

Introduced by

1 A BILL for an Act to create and enact two new sections 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 subsection 9 of section 54-35-15, sections 54-44.2-00.1, 54-44.2-01, 54-44.2-02,
4 54-44.2-06, 54-44.2-09, 54-44.2-10, 54-44.2-11, and 54-44.2-12 of the North Dakota Century
5 Code, relating to information technology planning and activities.

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

7 **SECTION 1. AMENDMENT.** Subsection 9 of section 54-35-15 of the 1997 Supplement
8 to the North Dakota Century Code is amended and reenacted as follows:

9 9. As used in this section, "information technology" means ~~computing and data~~
10 ~~communications systems~~ the use of hardware, software, services, and their
11 supporting infrastructure used in the acquisition, processing, management,
12 analysis, storage, and delivery of to manage and deliver information using voice,
13 data, and video.

14 **SECTION 2. AMENDMENT.** Section 54-44.2-00.1 of the 1997 Supplement to the
15 North Dakota Century Code is amended and reenacted as follows:

16 **54-44.2-00.1. Definitions.** As used in this chapter:

- 17 1. "Agency" or "entity" does not include any agricultural commodity promotion group
18 or any occupational or professional board.
- 19 2. "Division" means the information services division.
- 20 3. "Information technology" means ~~computing and data communications systems~~ the
21 use of hardware, software, services, and their supporting infrastructure used in the
22 acquisition, processing, management, analysis, storage, and delivery of to manage
23 and deliver information using voice, data, and video.

- 1 2. ~~"Information technology services" means the equipment, software, and services~~
2 ~~necessary for the acquisition, processing, management, analysis, storage, and~~
3 ~~delivery of information.~~
- 4 ~~3.~~ 4. "Telephone Network services" means the equipment, software, and services
5 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 redefined.

6 **SECTION 3. AMENDMENT.** Section 54-44.2-01 of the 1997 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **54-44.2-01. Information services division - Creation.** The information services
9 division is established in the office of management and budget. The director of the office of
10 management and budget shall appoint a director of the information services division. ~~The~~
11 ~~director of the information services division shall supervise and regulate the information~~
12 ~~technology of all executive branch state agencies, institutions, departments, and boards,~~
13 ~~excluding the institutions under the control of the board of higher education.~~

14 The director of the ~~information services~~ division must be appointed upon the basis of
15 education, experience, and other qualifications in information technology and administration,
16 without reference to partisan politics, and must serve at the pleasure of the director of the office
17 of management and budget. ~~The director of the information services division shall employ such~~
18 ~~other professional, technical, and clerical personnel as the director 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 division. All personnel within the~~
21 ~~division must be allowed their actual and necessary travel expenses at the same rate as for~~
22 ~~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. The deleted material is placed in Sections 3 and 4 of this bill draft.

23 **SECTION 4.** A new section to chapter 54-44.2 of the North Dakota Century Code is
24 created and enacted as follows:

25 **Duties of director.** The director of the division shall:

- 1 1. Administer the division.
- 2 2. Employ any personnel determined to be necessary to carry out the responsibilities
- 3 of the division and duties as prescribed by law.
- 4 3. Fix the salaries of all employees within the division, within the limits of legislative
- 5 appropriation. All personnel within the division are entitled to actual and necessary
- 6 travel expenses at the same rate as for other employees of the state.

NOTE: This section consolidates duties of the director into one section. The section is derived from NDCC Section 54-44.2-01.

7 **SECTION 5. AMENDMENT.** Section 54-44.2-02 of the 1997 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **54-44.2-02. Information services division - Powers and duties.** The ~~information~~
10 ~~services~~ division shall:

