

Sixty-ninth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED 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 to create and enact a new chapter to title 51 of the North Dakota Century Code, relating to an
3 electronic smoking device directory, electronic smoking device manufacturing fee, and
4 electronic smoking fund; to amend and reenact sections 31-01-16, 54-12-11, and 54-12-30 of
5 the North Dakota Century Code, relating to compensation and mileage and travel expenses for
6 witnesses, the salary of the attorney general, and twenty-four seven sobriety program fees; to
7 provide for a report; and to provide an exemption.

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:

		Adjustments or		
		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
15				
16	Salaries and wages	\$53,007,980	\$8,323,325	\$61,331,305
17	New and vacant FTE pool	0	5,140,711	5,140,711
18	Operating expenses	17,579,264	(988,610)	16,590,654
19	Prosecution witness fees	0	360,056	360,056
20	Capital assets	606,000	1,391,280	1,997,280
21	Grants	3,903,440	0	3,903,440
22	Human trafficking victims grants	1,110,614	1,341,900	2,452,514

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1	Forensic nurse examiners grants	252,676	1,568	254,244
2	Statewide litigation funding pool	0	5,000,000	5,000,000
3	Litigation fees	127,500	0	127,500
4	Medical examinations	660,000	0	660,000
5	Children's forensic interviews	304,560	0	304,560
6	North Dakota lottery	5,413,453	171,709	5,585,162
7	Arrest and return of fugitives	8,500	0	8,500
8	Gaming commission	7,489	0	7,489
9	Criminal justice information sharing	4,579,950	2,749,467	7,329,417
10	Law enforcement	<u>3,377,659</u>	<u>291,739</u>	<u>3,669,398</u>
11	Total all funds	\$90,939,085	\$23,783,145	\$114,722,230
12	Less other funds	<u>41,914,820</u>	<u>9,888,474</u>	<u>51,803,294</u>
13	Total general fund	\$49,024,265	\$13,894,671	\$62,918,936
14	Full-time equivalent positions	266.00	4.00	270.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SEVENTIETH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items included in the appropriation in section 1 of this Act which are not included in the entity's base budget for the 2027-29 biennium and which the entity shall report to the appropriations committees of the seventieth legislative assembly regarding the use of this funding:

<u>One-Time Funding Description</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
21 Bureau of criminal investigation equipment	\$161,000	\$0	\$161,000
22 Laboratory equipment and supplies	400,000	554,000	954,000
23 Network switches	32,000	0	32,000
24 Undercover vehicles	0	540,000	540,000
25 Portable handheld radios	0	105,000	105,000
26 Intoxilyzers	0	188,000	188,000
27 Human trafficking victims grants	650,000	0	650,000
28 Statewide litigation funding pool	0	5,000,000	5,000,000
29 Jail management system replacement	650,000	0	650,000
30 Statewide automated victim identification	<u>0</u>	<u>1,500,000</u>	<u>1,500,000</u>

1 notification system replacement

2 Total \$1,893,000 \$7,887,000 \$9,780,000

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

9 **SECTION 4. ADDITIONAL INCOME - APPROPRIATION - ONE-TIME FUNDING -**

10 **REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this
11 Act, there is appropriated from federal or special funds, the sum of \$250,000, or so much of the
12 sum as may be necessary, to the attorney general for the purposes of defraying the expenses of
13 the office, for the biennium beginning July 1, 2025, and ending June 30, 2027. The attorney
14 general shall notify the office of management and budget and the legislative council of any
15 funding made available pursuant to this section. The funding provided in this section is
16 considered a one-time funding item.

17 **SECTION 5. CONTINGENT FUNDING AND FULL-TIME EQUIVALENT POSITION**

18 **AUTHORIZATION - GUARDIANSHIP PROGRAMS.** The salaries and wages line item,
19 operating expenses line item, and capital assets line item in section 1 of this Act include the
20 sum of \$385,355 from the general fund for one full-time equivalent position for guardianship
21 programs. The attorney general may spend this funding and fill this position only if Senate Bill
22 No. 2029 is approved by the sixty-ninth legislative assembly.

23 **SECTION 6. CONTINGENT FUNDING - HUMAN TRAFFICKING VICTIMS GRANTS.** The
24 human trafficking victims grants line item in section 1 of this Act includes the sum of \$685,000
25 from the general fund for human trafficking victims grants for exploitation prevention and
26 awareness education-related expenses. The attorney general may spend this funding only if
27 Senate Bill No. 2330 is approved by the sixty-ninth legislative assembly.

