

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2003

That the House recede from its amendments as printed on pages 1434-1438 of the Senate Journal and pages 1576-1580 of the House Journal and that Engrossed Senate Bill No. 2003 be amended as follows:

Page 1, line 2, remove "to provide for grants;"

Page 1, line 2, after "a" insert "new section to chapter 27-05 and two"

Page 1, line 2, replace "section" with "sections"

Page 1, line 3, after "to" insert "the responsibility for expert witness expenses, attorney general opinions, and"

Page 1, line 4, after the first comma insert "54-12-08,"

Page 1, line 5, after the second comma insert "assistant and special assistant attorneys general,"

Page 1, line 7, after the semicolon insert "to provide a report to the budget section; to provide for a legislative management study;"

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 8 with:

"Salaries and wages	\$34,806,462	\$8,709,679	\$43,516,141
Accrued leave payments	1,057,247	(1,057,247)	0
Operating expenses	26,994,056	(1,002,737)	25,991,319
Capital assets	2,165,077	506,110	2,671,187
Grants	2,373,947	(611,288)	1,762,659
Criminal justice information sharing	0	5,401,701	5,401,701
Law enforcement	0	3,887,386	3,887,386
Litigation fees	50,000	0	50,000
Abortion litigation fees	400,000	0	400,000
Medical examinations	660,000	0	660,000
North Dakota lottery	4,133,821	1,148,957	5,282,778
Arrest and return of fugitives	10,000	0	10,000
Gaming commission	<u>7,368</u>	<u>122</u>	<u>7,490</u>
Total all funds	\$72,657,978	\$16,982,683	\$89,640,661
Less estimated income	<u>35,382,450</u>	<u>518,335</u>	<u>35,900,785</u>
Total general fund	\$37,275,528	\$16,464,348	\$53,739,876
Full-time equivalent positions	212.50	36.50	249.00"

Page 2, replace lines 14 through 20 with:

"BCI vehicles	\$198,000	\$132,000
BCI surveillance vehicles	0	200,000
Criminal justice information sharing	0	1,250,000
Target equity criminal investigators	0	1,276,301
Target equity gaming audit staff	0	270,000
Computerized business projects FTE	<u>178,100</u>	<u>0</u>

Total all funds	\$376,100	\$3,128,301
Total special funds	0	653,333
Total general fund	\$376,100	\$2,474,968"

Page 2, replace lines 25 through 30 with:

"SECTION 3. TARGETED MARKET EQUITY FUNDING - LIMITATIONS - SALARY SAVINGS - REPORT TO BUDGET SECTION. Of the funds appropriated in the salaries and wages line item in section 1 of this Act, \$270,000 is one-time funding from the attorney general refund fund for providing targeted market equity to gaming audit staff and \$1,276,301 is one-time targeted market equity funding for criminal investigators, including \$250,000 provided from carryover funds due to the exemption in section 5 of this Act, and up to \$1,026,301 from the general fund. The attorney general may spend the general fund amount under this section only to the extent that salary savings resulting from vacant positions and employee turnover are not sufficient to provide the \$1,026,301 authorized for targeted market equity from the general fund. The attorney general shall report to the office of management and budget and the office of management and budget must report to budget section in September 2015 and September 2016 regarding the amount of salary savings used to reduce funding needed from the general fund and to report on the number and duration of vacant full-time equivalent positions."

Page 3, remove lines 14 through 31

Page 4, replace lines 1 and 2 with:

"SECTION 6. A new section to chapter 27-05 of the North Dakota Century Code is created and enacted as follows:

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

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

Page 4, line 27, replace "One hundred" with "Eighty"

Page 5, after line 6, insert:

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

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

Within thirty days of receipt of a request for a written opinion under section 54-12-01 or 44-04-21.1, the attorney general shall notify the individual who requested the opinion that the request has been received and that a written opinion will be delivered to the requester within one hundred eighty days of the receipt of the request or that the attorney general has determined that a written opinion will not be provided to the requester. If the attorney general determines that an opinion will not be

written in response to the request, the attorney general shall inform the requester of the basis for that determination."

