**2021 HOUSE APPROPRIATIONS**

**HB 1003**

# Department 125 - Attorney General
# House Bill No. 1003

## Executive Budget Comparison to Prior Biennium Appropriations

| | FTE Positions | General Fund | Other Funds | Total |
|---|---|---|---|---|
| 2021-23 Executive Budget | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 |
| 2019-21 Legislative Appropriations[1, 2] | 246.00 | 45,804,596 | 39,104,240 | 84,908,836 |
| Increase (Decrease) | 2.00 | $1,456,105 | ($39,834) | $1,416,271 |

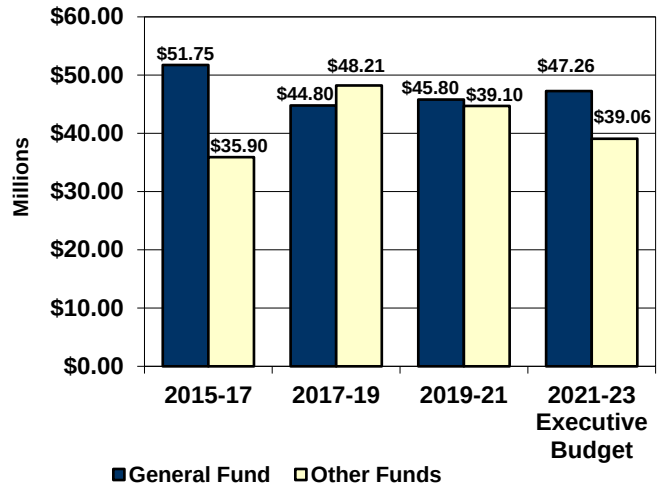
[1]The 2019-21 biennium agency appropriation amounts have not been adjusted for additional federal Coronavirus (COVID-19) funds authority of $2,082,871 resulting from Emergency Commission action during the 2019-21 biennium.

[2]Section 3 of Senate Bill No. 2015 (2019) authorized 1 assistant attorney general full-time equivalent (FTE) position to assist in litigation relating to voter identification for the 2019-21 biennium. Salaries and wages costs for the position are to be paid from funds in the Office of Management and Budget's (OMB) litigation funding pool line item. Pursuant to Section 2 of the bill, funding for the litigation funding pool is considered one-time funding and is not part of OMB's base budget for the 2021-23 biennium. Accordingly, the FTE position authorized in Section 3 of the bill is considered a one-time funding item and is not part of the Attorney General's base budget for the 2021-23 biennium.

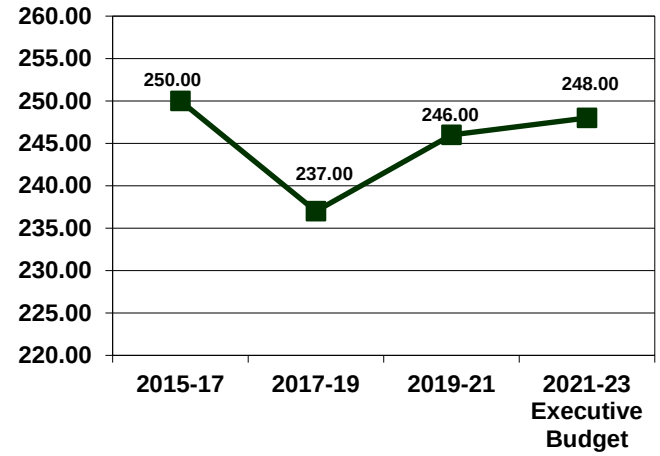
## Ongoing and One-Time General Fund Appropriations

| | Ongoing General Fund Appropriation | One-Time General Fund Appropriation | Total General Fund Appropriation |
|---|---|---|---|
| 2021-23 Executive Budget | $44,260,701 | $3,000,000 | $47,260,701 |
| 2019-21 Legislative Appropriations | 45,604,596 | 200,000 | 45,804,596 |
| Increase (Decrease) | ($1,343,895) | $2,800,000 | $1,456,105 |

**Agency Funding**




**FTE Positions**




## Executive Budget Comparison to Base Level

| | General Fund | Other Funds | Total |
|---|---|---|---|
| 2021-23 Executive Budget | $47,260,701 | $39,064,406 | $86,325,107 |
| 2021-23 Base Level | 45,604,596 | 35,886,284 | 81,490,880 |
| Increase (Decrease) | $1,656,105 | $3,178,122 | $4,834,227 |

Attached as an appendix is a detailed comparison of the executive budget to the agency's base level appropriations.

## Executive Budget Highlights

| | General Fund | Other Funds | Total |
|---|---|---|---|
| 1. Provides funding for state employee salary and benefit increases, of which $1,292,649 is for salary increases, $11,368 is for health insurance increases, and $194,355 is for retirement contribution increases | $1,012,593 | $485,779 | $1,498,372 |

| | | | |
|---|---|---|---|
| 2. Removes 1 FTE assistant attorney general position considered a one-time position to assist in litigation related to voter identification during the 2019-21 biennium | $0 | $0 | $0 |
| 3. Reduces funding for temporary salaries | ($246,009) | $0 | ($246,009) |
| 4. Adds funding from the Attorney General operating fund for 4 FTE gaming division positions due to electronic pull tab activity, of which $814,863 is for salaries and wages and $144,836 is for related operating expenses | $0 | $959,699 | $959,699 |
| 5. Adjusts funding for operating expenses from the general fund and Attorney General operating fund, primarily for information technology contractual services and repairs, information technology software and supplies, travel, operating fees, and rent | ($1,489,628) | $185,464 | ($1,304,164) |
| 6. Adds funding for the state agency Capitol grounds rent proposal | $289,501 | $0 | $289,501 |
| 7. Removes funding from the lottery fund for the Lottery Narcotics Task Force. North Dakota Century Code Section 53-12.1-09 provides for transfers totaling $1.6 million each biennium from the lottery fund to the multijurisdictional drug task force grant fund and provides the Attorney General a continuing appropriation for this funding. | $0 | ($755,000) | ($755,000) |
| 8. Removes funding for 1 FTE assistant attorney general position for the intellectual property attorney program | ($447,790) | $0 | ($447,790) |
| 9. Reduces funding for human trafficking victims grants to provide a total of $1,002,356 from the general fund | ($400,000) | $0 | ($400,000) |
| 10. Reduces funding for forensic nurse examiner grants to provide a total of $213,365 from the general fund | ($37,500) | $0 | ($37,500) |
| 11. Adds **one-time funding** from the Attorney General refund fund for the criminal history improvement project | $0 | $400,000 | $400,000 |
| 12. Adds **one-time funding** from the Attorney General operating fund for Phases 3 and 4 of the charitable gaming technology system project, which would complete the project | $0 | $475,000 | $475,000 |
| 13. Adds **one-time funding** from federal funds to upgrade the automated biometric identification system, formerly known as the automated fingerprint identification system | $0 | $300,000 | $300,000 |
| 14. Adds **one-time funding** from federal funds for State Crime Laboratory equipment, including cameras, a rapid DNA instrument, and an intoxilyzer | $0 | $1,111,706 | $1,111,706 |
| 15. Adds **one-time funding** for a statewide litigation pool | $3,000,000 | $0 | $3,000,000 |

## Other Sections Recommended to be Added in the Executive Budget (As Detailed in the Attached Appendix)

**Attorney General salary -** Section 3 would amend Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $166,662 effective July 1, 2021, and $169,995 effective July 1, 2022, to reflect the 2 percent annual recommended salary increase.

**Exemption - Attorney General refund fund -** Section 4 would allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund.

**Transfer - Litigation pool to state agencies -** Section 5 would require the Attorney General to transfer funds from the $3 million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium.

**Appropriation - Additional federal funds or other funds -** Section 6 would appropriate $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General would be required to report to OMB and the Legislative Council on the availability of this funding.

**Criminal history record checks - Fees -** Section 7 would require any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium.

**Human trafficking victims grant program** - Section 8 would identify $1 million from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General would be allowed to 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 would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program.

**Forensic nurse examiners grant program** - Section 9 would identify $212,499 from the general fund in Section 1 for providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs.

**Exemption - Concealed weapon rewrite project** - Section 10 would allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium.

**Exemption - Coronavirus emergency supplemental funding -** Section 11 would allow the Attorney General to continue any federal funding received during the 2019-21 biennium in response to the COVID-19 pandemic into the 2021-23 biennium.

## Continuing Appropriations

**Assets forfeiture fund** - Section 54-12-14 - To pay costs related to law enforcement activities of the Attorney General's office.

**Lottery operating fund** - Section 53-12.1-09 - To pay costs of operating the lottery.

**Refund fund** - Section 54-12-18 - To pay costs of the Consumer Protection and Antitrust Division and the Gaming Division.

**Special operations team reimbursement fund** - Section 54-12-23 - To reimburse city and county governments that provide special operations team services to rural areas.

**24/7 sobriety program fund** - Section 54-12-29 - To pay costs of administering and operating the 24/7 sobriety program.

**Multijurisdictional drug task force fund** - Section 54-12-26 - To provide support for the narcotics enforcement efforts of the state.

## Deficiency Appropriation

The executive budget recommendation includes a deficiency appropriation of $175,435 from the general fund for lawsuit expenses related to a constitutional challenge of North Dakota corporate farming laws.

## Significant Audit Findings

The operational audit of the Attorney General conducted by the State Auditor's office for the period ending June 30, 2018, did not identify any findings but included two recommendations related to the State Crime Laboratory, including hiring temporary employees or re-evaluating FTE positions to reduce evidence testing turnaround time and to implement a fee schedule to strategically charge for services rendered.

## Major Related Legislation

At this time, no major related legislation has been introduced affecting this agency.

# Attorney General - Budget No. 125
# House Bill No. 1003
# Base Level Funding Changes

| | Executive Budget Recommendation | | | |
|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 |
| **2021-23 Ongoing Funding Changes** | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 |
| Salary increase | | 876,260 | 416,389 | 1,292,649 |
| Health insurance increase | | 7,650 | 3,718 | 11,368 |
| Retirement contribution increase | | 128,683 | 65,672 | 194,355 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 |
| Adds funding for state agency Capitol grounds rent proposal | | 289,501 | | 289,501 |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 |
| Reduces funding for capital assets | | | (152,400) | (152,400) |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) |
| Reduces funding for litigation fees | | (22,500) | | (22,500) |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) |
| Reduces funding for the arrest and return of fugitives | | (1,500) | | (1,500) |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) |
| Reduces funding for human trafficking victims grants | | (400,000) | | (400,000) |
| Reduces funding for forensic nurse examiners grants | | (37,500) | | (37,500) |
| Total ongoing funding changes | 3.00 | ($1,343,895) | $891,416 | ($452,479) |
| **One-time funding items** | | | | |
| Adds funding for the criminal history improvement project | | | $400,000 | $400,000 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 |
| Adds funding for a statewide litigation pool | | $3,000,000 | 0 | 3,000,000 |
| Total one-time funding changes | 0.00 | $3,000,000 | $2,286,706 | $5,286,706 |
| **Total Changes to Base Level Funding** | 3.00 | $1,656,105 | $3,178,122 | $4,834,227 |
| **2021-23 Total Funding** | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(2.9%)* | *2.5%* | *(0.6%)* |
| *Total changes as a percentage of base level* | *1.2%* | *3.6%* | *8.9%* | *5.9%* |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation |
|---|---|
| Attorney General salary | Section 3 would amend Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $166,662 effective July 1, 2021, and $169,995 effective July 1, 2022, to reflect the 2 percent annual recommended salary increase. |
| Exemption - Attorney General refund fund | Section 4 would allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. |
| Transfer - Litigation pool to state agencies | Section 5 would require the Attorney General to transfer funds from the $3-million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. |

**Other Sections in Attorney General - Budget No. 125**

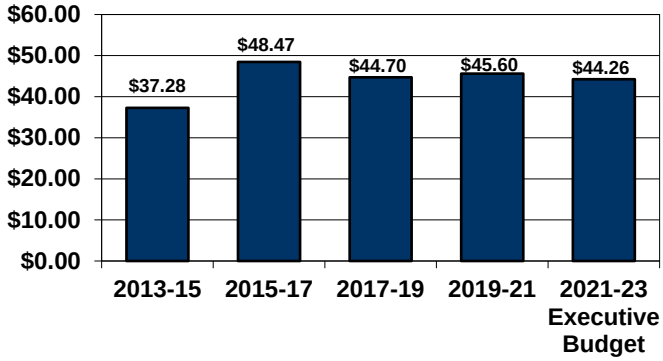
| | Executive Budget Recommendation |
|---|---|
| Appropriation - Additional federal funds or other federal funds | Section 6 would appropriate $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General would be required to report to OMB and the Legislative Council on the availability of this funding. |
| Criminal history record checks - Fees | Section 7 would require any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. |
| Human trafficking victims grant program | Section 8 would identify $1 million from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General would be allowed to 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 would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. |
| Forensic nurse examiners grant program | Section 9 would identify $212,499 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. |
| Exemption - Concealed weapon rewrite project | Section 10 would allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. |
| Exemption - Coronavirus emergency supplemental funding | Section 11 would allow the Attorney General to continue any federal funding received during the 2019-21 biennium in response to the COVID-19 pandemic into the 2021-23 biennium. |

**Department 125 - Attorney General**

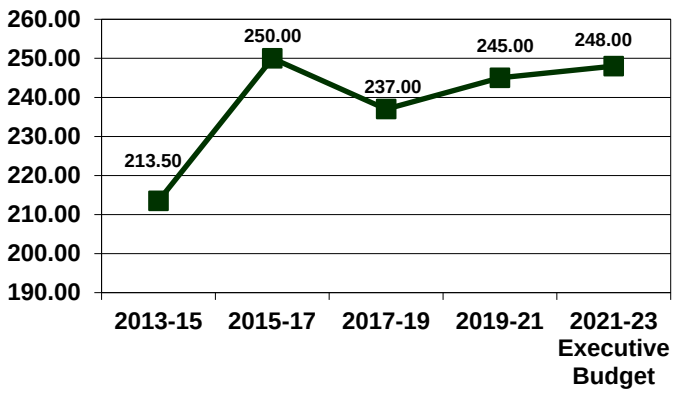
# Historical Appropriations Information

## Ongoing General Fund Appropriations Since 2013-15

**Ongoing General Fund Appropriations (in Millions)**




**FTE Positions**




| Ongoing General Fund Appropriations | | | | | |
|---|---|---|---|---|---|
| | 2013-15 | 2015-17 | 2017-19 | 2019-21 | 2021-23 Executive Budget |
| Ongoing general fund appropriations | $37,275,528 | $48,466,861 | $44,695,840 | $45,604,596 | $44,260,701 |
| Increase (decrease) from previous biennium | N/A | $11,191,333 | ($3,771,021) | $908,756 | ($1,343,895) |
| Percentage increase (decrease) from previous biennium | N/A | 30.0% | (7.8%) | 2.0% | (2.9%) |
| Cumulative percentage increase (decrease) from 2013-15 biennium | N/A | 30.0% | 19.9% | 22.3% | 18.7% |

## Major Increases (Decreases) in Ongoing General Fund Appropriations

**2015-17 Biennium**

| | |
|---|---|
| 1. Added law enforcement-related funding for 8 FTE criminal investigator positions, 3 FTE intelligence analyst positions, 2 FTE assistant attorney general positions, 1 FTE administrative position, 1 FTE grants administrator position, 1 FTE forensic scientist position, and 0.5 FTE attorney position | $3,724,698 |
| 2. Added 2 FTE criminal history identification technician positions | $310,536 |
| 3. Added 1 FTE gaming auditor position | $82,907 |
| 4. Added funding for transfer of the criminal justice information sharing system, including 3 FTE positions transferred and 1 FTE new business analyst position and related operating expenses | $3,270,219 |
| 5. Restored 1 FTE programmer analyst position identified as one-time funding for the 2013-15 biennium | $142,278 |
| 6. Added funding and 9 FTE positions for providing legal services to the North Dakota University System | $3,079,724 |

**2017-19 Biennium**

| | |
|---|---|
| 1. Removed 13 FTE undesignated positions | ($130,782) |
| 2. Reduced salaries and wages in anticipation of savings from vacant positions and employee turnover | ($929,297) |
| 3. Changed funding source for 8 FTE positions from the general fund to federal and other funds | ($1,120,322) |
| 4. Reduced funding for criminal justice information sharing to provide total funding of $3,391,562 | ($188,741) |
| 5. Reduced funding for law enforcement programs | ($219,348) |
| 6. Added funding to provide grants to organizations involved in providing prevention and treatment services related to human trafficking victims | $125,000 |

**2019-21 Biennium**

| | |
|---|---|
| 1. Removed 4 FTE positions, including 1 paralegal position, 1 criminal records specialist II position, 1 assistant attorney general position, and 1 administrative assistant II position | ($641,089) |
| 2. Added 1 FTE forensic scientist position | 224,500 |

| | |
|---|---|
| 3. Transferred 2 FTE criminal justice information sharing positions, including $372,555 of salaries and wages and $9,388 of operating expenses from the Adjutant General - Department of Emergency Services to the Bureau of Criminal Investigation. The total amount transferred was $381,943, including $111,766 from other funds. | 270,177 |
| 4. Added funding for the human trafficking victims grants program to provide total funding of $1.4 million from the general fund | 1,275,000 |
| 5. Added funding for a forensic nurse examiners grant program | 250,000 |

**2021-23 Biennium (Executive Budget Recommendation)**

| | |
|---|---|
| 1. Reduces funding for temporary salaries | ($246,009) |
| 2. Adjusts funding for operating expenses, primarily for information technology contractual services and repairs, information technology software and supplies, travel, operating fees, and rent | ($1,489,628) |
| 3. Adds funding for the state agency Capitol grounds rent proposal | $289,501 |
| 4. Removes funding for 1 FTE assistant attorney general position for the intellectual property attorney program | ($447,790) |
| 5. Reduces funding for human trafficking victims grants to provide a total of $1,002,356 from the general fund | ($400,000) |
| 6. Reduces funding for forensic nurse examiner grants to provide a total of $213,365 from the general fund | ($37,500) |

# GOVERNOR'S RECOMMENDATION FOR THE ATTORNEY GENERAL AS SUBMITTED BY THE OFFICE OF MANAGEMENT AND BUDGET

**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, 2021 and ending June 30, 2023, as follows:

| | Base Level | Adjustments or Enhancements | Appropriation |
|---|---|---|---|
| Salaries and Wages | $45,954,981 | $1,978,929 | $47,933,910 |
| Operating Expenses | 15,588,646 | 586,627 | 16,175,273 |
| Capital Assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |
| Human Trafficking Victims Grants | 1,400,000 | (397,644) | 1,002,356 |
| Forensic Nurse Examiner Grants | 250,000 | (36,635) | 213,365 |
| Litigation Fees | 150,000 | (22,500) | 127,500 |
| Intellectual Property Attorney | 442,085 | (442,085) | 0 |
| Statewide Litigation Pool | 0 | 3,000,000 | 3,000,000 |
| Medical Examinations | 660,000 | 0 | 660,000 |
| North Dakota Lottery | 5,191,454 | 76,036 | 5,267,490 |
| Arrest and Return of Fugitives | 10,000 | (1,500) | 8,500 |
| Gaming Commission | 7,489 | 0 | 7,489 |
| Criminal Justice Info Sharing | 3,631,121 | 179,381 | 3,810,502 |
| Law Enforcement | 2,982,284 | (266,223) | 2,716,061 |
| Total All Funds | $81,490,880 | $4,834,227 | $86,325,107 |
| Less Estimated Income | 35,886,284 | 3,178,122 | 39,064,406 |
| Total General Fund | $45,604,596 | $1,656,105 | $47,260,701 |
| Full-time Equivalent Positions | 245.00 | 3.00 | 248.00 |

**SECTION 2. ONE-TIME FUNDING – EFFECT ON BASE BUDGET – REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty- sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

| One-Time Funding Description | 2019-21 | 2021-23 |
|---|---|---|
| Capital Assets | $1,851,956 | $ 0 |
| Undercover Vehicle Replacement | 200,000 | 0 |
| Criminal History Improvement Project | 400,000 | 0 |
| AFIS Replacement | 316,000 | 0 |
| Charitable Gaming Technology | 400,000 | 0 |
| Crime Lab Equipment | 0 | 1,111,706 |
| CJIS Broker Implementation | 0 | 1,175,000 |
| Statewide Litigation Pool | 0 | 3,000,000 |
| Total All Funds | $3,167,956 | $5,286,706 |
| Total Special Funds | 2,967,956 | 2,286,706 |
| Total General Fund | $ 200,000 | $3,000,000 |

The 2021-23 one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The attorney general shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021 and ending June 30, 2023.

**SECTION 3. 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 fifty-nine thousand four hundred nine dollars through June 30, 2020~~ one hundred sixty-six thousand six hundred sixty-two dollars through June 30, 2022, and ~~one hundred sixty-three thousand three hundred ninety-four dollars~~ one hundred sixty-nine thousand nine hundred ninety-five dollars thereafter.

**SECTION 4. 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, 2021.

**SECTION 5. TRANSFER – LITIGATION POOL TO STATE AGENCIES.** The attorney general shall transfer funds from the statewide litigation pool line item appropriated in section 1 of this Act to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021 and ending June 30, 2023. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04.

**SECTION 6. ADDITIONAL INCOME - APPROPRIATION - REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of $250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021 and ending June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

**SECTION 7. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any person or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-sixth legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021 and ending June 30, 2023.

**SECTION 8. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.** The human trafficking victims grants line item in section 1 of this Act includes $1,000,000 from the general fund for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the biennium beginning July 1, 2021 and ending June 30, 2023. 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 sixty-seventh legislative assembly on the use of the funds received and the outcomes of its program.

**SECTION 9. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.** The forensic nurse examiners grants line item in section 1 of this Act includes $212,499 from the general fund for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the biennium beginning July 1, 2021 and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-seventh legislative assembly on the use of the funds received and the outcomes of its programs.

**SECTION 10. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.** The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021 and ending June 30, 2023.

**SECTION 11. EXEMPTION - CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING.** The amount appropriated to the attorney general from federal funds for coronavirus emergency supplemental funding, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general during the biennium beginning July 1, 2021 and ending June 30, 2023.

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
1/11/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

2:31 Chairman Vigesaa brought the meeting to order. Members present:

Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich,

Representative Howe, Representative Meier, Representative Bellew and

Representative Mock.

. **Discussion Topics:**

- Appropriation request for the 2021-2023 biennium budget.
- Marcy's Law

2:32 Wayne Stenehjem, Attorney general, ND Office of Attorney General. Testimony #470.

3:35 Heidi Smith – ND CJIS – ND Office of Attorney General – Testified about – testimony #470.

3:40 Wayne Stenehjem continued with his testimony.

03:57 Chairman Vigesaa adjourned the meeting.

*Sheri Lewis, Committee Clerk*

#470

# 2021-23 BUDGET

## Office of Attorney General
## State of North Dakota

Wayne Stenehjem
Attorney General

**For the Government Operations Section of the House Appropriations Committee**

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# 2021 HOUSE BILL 1003

## Office of Attorney General

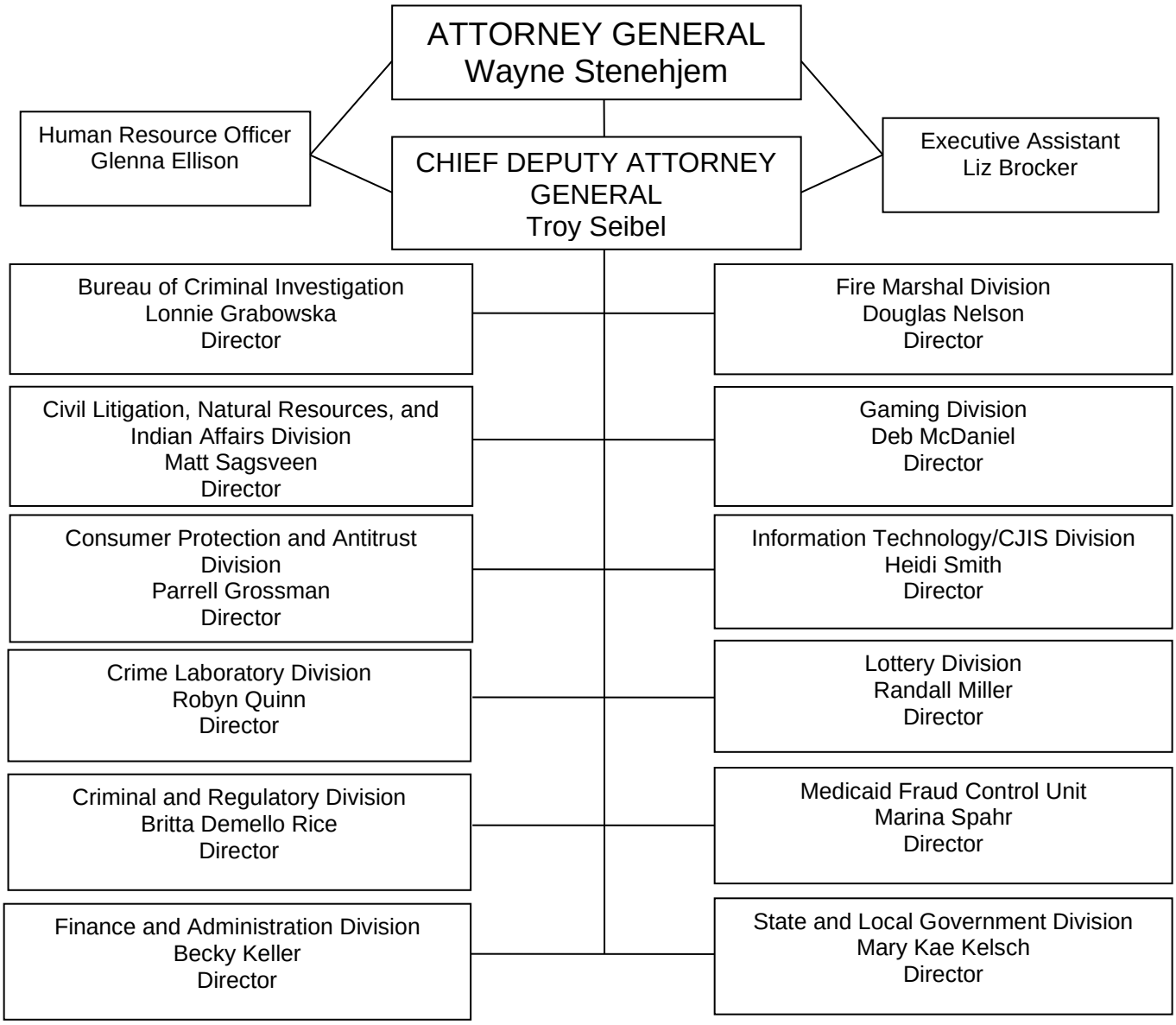
The Office of Attorney General represents and defends the interests of the citizens of North Dakota by executing the responsibilities charged to the North Dakota Attorney General by the North Dakota Constitution, state statutes and administrative rules, North Dakota and federal case law, and common law. The Attorney General is the chief legal counsel and advisor to state government providing legal representation to all facets of state government, including the Governor, all departments of state government, local government and all state agencies, boards, and commissions.

The Attorney General has primary authority to act on behalf of the state of North Dakota in other areas, including criminal investigations; full arrest and law enforcement authority; sex offender risk assessment and registration; Medicaid fraud control; evidence examination and testimony; consumer protection and antitrust; administration, regulation, and enforcement of charitable gaming and lottery activity; and fire inspections, investigations, and mitigation of hazardous materials incidents. Attorney General staff members provided a significant amount of training to North Dakota citizens and others, including law enforcement and the fire services.

The office consists of 13 divisions:

- Administration
- Bureau of Criminal Investigation (BCI)
- Civil Litigation and Natural Resources & Indian Affairs
- Consumer Protection and Antitrust (CPAT)
- Crime Laboratory (Crime Lab)
- Criminal and Regulatory
- Criminal Justice Information Sharing (CJIS) and Information Technology (IT)
- Finance
- Fire Marshal
- Gaming
- Lottery
- Medicaid Fraud Control Unit (MFCU)
- State and Local Government

# NORTH DAKOTA
# OFFICE OF ATTORNEY GENERAL
January 2021



# SUMMARY OF OFFICE OF ATTORNEY GENERAL MAJOR ACCOMPLISHMENTS

## BUREAU OF CRIMINAL INVESTIGATION

- Teamed with local law enforcement partners in establishing task forces which are having a significant impact on major drug trafficking organizations
- Processed approximately 51,000 requests for criminal history record information in 2020.
- Provided National Forensic Academy-trained criminal investigators to respond to crime scenes
- Teamed with federal and tribal partners in establishing the North Dakota Human Trafficking Task Force
- Supplied local law enforcement with updated automated Sex Offender Registry kiosks
- SLIC collaborated with state and private sector partners in establishing the North Dakota Cyber Security Task Force.

### Cyber Crime Unit

The Cyber Crime Unit investigates crimes that are facilitated with the use of a computer or the internet. The unit frequently obtains data from internet service providers through legal processes such as search warrants and administrative subpoenas. The unit's expert level forensic examiners are trained to recover data from digital media devices. These forensic examiners then analyze and report their findings which are often times used to further criminal investigations and are frequently used for evidence purposes in court.

Forensic capable labs are operational in Minot, Bismarck, and Fargo. For the years of 2019 and 2020, the Cyber Crime Unit investigated over 665 cases and forensically examined 1,317 digital media devices. Of those devices, 869 were cellular phones. The total amount of electronically stored information examined was over 115 terabytes.

### 24/7 Sobriety Program

The 24/7 Sobriety Program is designed to remove intoxicated drivers from the road, improve their ability to succeed in their treatment choices, and provide a safer driving environment for the traveling public. Offenders participate in twice-per-day breath tests or electronic alcohol monitoring, seven days per week, for as long as the court order

mandates. Participants are required to pay a fee for the monitoring, which in turn is used to pay for breath alcohol devices, electronic monitoring devices, and other program costs.

Here is some 24/7 Sobriety Program information:

- Total participants since the inception of the program in January 2008 (includes pilot counties): 28,930
- Total participants who graduated from the program: 19,954
- Total participants who have had a test failure (temporary status, have not failed or graduated): 3,335
- Participants currently active in the program: 1,583
- Total breath tests administered since the inception of the program: 1,671,976
- Pass rate of breath tests taken: 97.08% (1,665,551)

The program has been supported by law enforcement, the courts, and the participants, and it is proving to be a successful alternative to incarceration.

## Concealed Weapon Licenses

As of December 15, 2020, 39,332 individuals held North Dakota concealed weapon licenses compared to a total of 46,970 active licenses at the end of 2017, and 29,131 active licenses at the end of 2013. The BCI issued 4,213 concealed weapon licenses in 2019 and 5,450 concealed weapon licenses in 2020. Of the total active concealed weapon licenses, about 21,478 are slated to be renewed in the 2021-23 biennium.

