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Prepared by the Legislative Council staff for
the House Appropriations - Education and
Environment Division Committee
April 4, 2023

Fiscal No.1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2003

Page 1, line 2, replace "50-06" with "54-12"

Page 1, line 3, replace "an opioid settlement fund" with "a retired law enforcement dogs program"

Page 1, line 3, after "sections" insert "53-06.1-11.2,"

Page 1, line 3, after "53-12.1-09" insert a comma

Page 1, line 4, after "to" insert "transfers from the charitable gaming operating fund,"

Page 1, line 5, after "fund" insert a comma

Page 1, line 6, remove "to provide for a report; and"

Page 1, line 7, after "study" insert "; and to declare an emergency"

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 9 with:

| | | | |
|--------------------------------------|-------------------|------------------|-------------------|
| "Salaries and wages | \$50,832,646 | (\$537,204) | \$50,295,442 |
| Operating expenses | 15,237,498 | 3,533,607 | 18,771,105 |
| Capital assets | 648,055 | 4,585,572 | 5,233,627 |
| Grants | 3,903,440 | 400,000 | 4,303,440 |
| Human trafficking victims grants | 1,101,879 | 3,525 | 1,105,404 |
| Forensic nurse examiners grants | 250,691 | 791 | 251,482 |
| Statewide litigation funding pool | 0 | 5,000,000 | 5,000,000 |
| Litigation fees | 127,500 | 0 | 127,500 |
| Medical examinations | 660,000 | 0 | 660,000 |
| Children's medical examinations | 0 | 304,560 | 304,560 |
| North Dakota lottery | 5,254,844 | 61,790 | 5,316,634 |
| Arrest and return of fugitives | 8,500 | 0 | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 4,074,968 | 412,169 | 4,487,137 |
| Law enforcement | <u>3,048,927</u> | <u>82,770</u> | <u>3,131,697</u> |
| Total all funds | \$85,156,437 | \$13,847,580 | \$99,004,017 |
| Less estimated income | <u>42,509,719</u> | <u>4,836,388</u> | <u>47,346,107</u> |
| Total general fund | \$42,646,718 | \$9,011,192 | \$51,657,910 |
| Full-time equivalent positions | 253.00 | 13.00 | 266.00" |

Page 2, after line 22, insert

| | | |
|--|---|----------|
| "State crime laboratory capital improvements | 0 | 250,000" |
|--|---|----------|

Page 2, replace line 26 with:

| | | |
|-------------------------------|---|------------|
| "Anti-methamphetamine program | 0 | 1,772,038" |
|-------------------------------|---|------------|

Page 2, replace lines 28 through 30 with:

| | | |
|--------------------|------------------|------------------|
| "Total all funds | \$8,536,706 | \$11,439,468 |
| Total other funds | <u>8,536,706</u> | <u>6,832,122</u> |
| Total general fund | \$0 | \$4,607,346" |

Page 3, after line 11, insert:

"SECTION 4. TRANSFER - LOTTERY OPERATING FUND TO GAMING AND EXCISE TAX ALLOCATION FUND - STATEWIDE LITIGATION FUNDING POOL.

Notwithstanding sections 53-12.1-09 and 53-12.1-10, the attorney general shall transfer \$2,760,000 from the lottery operating fund to the gaming and excise tax allocation fund by June 30, 2023, for the purpose of defraying litigation expenses of the state through the statewide litigation funding pool during the period beginning with the effective date of this Act, and ending June 30, 2025."

Page 3, line 15, replace "\$4,557,748" with "\$1,797,748"

Page 3, line 15, replace "\$442,252" with "\$3,202,252"

Page 3, line 18, after "the" insert "statewide"

Page 3, line 18, after "litigation" insert "funding"

Page 3, line 26, replace "\$1,111,480" with "\$1,105,404"

Page 4, line 6, replace "\$252,872" with "\$251,482"

Page 4, remove lines 17 through 29

Page 5, remove lines 1 through 12

Page 5, remove lines 24 through 31

Page 6, replace lines 1 through 3 with:

"SECTION 10. AMENDMENT. Section 53-06.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-11.2. Charitable gaming operating fund - Attorney general - State treasurer - Allocations - Transfer to the general fund.

