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Sixty-fourth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2003

Introduced by

Appropriations Committee

(At the request of the Governor)

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general; to provide exemptions; to create and enact a new section to chapter 27-05 and two new sections to chapter 54-12 of the North Dakota Century Code, relating to the responsibility for expert witness expenses, to attorney general opinions, and the criminal justice data information sharing system; to amend and reenact sections 53-12.1-09, 54-12-08, and 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general, the assistant and special assistant attorneys general, and the lottery operating fund; to repeal section 54-59-21 of the North Dakota Century Code, relating to the criminal justice data information sharing system; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$34,806,462	$5,947,335	$40,753,797
Accrued leave payments	1,057,247	(1,057,247)	0
Operating expenses	26,994,056	(1,444,463)	25,549,593
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
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	7,368	122	7,490
Total all funds	$72,657,978	$9,891,227	$82,549,205
Less estimated income	35,382,450	(468,838)	34,913,612
Total general fund	$37,275,528	$10,360,065	$47,635,593
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:

One-Time Funding Description	2013-15	2015-17
BCI vehicles	$198,000	$132,000
BCI surveillance vehicles	0	200,000
Criminal justice information sharing	0	1,250,000
Computerized business projects FTE	178,100	0
Total all funds	$376,100	$1,582,000
Total special funds	0	133,333
Total general fund	$376,100	$1,448,667

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

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

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

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

1. Payment of a prize as the director deems appropriate to the owner of a valid, winning ticket;
2. Notwithstanding section 53-12.1-10, payment of a marketing expense that is directly offset by cosponsorship funds collected;
3. Payment of a gaming system or related service expense, retailer record and credit check fees, game group dues, and retailer commissions; and
4. Transfer of net proceeds:
   a. ~~Fifty~~<u>One hundred</u> thousand dollars must be transferred to the state treasurer each quarter for deposit in the compulsive gambling prevention and treatment fund;
   b. An amount for the lottery's share of a game's prize reserve pool must be transferred to the multistate lottery association;
   c. Starting July 1, 2007, one hundred five thousand six hundred twenty-five dollars must be transferred to the state treasurer each quarter for deposit in the attorney general multijurisdictional drug task force grant fund; and

d. The balance of the net proceeds, less holdback of any reserve funds the director may need for continuing operations, must be transferred to the state treasurer on at least an annual basis for deposit in the state general fund.

SECTION 8. 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.
   b. The director of the department of emergency services or the director's designee.
   c. The director of the department of corrections and rehabilitation or the director's designee.
   d. The superintendent of the state highway patrol or the superintendent's designee.

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

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

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

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

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

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

k. A city government representative, appointed by the attorney general from a list of two or more nominees from the league of cities.

l. A county government representative, appointed by the attorney general from a list of two or more nominees from the association of counties.

5. Advisory board members who are not permanent full-time state employees are entitled to compensation of seventy-five dollars per day and mileage and expenses as provided by law for state employees. With the exception of the chief of the bureau of criminal investigation, advisory board members appointed under this section serve staggered three year terms.

6. The attorney general, after consultation with the advisory board, shall adopt rules to establish eligibility for access to the criminal justice data information sharing system; to implement the collection, storage, and sharing of criminal justice information and the systems necessary to perform those functions; and to address the operation of the advisory board.

SECTION 9. 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.

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

54-12-11. Salary of attorney general.

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

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

SECTION 12. EMERGENCY. Section 3 of this Act is declared to be an emergency measure.