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Fifty-eighth
Legislative Assembly
of North Dakota

Introduced by

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the information
2 technology department, the judicial branch, and the legislative council; to authorize the
3 industrial commission to issue and sell evidences of indebtedness for ConnectND; to provide
4 for the purchase of information technology equipment and software; to provide for a legislative
5 council study; to create and enact a new section to chapter 54-10, a new section to chapter
6 54-35, a new section to chapter 54-59, and two new subsections to section 54-59-05 of the
7 North Dakota Century Code, relating to information technology responsibilities of the state
8 auditor, information technology committee responsibilities, and information technology
9 department powers and duties; to amend and reenact sections 54-59-02, 54-59-05, and
10 54-59-09 of the North Dakota Century Code, relating to responsibilities of the information
11 technology department and information technology standards; to repeal section 54-59-13 of the
12 North Dakota Century Code, relating to information technology reviews; and to declare an
13 emergency.

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

15 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
16 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
17 treasury, not otherwise appropriated, and from special funds derived from other income, to the
18 information technology department for the purpose of defraying the expenses of the information
19 technology department, for the biennium beginning July 1, 2003, and ending June 30, 2005, as
20 follows:

21 Salaries and wages	\$25,715,694
22 Operating expenses	33,120,860
23 Capital assets	5,323,000
24 Division of independent study	5,625,480

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1	Educational technology council	793,818
2	EduTech	2,540,348
3	Wide area network	7,436,223
4	Enterprise resource planning system (ConnectND)	20,000,000
5	Geographic information system	678,343
6	Prairie public broadcasting	1,337,138
7	Criminal justice information sharing	<u>4,741,200</u>
8	Total all funds	\$107,312,104
9	Less estimated income	<u>99,117,301</u>
10	Total general fund appropriation	\$8,194,803

11 **SECTION 2. ESTIMATED INCOME - SPECIAL FUNDS TRANSFERS.** The estimated
12 income line item in section 1 of this Act includes \$862,059 from the special funds of various
13 state agencies resulting from information technology reductions, for the biennium beginning
14 July 1, 2003, and ending June 30, 2005. Notwithstanding any other provisions of law, the office
15 of management and budget shall transfer to the information technology department the
16 following amounts available from the special funds of the agencies listed, for the biennium
17 beginning July 1, 2003, and ending June 30, 2005.

18	AGENCY	AMOUNT
19	State department of health	\$11,108
20	Aeronautics commission	6,942
21	Veterans' home	6,046
22	Department of financial institutions	7,881
23	Highway patrol	9,450
24	Department of transportation	350,000
25	Industrial commission	4,034
26	Bank of North Dakota	300,000
27	Housing finance agency	24,080
28	Mill and elevator association	23,230
29	Department of corrections and rehabilitation	24,567
30	Office of administrative hearings	4,311
31	Secretary of state	19,550

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1	Attorney general	12,929
2	State auditor's office	1,465
3	Department of agriculture	1,329
4	Insurance commissioner	37,368
5	Vision services - school for the blind	2,725
6	Seed department	10,050
7	Parks and recreation department	<u>4,994</u>
8	Total	\$862,059

9 **SECTION 3. APPROPRIATION AUTHORITY - REDUCTIONS.** The office of
10 management and budget shall reduce the special funds appropriation authority for the
11 aeronautics commission, the department of financial institutions, the insurance commissioner,
12 and the seed department, for the biennium beginning July 1, 2003, and ending June 30,2005,
13 by the amounts listed in section 2 of this Act relating to information technology reductions. The
14 amounts will be available in the special funds for transfer as provided in section 2 of this Act.

15 **SECTION 4. BOND ISSUANCE AUTHORIZATION - PURPOSES - APPROPRIATION.**
16 The industrial commission, acting as the North Dakota building authority, shall arrange through
17 the issuance of evidences of indebtedness under chapter 54-17.2 from the effective date of this
18 Act and ending June 30, 2005, for the funding in an amount not to exceed \$20,000,000 to be
19 loaned to the information technology department for the purchase or lease of computer
20 hardware and software and for the costs of the implementation services for the enterprise
21 resource planning system commonly known as the ConnectND project. ConnectND is declared
22 to be in the public interest and is for the purpose of this Act, a project as that term is defined in
23 chapter 54-17.2. The amount of the evidences of indebtedness may be reduced by any
24 moneys made available from the higher education institutions. The proceeds of the evidences
25 of indebtedness and other available funds, as appropriated in section 1 of this Act, may be used
26 for ConnectND project costs, debt service repayment, and refunding of ConnectND interim
27 borrowings. The industrial commission shall issue evidences of indebtedness under this
28 section with the condition that repayment on the evidences of indebtedness need not begin until
29 July 1, 2005. For purposes of this Act, loan or debt service repayments are equivalent to lease
30 rental payments as that term is used in chapter 54-17.2. ConnectND student fee revenues and
31 other available funds are appropriated to the North Dakota university system for the North

1 Dakota university system's share of the ConnectND project costs, debt service repayment,
2 refunding of ConnectND interim borrowings, and other costs incidental to ConnectND
3 implementation.

