

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the information
 2 technology department; to provide an appropriation to the industrial commission; to provide a
 3 contingent appropriation; to amend and reenact subsection 11 of section 28-32-01 and
 4 subsection 4 of section 54-59-05 of the North Dakota Century Code, relating to exclusion of
 5 certain policies, standards, and guidelines of the information technology department from
 6 compliance with the Administrative Agencies Practice Act and the powers and duties of the
 7 information technology department; and to declare an emergency.

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

9 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this
 10 section represent the base level funding component appropriated to the information technology
 11 department in section 3 of this Act as follows:

12 Salaries and wages	\$25,715,694
13 Operating expenses	32,120,860
14 Capital assets	5,323,000
15 Division of independent study	5,625,480
16 Educational technology council	793,818
17 EduTech	2,540,348
18 Wide area network	7,436,223
19 Enterprise resource planning system (ConnectND)	20,000,000
20 Geographic information system	678,343
21 Prairie public broadcasting	1,337,138
22 Criminal justice information sharing	<u>4,741,200</u>
23 Total all funds - Base level	\$106,312,104

1	Less estimated income - Base level	<u>98,117,301</u>
2	Total general fund - Base level	\$8,194,803

3 **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The
4 amounts identified in this section represent the funding adjustments or enhancements to the
5 base funding level for the information technology department which are included in the
6 appropriation in section 3 of this Act as follows:

7	Salaries and wages	\$2,080,403
8	Operating expenses	9,926,842
9	Capital assets	5,038,163
10	Division of independent study	330,959
11	Educational technology council	300,118
12	EduTech	112,000
13	Wide area network	105,988
14	Enterprise resource planning system (ConnectND)	(20,000,000)
15	Geographic information system	8,094
16	Prairie public broadcasting	(1,337,138)
17	Criminal justice information sharing	<u>(2,041,200)</u>
18	Total all funds - Adjustments/enhancements	(\$5,475,771)
19	Less estimated income - Adjustments/enhancements	<u>7,569,758</u>
20	Total general fund - Adjustments/enhancements	\$2,093,987

21 **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the
22 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
23 treasury, not otherwise appropriated, and from special funds derived from federal funds and
24 other income, to the information technology department for the purpose of defraying the
25 expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007,
26 as follows:

27	Salaries and wages	\$27,796,097
28	Operating expenses	42,047,702
29	Capital assets	10,361,163
30	Division of independent study	5,956,439
31	Educational technology council	1,093,936

1	EduTech	2,652,348
2	Wide area network	7,542,211
3	Geographic information system	686,437
4	Criminal justice information sharing	<u>2,700,000</u>
5	Total all funds	\$100,836,333
6	Less estimated income	<u>90,547,543</u>
7	Total general fund appropriation	\$10,288,790

8 **SECTION 4. APPROPRIATION.** There is appropriated out of any moneys in the
9 general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much
10 of the sum as may be necessary, to the industrial commission for related costs of connections
11 to internet2 for the state paleontologist in the heritage center, for the biennium beginning July 1,
12 2005, and ending June 30, 2007.

13 **SECTION 5. CONTINGENT APPROPRIATION.** If the fifty-ninth legislative assembly
14 authorizes the replacement of the medicaid management information system, there is
15 appropriated out of special funds derived from other income, not otherwise appropriated, the
16 sum of \$8,125,784 to the information technology department for costs associated with
17 development and implementation of the system for the biennium beginning July 1, 2005, and
18 ending June 30, 2007. The information technology department is authorized ten additional
19 full-time equivalent positions for the project.

20 **SECTION 6. LEGISLATIVE INTENT - CRIMINAL JUSTICE INFORMATION**

21 **SHARING.** It is the intent of the fifty-ninth legislative assembly that if federal homeland security
22 funding or other federal funding becomes available, the information technology department
23 shall use federal funds for the criminal justice information sharing initiative before the funding
24 appropriated from the general fund and the unspent general fund moneys must be returned to
25 the general fund.

