

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2021

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the information
 2 technology department; to amend and reenact section 54-59-05 as amended by section 5 of
 3 Senate Bill No. 2007, as approved by the sixty-seventh legislative assembly, and section
 4 54-59-07 of the North Dakota Century Code, relating to the veterans' home information
 5 technology services and state information technology advisory committee; to repeal section 6 of
 6 Senate Bill No. 2016, as approved by the sixty-seventh legislative assembly, relating to the
 7 information technology unification initiative; to provide a transfer; to provide for a report; to
 8 provide an exemption; ~~and~~ to provide for a statement of legislative intent; to provide for a
 9 legislative management study; and to declare an emergency.

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

11 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
 12 as may be necessary, are appropriated out of any moneys in the general fund in the state
 13 treasury, not otherwise appropriated, and from special funds derived from federal funds and
 14 other income, to the information technology department for the purpose of defraying the
 15 expenses of the information technology department, for the biennium beginning July 1, 2021,
 16 and ending June 30, 2023.

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
19 Salaries and wages	\$81,374,501	\$22,303,093	\$103,677,594
20 Operating expenses	89,957,364	31,290,748	121,248,112
21 Capital assets	4,253,117	(809,208)	3,443,909
22 Statewide longitudinal data system	4,387,145	106,287	4,493,432
23 Edutech	9,645,773	55,493	9,701,266
24 K-12 wide area network	5,167,970	(485,481)	4,682,489

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1	Geographic information system	1,052,629	50,425	1,103,054
2	Health information technology office	4,879,146	9,850,377	14,729,523
3	Statewide interoperable radio network	12,330,000	1,864,902	14,194,902
4	Total all funds	\$213,047,645	\$64,226,636	\$277,274,281
5	Less estimated income	195,882,334	46,980,361	242,862,695
6	Total general fund	\$17,165,311	\$17,246,275	\$34,411,586
7	Full-time equivalent positions	402.00	86.00	488.00
8	Salaries and wages	\$81,374,501	\$20,360,128	\$101,734,629
9	Operating expenses	89,957,364	31,130,748	121,088,112
10	Capital assets	4,253,117	(809,208)	3,443,909
11	Statewide longitudinal data system	4,387,145	99,133	4,486,278
12	Edutech	9,645,773	46,166	9,691,939
13	K-12 wide area network	5,167,970	(488,252)	4,679,718
14	Geographic information system	1,052,629	49,177	1,101,806
15	Health information technology office	4,879,146	9,846,725	14,725,871
16	Statewide interoperable radio network	12,330,000	1,863,796	14,193,796
17	Total all funds	\$213,047,645	\$62,098,413	\$275,146,058
18	Less estimated income	195,882,334	50,287,771	246,170,105
19	Total general fund	\$17,165,311	\$11,810,642	\$28,975,953
20	Full-time equivalent positions	402.00	77.00	479.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

25	One-Time Funding Description	2019-21	2021-23
26	Cybersecurity	\$15,400,000	\$0
27	Cybersecurity	\$15,400,000	\$6,500,000
28	Statewide land parcel project	1,150,000	0
29	Statewide interoperable radio network	120,000,000	0
30	Health information technology office	0	6,000,000
31	Total all funds	\$136,550,000	\$6,000,000

1	Less estimated income	125,150,000	6,000,000
2	Total general fund	\$11,400,000	\$0
3	Total all funds	\$136,550,000	\$12,500,000
4	Less estimated income	125,150,000	12,500,000
5	Total general fund	\$11,400,000	\$0

6 The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget
7 for the 2023-25 biennium. The information technology department shall report to the
8 appropriations committees of the sixty-eighth legislative assembly on the use of this one-time
9 funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

