

February 11, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1003

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general;
2 ~~and to create and enact a new chapter to title 51 of the North Dakota Century Code, relating to~~
3 ~~an electronic smoking device directory, electronic smoking device manufacturing fee, and~~
4 ~~electronic smoking fund; to amend and reenact sections 31-01-16 and 54-12-11 of the North~~
5 ~~Dakota Century Code, relating to compensation and mileage and travel expenses for witnesses~~
6 ~~and the salary of the attorney general; to provide for a report; to provide for a transfer; to~~
7 ~~provide an exemption; and to declare an emergency.~~

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

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
10 as may be necessary, are appropriated out of any moneys in the general fund in the state
11 treasury, not otherwise appropriated, and from other funds derived from special funds and
12 federal funds, to the attorney general for the purpose of defraying the expenses of the attorney
13 general, for the biennium beginning July 1, 2025, and ending June 30, 2027, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
16 Salaries and wages	\$53,007,980	\$0	\$53,007,980
17 Operating expenses	17,579,264	0	17,579,264
18 Capital assets	606,000	0	606,000
19 Grants	3,903,440	0	3,903,440
20 Human trafficking victims grants	1,110,614	0	1,110,614

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1	Forensic nurse examiners grants	252,676	0	252,676
2	Litigation fees	127,500	0	127,500
3	Medical examinations	660,000	0	660,000
4	Children's forensic interviews	304,560	0	304,560
5	North Dakota lottery	5,413,453	0	5,413,453
6	Arrest and return of fugitives	8,500	0	8,500
7	Gaming commission	7,489	0	7,489
8	Criminal justice information sharing	4,579,950	0	4,579,950
9	Law enforcement	3,377,659	0	3,377,659
10	Total all funds	\$90,939,085	\$0	\$90,939,085
11	Less other funds	41,914,820	0	41,914,820
12	Total general fund	\$49,024,265	\$0	\$49,024,265
13	Full-time equivalent positions	266.00	0.00	266.00
14	Salaries and wages	\$53,007,980	\$8,810,074	\$61,818,054
15	New and vacant FTE pool	0	4,455,869	4,455,869
16	Operating expenses	17,579,264	924,250	18,503,514
17	Prosecution witness fees	0	360,056	360,056
18	Capital assets	606,000	1,089,000	1,695,000
19	Grants	3,903,440	110,000	4,013,440
20	Human trafficking victims grants	1,110,614	656,900	1,767,514
21	Forensic nurse examiners grants	252,676	1,568	254,244
22	Statewide litigation funding pool	0	8,000,000	8,000,000
23	Litigation fees	127,500	0	127,500
24	Medical examinations	660,000	0	660,000
25	Children's forensic interviews	304,560	0	304,560
26	North Dakota lottery	5,413,453	167,152	5,580,605
27	Arrest and return of fugitives	8,500	0	8,500
28	Gaming commission	7,489	0	7,489
29	Criminal justice information sharing	4,579,950	2,749,467	7,329,417
30	Law enforcement	3,377,659	289,999	3,667,658
31	Total all funds	\$90,939,085	\$27,614,335	\$118,553,420

1	<u>Less other funds</u>	<u>41,914,820</u>	<u>13,563,444</u>	<u>55,478,264</u>
2	<u>Total general fund</u>	<u>\$49,024,265</u>	<u>\$14,050,891</u>	<u>\$63,075,156</u>
3	<u>Full-time equivalent positions</u>	<u>266.00</u>	<u>4.00</u>	<u>270.00</u>

4 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
5 **SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
6 items included in the appropriation in section 1 of this Act which are not included in the entity's
7 base budget for the 2027-29 biennium and which the entity shall report to the appropriations
8 committees of the seventieth legislative assembly regarding the use of this funding:

