

Introduced by

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 18 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 services" means the equipment, software, and services
16 necessary for acquiring, processing, managing, analyzing, storing, and delivering
17 information.
- 18 5. "Information technology systems" means computing and data communications
19 systems and the supporting infrastructure used in acquiring, processing, managing,
20 analyzing, storing, and delivering information.
- 21 6. "Network services" means the equipment, software, and services necessary to
22 transmit voice, data, or video.

NOTE: This bill draft provides the statutory changes necessary to implement the nine recommendations contained in the Strategic Telecommunications Plan presented by

Wolfe & Associates. The recommendations are found in one or more sections as described here and in the notes under the various sections. Recommendation 1: Sections 2 and 5; Recommendation 2: Sections 3 and 4; Recommendation 3: Sections 7 and 8; Recommendation 4: Section 6; Recommendation 5: Section 4; Recommendation 6: Section 15; Recommendation 7: Section 11; Recommendation 8: Section 13; and Recommendation 9: Section 2.

Section 1 is derived from NDCC Section 54-44.2-00.1, with changes reflecting changes contained in the bill draft revising provisions of 1997 House Bill No. 1034 and also the recommendation at the September 1998 meeting that the definition of agency also exclude an occupational or professional licensing board. In addition, "information technology" is changed to "information technology systems" to reflect what is defined.

- 1 **SECTION 2. Information technology department - Responsibility.** The information
2 technology department is established with the responsibility for all telecommunications
3 planning, selection, and implementation for all state agencies, including institutions under the
4 control of the board of higher education and public schools in this state. The department
5 includes:
- 6 1. A computer support services division, responsible for data entry, data base,
7 technical service, e-mail, and desktop support.
 - 8 2. A host software development division.
 - 9 3. A statewide communications services division.
 - 10 4. A public service delivery division, responsible for standards for providing
11 information to other state agencies and the public through the Internet.
 - 12 5. A technology planning division.
 - 13 6. A process redesign division.
 - 14 7. A quality assurance division.
 - 15 8. Any other division the chief information officer, with the approval of the board,
16 determines necessary for the effective and efficient operation of the department.

NOTE: This section is derived from Recommendation 1 (establish an agency responsible for telecommunications for state agencies and public schools) and from Recommendation 9 (citizen service division to plan Internet uses).

- 17 **SECTION 3. Chief information officer of the state.** The governor shall appoint the
18 chief information officer of the state. The governor shall appoint the chief information officer on
19 the basis of education, experience, and other qualifications in information technology and
20 administration, without reference to partisan politics. The position of chief information officer is
21 not a classified position. The chief information officer serves at the pleasure of the governor.

- 1 The governor shall set the salary of the chief information officer within the limits of legislative
2 appropriations.

NOTE: This section is derived from Recommendation 2 (establish the position of Chief Information Officer) of the Strategic Telecommunications Plan and includes the qualifications for the director of the Information Services Division which are contained in NDCC Section 54-44.2-01.

3 **SECTION 4. Duties of chief information officer.** The chief information officer shall:

- 4 1. Supervise and regulate the information technology systems of all executive branch
5 state entities, excluding the institutions under the control of the board of higher
6 education.
- 7 2. Administer the department.
- 8 3. Establish a group within the department for improving personnel productivity and
9 workflow processes.
- 10 4. Employ any personnel determined to be necessary to carry out the responsibilities
11 of the department and duties as prescribed by law.
- 12 5. Fix the salaries of all employees within the department, within the limits of
13 legislative appropriation. All personnel within the department are entitled to actual
14 and necessary travel expenses at the same rate as for other employees of the
15 state.
- 16 6. Participate on the information technology board as a nonvoting, ex officio member.

NOTE: This section is derived from NDCC Section 54-44.2-01. Subsections 3 and 6 are derived from Recommendation 2 (nonvoting, ex officio member of the board) and Recommendation 5 (group to improve productivity and workflow processes).