4 The authority of the industrial commission to issue evidences of indebtedness under this
5 section ends June 30, 2005, but the industrial commission may continue to exercise all other
6 powers granted to it under chapter 54-17.2 and this Act and comply with any covenants entered
7 into before that date.

8 The limitation provided in section 54-17.2-23 does not apply to repayments allocable to
9 the evidences of indebtedness issued for the ConnectND project.

10 **SECTION 5. EVIDENCES OF INDEBTEDNESS ISSUANCE REPAYMENT**

11 **RESPONSIBILITY.** Debt service on the evidences of indebtedness issued under section 2 of
12 this Act must be available from charges made and collected by the information technology
13 department from users of the system with twenty-nine percent of the debt service being the
14 responsibility of state agencies and seventy-one percent of the debt service being the
15 responsibility of higher education.

16 **SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the
17 general fund in the state treasury, not otherwise appropriated, the sum of \$45,999, or so much
18 of the sum as may be necessary, to the judicial branch for the purpose of defraying costs
19 associated with information technology, for the biennium beginning July 1, 2003, and ending
20 June 30, 2005.

21 **SECTION 7. PURCHASE OF INFORMATION TECHNOLOGY EQUIPMENT AND**

22 **SOFTWARE - REPORTS TO THE INFORMATION TECHNOLOGY COMMITTEE.** After
23 receiving input from executive branch state agencies, departments, and institutions, the
24 information technology department shall establish information technology equipment and
25 software product specifications and shall provide the product specifications to the office of
26 management and budget to be used for procuring equipment and software as provided for in
27 chapter 54-44.4. The office of management and budget, after receiving advise from the
28 information technology department, shall establish policies and guidelines for the purchase of
29 information technology equipment and software and related accountability reporting. All
30 executive branch state agencies, departments, and institutions, excluding institutions under
31 control of the state board of higher education, shall comply with the policies and guidelines

1 unless exempted by the office of management and budget. The information technology
2 department may establish a fee to recover the cost of providing the purchasing service. The
3 office of management and budget, in conjunction with the information technology department,
4 shall aggregate information technology equipment and software purchases and administer
5 contracts to achieve the most cost-effective results for the state. Executive branch state
6 agencies, departments, and institutions, excluding institutions under control of the state board
7 of higher education, shall identify savings by funding source resulting from the purchasing
8 contracts and may not spend the resulting savings, which must be available for other purposes
9 as determined by the fifty-ninth legislative assembly. The information technology department
10 shall provide periodic reports to the information technology committee regarding budgeted and
11 actual information technology equipment and software purchases and accumulated savings by
12 funding source.

13 **SECTION 8. TRANSFER OF APPROPRIATION AUTHORITY BETWEEN LINE**

14 **ITEMS.** Notwithstanding section 54-16-04, the director of the office of management and budget
15 and the state treasurer shall make transfers of funds between line items for state agencies,
16 departments, and institutions as may be requested to accommodate information technology
17 funding reductions made by the fifty-eighth legislative assembly. The office of management
18 and budget shall report to the budget section regularly on transfers made pursuant to this
19 section.

20 **SECTION 9. INFORMATION TECHNOLOGY LEGISLATIVE COUNCIL STUDY -**

21 **APPROPRIATION - REPORTS TO THE BUDGET SECTION.** There is appropriated out of any
22 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
23 \$350,000, or so much of the sum as may be necessary, to the legislative council for the
24 biennium beginning July 1, 2003, and ending June 30, 2005, for the purpose of contracting with
25 consultants to conduct an information technology organizational study and an information
26 technology management study and to provide assistance with the preparation of the request for
27 proposals and consultant oversight. The studies must be completed by October 1, 2003, and
28 periodic progress reports on the status of the studies must be provided to the information
29 technology committee. The information technology committee may extend the October 1, 2003,
30 deadline as it deems appropriate. A final report must be presented to the budget section upon
31 completion of the studies.

