

**FIRST ENGROSSMENT
with House 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, to attorney general opinions, and the criminal justice data information
 5 sharing system; to amend and reenact sections 53-12.1-09, 54-12-08, and 54-12-11 of the
 6 North Dakota Century Code, relating to the salary of the attorney general, the assistant and
 7 special assistant attorneys general, and the lottery operating fund; to repeal section 54-59-21 of
 8 the North Dakota Century Code, relating to the criminal justice data information sharing system;
 9 and to declare an emergency.

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

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

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
18 Salaries and wages	\$34,806,462	\$5,947,335	\$40,753,797
19 Accrued leave payments	1,057,247	(1,057,247)	0
20 Operating expenses	26,994,056	(1,444,463)	25,549,593
21 Capital assets	2,165,077	506,110	2,671,187
22 Grants	2,373,947	(611,288)	1,762,659
23 Criminal justice information sharing	0	5,401,701	5,401,701
24 Litigation fees	50,000	0	50,000

Sixty-fourth
Legislative Assembly

1	Abortion litigation fees	400,000	0	400,000
2	Medical examinations	660,000	0	660,000
3	North Dakota lottery	4,133,821	1,148,957	5,282,778
4	Arrest and return of fugitives	10,000	0	10,000
5	Gaming commission	<u>7,368</u>	<u>122</u>	<u>7,490</u>
6	Total all funds	\$72,657,978	\$9,891,227	\$82,549,205
7	Less estimated income	<u>35,382,450</u>	<u>(468,838)</u>	<u>34,913,612</u>
8	Total general fund	\$37,275,528	\$10,360,065	\$47,635,593
9	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:

14	<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
15	BCI vehicles	\$198,000	\$132,000
16	BCI surveillance vehicles	0	200,000
17	Criminal justice information sharing	0	1,250,000
18	Computerized business projects FTE	<u>178,100</u>	<u>0</u>
19	Total all funds	\$376,100	\$1,582,000
20	Total special funds	<u>0</u>	<u>133,333</u>
21	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

1 awarding grants to law enforcement agencies, for crime-related needs of the attorney general's
2 office, and for development of a uniform law enforcement and custody manual, as contained in
3 section 11 of chapter 471 of the 2013 Session Laws, is not subject to the provisions of section
4 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general
5 to award grants to law enforcement agencies, for crime-related needs of the attorney general's
6 office, and for development of a uniform law enforcement and custody manual during the
7 biennium beginning July 1, 2015, and ending June 30, 2017.

8 **SECTION 5.** A new section to chapter 27-05 of the North Dakota Century Code is created
9 and enacted as follows:

10 **State crime laboratory expert witness travel costs responsibility of district court -**
11 **Exception.**

12 In any case before the district court involving an offense other than a class AA felony in
13 which a staff member from the state crime laboratory is subpoenaed to testify as an expert
14 witness, the district court shall pay the mileage and travel expenses incurred by the expert
15 witness as provided in sections 44-04-04 and 54-06-09. If the district court permits the expert
16 witness to testify via the state's interactive video network service or other interactive computer
17 service, the district court is not responsible for any costs related to the testimony of a
18 subpoenaed state crime laboratory expert witness.

19 **SECTION 6.** A new section to chapter 54-12 of the North Dakota Century Code is created
20 and enacted as follows:

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

22 Within thirty days of receipt of a request for a written opinion under section 54-12-01 or
23 44-04-21.1, the attorney general shall notify the individual who requested the opinion that the
24 request has been received and that a written opinion will be delivered to the requester within
25 sixty days of the receipt of the request or that the attorney general has determined that a written
26 opinion will not be provided to the requester. If the attorney general determines that an opinion
27 will not be written in response to the request, the attorney general shall inform the requester of
28 the basis for that determination.

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

1 **53-12.1-09. Operating fund - Continuing appropriation - Authorization of**
2 **disbursements - Report - Net proceeds.**

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

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

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

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

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

- 7 1. The attorney general shall maintain a criminal justice data information sharing system
8 within the bureau of criminal investigation for the exchange of criminal justice data
9 information by judicial, law enforcement, and emergency services agencies, and the
10 department of transportation. Only an authorized individual employed by a criminal
11 justice agency as defined in section 12-60-16.1, the department of transportation, a
12 state court, or the department of emergency services or any other individual approved
13 by the attorney general may access the system. To be eligible for access to the
14 criminal justice data information sharing system, an individual shall undergo a criminal
15 history background check, including a fingerprint check.
- 16 2. The criminal justice data information sharing system may be accessed only in
17 accordance with rules adopted under this section. Any law enforcement record in the
18 possession of the attorney general through the criminal justice data information
19 sharing system is an exempt record. Criminal justice data information about an offense
20 committed by a child if the offense has not been transferred under section 27-20-34 to
21 another court having jurisdiction of the offense and information about a child victim or
22 witness is confidential.
- 23 3. The attorney general shall provide staff to maintain the criminal justice data
24 information system and provide administrative support for the advisory board.
- 25 4. A criminal justice information advisory board must be appointed, consisting of:
- 26 a. The chief justice of the supreme court or the chief justice's designee.
27 b. The director of the department of emergency services or the director's designee.
28 c. The director of the department of corrections and rehabilitation or the director's
29 designee.
30 d. The superintendent of the state highway patrol or the superintendent's designee.

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

28 **SECTION 9. AMENDMENT.** Section 54-12-08 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **54-12-08. Assistant and special assistant attorneys general - Appointment -**
2 **Revocation - Compensation.**

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

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

29 3. The attorney general may require payment for legal services rendered by any
30 assistant or special assistant attorney general to any state official, board, department,
31 agency, or commission and those entities shall make the required payment to the

1 attorney general. Moneys received by the attorney general in payment for legal
2 services rendered must be deposited into the attorney general's operating fund.
3 General fund moneys may not be utilized for the payment of legal services provided by
4 the attorneys employed by the attorney general, except for those payments required of
5 the department of human services, state department of health, and the state hospital.

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

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

15 **54-12-11. Salary of attorney general.**

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

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

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