

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1003
(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the attorney general; to require the state fire marshal to inspect buildings as requested by a political subdivision; to provide for a legislative council study; to provide statements of legislative intent; to amend and reenact section 53-06.1-12, subsections 1 and 3 of section 53-06.2-02, subsection 3 of section 53-06.2-11, sections 54-12-11 and 54-12-18 of the North Dakota Century Code, relating to gaming and excise tax collections, racing commission supervision and compensation, racing commission expenses, the salary of the attorney general, and the attorney general refund fund; to provide for retroactive application; 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 attorney general for the purpose of defraying the expenses of the attorney general, for the biennium beginning July 1, 2001, and ending June 30, 2003, as follows:

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|---|-------------------|
| Salaries and wages | \$14,970,368 |
| Operating expenses | 6,002,469 |
| Equipment | 414,876 |
| Grants | 5,734,398 |
| Litigation fees | 50,000 |
| Racing commission | 300,000 |
| National criminal history improvement project | 2,358,720 |
| Arrest and return of fugitives | 10,000 |
| Gaming commission | 5,109 |
| Law enforcement programs | 631,056 |
| High-intensity drug trafficking area | <u>1,931,648</u> |
| Total all funds | \$32,408,644 |
| Less estimated income | <u>17,604,259</u> |
| Total general fund appropriation | \$14,804,385 |

SECTION 2. FIRE AND TORNADO FUND. The estimated income line item in section 1 of this Act includes the sum of \$385,143, or so much of the sum as may be necessary from the state fire and tornado fund, for the purpose of defraying the expenses related to the state fire marshal program.

SECTION 3. LEGISLATIVE INTENT - STATE FIRE MARSHAL PROGRAM. It is the intent of the legislative assembly that the attorney general charge and collect a fee for services provided by the state fire marshal program to entities insured by the fire and tornado fund. For services provided to entities not insured by the fire and tornado fund, the attorney general is to prepare and submit a memorandum billing to the entity receiving the service. For the purpose of this section, a memorandum billing means a document detailing services and cost of services provided. The memorandum billing does not require a remittance of funds.

SECTION 4. ASSET FORFEITURE FUND. The sum of \$62,504 is available from the asset forfeiture fund to the attorney general as included in estimated income of section 1 of this Act.

SECTION 5. ESTIMATED INCOME - GAMING AND EXCISE TAX ALLOCATION FUND - LOCAL GAMING ENFORCEMENT GRANTS. The line item entitled grants in section 1 of this Act includes \$629,000 for local gaming enforcement grants.

SECTION 6. PETROLEUM RELEASE COMPENSATION FUND - FEES. The attorney general shall charge and collect fees for services provided by the state fire marshal program to entities covered by the petroleum release compensation fund under chapter 23-37. Fees under this section may be collected in amounts of up to a total of \$35,000 for the biennium beginning July 1, 1999, and ending June 30, 2001, and of up to a total of \$35,000 for services provided by the state fire marshal program for the biennium beginning July 1, 2001, and ending June 30, 2003. All fees collected under this section must be deposited in the attorney general's operating fund.

SECTION 7. STATE FIRE MARSHAL - BUILDING INSPECTIONS AS REQUESTED BY POLITICAL SUBDIVISIONS - FEES. The state fire marshal shall conduct, upon request of a political subdivision, an inspection of a publicly or privately owned building and shall charge a fee for the cost of providing this service for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 8. ATTORNEY GENERAL REFUND FUND - EXCEPTION - ESTIMATED INCOME. Notwithstanding section 54-12-18, the attorney general may retain \$100,000 in the attorney general refund fund that would otherwise be transferred to the general fund on June 30, 2001. The estimated income line item in section 1 of this Act includes \$100,000 from the attorney general refund fund for the purpose of defraying the expenses of the consumer protection division for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 9. ESTIMATED INCOME - RACING PROMOTION, PURSE, AND BREEDERS' FUNDS. Notwithstanding section 53-06.2-11, the estimated income line item in section 1 of this Act includes \$50,000 from the racing promotion fund, \$50,000 from the purse fund, and \$50,000 from the breeders' fund for the purpose of defraying the administrative and operating costs of the racing commission for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 10. LEGISLATIVE INTENT - CLANDESTINE LABORATORY CLEANUP - EMERGENCY COMMISSION REQUEST. It is the intent of the legislative assembly that the attorney general request emergency commission approval for funding from the state contingencies appropriation if additional funding is needed for defraying the cleanup costs of clandestine laboratories and if federal funds are not available for this purpose for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 11. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$197,714, or so much of the sum as may be necessary, to the attorney general for the purpose of providing local gaming enforcement grants, for the period beginning with the effective date of this section, and ending June 30, 2001.

SECTION 12. LEGISLATIVE INTENT - LITIGATION FEES. It is the intent of the legislative assembly that the attorney general submit a request to the emergency commission for an additional appropriation for litigation fees, from the contingency fund, if the \$50,000 appropriated in the litigation fees line item in section 1 of this Act is exhausted.

SECTION 13. COLLECTIONS. Section 1 of this Act includes the appropriation of up to \$18,000 in revenues collected from fees charged for gaming law and administrative rules manuals and recordkeeping booklets published by the attorney general for the period beginning July 1, 2001, and ending June 30, 2003.

