

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 for
4 the purchase of information technology equipment and software; to provide for the transfer of
5 state agency information technology employees; to provide for reports to the budget section; to
6 provide for a legislative council study; to create and enact a new section to chapter 54-10, a
7 new section to chapter 54-35, two new sections to chapter 54-59, and a new subsection to
8 section 54-59-05 of the North Dakota Century Code, relating to information technology
9 responsibilities of the state auditor, information technology committee responsibilities,
10 information technology services, and information technology department powers and duties; to
11 amend and reenact sections 54-59-02, 54-59-05, and 54-59-09 of the North Dakota Century
12 Code, relating to responsibilities of the information technology department and information
13 technology standards; to repeal section 54-59-13 of the North Dakota Century Code, relating to
14 information technology reviews; to provide an effective date; and to declare an emergency.

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

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

22 Salaries and wages	\$25,715,694
23 Operating expenses	33,120,860
24 Capital assets	5,323,000

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1	Division of independent study	5,625,480
2	Educational technology council	793,818
3	EduTech	2,540,348
4	Wide area network	7,436,223
5	Enterprise resource planning system (connectND)	20,000,000
6	Geographic information system	678,343
7	Prairie public broadcasting	1,337,138
8	Criminal justice information sharing	4,741,200
9	Less budget adjustment	<u>(1,000,000)</u>
10	Total all funds	\$106,312,104
11	Less estimated income	<u>98,117,301</u>
12	Total general fund appropriation	\$8,194,803

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

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

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1	Office of administrative hearings	4,311
2	Secretary of state	19,550
3	Attorney general	12,929
4	State auditor's office	1,465
5	Department of agriculture	1,329
6	Insurance commissioner	37,368
7	Vision services - School for the blind	2,725
8	Seed department	10,050
9	Parks and recreation department	<u>4,994</u>
10	Total	\$862,059

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

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

1 rental payments as that term is used in chapter 54-17.2. ConnectND student fee revenues and
2 other available funds are appropriated to the North Dakota university system for the North
3 Dakota university system's share of the connectND project costs, debt service repayment,
4 refunding of connectND interim borrowings, and other costs incidental to connectND
5 implementation.

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

10 The limitation provided in section 54-17.2-23 does not apply to repayments allocable to
11 the evidences of indebtedness issued for the connectND project.

12 **SECTION 5. EVIDENCES OF INDEBTEDNESS ISSUANCE REPAYMENT**
13 **RESPONSIBILITY.** Debt service on the evidences of indebtedness issued under section 4 of
14 this Act must be available from charges made and collected by the information technology
15 department from users of the system with twenty-nine percent of the debt service being the
16 responsibility of state agencies and seventy-one percent of the debt service being the
17 responsibility of higher education.

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

23 **SECTION 7. PURCHASE OF INFORMATION TECHNOLOGY EQUIPMENT AND**
24 **SOFTWARE - REPORTS TO THE INFORMATION TECHNOLOGY COMMITTEE.** After
25 receiving input from executive branch state agencies, departments, and institutions, the
26 information technology department shall establish information technology equipment and
27 software product specifications and shall provide the product specifications to the office of
28 management and budget to be used for procuring equipment and software as provided for in
29 chapter 54-44.4. The office of management and budget, after receiving advice from the
30 information technology department, shall establish policies and guidelines for the purchase of
31 information technology equipment and software and related accountability reporting. All

1 executive branch state agencies, departments, and institutions, excluding institutions under
2 control of the state board of higher education, shall comply with the policies and guidelines
3 unless exempted by the office of management and budget. The office of management and
4 budget, in conjunction with the information technology department, shall aggregate information
5 technology equipment and software purchases and administer contracts to achieve the most
6 cost-effective results for the state. The information technology department shall provide
7 periodic reports to the information technology committee regarding budgeted and actual
8 information technology equipment and software purchases and estimated savings by funding
9 source.

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

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

17 **SECTION 9. TRANSFERS.** Notwithstanding section 54-16-04, the director of the office

18 of management and budget shall make transfers of funds between line items of appropriations
19 in section 1 of this Act for the information technology department as may be requested by the
20 chief information officer.

