

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 expiration date.

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

10 **SECTION 1. Definitions.** As used in sections 1 through 15 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.** In exercising its
20 powers and duties, the department is responsible for computer support services, host software
21 development, statewide communications services, standards for providing information to other
22 state agencies and the public through the internet, technology planning, process redesign, and
23 quality assurance.

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

7 **SECTION 4. Duties of chief information officer.** The chief information officer shall:
8 1. Administer the department.
9 2. Employ any personnel determined to be necessary to carry out the responsibilities
10 of the department and duties as prescribed by law.
11 3. Fix the salaries of all employees within the department, within the limits of
12 legislative appropriation. All personnel within the department are entitled to actual
13 and necessary travel expenses at the same rate as for other employees of the
14 state.

15 **SECTION 5. Powers and duties of department.** The department:
16 1. Shall provide, supervise, and regulate information technology of all executive
17 branch state entities, excluding the institutions under the control of the board of
18 higher education.
19 2. Shall provide network services in a way that ensures the network requirements of
20 a single entity do not adversely affect the functionality of the whole network,
21 facilitates open communications with the citizens of the state, minimizes the state's
22 investment in human resources, accommodates an ever-increasing amount of
23 traffic, supports rapid detection and resolution of problems, protects the network
24 infrastructure from damage and security breaches, provides for the aggregation of
25 data, voice, video, and multimedia into a statewide transport mechanism or
26 backbone, and provides for the network support for the entity to carry out its
27 mission.
28 3. May review and approve additional network services that are not provided by the
29 department.
30 4. May purchase or lease equipment or replace, including by trade or resale,
31 equipment as may be necessary to carry out sections 1 through 15 of this Act.

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

29 **SECTION 6. Business plan.** The department shall develop and maintain a business
30 plan. The business plan must:

- 31 1. Define the department's overall organization, mission, and delivery of services.

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

18 **SECTION 7. Required use of wide area network services.** Each state agency and
19 institution that desires access to wide area network services shall obtain those services from
20 the department.

21 **SECTION 8. Information technology standards.** Based on information from state
22 agencies and institutions, the department shall develop statewide information technology
23 policies, standards, and guidelines. Unless an exception is granted by the department, each
24 executive branch state agency and institution, excluding the institutions under the control of the
25 board of higher education with respect to academic and research uses of information
26 technology, shall comply with the policies and standards developed by the department. Unless
27 an exception is granted by the department, each entity receiving wide area network services
28 provided by the department shall comply with the policies and standards developed by the
29 department with respect to access to or use of wide area network services.

30 **SECTION 9. Information technology coordinators.** Each agency or institution shall
31 appoint an information technology coordinator. The coordinator shall maintain liaison with the

1 department and assist the department in areas related to making the most economical use of
2 information technology.

3 **SECTION 10. Information technology plans.** Each executive branch state agency or
4 institution, including the institutions under the control of the board of higher education, shall
5 prepare an information technology plan, subject to approval by the department. The plan must
6 be submitted to the department by January fifteenth of each even-numbered year. The plan
7 must be prepared based on guidelines developed by the department; must provide the
8 information technology goals, objectives, and activities of the entity for the current biennium
9 and the next two bienniums; and must include a list of information technology assets owned,
10 leased, or employed by the entity. Each entity required to file a plan shall provide interim
11 updates to its plan if major information technology changes occur which affect its plan. The
12 department shall review each entity's plan for compliance with statewide information technology
13 policies and standards and may require an entity to change its plan to comply with statewide
14 policies or standards or to resolve conflicting directions among plans. Agencies of the judicial
15 and legislative branches shall file their information technology plans with the department by
16 January fifteenth of each even-numbered year. Each state entity shall prepare its budget
17 request for the next biennium based on its information technology plan. The agency's budget
18 request and the governor's budget recommendation must include supporting information
19 describing in detail how the information technology plan relates to the budget request and
20 recommendation. Any budget adjustment by the budget office must include the corresponding
21 change to the plan. Based on the plans, the department shall prepare a statewide information
22 technology plan and distribute copies of that plan to members of the legislative assembly as
23 requested by the legislative council or its designee. The statewide information technology plan
24 must be developed with emphasis on long-term strategic goals and objectives. Any state
25 agency or institution, county, city, school district, or other entity that uses the statewide network
26 or is a user of services of the department shall file a plan that includes and identifies all
27 requirements for voice, data, or video.