10 **SECTION 3. ESTIMATED INCOME - TRANSFER - HEALTH INFORMATION**

11 ~~TECHNOLOGY PLANNING LOAN FUND TO INFORMATION TECHNOLOGY DEPARTMENT~~
12 ~~OPERATING SERVICE~~ **ELECTRONIC HEALTH INFORMATION EXCHANGE FUND -**
13 **LEGISLATIVE INTENT - ONE-TIME FUNDING.** Notwithstanding section 6-09-43, the estimated
14 income line item in section 1 of this Act includes the sum of \$6,000,000, or so much of the sum
15 as may be necessary, which the Bank of North Dakota shall transfer, as requested by the chief
16 information officer, from the health information technology planning loan fund to the ~~information-~~
17 ~~technology department operating service~~ **electronic health information exchange** fund for the
18 purpose of defraying the expenses of the health information technology office and the health
19 information network during the biennium beginning July 1, 2021, and ending June 30, 2023. It is
20 the intent of the sixty-seventh legislative assembly that funding be transferred only to the extent
21 federal funding is not available to defray the expenses of the health information technology
22 office and the health information network during the 2021-23 biennium. This funding is
23 considered a one-time funding item.

24 **SECTION 4. EXEMPTION - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04,
25 the director of the office of management and budget shall make transfers of funds between line
26 items in section 1 of this Act for the information technology department as may be requested by
27 the chief information officer as determined necessary for the development and implementation
28 of information technology projects. The department shall notify the legislative council of any
29 transfers made pursuant to this section.

30 **SECTION 5. ESTIMATED INCOME - FEDERAL CORONAVIRUS RELIEF FUND.** The
31 estimated income line item in section 1 of this Act includes the sum of \$6,500,000, or so much

1 of the sum as may be necessary, from the federal coronavirus relief fund for cybersecurity
2 operating expenses.

3 **SECTION 6. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code, as
4 amended by Section 5 of Senate Bill No. 2007, as approved by the sixty-seventh legislative
5 assembly, is amended and reenacted as follows:

6 **54-59-05. Powers and duties of department. (Effective through July 31, 2023)**

7 The department:

- 8 1. Shall provide, supervise, and regulate information technology of all executive branch
9 state entities, excluding the institutions under the control of the board of higher
10 education and the veterans' home.
- 11 2. Shall provide network services in a way that ensures the network requirements of a
12 single entity do not adversely affect the functionality of the whole network, facilitates
13 open communications with the citizens of the state, minimizes the state's investment in
14 human resources, accommodates an ever-increasing amount of traffic, supports rapid
15 detection and resolution of problems, protects the network infrastructure from damage
16 and security breaches, provides for the aggregation of data, voice, video, and
17 multimedia into a statewide transport mechanism or backbone, and provides for the
18 network support for the entity to carry out its mission.
- 19 3. May review and approve additional network services that are not provided by the
20 department.
- 21 4. May purchase, finance the purchase, or lease equipment, software, or implementation
22 services or replace, including by trade or resale, equipment or software as may be
23 necessary to carry out this chapter. With the exception of agreements entered related
24 to the statewide interoperable radio network, an agreement to finance the purchase of
25 software, equipment, or implementation services may not exceed a period of five
26 years. The department shall submit any intended financing proposal for the purchase
27 of software, equipment, or implementation services under this subsection, which is in
28 excess of one million dollars, to the legislative assembly or the budget section if the
29 legislative assembly is not in session before executing a financing agreement. Any
30 request considered by the budget section must comply with section 54-35-02.9. If the
31 legislative assembly or the budget section does not approve the execution of a

1 financing agreement, the department may not proceed with the proposed financing
2 arrangement. With the exception of financing for the statewide interoperable radio
3 network, the department may finance the purchase of software, equipment, or
4 implementation services only to the extent the purchase amount does not exceed
5 seven and one-half percent of the amount appropriated to the department during that
6 biennium.

