

FIRST ENGROSSMENT**ENGROSSED 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 to create and enact a new chapter to title 51 of the North Dakota Century Code, relating to an
3 electronic smoking device directory, electronic smoking device manufacturing fee, and
4 electronic smoking fund; to amend and reenact sections 31-01-16 and 54-12-11 of the North
5 Dakota Century Code, relating to compensation and mileage and travel expenses for witnesses
6 and the salary of the attorney general; to provide for a report; to provide for a transfer; to
7 provide an exemption; and to declare an emergency.

8 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
10 as may be necessary, are appropriated out of any moneys in the general fund in the state
11 treasury, not otherwise appropriated, and from other funds derived from special funds and
12 federal funds, to the attorney general for the purpose of defraying the expenses of the attorney
13 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>	
15				
16	Salaries and wages	\$53,007,980	\$8,810,074	\$61,818,054
17	New and vacant FTE pool	0	4,455,869	4,455,869
18	Operating expenses	17,579,264	924,250	18,503,514
19	Prosecution witness fees	0	360,056	360,056
20	Capital assets	606,000	1,089,000	1,695,000
21	Grants	3,903,440	110,000	4,013,440
22	Human trafficking victims grants	1,110,614	656,900	1,767,514

Sixty-ninth
Legislative Assembly

1	Forensic nurse examiners grants	252,676	1,568	254,244
2	Statewide litigation funding pool	0	8,000,000	8,000,000
3	Litigation fees	127,500	0	127,500
4	Medical examinations	660,000	0	660,000
5	Children's forensic interviews	304,560	0	304,560
6	North Dakota lottery	5,413,453	167,152	5,580,605
7	Arrest and return of fugitives	8,500	0	8,500
8	Gaming commission	7,489	0	7,489
9	Criminal justice information sharing	4,579,950	2,749,467	7,329,417
10	Law enforcement	<u>3,377,659</u>	<u>289,999</u>	<u>3,667,658</u>
11	Total all funds	\$90,939,085	\$27,614,335	\$118,553,420
12	Less other funds	<u>41,914,820</u>	<u>13,563,444</u>	<u>55,478,264</u>
13	Total general fund	\$49,024,265	\$14,050,891	\$63,075,156
14	Full-time equivalent positions	266.00	4.00	270.00

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

SEVENTIETH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items included in the appropriation in section 1 of this Act which are not included in the entity's base budget for the 2027-29 biennium and which the entity shall report to the appropriations committees of the seventieth legislative assembly regarding the use of this funding:

<u>One-Time Funding Description</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Operating and litigation expenses	\$0	\$2,000,000	\$2,000,000
Laboratory equipment and supplies	400,000	554,000	954,000
Network switches	32,000	0	32,000
Undercover vehicles	0	540,000	540,000
Portable handheld radios	0	105,000	105,000
Intoxilyzers	0	188,000	188,000
Retired law enforcement dogs program	110,000	0	110,000
Human trafficking victims grants	650,000	0	650,000
Statewide litigation funding pool	0	8,000,000	8,000,000
Jail management system replacement	650,000	0	650,000
Statewide automated victim identification	<u>0</u>	<u>1,500,000</u>	<u>1,500,000</u>

1 notification system replacement

2 Total \$1,842,000 \$12,887,000 \$14,729,000

3 **SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST.** The
4 attorney general may not spend funds appropriated in the new and vacant FTE pool line item in
5 section 1 of this Act, but may request the office of management and budget to transfer funds
6 from the new and vacant FTE pool line item to the salaries and wages line item in accordance
7 with the guidelines and reporting provisions included in House Bill No. 1015, as approved by the
8 sixty-ninth legislative assembly.