9	<u>One-Time Funding Description</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
10	Operating and litigation expenses	\$0	\$2,000,000	\$2,000,000
11	Laboratory equipment and supplies	400,000	554,000	954,000
12	Network switches	32,000	0	32,000
13	Undercover vehicles	0	540,000	540,000
14	Portable handheld radios	0	105,000	105,000
15	Intoxilyzers	0	188,000	188,000
16	Retired law enforcement dogs program	110,000	0	110,000
17	Human trafficking victims grants	650,000	0	650,000
18	Statewide litigation funding pool	0	8,000,000	8,000,000
19	Jail management system replacement	650,000	0	650,000
20	Statewide automated victim identification	<u>0</u>	<u>1,500,000</u>	<u>1,500,000</u>
21	notification system replacement			
22	Total	\$1,842,000	\$12,887,000	\$14,729,000

23 **SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST.** The
24 attorney general may not spend funds appropriated in the new and vacant FTE pool line item in
25 section 1 of this Act, but may request the office of management and budget to transfer funds
26 from the new and vacant FTE pool line item to the salaries and wages line item in accordance
27 with the guidelines and reporting provisions included in House Bill No. 1015, as approved by the
28 sixty-ninth legislative assembly.

29 **SECTION 4. ADDITIONAL INCOME - APPROPRIATION - ONE-TIME FUNDING -**
30 **REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this
31 Act, there is appropriated from federal or special funds, the sum of \$250,000, or so much of the

1 sum as may be necessary, to the attorney general for the purposes of defraying the expenses of
2 the office, for the biennium beginning July 1, 2025, and ending June 30, 2027. The attorney
3 general shall notify the office of management and budget and the legislative council of any
4 funding made available pursuant to this section. The funding provided in this section is
5 considered a one-time funding item.

6 **SECTION 5. TRANSFER - CHARITABLE GAMING OPERATING FUND TO ATTORNEY**
7 **GENERAL OPERATING FUND - 2023-25 BIENNIUM.** Notwithstanding section 53-06.1-11.2,
8 the office of management and budget shall transfer \$2,000,000 from the charitable gaming
9 operating fund to the attorney general operating fund by June 30, 2025, for the purpose of
10 defraying operating and litigation expenses of the state during the period beginning with the
11 effective date of this Act, and ending June 30, 2027.

12 **SECTION 6. OTHER FUNDS - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND**
13 **TRANSFER - STATEWIDE LITIGATION FUNDING POOL TO STATE AGENCIES.** The other
14 funds line item in section 1 of this Act includes the sum of \$10,466,000 from the strategic
15 investment and improvements fund, of which \$321,000 is for state crime laboratory equipment
16 and supplies, \$540,000 is for the replacement of bureau of criminal investigation undercover
17 vehicles, \$105,000 is for portable handheld dual-band radios, \$8,000,000 is for the statewide
18 litigation funding pool, and \$1,500,000 is for the replacement of the statewide automated victim
19 identification notification system. The attorney general shall transfer funding from the statewide
20 litigation funding pool to eligible state agencies for litigation expenses during the biennium
21 beginning July 1, 2025, and ending June 30, 2027. The attorney general may not use funding
22 from the statewide litigation funding pool to pay judgments under section 32-12-04.

23 **SECTION 7. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS -**
24 **REPORTS.** The human trafficking victims grants line item in section 1 of this Act includes
25 ~~\$1,110,614~~ \$1,767,514 from the general fund for the purpose of providing grants to
26 organizations involved in providing prevention and treatment services related to human
27 trafficking victims and related administrative costs, for the biennium beginning July 1, 2025, and
28 ending June 30, 2027. The attorney general may provide grants for the development and
29 implementation of direct care emergency or long-term crisis services, residential care, training
30 for law enforcement, support of advocacy services, and programs promoting positive outcomes
31 for victims. Any organization that receives a grant under this section shall report to the attorney

1 general and the appropriations committees of the seventieth legislative assembly on the use of
2 the funds received and the outcomes of its programs. The attorney general shall report to the
3 legislative management during the 2025-26 interim on the status and results of the grant
4 program.

