

**FIRST ENGROSSMENT
with Conference Committee Amendments
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 create and enact a new section to chapter 27-05 and two new
3 sections to chapter 54-12 of the North Dakota Century Code, relating to the responsibility for
4 expert witness expenses, attorney general opinions, and the criminal justice data information
5 sharing system; to amend and reenact sections 53-12.1-09, 54-12-08, 54-12-11, and 54-27-25
6 of the North Dakota Century Code, relating to the salary of the attorney general, assistant and
7 special assistant attorneys general, the lottery operating fund, and the tobacco settlement trust
8 fund; to repeal section 54-59-21 of the North Dakota Century Code, relating to the criminal
9 justice data information sharing system; to provide a report to the budget section; to provide for
10 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:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>	
17				
18				
19	Salaries and wages	\$34,806,462	\$8,709,679	\$43,516,141
20	Accrued leave payments	1,057,247	(1,057,247)	0
21	Operating expenses	26,994,056	(1,002,737)	25,991,319
22	Capital assets	2,165,077	506,110	2,671,187
23	Grants	2,373,947	(611,288)	1,762,659
24	Criminal justice information sharing	0	5,401,701	5,401,701

Sixty-fourth
Legislative Assembly

1	Law enforcement	0	3,887,386	3,887,386
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	<u>7,368</u>	<u>122</u>	<u>7,490</u>
8	Total all funds	\$72,657,978	\$16,982,683	\$89,640,661
9	Less estimated income	<u>35,382,450</u>	<u>518,335</u>	<u>35,900,785</u>
10	Total general fund	\$37,275,528	\$16,464,348	\$53,739,876
11	Full-time equivalent positions	212.50	36.50	249.00

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:

16	<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
17	BCI vehicles	\$198,000	\$132,000
18	BCI surveillance vehicles	0	200,000
19	Criminal justice information sharing	0	1,250,000
20	Target equity criminal investigators	0	1,276,301
21	Target equity gaming audit staff	0	270,000
22	Computerized business projects FTE	<u>178,100</u>	<u>0</u>
23	Total all funds	\$376,100	\$3,128,301
24	Total special funds	<u>0</u>	<u>653,333</u>
25	Total general fund	\$376,100	\$2,474,968

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

SECTION 3. TARGETED MARKET EQUITY FUNDING - LIMITATIONS - SALARY

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

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

29 In any case before the district court involving an offense other than a class AA felony in
30 which a staff member from the state crime laboratory is subpoenaed to testify as an expert
31 witness, the district court shall pay the mileage and travel expenses incurred by the expert

1 witness as provided under sections 44-04-04 and 54-06-09. If the district court permits the
2 expert witness to testify via the state's interactive video network service or other interactive
3 computer service, the district court is not responsible for any costs related to the testimony of a
4 subpoenaed state crime laboratory expert witness.

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

7 **53-12.1-09. Operating fund - Continuing appropriation - Authorization of**
8 **disbursements - Report - Net proceeds.**

9 There is established within the state treasury the lottery operating fund into which must be
10 deposited all revenue from the sale of tickets, interest received on money in the fund, and all
11 other fees and moneys collected, less a prize on a lottery promotion, prize on a winning ticket
12 paid by a retailer, and a retailer's commission. Except for moneys in the lottery operating fund
13 appropriated by the legislative assembly for administrative and operating costs of the lottery
14 under section 53-12.1-10, all other money in the fund is continuously appropriated for the
15 purposes specified in this section. During each regular session, the attorney general shall
16 present a report to the appropriations committee of each house of the legislative assembly on
17 the actual and estimated operating revenue and expenditures for the current biennium and
18 projected operating revenue and expenditures for the subsequent biennium authorized by this
19 section. A payment of a prize or expense or transfer of net proceeds by the lottery may be made
20 only against the fund or money collected from a retailer on the sale of a ticket. A disbursement
21 from the fund must be for the following purposes:

- 22 1. Payment of a prize as the director deems appropriate to the owner of a valid, winning
23 ticket;
- 24 2. Notwithstanding section 53-12.1-10, payment of a marketing expense that is directly
25 offset by cosponsorship funds collected;
- 26 3. Payment of a gaming system or related service expense, retailer record and credit
27 check fees, game group dues, and retailer commissions; and
- 28 4. Transfer of net proceeds:
 - 29 a. FiftyEighty thousand dollars must be transferred to the state treasurer each
30 quarter for deposit in the compulsive gambling prevention and treatment fund;

- 1 b. An amount for the lottery's share of a game's prize reserve pool must be
2 transferred to the multistate lottery association;
- 3 c. Starting July 1, 2007, one hundred five thousand six hundred twenty-five dollars
4 must be transferred to the state treasurer each quarter for deposit in the attorney
5 general multijurisdictional drug task force grant fund; and
- 6 d. The balance of the net proceeds, less holdback of any reserve funds the director
7 may need for continuing operations, must be transferred to the state treasurer on
8 at least an annual basis for deposit in the state general fund.

