

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, attorney general opinions, and the criminal justice  
5 data information sharing system; to amend and reenact sections 53-12.1-09, 54-12-08,  
6 54-12-11, and 54-27-25 of the North Dakota Century Code, relating to the salary of the attorney  
7 general, assistant and special assistant attorneys general, the lottery operating fund, and the  
8 tobacco settlement trust fund; to repeal section 54-59-21 of the North Dakota Century Code,  
9 relating to the criminal justice data information sharing system; to provide a report to the budget  
10 section; to provide for a legislative management study; and to declare an 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>

Sixty-fourth  
Legislative Assembly

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	\$8,709,679	\$43,516,141
13	Accrued leave payments	1,057,247	(1,057,247)	0
14	Operating expenses	26,994,056	(1,002,737)	25,991,319
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	Law enforcement	0	3,887,386	3,887,386
19	Litigation fees	50,000	0	50,000
20	Abortion litigation fees	400,000	0	400,000
21	Medical examinations	660,000	0	660,000
22	North Dakota lottery	4,133,821	1,148,957	5,282,778
23	Arrest and return of fugitives	10,000	0	10,000
24	Gaming commission	7,368	122	7,490
25	Total all funds	\$72,657,978	\$16,982,683	\$89,640,661
26	Less estimated income	35,382,450	518,335	35,900,785
27	Total general fund	\$37,275,528	\$16,464,348	\$53,739,876
28	Full-time equivalent positions	212.50	36.50	249.00

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

30 **SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding

1 items approved by the sixty-third legislative assembly for the 2013-15 biennium and the  
2 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

3	<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
4	<del>BCI vehicles</del>	<del>\$198,000</del>	<del>\$220,000</del>
5	<del>BCI surveillance vehicles</del>	<del>0</del>	<del>300,000</del>
6	<del>Criminal justice information sharing</del>	<del>0</del>	<del>1,250,000</del>
7	<del>Computerized business projects FTE</del>	<del>178,100</del>	<del>0</del>
8	<del>Total all funds</del>	<del>\$376,100</del>	<del>\$1,770,000</del>
9	<del>Total special funds</del>	<del>0</del>	<del>200,000</del>
10	<del>Total general fund</del>	<del>\$376,100</del>	<del>\$1,570,000</del>
11	<u>BCI vehicles</u>	<u>\$198,000</u>	<u>\$132,000</u>
12	<u>BCI surveillance vehicles</u>	<u>0</u>	<u>200,000</u>
13	<u>Criminal justice information sharing</u>	<u>0</u>	<u>1,250,000</u>
14	<u>Target equity criminal investigators</u>	<u>0</u>	<u>1,276,301</u>
15	<u>Target equity gaming audit staff</u>	<u>0</u>	<u>270,000</u>
16	<u>Computerized business projects FTE</u>	<u>178,100</u>	<u>0</u>
17	<u>Total all funds</u>	<u>\$376,100</u>	<u>\$3,128,301</u>
18	<u>Total special funds</u>	<u>0</u>	<u>653,333</u>
19	<u>Total general fund</u>	<u>\$376,100</u>	<u>\$2,474,968</u>

20 The 2015-17 one-time funding amounts are not a part of the entity's base budget for the  
21 2017-19 biennium. The attorney general shall report to the appropriations committees of the  
22 sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning  
23 July 1, 2015, and ending June 30, 2017.

24 ~~SECTION 3. APPROPRIATION - 2013-15 BIENNIUM.~~ There is appropriated out of any  
25 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of  
26 \$1,000,000, or so much of the sum as may be necessary, to the attorney general for up to ten  
27 full-time equivalent positions to assist with law enforcement activities in areas impacted by oil  
28 development, for the period beginning with the effective date of this Act and ending June 30,  
29 2015.