5 **SECTION 8. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.** The
6 forensic nurse examiners grants line item in section 1 of this Act includes ~~\$252,676~~\$254,244
7 from the general fund for the purpose of providing forensic nurse examiner program grants for
8 community-based or hospital-based sexual assault examiner programs and related
9 administrative costs, for the biennium beginning July 1, 2025, and ending June 30, 2027. Any
10 organization that receives a grant under this section shall report to the attorney general and the
11 appropriations committees of the seventieth legislative assembly on the use of the funds
12 received and the outcomes of its programs. The attorney general shall report to the
13 appropriations committees of the seventieth legislative assembly on the number of nurses
14 trained, the number and location of nurses providing services related to sexual assault nurse
15 examiner programs, and documentation of collaborative efforts to assist victims which includes
16 nurses, the hospital or clinic, law enforcement, and state's attorneys.

17 **SECTION 9. RETIRED LAW ENFORCEMENT DOGS PROGRAM - REIMBURSEMENT.**
18 The grants line item in section 1 of this Act includes \$110,000 for a retired law enforcement
19 dogs program, which the attorney general shall create to assist local and state law enforcement
20 dogs that are retired by reason of age or medical condition. The attorney general shall
21 reimburse the handler of a law enforcement dog if the handler is authorized to retain possession
22 of a retired law enforcement dog in a private setting at the handler's home and if the handler
23 submits itemized receipts each quarter for medical bills of the law enforcement dog.
24 Reimbursements made under the program may not exceed \$2,000 per retired law enforcement
25 dog per fiscal year. The attorney general shall adopt any rules necessary to implement this
26 section.

27 **SECTION 10. OTHER FUNDS - ELECTRONIC SMOKING FUND.** The salaries and wages
28 line item and operating expenses line item in section 1 of this Act include the sum of \$239,716
29 from the electronic smoking fund for a tobacco compliance auditor position to administer and
30 enforce the provisions of section 12 of this Act.

1 **SECTION 11. AMENDMENT.** Section 31-01-16 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **31-01-16. Compensation and mileage and travel expense of witness.**

4 1. A witness in a civil or criminal case is entitled to receive:

5 ~~1.~~ a. A sum of twenty-five dollars for each day necessarily in attendance before the
6 district court or before any other board or tribunal, except municipal court.

7 ~~2.~~ b. A sum for mileage and travel expense reimbursement equal to the
8 reimbursement rates provided for state employees in sections 44-08-04 and
9 54-06-09.

10 2. In all criminal cases in district court, the attorney general shall pay prosecution witness
11 fees and expenses, in an amount not to exceed ~~twenty-five thousand~~thirty thousand
12 dollars per county per biennium, and the commission on legal counsel for indigents
13 shall pay witness fees and expenses for witnesses in those cases in which counsel
14 has been provided by the commission. Prisoners may not be compensated as
15 witnesses under this section. If a county exceeds the thirty thousand dollar
16 reimbursement during a biennium, the county may enter an agreement with another
17 county for the purpose of allowing that county to receive another county's unused
18 reimbursement funds for that biennium, with the approval of the attorney general.

19 **SECTION 12.** A new chapter to title 51 of the North Dakota Century Code is created and
20 enacted as follows:

21 **Definition - Electronic smoking device directory - Electronic smoking device**
22 **manufacturer fee - Electronic smoking fund.**

23 1. The attorney general shall establish and maintain a directory of electronic smoking
24 devices containing nicotine that may be sold in this state.

25 2. An electronic smoking device must be included in the directory only if the
26 manufacturer of the electronic smoking device containing nicotine certifies, on a form
27 prescribed by the attorney general, the following:

28 a. The manufacturer has received a marketing granted order for the electronic
29 smoking device containing nicotine from the United States food and drug
30 administration;

1 b. The manufacturer marketed the electronic smoking device containing nicotine in
2 the United States as of August 8, 2016, and submitted a tobacco product
3 premarket application to the United States food and drug administration on or
4 before September 9, 2020, and the application either remains under review or
5 has received a denial order that has been and remains stayed by the United
6 States food and drug administration or a court order, rescinded by the United
7 States food and drug administration, or vacated by a court; or

8 c. The manufacturer can demonstrate the United States food and drug
9 administration has issued a rule, guidance, or other formal statement that
10 temporarily exempts the electronic smoking device containing nicotine from
11 federal premarket tobacco application requirements.