17 **SECTION 5. Powers and duties of department.** The department:

- 18 1. Shall provide network services in a way that ensures the network requirements of a
19 single entity do not adversely affect the functionality of the whole network,
20 facilitates open communications with the citizens of the state, minimizes the state's
21 investment in human resources, accommodates an ever-increasing amount of
22 traffic, supports rapid detection and resolution of problems, protects the network
23 infrastructure from damage and security breaches, and provides for the
24 aggregation of data, voice, video, and multimedia into a statewide transport
25 mechanism or backbone.
- 26 2. May review and approve network services.

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

- 1 9. Shall review the information technology management of executive branch agencies
2 or institutions, including institutions under the control of the board of higher
3 education as provided in section 14 of this Act.
- 4 10. Shall perform all other duties necessary to carry out sections 1 through 18 of this
5 Act.

NOTE: Subsections 1 and 2 are derived from Recommendation 1 (authority to approve components of the network; guidelines for operation). Subsections 3 through 6 and subsection 10 are derived from NDCC Section 54-44.2-02, but the board is informed of rejected requests, rather than the Legislative Council. Subsections 7 through 9 are derived from NDCC section 54-35-15(4) through (6).

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 approval and the plan is subject to the approval of the board. The business plan
9 must:

- 10 1. Define the department's overall mission and roles.
- 11 2. Determine how use of the statewide network will improve learning in the state.
- 12 3. Determine the specific strategies and processes to ensure that agencies share
13 information, systems, and the statewide network.
- 14 4. Define the processes that will ensure that cities and counties receive maximum
15 benefit of the statewide network.
- 16 5. Define a fair and equitable billing structure that provides for payback of the initial
17 investments and ongoing operations of the statewide network.
- 18 6. Address the processes that will be put in place to ensure that the user community
19 is aware of the technology available and to ensure training on its use.
- 20 7. Address the deployment of encryption and the administration of digital signatures
21 within the wide area network.

NOTE: This section is derived from Recommendation 4 (strategic business plan) of the Strategic Telecommunications Plan.

22 **SECTION 7. State information technology board.** The board consists of the chief
23 information officer, who is a nonvoting, ex officio member; two members of the house of
24 representatives and two members of the senate appointed by the chairman of the legislative
25 council; the state court administrator, with the approval of the chief justice of the supreme court;
26 the commissioner of higher education, who is an ex officio member; and six members

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

NOTE: This section is derived from Recommendation 3 (establish a state board).

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, such as which agencies should have
17 mainframe computer processing units or should serve as major processing
18 centers.
- 19 3. Reviewing and approving statewide information technology standards.
- 20 4. Reviewing and approving the statewide information technology plan.
- 21 5. Reviewing the qualifications used to appoint the chief information officer and for
22 each position within the department.
- 23 6. Providing comment to the legislative council regarding the appropriateness of any
24 major project.
- 25 7. Reporting to the governor and the legislative council on matters concerning
26 information technology.

NOTE: This section is derived from Recommendation 3 (establish responsibilities in the board for technology services).

27 **SECTION 9. Information technology standards.** The department, based on
28 information from state agencies and institutions, and in consultation with the board, shall
29 develop statewide information technology policies, standards, and guidelines. Unless an

1 exception is granted by the department, each executive branch state agency and institution,
2 excluding the institutions under the control of the board of higher education, shall comply with
3 the policies and standards developed by the department.

NOTE: This section is derived from NDCC Section 54-44.2-09, but the consultation is with the board rather than the Legislative Council because the board reviews and approves the standards under Section 8.

4 **SECTION 10. Information technology coordinators.** Each agency or institution shall
5 appoint an information technology coordinator. The coordinator shall maintain liaison with the
6 department and assist the department in areas related to making the most economical use of
7 information technology.

NOTE: This section is derived from NDCC Section 54-44.2-04.

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

NOTE: This section is derived from NDCC Section 54-44.2-10, but the guidelines are prepared in consultation with the board, rather than the Legislative Council. The last sentence is derived from Recommendation 7 (network users file strategic plans).

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

NOTE: This section is derived from NDCC Sections 54-44.2-02(5), 54-44.2-08, and 54-44.2-11 and includes the changes contained in the bill draft revising the provisions of 1997 House Bill No. 1034.