## Criminal History Record Information Requests

BCI processed approximately 51,000 criminal history record information requests in 2020. Of those, 30,000 were requests for data from the state database and 21,000 were requests for federal record checks.

## Sex Offender and Offenders Against Children Registry

Sex offenders and offenders against children are required to be registered with the agency where they reside and appear on the Office of Attorney General's website. As of December 2020, there are 1,534 registered sex offenders, 421 of which were incarcerated within North Dakota. As of December 2020, there are 120 registered offenders against children, 41 of which were incarcerated within North Dakota.

## Information Processing

The Information Processing Unit provides case management support to over 40 BCI agents statewide. 1,628 case numbers were issued over the 2018-2019 2-year period. Cases consist of many reports. In total during this same time period, the IP unit processed 5,685 individual agent reports.

## ND State and Local Intelligence Center

The BCI is a member of the State and Local Intelligence Center (SLIC) whose mission it is to gather, store, analyze, and disseminate information on crimes, both real and suspected, to the law enforcement community, government officials, and private industry, concerning dangerous drugs, fraud, organized crime, terrorism, and other criminal activity for the purposes of decision making, public safety, and proactive law enforcement while ensuring the rights and privacy of citizens.

The BCI supports the SLIC by being a member of the executive board, and by providing personnel in the form of the director of the SLCI and criminal intelligence analysts as well as training and equipment for these personnel.

The SLIC has processed 1,871 requests for information in 2019. In addition, the SLIC has partnered with NDIT to create a multi-state Joint Cyber Security Operations Center.

In 2019–2020, North Dakota experienced an increase in Outlaw Motorcycle Gang activity. This was due to a rival OMG club trying to establish a presence in the state. Prior to 2019 there was only one documented OMG in the state. To compete for control of the state, BCI assesses that both OMG's will continue to increase their membership numbers in North Dakota. It is very likely there will be violent altercations between the two clubs.

## Significant BCI Cases 2019-Present

Brandon Lee Bjornstad of Neche, North Dakota, was sentenced to 60 years in federal prison followed by a lifetime of supervised release for the charges of Sexual Exploitation of Minors, Extortion, Receipt and Distribution of Materials Containing Child Pornography, and Possession of Materials Containing Child Pornography. Bjornstad solicited thousands of self-produced child pornography from hundreds of children located across the United States and elsewhere. Using various aliases, Bjornstad coerced hundreds of children into producing and electronically sharing their self-produced sexually explicit images and videos. Bjornstad illegally enticed his victims with the use of multiple social media platforms such as Skype, Kik, Snapchat, and Musical.ly, among others. On hundreds of occasions, he directed the children to engage in very specific sexually explicit conduct after which he recorded the live presentations. In many cases, Bjornstad then shared this material with others, including other children, and other adult men who shared his sexual interest in children. To date, the North Dakota Bureau of Criminal Investigation has identified 90 children residing in three different countries as part of this investigation.

Dustin W. Kewley and Bryan James Hogle were sentenced to 35 and 45 years in federal prison, respectively, for the charges of Conspiracy to Transport a Minor, and Coercion and Enticement. A forensic examination of Dustin Kewley's computer and cell phone determined that there were chat conversations between Hogle and Kewley, wherein they

discussed in horrific detail their plan to meet for the purpose of sexually abusing a one-year-old child. Kewley transported the one-year-old child from Fargo, North Dakota, to Moorhead, Minnesota, to meet Hogle, who traveled from Las Vegas, Nevada, the previous day. The two men met at a hotel in Moorhead where together they sexually abused the child. Kewley and Hogle subsequently took steps to conceal their crime such as deleting their communications and bathing the child.

Dustin James Gilleo was sentenced to 10 years in federal prison for the charge of Transportation of a Minor. The Beautfort County Sheriff's Office, South Carolina, reported that a missing juvenile female from Burton, SouthCarolina, had been located via cellular phone tracking at the Minneapolis-St. Paul (MSP) International Airport. Further investigation by the MSP Airport Security revealed the missing juvenile entered a vehicle belonging to Dustin Gilleo of Wahpeton, North Dakota. On January 4, 2020, the Wahpeton Police Department located the missing juvenile at a residence in Wahpeton and removed her from the residence, and later interviewed her. During the interview, she said she left her residence in South Carolina and met Gilleo at the MSP Airport as they had previously planned. Gilleo then drove the juvenile to his residence in Wahpeton, where Gilleo and the juvenile engaged in sexual intercourse. Gilleo admitted that the female found at his apartment was the missing juvenile from Burton, South Carolina. He acknowledged meeting the juvenile online and the two had been communicating for over five months. Gilleo admitted their communications were sexual in nature and that they had exchanged sexually explicit images of one another via text and various apps. Gilleo further admitted that he knew the girl was 16 years old at the time she traveled to North Dakota, and he admitted to having sexual intercourse with the girl at his apartment.

Williston BCI Case

On February 10, 2020, BCI was asked to investigate a report that a 21-year-old was sending inappropriate texts and pictures to his 12-year-old step-sister. The suspect was charged with promoting obscenity to minors and luring a minor by electronic means. During this investigation, it was found that the suspect was also in contact with a 14-year-old female from Missouri. An investigation was conducted and as a result, the suspect was also charged with a second luring a minor by electronic means, possession of child pornography, and promoting sexual performance by a minor.

A BCI special agent assisted the Internet Crimes Against Children (ICAC) Task Force on multiple operations and conducted six tactical polygraph examinations with the suspects. Eight previously unknown victims of child sexual abuse were identified due to the examination and subsequent interviews.

RJR Murder Case

On April 1, 2019, at approximately 7:20 am, the Mandan Police Department was called to RJR Maintenance and Management for a medical assist. Law enforcement located three additional RJR Maintenance and Management employees deceased in the

building. The Mandan Police Department contacted BCI to assist with the investigation. BCI documented and processed the crime scene using a UAS (drone), Pointgun, Total Station, Panoscan, and the Scan Station. BCI agents, some trained in advanced crime scene techniques from the National Forensic Academy, processed the scene and processed a pickup that was driven from the scene by the suspect and left in a nearby business parking lot. A BCI agent trained in video collection, preservation, and enhancement collected video from the scene and other businesses throughout the Mandan area. BCI agents completed numerous interviews and a follow-up investigation which led to locating a person of interest. On April 4, 2019, the suspect was detained by members of the McLean County Sheriff's Department. After further investigation on April 4, 2019, the suspect was arrested on four counts of murder. Throughout the investigation, evidence collected by BCI has been processed by the ND State Crime Laboratory and the ATF Forensic Science Laboratory. This case is scheduled for a three-week jury trial in August, 2021. In total, 20 BCI agents assisted in this investigation.

# MEDICAID FRAUD CONTROL UNIT

Medicaid is funded jointly by federal and state government but administered by the state in accordance with federal requirements. Twenty-one percent (21%) of the US population is covered by Medicaid. Ten to fourteen percent (10-14%) of the North Dakota population is covered by Medicaid. Nationally, improper Medicaid payment rates in 2019 were 14.9% and 9.8% in 2018. The national rate of recovery is $6 for every $1 spent on the grant.

The 2019 Legislative Assembly established the Medicaid Fraud Control Unit (Unit) and placed it under the direction of the Attorney General.

- The Unit was substantially staffed in November 2019 and began establishing office procedures and investigating cases at that time.
- The State portion of the budget for the 2019-21 biennium is $207,570 ($103,785 per year).
- From November 1, 2019, through December 24, 2020, the Unit has opened 29 cases.
- Of those 29 cases, 2 criminal prosecutions were filed, and a 3rd case will be filed if the offer for settlement is refused. The fraudulent Medicaid billing involved in 2 of these cases totals $125,000.
- The Unit has investigated 9 abuse/neglect cases, 7 misappropriation cases, and 14 fraud cases.
- 15 of the 29 cases were closed without need for civil or criminal action.
- 3 of the closed cases were referred to other investigative entities.
- 5 of the closed cases were satisfactorily settled, without the need for civil or criminal actions.

- Currently, the Unit is involved in 9 large-scale open investigations.
- The Unit also participates in joint investigations with our federal counterparts.
- On average, most fraud investigations that lead to a prosecution (criminal or civil) require 12-18 months to complete.
- Criminal abuse/neglect investigations typically take 6 months to complete.
- The statistical data will not reflect recoveries until some of the cases make their way through the court system.
- The Unit also provides data for national, or global, Medicaid provider fraud cases, which involve multiple states. This past year, the Unit participated in 39 global cases, some of which resulted in civil settlements. Those settlements provided $84,000 in repayment for North Dakota Medicaid.

In December 2020, the Coronavirus Relief and Omnibus Funding Bill was enacted. The bill expanded the investigative and prosecutorial jurisdiction of MFCU's to include cases of abuse and neglect of Medicaid patients in non-institutional settings. Examples of settings that could now be allowed to be investigated are in-home, community-based services and office settings. The current trend is to assist people, including Medicaid recipients, to be able to stay and function in their homes as long as possible.

**Cases Filed or Otherwise Completed**

State v. Reilly – Pembina County – Reckless Endangerment (2 counts) and Theft (10 counts) – A Licensed Practical Nurse (LPN) was allegedly stealing pain medications from basic care residents. She has also been charged with replacing pain medications in the residents' bubble packs with unprescribed over the counter or prescription medications. Replacement of the opioids created a substantial risk of serious bodily injury to the residents. Jury trial is set for June 2021.

State v. Fruge – Burleigh County – Medicaid Provider Fraud and Theft – A Qualified Service Provider has been charged with failure to supply any records for the services provided. She is charged with not keeping track of services provided, when they were provided or to whom they were provided. She was required by the Medicaid Provider Agreement to maintain records of services and turn them over to the North Dakota Department of Human Services when requested. She billed North Dakota Medicaid for $80,000 of undocumented services.

Another case has a settlement offer being considered. If the settlement offer is not accepted, it will also involve a criminal filing. A clinical social worker fraudulently billed Medicaid for services not rendered. She obtained Medicaid patient identification numbers belonging to members she had never seen or had seen on a limited basis, many of them children, and then billed Medicaid, Blue Cross Blue Shield, and Tricare for services that were not provided. The minimum Medicaid losses are $45,000.

Three cases involving the improper use of stimulus checks by long term care (LTC) facilities were resolved without the necessity for filing an action. Once the Unit

explained the law applicable to residents receiving stimulus money, the LTC facility administrators were very willing to modify their policies and procedures to comply with the law.

### Sample of Current Investigations

The Unit is investigating a psychologist who appears to be upcoding, billing for Saturdays and holidays, and failing to document the time associated with providing some other services. The total Medicaid liability is approximately $88,000. While investigating this matter it became evident that other insurance entities may also have been defrauded in a similar matter. The Unit will provide their investigative results to the other insurance providers allowing them to initiate other recovery proceedings if they so choose. The Unit is also working with the North Dakota Insurance Department investigators regarding the loss to private insurance entities. The total loss to other insurance providers is approximately $270,000.

## CIVIL LITIGATION & NATURAL RESOURCES

### Dakota Access Pipeline Protest Related Lawsuits

#### North Dakota v. United States Army Corp of Engineers (FTCA) (2018)

North Dakota sued the U.S. under the Federal Tort Claims Act (FTCA) in July of 2019, seeking to recover the over $38 million in damages due the U.S. Army Corps of Engineers failure to follow its own rules for federal lands during the 2016 – 2017 protests over the construction of the Dakota Access Pipeline. The federal District Court in North Dakota denied the U.S.'s first effort to dismiss the case, holding that the Corps circumvented mandatory permit requirements when it invited and enabled the protesters to occupy federal lands. The case is now in the discovery phase.

#### DAPL Personal/Constitutional Injury Lawsuits

Four separate lawsuits arising out of the DAPL protests were filed in US District Court between 2018 and 2020 against various defendants, including some state defendants, for alleged constitutional or personal injuries. One of the lawsuits alleges the closure of a portion of Highway 1806 during the DAPL protests violated multiple constitutional rights of the protestors, including the First Amendment. The other three lawsuits involve personal injuries of individual protestors that occurred during the DAPL protests. The state defendants have succeeded in having the three personal injury lawsuits dismissed. In September 2020, the district court dismissed all but a First Amendment free speech claim against the state defendants in the lawsuit involving the closure of Highway 1806. The state defendants have appealed that decision to the Eighth Circuit Court of Appeals arguing they are entitled to qualified immunity on the First Amendment claim.

## Significant Accomplishments and Cases

### Burgum v. Jaeger (2020)

Governor Burgum filed a petition for writ of mandamus with the North Dakota Supreme Court claiming he had the constitutional authority to fill a vacancy in the North Dakota House of Representatives caused by the death of David Andahl during the 2020 election. The Governor challenged the right of the District 8 Republican Committee to appoint someone to fill the vacancy, as outlined in an Attorney General opinion addressing the manner in which the vacancy should be filled under existing statutes.

The North Dakota Supreme Court, in a unanimous ruling, denied the petition, concluding the Governor did not have the authority to fill the vacancy because the law already provided a method for filling the vacancy.

### Oil & Gas Development and Enforcement

The Division's assigned attorney presided over almost 2,700 oil & gas administrative hearings during the 2017-19 biennium through 2020 (total by calendar years for the past 4 years: 2017 – 811, 2018 – 909, 2019 – 953 and 2020 – 451). The Division assisted the Industrial Commission's Department of Mineral Resources in pursuing 14 civil administrative cases for violations of the Commission's rules, orders, and regulations for the 2017-19 biennium, and 6 civil administrative cases for violation of the Commission's rules, orders, and regulations from July 1, 2019, to date. In the 2017-19 biennium, $2,590,034.78 was collected; and, from July 1, 2019, to date, $1,892,058.85 has been collected. As of the end of the 2017-19 biennium, 6 cases were pending, and 5 civil administrative cases were pending at the end of 2020.

### Environmental Protection

The Division assisted the Department of Environmental Quality with its regulatory work involving air pollution control, asbestos removal, water pollution control, radioactive materials management, and solid waste and hazardous waste management. During the biennium, the Division assisted the Department in pursuing more than 120 enforcement actions, collecting more than $377,000 in penalties for violations.

### Hydraulic Fracturing (Fracking) Rule Cases

In December 2017, the BLM rescinded the Obama-era 2015 Fracking Rule, returning regulatory authority over hydraulic fracturing to the states (North Dakota had already successfully obtained a court order striking down the 2015 Fracking Rule). BLM's decision is currently being challenged in the 9th Circuit by a coalition of states led by California and several environmental groups. North Dakota is monitoring this case because if the 9th Circuit overturns BLM's decision and the 2015 Fracking Rule is reinstated, North Dakota's successful litigation against 2015 Fracking Rule would come into play again.

Venting and Flaring Rule Cases

In October of 2020 the federal District Court in Wyoming vacated the Obama BLM's 2016 Venting and Flaring Rule, which imposed air quality regulations on venting and flaring of natural gas from split estates common in North Dakota where state and private lands are pooled with federal mineral interests. The Court agreed with North Dakota's split estate arguments, concluding that BLM did not give have the authority to impose federal requirements on communitized state and private mineral interests.

2016 and 2020 Methane Rule Cases

North Dakota has played a leading role in the consolidated litigation challenging the validity of the Obama EPA 2016 Methane Rule (regulating of methane emissions from oil and gas operations) in the D.C. Circuit Court of Appeals. When EPA issued a more reasonable methane rule in 2020, that rule was immediately challenged by a group of states led by California, as well as by several environmental groups. North Dakota is the only state to have intervened on EPA's side and in support of reasonable regulation of methane emissions from the state's important oil and gas sector.

The Clean Power Plan and Affordable Clean Energy Rule Cases

North Dakota played a leading role in persuading the U.S. Supreme Court in 2016 to prohibit implementation of Obama EPA's 2015 Clean Power Plan (CPP), which unlawfully regulated greenhouse gas emissions from large existing power plants and would have had a significant negative impact on North Dakota's power plants, electricity rates, and the lignite coal mining sector. In July of 2019 EPA replaced the CPP with the Affordable Clean Energy Rule (ACE Rule) which was promptly challenged in the DC Circuit. North Dakota intervened on behalf of EPA and filed a brief in support of the ACE Rule (oral argument was held in October 2020).

Waters of the United States

North Dakota continues to play a major role in the litigation over the definition of Waters of the United States (WOTUS), a very important issue for North Dakota's farmers and ranchers. North Dakota successfully obtained a federal Court injunction preventing the 2015 WOTUS rule from taking effect, though the Court has yet to issue a final ruling in that case because in 2020 the Trump EPA replaced the 2015 WOTUS Rule, generating a new round of lawsuits. North Dakota's challenge to the 2015 WOTUS rule is stayed pending the outcome of the litigation over the 2020 rule, and the WOTUS landscape is expected to shift again with the incoming Biden administration.

Paul Sorum, et al., v. The State of North Dakota (2018)

The plaintiffs challenged the Legislature's 2017 enactment of Senate Bill No. 2134, which created a statutory process for establishing the Ordinary High Watermark for Lake Sakakawea and a certain portion of the Missouri River upstream from the Lake. The district court held that a majority of the new law was constitutional, but also held that a subdivision of the law was unconstitutional and awarded over $700,000 in attorney's fees. The North Dakota Supreme Court subsequently upheld the

constitutionality of the law and rejected the plaintiffs' attorneys fee award. The plaintiffs recently petitioned the United States Supreme Court to hear their case.

North Dakota v. United States - (Section Lines) (2012)

In 2012 the State and certain Counties brought suit in federal district court against the United States Forest Service, to quiet title to section line rights-of-way in the National Grasslands in North Dakota. The district court dismissed the State and Counties section line claims based upon the federal Quiet Title Act's statute of limitations. Both the State and the Counties appealed the district court's dismissal of the parties' section line claims to the 8th Circuit Court of Appeals.

Northwest Landowners Association v. State of North Dakota, et al.; Case No. 1:18-cv-00236

The Northwest Landowners Association (NWLA) brought suit against the State of North Dakota, the Industrial Commission, the Board of University and School Lands, the Governor, and the Attorney General, challenging Senate Bill 2344 (2019) (SB 2344). SB 2344 includes a variety of provisions, including a designation that carbon dioxide is an acceptable method for enhanced recovery of oil, gas, and other minerals; public interest statements related to the use of carbon dioxide; limitations on a surface landowner's remedies relative to a person conducting operations approved by the Industrial Commission under N.D.C.C. ch. 38-08; amendments to legislative findings; amendments to definitions; and a recognition that in North Dakota the mineral estate is the dominant estate. The State and the Counties have both moved for summary judgment and the case is pending before the state district court.

Missouri River/Garrison Diversion Litigation

The State of Missouri has sued the Garrison Diversion and Bureau of Reclamation over the Central Dakota Water Project, which would divert 20 cubic feet per second of water from the Missouri River to the McClusky canal. The State intervened in the litigation because Missouri's complaint seems to indicate that Missouri is less concerned about the Garrison Diversion's Central Dakota project, but rather intends to use the lawsuit as a mechanism to litigate water use out of the Missouri River generally.

Pharmaceutical Care Management Association v. Mylynn Tufte, et al. (2017)

Pharmaceutical Care Management Association (PCMA) filed a complaint in federal district court challenging the Legislature's 2017 enactment of Senate Bill No. 2301, which was one of two bills that sought to define the rights of pharmacists in relation to pharmacy benefit managers (PBMs), and to regulate certain practices by PBMs. PCMA alleged federal law preempts SB 2301. The parties filed cross motions for summary judgment, and the district court granted the State's motion in part and denied it in part. PCMA appealed the district court's decision to the Eighth Circuit Court of Appeals, which affirmed and reversed the district court's decision in part. The end result was that the State had lost its appeal. The State has further appealed the decision by petitioning the U.S. Supreme Court.

Guardian Flight LLC v. Jon Godfread (2018)
The plaintiffs are challenging the Legislature's 2017 enactment of Senate Bill No. 2231, which provides that payment by an insurer to a provider for air ambulance services is full and final payment with no option for the provider to seek the balance from the patient. S.B. 2231 also prohibits air ambulance subscription agreements. The plaintiffs are arguing that the law is expressly preempted by federal law. The parties filed cross-motions for Judgment on the Pleadings. The US District Court found that the payment provision in S.B. 2231 is preempted by federal law, and state officials are enjoined from enforcing that part of the law. However, the US District Court found that the portion of S.B. 2231 prohibiting air ambulance subscription agreements is not preempted by federal law and is enforceable. The parties cross-appealed to the 8th Circuit Court of Appeals. Briefing on the appeals is concluded and oral arguments were heard on June 16, 2020. The 8th Circuit Court of Appeals has not yet ruled on the case.

Breanna Berndsen, et al. v. The North Dakota University System (2018)
Former members of the University of North Dakota (UND) women's hockey program filed a class action lawsuit against the University System, alleging that UND violated Title IX by eliminating its women's hockey program. The federal district court granted UND's motion to dismiss the plaintiffs' claims and the plaintiffs appealed the decision to the 8th Circuit Court of Appeals, which recently held arguments regarding the case.

Tobacco Enforcement
In 2018 the State settled a long dispute with tobacco companies concerning the 1998 Master Settlement Agreement, and allegations that the State had not diligently enforced the Agreement. The 2018 settlement resulted in the release of millions of dollars belonging to North Dakota that tobacco companies had held in an escrow account during the decades-long dispute, and the settlement of future years to 2023. In addition, North Dakota will continue to receive the annual payments it is due under the Master Settlement Agreement.

Mickelson et at v. ND DoH et al. (2020)
On March 26, 2020, Plaintiffs challenged the new administrative cottage food rules, effective January 1, 2020. The parties made cross-motions for judgment on the pleadings, regarding whether DoH had statutory authority to enact the new cottage food rules. On December 10, 2020, the state district court granted Plaintiffs' motion for judgment on the pleadings, ruling that DoH exceeded its authority in enacting the new cottage food rules, and enjoined enforcement on the rules.

Northwest Area Water Supply (NAWS) Pipeline
The court battle over the NAWS, which will bring much-needed water from the Missouri River to Minot and surrounding counties, was finally successfully concluded in this biennium.

Spoofcard v. Stenehjem (2020)

Spoofcard, LLC filed suit in US District Court alleging that North Dakota's "Caller ID Anti-Spoofing Act" was preempted by federal law and violated both the Commerce Clause and the First Amendment. In November 2020, the district court determined the Anti-Spoofing Act violated the Commerce Clause and granted judgment in favor of Spoofcard without addressing the First Amendment and preemption claims.

Election Lawsuits

Several election lawsuits were filed in 2020 relating to the COVID-19 pandemic, including Sinner v. Jaeger, wherein a sponsoring committee seeking to circulate an initiative petition for signatures brought suit in federal court against the Secretary of State, claiming the in-person signature gathering requirements were unconstitutional in light of the pandemic. The court denied the sponsoring committee's motion for preliminary injunction, finding it was unlikely to prevail on the merits, after which the sponsoring committee voluntarily dismissed its lawsuit. In Self Advocacy Solutions N.D. v. Jaeger, the plaintiffs sued the Secretary of State in federal court, alleging that North Dakota's system of comparing signatures on absentee ballot applications with signatures on the voter's affidavit on ballot envelopes violates due process and the right to vote. The Court granted the plaintiffs' motion for preliminary injunction and ordered the parties to confer and agree upon procedures sufficient to safeguard voters' constitutional rights in the June 2020 primary election. The parties stipulated to a new procedure of notice and opportunity to cure. The new procedure was used successfully during the June 9, 2020 primary election, after which the parties stipulated to make the injunction permanent, to be in effect as long as North Dakota continues to rely on signature matching for absentee ballot verification, unless legislation is enacted to provide a different procedure.

In addition to the COVID-19 related election cases, two federal voter ID cases were resolved in 2020. In Spirit Lake v. Jaeger and Brakebill v. Jaeger, the plaintiff's brought suit against the Secretary of State, alleging North Dakota's voter ID laws and the SOS's enforcement of the laws violated the constitutional rights of Native American voters. Both cases were settled in April 2020 with a consent decree that did not change any of North Dakota's voter ID laws, but contained provisions by which the SOS agreed to assist the Plaintiffs in complying with those laws. As part of the settlement, the Plaintiffs waived their right to recovery of attorneys' fees, with the exception of a portion of the fees in Brakebill v. Jaeger, which is currently the subject of an appeal to the Eighth Circuit Court of Appeals.

Dakota Access, Limited Liability Corporation (LLC) (2018)

On July 3, 2018, the Division filed a Complaint in state court to compel Dakota Access, LLC to divest ranch land. On April 12, 2019, Dakota Access, LLC divested subject lands, by warranty deed, to 1806 Ranch LLC, a family farm/ranch LLC. On April 30, 2019, the ND District Court dismissed the case with prejudice.

Farm Equipment Dealership Network Law (SB 2289) (2017)

The Division defended 2017 Senate Bill No. 2289, regulating farm equipment dealer and farm equipment manufacturer contractual relationships. On July 24, 2017, several major farm equipment manufacturers challenged the law under numerous constitutional and federal preemption legal theories. On October 19, 2020, the U.S. District Court ruled that all of SB 2289 shall be applied prospectively from its effective date of August 1, 2017, the court nullified the arbitration provision. Nothing in SB 2289 may be applied retroactively.

Farm Bureau, et al: Corporate Farming Challenge (2016)

The Division defended the state's corporate farming law in federal court from a constitutional challenge. In September 2018, the US. District Court found that the statute violated the dormant Commerce Clause. In August of 2019, the US District Court awarded Plaintiffs $175K in attorneys' fees. This award order has been submitted to OMB, for subsequent consideration by the upcoming Legislative session to make an appropriation to pay it.

Fleck v. Wetch (2015)

Arnold Fleck filed suit in US District Court alleging that mandatory membership in North Dakota's integrated bar association violated his First Amendment rights to free speech and association. The suit made claims against both the State Bar Association and the State Board of Law Examiners. After the defendants successfully had the case dismissed in both the district court and the Eighth Circuit Court of Appeals, the United States Supreme Court reversed and remanded the case to the Eighth Circuit for reconsideration in light of a recent Supreme Court decision that was decided in the interim.

In August 2019, the Eighth Circuit again held in favor of the defendants and concluded that Fleck failed to show North Dakota's integrated bar violated the First Amendment. In April 2020, the United States Supreme Court denied Fleck's request to review the Eighth Circuit's decision.

Sexually Dangerous Individuals (2013)

The State recently settled a challenge to its civil commitment laws, N.D.C.C. ch. 25-03.3, for individuals who have been assessed as "sexually dangerous" and involuntarily committed to the State Hospital for treatment. The case dates back to 2013. The plaintiffs argued that the Department of Human Services/the North Dakota State Hospital violated certain alleged constitutional rights by, among other things, the classification methods of sexually dangerous individuals, the methods and timing of certain treatments and privileges, as well as alleged violations of religious freedoms. The plaintiffs also argued that the Department of Corrections and Rehabilitation violated the constitutional rights of individuals by failing to provide certain notifications to the individuals while incarcerated. The State agreed, through the settlement agreement, to

certain changes to its policies and procedures, and payment of attorney fees to court appointed counsel.

# CRIMINAL & REGULATORY DIVISION

Attorneys in the Criminal & Regulatory Division prosecute criminal cases statewide, at the request of the county state's attorneys. Since July 1, 2019, two attorneys assumed prosecution, from the Williams County State's Attorney, of a seventeen-year-old defendant who shot two nineteen-year-olds – one of whom died – during a drug deal involving LSD. The now eighteen-year-old defendant was convicted and is serving ten years at the North Dakota Department of Corrections.

The division worked on many federal habeas corpus petitions during the biennium. There were twelve matters requiring responses at the U.S. District Court level. Seven were dismissed by that court. The rest are pending. Eight cases were worked on at the 8th Circuit Court of Appeals, seven have been dismissed and one remains pending. One case was taken to the United States Supreme Court and the Writ of Certiorari was denied by that court. Thanks to the good work of state's attorneys across the state, none of the cases resulted in reversals of convictions or new trials. The petitioners included four cases involving deaths, five involving sexual offenses, and one kidnapping.

Although the Bureau of Criminal Investigation handles sex offender registration, attorneys from the division help lead the monthly meeting of the Sex Offender Risk Assessment Committee. During this biennium, the SORAC assessed 480 offenders residing or working in the State of North Dakota. In addition, an attorney and the offender registration supervisor visited four cities in the state to provide sex offender registration training to staff at local law enforcement agencies.

Division attorneys serve as instructors at the Law Enforcement Training Academy (LETA) in Bismarck. The LETA graduates three classes of basic law enforcement candidates each year. During this biennium, attorneys taught Criminal Law, North Dakota Criminal Procedure, North Dakota Rules of Evidence, Legal Aspects of Use of Force, and Criminal Investigations of Sex Crimes. Attorneys also instructed on topics such as Search & Seizure, Miranda, and Courtroom Testimony to law enforcement students who attended the BCI Criminal Investigations School, which was held twice during the biennium.

Following civil asset forfeiture reform in early 2019, attorneys have continued to advise law enforcement and local prosecutors on compliance with the new regulations. This has included revising law enforcement MOUs, compilation of civil asset forfeiture reports, and proposing potential legislative fixes to streamline reporting to lessen the burden on local prosecutor offices.

# STATE AND LOCAL GOVERNMENT DIVISION

Since July 1, 2019, the office has issued a total of 36 opinions, of which 23 were open records opinions, and 13 were opinions on questions of law related to matters involving state statutes, the state Constitution, and issues having statewide significance, including the October 13, 2020, opinion addressing the effect of votes cast for a deceased candidate for political office, an opinion that was upheld by the North Dakota Supreme Court. In addition, division attorneys reviewed 80 administrative rules submitted for review by other state entities.

The attorneys in the division provide general counsel to 70 state agencies, regulatory boards, and state created boards and commissions. General counsel work includes contract review, policy review, legal advice regarding contract implementation, employment issues, and compliance with state and federal rules and laws.

During the pandemic, the work of general counsel has proven crucial. The attorneys have helped clients navigate a new landscape of COVID employment policies, executive orders, acquisition and distribution of PPE, and contract disruptions. One assistant attorney general represents the Department of Health which is at the epicenter of the state's response to the pandemic. Many clients, such as the Department of Commerce, Job Service, the Bank of North Dakota, and the Department of Public Instruction needed legal advice to navigate the federal CARES Act. State regulatory boards such as the Board of Medical Imaging and Radiation Therapy, Board of Respiratory Care, and the Education Standards and Practices Board, among others, were inundated with demands to adapt to a workforce stressed by COVID. Almost every client has had to address issues brought on by this pandemic.

# CRIME LABORATORY DIVISION

The office received 10,802 cases (excluding breath alcohol tests) from January 2019 to December 2020.

