

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 54-44.2 of the North Dakota  
2 Century Code, relating to information technology project feasibility studies; and to amend and  
3 reenact sections 54-44.2-00.1, 54-44.2-01, 54-44.2-02, 54-44.2-10, 54-44.2-11, and 54-44.2-12  
4 of the North Dakota Century Code, relating to information technology planning and activities.

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

6 **SECTION 1. AMENDMENT.** Section 54-44.2-00.1 of the 1997 Supplement to the  
7 North Dakota Century Code is amended and reenacted as follows:

8 **54-44.2-00.1. Definitions.** As used in this chapter:

- 9 1. "Agency" or "entity" does not include any agricultural commodity promotion group  
10 or any occupational or professional board.
- 11 2. "Information technology systems" means computing and data communications  
12 systems and their supporting infrastructure used in the acquisition, processing,  
13 management, analysis, storage, and delivery of information.
- 14 ~~2.~~ 3. "Information technology services" means the equipment, software, and services  
15 necessary for the acquisition, processing, management, analysis, storage, and  
16 delivery of information.
- 17 ~~3.~~ 4. "~~Telephone~~ Network services" means the equipment, software, and services  
18 necessary to transmit voice, data, or video ~~through the public telephone network.~~

**NOTE:** North Dakota Century Code Section 4-24-10 identifies these agricultural commodity promotion groups: Potato Council, Oilseed Council, Dry Bean Council, Barley Council, Soybean Council, Corn Utilization Council, Beekeepers Association, Turkey Federation, Milk Marketing Board, Dairy Promotion Commission, Wheat Commission, and Beef Commission. As a result of a recommendation at the September meeting, "occupational or professional board" was added. In addition, "information technology" was changed to "information technology systems" to reflect what is defined.

1           **SECTION 2. AMENDMENT.** Section 54-44.2-01 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **54-44.2-01. Information services division - Creation.** The information services  
4 division is established in the office of management and budget. The director of the office of  
5 management and budget shall appoint a director of the information services division. The  
6 director of the information services division shall supervise and regulate the information  
7 technology systems of all executive branch state agencies, institutions, departments, and  
8 boards, excluding the institutions under the control of the board of higher education.

9           The director of the information services division must be appointed upon the basis of  
10 education, experience, and other qualifications in information technology and administration,  
11 without reference to partisan politics, and must serve at the pleasure of the director of the office  
12 of management and budget. The director of the information services division shall employ such  
13 other professional, technical, and clerical personnel as the director determines to be necessary  
14 to carry out the duties prescribed in this chapter and, within the limits of the legislative  
15 appropriation, shall fix the salaries of all employees within the division. All personnel within the  
16 division must be allowed their actual and necessary travel expenses at the same rate as for  
17 other employees of the state.

**NOTE:** The change in the reference is to recognize the change in the definitions  
contained in NDCC Section 54-44.2-00.1.

18           **SECTION 3. AMENDMENT.** Section 54-44.2-02 of the 1997 Supplement to the North  
19 Dakota Century Code is amended and reenacted as follows:

20           **54-44.2-02. Information services division - Powers and duties.** The information  
21 services division ~~shall~~:

- 22           1. ~~Provide~~ Shall provide information technology services.
- 23           2. ~~Provide telephone~~ Shall provide network services.
- 24           3. ~~Have the authority to~~ May purchase or lease equipment or replace, including by  
25 trade or resale, ~~present~~ equipment as may be necessary to carry out this chapter.  
26 Each executive branch department, agency, or institution, except the institutions  
27 under the control of the board of higher education, shall submit to the information  
28 services division and the legislative council, or its designee, in accordance with  
29 guidelines established by the division, a written request for the lease, purchase, or  
30 other contractual acquisition of information technology services ~~or equipment~~. The

- 1 information services division shall review requests for conformance with the  
2 requesting ~~organization's~~ entity's strategic plan and compliance with statewide  
3 policies and standards. If the request is not in conformance or compliance, the  
4 information services division may disapprove the request or require justification for  
5 the departure from the strategic plan or statewide policy or standard. The division  
6 shall inform the legislative council, or its designee, of any requests disapproved or  
7 additional justification received relating to a request.
- 8 4. ~~Provide~~ Shall provide information technology services, including assistance and  
9 advisory service to the legislative and judicial branches. If the division is unable to  
10 fulfill a request for service from the legislative or judicial branch, the service may be  
11 procured by the legislative or judicial branch within the limits of legislative  
12 appropriations.
- 13 5. ~~Conduct~~ Shall conduct conferences and meetings with political subdivisions to  
14 review and coordinate information technology services. The information services  
15 division shall report ~~annually~~ to the legislative council or its designated committee  
16 regarding the coordination of services with political subdivisions.
- 17 6. ~~Have authority to~~ May request information on or review information technology  
18 systems, applications, system development projects, and application development  
19 projects of executive branch departments, agencies, and institutions.
- 20 7. ~~Perform~~ Shall perform all other duties necessary to carry out this chapter.

**NOTE:** The lead-in language of each subsection is changed to recognize that not every subsection is a duty, i.e., "may" is appropriate. In subsection 2, "telephone services" is changed to "network services" due to the change in Section 1. In subsection 3, "equipment" is deleted because "information technology services" is defined to include equipment in Section 1. In subsection 5, "annually" is deleted to allow the report to be made when appropriate.