9 **SECTION 4. ADDITIONAL INCOME - APPROPRIATION - ONE-TIME FUNDING -**

10 **REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this
11 Act, there is appropriated from federal or special funds, the sum of \$250,000, or so much of the
12 sum as may be necessary, to the attorney general for the purposes of defraying the expenses of
13 the office, for the biennium beginning July 1, 2025, and ending June 30, 2027. The attorney
14 general shall notify the office of management and budget and the legislative council of any
15 funding made available pursuant to this section. The funding provided in this section is
16 considered a one-time funding item.

17 **SECTION 5. TRANSFER - CHARITABLE GAMING OPERATING FUND TO ATTORNEY**

18 **GENERAL OPERATING FUND - 2023-25 BIENNIUM.** Notwithstanding section 53-06.1-11.2,
19 the office of management and budget shall transfer \$2,000,000 from the charitable gaming
20 operating fund to the attorney general operating fund by June 30, 2025, for the purpose of
21 defraying operating and litigation expenses of the state during the period beginning with the
22 effective date of this Act, and ending June 30, 2027.

23 **SECTION 6. OTHER FUNDS - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND**

24 **TRANSFER - STATEWIDE LITIGATION FUNDING POOL TO STATE AGENCIES.** The other
25 funds line item in section 1 of this Act includes the sum of \$10,466,000 from the strategic
26 investment and improvements fund, of which \$321,000 is for state crime laboratory equipment
27 and supplies, \$540,000 is for the replacement of bureau of criminal investigation undercover
28 vehicles, \$105,000 is for portable handheld dual-band radios, \$8,000,000 is for the statewide
29 litigation funding pool, and \$1,500,000 is for the replacement of the statewide automated victim
30 identification notification system. The attorney general shall transfer funding from the statewide
31 litigation funding pool to eligible state agencies for litigation expenses during the biennium

beginning July 1, 2025, and ending June 30, 2027. The attorney general may not use funding from the statewide litigation funding pool to pay judgments under section 32-12-04.

SECTION 7. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS -

REPORTS. The human trafficking victims grants line item in section 1 of this Act includes \$1,767,514 from the general fund for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims and related administrative costs, for the biennium beginning July 1, 2025, and ending June 30, 2027. The attorney general may provide grants for the development and implementation of direct care emergency or long-term crisis services, residential care, training for law enforcement, support of advocacy services, and programs promoting positive outcomes for victims. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the seventieth legislative assembly on the use of the funds received and the outcomes of its programs. The attorney general shall report to the legislative management during the 2025-26 interim on the status and results of the grant program.

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

SECTION 9. RETIRED LAW ENFORCEMENT DOGS PROGRAM - REIMBURSEMENT.

The grants line item in section 1 of this Act includes \$110,000 for a retired law enforcement dogs program, which the attorney general shall create to assist local and state law enforcement dogs that are retired by reason of age or medical condition. The attorney general shall reimburse the handler of a law enforcement dog if the handler is authorized to retain possession

1 of a retired law enforcement dog in a private setting at the handler's home and if the handler
2 submits itemized receipts each quarter for medical bills of the law enforcement dog.
3 Reimbursements made under the program may not exceed \$2,000 per retired law enforcement
4 dog per fiscal year. The attorney general shall adopt any rules necessary to implement this
5 section.

6 **SECTION 10. OTHER FUNDS - ELECTRONIC SMOKING FUND.** The salaries and wages
7 line item and operating expenses line item in section 1 of this Act include the sum of \$239,716
8 from the electronic smoking fund for a tobacco compliance auditor position to administer and
9 enforce the provisions of section 12 of this Act.

10 **SECTION 11. AMENDMENT.** Section 31-01-16 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **31-01-16. Compensation and mileage and travel expense of witness.**

13 1. A witness in a civil or criminal case is entitled to receive:

14 1. a. A sum of twenty-five dollars for each day necessarily in attendance before the
15 district court or before any other board or tribunal, except municipal court.

16 2. b. A sum for mileage and travel expense reimbursement equal to the
17 reimbursement rates provided for state employees in sections 44-08-04 and
18 54-06-09.