1 The information technology organizational study must include a review and identification
2 of:

- 3 1. The cost and benefits of a centralized information technology structure and the
4 cost and benefits of a decentralized information technology structure.
- 5 2. The cost of providing electronic mail administration, file and print server
6 administration, seat management and desktop personal computer support,
7 mainframe and distributed computing hosting services, consolidated storage
8 management and disaster recovery, and software development.
- 9 3. The roles and responsibilities of agency personnel providing information
10 technology services under a centralized information technology structure and a
11 decentralized information technology structure.
- 12 4. The positions and competencies needed by the information technology department
13 to provide the information technology services on a centralized basis, including the
14 organizational changes required within the department to provide the centralized
15 services.
- 16 5. The human resource management issues, including change management, training,
17 and employee compensation, to be addressed for a successful centralization.
- 18 6. The adequacy and quality of the services as currently provided and proper
19 performance measures.
- 20 7. The comparison of current costs to industry data and data from other states.
- 21 8. Information technology services appropriate to be performed by individual
22 agencies.
- 23 9. A plan to either centralize or decentralize the services identified, including the
24 reorganization tasks, personnel transfers, and the changes required for information
25 technology budgeting and cost allocation processes.

26 The information technology management study must include a review of:

- 27 1. The technology management processes of other states and private industry with
28 respect to prioritizing state agency information technology budget requests,
29 establishing information technology standards and policies, and overseeing
30 information technology expenditures.

- 1 2. The role of other states in providing information technology services to nonstate
2 government entities.
- 3 3. The level of information technology outsourcing in other state governments and the
4 private sector and the applicability to the state of North Dakota.
- 5 4. The trends that will impact technology deployment and spending in the next five to
6 ten years.
- 7 5. The level of coordination in the management of enterprise initiatives, such as the
8 state wide area network, the enterprise resource planning system initiative, the
9 geographic information systems initiative, and the criminal justice information
10 sharing initiative, compared to other states, including a recommendation regarding
11 the appropriate governance structure to provide the maximum benefits to the state.
- 12 6. The potential changes to the organizational structure of the information technology
13 department and other state government entities as related to information
14 technology.

15 **SECTION 10.** A new section to chapter 54-10 of the North Dakota Century Code is
16 created and enacted as follows:

17 **Information technology responsibilities.** The state auditor shall:

- 18 1. Conduct information technology compliance reviews, as determined necessary by
19 the information technology committee, by conducting individual agency audits of
20 information technology management, information technology planning, compliance
21 with information technology plans, and compliance with information technology
22 standards and policies and conducting statewide agency audits of compliance with
23 specific information technology standards and policies.
- 24 2. Consult with the information technology department on audits of compliance with
25 information technology plans and compliance with information technology
26 standards and policies.
- 27 3. Participate in the information technology department's enterprise architecture
28 process for developing information technology standards and policies.
- 29 4. Monitor major information technology projects for compliance with project
30 management and information technology standards and policies.

1 5. Present results of information technology compliance reviews to the information
2 technology committee and the information technology department's enterprise
3 architecture committee.

4 **SECTION 11.** A new section to chapter 54-35 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Information technology committee - Information technology reviews.** The
7 information technology committee may request the state auditor to conduct an information
8 technology compliance review. The review may consist of an audit of an agency's information
9 technology management, information technology planning, compliance with information
10 technology plans, and compliance with information technology standards and policies or an
11 audit of statewide compliance with specific information technology standards and policies.

12 **SECTION 12.** A new section to chapter 54-59 of the North Dakota Century Code is
13 created and enacted as follows:

14 **Department shall establish certain standards for agencies - Advisory committee -**
15 **Exceptions.** The department shall appoint an advisory committee consisting of
16 representatives of state agencies for the purposes of prioritizing major computer software
17 projects and establishing policies, standards, and guidelines for executive branch state
18 agencies, departments, and institutions, excluding institutions under control of the state board
19 of higher education and agencies of the judicial and legislative branches with respect to the
20 purchase of computer software and computer systems. The chief information officer shall
21 submit recommendations of the advisory committee regarding major software projects to the
22 information technology committee for consideration by the committee and the drafting of
23 appropriate legislation to implement the recommendations. The judicial and legislative
24 branches shall annually notify the advisory committee on their major computer software projects
25 and priorities. The chief information officer may exempt an agency from the policies, standards,
26 and guidelines established by the committee to address situations unique to that agency.
27 Before an executive branch state agency, department, or institution, excluding institutions under
28 control of the state board of higher education, may purchase or contract for computer software
29 or computer systems associated with electronic mail, file and print services hosting and support,
30 desktop personal computers and desktop support services, mainframe and distributed

1 computing hosting services, or services for disaster recovery of critical systems, the department
2 shall review the proposed purchase and approve of the purchase.