The current turnaround times are as follows:

- Approximately 67 days for drug cases
- Approximately 8 days for fire debris cases
- Approximately **109 days for DNA cases – currently 481 DNA analysis cases are awaiting completion**
- Approximately 30 days for toxicology (blood alcohol cases)
- Firearms cases are outsourced due to staffing issues
- Approximately 60 days for latent print cases (confirmations are outsourced due to staffing issues – there is only one qualified latent print examiner at the Crime Lab)

## Combined DNA Index System (CODIS)

The NDOAG-CLD DNA Unit processed a total of 4,993 convicted offender and arrestee samples in 2019 and 2020. There are approximately 50,331 DNA profiles in North Dakota's State DNA Index System database (SDIS). Since 2003, the Crime Laboratory Division has averaged 574 convicted offender samples per year. Since 2009, the Crime Laboratory Division has averaged 2,606 arrestee samples per year.

**North Dakota CODIS Database**

| | 12/2000-12/2018 | 01/2019-12/2020 |
|---|---|---|
| Convicted Offender DNA Profiles | 12,773 | 513 |
| Arrestee DNA Profiles | 26,861 | 4,480 |
| NDIS Forensic DNA Profiles* | 1,612 | 416 |
| SDIS Forensic DNA Profiles ** | 242 | 33 |

**North Dakota CODIS Hits**

| | 12/2000-12/2018 | 01/2019-12/2020 |
|---|---|---|
| Investigations Aided *** | 764 | 254 |
| State Forensic Hits (crime scene to crime scene) | 99 | 52 |
| State Arrestee Hits | 343 | 167 |
| State Convicted Offender Hits | 195 | 33 |
| National Forensic Hits | 36 | 30 |
| National Arrestee Hits | 135 | 51 |
| National Convicted Offender Hits | 172 | 42 |

* State forensic unknown, partial and mixture DNA profiles that qualify for NDIS and are therefore compared against the national database.
**State forensic unknown, partial and mixture DNA profiles that do not qualify for NDIS and are therefore compared against only the North Dakota database
*** Investigations aided are the number of cases where CODIS has added value to the investigative process.

The National DNA Index System (NDIS) has existed since 1998 and contains DNA profiles contributed by all 50 states, the District of Columbia, the federal government, the U.S. Army Criminal Investigation Laboratory, Puerto Rico, and local participating forensic laboratories.

NDIS (National DNA Index System)

| | |
|---|---|
| Convicted Offender DNA Profiles | 13,444,810 |
| Arrestee DNA Profiles | 3,323,611 |
| Forensic DNA Profiles<br>(Unknown, Partial and Mixture) | 894,747 |
| TOTAL | 17,663,168 |

NDIS (National DNA Index System)

| | |
|---|---|
| Investigations aided | 42,808 |
| Forensic hits (crime scene to crime scene) | 67,462 |
| Intrastate hits<br>(crime scene to convicted offender within a state) | 323,210 |
| Interstate hits<br>(crime scene in one state to convicted offender in another state where CODIS aided an investigation) | 49,674 |

# INFORMATION TECHNOLOGY/CRIMINAL JUSTICE INFORMATION SYSTEM

Throughout the 2019-21 biennium, the IT/CJIS Division has completed a variety of IT projects. A majority of the projects contribute to increasing public and law enforcement safety. Automating the sending and receiving of criminal history, disposition, and case filing data across various platforms increases the timeliness and accuracy of criminal history records and information that law enforcement relies on to safely perform their job duties.

BCI and IT/CJIS leveraged grant funds to automate the process of transmitting disposition data from the courts and state's attorneys to the state criminal history system. The data includes information on all persons prohibited from possessing firearms for mental health reasons from the courts, felony convictions, convictions for misdemeanors involving domestic violence and stalking, and drug convictions. This information is then reported to the FBI, resulting in more complete and accurate criminal history information.

IT/CJIS also completed a re-write of the North Dakota criminal history system. The previous system was designed 20 years ago. The new criminal history includes accepting the incoming disposition workflow that allows BCI staff to review and import received dispositions much more efficiently.

Another project IT/CJIS completed was the development of an "E-charging" system which allows paperless submission of case charging information from the IT/CJIS state's

attorney's records management system (STARS) to the court's case management system, Odyssey. This system allows for initial and supplemental electronic filing of court cases from a state's attorney's office directly to Odyssey. Agencies utilizing these programs can now paperlessly file a case from the point of arrest to prosecution, disposition, and reporting back to criminal history.

In addition to the criminal justice programs that IT/CJIS develops and maintains, we completed phase one of the gaming core re-write project. Phase one provides a new online application that charitable gaming organizations (CGO) can use to fill out their tax forms and pay online. The system also includes extensive tax information checking to streamline the collection of tax information. Before the system, CGOs would submit hundreds of pages of tax information by mail. The next phases for the project include an online application for distributors to buy gaming stamps and report sales, as well as upgrades to the core gaming system to a new platform to allow integration with the new online systems.

IT/CJIS has various ongoing and upcoming projects that will continue to improve and streamline workflows and business processes for criminal justice, the general public, and the Office of Attorney General. IT/CJIS is developing a warrant system that integrates with the Odyssey system. This system will receive warrant information electronically. Law enforcement will be able to add additional details to active warrants, validate warrants, and send updates to the FBI. This system will notify law enforcement and the courts when updates to warrants are completed.

The IT/CJIS staff supports and maintains over 45 software programs for the Office of Attorney General, criminal justice agencies, victims of crime, and the general public. Staff also provide desktop support services to all employees of the Office of Attorney General.

## Marsy's Law Implementation

Another initiative that IT/CJIS completed this biennium was the Marsy's Law Initiative projects. During the 2017-19 biennium, IT/CJIS identified notification gaps between Marsy's Law requirements and what the North Dakota Statewide Automated Victim Information and Notification (ND SAVIN) system provided. In the 2019-21 biennium, IT/CJIS finalized all projects relating to victim notifications required by Marsy's Law. The projects included adding commitment, juvenile court, sentencing, and open record request notifications. IT/CJIS also developed a statewide repository where victims can assert their rights, and criminal justice personnel can search and track victim assertions statewide.

# CONSUMER PROTECTION AND ANTITRUST DIVISION

CPAT opened 646 consumer complaints and investigations and closed 639 files in 2020. The division recovered or collected $647,299 in consumer restitution and $1,405,310 in attorneys' fees, investigation costs, and civil penalties relating to litigation completed. The division took legal action against 73 companies or individuals. The division also obtained unpaid legal judgments in the amount of $414,740.

Most notable for the 2019-21 biennium are the division's: 1) investigation and legal actions relating to opioids manufacturers and distributors; 2) investigations and legal actions relating to anticompetitive conduct by the "Big Tech" firms; 3) participation in multistate Equifax data breach investigation and legal action involving compromised personal or financial information affecting over 250,000 North Dakota consumers; and 4) processing of 618 ID theft complaints between January and December, 2020 related to the Job Service North Dakota false claims for unemployment insurance.

The division has identified the top ten consumer complaints through December 2020:

1. Identity theft
2. Imposter scams
3. Telemarketing/Do Not Call
4. Contractor/Home improvement
5. Automobile
6. Mail order
7. Entertainment
8. Services
9. Retail
10. Debt adjustment/Settlement – credit counseling

# GAMING DIVISION

The legalization and implementation of electronic pull tab devices during the 2019 fiscal year significantly increased the gaming wagers for the 2017-19 biennium. Final numbers for the 2017-19 biennium include wagers of $852.6 million raising over $51.6 million for charitable uses (such as student scholarships, community crime prevention projects, financial and other assistance to injured and disabled veterans) and generating over $10.8 million for the general fund. This compares to $544.5 million in wagers, $43.8 million in charitable uses, and $6.5 million for the state's general fund during the 2015-17 biennium.

The number of e-tab devices has grown significantly. As of December 31, 2020, there were 3,221 devices conducted by 220 organizations in 828 sites. This compares to 1,814 devices conducted by 178 organizations at 488 sites at the end of the 2017-19 biennium.

Despite restrictions in hours of operation and game types due to COVID-19, there has been a dramatic increase in the estimated amounts for fiscal year 2020 including gaming wagers of $882.6 million, charitable uses of $38.1 million and general fund deposits of $13 million.

Due to this increase in gaming activity there has also been an intense increase in workload for the Gaming Division. To help organizations with reporting responsibilities, the Attorney General requested funding during the 2019 legislative session for a new gaming system to allow organizations to file and pay their gaming taxes online. This system is in phase 2 of completion and with additional funding the division will complete phase 4, the final phase, by 2022. This system greatly reduces the time and paperwork for organizations while creating an easy and convenient way to file and pay gaming tax. Though this system will immediately help licensed organizations it will not reduce the extra workload for the Gaming Division. The division is struggling to effectively regulate the rapidly expanding gaming industry and keep pace with continuously changing technical standards.

# FIRE MARSHAL DIVISION

The Fire Marshal's Division accomplishes fire prevention goals through fire investigation, fire inspection and code enforcement, plan review, data collection, fire safer cigarettes, and public education programs.

## Fire Investigations

Fire investigations are conducted to assist local fire departments and law enforcement agencies with origin and cause investigations and reports. Staff respond all days of the week and at any hour of the day to accomplish this task. In 2019, fire investigation activities included 121 total investigations, of which 96 were closed (22 accidental, 1 natural, 12 incendiary, and 61 undetermined). There are currently 25 open cases.

## Fire Inspection and Code Enforcement

The fire inspection program is conducted through the State Fire Marshal's rules for prevention of fires, inspection of facilities as outlined in the North Dakota Century Code, and assisting other agencies/local fire departments with code enforcement as requested.

Effective July 1, 2020, the State Fire Marshal's Office adopted the 2018 Edition of the International Fire Code as our state rules for fire prevention. This was done through the administrative rule process and brought the state closer in-line with local government fire code adoptions resulting in a more level regulatory environment across the state.

In 2020 (the most recent year full statistics were available at the time of this report), the State Fire Marshal's Office completed:

- Total Fire Inspections - 364
- Schools – 86
- State Buildings – 236
- Other (childcare, assembly/liquor license, requested assistance by local fire department) – 42

The division is in the process of researching software for the fire inspections program with the goal of being software based by January 1, 2022. If this transition is accomplished, it will make inspections, reporting, data collection, and data analysis much more efficient.

## Fire Protection Systems Plan

The plan review program is designed to help meet Century Code requirements and to ensure that fire protection systems, above-ground fuel storage tanks, and liquid petroleum gas tanks are designed and installed according to code. This program has been updated resulting in a higher workload, better quality review, and partnership with local businesses and contractors to resolve fire code issues prior to installation. Over the past 4 years, it is clear to see the increase in workload that this program has resulted in.

- Plans received/reviewed in 2017 – 21
- Plans received/reviewed in 2018 – 23
- Plans received/reviewed in 2019 – 141
- Plans received/reviewed in 2020 – 121

The division is in the process of researching software solutions to increase the efficiency of assignments, tracking and data analysis for the plan review program. The goal for this software solution is to be online July 1, 2021.

## Public Education

The State Fire Marshal is charged with fire safety public education initiatives. Currently the State Fire Marshal's Office provides public education through the childcare fire safety program, monthly fire safety messages to fire chiefs, and through assistance with fire prevention training and certificate programs. Public Education initiatives that are not available due to current workload include smoke alarm installation campaigns, youth fire-setter prevention, new construction requirements, and communication.

## Fire Data Collection

The National Fire Incident Reporting System (NFIRS) program requires the State Fire Marshal to be the State Program Manager for all reporting of fires into both the state and national databases. This is accomplished through the use of the NFIRS system and a fire incident reporting software state contract. The state contract provides a free fire incident reporting software (Emergency Reporting) to all fire departments in the state. The state contract with Emergency Reporting has been paid for by the Department of Forestry through grants over the last four years. The state contract is necessary to increase participation of fire reporting in North Dakota and important for the State Fire Marshal and Department of Forestry to fund.

- Fires reported in 2019 (most recent year of complete data) – 2,257
- Fires resulting in fatality in 2019 – 8
- Dollar loss attributed to fire in 2019 - $25,461,162
- Percentage of fire departments reporting fires – 56% (205/366)

## Fire Safer Cigarettes

The fire safer cigarettes program was established in 2010 and requires cigarette manufacturers to comply in order to sell their product in North Dakota. The requirements include but are not limited to the ability to ignite material, self-extinguishment, and markings on packaging for identification purposes. Every year division staff inspect the cigarettes to ensure that what has been submitted to the office matches what is being sold in the state.

- Cigarettes certified since the program's inception (2010) – **1,482**
- Cigarettes currently certified – **1,044**
- Cigarettes types certified in 2019-20 – **932**

## DOT Emergency Responder Guidebooks (ERG's)

The division partners with the US Department of Transportation to assist with distribution of Emergency Response Guidebooks (ERG) to first responders in the state. The ERG provides first responders chemical information to aid in decision-making in the first thirty minutes of a hazardous materials incident. Through December 2020, the division received 5,124 ERG's and distributed 2,713. There were 1,792 hazardous materials incidents in North Dakota in 2019.

# LOTTERY DIVISION

The North Dakota Lottery conducts 5 games: Powerball, Lucky for Life, Mega Millions, Lotto America, and 2by2. The Lottery Division transferred $15.9 million to the state general fund, $845,000 to the multijurisdictional drug task force grant fund, and $640,000 to the compulsive gambling prevention and treatment fund for the 2017-19 biennium. For fiscal year 2020, the Lottery transferred $4.1 million to the state general fund, $800,000 to the multijurisdictional drug task force grant fund, and $320,000 to the compulsive gambling prevention and treatment fund.

# CURRENT AND FUTURE CRITICAL ISSUES

## Fentanyl, Heroin, and Other Illicit Drugs

In the last two years, opiate usage has continued to increase. Pills such as Oxycodone, heroin, and heroin cut with Fentanyl encompass the opiates in question. A majority of these products being seized can be positively linked to Detroit, Michigan, as the source area.

Naloxone (also known as Narcan) temporarily counteracts the effects of opiate overdoses and is being increasingly used to counteract the increasing number of overdoses in the state.

The following examples reflect the impact of opioid use and overdoses on local communities:

- Minot Community Ambulance has documented 132 opiate related overdoses for 2020. Of those 132 overdoses, 15 resulted in death. Further, they have utilized 90 units of Narcan.
- Narcan was administered in Williams County (reported by EMS) from July 2019 through December 2020 to 60 individuals.
- In the Grand Forks area most of the heroin being sold is actually Fentanyl. The Grand Forks Narcotics Task Force has seen an increase in overdoses with three of those being fatal.
- In a 7-day period in early December 2020, the Cass County Drug Task Force (CCDTF) and Fargo Narcotics Unit seized 9 pounds of methamphetamine, 11 ounces of heroin, 194 M30 (Fentanyl) pills, over $120,000 in U.S. currency, and 8 firearms (illegally possessed). In August 2020, the CCDTF, in collaboration with

the Fargo Narcotic Unit, Grand Forks Task Force, Ward County Task Force, and Metro Area Narcotic Task Force dismantled a narcotic ring of individuals responsible for multiple overdoses and deaths. As a result, approximately 1,400 M30 (Fentanyl) pills, 2 ounces of heroin, methamphetamine, a Glock 9 mm pistol, and $52,785 were seized.

- The Bismarck/Mandan Metro Area Task Force (MANTF) seized 10,997 Oxycodone pills during 2019 and 2020, a 142% increase from the previous two years. In addition, over four pounds of heroin has been seized, which is an increase of 193 percent over the previous two years.
- In 2020, the Southwest Narcotics Task Force seized 426 units of Fentanyl or 4,260 individual dosage units. Each dosage unit has the potential to be a fatal dose of the drug. The SWNTF also saw 49.2g or 492 dosage units of heroin in 2020.

## Criminal Investigators Salary Issue

The office has historically attempted to recruit and hire experienced investigators from local agencies or other state agencies to fill criminal investigator positions. The office's hiring requirements include five years of law enforcement experience, a bachelor's degree, and a license as a peace officer. In order to acquire and retain investigators with the above qualifications, the office must offer higher salaries.

It has been difficult to hire these individuals in the last few years due largely to the office's limited salary levels, including the starting criminal investigator salary. Because of the substantial crime increase throughout North Dakota, calls for assistance, and population growth, the office concentrates on retaining experienced and trained investigators. The office needs these experienced investigators to combat the organized and dangerous criminals in North Dakota. BCI criminal investigations have become much more sophisticated, detailed, and time consuming than in the past. For all these reasons the office needs to continue to hire and retain experienced investigators to serve the public and keep the public safe.

### Criminal Investigator Work Demands

The fluctuation in the state's population due to the energy industry and good business climate continues to be very taxing on Bureau of Criminal Investigation (BCI) criminal investigator's time, resources, and well-being. Criminal investigators are investigating crimes that have not traditionally occurred in this state, including gang activity, murder for hire, and organized crime including organized drug trafficking and human trafficking crimes. This new, very mobile workforce is responsible for not only trafficking drugs from their home state but also introducing new drug production methods. Although the mobile workforce related to the energy industry has decreased, criminals have stayed and are responsible for trafficking drugs from their home state. Most North Dakota counties' population remained and did not experience a growth reduction.

BCI continues to see a significant increase in requests for officer involved shooting (OIS) investigations by local law enforcement agencies. Use of deadly force investigations are extensive investigations that are manpower intensive and time consuming as well they should be. Once BCI receives a request for an OIS investigation, the case takes priority and other investigations often must be suspended until the conclusion of the OIS investigation.

BCI has seen a steady increase for assistance to local law enforcement agencies for investigations pertaining to child sexual abuse. Child sexual abuse investigations are on the rise across the state and the majority of local law enforcement agencies request BCI assistance in some facet of the investigation. Child sexual abuse investigations are difficult cases to work because of family dynamics as well as the age and maturity of the victims.

Local law enforcement agencies are increasingly requesting BCI's assistance with financial crime and fraud related investigations. Financial crimes investigations are manpower and documentation intensive. There seems to be an increase in public entity financial crimes investigations that are high profile in the local communities.

BCI has not experienced any type of workload slowdown in any part of the state post oil boom nor during the COVID pandemic. Counterfeit Oxycodone pills made from Fentanyl have resulted in numerous overdoses and overdose death investigations for office criminal investigators and is at an all-time high. Marijuana, prescription drug abuse, and methamphetamine (meth) are still prevalent. The 10 drug task forces around the state continue to be busy. BCI is part of each of these task forces and has a criminal investigator assigned as a supervisor to all but one of the task forces. The office continues to deal with organized drug trafficking organizations in all parts of the state.

Aside from continued drug enforcement, criminal investigators have been continually busy with general investigations including homicides, multi-county burglaries, officer involved shootings, and have seen an increase in agency internal investigations and other numerous regular cases. The office has trained and equipped a group of criminal investigators to respond to and process crime scenes. The training consists of 10 weeks at the National Forensic Academy in Tennessee and the office now has 3 crime scene units to bring specialized equipment and staff wherever needed. These crime scene units now respond to crime scenes in departments of every size including Fargo, Grand Forks, Minot, Mandan, Bismarck, Williston, and throughout the state. These crime scene trucks and teams are located in Williston, Bismarck, and Grand Forks.

The BCI Cyber Crime Unit, which also oversees the Internet Crimes Against Children (ICAC) Task Force and Human Trafficking Task Force, continues to be a critical part of criminal investigations throughout the state. The six full-time investigators not only assist with child exploitation cases, but also many other types of crimes that involve digital media devices and/or investigations that require a high level of technological

skills. In addition, in 2019 and 2020, over 930 reports of child sexual exploitation were received by the BCI Cyber Crime Unit from the National Center for Missing and Exploited Children. This high demand of child exploitation reports has led to local affiliates being over burdened with investigations, to the point that BCI Agents from outside of the Cyber Crime Unit have been assigned to assist with the investigations.

## Unmanned Aircraft Systems

The use of UAS or drones has been growing quite a bit in recent years. The entry level price tag for drones is relatively inexpensive and many city and county agencies are finding ways to fund the drone operations themselves. However, the drones have limited capability without post-processing software as well as the local agencies are unable to purchase the more expensive DJI Matrice drone. BCI's UAS team has conducted many drone operations from searching for missing persons, assisting other agencies with foot pursuits, collecting point data for digital reconstruction, and providing visual surveillance of suspects in cooperation with regional SWAT teams.

## Information Technology Division Infrastructure and Program Needs

The office's BCI and Crime Lab operations rely heavily on the expertise and skills of the office's Information Technology (IT) Division to develop new programs, and maintain and support new and existing projects. Between 80-90% of all IT services used in this office are for the BCI and Crime Lab.

It is essential that the IT Division receive the funding, staff, and other resources needed to ensure that critical internal and external existing programs function efficiently, that project funding deadlines can be met, and delays in development are kept at a minimum.

# STATUS OF 2019-21 BIENNIUM ONE-TIME APPROPRIATIONS

### Capital Assets

These funds have been allocated and will be spent.

### Undercover Vehicles

These funds have been allocated and will be spent.

### DOS-Based Deposit System Rewrite Carryover

Carryover authority of $43,179 has been allocated and will be spent this biennium.

## Criminal History Improvement Project

These funds have been allocated and have been spent. The office has requested an additional $400,000 to continue the enhancement of the system in the 2021-23 biennium.

## Voter ID Attorney

It is estimated that approximately $260,319 will be transferred from the litigation pool to the Office of Attorney General to fund the one-time voter ID attorney. This position has been removed for the 2021-23 biennium.

## Automated Fingerprint Identification System

This project is in development and includes an update from a fingerprint identification system to a biometric identification system. $158,000 from federal funds for this project was received later than anticipated so federal funding has been requested to continue the project into the 2021-23 biennium. It is anticipated the $158,000 special fund appropriation will be spent during the 2019-21 biennium; however, if unforeseen challenges arise, the office may need to request carryover for any unspent appropriation.

## Charitable Gaming Technology System

It is anticipated the $400,000 appropriation will be spent during the 2019-21 biennium; however, if unforeseen challenges arise, the office may need to request carryover for any unspent appropriation. Funding of $475,000 has been requested to finish the project in the 2021-23 biennium.

## Concealed Weapon Rewrite Carryover

$95,000 of the $155,711 carryover has been allocated for the 2019-23 biennium. The remaining funding will be requested as carryover to continue the project in the 2021-23 biennium.

## Statewide Automated Victim Identification Notification Program Carryover

Approximately $400,000 of the $540,000 carryover has been expended to complete the SAVIN program. The remaining $140,000 will be requested as carryover to the 2021-23 biennium for replacement of the legal case management system.

# OFFICE OF ATTORNEY GENERAL
# BUDGET ISSUES AND REQUESTS

## Office/State Impacts Due to 2021-23 Biennium 15% General Fund Reduction Required

The vast majority of the office's staff (81%) provides legal and law enforcement services to state and local entities. General fund reductions at this level significantly affect the office's ability to assist with local law enforcement cases, provide training and hands-on legal and law enforcement support, purchase needed supplies and equipment, travel to other locations, and assist law enforcement throughout the state.

Governor Burgum required state agencies to submit budgets reflecting 15% general fund reductions (85% budgets). For this office it translated into a $6.74 million general fund reduction.

The salaries line was reduced by over $3.5 million which would have resulted in the loss of several FTE positions including BCI agents, attorneys, gaming auditors, forensic scientists, and IT staff. The Executive Recommendation restored all but $246,000 of the salary reduction. The office did not request funding to be restored for some temporary salaries.

General fund operating expenses were reduced by over $1.5 million. The Executive Recommendation did not restore any of the operating expenses. This will result in a loss of funding for criminal investigator case travel and equipment; Fire Marshal travel, equipment and supplies; IT maintenance, contractual services, software and supplies; building maintenance supplies; necessary crime scene supplies; Crime Lab consumables used to test local law enforcement submitted evidence; Crime Lab service contracts on critical, specialized equipment; office equipment; professional supplies; and printing.

The law enforcement line was reduced by $343,738. The Executive Recommendation did not restore this funding. This will result in the loss of one BCI criminal investigator and one administrative assistant in the Williston area and necessary operating expenses for the Crime Lab.

The Criminal Justice Information Sharing line was reduced by $454,172 including $182,283 for salaries and $271,889 for operating expenses. The Executive Recommendation restored the salary funding but did not restore the operating funding. This will result in portals and interfaces not being updated and projects being delayed or not completed.
Human trafficking grants were reduced by $400,000 and forensic nurse examiner grants were reduced by $37,500. The Executive Recommendation did not restore either of these grant reductions.

Litigation fees were reduced by $22,500 and arrest/return of fugitives was reduced by $1,500. The Executive Recommendation did not restore either of these reductions.

The intellectual property (IP) attorney line item totaling $447,791 was removed and an optional package was added to request the funding be restored to the salaries and operating lines. The Executive Recommendation did not restore the IP attorney.

## Office of Attorney General
## Reductions in the Executive Recommendation
## 2021 House Bill 1003

The Executive Recommendation included the following general fund changes:

1. Funding source changes were made from the general fund to other funds for the following:
    a. Criminal Regulatory salary expenses in the law enforcement line ($134,343)
    b. State and Local Government operating expenses ($60,225)
2. Removes an assistant attorney general.
3. Removes funding for one BCI agent and one administrative assistant
4. Significantly reduces BCI operating expenses.
5. Significantly reduces Crime Lab operating expenses.
6. Significantly reduces Fire Marshal operating expenses.
7. Significantly reduces IT and CJIS operating expenses.

# PROPOSED CHANGES TO 2021 HOUSE BILL 1003

The office's optional adjustments requested in the submitted budget and as approved in the Executive Recommendation are shown below.

| Description | Priority | General Fund | Federal Fund | Other Funds |
|---|---|---|---|---|
| P1 maintenance and license | 3 | 217,662 | | |
| Tech fee increase | 3 | 13,680 | | |
| Office 365 increase | 3 | 57,278 | | |
| Gaming regulation FTE (4) | 4 | | | $814,863 |
| Gaming regulation operating | 4 | | | 144,836 |
| CJIS portal, broker, common statutes table | 5 | 165,000 | | |
| Crime Lab equipment | 6 | | $1,111,706 | |
| Peak Performance contract | 7 | 34,342 | | |
| SyTech trap and trace | 7 | 80,000 | | 80,000 |
| ABIS | 7 | | 300,000 | |
| Criminal History project | 8 | | | 400,000 |
| Gaming Project | 8 | | | 475,000 |
| Total | | $567,962 | $1,411,706 | $1,914,699 |

The office's optional adjustments requested in the submitted budget and **not included** in the Executive Recommendation are shown below.

| Description | Priority | General Fund | Federal Fund | Other Funds |
|---|---|---|---|---|
| Agent reclassifications | 2 | 64,006 | | |
| Agent equity | 2 | 2,860 | $15,455 | $452,903 |
| Fire Marshal equity | 2 | 77,327 | | 36,657 |
| Deputy Fire Marshal step incr | 2 | 16,234 | | |
| Gaming regulation FTE (4) | 4 | | | $814,863 |
| Gaming regulation operating | 4 | | | 144,836 |
| Legal case management system | 5 | 500,000 | | 120,000 |
| Crime lab maint agreements | 6 | 7,305 | | |
| Gas cylinders | 6 | 8,235 | | |
| Narcotics buy fund | 7 | 100,000 | | |
| Ammunition | 7 | 21,941 | | |
| Total | | $797,908 | $15,455 | $1,569,259 |

The following sections are requested to be added to House Bill 1003:

**SECTION _. EXEMPTION - ATTORNEY GENERAL REFUND FUND.**

Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund which would otherwise be transferred to the general fund on June 30, 2021.

**SECTION _. ADDITIONAL INCOME - APPROPRIATION - REPORT.**

In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of $250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021, and ending June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

**SECTION _. CRIMINAL HISTORY RECORD CHECKS - FEES.**

Any individual or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-sixth legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION _. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.**

The human trafficking victims grants line item in section 1 of this Act includes $1,400,000 from the general fund for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the biennium beginning July 1, 2021, and ending June 30, 2023. 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 sixty-seventh legislative assembly on the use of the funds received and the outcomes of its program.

**SECTION _. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.**

The forensic nurse examiners grants line item in section 1 of this Act includes $250,000 from the general fund for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the biennium beginning July 1, 2021, and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-seventh legislative assembly on the use of the funds received and the outcomes of its programs.

**SECTION _. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.**

The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the

attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION _. EXEMPTION – CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING.**

The amount appropriated to the attorney general from federal funds for coronavirus emergency supplemental funding, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general during the biennium beginning July 1, 2021, and ending June 30, 2023.

# 2021 Legislation Having a Fiscal Impact on the Office of Attorney General

Two legislative bills have been introduced thus far, that impact the Office of Attorney General.

- House Bill 1025 provides a supplemental general fund appropriation of $175,435 to the Office for the 2019-21 biennium for lawsuit expenses associated with a constitutional challenge to North Dakota's corporate farming laws.

- House Bill 1064 allows the North Dakota information technology department to enter into agreements with other entities for purposes of cyber security. The department may charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund. The fiscal impact of this bill cannot be determined.