14 **SECTION 13. Quality assurance.** The chief information officer shall establish a
15 project quality assurance process that provides an independent assessment of the status of
16 major projects. The board shall define a major project, whether by a predefined amount or a
17 determined risk. The personnel responsible for providing the assessment shall report to the
18 board on a quarterly basis until six months before actual deployment of a major project. At that
19 time, the personnel responsible for the assessment shall begin providing monthly project status
20 reports to the board. Notwithstanding any other provision of law, the board may suspend the
21 expenditure of moneys appropriated for a project if the board determines that the project is at
22 risk of failing to achieve its intended results or does not comply with standards adopted by the
23 department.

NOTE: This section is derived from Recommendation 8 (quality assurance process). Compare this section with the proposal in the bill draft revising 1997 House Bill No. 1034 relating to feasibility studies:

The department, in consultation with the board, shall establish guidelines for an agency or institution to use in determining whether an information technology project requires a feasibility study and analysis before proceeding with the project.

The agency or institution shall report the results of the feasibility study to the department and the board. The department shall prepare an analysis of the project and present that analysis to the board. The board shall make the final determination as to whether the agency or institution may proceed with the project. If the determination is that the agency or institution may not proceed with the project, the agency or institution may not expend any funds appropriated for the project without the approval of the Office of Management and Budget after consultation with the board.

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

NOTE: This section is derived from NDCC Sections 54-44.2-12 and 54-35-15(7) and (8), but noncompliance is reported to the board rather than to the Legislative Audit and Fiscal Review Committee.

12 **SECTION 15. Information technology development account.** The state treasurer
13 shall maintain the information technology development account as a special account in the
14 state treasury. All moneys appropriated to establish the statewide network and all moneys
15 received for charges in excess of the cost of providing network services must be deposited in
16 the account. Subject to legislative appropriation, the department may expend moneys in the
17 account to establish the statewide network and to evaluate emerging technologies and
18 implement common, shared components for the users of the network.

NOTE: This section is derived from Recommendation 6 (establish a technology development fund).

19 **SECTION 16. Information technology operating account.** The department shall
20 establish a state information technology operating account in the state treasury to be used, in
21 accordance with legislative appropriation, for procuring and maintaining data processing
22 equipment and supplies, telecommunications equipment and supplies, and central microfilm
23 unit equipment and supplies, and for providing data processing, telecommunication, and central

1 microfilm unit services to state entities and network services to users of the state network.
2 Unless excepted by law, each agency or institution provided with information technology
3 services or network services shall pay to the department the charges for the services as
4 determined by the department. The department shall deposit the amounts received in the
5 information technology operating account or the information technology development account,
6 as appropriate.

NOTE: This section is derived from NDCC Section 54-44-11(3) and (5).

7 **SECTION 17. Acceptance of funds.** The department may accept federal or other
8 funds, which must be deposited in the information technology development account or
9 information technology operating account, as appropriate, and which may be spent subject to
10 legislative appropriation. The department may apply for any public or private grants available
11 for the improvement of information technology.

NOTE: This section is derived from NDCC Section 54-44.2-07.

12 **SECTION 18. Confidentiality.** The department may receive from various agencies
13 and various agencies may provide to the department any information from the agencies
14 necessary to effect the purposes of sections 1 through 18 of this Act without regard to the
15 confidential nature of the information; provided, however, the department is subject to the same
16 restrictions and penalties regarding the dissemination of this information as the entity involved.

NOTE: This section is derived from NDCC Section 54-44.2-06.

17 **SECTION 19. TRANSITION.** The governor, director of the office of management and
18 budget, and director of the information services division shall take appropriate actions before
19 July 1, 2000, to ensure the transition of the information services division into the information
20 technology department. All appointing authorities are encouraged to consider their
21 appointments as soon as possible after the legislative assembly adjourns so that appointments
22 may be made and activities may commence effective with the effective date of the relevant
23 authority. The governor, director of the office of management and budget, and the director of
24 the information services division shall complete these activities by July 1, 2000. Until July 1,
25 2000, the chief information officer is responsible for administering the information services
26 division, and before October 15, 1999, the chief information officer shall develop and the state
27 information technology board shall approve the business plan for the department.

