of management and  
11 budget, and director of the information services division shall take appropriate actions before  
12 July 1, 2000, to ensure the transition of the information services division into the information  
13 technology department. All appointing authorities are encouraged to consider their  
14 appointments as soon as possible after the legislative assembly adjourns so that appointments  
15 may be made and activities may commence effective with the effective date of the relevant  
16 authority. The governor, director of the office of management and budget, and the director of  
17 the information services division shall complete these activities by July 1, 2000. Until July 1,  
18 2000, the chief information officer is responsible for administering the information services  
19 division, and before October 15, 1999, the chief information officer shall develop and the state  
20 information technology board shall approve the business plan for the department.

21 **SECTION 21. AMENDMENT.** Section 15-65-02 of the 1997 Supplement to the North  
22 Dakota Century Code is amended and reenacted as follows:

23 **15-65-02. Membership - Appointment - Term - No compensation - Expenses -**

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

- 25 1. The commissioner of higher education or the commissioner's designee.
- 26 2. The superintendent of public instruction or the superintendent's designee.
- 27 3. ~~The director of the~~ chief information services division of the office of management  
28 ~~and budget~~ officer of the state.
- 29 4. A representative of the telephone industry, appointed by the governor.
- 30 5. A school board member, appointed by the governor.
- 31 6. A school administrator, appointed by the governor.

1           7. A schoolteacher, appointed by the governor.

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

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

11           **SECTION 22. AMENDMENT.** Section 41-09-46 of the 1997 Supplement to the North  
12 Dakota Century Code is amended and reenacted as follows:

13           **41-09-46. (9-407) Information from filing officer - Computerized central notice**  
14 **system - Secretary of state to compile lists for crops and livestock - Distribution of lists.**

15           1. If the person filing any financing statement, termination statement, statement of  
16 assignment, or statement of release, furnishes the filing officer a copy thereof, the  
17 filing officer upon request shall note upon the copy the file number and date and  
18 hour of the filing of the original and deliver or send the copy to such person.

19           2. Upon request of any person, the filing officer shall issue a certificate showing  
20 whether there is on file on the date and hour stated therein, any presently effective  
21 financing statement naming a particular debtor and any statement of assignment  
22 and if there is, giving the date and hour of filing of each statement and the names  
23 and addresses of each secured party. The fee for this certificate is as provided by  
24 section 41-09-42. Upon request the filing officer shall furnish a copy of any filed  
25 financing statement or statement of assignment for a fee as provided by section  
26 41-09-42.

27           3. The secretary of state shall develop and implement a computerized central notice  
28 system which must contain the information filed with the office of the secretary of  
29 state or with any of the offices of the registers of deeds in this state pursuant to  
30 sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, and 41-09-40. The  
31 system must connect each register of deeds' office to the secretary of state's office

1 through the information ~~services division~~ technology department. The system  
2 must allow access to financing statement information by equipment that conforms  
3 to requirements determined by the ~~information services division~~ department. The  
4 system must have safeguards to allow access to information that is in the system  
5 relating to security interests or liens and to prevent unauthorized alteration or  
6 deletion of that information and to allow access to other information in the system  
7 as prescribed by the secretary of state. Within one working day of receipt of a  
8 financing statement, continuation statement, amendment, or termination statement  
9 filed pursuant to this chapter or a statement filed pursuant to section 35-13-02,  
10 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the register of deeds or secretary of  
11 state shall record the information contained in the statement in the computerized  
12 central notice system. A computer printout of information from the system is prima  
13 facie evidence of the existence or nonexistence of the filing of a financing  
14 statement or lien. From the computerized central notice system, the secretary of  
15 state or a designee shall produce each month one list for crops and one list for  
16 livestock which contain the information as filed on the forms pursuant to section  
17 41-09-40. The secretary of state shall also include the information filed for crops  
18 and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The list  
19 must be in alphabetical order according to the last name of, or in numerical order  
20 according to the social security number of, the person engaged in farming  
21 operations. The lists may be prepared in categories according to county, regions  
22 as designated by the secretary of state, or on a statewide basis. If requested, the  
23 lists must be in printed form and on microfiche. Each list must conspicuously note  
24 its effective date.

25 4. The lists prepared pursuant to subsection 3 must be distributed monthly by mail at  
26 least five business days in advance of their effective date. If requested, the  
27 secretary of state shall mail the lists to any person making a request at a fee as  
28 provided in section 41-09-42.

