Prepared by the North Dakota Legislative Council
staff for the Information Technology Committee
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LEGISLATIVE INFORMATION TECHNOLOGY RESPONSIBILITIES UNDER HOUSE BILL NO. 1034 - BACKGROUND MEMORANDUM

INTRODUCTION

House Bill No. 1034 (attached as an appendix) resulted from a study by the Legislative Council's interim Budget Committee on Agriculture and Information Services. The bill requires the Legislative Council to provide information technology research and staff services to the legislative branch and to study emerging technology to evaluate its impact on the state's system of information technology. The bill requires the Legislative Council to perform information systems reviews and audits of information technology systems or applications of executive branch agencies, institutions, and departments, institutions under the control of the State Board of Higher Education, and agencies of the judicial and legislative branches and to monitor the implementation of information technology systems development projects and application development projects.

House Bill No. 1034 provides that the Information Services Division of the Office of Management and Budget is to supervise information technology of all executive branch agencies, excluding institutions under the control of the State Board of Higher Education. The bill requires the Information Services Division to consult with the Legislative Council and to develop statewide information technology policies, standards, and guidelines. The bill requires each executive branch agency, institution, or department, including the institutions under the control of the State Board of Higher Education, to prepare an information technology strategic plan, subject to approval by the Information Services Division. The bill also requires the director of the Information Services Division and the Commissioner of the State Board of Higher Education to meet at least twice each year to plan and coordinate their information technology systems and services and report their findings and recommendations to the Legislative Council before November of each year. The Information Services Division is required to report reoccurring issues of noncompliance with statewide policies and standards to the Legislative Audit and Fiscal Review Committee. The bill appropriates $466,960 to the Legislative Council for the purpose of defraying the expenses of the information technology program for the current biennium.

The Legislative Council assigned the Legislative Council's responsibilities under House Bill No. 1034 to the Information Technology Committee.

PRIOR LEGISLATIVE COUNCIL STUDIES

1967-68 Study

The 1967 Legislative Assembly passed Senate Bill No. 89, which directed a review of the state's data processing efforts. The study was assigned to the Subcommittee on Data Processing of the Legislative Research Committee, the predecessor to the Legislative Council.

At the time of the study, the data processing applications in state government were performed on three computers plus three relatively complete unit record installations. In addition, 14 state departments maintained their own keypunch and verification equipment.

The committee selected Arthur Andersen and Company, a national accounting firm, to prepare a plan for an integrated data processing system for the state. The major recommendation of the consultant was the establishment of a central office of data processing in lieu of small computer installations throughout state government. Based on the recommendations of the interim committee, the 1969 Legislative Assembly passed Senate Bill No. 33, which created the Central Data Processing Division within the Office of Management and Budget. The bill provided that the division was to establish an electronic data processing center to be used by all state agencies except the institutions of higher education, Job Service, and the office of the Adjutant General.

1969-70 Study

Based on the recommendations of the 1967-68 Data Processing Committee, the 1969 Legislative Assembly passed Senate Bill No. 34, which directed the Legislative Council to review the state's data processing efforts in the institutions under the State Board of Higher Education. The study was assigned to the interim 1969-70 Data Processing Committee. The committee selected the national accounting firm of Peat, Marwick, Mitchell and Company and Dr. Gerard P. Weeg, Director of the Iowa Regional Computer Center, as consultants for the study. The committee recommended establishing an office of higher education computer services to provide data processing service to the institutions and colleges of the state.

Subsequent to that study, a Higher Education Computer Network was funded at Valley City State College, Dickinson State College, and the University of North Dakota. The Higher Education Computer

Network was later extended to all institutions of higher education under the State Board of Higher Education.

1979-80 Study

The 1979 Legislative Assembly passed House Concurrent Resolution No. 3043, directing a study of the effectiveness of state central data processing services and the laws providing for those services. The committee selected Booz-Allen and Hamilton, Inc., to conduct the data processing review. The report of the consultants indicated that state government data processing was migrating from a highly centralized to a more distributed data processing environment. The committee recommended, and legislation was enacted by the 1981 Legislative Assembly, to define the responsibilities of the Central Data Processing Division and state agencies for the use of data processing resources, to provide that the director of the division was to supervise all executive branch agency data processing activities, and the director of the Central Data Processing Division was to approve data processing equipment acquisitions.

1985-86 Study

The 1985 Legislative Assembly passed a resolution directing a study of the office of Central Data Processing and other state computer systems to determine the feasibility of maximizing usage and accessibility of state-owned computers for all state agencies and institutions. The consultant for the study was Booz-Allen and Hamilton, Inc., who was requested to update that firm's 1980 data processing study. The study focused on ways to maximize the economical and efficient use and accessibility of state-owned computers for all state agencies and institutions. The consultant found that half of the state agencies used the services of Central Data Processing and three-fourths of the agencies had their own personal computers or word processors. In addition, over 300 different software packages had been procured by state agencies from 40 vendors and over 250 personal computers had been provided to those agencies by 13 vendors. The consultant made the following recommendations:

1. A more realistic threshold for central purchasing of software should be established.
2. Technical assistance provided by Central Data Processing on personal computers should be increased.
3. Statewide planning for computers and communication should be consolidated.
4. The State Auditor's office should be encouraged to accelerate plans to audit the use of personal computers by state agencies.
5. A disaster recovery plan should be prepared.
6. The Legislative Council should continue to use

consultant services whenever major data processing procurements or changes are planned.

