

**FIRST ENGROSSMENT
with Conference Committee Amendments
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; to provide for a statement of legislative intent; to provide for a legislative
9 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.

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
18			
19	Salaries and wages	\$20,360,128	\$101,734,629
20	Operating expenses	31,130,748	121,088,112
21	Capital assets	(809,208)	3,443,909
22	Statewide longitudinal data system	99,133	4,486,278
23	Edutech	46,166	9,691,939
24	K-12 wide area network	(488,252)	4,679,718

Sixty-seventh
Legislative Assembly

1	Geographic information system	1,052,629	49,177	1,101,806
2	Health information technology office	4,879,146	9,846,725	14,725,871
3	Statewide interoperable radio network	<u>12,330,000</u>	<u>1,863,796</u>	<u>14,193,796</u>
4	Total all funds	\$213,047,645	\$62,098,413	\$275,146,058
5	Less estimated income	<u>195,882,334</u>	<u>50,287,771</u>	<u>246,170,105</u>
6	Total general fund	\$17,165,311	\$11,810,642	\$28,975,953
7	Full-time equivalent positions	402.00	77.00	479.00

8 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
9 **SIXTY-EIGHTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
10 items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the
11 one-time funding items included in the appropriation in section 1 of this Act:

12	<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
13	Cybersecurity	\$15,400,000	\$6,500,000
14	Statewide land parcel project	1,150,000	0
15	Statewide interoperable radio network	120,000,000	0
16	Health information technology office	<u>0</u>	<u>6,000,000</u>
17	Total all funds	\$136,550,000	\$12,500,000
18	Less estimated income	<u>125,150,000</u>	<u>12,500,000</u>
19	Total general fund	\$11,400,000	\$0

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

24 **SECTION 3. ESTIMATED INCOME - TRANSFER - HEALTH INFORMATION**
25 **TECHNOLOGY PLANNING LOAN FUND TO ELECTRONIC HEALTH INFORMATION**
26 **EXCHANGE FUND - LEGISLATIVE INTENT - ONE-TIME FUNDING.** Notwithstanding section
27 6-09-43, the estimated income line item in section 1 of this Act includes the sum of \$6,000,000,
28 or so much of the sum as may be necessary, which the Bank of North Dakota shall transfer, as
29 requested by the chief information officer, from the health information technology planning loan
30 fund to the electronic health information exchange fund for the purpose of defraying the
31 expenses of the health information technology office and the health information network during

1 the biennium beginning July 1, 2021, and ending June 30, 2023. It is the intent of the
2 sixty-seventh legislative assembly that funding be transferred only to the extent federal funding
3 is not available to defray the expenses of the health information technology office and the health
4 information network during the 2021-23 biennium. This funding is considered a one-time funding
5 item.

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

12 **SECTION 5. ESTIMATED INCOME - FEDERAL CORONAVIRUS RELIEF FUND.** The
13 estimated income line item in section 1 of this Act includes the sum of \$6,500,000, or so much
14 of the sum as may be necessary, from the federal coronavirus relief fund for cybersecurity
15 operating expenses.

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

19 **54-59-05. Powers and duties of department. (Effective through July 31, 2023)**

20 The department:

- 21 1. Shall provide, supervise, and regulate information technology of all executive branch
22 state entities, excluding the institutions under the control of the board of higher
23 education and the veterans' home.
- 24 2. Shall provide network services in a way that ensures the network requirements of a
25 single entity do not adversely affect the functionality of the whole network, facilitates
26 open communications with the citizens of the state, minimizes the state's investment in
27 human resources, accommodates an ever-increasing amount of traffic, supports rapid
28 detection and resolution of problems, protects the network infrastructure from damage
29 and security breaches, provides for the aggregation of data, voice, video, and
30 multimedia into a statewide transport mechanism or backbone, and provides for the
31 network support for the entity to carry out its mission.