21 **SECTION 4. AMENDMENT.** Section 54-44.2-10 of the 1997 Supplement to the North  
22 Dakota Century Code is amended and reenacted as follows:

23 **54-44.2-10. Information technology planning.** Each executive branch state agency,  
24 institution, or department, including the institutions under the control of the board of higher  
25 education, shall prepare an information technology strategic plan, subject to approval by the  
26 information services division. The plan must be submitted to the information services division  
27 and the legislative council by January fifteenth of each even-numbered year. The plan must be

1 prepared based on guidelines developed by the information services division in consultation  
2 with the legislative council; must provide the information technology goals, objectives, and  
3 activities of the ~~organization~~ entity for the current biennium and the next five years two  
4 bienniums; and must include a ~~detailed~~ list of information technology assets owned, leased, or  
5 employed by the ~~agency, institution, or department~~ entity. Each ~~agency, institution, or~~  
6 ~~department~~ entity shall provide interim updates to its plan if major information technology  
7 changes occur which affect its plan. The information services division shall review each  
8 ~~agency's, institution's, or department's~~ entity's strategic plan for compliance with statewide  
9 information technology policies and standards and may require an ~~agency, institution, or~~  
10 ~~department~~ entity to change its strategic plan to comply with statewide policies or standards or  
11 to resolve conflicting directions among plans. Agencies of the judicial and legislative branches  
12 shall file their information technology strategic plans with the information services division and  
13 the legislative council by January fifteenth of each even-numbered year. Each agency,  
14 institution, or department shall prepare its budget request for the next biennium based on its  
15 information technology strategic plan. Based on the plans prepared by agencies, institutions,  
16 and departments, the information services division shall prepare a statewide information  
17 technology strategic plan and distribute copies of that plan to members of the legislative  
18 assembly as requested by the legislative council or its designee.

**NOTE:** North Dakota Century Code Section 1-01-49 does not define "organization" as including a governmental entity. "Five years" is replaced with references to bienniums because that is a clearer way of identifying the periods desired. "Detailed" is deleted to eliminate discrepancies between this requirement and the guidelines developed by the Information Services Division and the Legislative Council.

19 **SECTION 5. AMENDMENT.** Section 54-44.2-11 of the 1997 Supplement to the North  
20 Dakota Century Code is amended and reenacted as follows:

21 **54-44.2-11. Information technology coordination - Report to legislative council.**

22 The director of the information services division and the commissioner of the board of higher  
23 education shall meet at least twice each year to plan and coordinate their information  
24 technology systems and services. The director and commissioner shall consider areas in which  
25 joint or coordinated information technology systems and services may result in more efficient  
26 and effective state government operations. The director and commissioner shall report their  
27 findings and recommendations to the legislative council or its designated committee ~~before~~  
28 ~~November of each year.~~

**NOTE:** Reference to the date the report is given is deleted to allow flexibility in determining when the report should be given.

1           **SECTION 6. AMENDMENT.** Section 54-44.2-12 of the 1997 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **54-44.2-12. Information technology management reviews - Report to legislative**  
4 **~~audit and fiscal review committee~~ council.** The information services division shall review the  
5 information technology management of executive branch state agencies, institutions, or  
6 departments, including the institutions under the control of the board of higher education, as  
7 determined by the director of the information services division. The review must include an  
8 evaluation of the ~~organization's~~ entity's planning effectiveness, conformance to its strategic  
9 plan, compliance with statewide policies and standards, asset quality, and training methods,  
10 and for an ~~organization~~ entity that contracts for information technology services, an analysis of  
11 the ~~organization's~~ entity's contract management system and the contractor's compliance with  
12 contract provisions. If an agency, institution, or department is found not to be in compliance  
13 with statewide policies and standards and does not agree to come into compliance, the  
14 information services division ~~may~~ shall report the issue to the legislative ~~audit and fiscal review~~  
15 ~~committee.~~ The information services division shall report recurring issues of noncompliance to  
16 the legislative ~~audit and fiscal review~~ council or its designated committee.

**NOTE:** North Dakota Century Code Section 1-01-49 does not define "organization" as including a government entity. A reference to the Legislative Audit and Fiscal Review Committee is replaced with the Legislative Council to maintain continuity with the involvement of the committee responsible for reviewing information technology.

17           **SECTION 7.** A new section to chapter 54-44.2 of the North Dakota Century Code is  
18 created and enacted as follows:

19           **Information technology projects - Feasibility studies - Use of funds.** The  
20 information services division, in consultation with the legislative council, shall establish  
21 guidelines for an agency or institution to use in determining whether an information technology  
22 project requires a feasibility study and analysis before proceeding with the project. The agency  
23 or institution shall report the results of the feasibility study to the information services division  
24 and the legislative council. The information services division, in consultation with the legislative  
25 council, shall prepare an analysis of the project and make the final determination as to whether  
26 the agency or institution may proceed with the project. If the determination is that the agency or  
27 institution may not proceed with the project, the agency or institution may not expend any funds

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- 1 appropriated for the project without the approval of the office of management and budget after
- 2 consultation with the legislative council.

**NOTE:** As the result of a recommendation made at the September meeting of the committee, this section was revised to authorize the Office of Management and Budget to authorize expenditures rather than the Information Services Division.