No legislation resulted from the study.

1995-96 Study

The 1995 Legislative Assembly passed a resolution calling for a study of the Information Services Division (the successor to the Central Data Processing Division), the use and proliferation of personal computers throughout state government, and the feasibility and desirability of contracting for data processing services. The resolution identified the following reasons for the study:

1. Technological changes over the last 25 years make it necessary to review the Information Services Division.
2. The increasing use of personal computers by state agencies.
3. Technological advances in personal computers are continuing at a rapid pace and the effect of those advances on the customary practices of state agencies is not known.
4. The use of personal computers by state agencies may impact the role and operation of the Information Services Division and the coordination of computer services throughout state government.

The Legislative Council delegated the study to the interim Budget Committee on Agriculture and Information Services. The committee learned that the cost of state agency information technology projects for the next six years totals nearly $80 million.

The interim Budget Committee on Agriculture and Information Services selected Wolfe and Associates, Inc., to assist in its study. The consultant, after interviewing state agencies and receiving responses to surveys, found that state agencies estimated their 1995-97 biennial information technology expenditures would be $73.9 million, $29.2 million or 40 percent of which related to expenditures with the Information Services Division. Agencies reported that 323 full-time equivalent positions spent at least one-half of their time with information technology responsibilities. Of these positions, 144 were within the Information Services Division. The consultant found that agencies were moving toward client/server architecture but were not abandoning the mainframe computer. Although the consultant found that agencies were generally satisfied with the services provided by the Information Services Division, agencies wanted the division to provide additional services and were increasing their use of external information technology providers.

The committee received information from the Information Services Division and Wolfe and Associates, Inc., on new and emerging computer technologies and current trends in information technology. It was learned that organizations are moving from mainframe computer architecture to local and wide area network architecture. New systems provide better user interface, less expensive processing, and rapid application development. The committee learned that the cost of client/server architecture as compared to mainframe architecture varies by the size of the application. For small local applications or office systems, client/server architecture appears to be less expensive than mainframe architecture. For medium-size applications, client/server costs range from 70 percent to 120 percent of mainframe costs, and for large applications sufficient information to determine cost comparisons was still unavailable.

The committee learned that the relatively low cost of hardware relating to client/server and personal computer equipment purchases was deceiving. Generally, the cost of purchasing a personal computer is one-fourth to one-third of the total cost of the personal computer once training, upgrades, maintenance, and support costs are considered. Although private industry is establishing a variety of information technology management structures, the committee learned that generally organizations are maintaining some centralized functions and decentralizing other functions.

The committee received reports from the Information Services Division and Wolfe and Associates, Inc., on the development of information technology strategic plans for three pilot agencies--the Department of Transportation, the Secretary of State, and the Aeronautics Commission. The strategic plans were intended to identify ongoing current information technology projects and proposed information technology projects, including estimated costs.

As a result of this study, the committee recommended House Bill No. 1034 for consideration by the 1997 Legislative Assembly.

1997 LEGISLATION - HOUSE BILL NO. 1034

House Bill No. 1034 as Introduced

House Bill No. 1034 as introduced included the following:

1. The Information Services Division would have been given responsibility to develop statewide information technology policies, standards, and guidelines and, unless an exception were granted by the division, each executive branch agency, except institutions under the control of the State Board of Higher Education, would have to comply with the policies and standards.
2. Each executive branch agency, except higher education institutions, would be required to

prepare an information technology strategic plan, subject to approval by the Information Services Division. The Information Services Division would prepare a statewide information technology strategic plan.

3. The State Auditor would be authorized to perform or provide for information systems audits of information technology systems or applications.
4. The Information Services Division and the State Board of Higher Education would meet to plan and coordinate their information technology systems and services, to consider areas in which joint or coordinated information technology systems and services may result in more efficient and effective state government operations, and these entities would be required to report to the Legislative Council regarding their findings and recommendations.
5. The Information Services Division would be allowed to conduct information technology management reviews of state agencies, except higher education institutions. If the division found a department to be out of compliance with statewide policies and standards, the division could report the issue to the Legislative Audit and Fiscal Review Committee, and if recurring issues of noncompliance were found, the division would be required to report to the Legislative Audit and Fiscal Review Committee.
6. The Information Services Division director position would be a classified position.
7. Prior to the purchase by state agencies, except higher education institutions, of certain information technology equipment or services, prior approval would have to be obtained from the Information Services Division.
8. The Information Services Division would be allowed to request information and to review information technology systems, applications, system development projects, and application development projects of state agencies.
9. Statutes concerning the Information Services Division would be updated and sections relating to communications advisory committees and accounting and records maintenance grant programs would be removed.

House Bill No. 1034 as Passed by the House

House Bill No. 1034 was dramatically amended by the House of Representatives. The Legislative Council would have been required to create a new division called the Information Technology Management Division and would have named a director of the division who would have had considerable authority over information technology in state government. The Information Technology Management Division would have had responsibility for the development of statewide information technology policies, standards, and guidelines to be followed by all state agencies. The division would have had responsibility for the preparation of a statewide information technology strategic plan, including a list of approved agency projects in priority order as determined by the director of the Information Technology Management Division. The amended version would have substantially changed the role of the Legislative Council staff, as a member of the staff would have had substantive administrative authority over information technology in state government and would have served as a member of the North Dakota Educational Telecommunications Council.

