

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2003

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general;  
2 to provide exemptions; ~~to provide for grants~~; to create and enact a new section to chapter 27-05  
3 and two new sectionsections to chapter 54-12 of the North Dakota Century Code, relating to the  
4 responsibility for expert witness expenses, to attorney general opinions, and the criminal justice  
5 data information sharing system; to amend and reenact sections 53-12.1-09, 54-12-08, and  
6 54-12-11, and 54-27-25 of the North Dakota Century Code, relating to the salary of the attorney  
7 general, the assistant and special assistant attorneys general, and the lottery operating fund,  
8 ~~and the tobacco settlement trust fund~~; to repeal section 54-59-21 of the North Dakota Century  
9 Code, relating to the criminal justice data information sharing system; and to declare an  
10 emergency.

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

12 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
13 as may be necessary, are appropriated out of any moneys in the general fund in the state  
14 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
15 other income, to the attorney general for the purpose of defraying the expenses of the attorney  
16 general, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
19 <del>Salaries and wages</del>	<del>\$34,806,462</del>	<del>\$5,496,779</del>	<del>\$40,303,241</del>
20 <del>Accrued leave payments</del>	<del>1,057,247</del>	<del>(1,057,247)</del>	<del>0</del>
21 <del>Operating expenses</del>	<del>26,994,056</del>	<del>(1,135,961)</del>	<del>25,858,095</del>
22 <del>Capital assets</del>	<del>2,165,077</del>	<del>714,110</del>	<del>2,879,187</del>
23 <del>Grants</del>	<del>2,373,947</del>	<del>(611,288)</del>	<del>1,762,659</del>
24 <del>Criminal justice information sharing</del>	<del>0</del>	<del>5,406,219</del>	<del>5,406,219</del>

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1	Law enforcement grants	0	24,815,507	24,815,507
2	Litigation fees	50,000	0	50,000
3	Abortion litigation fees	400,000	0	400,000
4	Medical examinations	660,000	0	660,000
5	North Dakota lottery	4,133,821	1,148,957	5,282,778
6	Arrest and return of fugitives	10,000	0	10,000
7	Gaming commission	7,368	122	7,490
8	Total all funds	\$72,657,978	\$34,777,198	\$107,435,176
9	Less estimated income	35,382,450	25,141,193	60,523,643
10	Total general fund	\$37,275,528	\$9,636,005	\$46,911,533
11	Full-time equivalent positions	212.50	35.50	248.00
12	Salaries and wages	\$34,806,462	\$5,947,335	\$40,753,797
13	Accrued leave payments	1,057,247	(1,057,247)	0
14	Operating expenses	26,994,056	(1,444,463)	25,549,593
15	Capital assets	2,165,077	506,110	2,671,187
16	Grants	2,373,947	(611,288)	1,762,659
17	Criminal justice information sharing	0	5,401,701	5,401,701
18	Litigation fees	50,000	0	50,000
19	Abortion litigation fees	400,000	0	400,000
20	Medical examinations	660,000	0	660,000
21	North Dakota lottery	4,133,821	1,148,957	5,282,778
22	Arrest and return of fugitives	10,000	0	10,000
23	Gaming commission	7,368	122	7,490
24	Total all funds	\$72,657,978	\$9,891,227	\$82,549,205
25	Less estimated income	35,382,450	(468,838)	34,913,612
26	Total general fund	\$37,275,528	\$10,360,065	\$47,635,593
27	Full-time equivalent positions	212.50	18.00	230.50

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

**SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

	<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
1			
2	<del>BCI vehicles</del>	<del>\$198,000</del>	<del>\$220,000</del>
3	<del>BCI surveillance vehicles</del>	<del>0</del>	<del>300,000</del>
4	<del>Criminal justice information sharing</del>	<del>0</del>	<del>1,250,000</del>
5	<del>Computerized business projects FTE</del>	<del>178,100</del>	<del>0</del>
6	<del>Total all funds</del>	<del>\$376,100</del>	<del>\$1,770,000</del>
7	<del>Total special funds</del>	<del>0</del>	<del>200,000</del>
8	<del>Total general fund</del>	<del>\$376,100</del>	<del>\$1,570,000</del>
9	<u>BCI vehicles</u>	<u>\$198,000</u>	<u>\$132,000</u>
10	<u>BCI surveillance vehicles</u>	<u>0</u>	<u>200,000</u>
11	<u>Criminal justice information sharing</u>	<u>0</u>	<u>1,250,000</u>
12	<u>Computerized business projects FTE</u>	<u>178,100</u>	<u>0</u>
13	<u>Total all funds</u>	<u>\$376,100</u>	<u>\$1,582,000</u>
14	<u>Total special funds</u>	<u>0</u>	<u>133,333</u>
15	<u>Total general fund</u>	<u>\$376,100</u>	<u>\$1,448,667</u>