21 **SECTION 10. TRANSFER OF STATE AGENCY INFORMATION TECHNOLOGY**

22 **EMPLOYEE POSITIONS - CONSOLIDATION OF INFORMATION TECHNOLOGY**

23 **FUNCTIONS.** On November 1, 2003, the following number of authorized full-time equivalent
24 employee positions relating to information technology services, including electronic mail, file
25 and print server administration, data base administration, storage, and application server and
26 hosting services must be reduced and transferred from the named agencies to the information
27 technology department, except as otherwise provided under this section or unless exempted by
28 the chief information officer:

29 AGENCY	FULL-TIME EQUIVALENT
30	EMPLOYEE POSITIONS
31 Office of management and budget	1
32 Tax department	2

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1	Department of public instruction	1
2	State department of health	1
3	Department of human services	5
4	Job service North Dakota	3
5	Industrial commission	1
6	Bank of North Dakota	1
7	Housing finance agency	1
8	Workers compensation bureau	2
9	Highway patrol	1
10	Department of corrections and rehabilitation	2
11	Game and fish department	1
12	State water commission	1
13	Department of transportation	2

14 After consultation with the information technology department, each affected agency
15 shall identify the specific positions for reduction and transfer. An agency may retain any of the
16 identified positions providing that funding for the position is available from internal savings of
17 the agency. The agency shall conduct any reduction-in-force analysis that may be required.
18 Each agency shall limit its consideration to information technology related positions and shall
19 identify for reduction and transfer those positions most closely associated with services
20 assumed centrally by the information technology department.

21 The information technology department shall determine the number of full-time
22 equivalent positions necessary to provide the related information technology functions to state
23 agencies. The department is authorized to employ the number of necessary employees and
24 require all persons interested in filling the employee positions to apply with the department. In
25 filling the employee positions, the department shall give preference to current state employees
26 working in information technology. The department may make arrangements with the agency
27 from which an employee was transferred to transfer any leave accrued by that employee.

28 In furtherance of the consolidation of information technology functions under this
29 section, the supreme court and the attorney general shall continue to collaborate with the
30 information technology department to implement the criminal justice information sharing
31 program.

1 **SECTION 11. INFORMATION TECHNOLOGY FUNCTION CONSOLIDATION -**
2 **ACCUMULATED SAVINGS - TRANSFER TO THE GENERAL FUND.** The office of
3 management and budget and the information technology department shall achieve efficiencies
4 during the biennium beginning July 1, 2003, and ending June 30, 2005, relating to the required
5 consolidation of information technology functions, including electronic mail, file and print server
6 administration, data base administration, storage, and application server and hosting services.
7 Notwithstanding the provisions of section 10 of this Act, the office of management and budget in
8 conjunction with the information technology department, may exercise full discretion in
9 achieving efficiencies and cost-savings expected from the proposed consolidation of
10 information technology services, including any such modifications deemed advisable. The
11 office of management and budget and the information technology department through
12 efficiencies resulting from this consolidation shall achieve accumulated net savings totaling
13 \$1,400,000 for the 2003-05 biennium. The director of the office of management and budget
14 shall transfer the savings accumulated as a result of these efficiencies in the amount of
15 \$1,400,000 to the general fund by June 30, 2005.

16 **SECTION 12. INFORMATION TECHNOLOGY SERVICE - REPORTS TO THE**
17 **INFORMATION TECHNOLOGY COMMITTEE AND THE BUDGET SECTION.** The information
18 technology department shall document information relating to the delivery of the consolidated
19 services to agencies, including service dependability, agency complaints, and information
20 technology department responsiveness, and shall report that information and the status of the
21 accumulated savings to the information technology committee and the budget section as
22 requested. Any agency receiving consolidated services may provide information to the
23 information technology committee with respect to service availability, service dependability,
24 complaints of the agency or of persons receiving services from the agency or the department,
25 department responsiveness, and any additional costs incurred by the agency as a result of the
26 consolidated services.