House Bill No. 1034 as Enacted

When the House version of House Bill No. 1034 reached the Senate, considerable opposition was expressed concerning the changes from the original version. In testimony before the Senate Government and Veterans Affairs Committee, several officials and heads of state agencies expressed opposition to the portions of the bill that provided the Legislative Council with executive powers.

In response to the questions concerning the separation of powers issues raised by the version of House Bill No. 1034 which passed the House, House Bill No. 1034 was amended to restore administrative powers to the executive branch, but considerable responsibility was provided for the Legislative Council to review and monitor information technology in state government.

North Dakota Century Code Section 54-35-15 was amended to provide the following duties and responsibilities for the Legislative Council:

1. The Legislative Council is to provide information technology research and staff services to the legislative branch.
2. The Legislative Council staff is to provide information technology services.
3. The Legislative Council is to structure the provision of information technology services and assistance to the Legislative Assembly, and the Council is to receive such cooperation and assistance from other state agencies as it may reasonably request.
4. The Legislative Council or its designee is to study emerging technology and evaluate its impact on the state system of information technology and report and make recommendations to the Legislative Council and the Legislative Assembly regarding information technology in state government.
5. The Legislative Council, or its designee, is to develop guidelines for reports to be provided

by each executive branch agency, institution, or department, the institutions under the control of the State Board of Higher Education, and agencies of the judicial and legislative branches on information technology in those entities.

6. The Legislative Council, or its designee, is to review the information technology management of executive branch agencies, institutions, or departments, institutions under the control of the State Board of Higher Education, and agencies of the judicial and legislative branches as determined necessary by the Council or its designee.
7. The Legislative Council, or its designee, is to perform information systems reviews and audits of information technology systems or applications of executive branch state agencies, institutions, and departments, institutions under the control of the State Board of Higher Education, and agencies of the judicial and legislative branches, as determined necessary by the Council or its designee.
8. The Legislative Council, or its designee, is to monitor implementation of information technology systems development projects and application development projects for conformance with each agency's strategic plan and compliance with statewide policies and standards as determined necessary by the Council or its designee, and report any nonconformance or noncompliance to the Legislative Council or its designated committee.

The Information Services Division of the Office of Management and Budget is given responsibility to establish guidelines for the lease, purchase, or other contractual acquisition of information technology service or equipment, and agencies are to submit to the Information Services Division and the Legislative Council or its designee written requests for information technology services or equipment. The Information Services Division is given the authority to disapprove requests that are not in conformance with an agency's strategic plan or with statewide policies and standards.

The Information Services Division, in consultation with the Legislative Council, is to develop statewide information technology policies, standards, and guidelines. The division can grant exceptions, but unless an exception is granted, each executive branch agency, institution, or department, excluding the institutions under the control of the State Board of Higher Education, is required to comply with the policies and standards developed by the Information Services Division.

Each executive branch agency, institution, or department, including the institutions under the control of the State Board of Higher Education, is to prepare an information technology strategic plan, subject to approval by the Information Services Division, and the plans must be submitted to the Information Services Division and the Legislative Council by January 15 of each even-numbered year. The plans must be prepared based on guidelines developed by the Information Services Division in consultation with the Legislative Council. Agencies of the judicial and legislative branches are also to file their information technology strategic plans with the Information Services Division and the Legislative Council by January 15 of each even-numbered year. Budget requests for the next biennium are to be based on the information technology strategic plans of the various agencies. Based on the plans prepared by agencies, the Information Services Division is to prepare a statewide information technology strategic plan and distribute copies to members of the Legislative Assembly as requested by the Legislative Council or its designee.

Prior to November of each year the director of the Information Services Division and the Commissioner of the Board of Higher Education are to report their findings and recommendations on information technology systems and services to the Legislative Council or its designated committee.

Although the Legislative Council is given authority to perform information systems reviews and audits of state agencies, the Information Services Division is given responsibility to review the information technology management of executive branch agencies, including institutions under the control of the State Board of Higher Education. If agencies are found to be out of compliance with statewide policies and standards, the Information Services Division is to report that matter to the Legislative Audit and Fiscal Review Committee.

Section 15 of House Bill No. 1034 contains a detailed list of requirements for state agency information technology strategic plans. That section reflects the legislative intent of the 1997 Legislative Assembly on this subject, and the requirements of that section will not be codified as permanent law.

In addition to provisions relating to information technology, House Bill No. 1034 contains several sections relating to the North Dakota Educational Telecommunications Council, including the appropriation for grants. An appropriation of $466,960 is also provided to the Legislative Council for the purpose of defraying the expenses of its information technology program for the biennium.