16 The 2015-17 one-time funding amounts are not a part of the entity's base budget for the  
 17 2017-19 biennium. The attorney general shall report to the appropriations committees of the  
 18 sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning  
 19 July 1, 2015, and ending June 30, 2017.

20 ~~SECTION 3. APPROPRIATION - 2013-15 BIENNIUM.~~ There is appropriated out of any  
 21 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of  
 22 \$1,000,000, or so much of the sum as may be necessary, to the attorney general for up to ten  
 23 full-time equivalent positions to assist with law enforcement activities in areas impacted by oil  
 24 development, for the period beginning with the effective date of this Act and ending June 30,  
 25 2015.

26 **SECTION 3. ATTORNEY GENERAL REFUND TRANSFER TO THE GENERAL FUND -**  
 27 **EXEMPTION.** Notwithstanding section 54-12-18, the attorney general may retain the balance in  
 28 the attorney general refund fund that would otherwise be transferred to the general fund on  
 29 June 30, 2015.

30 **SECTION 4. EXEMPTION - GRANTS TO LAW ENFORCEMENT AGENCIES.** The amount  
 31 appropriated to the attorney general from the strategic investment and improvements fund for

1 awarding grants to law enforcement agencies, for crime-related needs of the attorney general's  
2 office, and for development of a uniform law enforcement and custody manual, as contained in  
3 section 11 of chapter 471 of the 2013 Session Laws, is not subject to the provisions of section  
4 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general  
5 to award grants to law enforcement agencies, for crime-related needs of the attorney general's  
6 office, and for development of a uniform law enforcement and custody manual during the  
7 biennium beginning July 1, 2015, and ending June 30, 2017.

8 ~~— **SECTION 6. LAW ENFORCEMENT GRANTS.** The law enforcement grants line item in  
9 section 1 of this Act includes \$24,164,271 from the oil and gas impact grant fund, of which  
10 \$4,164,271 relates to salaries and wages and equipment for the attorney general for  
11 oil-impacted areas and \$20,000,000 in grants is for awarding grants to law enforcement  
12 agencies for the biennium beginning July 1, 2015, and ending June 30, 2017. The drug and  
13 violent crime policy board of the attorney general, with approval of the board of university and  
14 school lands, shall grant funds to law enforcement agencies in oil-impacted counties where  
15 crime-related activities have increased or in other counties if the crime-related activities in  
16 oil-impacted counties originated in any of those counties. The attorney general may spend up to  
17 ten percent of the funding provided for grants under this section for defraying the expenses of  
18 additional staffing needs or other needs necessary to accomplish the role of the attorney  
19 general's office as an assisting agency in ensuring public safety in the affected areas. The  
20 funding provided in this section is considered a one-time funding item. The attorney general  
21 shall report to the budget section and to the appropriations committees of the sixty-fifth  
22 legislative assembly on the use of this one-time funding, including the impact the grant funding  
23 has had on crime-related activities.~~

24 ~~— **SECTION 7. EXEMPTION – LAW ENFORCEMENT GRANTS.** The amount appropriated for  
25 law enforcement grants in the law enforcement grants line item in section 1 of this Act is not  
26 subject to section 54-44.1-11, and any unexpended funds from this line item may be continued  
27 into the 2017-19 biennium.~~

28 **SECTION 5.** A new section to chapter 27-05 of the North Dakota Century Code is created  
29 and enacted as follows:

30 **State crime laboratory expert witness travel costs responsibility of district court -**  
31 **Exception.**

1 In any case before the district court involving an offense other than a class AA felony in  
2 which a staff member from the state crime laboratory is subpoenaed to testify as an expert  
3 witness, the district court shall pay the mileage and travel expenses incurred by the expert  
4 witness as provided in sections 44-04-04 and 54-06-09. If the district court permits the expert  
5 witness to testify via the state's interactive video network service or other interactive computer  
6 service, the district court is not responsible for any costs related to the testimony of a  
7 subpoenaed state crime laboratory expert witness.