29 5. Upon a verbal request of any person, the secretary of state or a designee or a  
30 register of deeds shall verbally provide information contained on the list generated  
31 through the computerized central notice system when the collateral is crops or

1 livestock. The requesting party may request a certificate from the secretary of  
2 state or the register of deeds and the secretary of state or the register of deeds  
3 shall confirm the information given. Direct computer access is equivalent to oral  
4 confirmation and a computer printout constitutes the written confirmation of the  
5 secretary of state, if use of this method of confirmation does not cause the central  
6 notice system to lose its federal certification. The fee for a verbal request and  
7 such a certificate must be as provided by section 41-09-42.

8 6. A computer printout from the computerized central notice system constitutes the  
9 certificate of the secretary of state or the register of deeds as to whether there is  
10 on file, on the date and hour stated on the computer printout, a financing  
11 statement.

12 **SECTION 23. AMENDMENT.** Section 54-16-11.1 of the 1997 Supplement to the North  
13 Dakota Century Code is amended and reenacted as follows:

14 **54-16-11.1. Emergency commission may increase revenues and appropriation**  
15 **authority for intergovernmental service fund agencies.** Upon presentation of the verified  
16 petition under section 54-16-10, the emergency commission shall meet to determine if  
17 additional demand from state agencies requires an increase in appropriation authority and  
18 revenue receipts for the information ~~services division~~ technology department, central  
19 duplicating, surplus property, or roughrider industries division of the department of corrections  
20 and rehabilitation, ~~or central microfilm~~.

21 **SECTION 24. AMENDMENT.** Section 54-35-15 of the 1997 Supplement to the North  
22 Dakota Century Code is amended and reenacted as follows:

23 **54-35-15. Information technology program - Staff - Powers and duties.**

24 1. The legislative council, or its designee, shall provide information technology  
25 research and staff services to the legislative branch. The services must be  
26 provided in accordance with the existing statutory authority of the legislative  
27 council and within the framework of its other staff services.

28 2. The legislative council staff office shall provide information technology services,  
29 and the council, or its designee, may hire such additional staff as are necessary,  
30 and set compensation for any additional staff within the limits of legislative  
31 appropriations.

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

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

5           **SECTION 25. AMENDMENT.** Section 54-44-11 of the 1997 Supplement to the North  
6 Dakota Century Code is amended and reenacted as follows:

7           **54-44-11. Office's operating funds creation - Continuing appropriation.**

- 8           1. The office of management and budget shall establish a state purchasing operating  
9           fund to be used for the procurement and maintenance of an inventory of  
10           equipment and supplies for the state departments and agencies. Funds in the  
11           state purchasing operating fund are hereby appropriated on a continuing basis and  
12           may be spent by the office of management and budget for the procurement and  
13           maintenance of an inventory of equipment and supplies as provided in this  
14           subsection. The director of the office of management and budget shall transfer  
15           any unobligated balance in the fund, in excess of one hundred twenty-five  
16           thousand dollars, to the state general fund at the end of each fiscal year.
- 17           2. The office of management and budget shall establish a state printing operating  
18           fund to be used for the procurement and maintenance of an inventory of printing  
19           equipment and supplies for the state departments and agencies.
- 20           3. ~~The office of management and budget shall establish a state information services~~  
21           ~~operating fund to be used for the procurement and maintenance of data~~  
22           ~~processing equipment and supplies, telecommunications equipment and supplies,~~  
23           ~~and central microfilm unit equipment and supplies, and for providing data~~  
24           ~~processing, telecommunication, and central microfilm unit services to state~~  
25           ~~departments and agencies.~~
- 26           4. The office of management and budget shall establish a state personnel training  
27           and development operating fund to be used for the coordination of employee  
28           training and career development data, supplies, equipment, and services and for  
29           providing or arranging necessary training and development programs to state  
30           departments and agencies. Any surplus in this fund in excess of twenty-five

1           thousand dollars on June thirtieth of each year must be transferred to the state  
2           general fund.

3       5- 4. Each office, agency, or institution provided with printing, ~~information services~~, or  
4           personnel training services, unless exempted by law, shall pay to the office of  
5           management and budget a proportionate share of the cost of such service as  
6           determined by the director of the office of management and budget, based on  
7           actual costs and actual usage. The amounts paid to the office of management and  
8           budget by the various offices, agencies, and institutions must be deposited in the  
9           appropriate operating fund and must be expended in accordance with legislative  
10          appropriations.