PROPOSED STUDY APPROACH

The Information Technology Committee has the following statutory duties and responsibilities:

1. To study emerging technology and evaluate its impact on the state system of information technology (North Dakota Century Code Section 54-35-15(4)).
2. To develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the State Board of Higher Education, and agencies of the judicial and legislative branches on information technology in those entities (North Dakota Century Code Section 54-35-15(5)).
3. To review the information technology management of executive branch agencies, institutions, or departments, institutions under the control of the State Board of Higher Education, and agencies of the judicial and legislative branches as determined by the committee (North Dakota Century Code Section 54-35-15(6)).
4. To perform information systems reviews and audits of information technology systems or applications of executive branch agencies, institutions, and departments, institutions under the control of the State Board of Higher Education, and agencies of the judicial and legislative branches, as determined necessary by the committee. The reviews and audits may include evaluating compliance with system or application requirements, data integrity, security, controls, audit trails, backup and recovery methods, and the effectiveness and appropriateness of the system in achieving its intended purpose, as applicable (North Dakota Century Code Section 54-35-15(7)).
5. To monitor the implementation of information technology systems development projects and application development projects for conformance with agencies strategic plans and compliance with statewide policies and standards as determined necessary by the committee and to report any nonconformance or noncompliance to the Legislative Council or another committee.
6. To receive reports on agency requests for the lease, purchase, or other contractual acquisition of information technology services or equipment in accordance with guidelines established by the Information Services Division and to receive reports from the Information Services Division on requests that have been disapproved or require additional justification (North Dakota Century Code Section 54-44.2-02(3)).
7. To receive reports from the Information Services Division regarding the coordination of services with political subdivisions (North Dakota Century Code Section 54-44.2-02(5)).
8. Receive reports from the Information Services Division on the development of statewide information technology policies, standards, and guidelines for consultation with that division (North Dakota Century Code Section 54-44.2-09).
9. Receive reports from the Information Services Division on guidelines developed by the division for information technology strategic plans for consultation with the division (North Dakota Century Code Section 54-44.2-10).
10. To determine the distribution of the statewide information technology strategic plan within the legislative branch (North Dakota Century Code Section 54-44.2-10).

Other responsibilities of the committee include receiving reports from the Legislative Council staff concerning the employment of additional staff to carry out information technology responsibilities of the Legislative Council. The committee should receive periodic reports from the Information Services Division concerning progress of that division in carrying out its responsibilities under House Bill No. 1034. The committee may wish to consider contracting for services to carry out the statutory responsibility of the committee to perform information system reviews and audits of information technology systems or applications of state agencies.

ATTACH:1

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

HOUSE BILL NO. 1034
(Legislative Council)
(Budget Committee on Agriculture and Information Services)
(Representative Byerly)
(Senators Robinson, C. Nelson)

AN ACT to create and enact four new sections to chapter 54-44.2 of the North Dakota Century Code, relating to information technology planning, standards, setting, and reviews by the information services division; to amend and reenact sections 15-65-01, 15-65-02, 15-65-03, 15-65-06, 54-35-15, 54-44.2-00.1, 54-44.2-01, 54-44.2-02, 54-44.2-04, 54-44.2-06, 54-44.2-07, and 54-44.2-08 of the North Dakota Century Code, relating to the educational telecommunications council, information technology responsibilities of the legislative council, and duties and responsibilities of the information services division; to repeal sections 15-65-04, 54-44.2-02.1, 54-44.2-02.2, 54-44.2-02.3, 54-44.2-02.4, and 54-44.2-02.5 of the North Dakota Century Code, relating to the educational telecommunications council and duties and responsibilities of the information services division; to provide statements of legislative intent; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-65-01 of the North Dakota Century Code is amended and reenacted as follows:

15-65-01. North Dakota educational telecommunications council - Creation - Purpose. The North Dakota educational telecommunications council shall encourage and ~~direct~~ promote the ~~creation of educational telecommunication programs and~~ use of technology for educational purposes and the development of technology systems to improve educational opportunity within the state.

SECTION 2. AMENDMENT. Section 15-65-02 of the North Dakota Century Code is amended and reenacted as follows:

15-65-02. Membership - Appointment - Term - No compensation - Expenses - Organization. The North Dakota educational telecommunications council consists of:

1. The commissioner of higher education or the commissioner's designee.
2. The superintendent of public instruction or the superintendent's designee.
3. ~~One citizen member appointed by the governor giving preference to users of a telecommunications system.~~
4. The director of the information services division of the office of management and budget.
5. ~~A representative of prairie public broadcasting, appointed by the governor.~~
6. 4. A representative of the telephone industry, appointed by the governor.
7. ~~A representative of the North Dakota association of telephone cooperatives, appointed by the governor.~~
8. ~~A representative of the North Dakota cable television association, appointed by the governor.~~
9. 5. A school board member, appointed by the governor.

~~10.~~ 6. A school administrator, appointed by the governor.

~~11.~~ 7. A schoolteacher, appointed by the governor.

The term of office of the appointed members is three years~~, except that of the original appointees, three shall serve one year, three shall serve two years, and two shall serve three years, which appointees to be determined by lot~~. At all times either the school board member or the school administrator must be from a school with an enrollment of ~~less~~ fewer than five hundred students.

The ~~two citizen~~ members~~, the school board member, the school administrator, and the schoolteacher~~ appointed by the governor must be reimbursed for actual necessary expenses incurred in the performance of their duties as members of the council at the same rates as provided by law for other state officers and employees. The costs incurred in reimbursing the ~~two citizen~~ members of the council for their actual necessary expenses must be paid by the superintendent of public instruction. The other members of the council are not entitled to any compensation or reimbursement for expenses incurred in performing their duties. ~~The superintendent of public instruction shall call the initial meeting of the council at which time the council shall elect its chairman and other officers and take such other action as it deems appropriate.~~

SECTION 3. AMENDMENT. Section 15-65-03 of the North Dakota Century Code is amended and reenacted as follows:

15-65-03. Powers and duties. The council shall:

1. ~~Direct the implementation of telecommunication systems that are compatible and that can be connected with each other.~~ Promote the use of technology and the development of technology systems to enhance educational opportunities within the state.