28 **SECTION 11. Coordination of activities - Reports.** The department shall cooperate
29 with each state entity providing access to any computer data base or electronically filed or
30 stored information under subsection 4 of section 44-04-18 to assist in providing economical,
31 efficient, and compatible access. The chief information officer shall conduct conferences and

1 meetings with political subdivisions to review and coordinate information technology. The chief
2 information officer and the commissioner of the board of higher education shall meet at least
3 twice each year to plan and coordinate their information technology. The chief information
4 officer and commissioner shall consider areas in which joint or coordinated information
5 technology may result in more efficient and effective state government operations. Upon
6 request, the chief information officer shall report to the legislative council or its designated
7 committee regarding the coordination of services with political subdivisions, and the chief
8 information officer and commissioner shall report to the legislative council or its designated
9 committee regarding their findings and recommendations.

10 **SECTION 12. Compliance reviews.** The department shall review the information
11 technology management of executive branch state agencies and institutions, including the
12 institutions under the control of the board of higher education, as determined by the chief
13 information officer. The review must include an evaluation of the entity's planning
14 effectiveness, conformance to its information technology plan, compliance with statewide
15 policies and standards, asset quality, and training methods, and for an entity that contracts for
16 information technology services, an analysis of the entity's contract management system and
17 the contractor's compliance with contract provisions. If an agency or institution is found not to
18 be in conformance to its plan or in compliance with statewide policies and standards and does
19 not agree to come into conformance or compliance, the department shall report the issue to the
20 legislative council.

21 **SECTION 13. Information technology operating account.** The department shall
22 establish a state information technology operating account in the state treasury to be used, in
23 accordance with legislative appropriation, for procuring and maintaining information technology,
24 network services, and central microfilm unit equipment and supplies, and for providing
25 information technology, network services, and central microfilm unit services to state entities
26 and network services to users of the state network. Unless excepted by law, each agency or
27 institution provided with information technology or network services shall pay to the department
28 the charges as determined by the department. The department shall deposit the amounts
29 received in the information technology operating account or the information technology
30 development account, as appropriate.

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

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

16 **SECTION 16. STATEWIDE WIDE AREA NETWORK SERVICES PLAN -**
17 **EXPIRATION DATE.** By December 1, 2002, the information technology department shall
18 develop a plan for use of statewide wide area network services by the counties, cities, and
19 school districts in this state. The department shall prepare and recommend any proposed
20 legislation to implement the plan to the fifty-eighth legislative assembly.

21 **SECTION 17. TRANSITION.** The governor, director of the office of management and
22 budget, and director of the information services division shall take appropriate actions before
23 August 1, 1999, to ensure the transition of the information services division into the information
24 technology department. All appointing authorities are encouraged to consider their
25 appointments as soon as possible after the legislative assembly adjourns so that appointments
26 may be made and activities may commence effective with the effective date of this Act. Before
27 October 15, 1999, the chief information officer shall develop the business plan for the
28 department.

29 **SECTION 18. AMENDMENT.** Section 15-65-02 of the 1997 Supplement to the North
30 Dakota Century Code is amended and reenacted as follows:

1 **15-65-02. Membership - Appointment - Term - No compensation - Expenses -**

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

- 3 1. The commissioner of higher education or the commissioner's designee.
- 4 2. The superintendent of public instruction or the superintendent's designee.
- 5 3. The ~~director of the~~ chief information services division of the office of management
6 ~~and budget~~ officer of the state.
- 7 4. A representative of the telephone industry, appointed by the governor.
- 8 5. A school board member, appointed by the governor.
- 9 6. A school administrator, appointed by the governor.
- 10 7. A schoolteacher, appointed by the governor.