Page 6, after line 30, insert:

"SECTION 10. AMENDMENT. Section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

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

1. After consultation with the head of the state department or institution or with the state board, commission, committee, or agency affected, the attorney general may appoint assistant or special assistant attorneys general to represent the state board, commission, committee, or agency. A state officer, head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency may not employ legal counsel, and no person may act as legal counsel in any matter, action, or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon written appointment by the attorney general. Workforce safety and insurance, the department of transportation, the state tax commissioner, the public service commission, the insurance commissioner, ~~the board of higher education,~~ and the securities commissioner may employ attorneys to represent them. These entities shall pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys that represent these entities must be special assistant attorneys general appointed by the attorney general pursuant to this section. Absent good cause, the attorney general shall appoint as special assistant attorneys general licensed attorneys selected by these entities. The attorney general may revoke the appointment only for good cause or upon the request of the entity. Good cause means an inadequate level of experience, competence, or ethical standards.
2. The powers conferred upon special assistant attorneys general are the same as are exercised by the regular assistant attorneys general, unless the powers are limited specifically by the terms of the appointment. Except as otherwise provided by this section, an appointment is revocable at the pleasure of the attorney general. The appointment may be made with or without compensation, and when compensation is allowed by the attorney general for services performed, the compensation must be paid out of the funds appropriated therefor.
3. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of human services, state department of health, and the state hospital.

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

Page 8, after line 18 insert:

"SECTION 13. CAMPUS ASSESSMENTS - REPORT TO BUDGET SECTION.

The attorney general shall report to the budget section by September 30, 2016, regarding any fees charged to a campus in excess of the campus assessments listed below for legal fees charged by the attorney general.

Bismarck state college	\$38,377
Lake region state college	17,796
Williston state college	12,530
University of North Dakota	0
North Dakota state university	0
North Dakota state college of science	39,346
Dickinson state university	17,615
Mayville state university	16,949
Minot state university	39,709
Valley City state university	17,494
Dakota college at Bottineau	<u>11,804</u>
Total	\$211,620

SECTION 14. LEGISLATIVE MANAGEMENT STUDY - MEDICAID FRAUD

UNIT. During the 2015-16 interim, the legislative management shall consider studying the feasibility and desirability of establishing a medicaid fraud unit in the state. The study must include a review of the requirements for and the estimated costs and benefits of developing a medicaid fraud unit as well as any statutory requirements and changes necessary for the realization of the full benefit of a medicaid fraud unit. As part of the study, the legislative management shall seek input from the medical community, the department of human services, and any other relevant professions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Page 8, line 20, replace "Sections 3" with "Section 4"

Page 8, line 20, after "and" insert "subsection 4 of"

Page 8, line 20, replace "4" with "10"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2003 - Attorney General - Conference Committee Action

Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
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Salaries and wages	\$34,806,462	\$40,303,241	\$3,212,900	\$43,516,141	\$40,753,797	\$2,762,344
Operating expenses	26,994,056	25,858,095	133,224	25,991,319	25,549,593	441,726
Capital assets	2,165,077	2,879,187	(208,000)	2,671,187	2,671,187	
Grants	2,373,947	1,762,659		1,762,659	1,762,659	
Litigation fees	50,000	50,000		50,000	50,000	
Abortion litigation fees	400,000	400,000		400,000	400,000	
Medical examinations	660,000	660,000		660,000	660,000	
North Dakota lottery	4,133,821	5,282,778		5,282,778	5,282,778	
Arrest and return of fugitives	10,000	10,000		10,000	10,000	
Gaming commission	7,368	7,490		7,490	7,490	
Accrued leave payments	1,057,247					
Law enforcement grants		24,815,507	(24,815,507)			
Criminal justice information sharing		5,406,219	(4,518)	5,401,701	5,401,701	
Law enforcement			3,887,386	3,887,386		3,887,386
Total all funds	\$72,657,978	\$107,435,176	(\$17,794,515)	\$89,640,661	\$82,549,205	\$7,091,456
Less estimated income	35,382,450	60,523,643	(24,622,858)	35,900,785	34,913,612	987,173
General fund	\$37,275,528	\$46,911,533	\$6,828,343	\$53,739,876	\$47,635,593	\$6,104,283
FTE	212.50	248.00	1.00	249.00	230.50	18.50