11           **SECTION 26. AMENDMENT.** Section 54-44.8-01 of the 1997 Supplement to the North  
12   Dakota Century Code is amended and reenacted as follows:

13           **54-44.8-01. Definitions.** As used in this chapter, unless the context otherwise  
14   requires:

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

1           impaired to communicate with another person utilizing the telephone network. The  
2           term may include telecommunications devices for the deaf, amplifiers, and  
3           signaling devices.

4           10. "Telecommunications relay service" means a statewide service through which a  
5           communications-impaired individual, using specialized telecommunications  
6           equipment, may send and receive messages to and from a  
7           noncommunications-impaired individual whose telephone is not equipped with  
8           specialized telecommunications equipment and through which a  
9           noncommunications-impaired individual, by using voice communication, may send  
10          and receive messages to and from a communications-impaired individual.

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

14          **SECTION 27. AMENDMENT.** Section 54-44.8-02 of the 1997 Supplement to the North  
15          Dakota Century Code is amended and reenacted as follows:

16          **54-44.8-02. Responsibilities of the administrator.** The administrator shall oversee  
17          the ~~division's~~ department's administration of the program. The administrator shall:

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

25          **SECTION 28. AMENDMENT.** Section 54-44.8-03 of the 1997 Supplement to the North  
26          Dakota Century Code is amended and reenacted as follows:

27          **54-44.8-03. Program established - Purpose.**

- 28           1. The ~~division~~ department shall establish and administer a program to provide  
29           telecommunications relay service to persons who are communications impaired.

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

14           **SECTION 29. AMENDMENT.** Section 54-44.8-04 of the 1997 Supplement to the North  
15 Dakota Century Code is amended and reenacted as follows:

16           **54-44.8-04. Responsibilities of the ~~division~~ department.** The ~~division~~ department  
17 shall:

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

24           **SECTION 30. AMENDMENT.** Section 54-44.8-05 of the 1997 Supplement to the North  
25 Dakota Century Code is amended and reenacted as follows:

26           **54-44.8-05. Telecommunications relay service - Requirements.**

- 27           1.    The ~~division~~ department shall contract with a qualified provider to design and  
28                   implement a telecommunications relay service that fulfills the requirement of  
29                   subsection 2 of section 54-44.8-03. The ~~division~~ department shall award the  
30                   contract for this service to the offeror whose proposal is the most advantageous to  
31                   the state; considering price, the interests of the communications-impaired

- 1 community in having access to a high quality and technologically advanced  
2 telecommunications system, and all other factors listed in the request for  
3 proposals.
- 4 2. Except in cases of willful misconduct, gross negligence, or bad faith, neither the  
5 ~~division~~ department nor the provider of the telecommunications relay service, nor  
6 the employees of the provider, are liable for any damages or claims for relief  
7 arising out of or resulting from the establishment of, participation in, or operation of  
8 the telecommunications relay service.
- 9 3. The ~~division~~ department shall require, under the terms of the contract, that:
- 10 a. The service be available statewide for operation seven days a week,  
11 twenty-four hours per day, including holidays, for both interstate and intrastate  
12 calls.
- 13 b. The service relay all messages promptly and accurately.
- 14 c. The service maintain the privacy of persons using the system.
- 15 d. The provider preserve the confidentiality of all telephone communications.
- 16 e. The service conform to any standards established by applicable state or  
17 federal laws or rules.

18 **SECTION 31. AMENDMENT.** Section 54-44.8-07 of the 1997 Supplement to the North  
19 Dakota Century Code is amended and reenacted as follows:

20 **54-44.8-07. Telecommunications services account for the communications**  
21 **impaired.** The telecommunications services account for the communications impaired consists  
22 of all surcharges billed and collected pursuant to section 54-44.8-08. Subject to legislative  
23 appropriation, the ~~division~~ department may expend moneys from the account for purposes of  
24 implementing this chapter.