27 **SECTION 13. INFORMATION TECHNOLOGY LEGISLATIVE COUNCIL STUDY -**
28 **APPROPRIATION - REPORTS TO THE BUDGET SECTION.** There is appropriated out of any
29 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
30 \$350,000, or so much of the sum as may be necessary, to the legislative council for the
31 biennium beginning July 1, 2003, and ending June 30, 2005, for the purpose of contracting with

1 consultants to conduct an information technology organizational study and an information
2 technology management study and to provide assistance with the preparation of the request for
3 proposals and consultant oversight. The studies must be completed by October 1, 2003, and
4 periodic progress reports on the status of the studies must be provided to the information
5 technology committee. The information technology committee may extend the October 1, 2003,
6 deadline as it deems appropriate. A final report must be presented to the budget section upon
7 completion of the studies.

8 The information technology organizational study must include a review and identification
9 of:

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

1 9. A plan to either centralize or decentralize the services identified, including the
2 reorganization tasks, personnel transfers, and the changes required for information
3 technology budgeting and cost allocation processes.

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

- 5 1. The technology management processes of other states and private industry with
6 respect to prioritizing state agency information technology budget requests,
7 establishing information technology standards and policies, and overseeing
8 information technology expenditures.
- 9 2. The role of other states in providing information technology services to nonstate
10 government entities.
- 11 3. The level of information technology outsourcing in other state governments and the
12 private sector and the applicability to the state of North Dakota.
- 13 4. The trends that will impact technology deployment and spending in the next five to
14 ten years.
- 15 5. The level of coordination in the management of enterprise initiatives, such as the
16 statewide wide area network, the enterprise resource planning system initiative, the
17 geographic information system initiative, and the criminal justice information
18 sharing initiative, compared to other states, including a recommendation regarding
19 the appropriate governance structure to provide the maximum benefits to the state.
- 20 6. The potential changes to the organizational structure of the information technology
21 department and other state government entities as related to information
22 technology.

23 **SECTION 14.** A new section to chapter 54-10 of the North Dakota Century Code is
24 created and enacted as follows:

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

- 26 1. Conduct information technology compliance reviews, as determined necessary by
27 the information technology committee, by conducting individual agency audits of
28 information technology management, information technology planning, compliance
29 with information technology plans, and compliance with information technology
30 standards and policies and conducting statewide agency audits of compliance with
31 specific information technology standards and policies.

- 1 2. Consult with the information technology department on audits of compliance with
2 information technology plans and compliance with information technology
3 standards and policies.
- 4 3. Participate in the information technology department's enterprise architecture
5 process for developing information technology standards and policies.
- 6 4. Monitor major information technology projects for compliance with project
7 management and information technology standards and policies.
- 8 5. Present results of information technology compliance reviews to the information
9 technology committee and the information technology department's enterprise
10 architecture committee.

11 **SECTION 15.** A new section to chapter 54-35 of the North Dakota Century Code is
12 created and enacted as follows:

13 **Information technology committee - Information technology reviews.** The
14 information technology committee may request the state auditor to conduct an information
15 technology compliance review. The review may consist of an audit of an agency's information
16 technology management, information technology planning, compliance with information
17 technology plans, and compliance with information technology standards and policies or an
18 audit of statewide compliance with specific information technology standards and policies.

19 **SECTION 16.** Two new sections to chapter 54-59 of the North Dakota Century Code
20 are created and enacted as follows:

21 **Department shall establish certain standards for agencies - Advisory committee -**
22 **Exceptions.** The department shall appoint an advisory committee consisting of
23 representatives of state agencies for the purposes of prioritizing major computer software
24 projects and establishing policies, standards, and guidelines for executive branch state
25 agencies, departments, and institutions, excluding institutions under control of the state board
26 of higher education and agencies of the judicial and legislative branches with respect to the
27 purchase of computer software and computer systems. The chief information officer shall
28 submit recommendations of the advisory committee regarding major software projects to the
29 information technology committee for consideration by the committee and the drafting of
30 appropriate legislation to implement the recommendations. The judicial and legislative
31 branches shall annually notify the advisory committee on their major computer software projects

1 and priorities. The chief information officer may exempt an agency from the policies, standards,
2 and guidelines established by the committee to address situations unique to that agency.