30 **SECTION 3. TARGETED MARKET EQUITY FUNDING - LIMITATIONS - SALARY**  
31 **SAVINGS - REPORT TO BUDGET SECTION.** Of the funds appropriated in the salaries and

1 wages line item in section 1 of this Act, \$270,000 is one-time funding from the attorney general  
2 refund fund for providing targeted market equity to gaming audit staff and \$1,276,301 is  
3 one-time targeted market equity funding for criminal investigators, including \$250,000 provided  
4 from carryover funds due to the exemption in section 5 of this Act, and up to \$1,026,301 from  
5 the general fund. The attorney general may spend the general fund amount under this section  
6 only to the extent that salary savings resulting from vacant positions and employee turnover are  
7 not sufficient to provide the \$1,026,301 authorized for targeted market equity from the general  
8 fund. The attorney general shall report to the office of management and budget and the office of  
9 management and budget must report to budget section in September 2015 and September  
10 2016 regarding the amount of salary savings used to reduce funding needed from the general  
11 fund and to report on the number and duration of vacant full-time equivalent positions.

12 **SECTION 4. ATTORNEY GENERAL REFUND TRANSFER TO THE GENERAL FUND -**  
13 **EXEMPTION.** Notwithstanding section 54-12-18, the attorney general may retain the balance in  
14 the attorney general refund fund that would otherwise be transferred to the general fund on  
15 June 30, 2015.

16 **SECTION 5. EXEMPTION - GRANTS TO LAW ENFORCEMENT AGENCIES.** The amount  
17 appropriated to the attorney general from the strategic investment and improvements fund for  
18 awarding grants to law enforcement agencies, for crime-related needs of the attorney general's  
19 office, and for development of a uniform law enforcement and custody manual, as contained in  
20 section 11 of chapter 471 of the 2013 Session Laws, is not subject to the provisions of section  
21 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general  
22 to award grants to law enforcement agencies, for crime-related needs of the attorney general's  
23 office, and for development of a uniform law enforcement and custody manual during the  
24 biennium beginning July 1, 2015, and ending June 30, 2017.

25 ~~—SECTION 6. LAW ENFORCEMENT GRANTS. The law enforcement grants line item in~~  
26 ~~section 1 of this Act includes \$24,164,271 from the oil and gas impact grant fund, of which~~  
27 ~~\$4,164,271 relates to salaries and wages and equipment for the attorney general for~~  
28 ~~oil impacted areas and \$20,000,000 in grants is for awarding grants to law enforcement~~  
29 ~~agencies for the biennium beginning July 1, 2015, and ending June 30, 2017. The drug and~~  
30 ~~violent crime policy board of the attorney general, with approval of the board of university and~~  
31 ~~school lands, shall grant funds to law enforcement agencies in oil impacted counties where~~

~~crime-related activities have increased or in other counties if the crime-related activities in oil-impacted counties originated in any of those counties. The attorney general may spend up to ten percent of the funding provided for grants under this section for defraying the expenses of additional staffing needs or other needs necessary to accomplish the role of the attorney general's office as an assisting agency in ensuring public safety in the affected areas. The funding provided in this section is considered a one-time funding item. The attorney general shall report to the budget section and to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding, including the impact the grant funding has had on crime-related activities.~~

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

**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.

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

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

There is established within the state treasury the lottery operating fund into which must be deposited all revenue from the sale of tickets, interest received on money in the fund, and all other fees and moneys collected, less a prize on a lottery promotion, prize on a winning ticket

1 paid by a retailer, and a retailer's commission. Except for moneys in the lottery operating fund  
2 appropriated by the legislative assembly for administrative and operating costs of the lottery  
3 under section 53-12.1-10, all other money in the fund is continuously appropriated for the  
4 purposes specified in this section. During each regular session, the attorney general shall  
5 present a report to the appropriations committee of each house of the legislative assembly on  
6 the actual and estimated operating revenue and expenditures for the current biennium and  
7 projected operating revenue and expenditures for the subsequent biennium authorized by this  
8 section. A payment of a prize or expense or transfer of net proceeds by the lottery may be made  
9 only against the fund or money collected from a retailer on the sale of a ticket. A disbursement  
10 from the fund must be for the following purposes:

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

29 **SECTION 8.** A new section to chapter 54-12 of the North Dakota Century Code is created  
30 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.