1. There is created in the state treasury the charitable gaming operating fund. The fund consists of all gaming taxes, monetary fines, and interest and penalties collected under this chapter.
2. Excluding moneys in the charitable gaming operating fund appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming, the attorney general shall allocate remaining moneys in the charitable gaming operating fund on a quarterly basis as follows:
 - a. Ten thousand dollars to the gambling disorder prevention and treatment fund.
 - b. Subject to legislative appropriations, five percent of the total moneys deposited in the charitable gaming operating fund to cities and counties in proportion to the taxes collected under section 53-06.1-12 from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city

limits. If a city or county allocation 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.

3. ~~On or before June thirtieth of each odd-numbered year~~Before the final accounting has closed for each biennium, the attorney general shall certify to the state treasurer the ~~amount of accumulated funds~~balance in the charitable gaming operating fund which exceed the amount appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming for the subsequent biennium. The state treasurer shall transfer the certified amount from the charitable gaming operating fund to the ~~general fund prior to~~following funds at the end of each biennium:
 - a. The first twenty-five million dollars to the general fund;
 - b. The next four million dollars to the attorney general operating fund;
 - c. Any remaining amounts to the general fund.

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

Retired law enforcement dogs - Reimbursement.

1. The attorney general shall create a program to assist local and state law enforcement dogs that are retired by reason of age or medical condition.
2. The attorney general shall reimburse the handler of a law enforcement dog if the handler:
 - a. Is authorized to retain possession of a retired law enforcement dog in a private setting at the handler's home; and
 - b. Submits itemized receipts each quarter for medical bills of the law enforcement dog.
3. Reimbursements under this section may not exceed one thousand dollars per retired law enforcement dog per calendar year.
4. The attorney general shall adopt any rules necessary to implement this section."

Page 7, line 10, replace "seventy-five" with "seventy-nine"

Page 7, line 11, replace "nine" with "three"

Page 7, line 11, replace "twenty-eight" with "twelve"

Page 7, line 12, replace "eighty-two" with "eighty-six"

Page 7, line 12, replace "nine" with "four"

Page 7, line 12, replace "sixty-five" with "eighty-four"

Page 7, after line 21, insert:

"SECTION 16. EXEMPTION - GAMING TAX REVENUE GRANTS.

Notwithstanding section 53-06.1-12, the attorney general may distribute gaming tax revenue grants to cities and counties relating to the seventh and eighth quarters of the 2021-23 biennium through October 31, 2023."

Page 7, after line 31, insert:

"SECTION 19. EXEMPTION - LEGAL CASE MANAGEMENT SYSTEM. The amount appropriated to the attorney general from other funds for the statewide automated victim information and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws, continued into the 2019-21 biennium for the statewide automated victim information and notification system, and continued into the 2021-23 biennium for the legal case management system, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the legal case management system during the biennium beginning July 1, 2023, and ending June 30, 2025."

Page 8, after line 5, insert:

"SECTION 21. EXEMPTION - AUTOMATED BIOMETRIC IDENTIFICATION SYSTEM. The amount of \$300,000 appropriated from federal funds to upgrade the automated biometric identification system during the 2021-23 biennium in section 1 of chapter 3 of the 2021 Session Laws is not subject to section 54-44.1-11 and is available for the system during the biennium beginning July 1, 2023, and ending June 30, 2025."

Page 8, line 13, replace "\$1,350,000" with "\$1,000,000"

Page 8, line 13, remove ", of"

Page 8, line 14, remove "which \$300,000 was for a missing persons database, \$1,000,000 was"

Page 8, line 15, remove ", and \$50,000 was for charitable gaming information"

Page 8, line 16, replace "technology costs, in subsections 19," with "in subsection"

Page 8, line 16, remove ", and 42"

Page 8, after line 29, insert:

"SECTION 25. ATTORNEY COST-SAVINGS - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY. The attorney general shall report to the appropriations committees of the sixty-ninth legislative assembly regarding any cost-savings realized by hiring full-time equivalent attorney positions instead of contracting for third-party legal counsel during the 2023-25 biennium.

SECTION 26. EMERGENCY. The \$250,000 appropriated from the general fund in the capital assets line item in section 1 for state crime laboratory capital improvements and sections 4 and 16 of this Act are declared to be an emergency measure."