25 **SECTION 32. AMENDMENT.** Section 54-44.8-08 of the 1997 Supplement to the North  
26 Dakota Century Code is amended and reenacted as follows:

27 **54-44.8-08. Telephone access line and radio communications access surcharge.**

- 28 1. Before May first of each year, the ~~division~~ department shall report all cost data and  
29 other information to the commission. Each local exchange company and radio  
30 communications service provider shall report all information requested by the  
31 ~~division~~ department in order to determine the number of telephone access lines

1 and radio communications access service numbers. Before June first of each  
2 year, the commission shall determine the amount of a surcharge, not to exceed  
3 eleven cents per telephone access line per month, based upon available cost data  
4 and other information provided by the ~~division~~ department necessary to cover the  
5 costs of providing intrastate telecommunications relay service as provided in  
6 section 401 of the federal Americans with Disabilities Act of 1990 [47 U.S.C. 225],  
7 including the cost of implementing and administering this chapter which includes  
8 the provision of specialized equipment to eligible persons, and taking into  
9 consideration any surplus in the telecommunications services account. The  
10 surcharge is imposed effective on its determination by the commission and must  
11 be billed and collected as provided in this chapter. The surcharge is subject to  
12 section 49-21-01.3. Funding for the interstate portion of the state  
13 telecommunications relay service must be provided in a manner consistent with  
14 rules and orders adopted by the federal communications commission in  
15 implementing the federal Americans with Disabilities Act. The ~~division~~ department  
16 shall notify each local exchange company and radio communications service  
17 provider, in writing, of the amount of the monthly surcharge determined by the  
18 commission.

- 19 2. Each local exchange company and radio communications service provider shall  
20 include and identify the surcharge determined under subsection 1 in its monthly  
21 billing for service to a customer of the company or provider.
- 22 3. Each customer of a local exchange company or radio communications service  
23 provider is liable for payment to the local exchange company or radio  
24 communications service provider of any surcharge imposed pursuant to this  
25 chapter. The local exchange company or radio communications service provider is  
26 not liable for any uncollected surcharge, nor does the company have an obligation  
27 to take any legal action to enforce the collection of any surcharge that is unpaid by  
28 its customers.
- 29 4. No customer of a local exchange company may be required to pay the surcharge  
30 on more than one hundred telephone access lines per account and no customer of  
31 a radio communications service provider may be required to pay the surcharge on

1 more than one hundred radio communications access service numbers per  
2 account in this state.

3 5. Except as provided in subsection 6, a local exchange company or radio  
4 communications service provider shall transmit all surcharges billed and collected  
5 to the ~~division~~ department no later than the last day of the month following the end  
6 of the calendar quarter in which the surcharge is collected. The administrator shall  
7 remit the surcharges received to the state treasurer. The state treasurer shall  
8 deposit all surcharges received in the state treasury to the credit of the  
9 telecommunications services account for the communications impaired.

10 6. Each local exchange company or radio communications service provider may  
11 deduct and retain five percent of the total surcharges billed and collected each  
12 month to cover its administrative expense in complying with the requirements of  
13 subsections 2, 3, 4, and 5.

14 **SECTION 33. AMENDMENT.** Section 54-46-03 of the 1997 Supplement to the North  
15 Dakota Century Code is amended and reenacted as follows:

16 **54-46-03. State records administrator.** The ~~director~~ chief information officer of the  
17 ~~office of management and budget~~ state or an individual designated by the ~~director~~ chief  
18 information officer shall serve as the state records administrator, in this chapter referred to as  
19 the administrator. The administrator shall establish and administer in the executive branch of  
20 state government a records management program, which will apply efficient and economical  
21 management methods to the creation, utilization, maintenance, retention, and final disposition  
22 of state records.

23 **SECTION 34. AMENDMENT.** Section 54-46.1-01 of the 1997 Supplement to the North  
24 Dakota Century Code is amended and reenacted as follows:

25 **54-46.1-01. Central microfilm unit.** The state records administrator shall establish  
26 and maintain a central microfilm unit and microfilm any record of any state office, agency, or  
27 department in either the executive, legislative, or judicial branch of state government, if the  
28 administrator determines the cost of such microfilming is reasonable in relation to the record's  
29 historical significance or the frequency and type of use of the record. Each office, agency, and  
30 department shall reimburse the central microfilm unit for the actual costs incurred in  
31 microfilming its records. The administrator shall deposit moneys received under this section in

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

10           **SECTION 35. REPEAL.** Chapter 54-44.2 of the North Dakota Century Code is  
11 repealed.

12           **SECTION 36. EFFECTIVE DATE.** Except for sections 1, 3, 4, 6, 7, 8, and 20, this Act  
13 becomes effective July 1, 2000. In addition to any exception available to counties, cities, and  
14 school districts under section 9 of this Act, the information technology board may except any  
15 entity from the application of section 9 of this Act for periods not to extend beyond June 30,  
16 2001, upon determining that network services cannot be made available under this Act to that  
17 entity before July 1, 2001.