28 **SECTION 7. OTHER FUNDS - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND**

29 **TRANSFER - STATEWIDE LITIGATION FUNDING POOL TO STATE AGENCIES.** The other
30 funds line item in section 1 of this Act includes the sum of \$7,466,000 from the strategic
31 investment and improvements fund, of which \$321,000 is for state crime laboratory equipment

1 and supplies, \$540,000 is for the replacement of bureau of criminal investigation undercover
2 vehicles, \$105,000 is for portable handheld dual-band radios, \$5,000,000 is for the statewide
3 litigation funding pool, and \$1,500,000 is for the replacement of the statewide automated victim
4 identification notification system. The attorney general shall transfer funding from the statewide
5 litigation funding pool to eligible state agencies for litigation expenses during the biennium
6 beginning July 1, 2025, and ending June 30, 2027. The attorney general may not use funding
7 from the statewide litigation funding pool to pay judgments under section 32-12-04.

8 **SECTION 8. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS -**
9 **REPORTS.** The human trafficking victims grants line item in section 1 of this Act includes
10 \$2,452,514 from the general fund for the purpose of providing grants to organizations involved
11 in providing prevention and treatment services related to human trafficking victims and related
12 administrative costs, for the biennium beginning July 1, 2025, and ending June 30, 2027. The
13 attorney general may provide grants for the development and implementation of direct care
14 emergency or long-term crisis services, residential care, training for law enforcement, support of
15 advocacy services, and programs promoting positive outcomes for victims. Any organization
16 that receives a grant under this section shall report to the attorney general and the
17 appropriations committees of the seventieth legislative assembly on the use of the funds
18 received and the outcomes of its programs. The attorney general shall report to the legislative
19 management during the 2025-26 interim on the status and results of the grant program.

20 **SECTION 9. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.** The
21 forensic nurse examiners grants line item in section 1 of this Act includes \$254,244 from the
22 general fund for the purpose of providing forensic nurse examiner program grants for
23 community-based or hospital-based sexual assault examiner programs and related
24 administrative costs, for the biennium beginning July 1, 2025, and ending June 30, 2027. Any
25 organization that receives a grant under this section shall report to the attorney general and the
26 appropriations committees of the seventieth legislative assembly on the use of the funds
27 received and the outcomes of its programs. The attorney general shall report to the
28 appropriations committees of the seventieth legislative assembly on the number of nurses
29 trained, the number and location of nurses providing services related to sexual assault nurse
30 examiner programs, and documentation of collaborative efforts to assist victims which includes
31 nurses, the hospital or clinic, law enforcement, and state's attorneys.

1 **SECTION 10. BUREAU OF CRIMINAL INVESTIGATION CYBER CRIME RESOURCES.**

2 The salaries and wages line item, operating expenses line item, and capital assets line item in
3 section 1 of this Act includes the sum of \$825,000 from the general fund for the purpose of
4 hiring two full-time equivalent bureau of criminal investigation cyber crime agent positions and
5 for related equipment and capital asset costs. The personnel hired and resources purchased
6 pursuant to this section must be dedicated to assisting a police department in a city in
7 northeastern North Dakota with at least 50,000 residents with the prevention and detection of
8 cyber crime.

9 **SECTION 11. OTHER FUNDS - ELECTRONIC SMOKING FUND.** The salaries and wages
10 line item and operating expenses line item in section 1 of this Act include the sum of \$239,716
11 from the electronic smoking fund for a tobacco compliance auditor position to administer and
12 enforce the provisions of section 13 of this Act.

13 **SECTION 12. AMENDMENT.** Section 31-01-16 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **31-01-16. Compensation and mileage and travel expense of witness.**

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

17 4- a. A sum of twenty-five dollars for each day necessarily in attendance before the
18 district court or before any other board or tribunal, except municipal court.

19 2- b. A sum for mileage and travel expense reimbursement equal to the
20 reimbursement rates provided for state employees in sections 44-08-04 and
21 54-06-09.

22 2. In all criminal cases in district court, the attorney general shall pay prosecution witness
23 fees and expenses, in an amount not to exceed ~~twenty-five thousand~~thirty thousand
24 dollars per county per biennium, and the commission on legal counsel for indigents
25 shall pay witness fees and expenses for witnesses in those cases in which counsel
26 has been provided by the commission. Prisoners may not be compensated as
27 witnesses under this section. If a county exceeds the thirty thousand dollar
28 reimbursement during a biennium, the county may enter an agreement with another
29 county to allow the county to receive another county's unused reimbursement funds
30 for that biennium, with the approval of the attorney general.