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

14 The members appointed by the governor must be reimbursed for actual necessary
15 expenses incurred in the performance of their duties as members of the council at the same
16 rates as provided by law for other state officers and employees. The costs incurred in
17 reimbursing the members of the council for their actual necessary expenses must be paid by
18 the superintendent of public instruction. The other members of the council are not entitled to
19 any compensation or reimbursement for expenses incurred in performing their duties.

20 **SECTION 19. AMENDMENT.** Section 41-09-46 of the 1997 Supplement to the North
21 Dakota Century Code is amended and reenacted as follows:

22 **41-09-46. (9-407) Information from filing officer - Computerized central notice**
23 **system - Secretary of state to compile lists for crops and livestock - Distribution of lists.**

- 24 1. If the person filing any financing statement, termination statement, statement of
25 assignment, or statement of release, furnishes the filing officer a copy thereof, the
26 filing officer upon request shall note upon the copy the file number and date and
27 hour of the filing of the original and deliver or send the copy to such person.
- 28 2. Upon request of any person, the filing officer shall issue a certificate showing
29 whether there is on file on the date and hour stated therein, any presently effective
30 financing statement naming a particular debtor and any statement of assignment
31 and if there is, giving the date and hour of filing of each statement and the names

1 and addresses of each secured party. The fee for this certificate is as provided by
2 section 41-09-42. Upon request the filing officer shall furnish a copy of any filed
3 financing statement or statement of assignment for a fee as provided by section
4 41-09-42.

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

1 lists must be in printed form and on microfiche. Each list must conspicuously note
2 its effective date.

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

7 5. Upon a verbal request of any person, the secretary of state or a designee or a
8 register of deeds shall verbally provide information contained on the list generated
9 through the computerized central notice system when the collateral is crops or
10 livestock. The requesting party may request a certificate from the secretary of
11 state or the register of deeds and the secretary of state or the register of deeds
12 shall confirm the information given. Direct computer access is equivalent to oral
13 confirmation and a computer printout constitutes the written confirmation of the
14 secretary of state, if use of this method of confirmation does not cause the central
15 notice system to lose its federal certification. The fee for a verbal request and
16 such a certificate must be as provided by section 41-09-42.

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

21 **SECTION 20. AMENDMENT.** Section 54-16-11.1 of the 1997 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **54-16-11.1. Emergency commission may increase revenues and appropriation**
24 **authority for intergovernmental service fund agencies.** Upon presentation of the verified
25 petition under section 54-16-10, the emergency commission shall meet to determine if
26 additional demand from state agencies requires an increase in appropriation authority and
27 revenue receipts for the information ~~services division~~ technology department, central
28 duplicating, surplus property, or roughrider industries division of the department of corrections
29 and rehabilitation, ~~or central microfilm~~.