3 **SECTION 13. AMENDMENT.** Section 54-59-02 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **54-59-02. Information technology department - Responsibility - Public policy.**

6 The information technology department is established with the responsibility for all wide area
7 network services planning, selection, and implementation for all state agencies, including
8 institutions under the control of the board of higher education, counties, cities, and school
9 districts in this state. With respect to a county, city, or school district, wide area network
10 services are those services necessary to transmit voice, data, or video outside the county, city,
11 or school district. In exercising its powers and duties, the department is responsible for
12 computer support services, host software development, statewide communications services,
13 standards for providing information to other state agencies and the public through the internet,
14 technology planning, process redesign, and quality assurance. The department may not
15 exercise its powers and duties in a manner that competes or otherwise interferes with the
16 provision of telecommunications services to private, charitable, or nonprofit entities by privately
17 or cooperatively owned telecommunications companies.

18 **SECTION 14.** Two new subsections to section 54-59-05 of the North Dakota Century
19 Code are created and enacted as follows:

20 May provide wide area network services to a state agency, city, county, school
21 district, or other political subdivision of this state. The information technology
22 department may not provide wide area network service to any private, charitable,
23 or nonprofit entity except the information technology department may continue to
24 provide the wide area network service the department provided to the private,
25 charitable, and nonprofit entities receiving services from the department on
26 January 1, 2003. The department shall file with the state auditor before
27 September 1, 2003, a description of the wide area network service the department
28 provided to each private, charitable, and nonprofit entity receiving services from the
29 department on January 1, 2003.

1 Shall purchase information technology equipment, software, and supply items with
2 a cost greater than five hundred dollars on behalf of other state agencies,
3 departments, and institutions, excluding institutions under control of the state board
4 of higher education, and may charge a purchasing fee of ten percent for such
5 purchases.

6 **SECTION 15. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-59-05. Powers and duties of department.** The department:

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

1 arrangement. The department may finance the purchase of software, equipment,
2 or implementation services only to the extent the purchase amount does not
3 exceed the amount appropriated to the department during that biennium for
4 equipment.

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

14 ~~5.~~ 6. Shall provide information technology, including assistance and advisory service, to
15 the executive, legislative, and judicial branches. If the department is unable to
16 fulfill a request for service from the legislative or judicial branch, the information
17 technology may be procured by the legislative or judicial branch within the limits of
18 legislative appropriations.

19 ~~6.~~ 7. ~~May~~ Shall request information on or review information technology, applications,
20 system development projects, and application development projects of executive
21 branch agencies.

22 ~~7.~~ 8. Shall study emerging technology and evaluate its impact on the state's system of
23 information technology.

24 ~~8.~~ 9. Shall develop guidelines for reports to be provided by each executive branch
25 agency, institution, or department, the institutions under the control of the board of
26 higher education, and agencies of the judicial and legislative branches on
27 information technology in those entities.

28 ~~9.~~ 10. Shall review the information technology management of executive branch agencies
29 or institutions, ~~including institutions under the control of the board of higher~~
30 ~~education as provided in section 54-59-13.~~

31 ~~10.~~ 11. Shall perform all other duties necessary to carry out this chapter.

1 **SECTION 16. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-59-09. Information technology standards.** Based on information from state
4 agencies and institutions, the department shall develop statewide information technology
5 policies, standards, and guidelines. The policies, standards, and guidelines must recognize the
6 uniqueness of certain agencies and state which agencies are included or exempted from the
7 policies, standards, and guidelines. The policies, standards, and guidelines must be approved
8 by the state information technology advisory committee. Unless an exemption is granted by the
9 ~~department~~ chief information officer, each executive branch state agency and institution,
10 excluding the institutions under the control of the board of higher education with respect to
11 academic and research uses of information technology, shall comply with the policies and
12 standards developed by the department. Unless an exemption is granted by the ~~department~~
13 chief information officer, each entity receiving wide area network services provided by the
14 department shall comply with the policies and standards developed by the department with
15 respect to access to or use of wide area network services.

16 **SECTION 17. REPEAL.** Section 54-59-13 of the North Dakota Century Code is
17 repealed.

18 **SECTION 18. EMERGENCY.** The enterprise resource planning system line item in
19 section 1 of this Act and all of sections 4, 5, and 9 of this Act are declared to be an emergency
20 measure.