- 1 3. May review and approve additional network services that are not provided by the
2 department.
- 3 4. May purchase, finance the purchase, or lease equipment, software, or implementation
4 services or replace, including by trade or resale, equipment or software as may be
5 necessary to carry out this chapter. With the exception of agreements entered related
6 to the statewide interoperable radio network, an agreement to finance the purchase of
7 software, equipment, or implementation services may not exceed a period of five
8 years. The department shall submit any intended financing proposal for the purchase
9 of software, equipment, or implementation services under this subsection, which is in
10 excess of one million dollars, to the legislative assembly or the budget section if the
11 legislative assembly is not in session before executing a financing agreement. Any
12 request considered by the budget section must comply with section 54-35-02.9. If the
13 legislative assembly or the budget section does not approve the execution of a
14 financing agreement, the department may not proceed with the proposed financing
15 arrangement. With the exception of financing for the statewide interoperable radio
16 network, the department may finance the purchase of software, equipment, or
17 implementation services only to the extent the purchase amount does not exceed
18 seven and one-half percent of the amount appropriated to the department during that
19 biennium.
- 20 5. Shall review requests for lease, purchase, or other contractual acquisition of
21 information technology as required by this subsection. Each executive branch agency
22 or institution, excluding the institutions under the control of the board of higher
23 education, shall submit to the department, in accordance with guidelines established
24 by the department, a written request for the lease, purchase, or other contractual
25 acquisition of information technology. The department shall review requests for
26 conformance with the requesting entity's information technology plan and compliance
27 with statewide policies and standards. If the request is not in conformance or
28 compliance, the department may disapprove the request or require justification for the
29 departure from the plan or statewide policy or standard.
- 30 6. Shall provide information technology, including assistance and advisory service, to the
31 executive, legislative, and judicial branches. If the department is unable to fulfill a

1 request for service from the legislative or judicial branch, the information technology
2 may be procured by the legislative or judicial branch within the limits of legislative
3 appropriations.

4 7. Shall request and review information, including project startup information
5 summarizing the project description, project objectives, business need or problem,
6 cost-benefit analysis, and project risks and a project closeout information summarizing
7 the project objectives achieved, project budget and schedule variances, and lessons
8 learned, regarding any major information technology project of an executive branch
9 agency. The department shall present the information to the information technology
10 committee on request of the committee.

11 8. May request and review information regarding any information technology project of
12 an executive branch agency with a total cost of between one hundred thousand and
13 five hundred thousand dollars as determined necessary by the department. The
14 department shall present the information to the information technology committee on
15 request of the committee.

16 9. Shall study emerging technology and evaluate its impact on the state's system of
17 information technology.

18 10. Shall develop guidelines for reports to be provided by each agency of the executive,
19 legislative, and judicial branches, excluding the institutions under the control of the
20 board of higher education, on information technology in those entities.

21 11. Shall collaborate with the state board of higher education on guidelines for reports to
22 be provided by institutions under control of the state board of higher education on
23 information technology in those entities.

24 12. Shall perform all other duties necessary to carry out this chapter.

25 13. May provide wide area network services to a state agency, city, county, school district,
26 or other political subdivision of this state. The information technology department may
27 not provide wide area network service to any private, charitable, or nonprofit entity
28 except the information technology department may continue to provide the wide area
29 network service the department provided to the private, charitable, and nonprofit
30 entities receiving services from the department on January 1, 2003.

- 1 14. Shall assure proper measures for security, firewalls, and internet protocol addressing
2 at the state's interface with other facilities.
- 3 15. Notwithstanding subsection 13, may provide wide area network services for a period
4 not to exceed four years to an occupant of a technology park associated with an
5 institution of higher education or to a business located in a business incubator
6 associated with an institution of higher education.
- 7 16. Shall advise and oversee cybersecurity strategy for all executive branch state
8 agencies, including institutions under the control of the state board of higher
9 education, counties, cities, school districts, or other political subdivisions. For
10 purposes of this subsection, the department shall consult with the attorney general
11 and the veterans' home on cybersecurity strategy.
- 12 17. Shall advise and consult with the legislative and judicial branches regarding
13 cybersecurity strategy.

