Prepared by the North Dakota Legislative Council
staff for the Budget Section
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LOCAL GAMING ENFORCEMENT GRANTS - 1999-2001

EMERGENCY COMMISSION REQUEST - TOBACCO SETTLEMENT COST RECOVERIES

At the March 2000 Budget Section meeting, the Attorney General requested, pursuant to North Dakota Century Code (NDCC) Section 54-16-04.2 (copy attached as an appendix), to increase the grants line item by $197,714 of other funds for providing additional local gaming enforcement grants. The source of the other funds would be from legal cost and fee recoveries received relating to the tobacco settlement case. The $197,714 is the reimbursement received by the Attorney General in excess of the actual legal expenses incurred in the tobacco settlement.

The Attorney General received $590,763 as reimbursement for costs and fees incurred as a result of the tobacco settlement. The Attorney General deposited these funds in its refund fund, established by NDCC Section 54-12-18 and also used for recoveries made through the Attorney General's Consumer Protection Division. The Attorney General used $337,448 of this funding to reimburse the refund fund, the Attorney General's operating fund, and the general fund for the costs actually incurred in the tobacco settlement and $4,549 for costs that have been incurred since the payment was received. The Attorney General received reimbursement in excess of actual costs because the Attorney General was allowed, as part of the settlement agreement, to request reimbursement at standard attorneys rates in North Dakota which exceed the actual state costs. The excess or $253,315 remains in the refund fund and the Attorney General's request is to use $197,714 of this amount. North Dakota Century Code Section 54-12-18 provides that any unobligated moneys remaining in the fund at the end of each fiscal year be transferred to the general fund.

The Attorney General may also receive additional reimbursement payments of up to $147,691. The first distribution of payments for reimbursement of costs and fees was made to the state at 80 percent of the billed amount. North Dakota billed a total of $738,454 and received 80 percent or $590,763. If funding is available to reimburse for costs and fees above the 80 percent level, an additional payment of up to the $147,691 could be received by the state.

1999 LEGISLATIVE ACTION

The 1999 Legislative Assembly did not change the executive recommendation providing an appropriation of $221,877 from the general fund to the Attorney General for 1999-2001 biennium local gaming enforcement grants, $792,278 less than the $1,014,155 provided from the general fund for gaming enforcement grants during the 1997-99 biennium. During the 1999 legislative session, the Attorney General requested an additional $792,278 from the general fund to restore gaming grants funding to the 1997-99 level. The Legislative Assembly did not appropriate additional general fund moneys for these grants, but it did add the following section in Senate Bill No. 2015 (Office of Management and Budget appropriations bill) authorizing the Attorney General to seek Emergency Commission approval to transfer up to $310,086 between line items of the Attorney General's appropriation to provide additional funding for local gaming enforcement grants during the 1999-2001 biennium:

> **SECTION 5. ATTORNEY GENERAL - GAMING ENFORCEMENT GRANTS - LINE ITEM TRANSFERS.** Notwithstanding section 54-16-04 and section 5 of Senate Bill No. 2003, as approved by the fifty-sixth legislative assembly, the emergency commission may authorize the attorney general to make transfers between the line items in section 1 of Senate Bill No. 2003 of up to the sum of $310,086 for the purpose of providing additional local gaming enforcement grants in accordance with the provisions of section 6 of Senate Bill No. 2003, for the biennium beginning July 1, 1999, and ending June 30, 2001.

A review of legislative records indicates that the 1999 Legislative Assembly did not specifically consider or address the issue of providing additional other funds that may become available for local gaming enforcement grants; therefore, there is no indication of legislative intent that would preclude the use of other funds for gaming enforcement grants if approved by the Emergency Commission and Budget Section.

ATTACH:1

54-16-04.2. Commission may authorize acceptance and expenditure of moneys. The emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative council if the amount under consideration exceeds fifty thousand dollars, may authorize a state officer to receive moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The emergency commission may authorize the state officer to expend money received under this section from the date the money becomes available until June thirtieth following the next regular legislative session.