26 **SECTION 7. TRANSFERS.** Notwithstanding section 54-16-04, the director of the office
27 of management and budget and the state treasurer shall make transfers of funds between line
28 items in section 3 of this Act for the information technology department as may be requested by
29 the chief information officer as determined necessary for the development and implementation
30 of the medicaid management information system. Any increase in full-time equivalent positions

1 needed for this project must be reported to the director of the office of management and budget
2 during the biennium beginning July 1, 2005, and ending June 30, 2007.

3 **SECTION 8. AMENDMENT.** Subsection 11 of section 28-32-01 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 11. "Rule" means the whole or a part of an agency statement of general applicability
6 which implements or prescribes law or policy or the organization, procedure, or
7 practice requirements of the agency. The term includes the adoption of new rules
8 and the amendment, repeal, or suspension of an existing rule. The term does not
9 include:

10 a. A rule concerning only the internal management of an agency which does not
11 directly or substantially affect the substantive or procedural rights or duties of
12 any segment of the public.

13 b. A rule that sets forth criteria or guidelines to be used by the staff of an agency
14 in the performance of audits, investigations, inspections, and settling
15 commercial disputes or negotiating commercial arrangements, or in the
16 defense, prosecution, or settlement of cases, if the disclosure of the
17 statement would:

18 (1) Enable law violators to avoid detection;

19 (2) Facilitate disregard of requirements imposed by law; or

20 (3) Give a clearly improper advantage to persons who are in an adverse
21 position to the state.

22 c. A rule establishing specific prices to be charged for particular goods or
23 services sold by an agency.

24 d. A rule concerning only the physical servicing, maintenance, or care of
25 agency-owned or agency-operated facilities or property.

26 e. A rule relating only to the use of a particular facility or property owned,
27 operated, or maintained by the state or any of its subdivisions, if the
28 substance of the rule is adequately indicated by means of signs or signals to
29 persons who use the facility or property.

- 1 f. A rule concerning only inmates of a correctional or detention facility, students
2 enrolled in an educational institution, or patients admitted to a hospital, if
3 adopted by that facility, institution, or hospital.
- 4 g. A form whose contents or substantive requirements are prescribed by rule or
5 statute or are instructions for the execution or use of the form.
- 6 h. An agency budget.
- 7 i. An opinion of the attorney general.
- 8 j. A rule adopted by an agency selection committee under section 54-44.7-03.
- 9 k. Any material, including a guideline, interpretive statement, statement of
10 general policy, manual, brochure, or pamphlet, which is explanatory and not
11 intended to have the force and effect of law.
- 12 l. A policy, standard, and guideline adopted by the information technology
13 department under chapter 54-59, including any product and service standard
14 and best practice standard, which does not materially affect the public and is
15 not intended to have the force and effect of law, and with respect to access to
16 or use of wide area network services, institutions under the control of the
17 board of higher education, counties, cities, and school districts if the policy,
18 standard, or guideline has been approved by the state information technology
19 advisory committee.

20 **SECTION 9. AMENDMENT.** Subsection 4 of section 54-59-05 of the North Dakota
21 Century Code is amended and reenacted as follows:

- 22 4. May purchase, finance the purchase, or lease equipment, software, or
23 implementation services or replace, including by trade or resale, equipment or
24 software as may be necessary to carry out this chapter. An agreement to finance
25 the purchase of software, equipment, or implementation services may not exceed
26 a period of ~~three~~ five years. The department shall submit any intended financing
27 proposal for the purchase of software, equipment, or implementation services
28 under this subsection, which is in excess of one million dollars, to the budget
29 section of the legislative council or the legislative assembly before executing a
30 financing agreement. If the budget section or the legislative assembly does not
31 approve the execution of a financing agreement, the department may not proceed

1 with the proposed financing arrangement. The department may finance the
2 purchase of software, equipment, or implementation services only to the extent the
3 purchase amount does not exceed seven and one-half percent of the amount
4 appropriated to the department during that biennium.

5 **SECTION 10. EMERGENCY.** Section 9 of this Act is declared to be an emergency
6 measure.