2. ~~Develop a comprehensive written plan for the development of telecommunications in this state.~~ Cooperate with state agencies and other organizations to develop statewide educational technology systems.

3. ~~Be concerned with the development and use of statewide educational telecommunication programs and systems.~~

~~4. Hold coordinating authority for the development of such statewide educational telecommunication programs and systems as may be required to serve the entire state.~~

~~5. Assist any organization, state agencies, or both in the preparation, filing, and prosecution before federal agencies such applications, reports, or other documents or requests of any kind that may be necessary or appropriate to achieve the purposes of this chapter.~~

~~6. Receive gifts and contributions from public and private sources to be expended to provide educational telecommunication programs and systems.~~

~~7. Be concerned with the activation of educational broadcasting channels presently assigned to North Dakota, or the reallocation or addition of the channels, or both, as are determined to be in the best interests of the people of the state.~~

~~8. Actively cooperate with the state department of public instruction and the state board of higher education and other agencies and private organizations for the purpose of developing statewide educational telecommunication projects.~~

~~9.~~ Adopt bylaws for the conduct of its affairs.

~~10.~~ 4. Publish the informational material it deems necessary.

~~11.~~ 5. ~~Carry on~~ Conduct a continuing study ~~relating~~ to assess the needs, resources, and facilities which are available or may be required to establish educational ~~telecommunication programs and~~ technology systems throughout the entire state.

~~12.~~ 6. ~~Contract with eligible applicants to build and operate public television stations in this state. Eligible applicants are those licensed by the federal communications commission to operate noncommercial public television stations. Operational contracts may not exceed the amount raised within the preceding fiscal year by the applicant from nontax sources in this state.~~ Receive gifts and grants from private and public sources to be expended for educational technology projects.

SECTION 4. AMENDMENT. Section 15-65-06 of the North Dakota Century Code is amended and reenacted as follows:

15-65-06. Plan for statewide system of ~~interactive telecommunications~~ educational technology - Solicitation of grants. In developing and implementing a plan for a statewide system of ~~interactive telecommunications~~ educational technology, the educational telecommunications council shall solicit grants to be used in conjunction with moneys appropriated by the legislative assembly for ~~telecommunications~~ educational technology. Any moneys appropriated by the legislative assembly for ~~telecommunications~~ educational technology, unless specifically provided otherwise, and any grants received in accordance with this section must be used to implement the ~~plan~~ systems developed by the educational telecommunications council pursuant to this chapter.

SECTION 5. AMENDMENT. Section 54-35-15 of the North Dakota Century Code is amended and reenacted as follows:

54-35-15. ~~Science and~~ Information technology program - Staff - Powers and duties.

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

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

3. The council, or its designee, shall structure the provision of ~~scientific and technological~~ information technology services and assistance to the legislative assembly; and shall receive such cooperation and assistance from other state agencies as it may reasonably request.

4. The council, or its designee, shall study emerging technology and evaluate its impact on the state's system of information technology, and report and make recommendations to the legislative council and the legislative assembly regarding information technology in state government.

5. The council, or its designee, shall develop guidelines for reports to be provided by each executive branch agency, institution, or department, the institutions under the control of the board of higher education, and agencies of the judicial and legislative branches on information technology in those entities.

6. The council, or its designee, shall review the information technology management of executive branch agencies, institutions, or departments, institutions under the control of the board of higher education, and agencies of the judicial and legislative branches as determined necessary by the council or its designee.

7. The council, or its designee, shall perform information systems reviews and audits of information technology systems or applications of executive branch state agencies, institutions, and departments, institutions under the control of the state board of higher education, and agencies of the judicial and legislative branches, as determined necessary by the council, or its designee. The reviews and audits may include evaluating compliance with system or application requirements, data integrity, security, controls, audit trails,

backup and recovery methods, and the effectiveness and appropriateness of the system in achieving its intended purpose, as applicable.

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

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

SECTION 6. AMENDMENT. Section 54-44.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~"Data processing" or "electronic data processing" means the systematic sequencing of operations performed by data processing equipment or programs, or both, upon data stored or entered in alphabetic, numeric, or alphanumeric format.~~ "Information technology" means computing and data communications systems and their supporting infrastructure used in the acquisition, processing, management, analysis, storage, and delivery of information.

2. ~~"Data processing equipment" means an electronic device or associated devices, except calculators and stand alone noncommunicating word processors, which perform logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all compiling and related input, output, and storage, equipment, programs and procedures, and data processing communications facilities.~~ "Information technology services" means the equipment, software, and services necessary for the acquisition, processing, management, analysis, storage, and delivery of information.

3. ~~"Telecommunications" means the electronic exchange of voice, data, image, and video information.~~ "Telephone services" means the equipment, software, and services necessary to transmit voice, data, or video through the public telephone network.