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

- 1 **54-35-15. Information technology program - Staff - Powers and duties.**
- 2 1. The legislative council, or its designee, shall provide information technology
- 3 research and staff services to the legislative branch. The services must be
- 4 provided in accordance with the existing statutory authority of the legislative
- 5 council and within the framework of its other staff services.
- 6 2. The legislative council staff office shall provide information technology services,
- 7 and the council, or its designee, may hire such additional staff as are necessary,
- 8 and set compensation for any additional staff within the limits of legislative
- 9 appropriations.
- 10 3. The council, or its designee, shall structure the provision of information technology
- 11 services and assistance to the legislative assembly; and shall receive such
- 12 cooperation and assistance from other state agencies as it may reasonably
- 13 request.
- 14 4. ~~The council, or its designee, shall study emerging technology and evaluate its~~
- 15 ~~impact on the state's system of information technology, and report and make~~
- 16 ~~recommendations to the legislative council and the legislative assembly regarding~~
- 17 ~~information technology in state government.~~
- 18 5. ~~The council, or its designee, shall develop guidelines for reports to be provided by~~
- 19 ~~each executive branch agency, institution, or department, the institutions under the~~
- 20 ~~control of the board of higher education, and agencies of the judicial and legislative~~
- 21 ~~branches on information technology in those entities.~~
- 22 6. ~~The council, or its designee, shall review the information technology management~~
- 23 ~~of executive branch agencies, institutions, or departments, institutions under the~~
- 24 ~~control of the board of higher education, and agencies of the judicial and legislative~~
- 25 ~~branches as determined necessary by the council or its designee.~~
- 26 7. ~~The council, or its designee, shall perform information systems reviews and audits~~
- 27 ~~of information technology systems or applications of executive branch state~~
- 28 ~~agencies, institutions, and departments, institutions under the control of the state~~
- 29 ~~board of higher education, and agencies of the judicial and legislative branches, as~~
- 30 ~~determined necessary by the council, or its designee. The reviews and audits may~~
- 31 ~~include evaluating compliance with system or application requirements, data~~

1 integrity, security, controls, audit trails, backup and recovery methods, and the
2 effectiveness and appropriateness of the system in achieving its intended purpose,
3 as applicable.

4 8. ~~The council, or its designee, shall monitor the implementation of information~~
5 ~~technology systems development projects and application development projects~~
6 ~~for conformance with the agency's strategic plan and compliance with statewide~~
7 ~~policies and standards as determined necessary by the council, or its designee,~~
8 ~~and report any nonconformance or noncompliance discovered to the council or its~~
9 ~~designated committee.~~

10 9. ~~As used in this section, "information technology" means computing and data~~
11 ~~communications systems and their supporting infrastructure used in the~~
12 ~~acquisition, processing, management, analysis, storage, and delivery of~~
13 ~~information.~~

14 **SECTION 22. AMENDMENT.** Section 54-44-11 of the 1997 Supplement to the North
15 Dakota Century Code is amended and reenacted as follows:

16 **54-44-11. Office's operating funds creation - Continuing appropriation.**

17 1. The office of management and budget shall establish a state purchasing operating
18 fund to be used for the procurement and maintenance of an inventory of
19 equipment and supplies for the state departments and agencies. Funds in the
20 state purchasing operating fund are hereby appropriated on a continuing basis and
21 may be spent by the office of management and budget for the procurement and
22 maintenance of an inventory of equipment and supplies as provided in this
23 subsection. The director of the office of management and budget shall transfer
24 any unobligated balance in the fund, in excess of one hundred twenty-five
25 thousand dollars, to the state general fund at the end of each fiscal year.

26 2. The office of management and budget shall establish a state printing operating
27 fund to be used for the procurement and maintenance of an inventory of printing
28 equipment and supplies for the state departments and agencies.

29 3. ~~The office of management and budget shall establish a state information services~~
30 ~~operating fund to be used for the procurement and maintenance of data~~
31 ~~processing equipment and supplies, telecommunications equipment and supplies,~~

1 ~~and central microfilm unit equipment and supplies, and for providing data~~
2 ~~processing, telecommunication, and central microfilm unit services to state~~
3 ~~departments and agencies.~~

4 4. The office of management and budget shall establish a state personnel training
5 and development operating fund to be used for the coordination of employee
6 training and career development data, supplies, equipment, and services and for
7 providing or arranging necessary training and development programs to state
8 departments and agencies. Any surplus in this fund in excess of twenty-five
9 thousand dollars on June thirtieth of each year must be transferred to the state
10 general fund.