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

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

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

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

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

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

- 1 2. The criminal justice data information sharing system may be accessed only in
2 accordance with rules adopted under this section. Any law enforcement record in the
3 possession of the attorney general through the criminal justice data information
4 sharing system is an exempt record. Criminal justice data information about an offense
5 committed by a child if the offense has not been transferred under section 27-20-34 to
6 another court having jurisdiction of the offense and information about a child victim or
7 witness is confidential.
- 8 3. The attorney general shall provide staff to maintain the criminal justice data
9 information system and provide administrative support for the advisory board.
- 10 4. A criminal justice information advisory board must be appointed, consisting of:
- 11 a. The chief justice of the supreme court or the chief justice's designee.
12 b. The director of the department of emergency services or the director's designee.
13 c. The director of the department of corrections and rehabilitation or the director's
14 designee.
15 d. The superintendent of the state highway patrol or the superintendent's designee.
16 e. The chief of the bureau of criminal investigation, who is the chairman of the
17 advisory board.
18 f. The chief information officer of the state or the chief information officer's
19 designee.
20 g. The director of the department of transportation or the director's designee.
21 h. A representative of a city police department, appointed by the attorney general
22 from a list of two or more nominees from the North Dakota chiefs of police
23 association.
24 i. A representative of a county sheriff's office, appointed by the attorney general
25 from a list of two or more nominees from the North Dakota sheriffs and deputies
26 association.
27 j. A state's attorney, appointed by the attorney general from a list of two or more
28 nominees from the North Dakota state's attorney's association.
29 k. A city government representative, appointed by the attorney general from a list of
30 two or more nominees from the league of cities.

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

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

15 **54-12-08. Assistant and special assistant attorneys general - Appointment -**
16 **Revocation - Compensation.**

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

1 good cause, the attorney general shall appoint as special assistant attorneys general
2 licensed attorneys selected by these entities. The attorney general may revoke the
3 appointment only for good cause or upon the request of the entity. Good cause means
4 an inadequate level of experience, competence, or ethical standards.

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

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

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

27 **SECTION 11. AMENDMENT.** Section 54-12-11 of the North Dakota Century Code is
28 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 13. CAMPUS ASSESSMENTS - REPORT TO BUDGET SECTION.** The attorney
18 general shall report to the budget section by September 30, 2016, regarding any fees charged
19 to a campus in excess of the campus assessments listed below for legal fees charged by the
20 attorney general.

21	Bismarck state college	\$38,377
22	Lake region state college	17,796
23	Williston state college	12,530
24	University of North Dakota	0
25	North Dakota state university	0
26	North Dakota state college of science	39,346
27	Dickinson state university	17,615
28	Mayville state university	16,949
29	Minot state university	39,709
30	Valley City state university	17,494
31	Dakota college at Bottineau	<u>11,804</u>

1 Total \$211,620

2 **SECTION 14. LEGISLATIVE MANAGEMENT STUDY - MEDICAID FRAUD UNIT.** During
3 the 2015-16 interim, the legislative management shall consider studying the feasibility and
4 desirability of establishing a medicaid fraud unit in the state. The study must include a review of
5 the requirements for and the estimated costs and benefits of developing a medicaid fraud unit
6 as well as any statutory requirements and changes necessary for the realization of the full
7 benefit of a medicaid fraud unit. As part of the study, the legislative management shall seek
8 input from the medical community, the department of human services, and any other relevant
9 professions. The legislative management shall report its findings and recommendations,
10 together with any legislation required to implement the recommendations, to the sixty-fifth
11 legislative assembly.

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

13 **SECTION 16. EMERGENCY.** Section 4 and subsection 4 of section 10 of this Act are
14 declared to be an emergency measure.