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

**Criminal justice data information sharing system.**

1. The attorney general shall maintain a criminal justice data information sharing system within the bureau of criminal investigation for the exchange of criminal justice data information by judicial, law enforcement, and emergency services agencies, and the department of transportation. Only an authorized individual employed by a criminal justice agency as defined in section 12-60-16.1, the department of transportation, a state court, or the department of emergency services or any other individual approved by the attorney general may access the system. To be eligible for access to the criminal justice data information sharing system, an individual shall undergo a criminal history background check, including a fingerprint check.
2. The criminal justice data information sharing system may be accessed only in accordance with rules adopted under this section. Any law enforcement record in the possession of the attorney general through the criminal justice data information sharing system is an exempt record. Criminal justice data information about an offense committed by a child if the offense has not been transferred under section 27-20-34 to another court having jurisdiction of the offense and information about a child victim or witness is confidential.
3. The attorney general shall provide staff to maintain the criminal justice data information system and provide administrative support for the advisory board.
4. A criminal justice information advisory board must be appointed, consisting of:
- a. The chief justice of the supreme court or the chief justice's designee.

- 1            b. The director of the department of emergency services or the director's designee.
- 2            c. The director of the department of corrections and rehabilitation or the director's
- 3            designee.
- 4            d. The superintendent of the state highway patrol or the superintendent's designee.
- 5            e. The chief of the bureau of criminal investigation, who is the chairman of the
- 6            advisory board.
- 7            f. The chief information officer of the state or the chief information officer's
- 8            designee.
- 9            g. The director of the department of transportation or the director's designee.
- 10           h. A representative of a city police department, appointed by the attorney general
- 11           from a list of two or more nominees from the North Dakota chiefs of police
- 12           association.
- 13           i. A representative of a county sheriff's office, appointed by the attorney general
- 14           from a list of two or more nominees from the North Dakota sheriffs and deputies
- 15           association.
- 16           j. A state's attorney, appointed by the attorney general from a list of two or more
- 17           nominees from the North Dakota state's attorney's association.
- 18           k. A city government representative, appointed by the attorney general from a list of
- 19           two or more nominees from the league of cities.
- 20           l. A county government representative, appointed by the attorney general from a
- 21           list of two or more nominees from the association of counties.
- 22           5. Advisory board members who are not permanent full-time state employees are entitled
- 23           to compensation of seventy-five dollars per day and mileage and expenses as
- 24           provided by law for state employees. With the exception of the chief of the bureau of
- 25           criminal investigation, advisory board members appointed under this section serve
- 26           staggered three year terms.
- 27           6. The attorney general, after consultation with the advisory board, shall adopt rules to
- 28           establish eligibility for access to the criminal justice data information sharing system; to
- 29           implement the collection, storage, and sharing of criminal justice information and the
- 30           systems necessary to perform those functions; and to address the operation of the
- 31           advisory board.

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

3       **54-12-08. Assistant and special assistant attorneys general - Appointment -**  
4 **Revocation - Compensation.**

5       1. After consultation with the head of the state department or institution or with the state  
6 board, commission, committee, or agency affected, the attorney general may appoint  
7 assistant or special assistant attorneys general to represent the state board,  
8 commission, committee, or agency. A state officer, head of any state department,  
9 whether elected or appointed, or state department, board, commission, committee, or  
10 agency may not employ legal counsel, and no person may act as legal counsel in any  
11 matter, action, or proceeding in which the state or any state department, board,  
12 commission, committee, or agency is interested or is a party, except upon written  
13 appointment by the attorney general. Workforce safety and insurance, the department  
14 of transportation, the state tax commissioner, the public service commission, the  
15 insurance commissioner, ~~the board of higher education,~~ and the securities  
16 commissioner may employ attorneys to represent them. These entities shall pay the  
17 salaries and expenses of the attorneys they employ within the limits of legislative  
18 appropriations. The attorneys that represent these entities must be special assistant  
19 attorneys general appointed by the attorney general pursuant to this section. Absent  
20 good cause, the attorney general shall appoint as special assistant attorneys general  
21 licensed attorneys selected by these entities. The attorney general may revoke the  
22 appointment only for good cause or upon the request of the entity. Good cause means  
23 an inadequate level of experience, competence, or ethical standards.