1 **SECTION 20. AMENDMENT.** Section 15-65-02 of the 1997 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **15-65-02. Membership - Appointment - Term - No compensation - Expenses -**

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

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

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

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

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

24 **41-09-46. (9-407) Information from filing officer - Computerized central notice**
25 **system - Secretary of state to compile lists for crops and livestock - Distribution of lists.**

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

1 financing statement naming a particular debtor and any statement of assignment
2 and if there is, giving the date and hour of filing of each statement and the names
3 and addresses of each secured party. The fee for this certificate is as provided by
4 section 41-09-42. Upon request the filing officer shall furnish a copy of any filed
5 financing statement or statement of assignment for a fee as provided by section
6 41-09-42.

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

1 operations. The lists may be prepared in categories according to county, regions
2 as designated by the secretary of state, or on a statewide basis. If requested, the
3 lists must be in printed form and on microfiche. Each list must conspicuously note
4 its effective date.

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

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

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

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

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

1 **SECTION 23. AMENDMENT.** Section 54-35-15 of the 1997 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **54-35-15. Information technology program - Staff - Powers and duties.**

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

1 ~~determined necessary by the council, or its designee. The reviews and audits may~~
2 ~~include evaluating compliance with system or application requirements, data~~
3 ~~integrity, security, controls, audit trails, backup and recovery methods, and the~~
4 ~~effectiveness and appropriateness of the system in achieving its intended purpose,~~
5 ~~as applicable.~~

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

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

16 **SECTION 24. AMENDMENT.** Section 54-44-11 of the 1997 Supplement to the North
17 Dakota Century Code is amended and reenacted as follows:

18 **54-44-11. Office's operating funds creation - Continuing appropriation.**

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

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

1 3. ~~The office of management and budget shall establish a state information services~~
2 ~~operating fund to be used for the procurement and maintenance of data processing~~
3 ~~equipment and supplies, telecommunications equipment and supplies, and central~~
4 ~~microfilm unit equipment and supplies, and for providing data processing,~~
5 ~~telecommunication, and central microfilm unit services to state departments and~~
6 ~~agencies.~~

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

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

22 **SECTION 25. AMENDMENT.** Section 54-44.8-01 of the 1997 Supplement to the North
23 Dakota Century Code is amended and reenacted as follows:

24 **54-44.8-01. Definitions.** As used in this chapter, unless the context otherwise
25 requires:

- 26 1. "Administrator" means the individual employed by the ~~division~~ chief information
27 officer of the state to oversee administration of the program.
28 2. "Commission" means the public service commission.
29 3. "Communications impaired" means the condition of an individual who is deaf,
30 hearing impaired, or speech impaired.

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

26 **SECTION 26. AMENDMENT.** Section 54-44.8-02 of the 1997 Supplement to the North
27 Dakota Century Code is amended and reenacted as follows:

28 **54-44.8-02. Responsibilities of the administrator.** The administrator shall oversee
29 the ~~division's~~ department's administration of the program. The administrator shall:

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

8 **SECTION 27. AMENDMENT.** Section 54-44.8-03 of the 1997 Supplement to the North
9 Dakota Century Code is amended and reenacted as follows:

10 **54-44.8-03. Program established - Purpose.**

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

26 **SECTION 28. AMENDMENT.** Section 54-44.8-04 of the 1997 Supplement to the North
27 Dakota Century Code is amended and reenacted as follows:

28 **54-44.8-04. Responsibilities of the ~~division~~ department.** The ~~division~~ department
29 shall:

- 30 1. Develop rules, policies, and procedures, as may be necessary, to govern
- 31 administration of the program.

1 2. Implement the telecommunications relay service as described in subsection 2 of
2 section 54-44.8-03 by July 26, 1993, to the extent funds generated by the
3 surcharge described in section 54-44.8-10 are available.

4 3. Perform any other duties necessary to properly administer the program.

5 **SECTION 29. AMENDMENT.** Section 54-44.8-05 of the 1997 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **54-44.8-05. Telecommunications relay service - Requirements.**

8 1. The ~~division~~ department shall contract with a qualified provider to design and
9 implement a telecommunications relay service that fulfills the requirement of
10 subsection 2 of section 54-44.8-03. The ~~division~~ department shall award the
11 contract for this service to the offeror whose proposal is the most advantageous to
12 the state; considering price, the interests of the communications-impaired
13 community in having access to a high quality and technologically advanced
14 telecommunications system, and all other factors listed in the request for
15 proposals.