Reorder accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2003 - Attorney General - House Action

| | Base Budget | Senate Version | House Changes | House Version |
|--------------------------------------|---------------------|-----------------------|----------------------|----------------------|
| Salaries and wages | \$50,295,349 | \$56,475,611 | (\$6,180,169) | \$50,295,442 |
| Operating expenses | 15,237,498 | 17,688,435 | 1,082,670 | 18,771,105 |
| Capital assets | 648,055 | 3,560,577 | 1,673,050 | 5,233,627 |
| Grants | 3,903,440 | 3,903,440 | 400,000 | 4,303,440 |
| Litigation fees | 127,500 | 127,500 | | 127,500 |
| Medical examinations | 660,000 | 660,000 | | 660,000 |
| North Dakota lottery | 5,254,844 | 5,433,446 | (116,812) | 5,316,634 |
| Arrest and return of fugitives | 8,500 | 8,500 | | 8,500 |
| Gaming commission | 7,489 | 7,489 | | 7,489 |
| Criminal justice information sharing | 4,074,968 | 4,546,645 | (59,508) | 4,487,137 |
| Law enforcement | 3,048,927 | 7,194,705 | (4,063,008) | 3,131,697 |
| Human trafficking victims grants | 1,101,879 | 1,111,480 | (6,076) | 1,105,404 |
| Forensic nurse examiners grants | 250,691 | 252,872 | (1,390) | 251,482 |
| State Crime Laboratory salary equity | 537,297 | | | |
| Statewide litigation pool | | 5,000,000 | | 5,000,000 |
| Additional income | | 250,000 | | 250,000 |
| Children's medical examinations | | | 304,560 | 304,560 |
| Total all funds | \$85,156,437 | \$106,220,700 | (\$6,966,683) | \$99,254,017 |
| Less estimated income | 42,509,719 | 42,633,849 | 4,962,258 | 47,596,107 |
| General fund | \$42,646,718 | \$63,586,851 | (\$11,928,941) | \$51,657,910 |
| FTE | 253.00 | 260.00 | 6.00 | 266.00 |

Department 125 - Attorney General - Detail of House Changes

| | Adjusts Funding for Salary and Benefit Increases¹ | Adds Funding for Salary Equity Increases and Reclassifications² | Adjusts Funding for Prior Biennium Salary Equity Increases³ | Adds Funding for FTE Positions⁴ | Removes Salary Funding for Funding Pool⁵ | Adjusts Base Level Funding⁶ |
|--------------------------------------|---|---|---|---|--|---|
| Salaries and wages | \$701,762 | \$258,668 | | \$1,271,188 | (\$8,411,787) | |
| Operating expenses | | | | 447,682 | | \$64,000 |
| Capital assets | | | | | | 222,000 |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 33,740 | | | | (150,552) | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 17,294 | | | | (76,802) | |
| Law enforcement | 48,223 | | | | (211,231) | |
| Human trafficking victims grants | 1,738 | | | | (7,814) | |
| Forensic nurse examiners grants | 398 | | | | (1,788) | |
| State Crime Laboratory salary equity | | | | | | |
| Statewide litigation pool | | | | | | |
| Additional income | | | | | | |
| Children's medical examinations | | | | | | |
| Total all funds | \$803,155 | \$258,668 | \$0 | \$1,718,870 | (\$8,859,974) | \$286,000 |
| Less estimated income | 355,283 | 14,487 | 1,866,992 | 0 | (2,157,983) | 46,881 |
| General fund | \$447,872 | \$244,181 | (\$1,866,992) | \$1,718,870 | (\$6,701,991) | \$239,119 |
| FTE | 0.00 | 0.00 | 0.00 | 6.00 | 0.00 | 0.00 |

| | Adds Funding for Children's Medical Examinations ⁷ | Adjusts One- Time Funding ⁸ | Adjusts One- Time Funding for the Litigation Funding Pool ⁹ | Total House Changes |
|---|--|---|--|------------------------|
| Salaries and wages | | | | (\$6,180,169) |
| Operating expenses | | \$570,988 | | 1,082,670 |
| Capital assets | | 1,451,050 | | 1,673,050 |
| Grants | | 400,000 | | 400,000 |
| Litigation fees | | | | |
| Medical examinations | | | | |
| North Dakota lottery | | | | (116,812) |
| Arrest and return of fugitives | | | | |
| Gaming commission | | | | |
| Criminal justice information sharing | | | | (59,508) |
| Law enforcement | | (3,900,000) | | (4,063,008) |
| Human trafficking victims grants | | | | (6,076) |
| Forensic nurse examiners grants | | | | (1,390) |
| State Crime Laboratory salary equity | | | | |
| Statewide litigation pool | | | | |
| Additional income | | | | |
| Children's medical examinations | \$304,560 | | | 304,560 |
| Total all funds | \$304,560 | (\$1,477,962) | \$0 | (\$6,966,683) |
| Less estimated income | 304,560 | 1,772,038 | 2,760,000 | 4,962,258 |
| General fund | \$0 | (\$3,250,000) | (\$2,760,000) | (\$11,928,941) |
| FTE | 0.00 | 0.00 | 0.00 | 6.00 |