12 3. Each certification form must be accompanied by a fee of five hundred dollars for each
13 electronic smoking device containing nicotine that is listed on the form. Revenue from
14 the fees must be deposited in the electronic smoking fund.

15 4. There is created in the state treasury the electronic smoking fund. The fund consists of
16 fees collected pursuant to subsection 3 and all moneys transferred to the fund by the
17 legislative assembly. Moneys in the fund may be spent by the attorney general for the
18 administration and enforcement of this chapter, subject to legislative appropriations.

19 5. Beginning January 1, 2026, only electronic smoking devices containing nicotine
20 included in the directory may be sold in this state.

21 6. The attorney general shall promulgate rules necessary to administer and enforce this
22 chapter. The rules must provide for at least two annual unannounced compliance
23 checks of retailers, distributors, and wholesalers that sell electronic smoking devices
24 containing nicotine.

25 7. As used in this section, "electronic smoking device" means any electronic product that
26 delivers nicotine to the individual inhaling from the device, including an electronic
27 cigarette, electronic cigar, electronic pipe, vape pen, or electronic hookah, and
28 includes any component, part, or accessory of such product, including a consumable
29 product that contains nicotine and is intended to be used with an electronic smoking
30 device, whether or not sold separately. The term does not include drugs, devices, or

combination products approved for sale by the United States food and drug
administration and defined in the Federal Food, Drug, and Cosmetic Act of 1938.

SECTION 13. AMENDMENT. Section 54-12-11 of 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 ~~one hundred seventy-nine thousand three hundred twelve~~one hundred ninety-two thousand seventy-nine dollars through June 30, ~~2024~~2026, and ~~one hundred eighty-six thousand four hundred eighty-four~~one hundred ninety-seven thousand eight hundred forty-one dollars thereafter.

SECTION 14. CRIMINAL HISTORY RECORD CHECKS - FEES. Any individual or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-ninth legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the general fund, for the biennium beginning July 1, 2025, and ending June 30, 2027.

SECTION 15. EXEMPTION - CONTINGENT FEE ARRANGEMENT. Notwithstanding section 54-12-08.1, the attorney general may contract for legal services compensated by a contingent fee arrangement for ongoing multistate technology litigation during the biennium beginning July 1, 2025, and ending June 30, 2027.

SECTION 16. EXEMPTION - ATTORNEY GENERAL REFUND FUND. Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund which would otherwise be transferred to the general fund on June 30, 2025.

SECTION 17. EXEMPTION - UNEXPENDED APPROPRIATIONS. The following appropriations are not subject to the provisions of section 54-44.1-11 and may be continued into the biennium beginning July 1, 2025, and ending June 30, 2027:

1. The amount appropriated to the attorney general from other funds for the statewide automated victim identification 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 identification and notification system, and continued into the 2021-23 biennium and 2023-25 biennium for the legal case management system in section 17 of chapter 35 of the 2023 Session Laws.

- 1 2. The sum of \$400,000 appropriated from the attorney general refund fund for the
2 criminal history improvement project in section 1 of chapter 3 of the 2021 Session
3 Laws, and continued into the 2023-25 biennium section 18 of chapter 35 of the 2023
4 Session Laws.
- 5 3. The sum of \$1,000,000 appropriated from the federal state fiscal recovery fund for the
6 replacement of the prosecuting case management system in subsection 20 of
7 section 1 of chapter 550 of the 2021 Special Session Session Laws and continued into
8 the 2023-25 biennium in section 21 of chapter 35 of the 2023 Session Laws.
- 9 4. The sum of \$736,000 appropriated from the charitable gaming operating fund for the
10 charitable gaming technology system in section 1 of chapter 35 of the 2023 Session
11 Laws.
- 12 5. The sum of \$177,000 appropriated from the general fund for a licensing and deposit
13 software system in section 1 of chapter 35 of the 2023 Session Laws.
- 14 6. The sum of \$1,772,038 appropriated from federal funds for the justice community
15 oriented policing services anti-methamphetamine program in section 1 of chapter 35 of
16 the 2023 Session Laws.

17 **SECTION 18. EMERGENCY.** Section 5 of this Act is declared to be an emergency
18 measure.