~~4. "Transmission facilities" means terrestrial lines, and microwave, lightwave, and satellite facilities.~~

~~5. "Word processing" means the textual formatting, correcting, editing, and rearranging of language elements, designed to convey full messages in English syntax, through manipulation of electronic or magnetic impulses. "Word processors" are devices on which word processing can be carried out.~~

SECTION 7. AMENDMENT. Section 54-44.2-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.2-01. Information services division - Creation. The information services division is established in the office of management and budget. The director of the office of management and budget shall appoint a director of the information services division. The director of the information services division shall supervise and regulate ~~electronic data processing activities~~ the information technology of all executive branch state agencies, institutions, departments, and boards, ~~except the job service North Dakota and the office of the adjutant general~~ excluding the institutions under the control of the board of higher education. ~~The division shall establish an electronic data processing center which must, unless excepted by the director, be used by all executive branch state agencies, departments, and institutions except the institutions under the control of the board of higher education, the job service North Dakota, and the office of the adjutant general. The division shall provide data processing services to the legislative and judicial branches of government. If the division is unable to~~

~~fulfill a request for service from the legislative or judicial branch of government, the service may be procured by the legislative or judicial branch within the limits of legislative appropriations.~~

The director of the information services division must be appointed upon the basis of education, experience, and other qualifications in ~~data processing~~ information technology and administration~~. The position of director is not a classified position and the director~~, without reference to partisan politics, and must serve at the pleasure of the director of the office of management and budget. The director of the information services division shall employ such other professional, technical, and clerical personnel as the director determines to be necessary to carry out the duties prescribed in this chapter and ~~shall~~, within the limits of the legislative appropriation, shall fix the salaries of all employees within the division. All personnel within the division must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

SECTION 8. AMENDMENT. Section 54-44.2-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.2-02. Information services division - Powers and duties. The information services division shall:

1. Provide ~~systems design, programming, and other data processing~~ information technology services.

2. ~~Design, plan, justify, and implement all data processing systems within and between state agencies that utilize the services of the division.~~ Provide telephone services.

3. Have the authority to purchase or lease ~~such additional~~ equipment or replace, including by trade or resale, present equipment as may be necessary to carry out this chapter. Each executive branch department, agency, or institution, except the institutions under the control of the board of higher education, ~~the job service North Dakota, and the office of adjutant general,~~ shall submit to the ~~director of the~~ information services division ~~for approval or disapproval~~ and the legislative council, or its designee, in accordance with guidelines established by the division, a written request for ~~data processing services that require new data processing applications. A request must also be submitted for modifications to existing data processing applications which are expected to increase the cost of operating such data processing applications by more than fifteen percent. The director may approve or disapprove~~ the lease, purchase, or other contractual acquisition of ~~additional or new electronic data processing~~ information technology services or equipment ~~by executive branch agencies, except the institutions under the control of the board of higher education, the job service North Dakota, and the office of adjutant general. The director may authorize a user agency to house and operate electronic data processing equipment.~~ The information services division shall review requests for conformance with the requesting organization's strategic plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the information services division may disapprove the request or require justification for the departure from the strategic plan or statewide policy or standard. The division shall inform the legislative council, or its designee, of any requests disapproved or additional justification received relating to a request.

4. Provide ~~data processing~~ information technology services, including assistance and advisory service to the legislative~~, executive,~~ and judicial branches. If the division is unable to fulfill a request for service from the legislative or judicial branch, the service may be procured by the legislative or judicial branch within the limits of legislative appropriations.

5. ~~Establish and justify data processing activities and costs in order that effectiveness can be measured.~~

6. ~~Establish a data bank to eliminate the duplicate storage of common data and thereby develop more economical and efficient use of the data processing system. The data bank must consist of data, except where data is restricted from such use by law and such~~

~~confidentiality cannot be reasonably maintained in the data bank, contained within the files of all agencies, departments, and institutions being provided services by the division. If the data bank contains data of use to other departments, agencies, and institutions, the data may be made available to such departments, agencies, and institutions after notice has been given to the agency, department, or institution from which the data was originally received.~~

~~7. Analyze proposals for executive branch agency word processing equipment and facility acquisitions and make such comments and recommendations as it may believe necessary so that such equipment and facilities will be compatible with electronic data processing equipment and programs under the supervision of the division. The office of management and budget may not approve vouchers for acquisition of word processing equipment and facilities by executive branch agencies unless the vouchers have attached to them the division's comments and recommendations.~~

~~8.~~ Conduct conferences and meetings with ~~various state agencies, departments, institutions, and~~ political subdivisions to review ~~proposals and provide information on improving telecommunications and transmission facilities in government~~ and coordinate information technology services. The information services division shall report annually to the legislative council or its designated committee regarding the coordination of services with political subdivisions.

~~9. Implement improvements in the state telecommunications and transmission facilities as are feasible and within the limitations of appropriated funds.~~

~~10. Adopt any rules determined to be necessary to establish standard procedures and practices in the development and use of telecommunications and transmission facilities provided by the division.~~

~~11. Provide advice, general guidelines, and information to political subdivisions on the compatibility and interactive capacity of computers and other electronic information systems with the goal of developing a statewide compatible electronic communications network by 1996.~~

~~12.~~ 6. Have authority to request information on or review information technology systems, applications, system development projects, and application development projects of executive branch departments, agencies, and institutions.