Department No. 125 - Attorney General - Detail of Conference Committee Changes

	Adjusts Funding for Health Insurance Premium Increases ¹	Adds Funding for Higher Education Legal Staff ²	Adds Funding for New Criminal History Identification Technicians ³	Removes Funding for Existing Criminal Justice Information Sharing FTE ⁴	Removes Funding for Oil Impact Law Enforcement Grants ⁵	Adds Funding for Law Enforcement Positions ⁶
Salaries and wages	(\$180,687)	\$2,794,709	\$242,892	(\$333,576)	(\$131,847)	
Operating expenses		286,082	67,644			
Capital assets						
Grants						
Litigation fees						
Abortion litigation fees						
Medical examinations						
North Dakota lottery						
Arrest and return of fugitives						
Gaming commission						
Accrued leave payments						
Law enforcement grants					(24,815,507)	
Criminal justice information sharing	(4,518)					
Law enforcement						3,887,386
Total all funds	(\$185,205)	\$3,080,791	\$310,536	(\$333,576)	(\$24,947,354)	\$3,887,386
Less estimated income	(15,201)	438,061	0	(333,576)	(24,456,308)	162,688
General fund	(\$170,004)	\$2,642,730	\$310,536	\$0	(\$491,046)	\$3,724,698
FTE	0.00	8.00	2.00	(2.00)	(19.50)	16.50

	Removes Funding for Medicaid Fraud Unit ⁷	Removes Funding for Building Feasibility Study ⁸	Adds One-Time Funding for Targeted Equity ⁹	Reduces One-Time Funding for Undercover Vehicles ¹⁰	Reduces One-Time Funding for Surveillance Vehicles ¹¹	Total Conference Committee Changes
Salaries and wages	(\$724,892)		\$1,546,301			\$3,212,900
Operating expenses	(190,502)	(30,000)				133,224
Capital assets	(20,000)			(88,000)	(100,000)	(208,000)
Grants						
Litigation fees						
Abortion litigation fees						
Medical examinations						
North Dakota lottery						
Arrest and return of fugitives						
Gaming commission						
Accrued leave payments						
Law enforcement grants						(24,815,507)
Criminal justice information						(4,518)

sharing Law enforcement						3,887,386
Total all funds	(\$935,394)	(\$30,000)	\$1,546,301	(\$88,000)	(\$100,000)	(\$17,794,515)
Less estimated income	(841,855)	(30,000)	520,000	0	(66,667)	(24,622,858)
General fund	(\$93,539)	\$0	\$1,026,301	(\$88,000)	(\$33,333)	\$6,828,343
FTE	(4.00)	0.00	0.00	0.00	0.00	1.00

¹ Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

² Funding from the general fund is added for 8 FTE positions (6 attorneys and 2 administrative assistants), related salary and health insurance increases (\$2,794,709) and related operating expenses (\$286,082) for providing legal services to the North Dakota University System. The House version provided 6 attorney FTE positions related salary increases and health insurance increases (\$1,487,982), and related operating expenses (\$112,000) for providing legal services to the North Dakota University System.

³ Funding from the general fund is added for 2 new criminal history identification FTE positions, related salary and health insurance increases (\$242,892) and related operating expenses (\$67,644). The Senate and House versions did not include these FTE positions.

⁴ Funding of \$333,576 of special funds is removed relating to 2 criminal justice information sharing (CJIS) FTE positions that were transferred from the Information Technology Department because the positions already existed in the Attorney General's office. These positions will now be paid from the general fund. This adjustment provides for a transfer of 3 FTE from the Information Technology Department for CJIS. The Senate and House version transferred 5 FTE positions.

⁵ The funding shown below is removed for oil impact law enforcement grants, the same as the House version. The other funds include \$24,164,271 from the oil and gas impact grant fund. See note 5 for conference committee adjustments.

	FTE	General Fund	Other Funds	Total
New criminal investigators	(5.00)		(\$1,388,830)	(\$1,388,830)
New intelligence analysts	(3.00)		(480,946)	(480,946)
New BCI agents	(4.00)	(270,336)	(495,555)	(765,891)
New victim advocate	(1.00)		(189,580)	(189,580)
New assistant Attorney General	(1.00)		(302,136)	(302,136)
New assistant Attorney General	(1.00)		(198,619)	(198,619)
New administrative assistants	(2.00)		(264,380)	(264,380)
New grants administrator	(1.00)		(132,190)	(132,190)
New forensic scientist	(1.00)		(165,554)	(165,554)
New attorney	(0.50)		(165,264)	(165,264)
Oil impact law enforcement grants			(20,000,000)	(20,000,000)
Operating and other costs			(673,254)	(673,254)
Salary increase - Performance		(220,710)		(220,710)
Total	(19.50)	(\$491,046)	(\$24,456,308)	(\$24,947,354)

⁶ The funding shown below is added for law enforcement positions.