# NORTH DAKOTA OFFICE OF ATTORNEY GENERAL

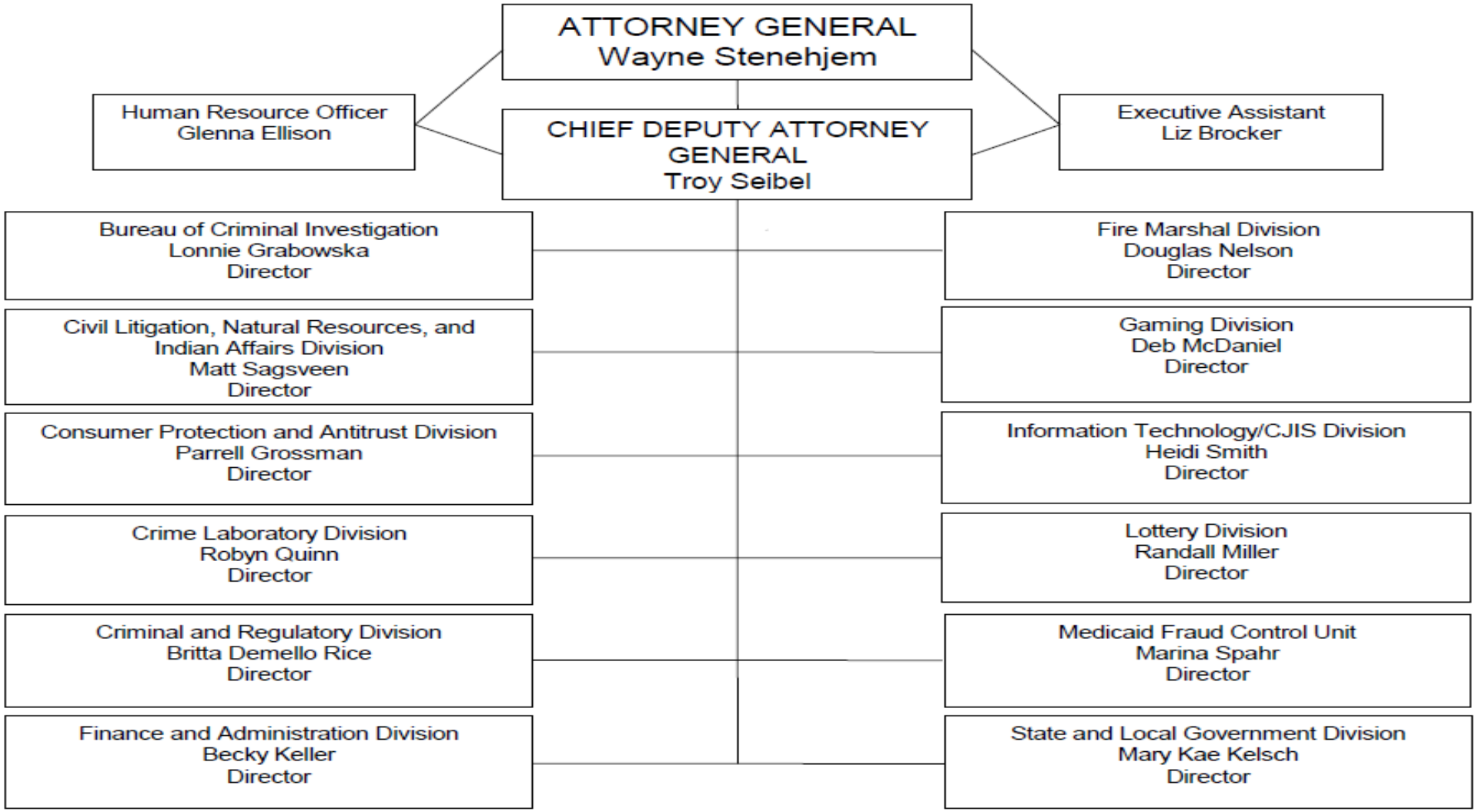
2021-23 BIENNIUM

67TH LEGISLATIVE SESSION

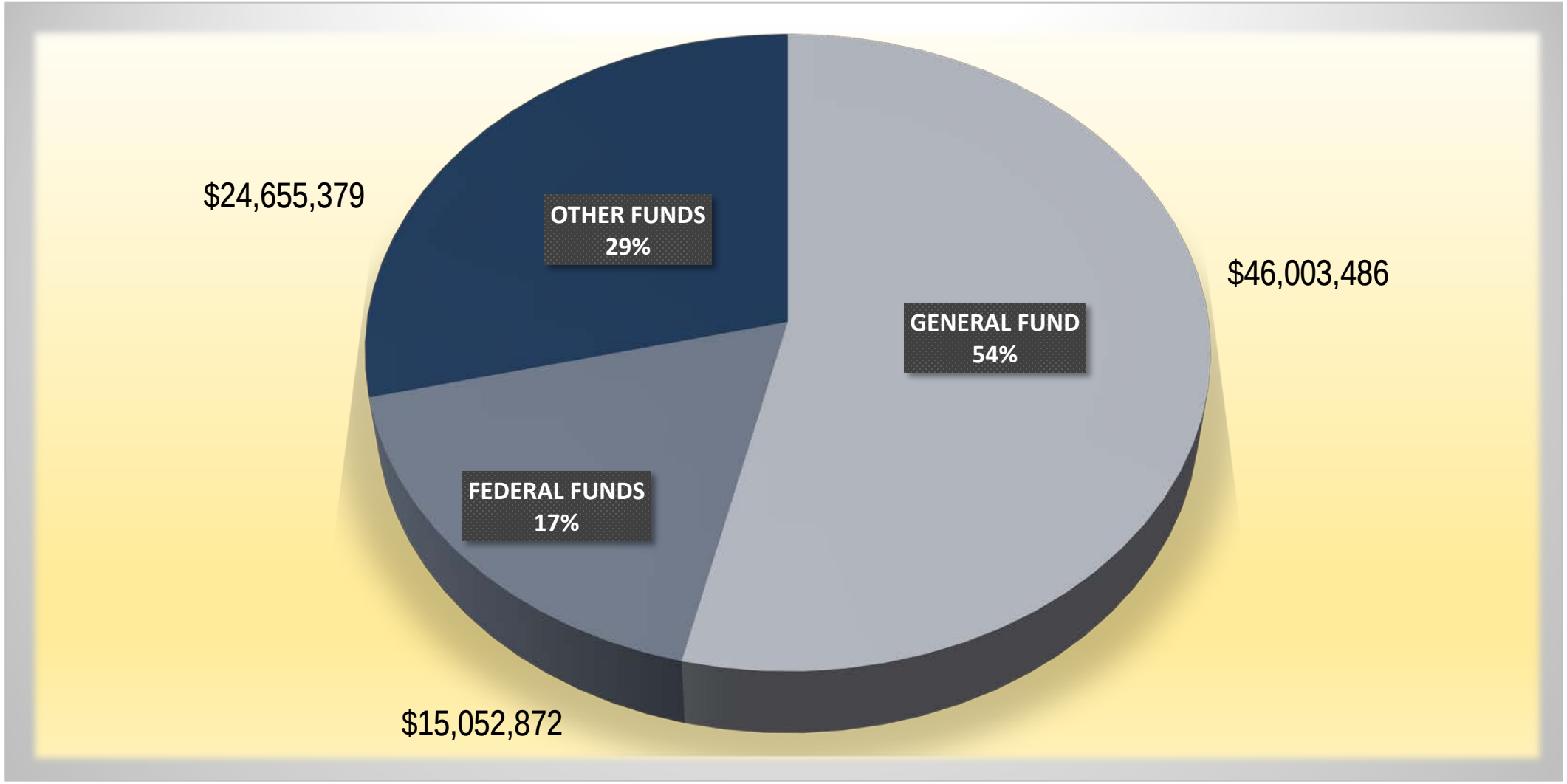
BUDGET PRESENTATION

SUPPLEMENTARY MATERIALS

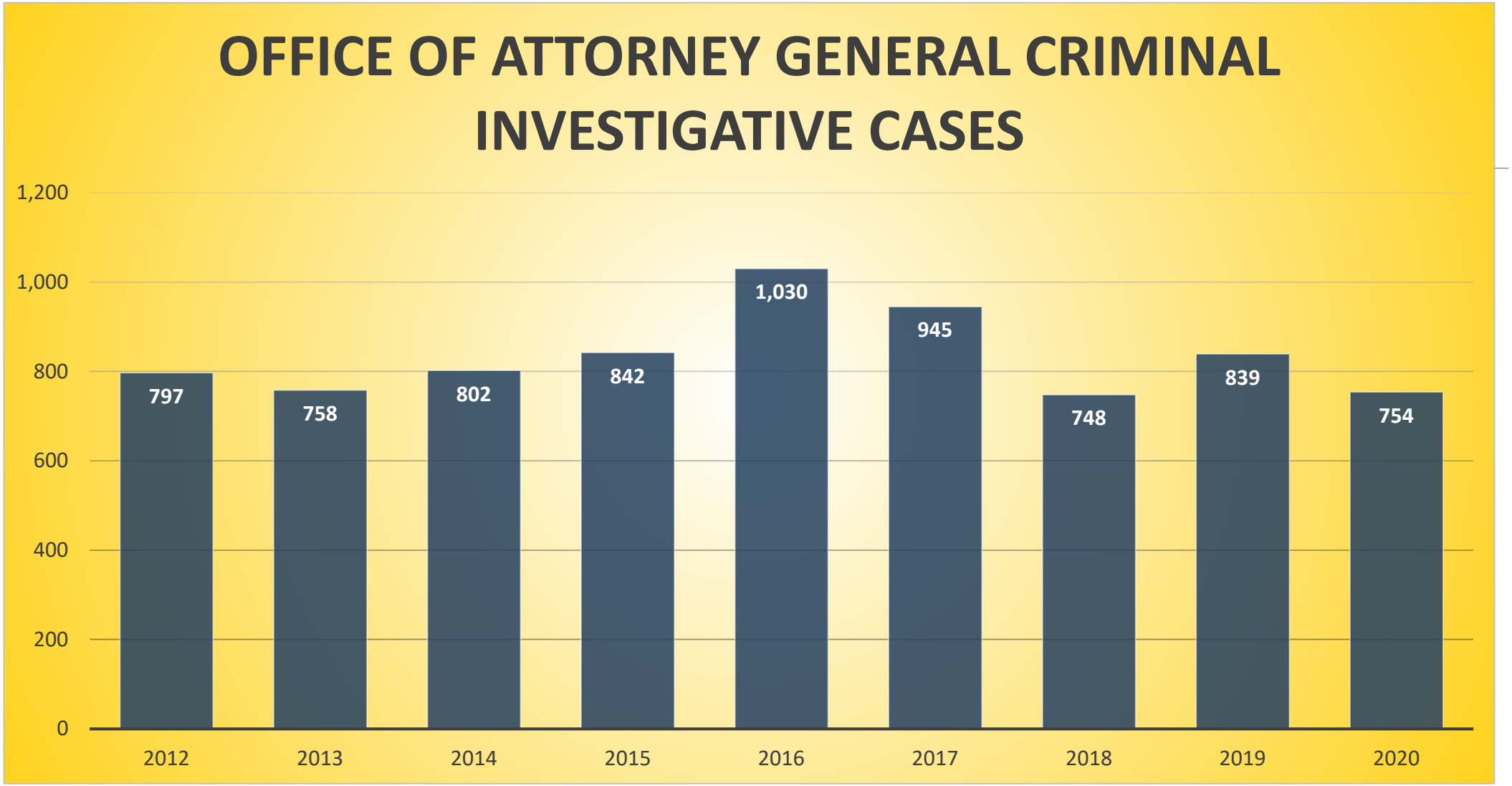
# NORTH DAKOTA
# OFFICE OF ATTORNEY GENERAL
May 2020



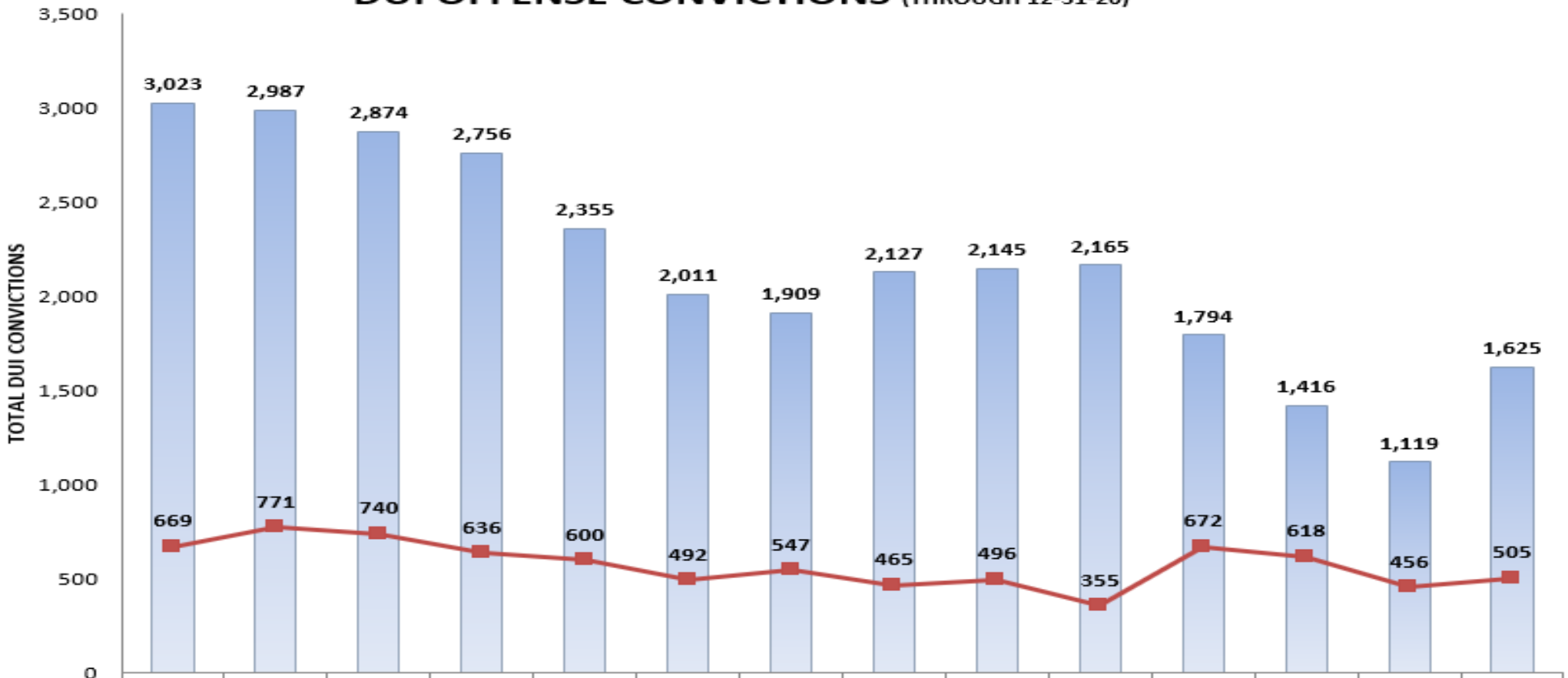
# 2019-21 BIENNIUM APPROPRIATION BY FUNDING SOURCE
# $85,711,737



# OFFICE OF ATTORNEY GENERAL CRIMINAL INVESTIGATIVE CASES



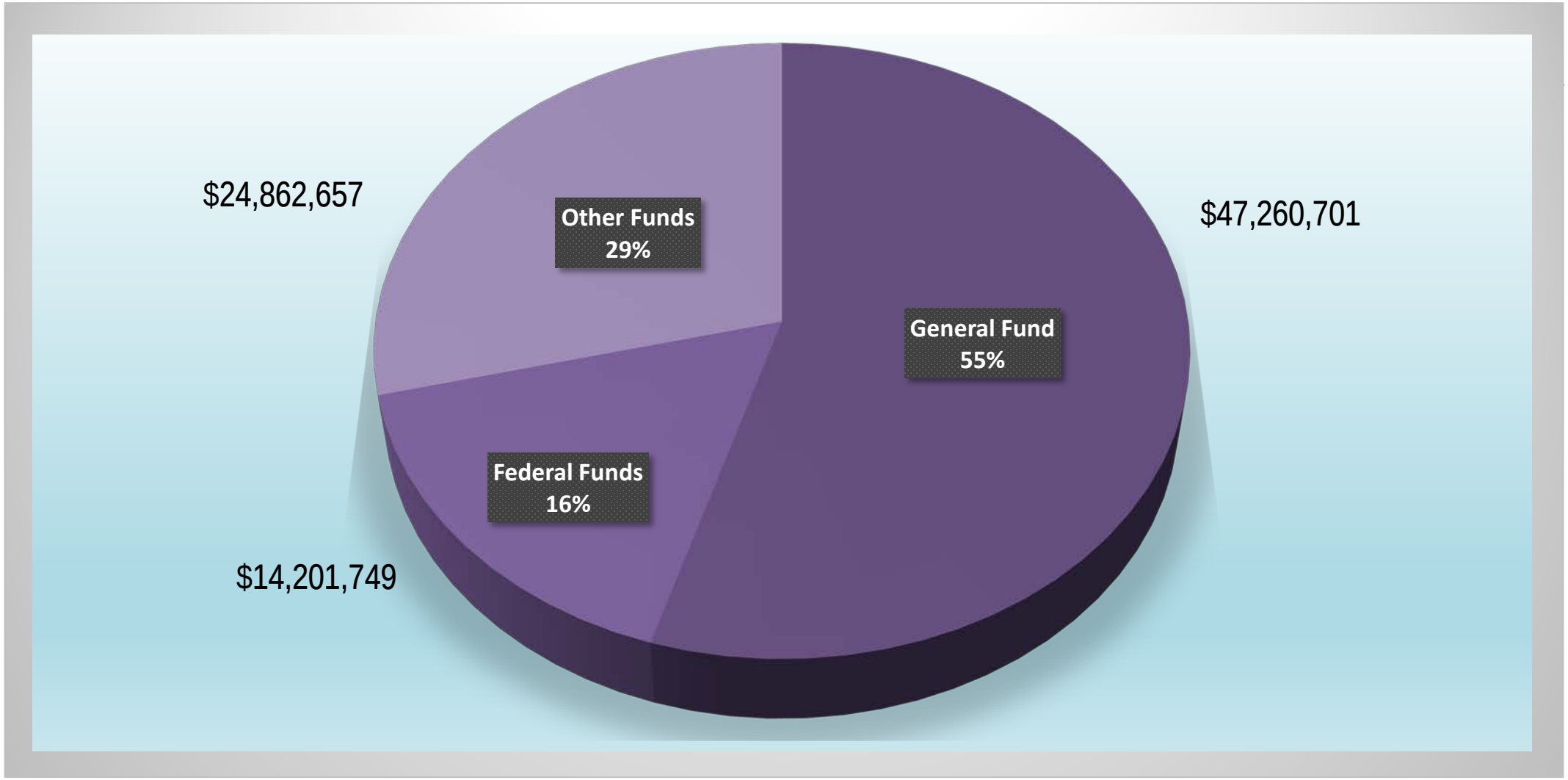
# DUI OFFENSE CONVICTIONS (THROUGH 12-31-20)




| | Jan-Jun 2014 | Jul-Dec 2014 | Jan-Jun 2015 | Jul-Dec 2015 | Jan-Jun 2016 | Jul-Dec 2016 | Jan-Jun 2017 | Jul-Dec 2017 | Jan-Jun 2018 | Jul-Dec 2018 | Jan-Jun 2019 | Jul-Dec 2019 | Jan-Jun 2020 | Jul-Dec 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Total | 3,023 | 2,987 | 2,874 | 2,756 | 2,355 | 2,011 | 1,909 | 2,127 | 2,145 | 2,165 | 1,794 | 1,416 | 1,119 | 1,625 |
| Refusals | 669 | 771 | 740 | 636 | 600 | 492 | 547 | 465 | 496 | 355 | 672 | 618 | 456 | 505 |

Source: ND DOT

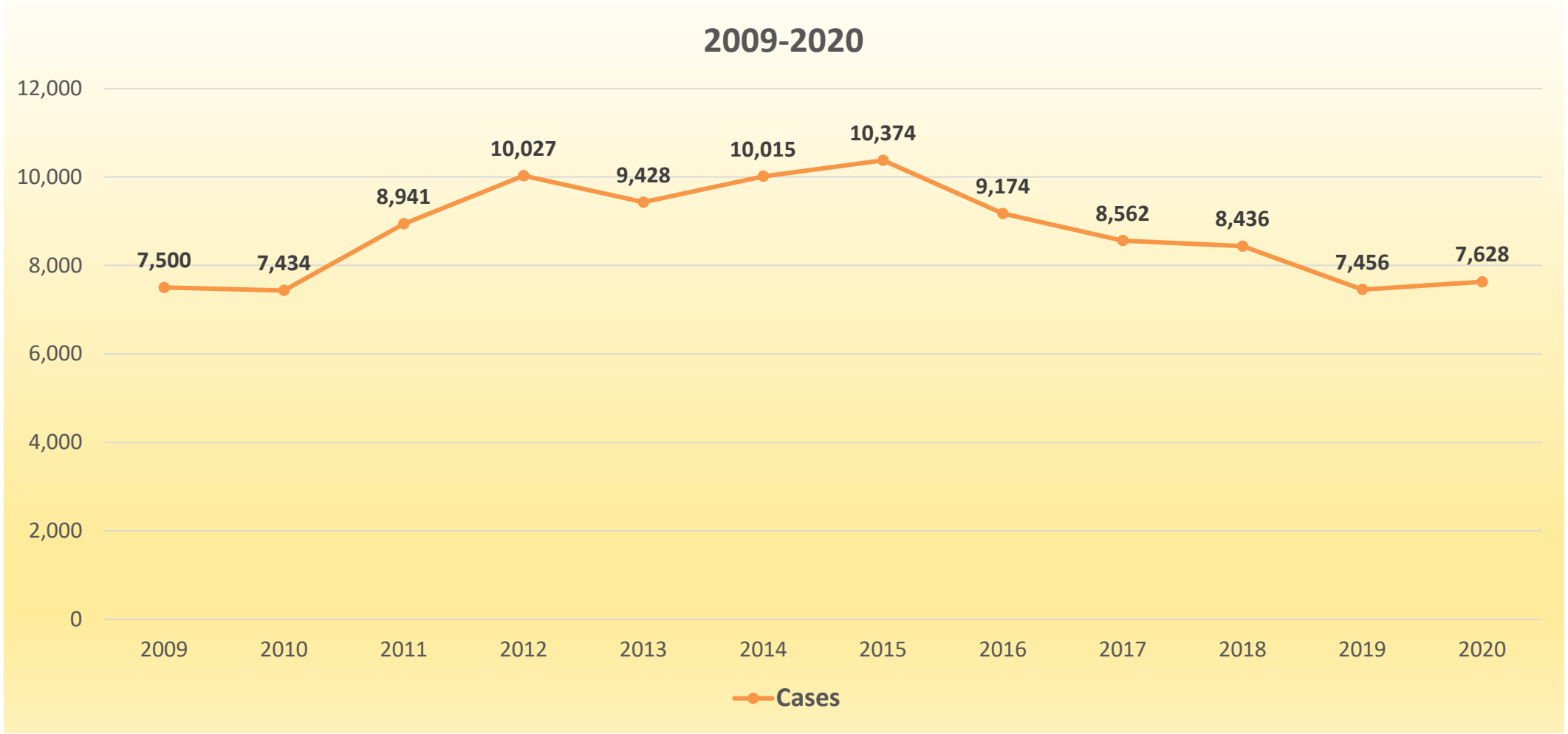
# 2021-23 BIENNIUM EXECUTIVE RECOMMENDATION BY FUNDING SOURCE $86,325,107



TOP 25 NARCOTICS SAMPLES
SUBMITTED TO THE CRIME LABORATORY
FOR THE PERIOD FROM JANUARY - DECEMBER 2020

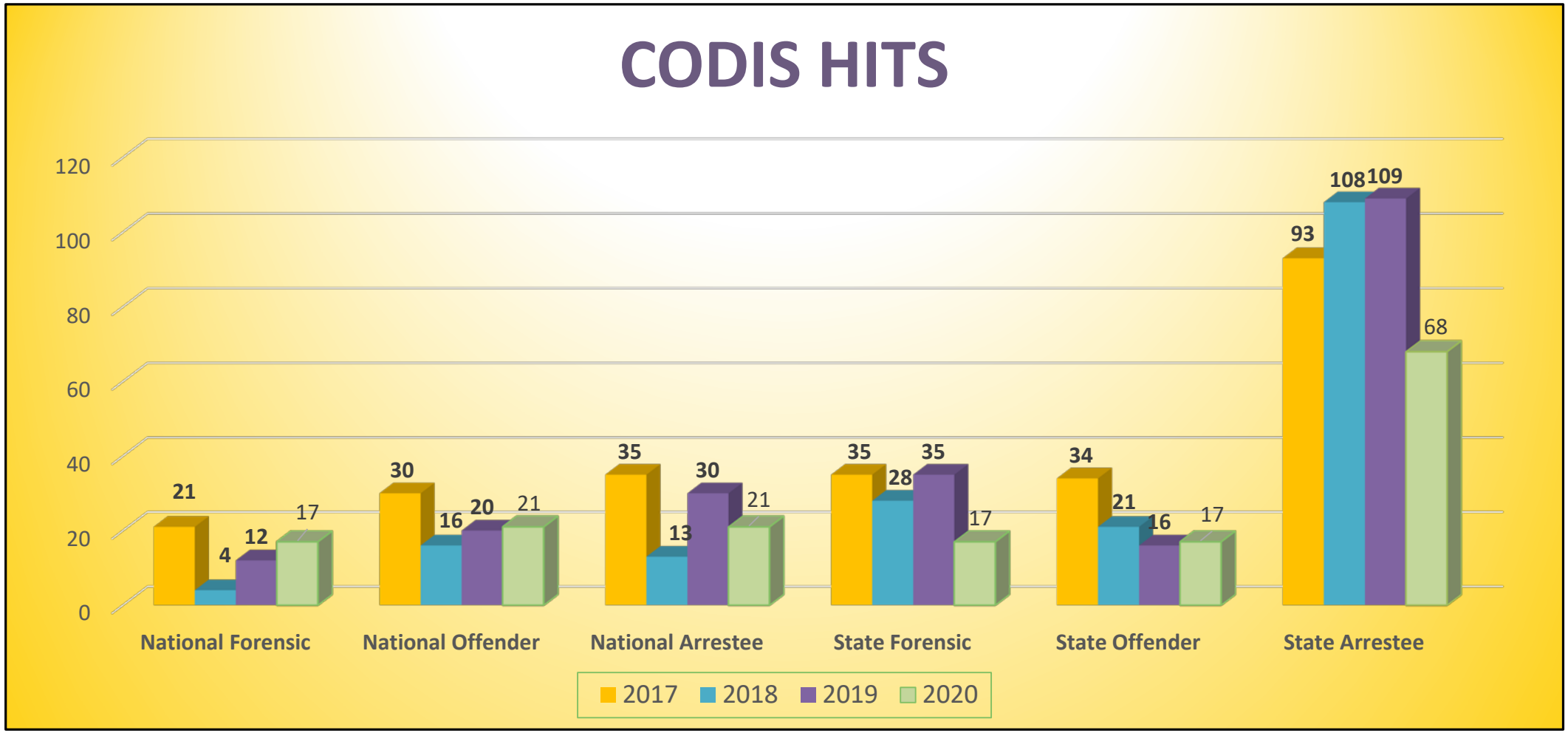
| DESCRIPTION | TOTAL | PERCENT |
|---|---|---|
| METHAMPHETAMINE | 2427 | 53.54% |
| CANNABIS | 878 | 19.37% |
| HEROIN | 297 | 6.55% |
| COCAINE | 213 | 4.70% |
| FENTANYL | 144 | 3.18% |
| OXYCODONE | 115 | 2.54% |
| BUPRENORPHINE | 43 | 0.95% |
| ALPRAZOLAM | 39 | 0.86% |
| CLONAZEPAM | 27 | 0.60% |
| HYDROCODONE | 22 | 0.49% |
| CAFFEINE | 20 | 0.44% |
| PSILOCYBIN/PSILOCYN | 19 | 0.42% |
| NALOXONE | 17 | 0.38% |
| MORPHINE | 15 | 0.33% |
| TRAMADOL | 15 | 0.33% |
| SODIUM BICARBONATE | 14 | 0.31% |
| AMPHETAMINE | 13 | 0.29% |
| LYSERGIC ACID DIETHYLAMIDE | 13 | 0.29% |
| DIMETHYLSULFONE | 11 | 0.24% |
| LORAZEPAM | 11 | 0.24% |
| ACETYL FENTANYL | 10 | 0.22% |
| GABAPENTIN | 10 | 0.22% |
| MDMA | 10 | 0.22% |
| DIAZEPAM | 9 | 0.20% |
| DIPHENHYDRAMINE | 8 | 0.18% |
| **TOTAL TOP 25 DRUGS** | **4,400** | **97.07%** |
| **TOTAL ALL DRUGS** | **4,533** | |

# ND Crime Laboratory Workload

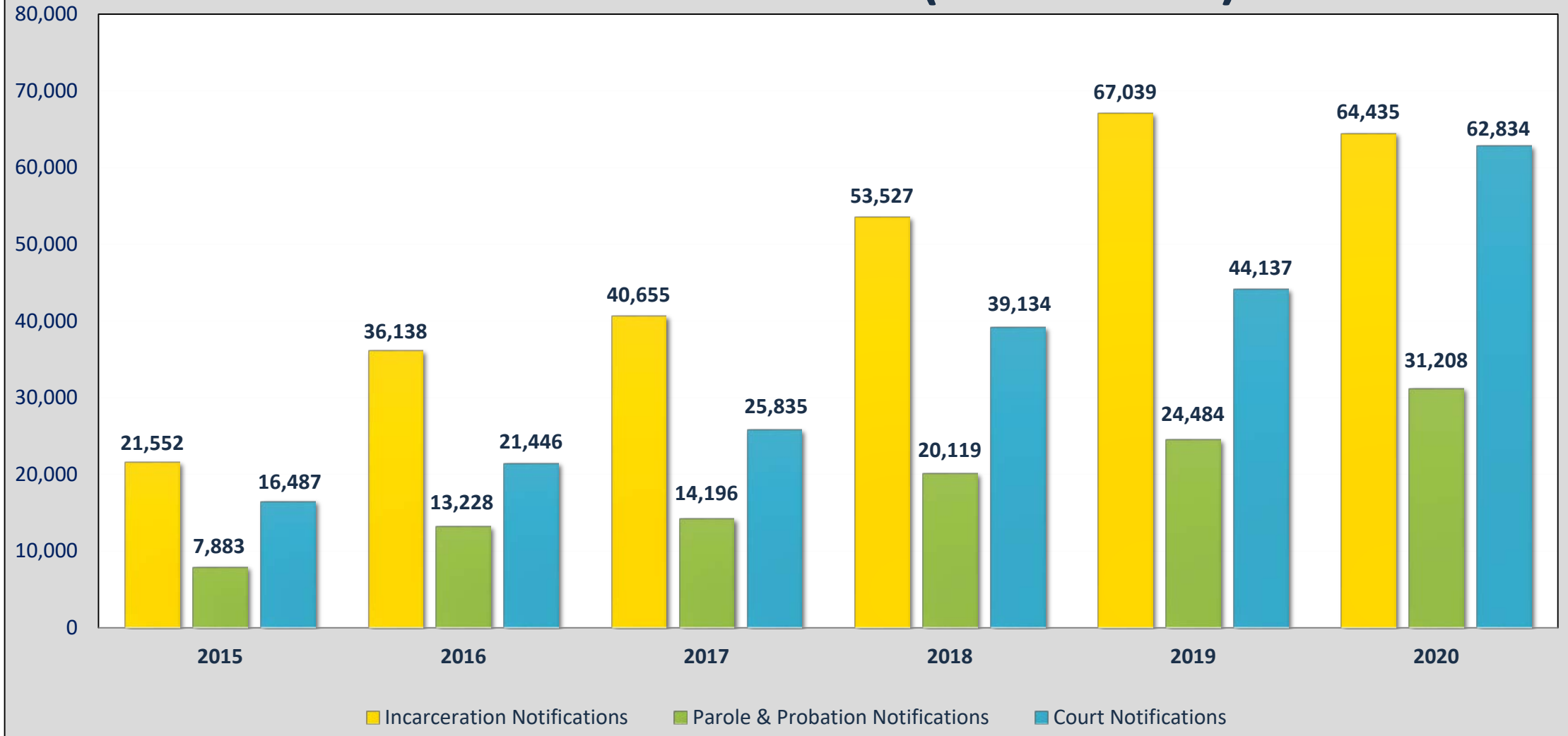



Previous reports included Breath Alcohol tests, Convicted Offender and Arrestee samples