19 2. In all criminal cases in district court, the attorney general shall pay prosecution witness
20 fees and expenses, in an amount not to exceed ~~twenty-five thousand~~ thirty thousand
21 dollars per county per biennium, and the commission on legal counsel for indigents
22 shall pay witness fees and expenses for witnesses in those cases in which counsel
23 has been provided by the commission. Prisoners may not be compensated as
24 witnesses under this section. If a county exceeds the thirty thousand dollar
25 reimbursement during a biennium, the county may enter an agreement with another
26 county for the purpose of allowing that county to receive another county's unused
27 reimbursement funds for that biennium, with the approval of the attorney general.

28 **SECTION 12.** A new chapter to title 51 of the North Dakota Century Code is created and
29 enacted as follows:

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

- 1 1. The attorney general shall establish and maintain a directory of electronic smoking
2 devices containing nicotine that may be sold in this state.
- 3 2. An electronic smoking device must be included in the directory only if the
4 manufacturer of the electronic smoking device containing nicotine certifies, on a form
5 prescribed by the attorney general, the following:
 - 6 a. The manufacturer has received a marketing granted order for the electronic
7 smoking device containing nicotine from the United States food and drug
8 administration;
 - 9 b. The manufacturer marketed the electronic smoking device containing nicotine in
10 the United States as of August 8, 2016, and submitted a tobacco product
11 premarket application to the United States food and drug administration on or
12 before September 9, 2020, and the application either remains under review or
13 has received a denial order that has been and remains stayed by the United
14 States food and drug administration or a court order, rescinded by the United
15 States food and drug administration, or vacated by a court; or
 - 16 c. The manufacturer can demonstrate the United States food and drug
17 administration has issued a rule, guidance, or other formal statement that
18 temporarily exempts the electronic smoking device containing nicotine from
19 federal premarket tobacco application requirements.
- 20 3. Each certification form must be accompanied by a fee of five hundred dollars for each
21 electronic smoking device containing nicotine that is listed on the form. Revenue from
22 the fees must be deposited in the electronic smoking fund.
- 23 4. There is created in the state treasury the electronic smoking fund. The fund consists of
24 fees collected pursuant to subsection 3 and all moneys transferred to the fund by the
25 legislative assembly. Moneys in the fund may be spent by the attorney general for the
26 administration and enforcement of this chapter, subject to legislative appropriations.
- 27 5. Beginning January 1, 2026, only electronic smoking devices containing nicotine
28 included in the directory may be sold in this state.
- 29 6. The attorney general shall promulgate rules necessary to administer and enforce this
30 chapter. The rules must provide for at least two annual unannounced compliance

1 checks of retailers, distributors, and wholesalers that sell electronic smoking devices
2 containing nicotine.

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

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

13 **54-12-11. Salary of attorney general.**

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

18 **SECTION 14. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any individual or entity
19 requesting a criminal history record check from the bureau of criminal investigation, as a result
20 of legislation enacted by the sixty-ninth legislative assembly, shall pay a reasonable fee
21 established by the attorney general to the attorney general to be deposited in the general fund,
22 for the biennium beginning July 1, 2025, and ending June 30, 2027.

23 **SECTION 15. EXEMPTION - CONTINGENT FEE ARRANGEMENT.** Notwithstanding
24 section 54-12-08.1, the attorney general may contract for legal services compensated by a
25 contingent fee arrangement for ongoing multistate technology litigation during the biennium
26 beginning July 1, 2025, and ending June 30, 2027.

27 **SECTION 16. EXEMPTION - ATTORNEY GENERAL REFUND FUND.** Notwithstanding
28 section 54-12-18, the attorney general may retain the balance in the attorney general refund
29 fund which would otherwise be transferred to the general fund on June 30, 2025.

1 **SECTION 17. 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 18. EMERGENCY.** Section 5 of this Act is declared to be an emergency
27 measure.