1 **SECTION 13.** A new chapter to title 51 of the North Dakota Century Code is created and
2 enacted as follows:

3 **Definition - Electronic smoking device directory - Electronic smoking device**
4 **manufacturer fee - Electronic smoking fund.**

- 5 1. The attorney general shall establish and maintain a directory of electronic smoking
6 devices containing nicotine that may be sold in this state.
- 7 2. An electronic smoking device must be included in the directory if the manufacturer of
8 the electronic smoking device containing nicotine certifies, on a form prescribed by the
9 attorney general, the following:
 - 10 a. The manufacturer has received a marketing granted order for the electronic
11 smoking device containing nicotine from the United States food and drug
12 administration;
 - 13 b. The manufacturer marketed the electronic smoking device containing nicotine in
14 the United States as of August 8, 2016, and submitted a tobacco product
15 premarket application to the United States food and drug administration on or
16 before September 9, 2020, and the application either remains under review or
17 has received a denial order that has been and remains stayed by the United
18 States food and drug administration or a court order, rescinded by the United
19 States food and drug administration, or vacated by a court; or
 - 20 c. The manufacturer can demonstrate the United States food and drug
21 administration has issued a rule, guidance, or other formal statement that
22 temporarily exempts the electronic smoking device containing nicotine from
23 federal premarket tobacco application requirements.
- 24 3. Each certification form must be accompanied by a fee of two thousand dollars for each
25 electronic smoking device containing nicotine that is listed on the form. A manufacturer
26 of electronic smoking devices containing nicotine must submit an annual renewal fee
27 of five hundred dollars to the attorney general. Revenue from the fees must be
28 deposited in the electronic smoking fund.
- 29 4. There is created in the state treasury the electronic smoking fund. The fund consists of
30 fees collected pursuant to subsection 3 and all moneys transferred to the fund by the

legislative assembly. Moneys in the fund may be spent by the attorney general for the administration and enforcement of this chapter, subject to legislative appropriations.

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

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

7. As used in this section, "electronic smoking device" means any electronic product that delivers nicotine to the individual inhaling from the device, including an electronic cigarette, electronic cigar, electronic pipe, vape pen, or electronic hookah, and includes any component, part, or accessory of such product, including a consumable product that contains nicotine and is intended to be used with an electronic smoking 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 14. 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 15. AMENDMENT. Section 54-12-30 of the North Dakota Century Code is amended and reenacted as follows:

54-12-30. Twenty-four seven sobriety program fees.

A criminal justice agency may collect program fees from offenders participating in the twenty-four seven sobriety program, including fees for twice per day breath alcohol testing, urine testing, drug patch testing, installation and deactivation fees for remote electronic alcohol monitoring devices, and remote electronic alcohol monitoring daily fees. A district court judge or judicial referee may not waive program fees for offenders participating in the twenty-four seven

1 sobriety program. The criminal justice agency shall pay all program fees into the general fund of
2 the governing body. The fees may only be applied to twenty-four seven sobriety program
3 support services, equipment maintenance and replacement, and compliance with the program.
4 The governing body shall pay any daily fees collected for remote electronic alcohol monitoring
5 to the twenty-four seven sobriety program fund.

6 **SECTION 16. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any individual or entity
7 requesting a criminal history record check from the bureau of criminal investigation, as a result
8 of legislation enacted by the sixty-ninth legislative assembly, shall pay a reasonable fee
9 established by the attorney general to the attorney general to be deposited in the general fund,
10 for the biennium beginning July 1, 2025, and ending June 30, 2027.

11 **SECTION 17. EXEMPTION - CONTINGENT FEE ARRANGEMENT.** Notwithstanding
12 section 54-12-08.1, the attorney general may contract for legal services compensated by a
13 contingent fee arrangement for ongoing multistate technology litigation during the biennium
14 beginning July 1, 2025, and ending June 30, 2027.

