

February 5, 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 section 54-12-11 of the North Dakota Century~~  
5 ~~Code, relating to the salary of the attorney general; to provide for a report; to provide for a~~  
6 ~~transfer; to provide an exemption; and to declare an emergency.~~

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

8 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
9 as may be necessary, are appropriated out of any moneys in the general fund in the state  
10 treasury, not otherwise appropriated, and from other funds derived from special funds and  
11 federal funds, to the attorney general for the purpose of defraying the expenses of the attorney  
12 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>
14 <del>Salaries and wages</del>	<del>\$53,007,980</del>	<del>\$0</del>	<del>\$53,007,980</del>
15 <del>Operating expenses</del>	<del>17,579,264</del>	<del>0</del>	<del>17,579,264</del>
16 <del>Capital assets</del>	<del>606,000</del>	<del>0</del>	<del>606,000</del>
17 <del>Grants</del>	<del>3,903,440</del>	<del>0</del>	<del>3,903,440</del>
18 <del>Human trafficking victims grants</del>	<del>1,110,614</del>	<del>0</del>	<del>1,110,614</del>

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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	95,056	95,056
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	\$27,349,335	\$118,288,420

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>\$13,785,891</u>	<u>\$62,810,156</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 - REPORT.** In addition to the  
30 amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from  
31 federal or special funds, the sum of \$250,000, or so much of the sum as may be necessary, to

1 the attorney general for the purposes of defraying the expenses of the office, for the biennium  
2 beginning July 1, 2025, and ending June 30, 2027. The attorney general shall notify the office of  
3 management and budget and the legislative council of any funding made available pursuant to  
4 this section.

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

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

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

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

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

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

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

30 **SECTION 11.** A new chapter to title 51 of the North Dakota Century Code is created and  
31 enacted as follows:

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

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

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

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

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

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

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

4. There is created in the state treasury the electronic smoking fund. The fund consists of 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.

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

5 7. As used in this section, "electronic smoking device" means any electronic product that  
6 delivers nicotine to the individual inhaling from the device, including an electronic  
7 cigarette, electronic cigar, electronic pipe, vape pen, or electronic hookah, and  
8 includes any component, part, or accessory of such product, including a consumable  
9 product that contains nicotine and is intended to be used with an electronic smoking  
10 device, whether or not sold separately. The term does not include drugs, devices, or  
11 combination products approved for sale by the United States food and drug  
12 administration and defined in the Federal Food, Drug, and Cosmetic Act of 1938.

13 **SECTION 12. AMENDMENT.** Section 54-12-11 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **54-12-11. Salary of attorney general.**

16 The annual salary of the attorney general is ~~one hundred seventy-nine thousand three~~  
17 ~~hundred twelve~~ one hundred ninety-two thousand seventy-nine dollars through June 30,  
18 2024~~2026~~, and ~~one hundred eighty-six thousand four hundred eighty-four~~ one hundred  
19 ninety-seven thousand eight hundred forty-one dollars thereafter.

20 **SECTION 13. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any individual or entity  
21 requesting a criminal history record check from the bureau of criminal investigation, as a result  
22 of legislation enacted by the sixty-eighth legislative assembly, shall pay a reasonable fee  
23 established by the attorney general to the attorney general to be deposited in the general fund,  
24 for the biennium beginning July 1, 2025, and ending June 30, 2027.

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

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

1        **SECTION 16. EXEMPTION - UNEXPENDED APPROPRIATIONS.** The following  
2 appropriations are not subject to the provisions of section 54-44.1-11 and may be continued into  
3 the biennium beginning July 1, 2025, and ending June 30, 2027:

- 4        1. The amount appropriated to the attorney general from other funds for the statewide  
5 automated victim identification and notification system as contained in sections 1  
6 and 8 of chapter 3 of the 2017 Session Laws, continued into the 2019-21 biennium for  
7 the statewide automated victim identification and notification system, and continued  
8 into the 2021-23 biennium and 2023-25 biennium for the legal case management  
9 system in section 17 of chapter 35 of the 2023 Session Laws.
- 10       2. The sum of \$400,000 appropriated from the attorney general refund fund for the  
11 criminal history improvement project in section 1 of chapter 3 of the 2021 Session  
12 Laws, and continued into the 2023-25 biennium section 18 of chapter 35 of the 2023  
13 Session Laws.
- 14       3. The sum of \$1,000,000 appropriated from the federal state fiscal recovery fund for the  
15 replacement of the prosecuting case management system in subsection 20 of  
16 section 1 of chapter 550 of the 2021 Special Session Session Laws and continued into  
17 the 2023-25 biennium in section 21 of chapter 35 of the 2023 Session Laws.
- 18       4. The sum of \$736,000 appropriated from the charitable gaming operating fund for the  
19 charitable gaming technology system in section 1 of chapter 35 of the 2023 Session  
20 Laws.
- 21       5. The sum of \$177,000 appropriated from the general fund for a licensing and deposit  
22 software system in section 1 of chapter 35 of the 2023 Session Laws.
- 23       6. The sum of \$1,772,038 appropriated from federal funds for the justice community  
24 oriented policing services anti-methamphetamine program in section 1 of chapter 35 of  
25 the 2023 Session Laws.

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