3 **Required use of electronic mail, file and print server administration, data base**
4 **administration, and application server and hosting services.** Each state agency and
5 institution, excluding the legislative and judicial branches, the institutions under the control of
6 the state board of higher education, the public employees retirement system, the retirement and
7 investment office, the attorney general, and any entity exempted by the office of management
8 and budget after advisement by the information technology department, shall obtain electronic
9 mail, file and print server administration, data base administration, storage, and application
10 server and hosting services through a delivery system established by the office of management
11 and budget in conjunction with the information technology department. The office of
12 management and budget, after receiving advice from the information technology department,
13 shall establish policies and guidelines for the delivery of services, including the transition from
14 existing systems to centralized systems, with consideration given to the creation of efficiencies
15 and cost-savings.

16 **SECTION 17. AMENDMENT.** Section 54-59-02 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **54-59-02. Information technology department - Responsibility - Public policy.**

19 The information technology department is established with the responsibility for all wide area
20 network services planning, selection, and implementation for all state agencies, including
21 institutions under the control of the board of higher education, counties, cities, and school
22 districts in this state. With respect to a county, city, or school district, wide area network
23 services are those services necessary to transmit voice, data, or video outside the county, city,
24 or school district. In exercising its powers and duties, the department is responsible for
25 computer support services, host software development, statewide communications services,
26 standards for providing information to other state agencies and the public through the internet,
27 technology planning, process redesign, and quality assurance. The department may not
28 exercise its powers and duties in a manner that competes or otherwise interferes with the
29 provision of telecommunications services to private, charitable, or nonprofit entities by privately
30 or cooperatively owned telecommunications companies.

1 **SECTION 18.** A new subsection to section 54-59-05 of the North Dakota Century Code
2 is created and enacted as follows:

3 May provide wide area network services to a state agency, city, county, school
4 district, or other political subdivision of this state. The information technology
5 department may not provide wide area network service to any private, charitable,
6 or nonprofit entity except the information technology department may continue to
7 provide the wide area network service the department provided to the private,
8 charitable, and nonprofit entities receiving services from the department on
9 January 1, 2003. The department shall file with the state auditor before
10 September 1, 2003, a description of the wide area network service the department
11 provided to each private, charitable, and nonprofit entity receiving services from the
12 department on January 1, 2003.

13 **SECTION 19. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **54-59-05. Powers and duties of department.** The department:

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

1 out this chapter. An agreement to finance the purchase of software, equipment, or
2 implementation services may not exceed a period of three years. The department
3 shall submit any intended financing proposal for the purchase of software,
4 equipment, or implementation services under this subsection, which is in excess of
5 one million dollars, to the budget section of the legislative council before executing
6 a financing agreement. If the budget section does not approve the execution of a
7 financing agreement, the department may not proceed with the proposed financing
8 arrangement. The department may finance the purchase of software, equipment,
9 or implementation services only to the extent the purchase amount does not
10 exceed the amount appropriated to the department during that biennium for
11 equipment.

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

21 ~~5-~~ 6. Shall provide information technology, including assistance and advisory service, to
22 the executive, legislative, and judicial branches. If the department is unable to
23 fulfill a request for service from the legislative or judicial branch, the information
24 technology may be procured by the legislative or judicial branch within the limits of
25 legislative appropriations.

26 ~~6-~~ 7. ~~May~~ Shall request information on or review information technology, applications,
27 system development projects, and application development projects of executive
28 branch agencies.

29 ~~7-~~ 8. Shall study emerging technology and evaluate its impact on the state's system of
30 information technology.

1 ~~8-~~ 9. Shall develop guidelines for reports to be provided by each executive branch
2 agency, institution, or department, the institutions under the control of the board of
3 higher education, and agencies of the judicial and legislative branches on
4 information technology in those entities.

5 ~~9-~~ 10. Shall review the information technology management of executive branch agencies
6 or institutions,~~including institutions under the control of the board of higher~~
7 ~~education as provided in section 54-59-13.~~

8 ~~10-~~ 11. Shall perform all other duties necessary to carry out this chapter.

9 **SECTION 20. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is
10 amended and reenacted as follows:

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

24 **SECTION 21. REPEAL.** Section 54-59-13 of the North Dakota Century Code is
25 repealed.

26 **SECTION 22. EFFECTIVE DATE.** This Act becomes effective on July 1, 2003.

27 **SECTION 23. EMERGENCY.** The enterprise resource planning system line item in
28 section 1 of this Act and all of sections 4, 5, and 13 of this Act are declared to be an emergency
29 measure.