24       2. The powers conferred upon special assistant attorneys general are the same as are  
25 exercised by the regular assistant attorneys general, unless the powers are limited  
26 specifically by the terms of the appointment. Except as otherwise provided by this  
27 section, an appointment is revocable at the pleasure of the attorney general. The  
28 appointment may be made with or without compensation, and when compensation is  
29 allowed by the attorney general for services performed, the compensation must be  
30 paid out of the funds appropriated therefor.

1 3. The attorney general may require payment for legal services rendered by any  
2 assistant or special assistant attorney general to any state official, board, department,  
3 agency, or commission and those entities shall make the required payment to the  
4 attorney general. Moneys received by the attorney general in payment for legal  
5 services rendered must be deposited into the attorney general's operating fund.  
6 General fund moneys may not be utilized for the payment of legal services provided by  
7 the attorneys employed by the attorney general, except for those payments required of  
8 the department of human services, state department of health, and the state hospital.

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

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

18 **54-12-11. Salary of attorney general.**

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

22 **SECTION 12. AMENDMENT.** Section 54-27-25 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.**

25 1. There is created in the state treasury a tobacco settlement trust fund. The fund  
26 consists of the tobacco settlement dollars obtained by the state under subsection IX(c)  
27 (1) of the master settlement agreement and consent agreement adopted by the east  
28 central judicial district court in its judgment entered December 28, 1998 [Civil  
29 No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc.  
30 Except as provided in subsection 2, moneys received by the state under  
31 subsection IX(c)(1) must be deposited in the fund. Interest earned on the fund must be

1 credited to the fund and deposited in the fund. The principal and interest of the fund  
2 may be appropriated to the attorney general for the purpose of enforcing the master  
3 settlement agreement and any disputes with the agreement. All remaining principal  
4 and interest of the fund must be allocated as follows:

- 5 a. Transfers to a community health trust fund to be administered by the state  
6 department of health. The state department of health may use funds as  
7 appropriated for community-based public health programs and other public health  
8 programs, including programs with emphasis on preventing or reducing tobacco  
9 usage in this state. Transfers under this subsection must equal ten percent of  
10 total annual transfers from the tobacco settlement trust fund of which a minimum  
11 of eighty percent must be used for tobacco prevention and control.
- 12 b. Transfers to the common schools trust fund to become a part of the principal of  
13 that fund. Transfers under this subsection must equal forty-five percent of total  
14 annual transfers from the tobacco settlement trust fund.
- 15 c. Transfers to the water development trust fund to be used to address the  
16 long-term water development and management needs of the state. Transfers  
17 under this subsection must equal forty-five percent of the total annual transfers  
18 from the tobacco settlement trust fund.

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

1           3.   Transfers to the funds under this section must be made within thirty days of receipt by  
2           the state.

3           **SECTION 13. CAMPUS ASSESSMENTS - REPORT TO BUDGET SECTION.** The attorney  
4 general shall report to the budget section by September 30, 2016, regarding any fees charged  
5 to a campus in excess of the campus assessments listed below for legal fees charged by the  
6 attorney general.

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

19           **SECTION 14. LEGISLATIVE MANAGEMENT STUDY - MEDICAID FRAUD UNIT.** During  
20 the 2015-16 interim, the legislative management shall consider studying the feasibility and  
21 desirability of establishing a medicaid fraud unit in the state. The study must include a review of  
22 the requirements for and the estimated costs and benefits of developing a medicaid fraud unit  
23 as well as any statutory requirements and changes necessary for the realization of the full  
24 benefit of a medicaid fraud unit. As part of the study, the legislative management shall seek  
25 input from the medical community, the department of human services, and any other relevant  
26 professions. The legislative management shall report its findings and recommendations,  
27 together with any legislation required to implement the recommendations, to the sixty-fifth  
28 legislative assembly.

29           **SECTION 15. REPEAL.** Section 54-59-21 of the North Dakota Century Code is repealed.

30           **SECTION 16. EMERGENCY.** ~~Sections 3~~Section 4 and subsection 4 of section 410 of this  
31 Act are declared to be an emergency measure.