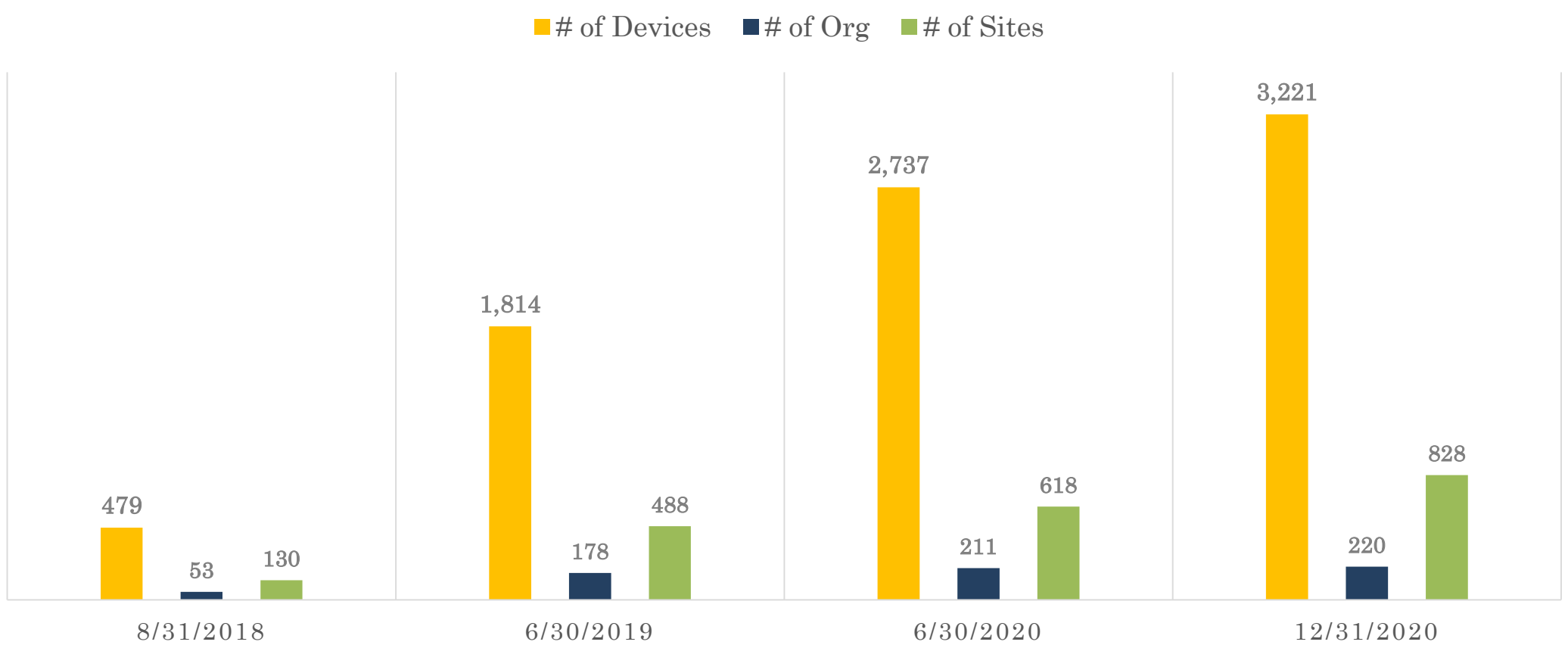
# ND CRIME LABORATORY WORKLOAD



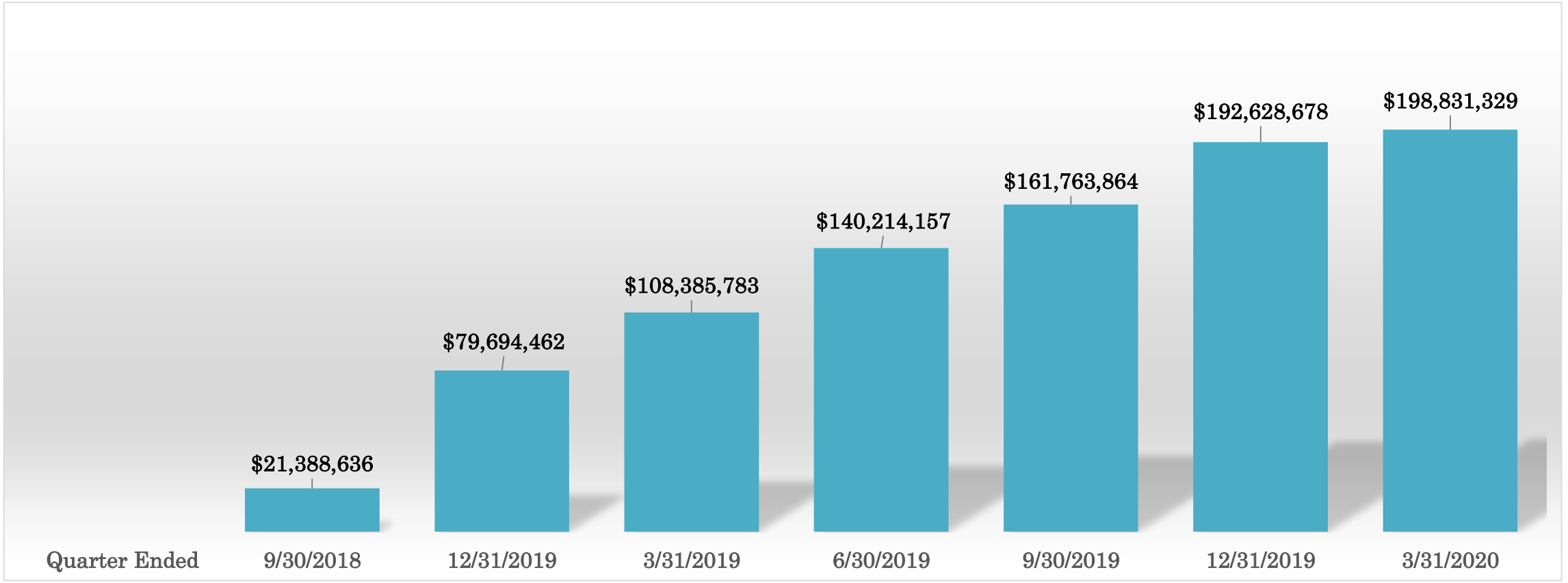
# OFFICE OF ATTORNEY GENERAL
# SAVIN NOTIFICATIONS (2015-2020)



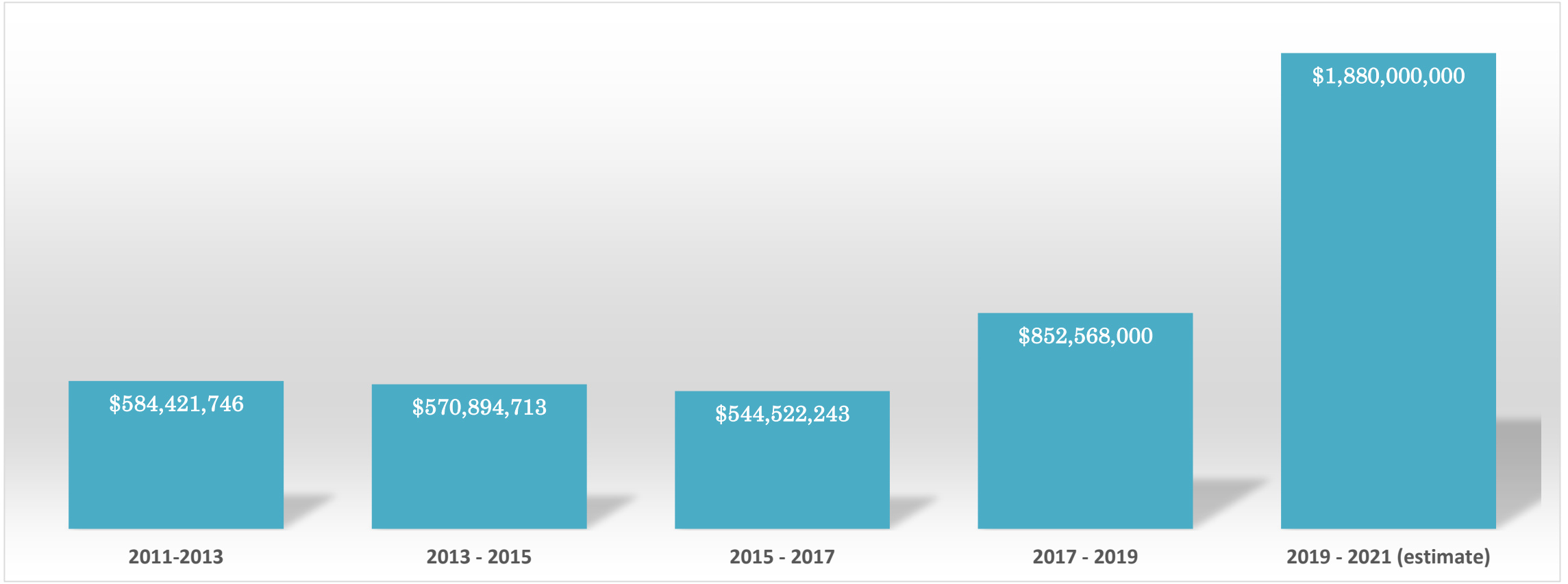
# E-TAB DEVICES



# E-TAB GROSS PROCEEDS PER QUARTER



# ALL GAME TYPE GROSS PROCEEDS PER BIENNIUM



# TOTAL GAMING TAX PER BIENNIUM

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
1/19/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

10:02 **Chairman Vigesaa** brought the committee to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich, Representative Howe, Representative Meier. Members absent: Representative Bellew and Representative Mock.

**Discussion Topics:**

- Appropriation request for the 2021-2023 biennium budget.
- Drones
- Police dogs
- Equipment
- Rent proposal for state government agencies

10:03 **Wayne Stenehjem, Attorney General, ND Office of Attorney General** – introductions of people presenting.

10:22 **Becky Keller, Finance Director, ND Office of Attorney General**. Testimony #470.

**Additional written testimony:**

Human trafficking information – testimony #1527 – was handed out but not discussed.

10:55 **Chairman Vigesaa** adjourned the meeting.

*Sheri Lewis, Committee Clerk*

#470

# 2021-23 BUDGET

## Office of Attorney General
## State of North Dakota

Wayne Stenehjem
Attorney General

**For the Government Operations Section of the House Appropriations Committee**

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# 2021 HOUSE BILL 1003

## Office of Attorney General

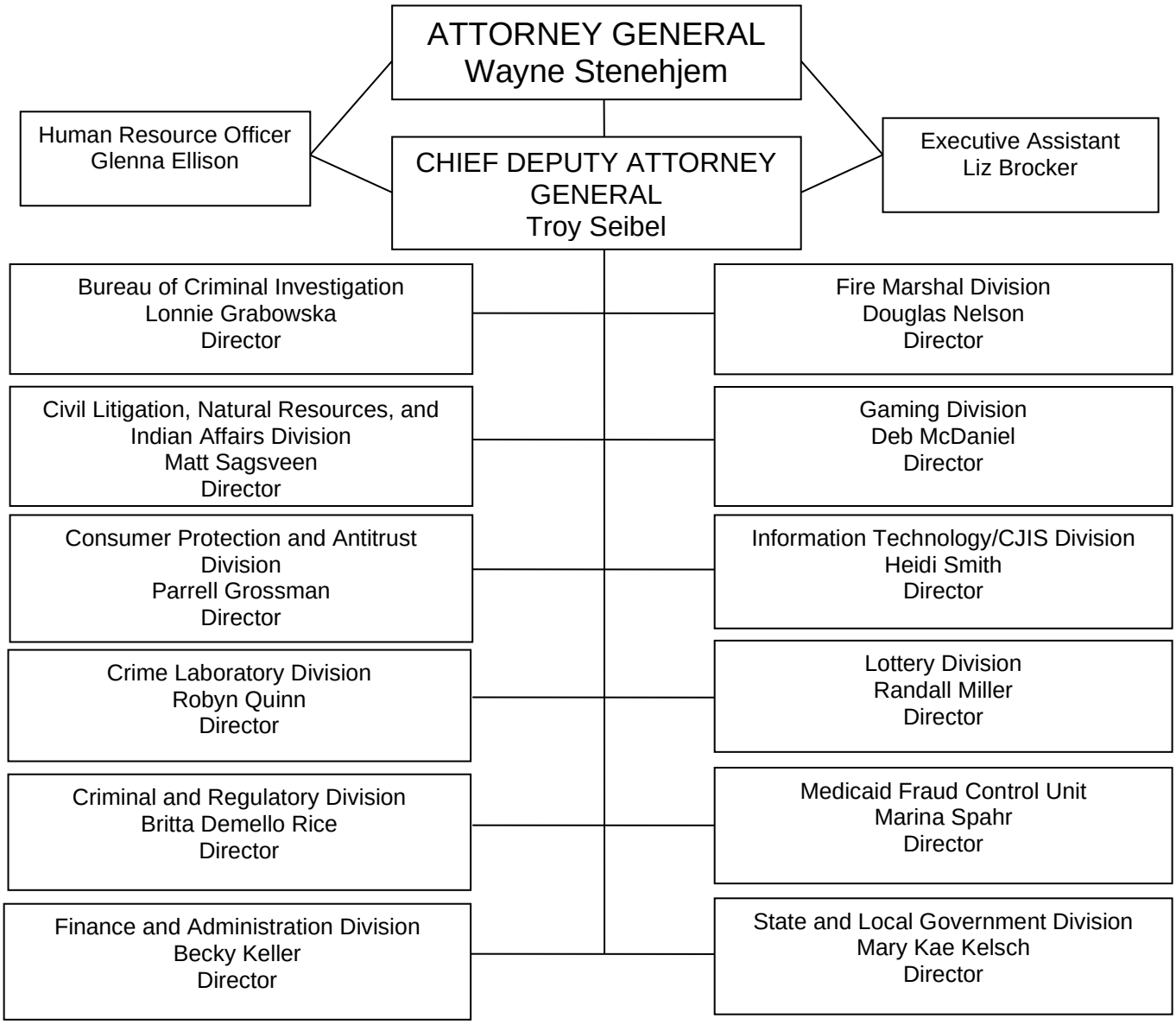
The Office of Attorney General represents and defends the interests of the citizens of North Dakota by executing the responsibilities charged to the North Dakota Attorney General by the North Dakota Constitution, state statutes and administrative rules, North Dakota and federal case law, and common law. The Attorney General is the chief legal counsel and advisor to state government providing legal representation to all facets of state government, including the Governor, all departments of state government, local government and all state agencies, boards, and commissions.

The Attorney General has primary authority to act on behalf of the state of North Dakota in other areas, including criminal investigations; full arrest and law enforcement authority; sex offender risk assessment and registration; Medicaid fraud control; evidence examination and testimony; consumer protection and antitrust; administration, regulation, and enforcement of charitable gaming and lottery activity; and fire inspections, investigations, and mitigation of hazardous materials incidents. Attorney General staff members provided a significant amount of training to North Dakota citizens and others, including law enforcement and the fire services.

The office consists of 13 divisions:

- Administration
- Bureau of Criminal Investigation (BCI)
- Civil Litigation and Natural Resources & Indian Affairs
- Consumer Protection and Antitrust (CPAT)
- Crime Laboratory (Crime Lab)
- Criminal and Regulatory
- Criminal Justice Information Sharing (CJIS) and Information Technology (IT)
- Finance
- Fire Marshal
- Gaming
- Lottery
- Medicaid Fraud Control Unit (MFCU)
- State and Local Government

# NORTH DAKOTA
# OFFICE OF ATTORNEY GENERAL
January 2021



# SUMMARY OF OFFICE OF ATTORNEY GENERAL MAJOR ACCOMPLISHMENTS

## BUREAU OF CRIMINAL INVESTIGATION

- Teamed with local law enforcement partners in establishing task forces which are having a significant impact on major drug trafficking organizations
- Processed approximately 51,000 requests for criminal history record information in 2020.
- Provided National Forensic Academy-trained criminal investigators to respond to crime scenes
- Teamed with federal and tribal partners in establishing the North Dakota Human Trafficking Task Force
- Supplied local law enforcement with updated automated Sex Offender Registry kiosks
- SLIC collaborated with state and private sector partners in establishing the North Dakota Cyber Security Task Force.

### Cyber Crime Unit

The Cyber Crime Unit investigates crimes that are facilitated with the use of a computer or the internet. The unit frequently obtains data from internet service providers through legal processes such as search warrants and administrative subpoenas. The unit's expert level forensic examiners are trained to recover data from digital media devices. These forensic examiners then analyze and report their findings which are often times used to further criminal investigations and are frequently used for evidence purposes in court.

Forensic capable labs are operational in Minot, Bismarck, and Fargo. For the years of 2019 and 2020, the Cyber Crime Unit investigated over 665 cases and forensically examined 1,317 digital media devices. Of those devices, 869 were cellular phones. The total amount of electronically stored information examined was over 115 terabytes.

### 24/7 Sobriety Program

The 24/7 Sobriety Program is designed to remove intoxicated drivers from the road, improve their ability to succeed in their treatment choices, and provide a safer driving environment for the traveling public. Offenders participate in twice-per-day breath tests or electronic alcohol monitoring, seven days per week, for as long as the court order

mandates. Participants are required to pay a fee for the monitoring, which in turn is used to pay for breath alcohol devices, electronic monitoring devices, and other program costs.

Here is some 24/7 Sobriety Program information:

- Total participants since the inception of the program in January 2008 (includes pilot counties): 28,930
- Total participants who graduated from the program: 19,954
- Total participants who have had a test failure (temporary status, have not failed or graduated): 3,335
- Participants currently active in the program: 1,583
- Total breath tests administered since the inception of the program: 1,671,976
- Pass rate of breath tests taken: 97.08% (1,665,551)

The program has been supported by law enforcement, the courts, and the participants, and it is proving to be a successful alternative to incarceration.

## Concealed Weapon Licenses

As of December 15, 2020, 39,332 individuals held North Dakota concealed weapon licenses compared to a total of 46,970 active licenses at the end of 2017, and 29,131 active licenses at the end of 2013. The BCI issued 4,213 concealed weapon licenses in 2019 and 5,450 concealed weapon licenses in 2020. Of the total active concealed weapon licenses, about 21,478 are slated to be renewed in the 2021-23 biennium.

## Criminal History Record Information Requests

BCI processed approximately 51,000 criminal history record information requests in 2020. Of those, 30,000 were requests for data from the state database and 21,000 were requests for federal record checks.

## Sex Offender and Offenders Against Children Registry

Sex offenders and offenders against children are required to be registered with the agency where they reside and appear on the Office of Attorney General's website. As of December 2020, there are 1,534 registered sex offenders, 421 of which were incarcerated within North Dakota. As of December 2020, there are 120 registered offenders against children, 41 of which were incarcerated within North Dakota.

## Information Processing

The Information Processing Unit provides case management support to over 40 BCI agents statewide. 1,628 case numbers were issued over the 2018-2019 2-year period. Cases consist of many reports. In total during this same time period, the IP unit processed 5,685 individual agent reports.

## ND State and Local Intelligence Center

The BCI is a member of the State and Local Intelligence Center (SLIC) whose mission it is to gather, store, analyze, and disseminate information on crimes, both real and suspected, to the law enforcement community, government officials, and private industry, concerning dangerous drugs, fraud, organized crime, terrorism, and other criminal activity for the purposes of decision making, public safety, and proactive law enforcement while ensuring the rights and privacy of citizens.

The BCI supports the SLIC by being a member of the executive board, and by providing personnel in the form of the director of the SLCI and criminal intelligence analysts as well as training and equipment for these personnel.

The SLIC has processed 1,871 requests for information in 2019. In addition, the SLIC has partnered with NDIT to create a multi-state Joint Cyber Security Operations Center.

In 2019–2020, North Dakota experienced an increase in Outlaw Motorcycle Gang activity. This was due to a rival OMG club trying to establish a presence in the state. Prior to 2019 there was only one documented OMG in the state. To compete for control of the state, BCI assesses that both OMG's will continue to increase their membership numbers in North Dakota. It is very likely there will be violent altercations between the two clubs.

## Significant BCI Cases 2019-Present

Brandon Lee Bjornstad of Neche, North Dakota, was sentenced to 60 years in federal prison followed by a lifetime of supervised release for the charges of Sexual Exploitation of Minors, Extortion, Receipt and Distribution of Materials Containing Child Pornography, and Possession of Materials Containing Child Pornography. Bjornstad solicited thousands of self-produced child pornography from hundreds of children located across the United States and elsewhere. Using various aliases, Bjornstad coerced hundreds of children into producing and electronically sharing their self-produced sexually explicit images and videos. Bjornstad illegally enticed his victims with the use of multiple social media platforms such as Skype, Kik, Snapchat, and Musical.ly, among others. On hundreds of occasions, he directed the children to engage in very specific sexually explicit conduct after which he recorded the live presentations. In many cases, Bjornstad then shared this material with others, including other children, and other adult men who shared his sexual interest in children. To date, the North Dakota Bureau of Criminal Investigation has identified 90 children residing in three different countries as part of this investigation.

Dustin W. Kewley and Bryan James Hogle were sentenced to 35 and 45 years in federal prison, respectively, for the charges of Conspiracy to Transport a Minor, and Coercion and Enticement. A forensic examination of Dustin Kewley's computer and cell phone determined that there were chat conversations between Hogle and Kewley, wherein they

discussed in horrific detail their plan to meet for the purpose of sexually abusing a one-year-old child. Kewley transported the one-year-old child from Fargo, North Dakota, to Moorhead, Minnesota, to meet Hogle, who traveled from Las Vegas, Nevada, the previous day. The two men met at a hotel in Moorhead where together they sexually abused the child. Kewley and Hogle subsequently took steps to conceal their crime such as deleting their communications and bathing the child.

Dustin James Gilleo was sentenced to 10 years in federal prison for the charge of Transportation of a Minor. The Beautfort County Sheriff's Office, South Carolina, reported that a missing juvenile female from Burton, SouthCarolina, had been located via cellular phone tracking at the Minneapolis-St. Paul (MSP) International Airport. Further investigation by the MSP Airport Security revealed the missing juvenile entered a vehicle belonging to Dustin Gilleo of Wahpeton, North Dakota. On January 4, 2020, the Wahpeton Police Department located the missing juvenile at a residence in Wahpeton and removed her from the residence, and later interviewed her. During the interview, she said she left her residence in South Carolina and met Gilleo at the MSP Airport as they had previously planned. Gilleo then drove the juvenile to his residence in Wahpeton, where Gilleo and the juvenile engaged in sexual intercourse. Gilleo admitted that the female found at his apartment was the missing juvenile from Burton, South Carolina. He acknowledged meeting the juvenile online and the two had been communicating for over five months. Gilleo admitted their communications were sexual in nature and that they had exchanged sexually explicit images of one another via text and various apps. Gilleo further admitted that he knew the girl was 16 years old at the time she traveled to North Dakota, and he admitted to having sexual intercourse with the girl at his apartment.

Williston BCI Case

On February 10, 2020, BCI was asked to investigate a report that a 21-year-old was sending inappropriate texts and pictures to his 12-year-old step-sister. The suspect was charged with promoting obscenity to minors and luring a minor by electronic means. During this investigation, it was found that the suspect was also in contact with a 14-year-old female from Missouri. An investigation was conducted and as a result, the suspect was also charged with a second luring a minor by electronic means, possession of child pornography, and promoting sexual performance by a minor.

A BCI special agent assisted the Internet Crimes Against Children (ICAC) Task Force on multiple operations and conducted six tactical polygraph examinations with the suspects. Eight previously unknown victims of child sexual abuse were identified due to the examination and subsequent interviews.

RJR Murder Case

On April 1, 2019, at approximately 7:20 am, the Mandan Police Department was called to RJR Maintenance and Management for a medical assist. Law enforcement located three additional RJR Maintenance and Management employees deceased in the

building. The Mandan Police Department contacted BCI to assist with the investigation. BCI documented and processed the crime scene using a UAS (drone), Pointgun, Total Station, Panoscan, and the Scan Station. BCI agents, some trained in advanced crime scene techniques from the National Forensic Academy, processed the scene and processed a pickup that was driven from the scene by the suspect and left in a nearby business parking lot. A BCI agent trained in video collection, preservation, and enhancement collected video from the scene and other businesses throughout the Mandan area. BCI agents completed numerous interviews and a follow-up investigation which led to locating a person of interest. On April 4, 2019, the suspect was detained by members of the McLean County Sheriff's Department. After further investigation on April 4, 2019, the suspect was arrested on four counts of murder. Throughout the investigation, evidence collected by BCI has been processed by the ND State Crime Laboratory and the ATF Forensic Science Laboratory. This case is scheduled for a three-week jury trial in August, 2021. In total, 20 BCI agents assisted in this investigation.

# MEDICAID FRAUD CONTROL UNIT

Medicaid is funded jointly by federal and state government but administered by the state in accordance with federal requirements. Twenty-one percent (21%) of the US population is covered by Medicaid. Ten to fourteen percent (10-14%) of the North Dakota population is covered by Medicaid. Nationally, improper Medicaid payment rates in 2019 were 14.9% and 9.8% in 2018. The national rate of recovery is $6 for every $1 spent on the grant.

The 2019 Legislative Assembly established the Medicaid Fraud Control Unit (Unit) and placed it under the direction of the Attorney General.

- The Unit was substantially staffed in November 2019 and began establishing office procedures and investigating cases at that time.
- The State portion of the budget for the 2019-21 biennium is $207,570 ($103,785 per year).
- From November 1, 2019, through December 24, 2020, the Unit has opened 29 cases.
- Of those 29 cases, 2 criminal prosecutions were filed, and a 3rd case will be filed if the offer for settlement is refused. The fraudulent Medicaid billing involved in 2 of these cases totals $125,000.
- The Unit has investigated 9 abuse/neglect cases, 7 misappropriation cases, and 14 fraud cases.
- 15 of the 29 cases were closed without need for civil or criminal action.
- 3 of the closed cases were referred to other investigative entities.
- 5 of the closed cases were satisfactorily settled, without the need for civil or criminal actions.

- Currently, the Unit is involved in 9 large-scale open investigations.
- The Unit also participates in joint investigations with our federal counterparts.
- On average, most fraud investigations that lead to a prosecution (criminal or civil) require 12-18 months to complete.
- Criminal abuse/neglect investigations typically take 6 months to complete.
- The statistical data will not reflect recoveries until some of the cases make their way through the court system.
- The Unit also provides data for national, or global, Medicaid provider fraud cases, which involve multiple states. This past year, the Unit participated in 39 global cases, some of which resulted in civil settlements. Those settlements provided $84,000 in repayment for North Dakota Medicaid.

In December 2020, the Coronavirus Relief and Omnibus Funding Bill was enacted. The bill expanded the investigative and prosecutorial jurisdiction of MFCU's to include cases of abuse and neglect of Medicaid patients in non-institutional settings. Examples of settings that could now be allowed to be investigated are in-home, community-based services and office settings. The current trend is to assist people, including Medicaid recipients, to be able to stay and function in their homes as long as possible.

**Cases Filed or Otherwise Completed**

State v. Reilly – Pembina County – Reckless Endangerment (2 counts) and Theft (10 counts) – A Licensed Practical Nurse (LPN) was allegedly stealing pain medications from basic care residents. She has also been charged with replacing pain medications in the residents' bubble packs with unprescribed over the counter or prescription medications. Replacement of the opioids created a substantial risk of serious bodily injury to the residents. Jury trial is set for June 2021.

State v. Fruge – Burleigh County – Medicaid Provider Fraud and Theft – A Qualified Service Provider has been charged with failure to supply any records for the services provided. She is charged with not keeping track of services provided, when they were provided or to whom they were provided. She was required by the Medicaid Provider Agreement to maintain records of services and turn them over to the North Dakota Department of Human Services when requested. She billed North Dakota Medicaid for $80,000 of undocumented services.

Another case has a settlement offer being considered. If the settlement offer is not accepted, it will also involve a criminal filing. A clinical social worker fraudulently billed Medicaid for services not rendered. She obtained Medicaid patient identification numbers belonging to members she had never seen or had seen on a limited basis, many of them children, and then billed Medicaid, Blue Cross Blue Shield, and Tricare for services that were not provided. The minimum Medicaid losses are $45,000.

Three cases involving the improper use of stimulus checks by long term care (LTC) facilities were resolved without the necessity for filing an action. Once the Unit

explained the law applicable to residents receiving stimulus money, the LTC facility administrators were very willing to modify their policies and procedures to comply with the law.

### Sample of Current Investigations

The Unit is investigating a psychologist who appears to be upcoding, billing for Saturdays and holidays, and failing to document the time associated with providing some other services. The total Medicaid liability is approximately $88,000. While investigating this matter it became evident that other insurance entities may also have been defrauded in a similar matter. The Unit will provide their investigative results to the other insurance providers allowing them to initiate other recovery proceedings if they so choose. The Unit is also working with the North Dakota Insurance Department investigators regarding the loss to private insurance entities. The total loss to other insurance providers is approximately $270,000.

## CIVIL LITIGATION & NATURAL RESOURCES

### Dakota Access Pipeline Protest Related Lawsuits

#### North Dakota v. United States Army Corp of Engineers (FTCA) (2018)

North Dakota sued the U.S. under the Federal Tort Claims Act (FTCA) in July of 2019, seeking to recover the over $38 million in damages due the U.S. Army Corps of Engineers failure to follow its own rules for federal lands during the 2016 – 2017 protests over the construction of the Dakota Access Pipeline. The federal District Court in North Dakota denied the U.S.'s first effort to dismiss the case, holding that the Corps circumvented mandatory permit requirements when it invited and enabled the protesters to occupy federal lands. The case is now in the discovery phase.

#### DAPL Personal/Constitutional Injury Lawsuits

Four separate lawsuits arising out of the DAPL protests were filed in US District Court between 2018 and 2020 against various defendants, including some state defendants, for alleged constitutional or personal injuries. One of the lawsuits alleges the closure of a portion of Highway 1806 during the DAPL protests violated multiple constitutional rights of the protestors, including the First Amendment. The other three lawsuits involve personal injuries of individual protestors that occurred during the DAPL protests. The state defendants have succeeded in having the three personal injury lawsuits dismissed. In September 2020, the district court dismissed all but a First Amendment free speech claim against the state defendants in the lawsuit involving the closure of Highway 1806. The state defendants have appealed that decision to the Eighth Circuit Court of Appeals arguing they are entitled to qualified immunity on the First Amendment claim.

## Significant Accomplishments and Cases

### Burgum v. Jaeger (2020)

Governor Burgum filed a petition for writ of mandamus with the North Dakota Supreme Court claiming he had the constitutional authority to fill a vacancy in the North Dakota House of Representatives caused by the death of David Andahl during the 2020 election. The Governor challenged the right of the District 8 Republican Committee to appoint someone to fill the vacancy, as outlined in an Attorney General opinion addressing the manner in which the vacancy should be filled under existing statutes.

The North Dakota Supreme Court, in a unanimous ruling, denied the petition, concluding the Governor did not have the authority to fill the vacancy because the law already provided a method for filling the vacancy.