7 5. Shall review requests for lease, purchase, or other contractual acquisition of
8 information technology as required by this subsection. Each executive branch agency
9 or institution, excluding the institutions under the control of the board of higher
10 education, shall submit to the department, in accordance with guidelines established
11 by the department, a written request for the lease, purchase, or other contractual
12 acquisition of information technology. The department shall review requests for
13 conformance with the requesting entity's information technology plan and compliance
14 with statewide policies and standards. If the request is not in conformance or
15 compliance, the department may disapprove the request or require justification for the
16 departure from the plan or statewide policy or standard.

17 6. Shall provide information technology, including assistance and advisory service, to the
18 executive, legislative, and judicial branches. If the department is unable to fulfill a
19 request for service from the legislative or judicial branch, the information technology
20 may be procured by the legislative or judicial branch within the limits of legislative
21 appropriations.

22 7. Shall request and review information, including project startup information
23 summarizing the project description, project objectives, business need or problem,
24 cost-benefit analysis, and project risks and a project closeout information summarizing
25 the project objectives achieved, project budget and schedule variances, and lessons
26 learned, regarding any major information technology project of an executive branch
27 agency. The department shall present the information to the information technology
28 committee on request of the committee.

29 8. May request and review information regarding any information technology project of
30 an executive branch agency with a total cost of between one hundred thousand and
31 five hundred thousand dollars as determined necessary by the department. The

- 1 department shall present the information to the information technology committee on
2 request of the committee.
- 3 9. Shall study emerging technology and evaluate its impact on the state's system of
4 information technology.
- 5 10. Shall develop guidelines for reports to be provided by each agency of the executive,
6 legislative, and judicial branches, excluding the institutions under the control of the
7 board of higher education, on information technology in those entities.
- 8 11. Shall collaborate with the state board of higher education on guidelines for reports to
9 be provided by institutions under control of the state board of higher education on
10 information technology in those entities.
- 11 12. Shall perform all other duties necessary to carry out this chapter.
- 12 13. May provide wide area network services to a state agency, city, county, school district,
13 or other political subdivision of this state. The information technology department may
14 not provide wide area network service to any private, charitable, or nonprofit entity
15 except the information technology department may continue to provide the wide area
16 network service the department provided to the private, charitable, and nonprofit
17 entities receiving services from the department on January 1, 2003.
- 18 14. Shall assure proper measures for security, firewalls, and internet protocol addressing
19 at the state's interface with other facilities.
- 20 15. Notwithstanding subsection 13, may provide wide area network services for a period
21 not to exceed four years to an occupant of a technology park associated with an
22 institution of higher education or to a business located in a business incubator
23 associated with an institution of higher education.
- 24 16. Shall advise and oversee cybersecurity strategy for all executive branch state
25 agencies, including institutions under the control of the state board of higher
26 education, counties, cities, school districts, or other political subdivisions. For
27 purposes of this subsection, the department shall consult with the attorney general
28 ~~and the veterans' home~~ on cybersecurity strategy.
- 29 17. Shall advise and consult with the legislative and judicial branches regarding
30 cybersecurity strategy.

1 **Powers and duties of department. (Effective after July 31, 2023)**

2 The department:

- 3 1. Shall provide, supervise, and regulate information technology of all executive branch
4 state entities, excluding the institutions under the control of the board of higher
5 education and the veterans' home.
- 6 2. Shall provide network services in a way that ensures the network requirements of a
7 single entity do not adversely affect the functionality of the whole network, facilitates
8 open communications with the citizens of the state, minimizes the state's investment in
9 human resources, accommodates an ever-increasing amount of traffic, supports rapid
10 detection and resolution of problems, protects the network infrastructure from damage
11 and security breaches, provides for the aggregation of data, voice, video, and
12 multimedia into a statewide transport mechanism or backbone, and provides for the
13 network support for the entity to carry out its mission.
- 14 3. May review and approve additional network services that are not provided by the
15 department.
- 16 4. May purchase, finance the purchase, or lease equipment, software, or implementation
17 services or replace, including by trade or resale, equipment or software as may be
18 necessary to carry out this chapter. An agreement to finance the purchase of software,
19 equipment, or implementation services may not exceed a period of five years. The
20 department shall submit any intended financing proposal for the purchase of software,
21 equipment, or implementation services under this subsection, which is in excess of
22 one million dollars, to the legislative assembly or the budget section if the legislative
23 assembly is not in session before executing a financing agreement. Any request
24 considered by the budget section must comply with section 54-35-02.9. If the
25 legislative assembly or the budget section does not approve the execution of a
26 financing agreement, the department may not proceed with the proposed financing
27 arrangement. The department may finance the purchase of software, equipment, or
28 implementation services only to the extent the purchase amount does not exceed
29 seven and one-half percent of the amount appropriated to the department during that
30 biennium.