7. Perform all other duties necessary to carry out this chapter.

SECTION 9. Four new sections to chapter 54-44.2 of the North Dakota Century Code are created and enacted as follows:

Information technology standards. The information services division, based on information from state agencies, institutions, and departments, and in consultation with the legislative council, shall develop statewide information technology policies, standards, and guidelines. Unless an exception is granted by the information services division, each executive branch state agency, institution, or department, excluding the institutions under the control of the board of higher education, shall comply with the policies and standards developed by the information services division.

Information technology planning. Each executive branch state agency, institution, or department, including the institutions under the control of the board of higher education, shall prepare an information technology strategic plan, subject to approval by the information services division. The plan must be submitted to the information services division and the legislative council by January fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the information services division in consultation with the legislative council; must provide the information technology goals, objectives, and activities of the organization for the next five years; and must include a detailed list of information technology assets owned, leased, or employed by the agency, institution, or department. Each agency, institution, or department shall provide interim updates to its plan if major information technology changes occur which affect its plan. The information services division shall

review each agency's, institution's, or department's strategic plan for compliance with statewide information technology policies and standards and may require an agency, institution, or department to change its strategic plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology strategic plans with the information services division and the legislative council by January fifteenth of each even-numbered year. Each agency, institution, or department shall prepare its budget request for the next biennium based on its information technology strategic plan. Based on the plans prepared by agencies, institutions, and departments, the information services division shall prepare a statewide information technology strategic plan and distribute copies of that plan to members of the legislative assembly as requested by the legislative council or its designee.

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

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

SECTION 10. AMENDMENT. Section 54-44.2-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44.2-04. Appointment of ~~data processing~~ information technology coordinators. Each agency, department, or institution ~~of this state utilizing the services and equipment provided by the information services division~~ shall appoint an ~~electronic data processing~~ information technology coordinator. The coordinator shall maintain liaison with the division and assist the division in ~~such activities as the establishment of priorities, rescheduling, reports, and other~~ areas related to making the most economical use of ~~the data processing services and equipment~~ information technology.

SECTION 11. AMENDMENT. Section 54-44.2-06 of the North Dakota Century Code is amended and reenacted as follows:

54-44.2-06. ~~Secrecy provision~~ Confidentiality. The ~~personnel of the~~ information services division may receive from ~~the~~ various departments~~,~~ and ~~the employees of the~~ various departments may provide to the division~~,~~ any information from the files and records of the ~~various~~ departments necessary to effect the purposes of this chapter without regard to the confidential ~~or secret~~ nature of the information: provided, however, the ~~personnel of the~~ division ~~are~~ is subject to the same restrictions and penalties regarding the dissemination of this information as ~~are the personnel of~~ the department involved.

SECTION 12. AMENDMENT. Section 54-44.2-07 of the North Dakota Century Code is amended and reenacted as follows:

54-44.2-07. Acceptance of federal and other funds. ~~Funds received by a state agency or institution from the government of the United States for the purpose of matching state funds for the purpose of improving normal or emergency telecommunication systems may be deposited in the~~

~~information services operating fund, unless the funds have been specifically appropriated by the legislative assembly for some other purpose or unless transfer would be contrary to the federal regulations governing the grant.~~ The information services division may accept federal or other funds, which must be deposited in the information services operating fund and which may be spent subject to legislative appropriations. The ~~director of the~~ information services division may apply for any public or private grants available for the improvement of ~~telecommunication systems~~ information technology.

SECTION 13. AMENDMENT. Section 54-44.2-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-44.2-08. Access to electronically stored information - Coordination by information services division. An entity of the state may establish procedures for providing access to any computer data base or electronically filed or stored information maintained by that entity. The procedures must address the measures that are necessary to maintain the confidentiality of information protected by federal or state law. The entity may charge a reasonable fee for providing that access. ~~If the original information is keyed, entered, provided, compiled, or submitted by any political subdivision, the fees must be shared by the state and the political subdivision based on their proportional costs to make the data available.~~ The information services division shall cooperate with each state entity providing access to any computer data base or electronically filed or stored information to assist in providing economical, efficient, and compatible access.

SECTION 14. REPEAL. Sections 15-65-04, 54-44.2-02.1, 54-44.2-02.2, 54-44.2-02.3, and 54-44.2-02.4 of the North Dakota Century Code and section 54-44.2-02.5 of the 1995 Supplement to the North Dakota Century Code are repealed.

SECTION 15. LEGISLATIVE INTENT - INFORMATION TECHNOLOGY STRATEGIC PLANS. It is the intent of the fifty-fifth legislative assembly that state agency information technology strategic plans include the following:

1. Each state agency information technology strategic plan should include an executive summary consisting of:

   a. Proposed information technology direction for the agency.

      (1) Overall information technology plan summary, including benefits and outcomes justifying the plan.

      (2) The compatibility of the agency's plan with the statewide information technology plan (when complete).

      (3) Major goals, objectives, timelines, and projected costs, by funding source.

         (a) Short-term - The current biennium.

         (b) Medium-term - One to three years (subsequent biennium).

         (c) Long-term - Three to five years (second subsequent biennium).

      (4) A summary of each major project in the plan which includes information on:

         (a) Total project cost.

         (b) Cost for each biennium, by funding source.