	FTE	General Fund	Federal Funds	Total
New criminal investigators	8.00	\$2,357,841		\$2,357,841
New intelligence analysts	3.00	443,608		443,608
New assistant Attorney General	1.00	134,655	162,688	297,343
New assistant Attorney General	1.00	192,550		192,550
New administrative assistant	1.00	127,580		127,580
New grants administrative assistant	1.00	127,580		127,580
New forensic scientist	1.00	177,761		177,761
New attorney	0.50	163,123		163,123
Total	16.50	\$3,724,698	\$162,688	\$3,887,386

⁷ Funding for a Medicaid fraud unit is removed as shown below, same as House version.

	FTE	General Fund	Other Funds	Total
New attorney, auditor, investigator, and administrative assistant	(4.00)	(\$72,489)	(\$652,403)	(\$724,892)
Operating expenses		(19,050)	(171,452)	(190,502)
Capital assets		(2,000)	(18,000)	(20,000)
Total	(4.00)	(\$93,539)	(\$841,855)	(\$935,394)

⁸ Funding is removed from other funds for a building feasibility study, the same as the House version.

⁹ Funding for targeted market equity as shown below is added. \$250,000 in other funds is from carryover funds for criminal investigators and \$270,000 in other funds is from the Attorney General refund fund. A section is added directing the Attorney General to reduce the general fund amounts appropriated for the 2015-17 biennium by any FTE roll-up dollars that become available during the 2015-17 biennium, and the Attorney General must report to budget section regarding those amounts.

	General Fund	Other Funds	Total
Criminal investigators	\$1,026,301	\$250,000	\$1,276,301
Gaming audit staff		270,000	270,000
Total	\$1,026,301	\$520,000	\$1,546,301

¹⁰ Funding is reduced from one-time capital purchases to provide 6 of the 10 undercover vehicles approved by the Senate, the same as the House version.

¹¹ Funding is reduced from one-time capital purchases to provide 2 of the 3 surveillance vehicles approved by the Senate, the same as the House version.

This amendment also:

- Removes a section to appropriate \$1 million from the general fund to the Attorney General for the 2013-15 biennium for early funding to hire up to 10 FTE positions, the same as the House version.
- Removes a section designating that of the law enforcement grants line item in Section 1 of the bill, \$24,164,271 is from the oil and gas impact grant fund, of which \$20 million is to be used for awarding grants to law enforcement agencies in oil-impacted counties, up to 10 percent of the funds can be used for administrative purposes, and \$4,164,271 is related to salaries and wages and equipment for the Attorney General for oil-impacted areas, the same as the House version.
- Removes a section which provided an exemption from Section 54-44.1-11 for the amount appropriated in the law enforcement grants line in Section 1 of the bill to allow the grant funds to be continued into the 2017-19 biennium, the same as the House version.
- Adds a section to create a new section to Chapter 27-05 regarding State Crime Laboratory expert witness travel costs responsibility of district courts and provides an exemption, the same as the House version.
- Adds a section to create a new section to Chapter 54-12 regarding notification to the requestor of the receipt and status of an opinion requested from the Attorney General, which requires notification within 30 days and the opinion to be completed in 180 days. The House version required the opinion to be completed in 60 days.
- Adds a section to amend Section 54-12-08 relating to assistant and special assistant Attorneys General and to allow assistant and special assistant Attorneys General that have been appointed to access and examine records under the control of the State Board of Higher Education, the same as the House version.
- Adds a section requiring the Attorney General to report to Budget Section regarding any fees charged to a campus in excess of the campus assessment for legal fees charged by the Attorney General by September 30, 2016.
- Amends Subdivision a of Section 53-12.1-09 to provide a quarterly transfer of \$80,000 from the lottery operating fund to the compulsive gambling prevention and treatment fund. The Senate and House versions provided a \$100,000 transfer.
- Retains the section allowing the Attorney General to spend funds, as appropriated, from the tobacco settlement trust fund. The House had removed this section.

- Adds a section for a Legislative Management study for a Medicaid fraud unit. Neither the Senate nor the House version included this study.
- The emergency clause was amended by the conference committee to include Subsection 4 of Section 54-12-08.