16 2. Except in cases of willful misconduct, gross negligence, or bad faith, neither the
17 ~~division~~ department nor the provider of the telecommunications relay service, nor
18 the employees of the provider, are liable for any damages or claims for relief
19 arising out of or resulting from the establishment of, participation in, or operation of
20 the telecommunications relay service.

21 3. The ~~division~~ department shall require, under the terms of the contract, that:
22 a. The service be available statewide for operation seven days a week,
23 twenty-four hours per day, including holidays, for both interstate and intrastate
24 calls.
25 b. The service relay all messages promptly and accurately.
26 c. The service maintain the privacy of persons using the system.
27 d. The provider preserve the confidentiality of all telephone communications.
28 e. The service conform to any standards established by applicable state or
29 federal laws or rules.

30 **SECTION 30. AMENDMENT.** Section 54-44.8-07 of the 1997 Supplement to the North
31 Dakota Century Code is amended and reenacted as follows:

1 **54-44.8-07. Telecommunications services account for the communications**
2 **impaired.** The telecommunications services account for the communications impaired consists
3 of all surcharges billed and collected pursuant to section 54-44.8-08. Subject to legislative
4 appropriation, the ~~division~~ department may expend moneys from the account for purposes of
5 implementing this chapter.

6 **SECTION 31. AMENDMENT.** Section 54-44.8-08 of the 1997 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **54-44.8-08. Telephone access line and radio communications access surcharge.**

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

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

27 **SECTION 32. AMENDMENT.** Section 54-46-03 of the 1997 Supplement to the North
28 Dakota Century Code is amended and reenacted as follows:

29 **54-46-03. State records administrator.** The ~~director~~ chief information officer of the
30 ~~office of management and budget~~ state or an individual designated by the director shall serve
31 as the state records administrator, in this chapter referred to as the administrator. The

1 administrator shall establish and administer in the executive branch of state government a
2 records management program, which will apply efficient and economical management methods
3 to the creation, utilization, maintenance, retention, and final disposition of state records.

4 **SECTION 33. AMENDMENT.** Section 54-46.1-01 of the 1997 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **54-46.1-01. Central microfilm unit.** The state records administrator shall establish
7 and maintain a central microfilm unit and microfilm any record of any state office, agency, or
8 department in either the executive, legislative, or judicial branch of state government, if the
9 administrator determines the cost of such microfilming is reasonable in relation to the record's
10 historical significance or the frequency and type of use of the record. Each office, agency, and
11 department shall reimburse the central microfilm unit for the actual costs incurred in
12 microfilming its records. The administrator shall deposit moneys received under this section in
13 the information ~~services~~ technology operating ~~fund~~ account. The administrator shall employ
14 professional, technical, and clerical personnel as the administrator determines to be necessary
15 to carry out the duties prescribed in this chapter and, within the limits of the legislative
16 appropriation, shall fix the salaries of all employees within the central microfilm unit. All
17 personnel within the central microfilm unit must be allowed their actual and necessary travel
18 expenses at the same rate as for other employees of the state. The administrator may perform
19 microfilm services for any state institution and for any county, when the institution or county
20 requests such services and the administrator agrees that the request is consistent with good
21 records management practices.

22 **SECTION 34. REPEAL.** Chapter 54-44.2 of the North Dakota Century Code is
23 repealed.

NOTE: Chapter 54-44.2 establishes the information services division.

24 **SECTION 35. EFFECTIVE DATE.** Except for sections 1, 3, 4, 6, 7, 8, and 19, this Act
25 becomes effective July 1, 2000.

NOTE: This effective date clause allows the continuation of the operations of the Information Services Division until July 1, 2000. The sections excepted from the July 1, 2000, effective date concern the appointment of the Chief Information Officer, the business plan, the Information Technology Board, the duties of the board, and the transition clause and would become effective July 1, 1999, to allow for appointments to be made and work to begin to provide for an orderly transition from the Information Services Division to the Information Technology Department.