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

18 **SECTION 19. EXEMPTION - UNEXPENDED APPROPRIATIONS.** The following
19 appropriations are not subject to the provisions of section 54-44.1-11 and may be continued into
20 the biennium beginning July 1, 2025, and ending June 30, 2027:

- 21 1. The amount appropriated to the attorney general from other funds for the statewide
22 automated victim identification and notification system as contained in sections 1
23 and 8 of chapter 3 of the 2017 Session Laws, continued into the 2019-21 biennium for
24 the statewide automated victim identification and notification system, and continued
25 into the 2021-23 biennium and 2023-25 biennium for the legal case management
26 system in section 17 of chapter 35 of the 2023 Session Laws.
- 27 2. The sum of \$400,000 appropriated from the attorney general refund fund for the
28 criminal history improvement project in section 1 of chapter 3 of the 2021 Session
29 Laws, and continued into the 2023-25 biennium section 18 of chapter 35 of the 2023
30 Session Laws.

3. The sum of \$1,000,000 appropriated from the federal state fiscal recovery fund for the replacement of the prosecuting case management system in subsection 20 of section 1 of chapter 550 of the 2021 Special Session Session Laws and continued into the 2023-25 biennium in section 21 of chapter 35 of the 2023 Session Laws.
4. The sum of \$736,000 appropriated from the charitable gaming operating fund for the charitable gaming technology system in section 1 of chapter 35 of the 2023 Session Laws.
5. The sum of \$177,000 appropriated from the general fund for a licensing and deposit software system in section 1 of chapter 35 of the 2023 Session Laws.
6. The sum of \$1,772,038 appropriated from federal funds for the justice community oriented policing services anti-methamphetamine program in section 1 of chapter 35 of the 2023 Session Laws.

SECTION 20. EXEMPTION - STATEWIDE LITIGATION FUNDING POOL. The sum of \$3,000,000 appropriated from the general fund as a deficiency appropriation for the statewide litigation funding pool during the 2023-25 biennium, as approved by the sixty-ninth legislative assembly in House Bill No. 1024, is not subject to section 54-44.1-11 and any unexpended funds may be continued into the biennium beginning July 1, 2025, and ending June 30, 2027.

SECTION 21. LAW ENFORCEMENT AND VIOLENT CRIME TASK FORCE - REPORT TO SEVENTIETH LEGISLATIVE ASSEMBLY.

1. During the 2025-26 interim, the attorney general shall establish a law enforcement and violent crime task force to be chaired by the attorney general or a designee of the attorney general. The office of the attorney general shall provide staffing and administrative services for the task force. The task force must include:
 - a. Five individuals appointed by the attorney general;
 - b. A bureau of criminal investigations agent appointed by the attorney general;
 - c. A police chief appointed by the chiefs of police association of North Dakota;
 - d. A sheriff appointed by the North Dakota sheriff's association;
 - e. Five individuals appointed by the director of the department of corrections and rehabilitation;
 - f. A member of the North Dakota parole board appointed by the board;

- 1 g. A district court judge or former district court judge appointed by the chief justice of
- 2 the North Dakota supreme court;
- 3 h. A representative of the Burleigh County state's attorney's office appointed by the
- 4 Burleigh County state's attorney;
- 5 i. A representative of the North Dakota state's attorney's association appointed by
- 6 the president of the association; and
- 7 j. Two legislators appointed by the chairman of the legislative management.
- 8 2. The law enforcement and violent crime task force shall consider:
- 9 a. Information from law enforcement agencies regarding violent crime, recidivism,
- 10 recruitment, retention, and working conditions;
- 11 b. Input from law enforcement agencies on state laws, policies, and practices that
- 12 significantly affect their employees and communities;
- 13 c. Data collected from the department of corrections and rehabilitation, including
- 14 data on recidivism, time spent in incarceration, probation and parole violations,
- 15 assaults on correctional officers, intermediate measures, and participation in
- 16 rehabilitation and other programs;
- 17 d. Objective outcomes of current criminal justice practices;
- 18 e. Current research on the effects of incarceration on recidivism and violent crime;
- 19 f. Definitions of successful completion of prison sentences, probation, and parole
- 20 used by state agencies;
- 21 g. Safety and accountability measures for minimum security facilities and
- 22 transitional facilities which are necessary to protect the public;
- 23 h. The effect of criminal justice practices on prosecutors' charging decisions, county
- 24 jails, and county budgets;
- 25 i. Current laws regarding how criminal sentences are served; and
- 26 j. Other relevant information.
- 27 3. The attorney general shall report its findings and recommendations of the law
- 28 enforcement and violent crime task force to the seventieth legislative assembly.