8 **SECTION 6.** A new section to chapter 54-12 of the North Dakota Century Code is created  
9 and enacted as follows:

10 **Attorney general opinions - Notification of receipt of request - Delivery.**

11 Within thirty days of receipt of a request for a written opinion under section 54-12-01 or  
12 44-04-21.1, the attorney general shall notify the individual who requested the opinion that the  
13 request has been received and that a written opinion will be delivered to the requester within  
14 sixty days of the receipt of the request or that the attorney general has determined that a written  
15 opinion will not be provided to the requester. If the attorney general determines that an opinion  
16 will not be written in response to the request, the attorney general shall inform the requester of  
17 the basis for that determination.

18 **SECTION 7. AMENDMENT.** Section 53-12.1-09 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **53-12.1-09. Operating fund - Continuing appropriation - Authorization of**  
21 **disbursements - Report - Net proceeds.**

22 There is established within the state treasury the lottery operating fund into which must be  
23 deposited all revenue from the sale of tickets, interest received on money in the fund, and all  
24 other fees and moneys collected, less a prize on a lottery promotion, prize on a winning ticket  
25 paid by a retailer, and a retailer's commission. Except for moneys in the lottery operating fund  
26 appropriated by the legislative assembly for administrative and operating costs of the lottery  
27 under section 53-12.1-10, all other money in the fund is continuously appropriated for the  
28 purposes specified in this section. During each regular session, the attorney general shall  
29 present a report to the appropriations committee of each house of the legislative assembly on  
30 the actual and estimated operating revenue and expenditures for the current biennium and  
31 projected operating revenue and expenditures for the subsequent biennium authorized by this

1 section. A payment of a prize or expense or transfer of net proceeds by the lottery may be made  
2 only against the fund or money collected from a retailer on the sale of a ticket. A disbursement  
3 from the fund must be for the following purposes:

- 4 1. Payment of a prize as the director deems appropriate to the owner of a valid, winning  
5 ticket;
- 6 2. Notwithstanding section 53-12.1-10, payment of a marketing expense that is directly  
7 offset by cosponsorship funds collected;
- 8 3. Payment of a gaming system or related service expense, retailer record and credit  
9 check fees, game group dues, and retailer commissions; and
- 10 4. Transfer of net proceeds:
  - 11 a. FiftyOne hundred thousand dollars must be transferred to the state treasurer  
12 each quarter for deposit in the compulsive gambling prevention and treatment  
13 fund;
  - 14 b. An amount for the lottery's share of a game's prize reserve pool must be  
15 transferred to the multistate lottery association;
  - 16 c. Starting July 1, 2007, one hundred five thousand six hundred twenty-five dollars  
17 must be transferred to the state treasurer each quarter for deposit in the attorney  
18 general multijurisdictional drug task force grant fund; and
  - 19 d. The balance of the net proceeds, less holdback of any reserve funds the director  
20 may need for continuing operations, must be transferred to the state treasurer on  
21 at least an annual basis for deposit in the state general fund.

22 **SECTION 8.** A new section to chapter 54-12 of the North Dakota Century Code is created  
23 and enacted as follows:

24 **Criminal justice data information sharing system.**

- 25 1. The attorney general shall maintain a criminal justice data information sharing system  
26 within the bureau of criminal investigation for the exchange of criminal justice data  
27 information by judicial, law enforcement, and emergency services agencies, and the  
28 department of transportation. Only an authorized individual employed by a criminal  
29 justice agency as defined in section 12-60-16.1, the department of transportation, a  
30 state court, or the department of emergency services or any other individual approved  
31 by the attorney general may access the system. To be eligible for access to the

1 criminal justice data information sharing system, an individual shall undergo a criminal  
2 history background check, including a fingerprint check.

3 2. The criminal justice data information sharing system may be accessed only in  
4 accordance with rules adopted under this section. Any law enforcement record in the  
5 possession of the attorney general through the criminal justice data information  
6 sharing system is an exempt record. Criminal justice data information about an offense  
7 committed by a child if the offense has not been transferred under section 27-20-34 to  
8 another court having jurisdiction of the offense and information about a child victim or  
9 witness is confidential.