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

15 The department:

- 16 1. Shall provide, supervise, and regulate information technology of all executive branch
17 state entities, excluding the institutions under the control of the board of higher
18 education and the veterans' home.
- 19 2. Shall provide network services in a way that ensures the network requirements of a
20 single entity do not adversely affect the functionality of the whole network, facilitates
21 open communications with the citizens of the state, minimizes the state's investment in
22 human resources, accommodates an ever-increasing amount of traffic, supports rapid
23 detection and resolution of problems, protects the network infrastructure from damage
24 and security breaches, provides for the aggregation of data, voice, video, and
25 multimedia into a statewide transport mechanism or backbone, and provides for the
26 network support for the entity to carry out its mission.
- 27 3. May review and approve additional network services that are not provided by the
28 department.
- 29 4. May purchase, finance the purchase, or lease equipment, software, or implementation
30 services or replace, including by trade or resale, equipment or software as may be
31 necessary to carry out this chapter. An agreement to finance the purchase of software,

1 equipment, or implementation services may not exceed a period of five years. The
2 department shall submit any intended financing proposal for the purchase of software,
3 equipment, or implementation services under this subsection, which is in excess of
4 one million dollars, to the legislative assembly or the budget section if the legislative
5 assembly is not in session before executing a financing agreement. Any request
6 considered by the budget section must comply with section 54-35-02.9. If the
7 legislative assembly or the budget section does not approve the execution of a
8 financing agreement, the department may not proceed with the proposed financing
9 arrangement. The department may finance the purchase of software, equipment, or
10 implementation services only to the extent the purchase amount does not exceed
11 seven and one-half percent of the amount appropriated to the department during that
12 biennium.

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

23 6. Shall provide information technology, including assistance and advisory service, to the
24 executive, legislative, and judicial branches. If the department is unable to fulfill a
25 request for service from the legislative or judicial branch, the information technology
26 may be procured by the legislative or judicial branch within the limits of legislative
27 appropriations.

28 7. Shall request and review information, including project startup information
29 summarizing the project description, project objectives, business need or problem,
30 cost-benefit analysis, and project risks and a project closeout information summarizing
31 the project objectives achieved, project budget and schedule variances, and lessons

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

1 education, counties, cities, school districts, or other political subdivisions. For
2 purposes of this subsection, the department shall consult with the attorney general
3 and ~~the veterans' home~~ on cybersecurity strategy.

4 17. Shall advise and consult with the legislative and judicial branches regarding
5 cybersecurity strategy.

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

8 **54-59-07. State information technology advisory committee.**

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

1 shall submit recommendations of the committee regarding information technology issues to the
2 information technology committee for its consideration.

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

5 **SECTION 9. EXEMPTION - STATEWIDE INTEROPERABLE RADIO NETWORK.** The
6 \$20,000,000 appropriated from the strategic investment and improvements fund for the
7 statewide interoperable radio network in section 8 of chapter 293 of the 2019 Session Laws is
8 not subject to section 54-44.1-11 and is available for the statewide interoperable radio network
9 project during the biennium beginning July 1, 2021, and ending June 30, 2023.

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

26 **SECTION 11. LEGISLATIVE INTENT - PHONE EQUIPMENT.** It is the intent of the
27 sixty-seventh legislative assembly that the information technology department:

- 28 1. Supply at least one physical phone in each state agency;
29 2. Give state agencies the option of having a physical phone for each employee in the
30 agency; and

- 1 3. Allow the head of each agency to determine the number of phones provided to the
2 agency.

3 **SECTION 12. LEGISLATIVE INTENT - LEGISLATIVE MANAGEMENT STUDY -**

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

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

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

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

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

1 **SECTION 15. LEGISLATIVE MANAGEMENT STUDY - CYBERSECURITY.** During the
2 2021-22 interim, the legislative management shall consider studying costs incurred by the
3 information technology department to deliver core technology services and cybersecurity
4 services to state agencies and political subdivisions. The study must consider the feasibility and
5 desirability of political subdivisions paying their share of the cost of these services. The
6 legislative management shall report its findings and recommendations, together with any
7 legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

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

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

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