Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021

SENATE BILL NO. 2021
(Appropriations Committee)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$81,374,501	$20,360,128	$101,734,629
Operating expenses	89,957,364	31,130,748	121,088,112
Capital assets	4,253,117	(809,208)	3,443,909
Statewide longitudinal data system	4,387,145	99,133	4,486,278
Edutech	9,645,773	46,166	9,691,939
K-12 wide area network	5,167,970	(488,252)	4,679,718
Geographic information system	1,052,629	49,177	1,101,806
Health information technology office	4,879,146	9,846,725	14,725,871
Statewide interoperable radio network	12,330,000	1,863,796	14,193,796
Total all funds	$213,047,645	$62,098,413	$275,146,058
Less estimated income	195,882,334	50,287,771	246,170,105
Total general fund	$17,165,311	$11,810,642	$28,975,953
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:

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

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The information technology department shall report to the appropriations

committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. ESTIMATED INCOME - TRANSFER - HEALTH INFORMATION TECHNOLOGY PLANNING LOAN FUND TO ELECTRONIC HEALTH INFORMATION EXCHANGE FUND - LEGISLATIVE INTENT - ONE-TIME FUNDING. Notwithstanding section 6-09-43, the estimated income line item in section 1 of this Act includes the sum of $6,000,000, or so much of the sum as may be necessary, which the Bank of North Dakota shall transfer, as requested by the chief information officer, from the health information technology planning loan fund to the electronic health information exchange fund for the purpose of defraying the expenses of the health information technology office and the health information network during the biennium beginning July 1, 2021, and ending June 30, 2023. It is the intent of the sixty-seventh legislative assembly that funding be transferred only to the extent federal funding is not available to defray the expenses of the health information technology office and the health information network during the 2021-23 biennium. This funding is considered a one-time funding item.

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

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

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

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

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education and the veterans' home.

2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.

3. May review and approve additional network services that are not provided by the department.

4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. With the exception of agreements entered related to the statewide interoperable radio network, an agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a

financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. With the exception of financing for the statewide interoperable radio network, the department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

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

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

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

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

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

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

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

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

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

14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.

15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.

16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general ~~and the veterans' home~~ on cybersecurity strategy.

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

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

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the board of higher education and the veterans' home.

2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.

3. May review and approve additional network services that are not provided by the department.

4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

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

6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for

service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.

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

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

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

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

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

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

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

14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.

15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.

16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general ~~and the veterans' home~~ on cybersecurity strategy.

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

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

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

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

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

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

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

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

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

1. Supply at least one physical phone in each state agency;

2. Give state agencies the option of having a physical phone for each employee in the agency; and

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

SECTION 12. LEGISLATIVE INTENT - LEGISLATIVE MANAGEMENT STUDY - INFORMATION TECHNOLOGY DIRECTION. It is the intent of the sixty-seventh legislative assembly that the

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

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

SECTION 14. LEGISLATIVE MANAGEMENT STUDY - INFORMATION TECHNOLOGY UNIFICATION. During the 2021-22 interim, the legislative management shall consider studying the effectiveness, efficiency, cost, and any cost-savings of the 2019-21 biennium and 2021-23 biennium information technology unification initiatives and the feasibility and desirability of continuing these initiatives. The study must include a review of changes in fees, services, operations, processes, and systems. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

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

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

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

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

President of the Senate	Speaker of the House
Secretary of the Senate	Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2021 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 43 Nays 4 Absent 0

President of the Senate	Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 73 Nays 16 Absent 5

Speaker of the House	Chief Clerk of the House

Received by the Governor at _____M. on _____, 2021.

Approved at _____M. on _____, 2021.

Governor

Filed in this office this _____day of _____, 2021,

at _____ o'clock _____M.

Secretary of State