11 ~~5.~~ 4. Each office, agency, or institution provided with printing, ~~information services,~~ or
12 personnel training services, unless exempted by law, shall pay to the office of
13 management and budget a proportionate share of the cost of such service as
14 determined by the director of the office of management and budget, based on
15 actual costs and actual usage. The amounts paid to the office of management and
16 budget by the various offices, agencies, and institutions must be deposited in the
17 appropriate operating fund and must be expended in accordance with legislative
18 appropriations.

19 **SECTION 23. AMENDMENT.** Section 54-44.6-03 of the 1997 Supplement to the North
20 Dakota Century Code is amended and reenacted as follows:

21 **54-44.6-03. State forms manager.** ~~The director of the office of management and~~
22 ~~budget or an individual designated by the director~~ chief information officer of the state shall
23 serve as the state forms manager. The manager shall administer in the executive branch of
24 state government the forms management program established by this chapter. The program
25 must apply efficient and economical management methods to the creation and utilization of
26 state forms.

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

29 **54-44.8-01. Definitions.** As used in this chapter, unless the context otherwise
30 requires:

Fifty-sixth
Legislative Assembly

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

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

3 **54-44.8-02. Responsibilities of the administrator.** The administrator shall oversee
4 the ~~division's~~ department's administration of the program. The administrator shall:

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

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

14 **54-44.8-03. Program established - Purpose.**

- 15 1. The ~~division~~ department shall establish and administer a program to provide
16 telecommunications relay service to persons who are communications impaired.
- 17 2. The program shall provide a telecommunications relay service to allow persons
18 who are communications impaired to communicate via the telecommunications
19 network with noncommunications-impaired persons.
- 20 3. The vocational rehabilitation division of the department of human services shall
21 furnish specialized telecommunications equipment to meet the needs of individuals
22 who are communications impaired and who might be otherwise disadvantaged in
23 their ability to obtain such equipment. The vocational rehabilitation division shall
24 determine eligibility and may provide the specialized telecommunications
25 equipment to individuals determined eligible within the limits of funding made
26 available to the vocational rehabilitation division through gifts and grants received
27 under section 54-44.8-06 and from funding made available by the information
28 ~~services division~~ technology department from the surcharge collected pursuant to
29 section 54-44.8-08, which are hereby appropriated.

30 **SECTION 27. AMENDMENT.** Section 54-44.8-04 of the 1997 Supplement to the North
31 Dakota Century Code is amended and reenacted as follows:

1 **54-44.8-04. Responsibilities of the ~~division~~ department.** The ~~division~~ department
2 shall:

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

9 **SECTION 28. AMENDMENT.** Section 54-44.8-05 of the 1997 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **54-44.8-05. Telecommunications relay service - Requirements.**

- 12 1. The ~~division~~ department shall contract with a qualified provider to design and
13 implement a telecommunications relay service that fulfills the requirement of
14 subsection 2 of section 54-44.8-03. The ~~division~~ department shall award the
15 contract for this service to the offeror whose proposal is the most advantageous to
16 the state; considering price, the interests of the communications-impaired
17 community in having access to a high quality and technologically advanced
18 telecommunications system, and all other factors listed in the request for
19 proposals.
- 20 2. Except in cases of willful misconduct, gross negligence, or bad faith, neither the
21 ~~division~~ department nor the provider of the telecommunications relay service, nor
22 the employees of the provider, are liable for any damages or claims for relief
23 arising out of or resulting from the establishment of, participation in, or operation of
24 the telecommunications relay service.
- 25 3. The ~~division~~ department shall require, under the terms of the contract, that:
 - 26 a. The service be available statewide for operation seven days a week,
27 twenty-four hours per day, including holidays, for both interstate and intrastate
28 calls.
 - 29 b. The service relay all messages promptly and accurately.
 - 30 c. The service maintain the privacy of persons using the system.
 - 31 d. The provider preserve the confidentiality of all telephone communications.

1 e. The service conform to any standards established by applicable state or
2 federal laws or rules.