### Oil & Gas Development and Enforcement

The Division's assigned attorney presided over almost 2,700 oil & gas administrative hearings during the 2017-19 biennium through 2020 (total by calendar years for the past 4 years: 2017 – 811, 2018 – 909, 2019 – 953 and 2020 – 451). The Division assisted the Industrial Commission's Department of Mineral Resources in pursuing 14 civil administrative cases for violations of the Commission's rules, orders, and regulations for the 2017-19 biennium, and 6 civil administrative cases for violation of the Commission's rules, orders, and regulations from July 1, 2019, to date. In the 2017-19 biennium, $2,590,034.78 was collected; and, from July 1, 2019, to date, $1,892,058.85 has been collected. As of the end of the 2017-19 biennium, 6 cases were pending, and 5 civil administrative cases were pending at the end of 2020.

### Environmental Protection

The Division assisted the Department of Environmental Quality with its regulatory work involving air pollution control, asbestos removal, water pollution control, radioactive materials management, and solid waste and hazardous waste management. During the biennium, the Division assisted the Department in pursuing more than 120 enforcement actions, collecting more than $377,000 in penalties for violations.

### Hydraulic Fracturing (Fracking) Rule Cases

In December 2017, the BLM rescinded the Obama-era 2015 Fracking Rule, returning regulatory authority over hydraulic fracturing to the states (North Dakota had already successfully obtained a court order striking down the 2015 Fracking Rule). BLM's decision is currently being challenged in the 9th Circuit by a coalition of states led by California and several environmental groups. North Dakota is monitoring this case because if the 9th Circuit overturns BLM's decision and the 2015 Fracking Rule is reinstated, North Dakota's successful litigation against 2015 Fracking Rule would come into play again.

Venting and Flaring Rule Cases

In October of 2020 the federal District Court in Wyoming vacated the Obama BLM's 2016 Venting and Flaring Rule, which imposed air quality regulations on venting and flaring of natural gas from split estates common in North Dakota where state and private lands are pooled with federal mineral interests. The Court agreed with North Dakota's split estate arguments, concluding that BLM did not give have the authority to impose federal requirements on communitized state and private mineral interests.

2016 and 2020 Methane Rule Cases

North Dakota has played a leading role in the consolidated litigation challenging the validity of the Obama EPA 2016 Methane Rule (regulating of methane emissions from oil and gas operations) in the D.C. Circuit Court of Appeals. When EPA issued a more reasonable methane rule in 2020, that rule was immediately challenged by a group of states led by California, as well as by several environmental groups. North Dakota is the only state to have intervened on EPA's side and in support of reasonable regulation of methane emissions from the state's important oil and gas sector.

The Clean Power Plan and Affordable Clean Energy Rule Cases

North Dakota played a leading role in persuading the U.S. Supreme Court in 2016 to prohibit implementation of Obama EPA's 2015 Clean Power Plan (CPP), which unlawfully regulated greenhouse gas emissions from large existing power plants and would have had a significant negative impact on North Dakota's power plants, electricity rates, and the lignite coal mining sector. In July of 2019 EPA replaced the CPP with the Affordable Clean Energy Rule (ACE Rule) which was promptly challenged in the DC Circuit. North Dakota intervened on behalf of EPA and filed a brief in support of the ACE Rule (oral argument was held in October 2020).

Waters of the United States

North Dakota continues to play a major role in the litigation over the definition of Waters of the United States (WOTUS), a very important issue for North Dakota's farmers and ranchers. North Dakota successfully obtained a federal Court injunction preventing the 2015 WOTUS rule from taking effect, though the Court has yet to issue a final ruling in that case because in 2020 the Trump EPA replaced the 2015 WOTUS Rule, generating a new round of lawsuits. North Dakota's challenge to the 2015 WOTUS rule is stayed pending the outcome of the litigation over the 2020 rule, and the WOTUS landscape is expected to shift again with the incoming Biden administration.

Paul Sorum, et al., v. The State of North Dakota (2018)

The plaintiffs challenged the Legislature's 2017 enactment of Senate Bill No. 2134, which created a statutory process for establishing the Ordinary High Watermark for Lake Sakakawea and a certain portion of the Missouri River upstream from the Lake. The district court held that a majority of the new law was constitutional, but also held that a subdivision of the law was unconstitutional and awarded over $700,000 in attorney's fees. The North Dakota Supreme Court subsequently upheld the

constitutionality of the law and rejected the plaintiffs' attorneys fee award. The plaintiffs recently petitioned the United States Supreme Court to hear their case.

North Dakota v. United States - (Section Lines) (2012)

In 2012 the State and certain Counties brought suit in federal district court against the United States Forest Service, to quiet title to section line rights-of-way in the National Grasslands in North Dakota. The district court dismissed the State and Counties section line claims based upon the federal Quiet Title Act's statute of limitations. Both the State and the Counties appealed the district court's dismissal of the parties' section line claims to the 8th Circuit Court of Appeals.

Northwest Landowners Association v. State of North Dakota, et al.; Case No. 1:18-cv-00236

The Northwest Landowners Association (NWLA) brought suit against the State of North Dakota, the Industrial Commission, the Board of University and School Lands, the Governor, and the Attorney General, challenging Senate Bill 2344 (2019) (SB 2344). SB 2344 includes a variety of provisions, including a designation that carbon dioxide is an acceptable method for enhanced recovery of oil, gas, and other minerals; public interest statements related to the use of carbon dioxide; limitations on a surface landowner's remedies relative to a person conducting operations approved by the Industrial Commission under N.D.C.C. ch. 38-08; amendments to legislative findings; amendments to definitions; and a recognition that in North Dakota the mineral estate is the dominant estate. The State and the Counties have both moved for summary judgment and the case is pending before the state district court.

Missouri River/Garrison Diversion Litigation

The State of Missouri has sued the Garrison Diversion and Bureau of Reclamation over the Central Dakota Water Project, which would divert 20 cubic feet per second of water from the Missouri River to the McClusky canal. The State intervened in the litigation because Missouri's complaint seems to indicate that Missouri is less concerned about the Garrison Diversion's Central Dakota project, but rather intends to use the lawsuit as a mechanism to litigate water use out of the Missouri River generally.

Pharmaceutical Care Management Association v. Mylynn Tufte, et al. (2017)

Pharmaceutical Care Management Association (PCMA) filed a complaint in federal district court challenging the Legislature's 2017 enactment of Senate Bill No. 2301, which was one of two bills that sought to define the rights of pharmacists in relation to pharmacy benefit managers (PBMs), and to regulate certain practices by PBMs. PCMA alleged federal law preempts SB 2301. The parties filed cross motions for summary judgment, and the district court granted the State's motion in part and denied it in part. PCMA appealed the district court's decision to the Eighth Circuit Court of Appeals, which affirmed and reversed the district court's decision in part. The end result was that the State had lost its appeal. The State has further appealed the decision by petitioning the U.S. Supreme Court.

Guardian Flight LLC v. Jon Godfread (2018)

The plaintiffs are challenging the Legislature's 2017 enactment of Senate Bill No. 2231, which provides that payment by an insurer to a provider for air ambulance services is full and final payment with no option for the provider to seek the balance from the patient. S.B. 2231 also prohibits air ambulance subscription agreements. The plaintiffs are arguing that the law is expressly preempted by federal law. The parties filed cross-motions for Judgment on the Pleadings. The US District Court found that the payment provision in S.B. 2231 is preempted by federal law, and state officials are enjoined from enforcing that part of the law. However, the US District Court found that the portion of S.B. 2231 prohibiting air ambulance subscription agreements is not preempted by federal law and is enforceable. The parties cross-appealed to the 8th Circuit Court of Appeals. Briefing on the appeals is concluded and oral arguments were heard on June 16, 2020. The 8th Circuit Court of Appeals has not yet ruled on the case.

Breanna Berndsen, et al. v. The North Dakota University System (2018)

Former members of the University of North Dakota (UND) women's hockey program filed a class action lawsuit against the University System, alleging that UND violated Title IX by eliminating its women's hockey program. The federal district court granted UND's motion to dismiss the plaintiffs' claims and the plaintiffs appealed the decision to the 8th Circuit Court of Appeals, which recently held arguments regarding the case.

Tobacco Enforcement

In 2018 the State settled a long dispute with tobacco companies concerning the 1998 Master Settlement Agreement, and allegations that the State had not diligently enforced the Agreement. The 2018 settlement resulted in the release of millions of dollars belonging to North Dakota that tobacco companies had held in an escrow account during the decades-long dispute, and the settlement of future years to 2023. In addition, North Dakota will continue to receive the annual payments it is due under the Master Settlement Agreement.

Mickelson et at v. ND DoH et al. (2020)

On March 26, 2020, Plaintiffs challenged the new administrative cottage food rules, effective January 1, 2020. The parties made cross-motions for judgment on the pleadings, regarding whether DoH had statutory authority to enact the new cottage food rules. On December 10, 2020, the state district court granted Plaintiffs' motion for judgment on the pleadings, ruling that DoH exceeded its authority in enacting the new cottage food rules, and enjoined enforcement on the rules.

Northwest Area Water Supply (NAWS) Pipeline

The court battle over the NAWS, which will bring much-needed water from the Missouri River to Minot and surrounding counties, was finally successfully concluded in this biennium.

Spoofcard v. Stenehjem (2020)

Spoofcard, LLC filed suit in US District Court alleging that North Dakota's "Caller ID Anti-Spoofing Act" was preempted by federal law and violated both the Commerce Clause and the First Amendment. In November 2020, the district court determined the Anti-Spoofing Act violated the Commerce Clause and granted judgment in favor of Spoofcard without addressing the First Amendment and preemption claims.

Election Lawsuits

Several election lawsuits were filed in 2020 relating to the COVID-19 pandemic, including Sinner v. Jaeger, wherein a sponsoring committee seeking to circulate an initiative petition for signatures brought suit in federal court against the Secretary of State, claiming the in-person signature gathering requirements were unconstitutional in light of the pandemic. The court denied the sponsoring committee's motion for preliminary injunction, finding it was unlikely to prevail on the merits, after which the sponsoring committee voluntarily dismissed its lawsuit. In Self Advocacy Solutions N.D. v. Jaeger, the plaintiffs sued the Secretary of State in federal court, alleging that North Dakota's system of comparing signatures on absentee ballot applications with signatures on the voter's affidavit on ballot envelopes violates due process and the right to vote. The Court granted the plaintiffs' motion for preliminary injunction and ordered the parties to confer and agree upon procedures sufficient to safeguard voters' constitutional rights in the June 2020 primary election. The parties stipulated to a new procedure of notice and opportunity to cure. The new procedure was used successfully during the June 9, 2020 primary election, after which the parties stipulated to make the injunction permanent, to be in effect as long as North Dakota continues to rely on signature matching for absentee ballot verification, unless legislation is enacted to provide a different procedure.

In addition to the COVID-19 related election cases, two federal voter ID cases were resolved in 2020. In Spirit Lake v. Jaeger and Brakebill v. Jaeger, the plaintiff's brought suit against the Secretary of State, alleging North Dakota's voter ID laws and the SOS's enforcement of the laws violated the constitutional rights of Native American voters. Both cases were settled in April 2020 with a consent decree that did not change any of North Dakota's voter ID laws, but contained provisions by which the SOS agreed to assist the Plaintiffs in complying with those laws. As part of the settlement, the Plaintiffs waived their right to recovery of attorneys' fees, with the exception of a portion of the fees in Brakebill v. Jaeger, which is currently the subject of an appeal to the Eighth Circuit Court of Appeals.

Dakota Access, Limited Liability Corporation (LLC) (2018)

On July 3, 2018, the Division filed a Complaint in state court to compel Dakota Access, LLC to divest ranch land. On April 12, 2019, Dakota Access, LLC divested subject lands, by warranty deed, to 1806 Ranch LLC, a family farm/ranch LLC. On April 30, 2019, the ND District Court dismissed the case with prejudice.

Farm Equipment Dealership Network Law (SB 2289) (2017)

The Division defended 2017 Senate Bill No. 2289, regulating farm equipment dealer and farm equipment manufacturer contractual relationships. On July 24, 2017, several major farm equipment manufacturers challenged the law under numerous constitutional and federal preemption legal theories. On October 19, 2020, the U.S. District Court ruled that all of SB 2289 shall be applied prospectively from its effective date of August 1, 2017, the court nullified the arbitration provision. Nothing in SB 2289 may be applied retroactively.

Farm Bureau, et al: Corporate Farming Challenge (2016)

The Division defended the state's corporate farming law in federal court from a constitutional challenge. In September 2018, the US. District Court found that the statute violated the dormant Commerce Clause. In August of 2019, the US District Court awarded Plaintiffs $175K in attorneys' fees. This award order has been submitted to OMB, for subsequent consideration by the upcoming Legislative session to make an appropriation to pay it.

Fleck v. Wetch (2015)

Arnold Fleck filed suit in US District Court alleging that mandatory membership in North Dakota's integrated bar association violated his First Amendment rights to free speech and association. The suit made claims against both the State Bar Association and the State Board of Law Examiners. After the defendants successfully had the case dismissed in both the district court and the Eighth Circuit Court of Appeals, the United States Supreme Court reversed and remanded the case to the Eighth Circuit for reconsideration in light of a recent Supreme Court decision that was decided in the interim.

In August 2019, the Eighth Circuit again held in favor of the defendants and concluded that Fleck failed to show North Dakota's integrated bar violated the First Amendment. In April 2020, the United States Supreme Court denied Fleck's request to review the Eighth Circuit's decision.

Sexually Dangerous Individuals (2013)

The State recently settled a challenge to its civil commitment laws, N.D.C.C. ch. 25-03.3, for individuals who have been assessed as "sexually dangerous" and involuntarily committed to the State Hospital for treatment. The case dates back to 2013. The plaintiffs argued that the Department of Human Services/the North Dakota State Hospital violated certain alleged constitutional rights by, among other things, the classification methods of sexually dangerous individuals, the methods and timing of certain treatments and privileges, as well as alleged violations of religious freedoms. The plaintiffs also argued that the Department of Corrections and Rehabilitation violated the constitutional rights of individuals by failing to provide certain notifications to the individuals while incarcerated. The State agreed, through the settlement agreement, to

certain changes to its policies and procedures, and payment of attorney fees to court appointed counsel.

# CRIMINAL & REGULATORY DIVISION

Attorneys in the Criminal & Regulatory Division prosecute criminal cases statewide, at the request of the county state's attorneys. Since July 1, 2019, two attorneys assumed prosecution, from the Williams County State's Attorney, of a seventeen-year-old defendant who shot two nineteen-year-olds – one of whom died – during a drug deal involving LSD. The now eighteen-year-old defendant was convicted and is serving ten years at the North Dakota Department of Corrections.

The division worked on many federal habeas corpus petitions during the biennium. There were twelve matters requiring responses at the U.S. District Court level. Seven were dismissed by that court. The rest are pending. Eight cases were worked on at the 8th Circuit Court of Appeals, seven have been dismissed and one remains pending. One case was taken to the United States Supreme Court and the Writ of Certiorari was denied by that court. Thanks to the good work of state's attorneys across the state, none of the cases resulted in reversals of convictions or new trials. The petitioners included four cases involving deaths, five involving sexual offenses, and one kidnapping.

Although the Bureau of Criminal Investigation handles sex offender registration, attorneys from the division help lead the monthly meeting of the Sex Offender Risk Assessment Committee. During this biennium, the SORAC assessed 480 offenders residing or working in the State of North Dakota. In addition, an attorney and the offender registration supervisor visited four cities in the state to provide sex offender registration training to staff at local law enforcement agencies.

Division attorneys serve as instructors at the Law Enforcement Training Academy (LETA) in Bismarck. The LETA graduates three classes of basic law enforcement candidates each year. During this biennium, attorneys taught Criminal Law, North Dakota Criminal Procedure, North Dakota Rules of Evidence, Legal Aspects of Use of Force, and Criminal Investigations of Sex Crimes. Attorneys also instructed on topics such as Search & Seizure, Miranda, and Courtroom Testimony to law enforcement students who attended the BCI Criminal Investigations School, which was held twice during the biennium.

Following civil asset forfeiture reform in early 2019, attorneys have continued to advise law enforcement and local prosecutors on compliance with the new regulations. This has included revising law enforcement MOUs, compilation of civil asset forfeiture reports, and proposing potential legislative fixes to streamline reporting to lessen the burden on local prosecutor offices.

# STATE AND LOCAL GOVERNMENT DIVISION

Since July 1, 2019, the office has issued a total of 36 opinions, of which 23 were open records opinions, and 13 were opinions on questions of law related to matters involving state statutes, the state Constitution, and issues having statewide significance, including the October 13, 2020, opinion addressing the effect of votes cast for a deceased candidate for political office, an opinion that was upheld by the North Dakota Supreme Court. In addition, division attorneys reviewed 80 administrative rules submitted for review by other state entities.

The attorneys in the division provide general counsel to 70 state agencies, regulatory boards, and state created boards and commissions. General counsel work includes contract review, policy review, legal advice regarding contract implementation, employment issues, and compliance with state and federal rules and laws.

During the pandemic, the work of general counsel has proven crucial. The attorneys have helped clients navigate a new landscape of COVID employment policies, executive orders, acquisition and distribution of PPE, and contract disruptions. One assistant attorney general represents the Department of Health which is at the epicenter of the state's response to the pandemic. Many clients, such as the Department of Commerce, Job Service, the Bank of North Dakota, and the Department of Public Instruction needed legal advice to navigate the federal CARES Act. State regulatory boards such as the Board of Medical Imaging and Radiation Therapy, Board of Respiratory Care, and the Education Standards and Practices Board, among others, were inundated with demands to adapt to a workforce stressed by COVID. Almost every client has had to address issues brought on by this pandemic.

# CRIME LABORATORY DIVISION

The office received 10,802 cases (excluding breath alcohol tests) from January 2019 to December 2020.

The current turnaround times are as follows:

- Approximately 67 days for drug cases
- Approximately 8 days for fire debris cases
- Approximately **109 days for DNA cases – currently 481 DNA analysis cases are awaiting completion**
- Approximately 30 days for toxicology (blood alcohol cases)
- Firearms cases are outsourced due to staffing issues
- Approximately 60 days for latent print cases (confirmations are outsourced due to staffing issues – there is only one qualified latent print examiner at the Crime Lab)

## Combined DNA Index System (CODIS)

The NDOAG-CLD DNA Unit processed a total of 4,993 convicted offender and arrestee samples in 2019 and 2020. There are approximately 50,331 DNA profiles in North Dakota's State DNA Index System database (SDIS). Since 2003, the Crime Laboratory Division has averaged 574 convicted offender samples per year. Since 2009, the Crime Laboratory Division has averaged 2,606 arrestee samples per year.

**North Dakota CODIS Database**

| | 12/2000-12/2018 | 01/2019-12/2020 |
|---|---|---|
| Convicted Offender DNA Profiles | 12,773 | 513 |
| Arrestee DNA Profiles | 26,861 | 4,480 |
| NDIS Forensic DNA Profiles* | 1,612 | 416 |
| SDIS Forensic DNA Profiles ** | 242 | 33 |

**North Dakota CODIS Hits**

| | 12/2000-12/2018 | 01/2019-12/2020 |
|---|---|---|
| Investigations Aided *** | 764 | 254 |
| State Forensic Hits (crime scene to crime scene) | 99 | 52 |
| State Arrestee Hits | 343 | 167 |
| State Convicted Offender Hits | 195 | 33 |
| National Forensic Hits | 36 | 30 |
| National Arrestee Hits | 135 | 51 |
| National Convicted Offender Hits | 172 | 42 |

* State forensic unknown, partial and mixture DNA profiles that qualify for NDIS and are therefore compared against the national database.
**State forensic unknown, partial and mixture DNA profiles that do not qualify for NDIS and are therefore compared against only the North Dakota database
*** Investigations aided are the number of cases where CODIS has added value to the investigative process.

The National DNA Index System (NDIS) has existed since 1998 and contains DNA profiles contributed by all 50 states, the District of Columbia, the federal government, the U.S. Army Criminal Investigation Laboratory, Puerto Rico, and local participating forensic laboratories.

NDIS (National DNA Index System)

| | |
|---|---|
| Convicted Offender DNA Profiles | 13,444,810 |
| Arrestee DNA Profiles | 3,323,611 |
| Forensic DNA Profiles<br>(Unknown, Partial and Mixture) | 894,747 |
| TOTAL | 17,663,168 |

NDIS (National DNA Index System)

| | |
|---|---|
| Investigations aided | 42,808 |
| Forensic hits (crime scene to crime scene) | 67,462 |
| Intrastate hits<br>(crime scene to convicted offender within a state) | 323,210 |
| Interstate hits<br>(crime scene in one state to convicted offender in another state where CODIS aided an investigation) | 49,674 |

# INFORMATION TECHNOLOGY/CRIMINAL JUSTICE INFORMATION SYSTEM

Throughout the 2019-21 biennium, the IT/CJIS Division has completed a variety of IT projects. A majority of the projects contribute to increasing public and law enforcement safety. Automating the sending and receiving of criminal history, disposition, and case filing data across various platforms increases the timeliness and accuracy of criminal history records and information that law enforcement relies on to safely perform their job duties.

BCI and IT/CJIS leveraged grant funds to automate the process of transmitting disposition data from the courts and state's attorneys to the state criminal history system. The data includes information on all persons prohibited from possessing firearms for mental health reasons from the courts, felony convictions, convictions for misdemeanors involving domestic violence and stalking, and drug convictions. This information is then reported to the FBI, resulting in more complete and accurate criminal history information.

IT/CJIS also completed a re-write of the North Dakota criminal history system. The previous system was designed 20 years ago. The new criminal history includes accepting the incoming disposition workflow that allows BCI staff to review and import received dispositions much more efficiently.

Another project IT/CJIS completed was the development of an "E-charging" system which allows paperless submission of case charging information from the IT/CJIS state's

attorney's records management system (STARS) to the court's case management system, Odyssey. This system allows for initial and supplemental electronic filing of court cases from a state's attorney's office directly to Odyssey. Agencies utilizing these programs can now paperlessly file a case from the point of arrest to prosecution, disposition, and reporting back to criminal history.

In addition to the criminal justice programs that IT/CJIS develops and maintains, we completed phase one of the gaming core re-write project. Phase one provides a new online application that charitable gaming organizations (CGO) can use to fill out their tax forms and pay online. The system also includes extensive tax information checking to streamline the collection of tax information. Before the system, CGOs would submit hundreds of pages of tax information by mail. The next phases for the project include an online application for distributors to buy gaming stamps and report sales, as well as upgrades to the core gaming system to a new platform to allow integration with the new online systems.

IT/CJIS has various ongoing and upcoming projects that will continue to improve and streamline workflows and business processes for criminal justice, the general public, and the Office of Attorney General. IT/CJIS is developing a warrant system that integrates with the Odyssey system. This system will receive warrant information electronically. Law enforcement will be able to add additional details to active warrants, validate warrants, and send updates to the FBI. This system will notify law enforcement and the courts when updates to warrants are completed.

The IT/CJIS staff supports and maintains over 45 software programs for the Office of Attorney General, criminal justice agencies, victims of crime, and the general public. Staff also provide desktop support services to all employees of the Office of Attorney General.

## Marsy's Law Implementation

Another initiative that IT/CJIS completed this biennium was the Marsy's Law Initiative projects. During the 2017-19 biennium, IT/CJIS identified notification gaps between Marsy's Law requirements and what the North Dakota Statewide Automated Victim Information and Notification (ND SAVIN) system provided. In the 2019-21 biennium, IT/CJIS finalized all projects relating to victim notifications required by Marsy's Law. The projects included adding commitment, juvenile court, sentencing, and open record request notifications. IT/CJIS also developed a statewide repository where victims can assert their rights, and criminal justice personnel can search and track victim assertions statewide.

# CONSUMER PROTECTION AND ANTITRUST DIVISION

CPAT opened 646 consumer complaints and investigations and closed 639 files in 2020. The division recovered or collected $647,299 in consumer restitution and $1,405,310 in attorneys' fees, investigation costs, and civil penalties relating to litigation completed. The division took legal action against 73 companies or individuals. The division also obtained unpaid legal judgments in the amount of $414,740.

Most notable for the 2019-21 biennium are the division's: 1) investigation and legal actions relating to opioids manufacturers and distributors; 2) investigations and legal actions relating to anticompetitive conduct by the "Big Tech" firms; 3) participation in multistate Equifax data breach investigation and legal action involving compromised personal or financial information affecting over 250,000 North Dakota consumers; and 4) processing of 618 ID theft complaints between January and December, 2020 related to the Job Service North Dakota false claims for unemployment insurance.

The division has identified the top ten consumer complaints through December 2020:

1. Identity theft
2. Imposter scams
3. Telemarketing/Do Not Call
4. Contractor/Home improvement
5. Automobile
6. Mail order
7. Entertainment
8. Services
9. Retail
10. Debt adjustment/Settlement – credit counseling

# GAMING DIVISION

The legalization and implementation of electronic pull tab devices during the 2019 fiscal year significantly increased the gaming wagers for the 2017-19 biennium. Final numbers for the 2017-19 biennium include wagers of $852.6 million raising over $51.6 million for charitable uses (such as student scholarships, community crime prevention projects, financial and other assistance to injured and disabled veterans) and generating over $10.8 million for the general fund. This compares to $544.5 million in wagers, $43.8 million in charitable uses, and $6.5 million for the state's general fund during the 2015-17 biennium.

The number of e-tab devices has grown significantly. As of December 31, 2020, there were 3,221 devices conducted by 220 organizations in 828 sites. This compares to 1,814 devices conducted by 178 organizations at 488 sites at the end of the 2017-19 biennium.

Despite restrictions in hours of operation and game types due to COVID-19, there has been a dramatic increase in the estimated amounts for fiscal year 2020 including gaming wagers of $882.6 million, charitable uses of $38.1 million and general fund deposits of $13 million.

Due to this increase in gaming activity there has also been an intense increase in workload for the Gaming Division. To help organizations with reporting responsibilities, the Attorney General requested funding during the 2019 legislative session for a new gaming system to allow organizations to file and pay their gaming taxes online. This system is in phase 2 of completion and with additional funding the division will complete phase 4, the final phase, by 2022. This system greatly reduces the time and paperwork for organizations while creating an easy and convenient way to file and pay gaming tax. Though this system will immediately help licensed organizations it will not reduce the extra workload for the Gaming Division. The division is struggling to effectively regulate the rapidly expanding gaming industry and keep pace with continuously changing technical standards.

# FIRE MARSHAL DIVISION

The Fire Marshal's Division accomplishes fire prevention goals through fire investigation, fire inspection and code enforcement, plan review, data collection, fire safer cigarettes, and public education programs.

## Fire Investigations

Fire investigations are conducted to assist local fire departments and law enforcement agencies with origin and cause investigations and reports. Staff respond all days of the week and at any hour of the day to accomplish this task. In 2019, fire investigation activities included 121 total investigations, of which 96 were closed (22 accidental, 1 natural, 12 incendiary, and 61 undetermined). There are currently 25 open cases.

## Fire Inspection and Code Enforcement

The fire inspection program is conducted through the State Fire Marshal's rules for prevention of fires, inspection of facilities as outlined in the North Dakota Century Code, and assisting other agencies/local fire departments with code enforcement as requested.

Effective July 1, 2020, the State Fire Marshal's Office adopted the 2018 Edition of the International Fire Code as our state rules for fire prevention. This was done through the administrative rule process and brought the state closer in-line with local government fire code adoptions resulting in a more level regulatory environment across the state.

In 2020 (the most recent year full statistics were available at the time of this report), the State Fire Marshal's Office completed:

- Total Fire Inspections - 364
- Schools – 86
- State Buildings – 236
- Other (childcare, assembly/liquor license, requested assistance by local fire department) – 42

The division is in the process of researching software for the fire inspections program with the goal of being software based by January 1, 2022. If this transition is accomplished, it will make inspections, reporting, data collection, and data analysis much more efficient.

## Fire Protection Systems Plan

The plan review program is designed to help meet Century Code requirements and to ensure that fire protection systems, above-ground fuel storage tanks, and liquid petroleum gas tanks are designed and installed according to code. This program has been updated resulting in a higher workload, better quality review, and partnership with local businesses and contractors to resolve fire code issues prior to installation. Over the past 4 years, it is clear to see the increase in workload that this program has resulted in.

- Plans received/reviewed in 2017 – 21
- Plans received/reviewed in 2018 – 23
- Plans received/reviewed in 2019 – 141
- Plans received/reviewed in 2020 – 121

The division is in the process of researching software solutions to increase the efficiency of assignments, tracking and data analysis for the plan review program. The goal for this software solution is to be online July 1, 2021.

## Public Education

The State Fire Marshal is charged with fire safety public education initiatives. Currently the State Fire Marshal's Office provides public education through the childcare fire safety program, monthly fire safety messages to fire chiefs, and through assistance with fire prevention training and certificate programs. Public Education initiatives that are not available due to current workload include smoke alarm installation campaigns, youth fire-setter prevention, new construction requirements, and communication.

## Fire Data Collection

The National Fire Incident Reporting System (NFIRS) program requires the State Fire Marshal to be the State Program Manager for all reporting of fires into both the state and national databases. This is accomplished through the use of the NFIRS system and a fire incident reporting software state contract. The state contract provides a free fire incident reporting software (Emergency Reporting) to all fire departments in the state. The state contract with Emergency Reporting has been paid for by the Department of Forestry through grants over the last four years. The state contract is necessary to increase participation of fire reporting in North Dakota and important for the State Fire Marshal and Department of Forestry to fund.

- Fires reported in 2019 (most recent year of complete data) – 2,257
- Fires resulting in fatality in 2019 – 8
- Dollar loss attributed to fire in 2019 - $25,461,162
- Percentage of fire departments reporting fires – 56% (205/366)

## Fire Safer Cigarettes

The fire safer cigarettes program was established in 2010 and requires cigarette manufacturers to comply in order to sell their product in North Dakota. The requirements include but are not limited to the ability to ignite material, self-extinguishment, and markings on packaging for identification purposes. Every year division staff inspect the cigarettes to ensure that what has been submitted to the office matches what is being sold in the state.

- Cigarettes certified since the program's inception (2010) – **1,482**
- Cigarettes currently certified – **1,044**
- Cigarettes types certified in 2019-20 – **932**

## DOT Emergency Responder Guidebooks (ERG's)

The division partners with the US Department of Transportation to assist with distribution of Emergency Response Guidebooks (ERG) to first responders in the state. The ERG provides first responders chemical information to aid in decision-making in the first thirty minutes of a hazardous materials incident. Through December 2020, the division received 5,124 ERG's and distributed 2,713. There were 1,792 hazardous materials incidents in North Dakota in 2019.