10 3. The attorney general shall provide staff to maintain the criminal justice data  
11 information system and provide administrative support for the advisory board.

12 4. A criminal justice information advisory board must be appointed, consisting of:

13 a. The chief justice of the supreme court or the chief justice's designee.

14 b. The director of the department of emergency services or the director's designee.

15 c. The director of the department of corrections and rehabilitation or the director's  
16 designee.

17 d. The superintendent of the state highway patrol or the superintendent's designee.

18 e. The chief of the bureau of criminal investigation, who is the chairman of the  
19 advisory board.

20 f. The chief information officer of the state or the chief information officer's  
21 designee.

22 g. The director of the department of transportation or the director's designee.

23 h. A representative of a city police department, appointed by the attorney general  
24 from a list of two or more nominees from the North Dakota chiefs of police  
25 association.

26 i. A representative of a county sheriff's office, appointed by the attorney general  
27 from a list of two or more nominees from the North Dakota sheriffs and deputies  
28 association.

29 j. A state's attorney, appointed by the attorney general from a list of two or more  
30 nominees from the North Dakota state's attorney's association.

- 1           k. A city government representative, appointed by the attorney general from a list of  
2                     two or more nominees from the league of cities.
- 3           l. A county government representative, appointed by the attorney general from a  
4                     list of two or more nominees from the association of counties.
- 5           5. Advisory board members who are not permanent full-time state employees are entitled  
6                     to compensation of seventy-five dollars per day and mileage and expenses as  
7                     provided by law for state employees. With the exception of the chief of the bureau of  
8                     criminal investigation, advisory board members appointed under this section serve  
9                     staggered three year terms.
- 10          6. The attorney general, after consultation with the advisory board, shall adopt rules to  
11                     establish eligibility for access to the criminal justice data information sharing system; to  
12                     implement the collection, storage, and sharing of criminal justice information and the  
13                     systems necessary to perform those functions; and to address the operation of the  
14                     advisory board.

15           **SECTION 9. AMENDMENT.** Section 54-12-08 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **54-12-08. Assistant and special assistant attorneys general - Appointment -**  
18 **Revocation - Compensation.**

19           1. After consultation with the head of the state department or institution or with the state  
20                     board, commission, committee, or agency affected, the attorney general may appoint  
21                     assistant or special assistant attorneys general to represent the state board,  
22                     commission, committee, or agency. A state officer, head of any state department,  
23                     whether elected or appointed, or state department, board, commission, committee, or  
24                     agency may not employ legal counsel, and no person may act as legal counsel in any  
25                     matter, action, or proceeding in which the state or any state department, board,  
26                     commission, committee, or agency is interested or is a party, except upon written  
27                     appointment by the attorney general. Workforce safety and insurance, the department  
28                     of transportation, the state tax commissioner, the public service commission, the  
29                     insurance commissioner, ~~the board of higher education,~~ and the securities  
30                     commissioner may employ attorneys to represent them. These entities shall pay the  
31                     salaries and expenses of the attorneys they employ within the limits of legislative

1 appropriations. The attorneys that represent these entities must be special assistant  
2 attorneys general appointed by the attorney general pursuant to this section. Absent  
3 good cause, the attorney general shall appoint as special assistant attorneys general  
4 licensed attorneys selected by these entities. The attorney general may revoke the  
5 appointment only for good cause or upon the request of the entity. Good cause means  
6 an inadequate level of experience, competence, or ethical standards.

7 2. The powers conferred upon special assistant attorneys general are the same as are  
8 exercised by the regular assistant attorneys general, unless the powers are limited  
9 specifically by the terms of the appointment. Except as otherwise provided by this  
10 section, an appointment is revocable at the pleasure of the attorney general. The  
11 appointment may be made with or without compensation, and when compensation is  
12 allowed by the attorney general for services performed, the compensation must be  
13 paid out of the funds appropriated therefor.

14 3. The attorney general may require payment for legal services rendered by any  
15 assistant or special assistant attorney general to any state official, board, department,  
16 agency, or commission and those entities shall make the required payment to the  
17 attorney general. Moneys received by the attorney general in payment for legal  
18 services rendered must be deposited into the attorney general's operating fund.  
19 General fund moneys may not be utilized for the payment of legal services provided by  
20 the attorneys employed by the attorney general, except for those payments required of  
21 the department of human services, state department of health, and the state hospital.