SECTION 14. LEGISLATIVE COUNCIL STUDY - RACING COMMISSION. The legislative council shall consider studying, during the 2001-02 interim, the racing commission, including its authority to schedule, promote, support, and regulate live or simulcast racing in North Dakota. If chosen, the study must address the effectiveness of the commission's authority to both promote and regulate racing and whether its authority is appropriate for the commission and its members. The

legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

SECTION 15. AMENDMENT. Section 53-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12. Gaming and excise taxes - Deposits and allocations.

1. A gaming tax is imposed on the total adjusted gross proceeds earned by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. The tax rates are:
 - a. On adjusted gross proceeds not exceeding two hundred thousand dollars, a tax of five percent.
 - b. On adjusted gross proceeds exceeding two hundred thousand dollars but not exceeding four hundred thousand dollars, a tax of ten percent.
 - c. On adjusted gross proceeds exceeding four hundred thousand dollars but not exceeding six hundred thousand dollars, a tax of fifteen percent.
 - d. On adjusted gross proceeds exceeding six hundred thousand dollars, a tax of twenty percent.
2. In addition to any other tax provided by law and in place of sales or use taxes, there is imposed an excise tax of four and one-half percent on the gross proceeds from the sale at retail of pull tabs to a final user. This includes pull tabs provided to a player in exchange for redeemed winning pull tabs. The tax must be paid to the attorney general when tax returns are filed.
3. ~~The~~ Except as provided in subsection 4, the state treasurer shall deposit gaming and excise taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.
4. The state treasurer shall deposit three percent of the total taxes collected under this section into a gaming and excise tax allocation fund. Pursuant to legislative appropriation, moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games of chance within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

SECTION 16. AMENDMENT. Subsections 1 and 3 of section 53-06.2-02 of the North Dakota Century Code are amended and reenacted as follows:

1. A North Dakota racing commission is established in the office of the attorney general. The commission is subject to the supervision and direction of the attorney general, except with regard to the commission's authority to spend the funds described in subsection 6 of section 53-06.2-11. The attorney general may require payment for any services rendered to the racing commission. Payment for such services must be deposited into the attorney general's operating fund. The commission consists of the chairman and four other members appointed by the governor. Of the members appointed by the governor, one must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of

whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves only for the unexpired portion of the term. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission.

3. Commission members are entitled to ~~forty~~ seventy-five dollars per day for compensation, and mileage and expense reimbursement as allowed to other state employees.

SECTION 17. AMENDMENT. Subsection 3 of section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

3. Unclaimed tickets and breakage from each live race meet and simulcast program as defined by the commission and the percentage of the wagering pool to be paid to the racing promotion fund under subsections 1 and 2 must be retained by the commission in a special fund to assist in improving and upgrading racetracks in the state, for the promotion of horse racing within the state, and in developing new racetracks in the state as necessary and approved by the commission. Notwithstanding this section, the commission may, upon approval of the ~~emergency commission~~ attorney general, receive no more than twenty-five percent of this fund for the purpose of payment of operating expenses of the commission.

SECTION 18. AMENDMENT. Section 54-12-11 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-12-11. Salary of attorney general. The annual salary of the attorney general is ~~sixty-five~~ sixty-seven thousand ~~seven hundred fifty-three~~ seventy-three dollars through ~~June 30, 2000~~ December 31, 2001, ~~sixty-seven~~ sixty-eight thousand ~~two hundred four~~ two hundred six dollars through ~~December 31, 2000~~ June 30, 2002, and ~~sixty-nine~~ seventy-four thousand ~~two~~ six hundred ~~sixty-eight~~ sixty-eight dollars thereafter.

SECTION 19. AMENDMENT. Section 54-12-18 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

54-12-18. Special fund established - Continuing appropriation. A special fund is established in the state treasury and designated as the attorney general refund fund. The attorney general shall deposit all moneys recovered by the consumer protection division for refunds to consumers in cases where persons or parties are found to have violated the consumer fraud laws, all costs, expenses, attorney's fees, and civil penalties collected by the division regarding any consumer protection or antitrust matter, all cash deposit bonds paid by applicants for a transient merchant's license who do not provide a surety bond, and all funds and fees collected by the gaming section for licensing tribal gaming and for the investigation of gaming employees, applicants, organizations, manufacturers, distributors, or tribes involved in state or tribal gaming. The moneys in the fund are appropriated, as necessary, for the following purposes:

1. To provide refunds of moneys recovered by the consumer protection and antitrust division on behalf of specifically named consumers;
2. To pay valid claims against cash deposit bonds posted by transient merchant licensees;
3. To refund, upon expiration of the two-year period after the expiration of the transient merchant's license, the balance of any cash deposit bond remaining after the payment of valid claims;

4. To pay costs, expenses, and attorney's fees and salaries incurred in the operation of the consumer protection division; and
5. To pay the actual costs of background investigations, licensing, and enforcement of gaming in the state or pursuant to Indian gaming compacts.

At the end of each ~~fiscal year~~ biennium any moneys in the fund in excess of the amounts required for subsections 1, 2, 3, and 5 must be deposited in the general fund. The attorney general, with the concurrence of the director of the office of management and budget, shall establish the necessary accounting procedures for use of the attorney general refund fund, particularly with respect to expenditures under subsection 4.

SECTION 20. RETROACTIVE APPLICATION. Section 6 of this Act is effective for services provided by the state fire marshal program beginning July 1, 1999.

SECTION 21. EMERGENCY. Sections 8 and 11 of this Act are declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1003 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 89 Nays 5 Absent 4

Speaker of the House

Chief Clerk of the House

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

Vote: Yeas 49 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State