# LOTTERY DIVISION

The North Dakota Lottery conducts 5 games: Powerball, Lucky for Life, Mega Millions, Lotto America, and 2by2. The Lottery Division transferred $15.9 million to the state general fund, $845,000 to the multijurisdictional drug task force grant fund, and $640,000 to the compulsive gambling prevention and treatment fund for the 2017-19 biennium. For fiscal year 2020, the Lottery transferred $4.1 million to the state general fund, $800,000 to the multijurisdictional drug task force grant fund, and $320,000 to the compulsive gambling prevention and treatment fund.

# CURRENT AND FUTURE CRITICAL ISSUES

## Fentanyl, Heroin, and Other Illicit Drugs

In the last two years, opiate usage has continued to increase. Pills such as Oxycodone, heroin, and heroin cut with Fentanyl encompass the opiates in question. A majority of these products being seized can be positively linked to Detroit, Michigan, as the source area.

Naloxone (also known as Narcan) temporarily counteracts the effects of opiate overdoses and is being increasingly used to counteract the increasing number of overdoses in the state.

The following examples reflect the impact of opioid use and overdoses on local communities:

- Minot Community Ambulance has documented 132 opiate related overdoses for 2020. Of those 132 overdoses, 15 resulted in death. Further, they have utilized 90 units of Narcan.
- Narcan was administered in Williams County (reported by EMS) from July 2019 through December 2020 to 60 individuals.
- In the Grand Forks area most of the heroin being sold is actually Fentanyl. The Grand Forks Narcotics Task Force has seen an increase in overdoses with three of those being fatal.
- In a 7-day period in early December 2020, the Cass County Drug Task Force (CCDTF) and Fargo Narcotics Unit seized 9 pounds of methamphetamine, 11 ounces of heroin, 194 M30 (Fentanyl) pills, over $120,000 in U.S. currency, and 8 firearms (illegally possessed). In August 2020, the CCDTF, in collaboration with

the Fargo Narcotic Unit, Grand Forks Task Force, Ward County Task Force, and Metro Area Narcotic Task Force dismantled a narcotic ring of individuals responsible for multiple overdoses and deaths. As a result, approximately 1,400 M30 (Fentanyl) pills, 2 ounces of heroin, methamphetamine, a Glock 9 mm pistol, and $52,785 were seized.

- The Bismarck/Mandan Metro Area Task Force (MANTF) seized 10,997 Oxycodone pills during 2019 and 2020, a 142% increase from the previous two years. In addition, over four pounds of heroin has been seized, which is an increase of 193 percent over the previous two years.
- In 2020, the Southwest Narcotics Task Force seized 426 units of Fentanyl or 4,260 individual dosage units. Each dosage unit has the potential to be a fatal dose of the drug. The SWNTF also saw 49.2g or 492 dosage units of heroin in 2020.

## Criminal Investigators Salary Issue

The office has historically attempted to recruit and hire experienced investigators from local agencies or other state agencies to fill criminal investigator positions. The office's hiring requirements include five years of law enforcement experience, a bachelor's degree, and a license as a peace officer. In order to acquire and retain investigators with the above qualifications, the office must offer higher salaries.

It has been difficult to hire these individuals in the last few years due largely to the office's limited salary levels, including the starting criminal investigator salary. Because of the substantial crime increase throughout North Dakota, calls for assistance, and population growth, the office concentrates on retaining experienced and trained investigators. The office needs these experienced investigators to combat the organized and dangerous criminals in North Dakota. BCI criminal investigations have become much more sophisticated, detailed, and time consuming than in the past. For all these reasons the office needs to continue to hire and retain experienced investigators to serve the public and keep the public safe.

### Criminal Investigator Work Demands

The fluctuation in the state's population due to the energy industry and good business climate continues to be very taxing on Bureau of Criminal Investigation (BCI) criminal investigator's time, resources, and well-being. Criminal investigators are investigating crimes that have not traditionally occurred in this state, including gang activity, murder for hire, and organized crime including organized drug trafficking and human trafficking crimes. This new, very mobile workforce is responsible for not only trafficking drugs from their home state but also introducing new drug production methods. Although the mobile workforce related to the energy industry has decreased, criminals have stayed and are responsible for trafficking drugs from their home state. Most North Dakota counties' population remained and did not experience a growth reduction.

BCI continues to see a significant increase in requests for officer involved shooting (OIS) investigations by local law enforcement agencies. Use of deadly force investigations are extensive investigations that are manpower intensive and time consuming as well they should be. Once BCI receives a request for an OIS investigation, the case takes priority and other investigations often must be suspended until the conclusion of the OIS investigation.

BCI has seen a steady increase for assistance to local law enforcement agencies for investigations pertaining to child sexual abuse. Child sexual abuse investigations are on the rise across the state and the majority of local law enforcement agencies request BCI assistance in some facet of the investigation. Child sexual abuse investigations are difficult cases to work because of family dynamics as well as the age and maturity of the victims.

Local law enforcement agencies are increasingly requesting BCI's assistance with financial crime and fraud related investigations. Financial crimes investigations are manpower and documentation intensive. There seems to be an increase in public entity financial crimes investigations that are high profile in the local communities.

BCI has not experienced any type of workload slowdown in any part of the state post oil boom nor during the COVID pandemic. Counterfeit Oxycodone pills made from Fentanyl have resulted in numerous overdoses and overdose death investigations for office criminal investigators and is at an all-time high. Marijuana, prescription drug abuse, and methamphetamine (meth) are still prevalent. The 10 drug task forces around the state continue to be busy. BCI is part of each of these task forces and has a criminal investigator assigned as a supervisor to all but one of the task forces. The office continues to deal with organized drug trafficking organizations in all parts of the state.

Aside from continued drug enforcement, criminal investigators have been continually busy with general investigations including homicides, multi-county burglaries, officer involved shootings, and have seen an increase in agency internal investigations and other numerous regular cases. The office has trained and equipped a group of criminal investigators to respond to and process crime scenes. The training consists of 10 weeks at the National Forensic Academy in Tennessee and the office now has 3 crime scene units to bring specialized equipment and staff wherever needed. These crime scene units now respond to crime scenes in departments of every size including Fargo, Grand Forks, Minot, Mandan, Bismarck, Williston, and throughout the state. These crime scene trucks and teams are located in Williston, Bismarck, and Grand Forks.

The BCI Cyber Crime Unit, which also oversees the Internet Crimes Against Children (ICAC) Task Force and Human Trafficking Task Force, continues to be a critical part of criminal investigations throughout the state. The six full-time investigators not only assist with child exploitation cases, but also many other types of crimes that involve digital media devices and/or investigations that require a high level of technological

skills. In addition, in 2019 and 2020, over 930 reports of child sexual exploitation were received by the BCI Cyber Crime Unit from the National Center for Missing and Exploited Children. This high demand of child exploitation reports has led to local affiliates being over burdened with investigations, to the point that BCI Agents from outside of the Cyber Crime Unit have been assigned to assist with the investigations.

## Unmanned Aircraft Systems

The use of UAS or drones has been growing quite a bit in recent years. The entry level price tag for drones is relatively inexpensive and many city and county agencies are finding ways to fund the drone operations themselves. However, the drones have limited capability without post-processing software as well as the local agencies are unable to purchase the more expensive DJI Matrice drone. BCI's UAS team has conducted many drone operations from searching for missing persons, assisting other agencies with foot pursuits, collecting point data for digital reconstruction, and providing visual surveillance of suspects in cooperation with regional SWAT teams.

## Information Technology Division Infrastructure and Program Needs

The office's BCI and Crime Lab operations rely heavily on the expertise and skills of the office's Information Technology (IT) Division to develop new programs, and maintain and support new and existing projects. Between 80-90% of all IT services used in this office are for the BCI and Crime Lab.

It is essential that the IT Division receive the funding, staff, and other resources needed to ensure that critical internal and external existing programs function efficiently, that project funding deadlines can be met, and delays in development are kept at a minimum.

# STATUS OF 2019-21 BIENNIUM ONE-TIME APPROPRIATIONS

### Capital Assets

These funds have been allocated and will be spent.

### Undercover Vehicles

These funds have been allocated and will be spent.

### DOS-Based Deposit System Rewrite Carryover

Carryover authority of $43,179 has been allocated and will be spent this biennium.

## Criminal History Improvement Project

These funds have been allocated and have been spent. The office has requested an additional $400,000 to continue the enhancement of the system in the 2021-23 biennium.

## Voter ID Attorney

It is estimated that approximately $260,319 will be transferred from the litigation pool to the Office of Attorney General to fund the one-time voter ID attorney. This position has been removed for the 2021-23 biennium.

## Automated Fingerprint Identification System

This project is in development and includes an update from a fingerprint identification system to a biometric identification system. $158,000 from federal funds for this project was received later than anticipated so federal funding has been requested to continue the project into the 2021-23 biennium. It is anticipated the $158,000 special fund appropriation will be spent during the 2019-21 biennium; however, if unforeseen challenges arise, the office may need to request carryover for any unspent appropriation.

## Charitable Gaming Technology System

It is anticipated the $400,000 appropriation will be spent during the 2019-21 biennium; however, if unforeseen challenges arise, the office may need to request carryover for any unspent appropriation. Funding of $475,000 has been requested to finish the project in the 2021-23 biennium.

## Concealed Weapon Rewrite Carryover

$95,000 of the $155,711 carryover has been allocated for the 2019-23 biennium. The remaining funding will be requested as carryover to continue the project in the 2021-23 biennium.

## Statewide Automated Victim Identification Notification Program Carryover

Approximately $400,000 of the $540,000 carryover has been expended to complete the SAVIN program. The remaining $140,000 will be requested as carryover to the 2021-23 biennium for replacement of the legal case management system.

# OFFICE OF ATTORNEY GENERAL
# BUDGET ISSUES AND REQUESTS

## Office/State Impacts Due to 2021-23 Biennium 15% General Fund Reduction Required

The vast majority of the office's staff (81%) provides legal and law enforcement services to state and local entities. General fund reductions at this level significantly affect the office's ability to assist with local law enforcement cases, provide training and hands-on legal and law enforcement support, purchase needed supplies and equipment, travel to other locations, and assist law enforcement throughout the state.

Governor Burgum required state agencies to submit budgets reflecting 15% general fund reductions (85% budgets). For this office it translated into a $6.74 million general fund reduction.

The salaries line was reduced by over $3.5 million which would have resulted in the loss of several FTE positions including BCI agents, attorneys, gaming auditors, forensic scientists, and IT staff. The Executive Recommendation restored all but $246,000 of the salary reduction. The office did not request funding to be restored for some temporary salaries.

General fund operating expenses were reduced by over $1.5 million. The Executive Recommendation did not restore any of the operating expenses. This will result in a loss of funding for criminal investigator case travel and equipment; Fire Marshal travel, equipment and supplies; IT maintenance, contractual services, software and supplies; building maintenance supplies; necessary crime scene supplies; Crime Lab consumables used to test local law enforcement submitted evidence; Crime Lab service contracts on critical, specialized equipment; office equipment; professional supplies; and printing.

The law enforcement line was reduced by $343,738. The Executive Recommendation did not restore this funding. This will result in the loss of one BCI criminal investigator and one administrative assistant in the Williston area and necessary operating expenses for the Crime Lab.

The Criminal Justice Information Sharing line was reduced by $454,172 including $182,283 for salaries and $271,889 for operating expenses. The Executive Recommendation restored the salary funding but did not restore the operating funding. This will result in portals and interfaces not being updated and projects being delayed or not completed.

Human trafficking grants were reduced by $400,000 and forensic nurse examiner grants were reduced by $37,500. The Executive Recommendation did not restore either of these grant reductions.

Litigation fees were reduced by $22,500 and arrest/return of fugitives was reduced by $1,500. The Executive Recommendation did not restore either of these reductions.

The intellectual property (IP) attorney line item totaling $447,791 was removed and an optional package was added to request the funding be restored to the salaries and operating lines. The Executive Recommendation did not restore the IP attorney.

## Office of Attorney General
## Reductions in the Executive Recommendation
## 2021 House Bill 1003

The Executive Recommendation included the following general fund changes:

1. Funding source changes were made from the general fund to other funds for the following:
    a. Criminal Regulatory salary expenses in the law enforcement line ($134,343)
    b. State and Local Government operating expenses ($60,225)
2. Removes an assistant attorney general.
3. Removes funding for one BCI agent and one administrative assistant
4. Significantly reduces BCI operating expenses.
5. Significantly reduces Crime Lab operating expenses.
6. Significantly reduces Fire Marshal operating expenses.
7. Significantly reduces IT and CJIS operating expenses.

# PROPOSED CHANGES TO 2021 HOUSE BILL 1003

The office's optional adjustments requested in the submitted budget and as approved in the Executive Recommendation are shown below.

| Description | Priority | General Fund | Federal Fund | Other Funds |
|---|---|---|---|---|
| P1 maintenance and license | 3 | 217,662 | | |
| Tech fee increase | 3 | 13,680 | | |
| Office 365 increase | 3 | 57,278 | | |
| Gaming regulation FTE (4) | 4 | | | $814,863 |
| Gaming regulation operating | 4 | | | 144,836 |
| CJIS portal, broker, common statutes table | 5 | 165,000 | | |
| Crime Lab equipment | 6 | | $1,111,706 | |
| Peak Performance contract | 7 | 34,342 | | |
| SyTech trap and trace | 7 | 80,000 | | 80,000 |
| ABIS | 7 | | 300,000 | |
| Criminal History project | 8 | | | 400,000 |
| Gaming Project | 8 | | | 475,000 |
| Total | | $567,962 | $1,411,706 | $1,914,699 |

The office's optional adjustments requested in the submitted budget and **not included** in the Executive Recommendation are shown below.

| Description | Priority | General Fund | Federal Fund | Other Funds |
|---|---|---|---|---|
| Agent reclassifications | 2 | 64,006 | | |
| Agent equity | 2 | 2,860 | $15,455 | $452,903 |
| Fire Marshal equity | 2 | 77,327 | | 36,657 |
| Deputy Fire Marshal step incr | 2 | 16,234 | | |
| Gaming regulation FTE (4) | 4 | | | $814,863 |
| Gaming regulation operating | 4 | | | 144,836 |
| Legal case management system | 5 | 500,000 | | 120,000 |
| Crime lab maint agreements | 6 | 7,305 | | |
| Gas cylinders | 6 | 8,235 | | |
| Narcotics buy fund | 7 | 100,000 | | |
| Ammunition | 7 | 21,941 | | |
| Total | | $797,908 | $15,455 | $1,569,259 |

The following sections are requested to be added to House Bill 1003:

**SECTION _. EXEMPTION - ATTORNEY GENERAL REFUND FUND.**

Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund which would otherwise be transferred to the general fund on June 30, 2021.

**SECTION _. ADDITIONAL INCOME - APPROPRIATION - REPORT.**

In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of $250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021, and ending June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

**SECTION _. CRIMINAL HISTORY RECORD CHECKS - FEES.**

Any individual or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-sixth legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION _. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.**

The human trafficking victims grants line item in section 1 of this Act includes $1,400,000 from the general fund for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the biennium beginning July 1, 2021, and ending June 30, 2023. 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 sixty-seventh legislative assembly on the use of the funds received and the outcomes of its program.

**SECTION _. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.**

The forensic nurse examiners grants line item in section 1 of this Act includes $250,000 from the general fund for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the biennium beginning July 1, 2021, and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-seventh legislative assembly on the use of the funds received and the outcomes of its programs.

**SECTION _. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.**

The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the

attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION _. EXEMPTION – CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING.**

The amount appropriated to the attorney general from federal funds for coronavirus emergency supplemental funding, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general during the biennium beginning July 1, 2021, and ending June 30, 2023.

# 2021 Legislation Having a Fiscal Impact on the Office of Attorney General

Two legislative bills have been introduced thus far, that impact the Office of Attorney General.

- House Bill 1025 provides a supplemental general fund appropriation of $175,435 to the Office for the 2019-21 biennium for lawsuit expenses associated with a constitutional challenge to North Dakota's corporate farming laws.

- House Bill 1064 allows the North Dakota information technology department to enter into agreements with other entities for purposes of cyber security. The department may charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund. The fiscal impact of this bill cannot be determined.

# NORTH DAKOTA OFFICE OF ATTORNEY GENERAL

# #1527

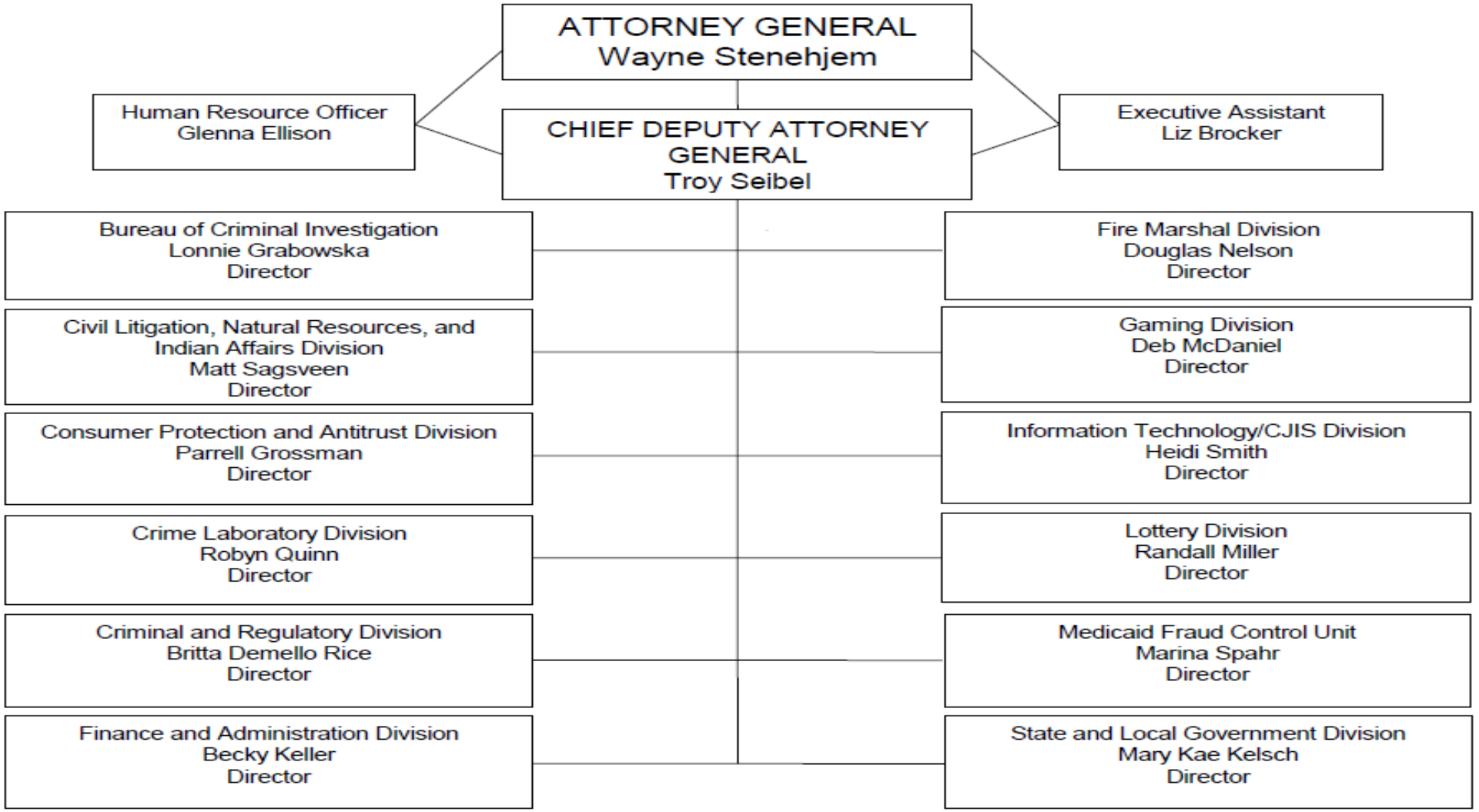
2021-23 BIENNIUM

67TH LEGISLATIVE SESSION

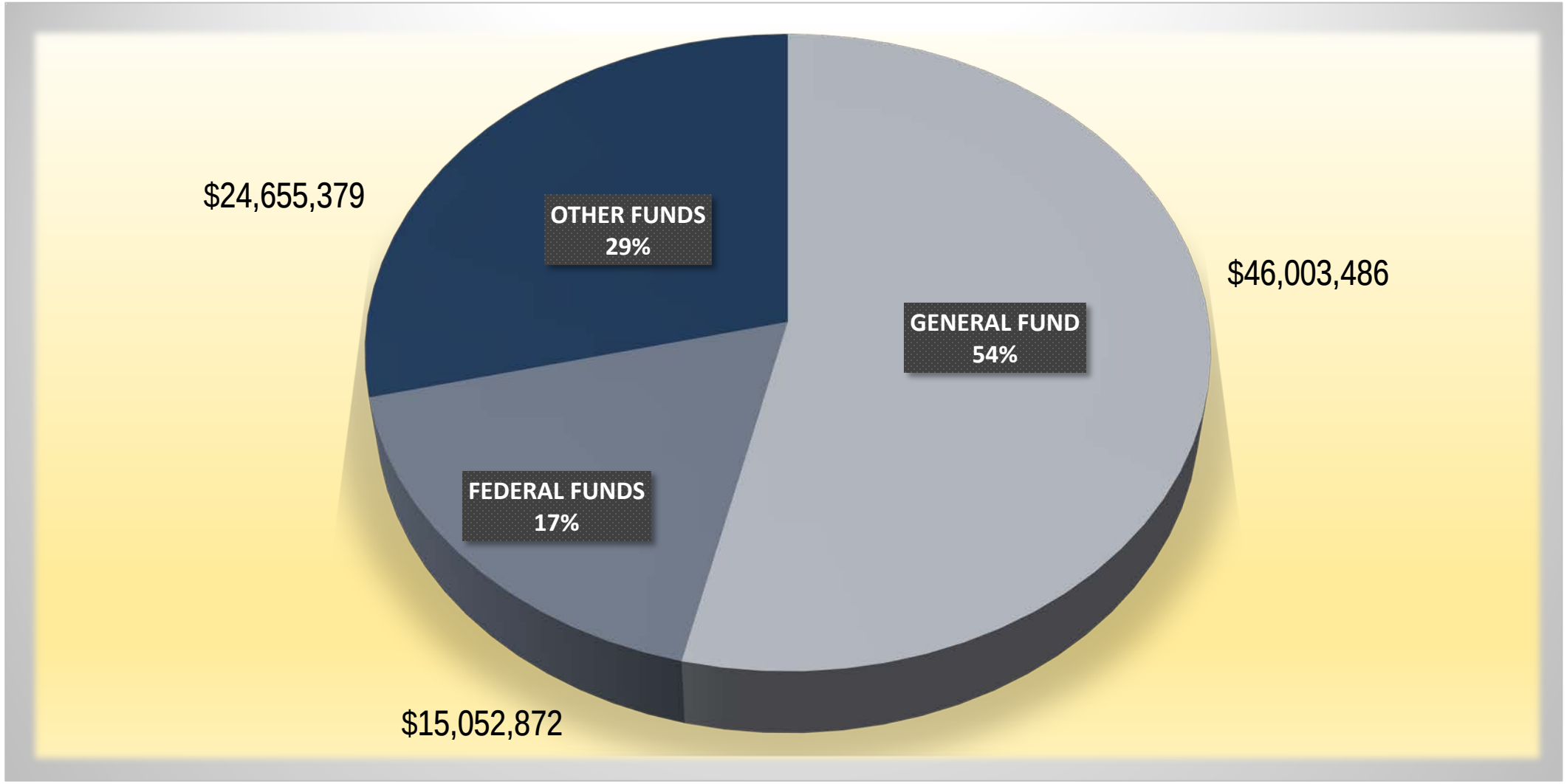
BUDGET PRESENTATION

SUPPLEMENTARY MATERIALS

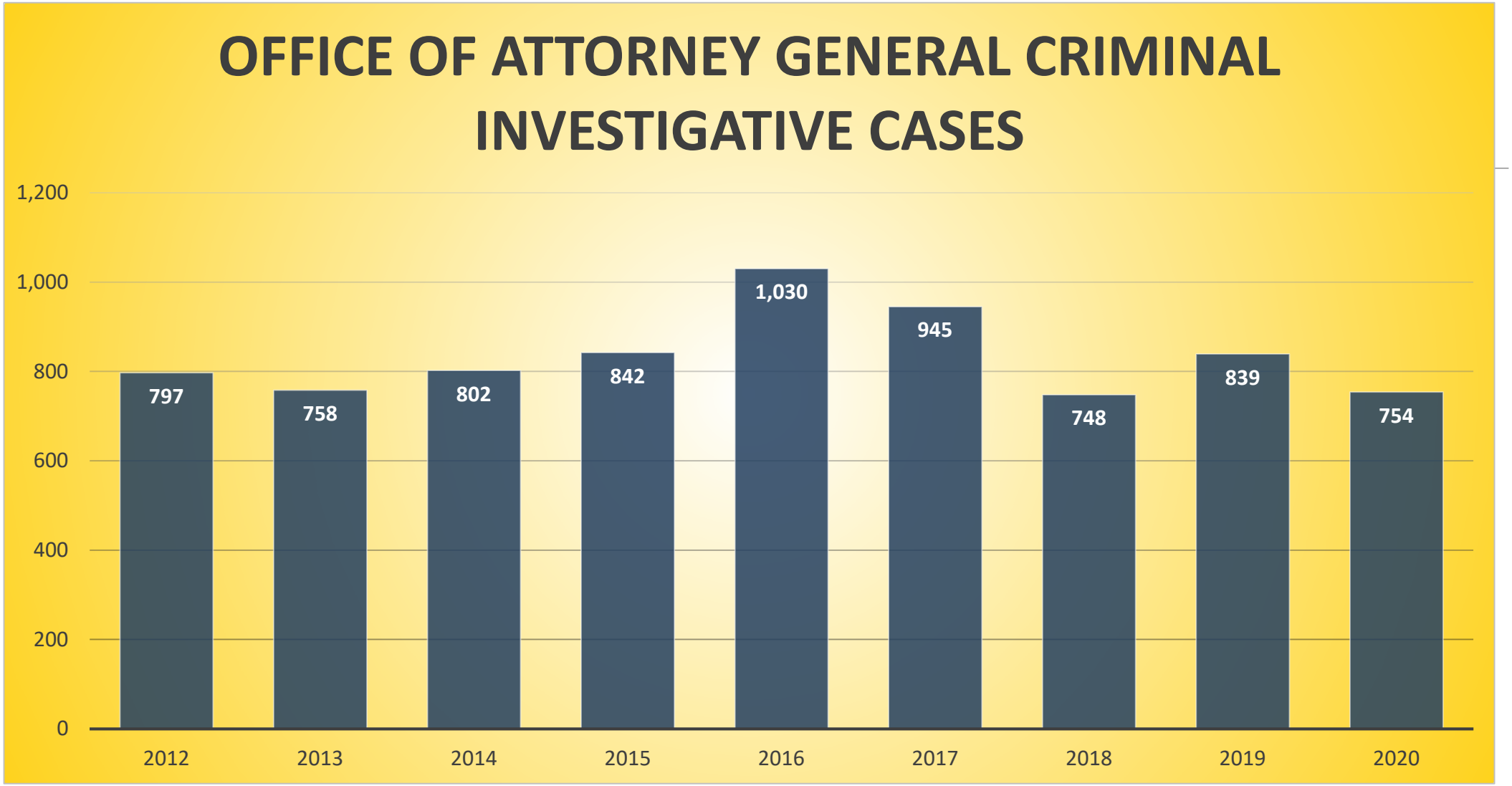
# NORTH DAKOTA
# OFFICE OF ATTORNEY GENERAL
May 2020



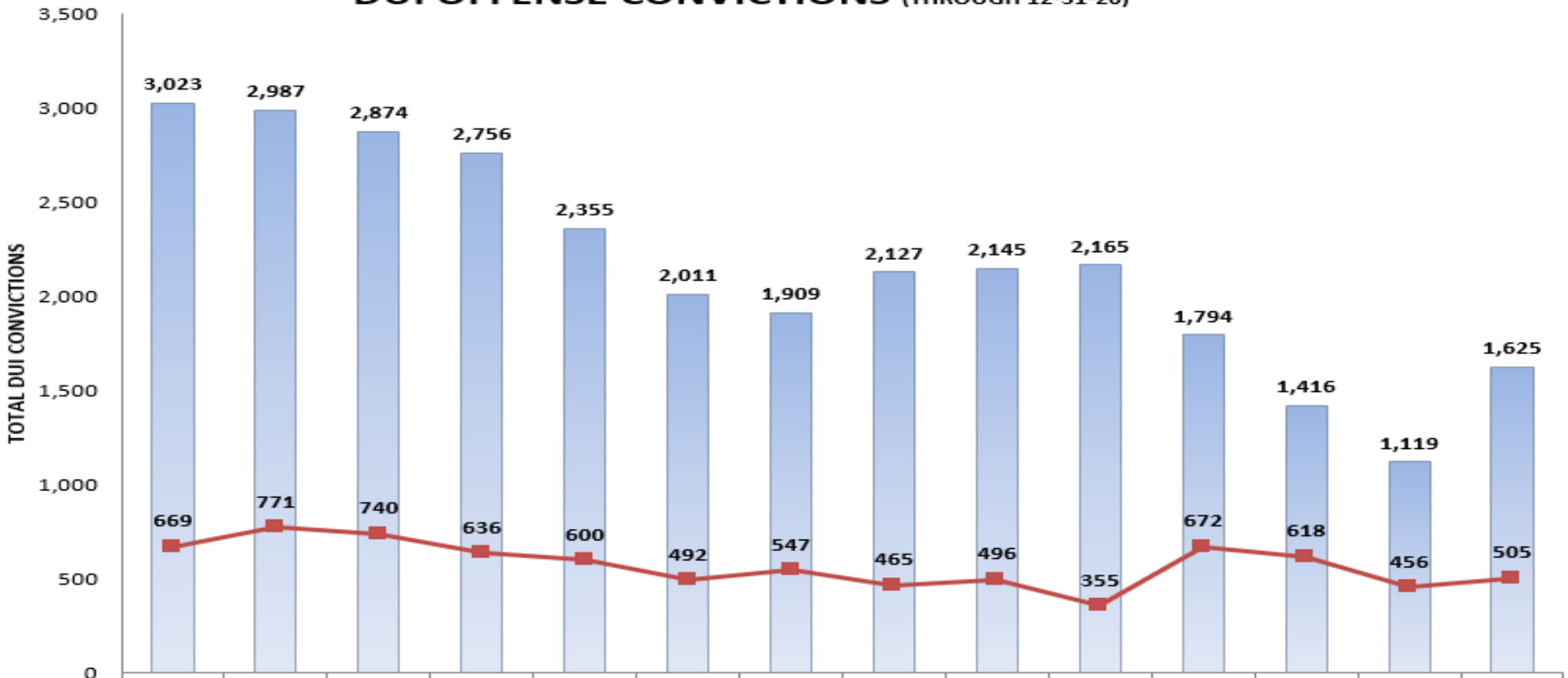
# 2019-21 BIENNIUM APPROPRIATION BY FUNDING SOURCE
# $85,711,737