22 4. Any assistant and special assistant attorney general, appointed to represent the state  
23 board of higher education or an institution under the control of the state board of  
24 higher education may access and examine any record under the control of the state  
25 board of higher education. For purposes of reviewing records under the Family  
26 Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal  
27 privacy law, the assistant and special assistant attorneys general must be considered  
28 a state educational official authorized to access student records for legal purposes.

29 **SECTION 10. AMENDMENT.** Section 54-12-11 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **54-12-11. Salary of attorney general.**

2       The annual salary of the attorney general is one hundred ~~forty-three~~fifty-two thousand  
3 ~~six~~four hundred ~~eighty-five~~thirty-six dollars through June 30, ~~2014~~2016, and one hundred ~~forty-~~  
4 ~~seven~~fifty-seven thousand ~~nine-hundred-ninety-six~~nine dollars thereafter.

5       ~~SECTION 12. AMENDMENT. Section 54-27-25 of the North Dakota Century Code is~~  
6 ~~amended and reenacted as follows:~~

7       ~~54-27-25. Tobacco settlement trust fund -- Interest on fund -- Uses.~~

8       ~~1. There is created in the state treasury a tobacco settlement trust fund. The fund~~  
9       ~~consists of the tobacco settlement dollars obtained by the state under subsection IX(c)~~  
10       ~~(1) of the master settlement agreement and consent agreement adopted by the east-~~  
11       ~~central judicial district court in its judgment entered December 28, 1998 [Civil~~  
12       ~~No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc.~~  
13       ~~Except as provided in subsection 2, moneys received by the state under~~  
14       ~~subsection IX(c)(1) must be deposited in the fund. Interest earned on the fund must be~~  
15       ~~credited to the fund and deposited in the fund. The principal and interest of the fund~~  
16       ~~may be appropriated to the attorney general for the purpose of enforcing the master~~  
17       ~~settlement agreement and any disputes with the agreement. All remaining principal~~  
18       ~~and interest of the fund must be allocated as follows:~~

19       ~~a. Transfers to a community health trust fund to be administered by the state~~  
20       ~~department of health. The state department of health may use funds as~~  
21       ~~appropriated for community-based public health programs and other public health~~  
22       ~~programs, including programs with emphasis on preventing or reducing tobacco~~  
23       ~~usage in this state. Transfers under this subsection must equal ten percent of~~  
24       ~~total annual transfers from the tobacco settlement trust fund of which a minimum~~  
25       ~~of eighty percent must be used for tobacco prevention and control.~~

26       ~~b. Transfers to the common schools trust fund to become a part of the principal of~~  
27       ~~that fund. Transfers under this subsection must equal forty-five percent of total~~  
28       ~~annual transfers from the tobacco settlement trust fund.~~

29       ~~c. Transfers to the water development trust fund to be used to address the~~  
30       ~~long-term water development and management needs of the state. Transfers~~

1                   under this subsection must equal forty-five percent of the total annual transfers-  
2                   from the tobacco settlement trust fund.

3 ~~—2.—~~ There is created in the state treasury a tobacco prevention and control trust fund. The  
4 fund consists of the tobacco settlement dollars obtained by the state under  
5 section IX(c)(2) of the agreement adopted by the east central judicial district court in its  
6 judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota,  
7 ex rel. Heidi Heitkamp v. Philip Morris, Inc. Interest earned on the fund must be  
8 credited to the fund and deposited in the fund. Moneys received into the fund are to be  
9 administered by the executive committee for the purpose of creating and implementing  
10 the comprehensive plan. If in any biennium, the tobacco prevention and control trust  
11 fund does not have adequate dollars to fund a comprehensive plan, the treasurer shall  
12 transfer money from the water development trust fund to the tobacco prevention and  
13 control trust fund in an amount equal to the amount determined necessary by the  
14 executive committee to fund a comprehensive plan.

15 ~~—3.—~~ Transfers to the funds under this section must be made within thirty days of receipt by  
16 the state.

17 **SECTION 11. REPEAL.** Section 54-59-21 of the North Dakota Century Code is repealed.

18 **SECTION 12. EMERGENCY.** Sections Section 3 and ~~section 4~~ of this Act are ~~is~~ declared to  
19 be an emergency measure.