         (c) Estimated development costs, including costs within the agency, information services division services required, and contract services needed.

         (d) Estimated ongoing maintenance and support costs, including costs within the agency, information services division services required, and contract services needed.

(e) Personnel training costs.

b. Annual projections for five years of operational costs by funding source, including federal funds, of the agency's current information technology systems including full-time equivalent positions, information services division services, contract services, and training.

c. Information technology accomplishments, including major agency accomplishments relating to the agency's goals and objectives included in the previous information technology plan.

2. Each state agency information technology strategic plan should also include:

a. A description of the agency and a summary of services provided by the agency.

b. A list of current information technology systems of the agency, including:

(1) Major systems, including a description of the systems, the systems' capabilities to share information with other agencies and political subdivisions, and public access to information in the systems.

(2) Other systems, including a description of the systems, the systems' capabilities to share information with other agencies and political subdivisions, and public access to information in the systems.

(3) Projected annual operational and support costs by funding source, including federal funds for systems, for five years including projections relating to agency full-time equivalent positions, information services division services, the use of outside consultants, and employee training.

(4) An information technology inventory, including the cost of inventory.

(5) A description of the agency's information technology contract management system, including procedures used in securing contracts and monitoring procedures during the contract period.

(6) A list of employee training methods relating to information technology.

(7) A disaster recovery plan for the agency's information technology systems.

c. An assessment of current systems of the agency, including:

(1) An analysis of the systems, including those aspects of the systems that work well and those that need improvement, including:

(a) In-office applications and services.

(b) Capability of sharing information with other agencies and political subdivisions.

(c) Availability of public access to information.

(2) Systems' requirements - Whether federal or state law affects systems' requirements and whether the systems must be approved by the federal government or other organization.

(3) Options for systems' modifications, if any are being considered.

d. Information technology direction for the agency, including:

(1) An overall agency information technology plans summary.

(2) A list of goals and objectives for the agency's information technology systems, including:

(a) Short-term - The current biennium.

(b) Medium-term - One to three years (subsequent biennium).

(c) Long-term - Three to five years (second subsequent biennium).

(d) Specific estimated costs by funding source, including federal funds, for each objective during the next three years and an estimated cost range for long-term goals and objectives, if a specific estimate is unavailable.

(e) Identification of plans to use agency employees, information services division, or outside consultants to accomplish each objective and, if applicable, the method of contracting which will be used.

(f) The benefits resulting from achieving the goals, including the effect on employee productivity and on agency services.

(g) The impact on other agencies or users resulting from achieving the goals or objectives.

(h) Measurable outcomes that may be realized as a result of achieving the goals or objectives.

(3) For each major information technology project in the plan, specific information should be included on:

(a) A detailed cost-benefit analysis.

(b) Total project cost information, by year and by funding source.

(c) Project development costs, including costs within the agency, information services division services required, and contract services needed.

(d) Estimated ongoing maintenance and support costs, including costs within the agency, information services division services required, and contract services needed.

(e) Personnel training costs.

(f) Options for phasing in the project.

(g) Options for implementing only certain components of the project.

(4) A list of methods used by the agency to manage information technology costs and to ensure that the systems and services are cost effective.

(5) A review of the compatibility of the agency's plan with the statewide information technology plan (when complete) and with statewide information technology policies and standards (when established).

e. Accomplishments in achieving information technology goals and objectives; including:

(1) A list of specific agency accomplishments relating to the agency's goals and objectives included in the previous information technology plan.

(2) A comparison of outcomes realized resulting from achieving goals and objectives compared to projected outcomes included in the previous plan.

(3) A comparison of actual project costs to project estimates included in the previous plan.

SECTION 16. LEGISLATIVE INTENT - GRANTS FOR THE CENTER FOR INNOVATION IN INSTRUCTION. It is the intent of the fifty-fifth legislative assembly that the funds appropriated for grants to the center for innovation in instruction be distributed by the board of higher education to support teacher and school staff training in educational technology through the center for innovation in instruction.

SECTION 17. LEGISLATIVE INTENT - PRAIRIE PUBLIC BROADCASTING - MATCHING GRANTS. It is the intent of the fifty-fifth legislative assembly that prairie public broadcasting receive grants from the board of higher education. The grants are to be distributed four times each year, in July, October, January, and April. The grants must be fifty cents for each dollar raised by prairie public broadcasting during the three-month period ending in the month immediately preceding the month in which the grants must be distributed. In determining the amount of the grant, revenue from the following sources must be considered: membership contributions for prairie public television and prairie public radio from North Dakota residents, program underwriting contributions raised from organizations doing business in North Dakota, and fees received for the prairie on-line program. Grants may not exceed $475,000 during any state fiscal year. If, as of June thirtieth of any year, the amount of grants distributed during the preceding twelve months is less than $475,000, the undistributed amount available for that fiscal year must be deposited in the state general fund.

SECTION 18. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the board of higher education for grants for the biennium beginning July 1, 1997, and ending June 30, 1999, as follows:

Grants - center for innovation in instruction	$ 297,250
Grants - prairie public broadcasting	950,000
Total general fund appropriation	$1,247,250

SECTION 19. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $466,960, or so much of the sum as may be necessary, to the legislative council for the purpose of defraying the expenses of its information technology program for the biennium beginning July 1, 1997, and ending June 30, 1999.

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