¹ Salaries and wages funding is adjusted to provide for 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

| | General Fund | Other Funds | Total |
|----------------------------|-----------------|----------------|-----------|
| Salary increase | \$464,271 | \$365,724 | \$829,995 |
| Health insurance reduction | (16,399) | (10,441) | (26,840) |
| Total | \$447,872 | \$355,283 | \$803,155 |

The Senate provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

² Funding of \$223,000 is added from the general fund for salary equity funding and \$35,668 is added to reclassify employee positions, including \$21,181 from the general fund for finance staff and \$14,487 from the Attorney General refund fund for Consumer Protection and Antitrust Division staff. The Senate did not add funding for these purposes.

³ Funding of \$1,866,992 for prior biennium salary equity increases for attorneys, Bureau of Criminal Investigation (BCI), and Medicaid Fraud Control Unit (MFCU) positions is transferred from the general fund to the Attorney General refund fund to restore the funding to the base level. The Senate transferred this funding from the Attorney General refund fund to the general fund.

The Senate also transferred \$537,297 for prior biennium salary equity increases for State Crime Laboratory positions from the Attorney General refund fund to the general fund. The House did not adjust this funding.

⁴ Funding is added from the general fund for the following FTE positions:

| | FTE Positions | Salaries and Wages | Operating Expenses | Total |
|---|------------------|-----------------------|-----------------------|-------------|
| Attorney positions | 2.00 | \$461,954 | \$96,060 | \$558,014 |
| State Crime Laboratory positions | 2.00 | 356,452 | 262,389 | 618,841 |
| IT programmers and analyst positions | 2.00 | 452,782 | 51,761 | 501,543 |
| MFCU positions authorized by the Senate | 0.00 | 0 | 37,472 | 37,472 |
| Total | 6.00 | \$1,271,188 | \$447,682 | \$1,718,870 |

The House did not change the 15 FTE positions added by the Senate, including 2 FTE attorney positions, 3 FTE BCI cybercrime positions, 3 FTE BCI criminal investigator positions, 4 FTE State Crime Laboratory positions, and 3 FTE MFCU positions, totaling \$4,206,994, of which \$3,593,367 is from the general fund and \$613,627 is from federal funds.

Funding for salaries and wages and operating expenses of 21 new FTE positions, as approved by the House, totals \$5,925,864, of which \$5,312,237 is from the general fund and \$613,627 is from federal funds, prior to the removal of funding for the new and vacant FTE position pool.

⁵ Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

| | General Fund | Other Funds | Total |
|----------------------|-------------------------|------------------------|--------------------|
| New FTE positions | (\$4,066,038) | (\$536,813) | (\$4,602,851) |
| Vacant FTE positions | <u>(2,635,953)</u> | <u>(1,621,170)</u> | <u>(4,257,123)</u> |
| Total | (\$6,701,991) | (\$2,157,983) | (\$8,859,974) |

⁶ Base level funding is adjusted as follows:

| | General Fund | Other Funds | Total |
|--|-------------------------|------------------------|----------------|
| Adjusts funding from the Attorney General refund fund as a result of settlement proceeds from the JUUL Labs, Inc. lawsuit no longer being available to the Attorney General for salaries and operating expenses. The Senate did not adjust funding for this purpose. | \$809,381 | (\$809,381) | \$0 |
| Adjusts funding for Information Technology Division and Criminal Justice Information Sharing Division operating expenses by adding funding from the Attorney General refund fund to restore funding to the base level. The Senate provided this funding from the general fund. | (856,262) | 856,262 | 0 |
| Adds funding to the \$419,297 from the general fund added by the Senate for increased software maintenance and subscription costs. | 34,000 | 0 | 34,000 |
| Adds funding for a retired law enforcement dogs program. The Senate did not add funding for this program. | 30,000 | 0 | 30,000 |
| Adds funding for State Crime Laboratory building and equipment maintenance contract costs. The Senate did not add funding for this purpose. | <u>222,000</u> | <u>0</u> | <u>222,000</u> |
| Total | \$239,119 | \$46,881 | \$286,000 |

⁷ Funding of \$304,560 from the insurance regulatory trust fund is added in a new line item for children's medical examinations related to North Dakota Century Code Section 12.1-34-07. This amount is in addition to \$660,000 of base level funding from the insurance regulatory trust fund for medical examinations. The Senate did not add funding for this purpose.