- 11 1. ~~Provide~~ Shall provide, supervise, and regulate information technology ~~services of~~
12 all executive branch state entities, excluding the institutions under the control of the
13 board of higher education.
- 14 2. ~~Provide telephone~~ Shall provide network services.
- 15 3. May review and approve additional network services not provided by the division.
- 16 4. ~~Have the authority to~~ May purchase or lease equipment or replace, including by
17 trade or resale, present equipment as may be necessary to carry out this chapter.
18 Each executive branch ~~department~~, agency, or institution, except the institutions
19 under the control of the board of higher education, shall submit to the ~~information~~
20 ~~services~~ division and the legislative council, or its designee, in accordance with
21 guidelines established by the division, a written request for the lease, purchase, or
22 other contractual acquisition of information technology ~~services or equipment~~. The
23 ~~information services~~ division shall review requests for conformance with the
24 requesting ~~organization's~~ entity's strategic plan and compliance with statewide
25 policies and standards. If the request is not in conformance or compliance, the
26 ~~information services~~ division may disapprove the request or require justification for
27 the departure from the strategic plan or statewide policy or standard. The division
28 shall inform the legislative council, or its designee, of any requests disapproved or
29 additional justification received relating to a request.

- 1 4. ~~5.~~ Provide ~~Shall provide~~ information technology ~~services~~, including assistance and
2 advisory service~~s~~, to the ~~executive~~, legislative~~s~~, and judicial branches. If the division
3 is unable to fulfill a request for service from the legislative or judicial branch, the
4 ~~service~~ information technology may be procured by the legislative or judicial
5 branch within the limits of legislative appropriations.
- 6 5. ~~6.~~ ~~Conduct~~ Shall conduct conferences and meetings with political subdivisions to
7 review and coordinate information technology ~~services~~. The ~~information services~~
8 division shall report ~~annually~~ to the legislative council or its designated committee
9 regarding the coordination of services with political subdivisions.
- 10 6. ~~7.~~ ~~Have authority to~~ May request information on or review information technology
11 ~~systems~~, applications, system development projects, and application development
12 projects of executive branch ~~departments~~, agencies~~s~~, and institutions.
- 13 7. ~~8.~~ ~~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. Subsection 1 is revised to include provisions from NDCC Section 54-44.2-02, and "services" was deleted to avoid duplication with the substance of subsection 5. 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.

14 **SECTION 6. AMENDMENT.** Section 54-44.2-06 of the 1997 Supplement to the North
15 Dakota Century Code is amended and reenacted as follows:

16 **54-44.2-06. Confidentiality.** The ~~information services~~ division may receive from
17 various ~~departments~~ agencies and various ~~departments~~ agencies may provide to the division
18 any information from the ~~files and records of the departments~~ agencies necessary to effect the
19 purposes of this chapter without regard to the confidential nature of the information; ~~provided,~~
20 ~~however, the.~~ The division is subject to the same restrictions and penalties regarding the
21 dissemination of this information as the ~~department~~ entity involved. The division may refer a
22 request for access to or inspection of information provided by an agency to that agency for
23 response. Referral to the agency satisfies any responsibility of the division to provide that
24 information under open records requirements. Upon court order the division shall provide
25 access to or inspection of the information in accordance with restrictions of that entity involved
26 governing dissemination of the information.

NOTE: This section is amended to reflect committee discussion at its October 1, 1998, meeting.

1 **SECTION 7. AMENDMENT.** Section 54-44.2-09 of the 1997 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **54-44.2-09. Information technology standards.** ~~The information services division,~~
4 ~~based~~ Based on information from state agencies; and institutions, ~~and departments,~~ and in
5 consultation with the legislative council, the division shall develop statewide information
6 technology policies, standards, and guidelines. Unless an exception is granted by the
7 ~~information services~~ division, each executive branch state agency; and institution, ~~or~~
8 ~~department,~~ excluding the institutions under the control of the board of higher education with
9 respect to academic and research uses of information technology, shall comply with the policies
10 and standards developed by the ~~information services~~ division.

NOTE: This section is amended to reflect committee discussion at its October 1, 1998, meeting.