- 1 5. Shall review requests for lease, purchase, or other contractual acquisition of
2 information technology as required by this subsection. Each executive branch agency
3 or institution, excluding the institutions under the control of the board of higher
4 education, shall submit to the department, in accordance with guidelines established
5 by the department, a written request for the lease, purchase, or other contractual
6 acquisition of information technology. The department shall review requests for
7 conformance with the requesting entity's information technology plan and compliance
8 with statewide policies and standards. If the request is not in conformance or
9 compliance, the department may disapprove the request or require justification for the
10 departure from the plan or statewide policy or standard.
- 11 6. Shall provide information technology, including assistance and advisory service, to the
12 executive, legislative, and judicial branches. If the department is unable to fulfill a
13 request for service from the legislative or judicial branch, the information technology
14 may be procured by the legislative or judicial branch within the limits of legislative
15 appropriations.
- 16 7. Shall request and review information, including project startup information
17 summarizing the project description, project objectives, business need or problem,
18 cost-benefit analysis, and project risks and a project closeout information summarizing
19 the project objectives achieved, project budget and schedule variances, and lessons
20 learned, regarding any major information technology project of an executive branch
21 agency. The department shall present the information to the information technology
22 committee on request of the committee.
- 23 8. May request and review information regarding any information technology project of
24 an executive branch agency with a total cost of between one hundred thousand and
25 five hundred thousand dollars as determined necessary by the department. The
26 department shall present the information to the information technology committee on
27 request of the committee.
- 28 9. Shall study emerging technology and evaluate its impact on the state's system of
29 information technology.

- 1 10. Shall develop guidelines for reports to be provided by each agency of the executive,
2 legislative, and judicial branches, excluding the institutions under the control of the
3 board of higher education, on information technology in those entities.
- 4 11. Shall collaborate with the state board of higher education on guidelines for reports to
5 be provided by institutions under control of the state board of higher education on
6 information technology in those entities.
- 7 12. Shall perform all other duties necessary to carry out this chapter.
- 8 13. May provide wide area network services to a state agency, city, county, school district,
9 or other political subdivision of this state. The information technology department may
10 not provide wide area network service to any private, charitable, or nonprofit entity
11 except the information technology department may continue to provide the wide area
12 network service the department provided to the private, charitable, and nonprofit
13 entities receiving services from the department on January 1, 2003.
- 14 14. Shall assure proper measures for security, firewalls, and internet protocol addressing
15 at the state's interface with other facilities.
- 16 15. Notwithstanding subsection 13, may provide wide area network services for a period
17 not to exceed four years to an occupant of a technology park associated with an
18 institution of higher education or to a business located in a business incubator
19 associated with an institution of higher education.
- 20 16. Shall advise and oversee cybersecurity strategy for all executive branch state
21 agencies, including institutions under the control of the state board of higher
22 education, counties, cities, school districts, or other political subdivisions. For
23 purposes of this subsection, the department shall consult with the attorney general
24 ~~and the veterans' home~~ on cybersecurity strategy.
- 25 17. Shall advise and consult with the legislative and judicial branches regarding
26 cybersecurity strategy.