⁸ One-time funding is adjusted as follows:

| | General Fund | Other Funds | Total |
|---|-------------------------|------------------------|------------------|
| Adds funding for State Crime Laboratory capital improvements. The Senate did not add funding for this purpose. | \$250,000 | \$0 | \$250,000 |
| Removes funding approved by the Senate for the back the blue grant program. | (3,500,000) | 0 | (3,500,000) |
| Transfers \$400,000 from the general fund approved by the Senate for the law enforcement resiliency grant program from the law enforcement line item to the grants line item. | 0 | 0 | 0 |
| Adds federal funding for the United States Department of Justice Community Oriented Policing Services (COPS) anti-methamphetamine program, of which \$570,988 is for operating expenses and \$1,201,050 is for capital assets. In December 2022, the Emergency Commission and Budget Section approved \$2,000,000 for the program for the 2021-23 biennium, of which approximately \$227,962 will be spent by the end of the 2021-23 biennium. The Senate did not add funding for this purpose. | <u>0</u> | <u>1,772,038</u> | <u>1,772,038</u> |
| Total | (\$3,250,000) | \$1,772,038 | (\$1,477,962) |

⁹ One-time funding of \$2,760,000 is adjusted for the statewide litigation funding pool by reducing the general fund

and increasing funding from the gaming and excise tax allocation fund. A section is added to the bill to provide for the transfer of \$2,760,000 from the lottery operating fund to the gaming and excise tax allocation fund. This will reduce 2021-23 biennium general fund revenues by \$2,760,000.

Total funding for the statewide litigation funding pool as approved by the House is \$5,000,000 of which \$1,797,748 is from the general fund and \$3,202,252 is from the gaming and excise tax allocation fund. The Senate approved \$5,000,000, of which \$4,557,748 was from the general fund and \$442,252 was from the gaming and excise tax allocation fund.

This amendment also:

- Adds a section to transfer funding from the lottery operating fund to the gaming and excise tax allocation fund for the statewide litigation funding pool.
- Amends a section authorizing the transfer of funding from the gaming and excise tax allocation fund and the general fund to state agencies for litigation expenses through the statewide litigation funding pool.
- Amends a section identifying the amount of funding included in Section 1 for the human trafficking victims grants program.
- Amends a section identifying the amount of funding included in Section 1 for the forensic nurse examiners grant program.
- Removes a section identifying an appropriation for back the blue grants. Funding for this program is proposed in House Bill No. 1307.
- Removes a section creating an opioid settlement fund. The creation of this fund is proposed in House Bill No. 1447.
- Adds a section to amend Section 53-06.1-11.2 to provide up to \$4 million of gaming tax revenues be deposited in the Attorney General operating fund instead of the general fund.
- Adds a section to add a new section to Chapter 54-12 to establish a retired law enforcement dog program.
- Amends a section providing for the salary of the Attorney General reflecting a 6 percent 1st year and 4 percent 2nd year salary increase.
- Adds a section to provide an exemption allowing the Attorney General to distribute quarters 7 and 8 of 2021-23 biennium gaming tax revenues to cities and counties through October 31, 2023.
- Adds a section to allow the Attorney General to continue any remaining funding from the 2017-19 biennium that was continued into the 2019-21 biennium for the statewide automated victim information and notification program and into the 2021-23 biennium for the legal case management system to be continued into the 2023-25 biennium for the legal case management system. The Attorney General anticipates \$117,000 will be continued into the 2023-25 biennium.
- Adds a section to provide an exemption to allow the Attorney General to continue any remaining funding of the \$300,000 appropriated from federal funds during the 2021-23 biennium for the automated biometric identification system, formerly known as the automated fingerprint identification system, into the 2023-25 biennium.
- Amends a section authorizing the Attorney General an exemption to continue funding appropriated from the federal State Fiscal Recovery Fund during the November 2021 special legislative session.
- Adds a section to require the Attorney General to provide a report to the 69th Legislative Assembly regarding cost-savings realized by hiring FTE attorney positions instead of contracting for third-party legal counsel.
- Adds a section to declare \$250,000 appropriated in Section 1 for State Crime Laboratory capital improvements and Sections 4 and 16 to be an emergency measure.