11 **SECTION 8. AMENDMENT.** Section 54-44.2-10 of the 1997 Supplement to the North
12 Dakota Century Code is amended and reenacted as follows:

13 **54-44.2-10. Information technology planning plans.** Each executive branch state
14 agency; or institution, ~~or department,~~ including the institutions under the control of the board of
15 higher education, shall prepare an information technology strategic plan, subject to approval by
16 the ~~information services~~ division. The plan must be submitted to the ~~information services~~
17 division and the legislative council by January fifteenth of each even-numbered year. The plan
18 must be prepared based on guidelines developed by the information services division in
19 consultation with the legislative council; must provide the information technology goals,
20 objectives, and activities of the ~~organization~~ entity for the current biennium and the next five
21 years two bienniums; and must include a ~~detailed~~ list of information technology assets owned,
22 leased, or employed by the ~~agency, institution, or department~~ entity. Each ~~agency, institution,~~
23 ~~or department~~ entity shall provide interim updates to its plan if major information technology
24 changes occur which affect its plan. The ~~information services~~ division shall review each
25 ~~agency's, institution's, or department's~~ entity's strategic plan for compliance with statewide
26 information technology policies and standards and may require an ~~agency, institution, or~~
27 ~~department~~ entity to change its strategic plan to comply with statewide policies or standards or
28 to resolve conflicting directions among plans. Agencies of the judicial and legislative branches

1 shall file their information technology strategic plans with the information services division and
2 the legislative council by January fifteenth of each even-numbered year. Each ~~agency,~~
3 ~~institution, or department~~ entity shall prepare its budget request for the next biennium based on
4 its information technology strategic plan. Based on the plans prepared by agencies,
5 institutions, and departments, the ~~information services~~ division shall prepare a statewide
6 information technology strategic plan and distribute copies of that plan to members of the
7 legislative assembly as requested by the legislative council or its designee. The statewide plan
8 must be developed with emphasis on long-term strategic goals and objectives.

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. The last sentence is based on committee discussion during its October 1, 1998, meeting.

9 **SECTION 9. AMENDMENT.** Section 54-44.2-11 of the 1997 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

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

12 The director of the ~~information services~~ division and the commissioner of the board of higher
13 education shall meet at least twice each year to plan and coordinate their information
14 technology ~~systems and services~~. The director and commissioner shall consider areas in which
15 joint or coordinated information technology ~~systems and services~~ may result in more efficient
16 and effective state government operations. The director and commissioner shall report their
17 findings and recommendations to the legislative council or its designated committee ~~before~~
18 ~~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.

19 **SECTION 10. AMENDMENT.** Section 54-44.2-12 of the 1997 Supplement to the North
20 Dakota Century Code is amended and reenacted as follows:

21 **54-44.2-12. ~~Information technology management~~ Compliance reviews - Report to**

22 **legislative audit and fiscal review committee council.** The ~~information services~~ division
23 shall review the information technology management of executive branch state agencies, and
24 institutions, ~~or departments~~, including the institutions under the control of the board of higher
25 education, as determined by the director of the ~~information services~~ division. The review must
26 include an evaluation of the ~~organization's~~ entity's planning effectiveness, conformance to its

1 strategic plan, compliance with statewide policies and standards, asset quality, and training
2 methods, and for an ~~organization~~ entity that contracts for information technology services, an
3 analysis of the ~~organization's~~ entity's contract management system and the contractor's
4 compliance with contract provisions. If an agency; or institution; ~~or department~~ is found not to
5 be in compliance with statewide policies and standards and does not agree to come into
6 compliance, the ~~information services~~ division ~~may~~ shall report the issue to the legislative ~~audit~~
7 ~~and fiscal review~~ committee. ~~The information services division shall report recurring issues of~~
8 ~~noncompliance to 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.

9 **SECTION 11.** A new section to chapter 54-44.2 of the North Dakota Century Code is
10 created and enacted as follows:

11 **Information technology projects - Feasibility studies - Use of funds.** The division,
12 in consultation with the legislative council, shall establish guidelines for an agency or institution
13 to use in determining whether an information technology project requires a feasibility study and
14 analysis before proceeding with the project. The agency or institution shall report the results of
15 the feasibility study to the division and the legislative council. The division, in consultation with
16 the legislative council, shall prepare an analysis of the project and make the final determination
17 as to whether the agency or institution may proceed with the project. If the determination is that
18 the agency or institution may not proceed with the project, the agency or institution may not
19 expend any funds appropriated for the project without the approval of the office of management
20 and budget after 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.