3 **SECTION 29. AMENDMENT.** Section 54-44.8-07 of the 1997 Supplement to the North
4 Dakota Century Code is amended and reenacted as follows:

5 **54-44.8-07. Telecommunications services account for the communications**
6 **impaired.** The telecommunications services account for the communications impaired consists
7 of all surcharges billed and collected pursuant to section 54-44.8-08. Subject to legislative
8 appropriation, the ~~division~~ department may expend moneys from the account for purposes of
9 implementing this chapter.

10 **SECTION 30. AMENDMENT.** Section 54-44.8-08 of the 1997 Supplement to the North
11 Dakota Century Code is amended and reenacted as follows:

12 **54-44.8-08. Telephone access line and radio communications access surcharge.**

13 1. Before May first of each year, the ~~division~~ department shall report all cost data and
14 other information to the commission. Each local exchange company and radio
15 communications service provider shall report all information requested by the
16 ~~division~~ department in order to determine the number of telephone access lines
17 and radio communications access service numbers. Before June first of each
18 year, the commission shall determine the amount of a surcharge, not to exceed
19 eleven cents per telephone access line per month, based upon available cost data
20 and other information provided by the ~~division~~ department necessary to cover the
21 costs of providing intrastate telecommunications relay service as provided in
22 section 401 of the federal Americans with Disabilities Act of 1990 [47 U.S.C. 225],
23 including the cost of implementing and administering this chapter which includes
24 the provision of specialized equipment to eligible persons, and taking into
25 consideration any surplus in the telecommunications services account. The
26 surcharge is imposed effective on its determination by the commission and must
27 be billed and collected as provided in this chapter. The surcharge is subject to
28 section 49-21-01.3. Funding for the interstate portion of the state
29 telecommunications relay service must be provided in a manner consistent with
30 rules and orders adopted by the federal communications commission in
31 implementing the federal Americans with Disabilities Act. The ~~division~~ department

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

30 **SECTION 31. AMENDMENT.** Section 54-46-03 of the 1997 Supplement to the North
31 Dakota Century Code is amended and reenacted as follows:

1 **54-46-03. State records administrator.** The ~~director~~ chief information officer of the
2 ~~office of management and budget state~~ state or an individual designated by the ~~director~~ chief
3 information officer shall serve as the state records administrator, in this chapter referred to as
4 the administrator. The administrator shall establish and administer in the executive branch of
5 state government a records management program, which will apply efficient and economical
6 management methods to the creation, utilization, maintenance, retention, and final disposition
7 of state records.

8 **SECTION 32. AMENDMENT.** Section 54-46.1-01 of the 1997 Supplement to the North
9 Dakota Century Code is amended and reenacted as follows:

10 **54-46.1-01. Central microfilm unit.** The state records administrator shall establish
11 and maintain a central microfilm unit and microfilm any record of any state office, agency, or
12 department in either the executive, legislative, or judicial branch of state government, if the
13 administrator determines the cost of such microfilming is reasonable in relation to the record's
14 historical significance or the frequency and type of use of the record. Each office, agency, and
15 department shall reimburse the central microfilm unit for the actual costs incurred in
16 microfilming its records. The administrator shall deposit moneys received under this section in
17 the information ~~services~~ technology operating ~~fund~~ account. The administrator shall employ
18 professional, technical, and clerical personnel as the administrator determines to be necessary
19 to carry out the duties prescribed in this chapter and, within the limits of the legislative
20 appropriation, shall fix the salaries of all employees within the central microfilm unit. All
21 personnel within the central microfilm unit must be allowed their actual and necessary travel
22 expenses at the same rate as for other employees of the state. The administrator may perform
23 microfilm services for any state institution and for any county, when the institution or county
24 requests such services and the administrator agrees that the request is consistent with good
25 records management practices.

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

28 **SECTION 34. EXPIRATION DATE.** Section 16 of this Act expires March 31, 2003,
29 and after that date is ineffective.