27 **SECTION 7. AMENDMENT.** Section 54-59-07 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **54-59-07. State information technology advisory committee.**

30 The state information technology advisory committee consists of the chief information
31 officer; the commissioner of higher education or the commissioner's designee; the attorney

1 general or the attorney general's designee; the secretary of state or the secretary of state's
2 designee; the tax commissioner or the commissioner's designee; the chief justice of the
3 supreme court or the chief justice's designee; two members of the legislative assembly
4 appointed by the legislative management, of which one member must be the chairman of the
5 information technology committee; a minimum of eight members representing state agencies,
6 appointed by the governor; and two members with technology management expertise
7 representing private industry, appointed by the governor. The appointees of the governor serve
8 at the pleasure of the governor. The ~~governor shall designate the chairman~~chief information
9 officer and chairman of the information technology committee shall serve as co-chairmen of the
10 state information technology advisory committee. Additional members may be asked to
11 participate at the request of the ~~chairman~~chairmen. The department shall provide staff services
12 to the committee. The members of the committee representing private industry are entitled to be
13 compensated for time spent in attendance at meetings of the committee and for other travel as
14 approved by the ~~chairman~~chairmen of the committee at the rate of sixty-two dollars and fifty
15 cents per day and are entitled to reimbursement for actual and necessary expenses incurred in
16 the same manner as other state officials. The compensation and expenses are to be paid from
17 appropriations for the department. The committee shall advise the department regarding
18 statewide information technology planning and budgeting, services of the information
19 technology department, and statewide information technology initiatives and policy and shall
20 review reports on major information technology projects as required by this chapter and
21 policies, standards, and guidelines developed by the department. The chief information officer
22 shall submit recommendations of the committee regarding information technology issues to the
23 information technology committee for its consideration.

24 **SECTION 8. REPEAL.** Section 6 of Senate Bill No. 2016, as approved by the sixty-seventh
25 legislative assembly, is repealed.

26 **SECTION 9. EXEMPTION - STATEWIDE INTEROPERABLE RADIO NETWORK.** The
27 \$20,000,000 appropriated from the strategic investment and improvements fund for the
28 statewide interoperable radio network in section 8 of chapter 293 of the 2019 Session Laws is
29 not subject to section 54-44.1-11 and is available for the statewide interoperable radio network
30 project during the biennium beginning July 1, 2021, and ending June 30, 2023.

1 ~~SECTION 7. LEGISLATIVE INTENT - 2019-21 BIENNIUM LEGACY FUND EARNINGS -~~
2 ~~CYBERSECURITY. It is the intent of the sixty-seventh legislative assembly that the~~
3 ~~\$16,547,033 appropriated from the general fund for cybersecurity initiatives in section 1 of this~~
4 ~~Act be derived from 2019-21 biennium legacy fund earnings, of which \$4,824,465 is in the~~
5 ~~salaries and wages line item, \$11,591,534 is in the operating expenses line item, and \$131,034~~
6 ~~is in the capital assets line item.~~

7 **SECTION 10. INFORMATION TECHNOLOGY UNIFICATION - LEGISLATIVE INTENT -**
8 **LEGISLATIVE MANAGEMENT REPORT.** The information technology department shall charge
9 a state agency selected to participate in the 2021-23 biennium information technology
10 unification initiative a rate for the labor of any full-time equivalent position transferred to the
11 information technology department during the 2021-23 biennium, that may not exceed the
12 salaries and wages and related operating expenses of the full-time equivalent position for
13 services the respective state agency was performing prior to the 2021-23 biennium. It is the
14 intent of the sixty-seventh legislative assembly that any full-time equivalent positions transferred
15 to the information technology department for the 2021-23 biennium information technology
16 unification initiative be transferred to the agency employing the positions during the 2019-21
17 biennium, unless the sixty-eighth legislative assembly is presented with sufficient evidence of
18 efficiencies gained and cost-savings realized by the state as a result of the 2021-23 biennium
19 information technology unification initiative. During the 2021-22 interim, the information
20 technology department shall report annually to the legislative management regarding any
21 efficiencies gained and cost-savings realized as a result of the 2021-23 biennium information
22 technology unification initiative.

