



REQUEST TO EMERGENCY COMMISSION
STATE OF NORTH DAKOTA
SFN 02580 (9-2007)

RECEIVED

Submit original and 7 copies to Secretary of State

FEB 14 2012

1782 #1

For reference, see North Dakota Century Code, Chapter 54-16

SEC. OF STATE

Date 02/10/2012	Department Number 125.00	Department Name Office of Attorney General
Authorized Department Signature 	Name of Contact Person Kathy Roll	Telephone Number 701-328-3622

PART A: BACKGROUND

1. Was any portion of this request presented to the last legislative session? (If yes, please explain legislative action in narrative) ☐ Yes ☒ No
2. Is any portion of this request a new program? (If yes, please explain in narrative) ☐ Yes ☒ No
3. Will the legislature be asked to continue this program in the next biennium? ☐ Yes ☐ No

PART B: FTE

4. Will this program require an increase in authorized FTE? ☐ Yes ☒ No
If yes, how many?

PART C: INCREASE IN APPROPRIATION LINE ITEM

7. Will this program require state general fund money for a match in this biennium? ☐ Yes ☒ No
If yes, estimate the amount of general fund money needed and explain its source in the narrative
8. Will this program require state general fund money in the next biennium? ☒ Yes ☐ No
If yes, estimate the amount of general fund money needed in the next biennium.
9. Source of Funds for increased spending authority (check applicable box)
☐ Federal ☒ State Contingency Funds ☐ Other
10. Is this a pass-through from another agency? ☐ Yes ☒ No If yes, from which agency?
11. If this program is federally funded, will the legislature be asked to continue it if federal funds are no longer available? ☐ Yes ☐ No
If yes, estimate the amount of general fund money needed in the next biennium.
12. Specify below the line item to be increased and the amount of the increase.

<u>Line Item</u>	<u>Amount</u>
Operating expenses	\$80,000

PART D: INTRA-AGENCY LINE ITEM TRANSFER

<u>FROM - Line Item</u>	<u>TO - Line Item</u>	<u>Amount</u>
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PART E: NARRATIVE (attach separate sheets if necessary)

The tobacco companies withheld over \$700 million due under the Master Settlement Agreement (MSA) alleging the states did not diligently enforce their statutes. Over \$2,600,000 of that amount was due North Dakota. The North Dakota Supreme Court held the issue whether North Dakota diligently enforced its statute must be resolved in a multi-state arbitration.

Preliminary hearings have been held in the multi-state arbitration. A two-week common case hearing (a hearing presenting evidence on behalf of all of the states) will be held in April, 2012. Two-week hearings will be held almost every month thereafter through June 2013. The hearing involving North Dakota will be held in October. The hearings will be held in various locations, including Chicago, Illinois, Fort Myers, Florida, and others yet to be decided. The location for the October hearing has not been decided. It is unknown at this time whether funding will be needed in the 2013-15 biennium budget.

In addition to the costs of counsel attending the various hearings, there will be costs associated with the common case hearing and the North Dakota state specific hearing, including facility costs, costs for court reporters, and the fees of the arbitration panel, which consists of three retired federal judges. There will also be costs associated with preparing for and presenting evidence at the hearings, including costs associated with witness and expert witness travel, expert witness fees, etc.

The states have a cost sharing agreement to share costs incurred for the benefit of all states. North Dakota will need to pay a portion of the shared costs and its own costs. This is the first request for funding needed to address tobacco diligent enforcement and the associated revenues due to the state.