23 **SECTION 11. LEGISLATIVE INTENT - PHONE EQUIPMENT.** It is the intent of the
24 sixty-seventh legislative assembly that the information technology department:
25 1. Supply at least one physical phone in each state agency;
26 2. Give state agencies the option of having a physical phone for each employee in the
27 agency; and
28 3. Allow the head of each agency to determine the number of phones provided to the
29 agency.

30 **SECTION 12. LEGISLATIVE INTENT - LEGISLATIVE MANAGEMENT STUDY -**
31 **INFORMATION TECHNOLOGY DIRECTION.** It is the intent of the sixty-seventh legislative

1 assembly that the information technology department provide direction to executive branch
2 agencies regarding information technology strategic planning and operations during the
3 biennium beginning July 1, 2021, and ending June 30, 2023. During the 2021-22 interim, the
4 legislative management shall consider studying the feasibility and desirability of the legislative
5 branch and judicial branch receiving strategic planning and operational information technology
6 direction from the information technology department beginning in the 2023-25 biennium. The
7 legislative management shall report its findings and recommendations, together with any
8 legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

9 **SECTION 13. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT**

10 **INFORMATION TECHNOLOGY BUDGETING AND APPROPRIATION PROCESS.** During the
11 2021-22 interim, the legislative management shall consider studying the state government
12 information technology budgeting and appropriations process. The study must include a review
13 of the current process and the feasibility and desirability of providing a general fund
14 appropriation to the information technology department rather than providing general fund
15 appropriations to state agencies to pay the information technology department for information
16 technology services. The study must include consideration of any cost or cost-savings that may
17 result and any transparency benefits of the potential budgeting and appropriation changes. The
18 legislative management shall report its findings and recommendations, together with any
19 legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

20 **SECTION 14. LEGISLATIVE MANAGEMENT STUDY - INFORMATION TECHNOLOGY**

21 **UNIFICATION.** During the 2021-22 interim, the legislative management shall consider studying
22 the effectiveness, efficiency, cost, and any cost-savings of the 2019-21 biennium and 2021-23
23 biennium information technology unification initiatives and the feasibility and desirability of
24 continuing these initiatives. The study must include a review of changes in fees, services,
25 operations, processes, and systems. The legislative management shall report its findings and
26 recommendations, together with any legislation required to implement the recommendations, to
27 the sixty-eighth legislative assembly.

28 **SECTION 15. LEGISLATIVE MANAGEMENT STUDY - CYBERSECURITY.** During the

29 2021-22 interim, the legislative management shall consider studying costs incurred by the
30 information technology department to deliver core technology services and cybersecurity
31 services to state agencies and political subdivisions. The study must consider the feasibility and

1 desirability of political subdivisions paying their share of the cost of these services. The
2 legislative management shall report its findings and recommendations, together with any
3 legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

4 **SECTION 16. LEGISLATIVE MANAGEMENT STUDY - IMPACT OF LARGE**
5 **TECHNOLOGY COMPANIES.** During the 2021-22 interim, the legislative management shall
6 consider studying competitive fairness, economic development implications, and other
7 economic and societal impacts of large technology companies conducting business in North
8 Dakota. The legislative management shall report its findings and recommendations, together
9 with any legislation required to implement the recommendations, to the sixty-eighth legislative
10 assembly.

11 **SECTION 17. LEGISLATIVE MANAGEMENT STUDY - VIRTUAL CURRENCY BUSINESS**
12 **ACTIVITY.** During the 2021-22 interim, the legislative management shall consider studying the
13 feasibility and desirability of regulating special purpose depository institutions and regulating
14 other entities engaged in virtual currency business activities. The legislative management shall
15 report its findings and recommendations, together with any legislation required to implement the
16 recommendations, to the sixty-eighth legislative assembly.

17 **SECTION 18. EMERGENCY.** House Bill No. 1417, as approved by the sixty-seventh
18 legislative assembly, is declared to be an emergency measure.