# OFFICE OF ATTORNEY GENERAL CRIMINAL INVESTIGATIVE CASES



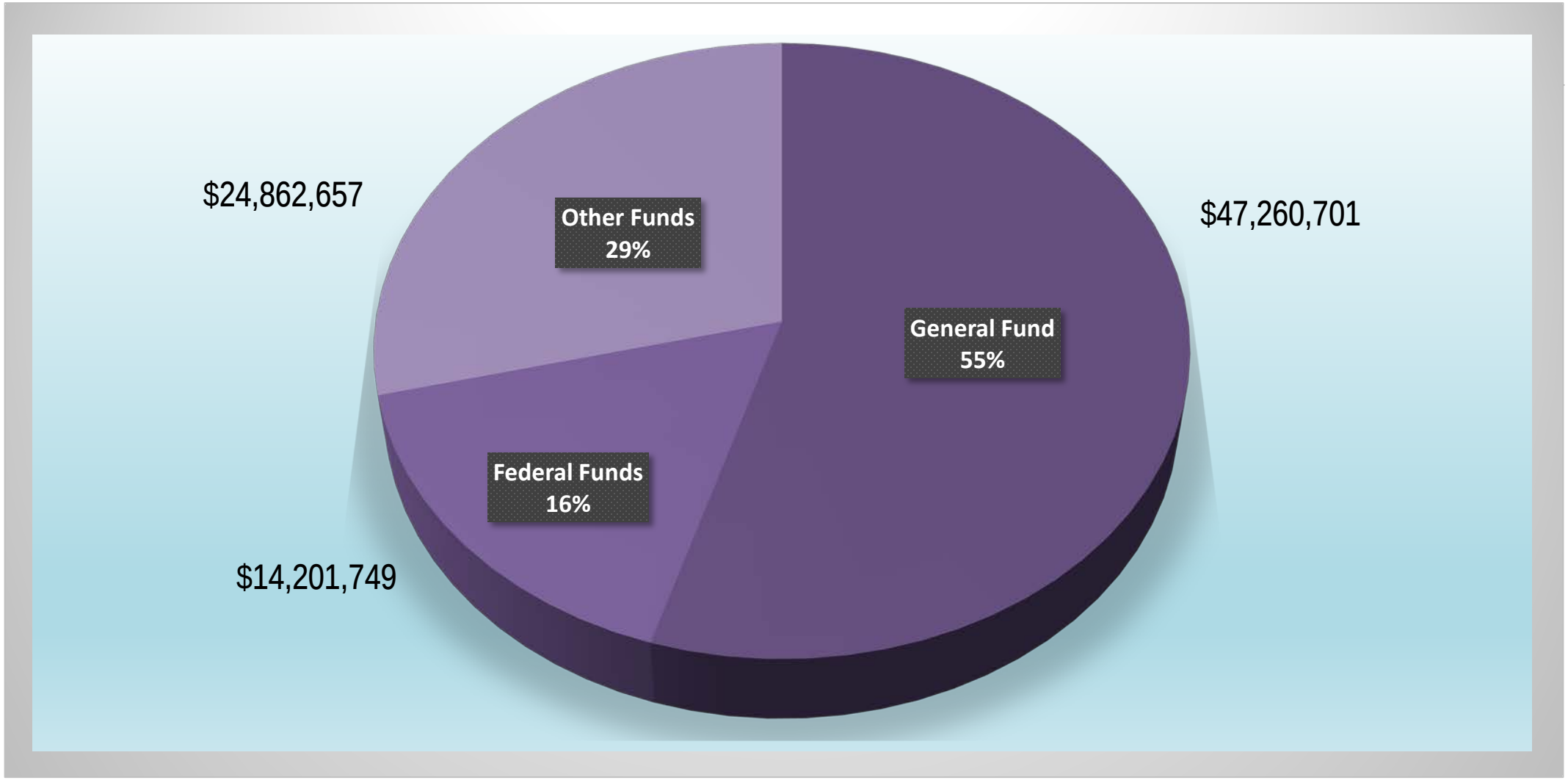
# DUI OFFENSE CONVICTIONS (THROUGH 12-31-20)




| | Jan-Jun 2014 | Jul-Dec 2014 | Jan-Jun 2015 | Jul-Dec 2015 | Jan-Jun 2016 | Jul-Dec 2016 | Jan-Jun 2017 | Jul-Dec 2017 | Jan-Jun 2018 | Jul-Dec 2018 | Jan-Jun 2019 | Jul-Dec 2019 | Jan-Jun 2020 | Jul-Dec 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Total | 3,023 | 2,987 | 2,874 | 2,756 | 2,355 | 2,011 | 1,909 | 2,127 | 2,145 | 2,165 | 1,794 | 1,416 | 1,119 | 1,625 |
| Refusals | 669 | 771 | 740 | 636 | 600 | 492 | 547 | 465 | 496 | 355 | 672 | 618 | 456 | 505 |

Source: ND DOT

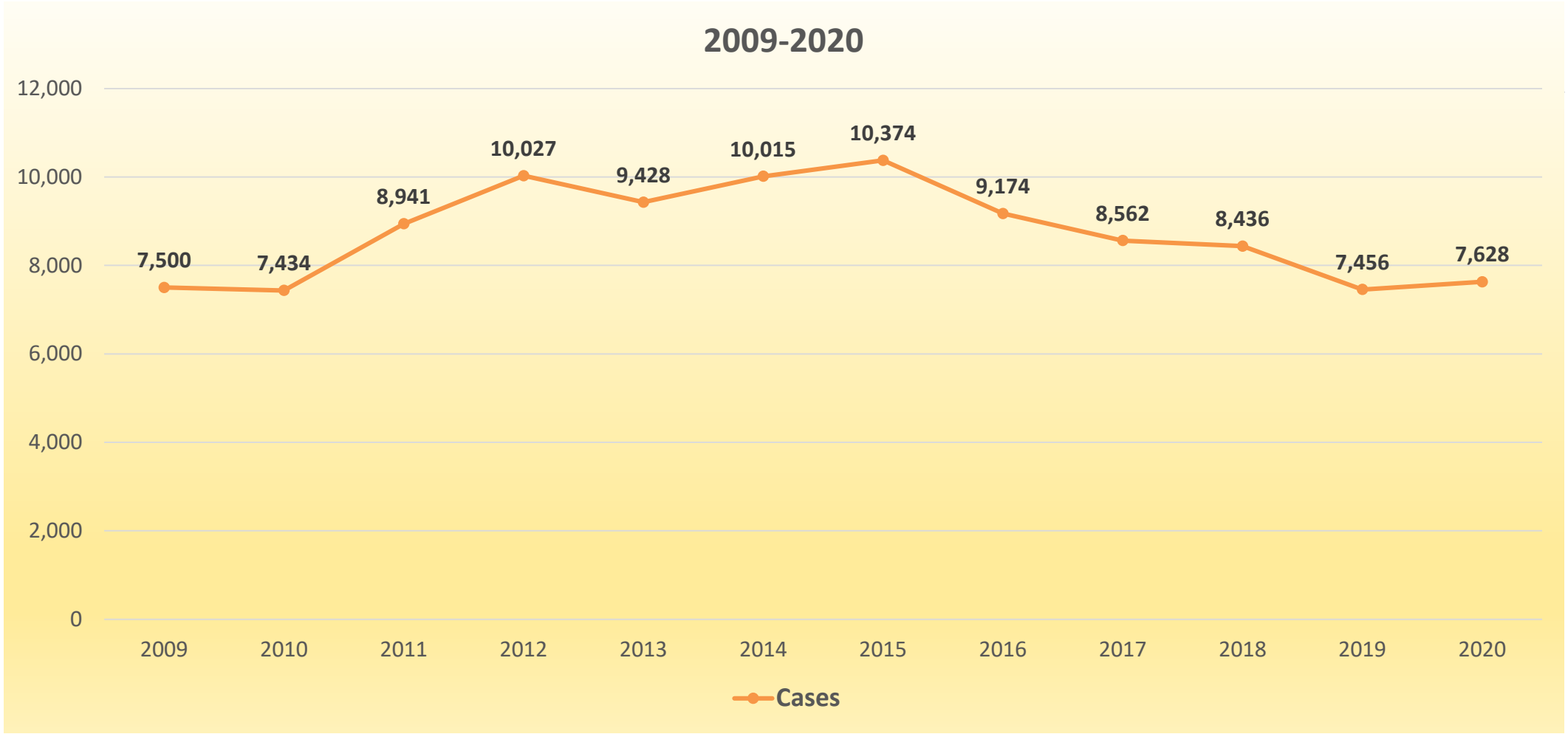
# 2021-23 BIENNIUM EXECUTIVE RECOMMENDATION BY FUNDING SOURCE $86,325,107



TOP 25 NARCOTICS SAMPLES
SUBMITTED TO THE CRIME LABORATORY
FOR THE PERIOD FROM JANUARY - DECEMBER 2020

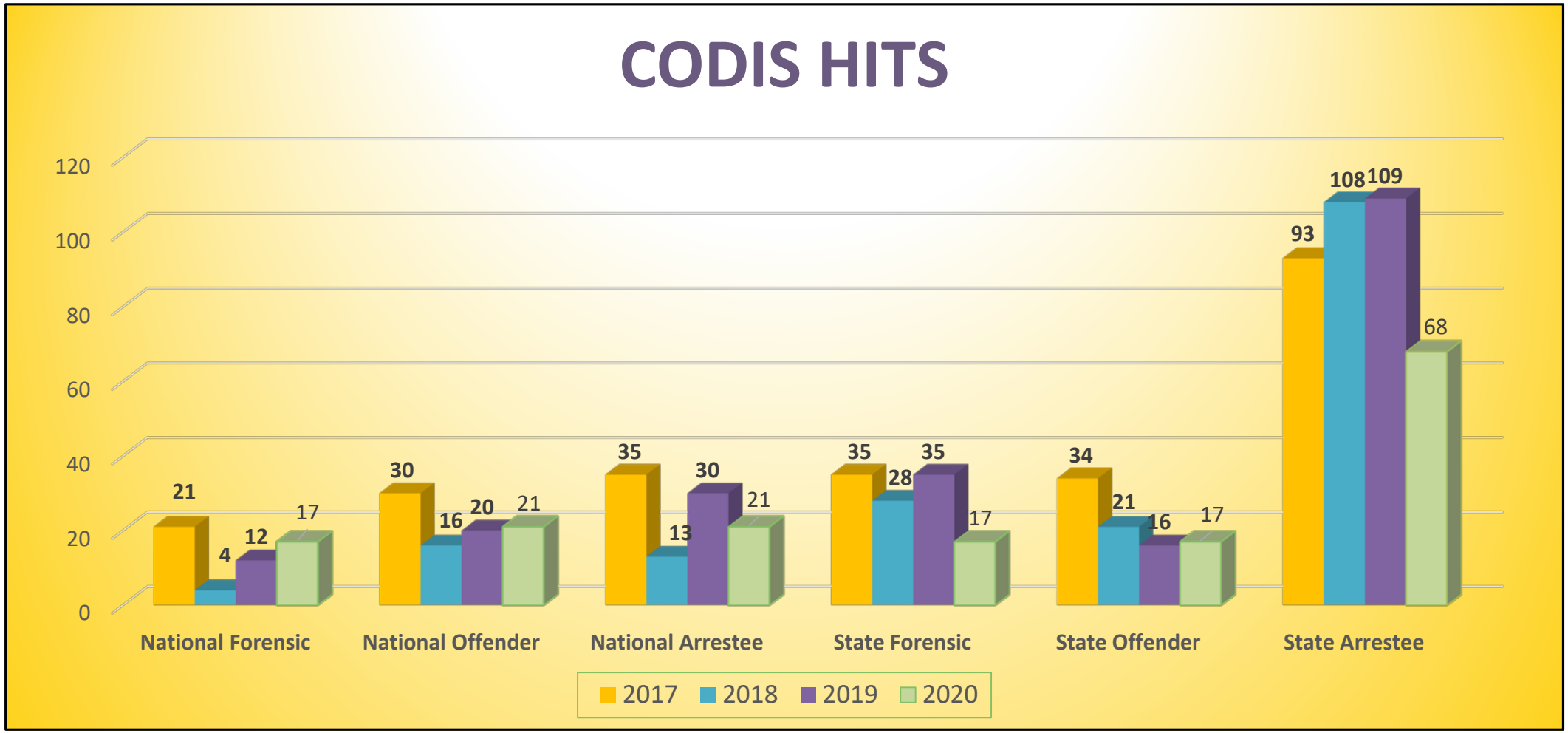
| DESCRIPTION | TOTAL | PERCENT |
|---|---|---|
| METHAMPHETAMINE | 2427 | 53.54% |
| CANNABIS | 878 | 19.37% |
| HEROIN | 297 | 6.55% |
| COCAINE | 213 | 4.70% |
| FENTANYL | 144 | 3.18% |
| OXYCODONE | 115 | 2.54% |
| BUPRENORPHINE | 43 | 0.95% |
| ALPRAZOLAM | 39 | 0.86% |
| CLONAZEPAM | 27 | 0.60% |
| HYDROCODONE | 22 | 0.49% |
| CAFFEINE | 20 | 0.44% |
| PSILOCYBIN/PSILOCYN | 19 | 0.42% |
| NALOXONE | 17 | 0.38% |
| MORPHINE | 15 | 0.33% |
| TRAMADOL | 15 | 0.33% |
| SODIUM BICARBONATE | 14 | 0.31% |
| AMPHETAMINE | 13 | 0.29% |
| LYSERGIC ACID DIETHYLAMIDE | 13 | 0.29% |
| DIMETHYLSULFONE | 11 | 0.24% |
| LORAZEPAM | 11 | 0.24% |
| ACETYL FENTANYL | 10 | 0.22% |
| GABAPENTIN | 10 | 0.22% |
| MDMA | 10 | 0.22% |
| DIAZEPAM | 9 | 0.20% |
| DIPHENHYDRAMINE | 8 | 0.18% |
| **TOTAL TOP 25 DRUGS** | **4,400** | **97.07%** |
| **TOTAL ALL DRUGS** | **4,533** | |

# ND Crime Laboratory Workload

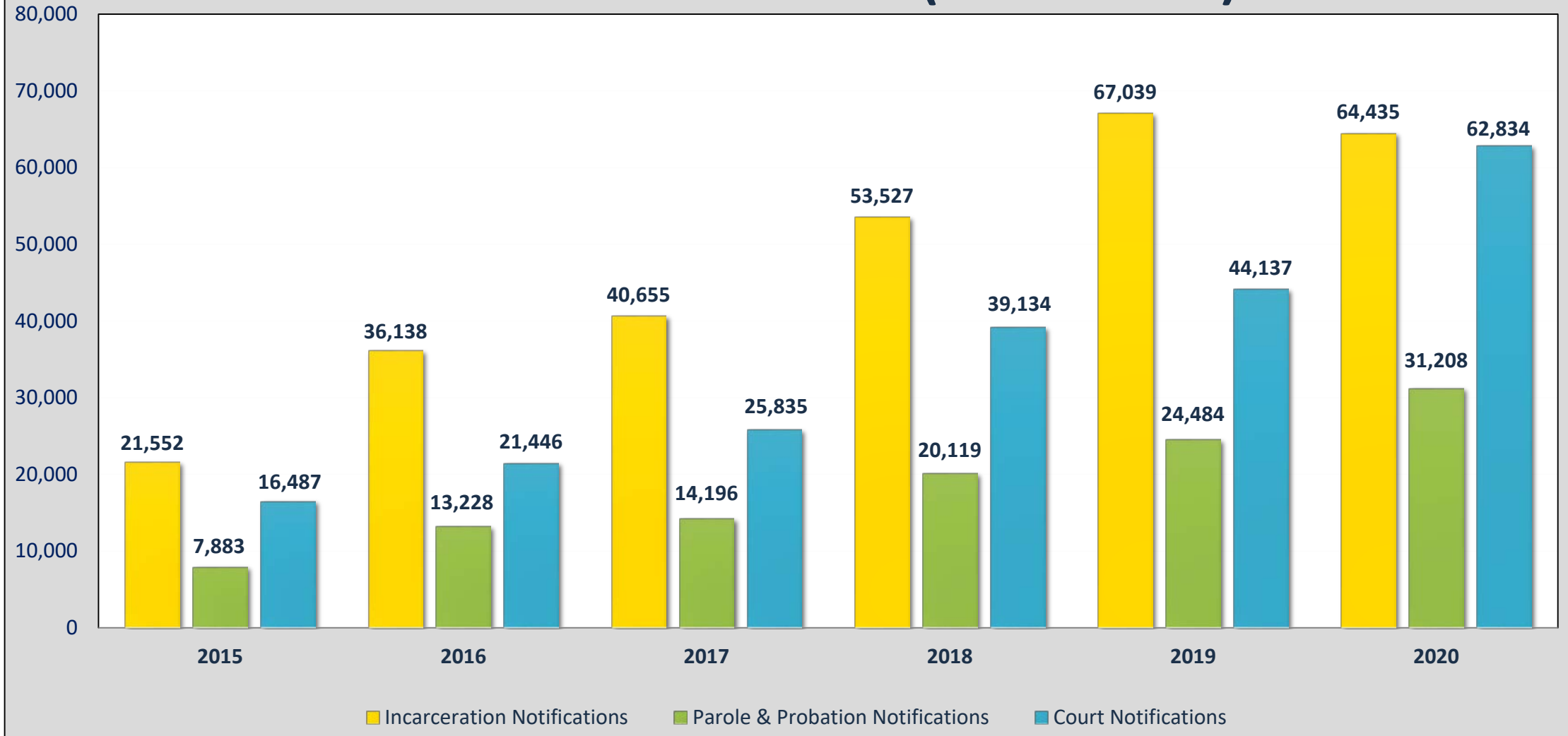



Previous reports included Breath Alcohol tests, Convicted Offender and Arrestee samples

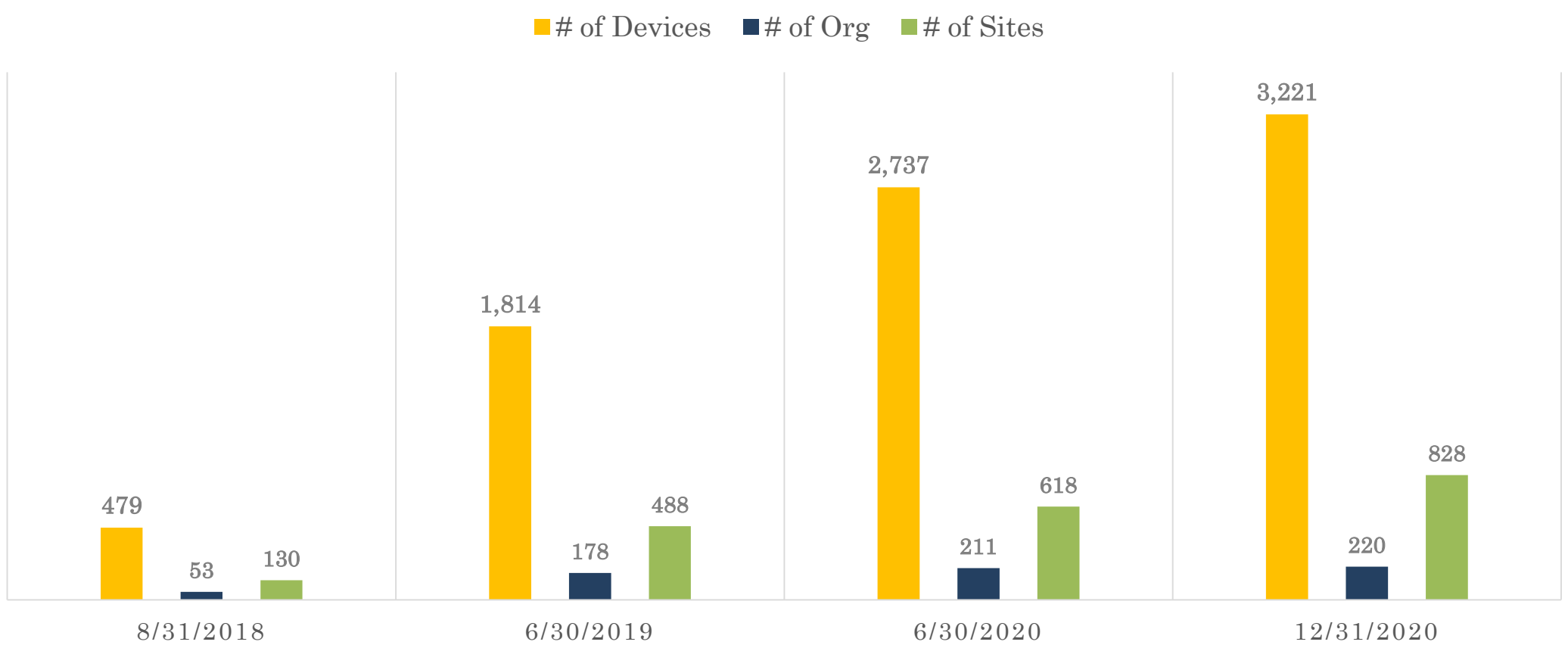
# ND CRIME LABORATORY WORKLOAD



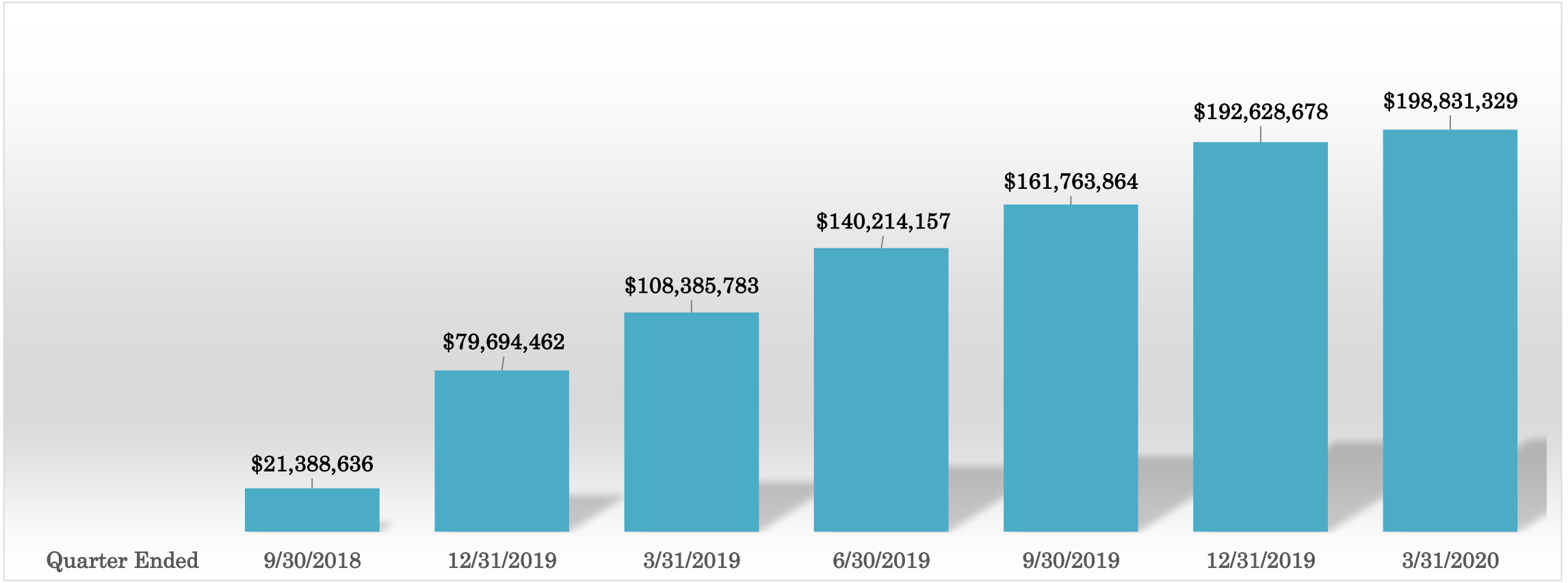
# OFFICE OF ATTORNEY GENERAL
# SAVIN NOTIFICATIONS (2015-2020)



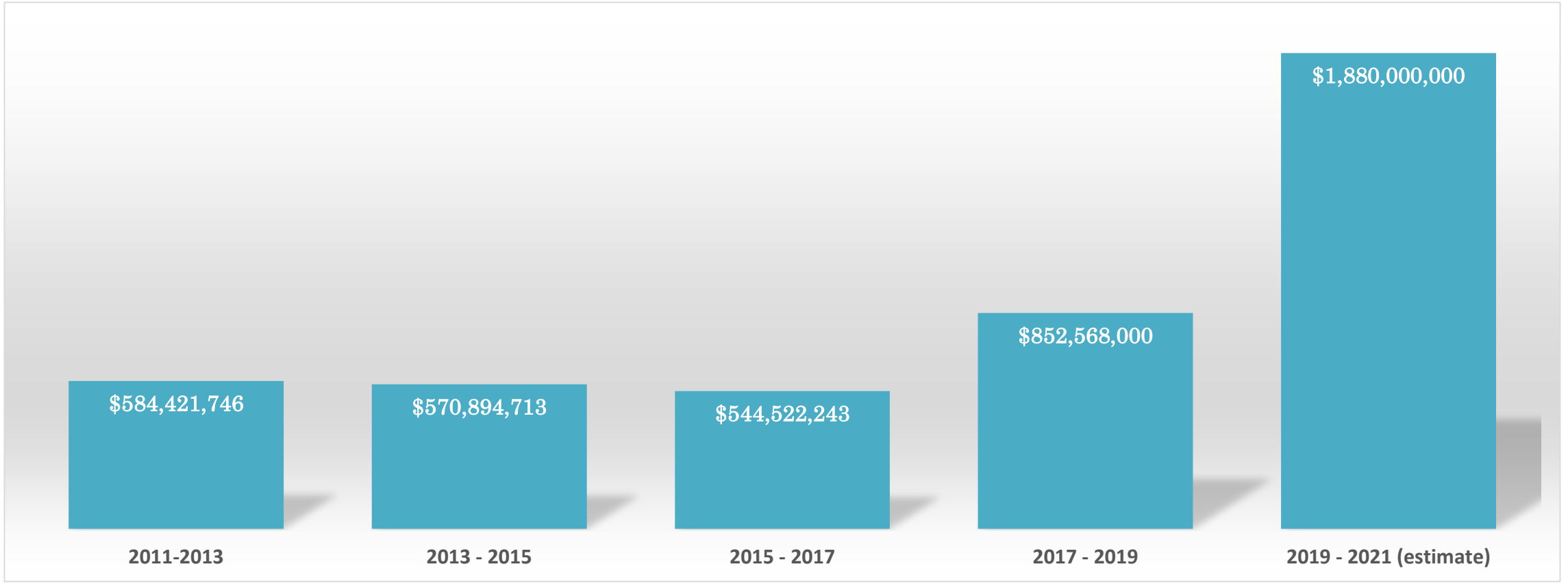
# E-TAB DEVICES



# E-TAB GROSS PROCEEDS PER QUARTER



# ALL GAME TYPE GROSS PROCEEDS PER BIENNIUM



# TOTAL GAMING TAX PER BIENNIUM

# HUMAN TRAFFICKING

## IN THE STATE OF

# NORTH DAKOTA

**Attorney General's Human Trafficking Commission**

North Dakota Office of Attorney General

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# HUMAN TRAFFICKING

## OVERVIEW

Human trafficking is a crime involving the exploitation of someone for the purposes of compelled labor or a commercial sex act through the use of force, fraud, or coercion. Human trafficking affects individuals across the world, including here in the United States, and is commonly regarded as one of the most pressing human rights issues of our time. Human trafficking affects every community in the United States across age, gender, ethnicity, and socio-economic backgrounds.

As defined under North Dakota and U.S. law, victims of human trafficking can be divided into three populations:

- Children under age 18 induced into commercial sex.
- Adults aged 18 or over induced into commercial sex through force, fraud, or coercion.
- Children and adults induced to perform labor or services through force, fraud, or coercion.

### FORMS OF TRAFFICKING

**Sex trafficking** is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age (22 USC § 7102).

**Labor trafficking** is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery (22 USC § 7102).

# HUMAN TRAFFICKING

*overview*

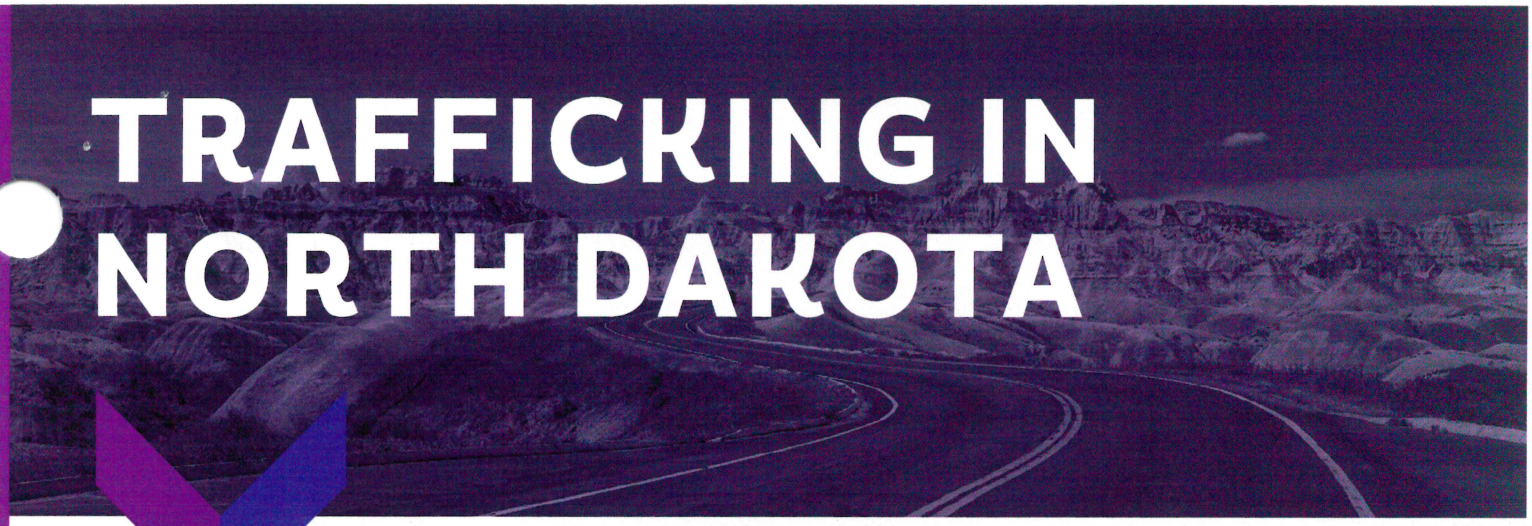
## EXPLOITATION VS. TRAFFICKING

**Exploitation is the exchange of a sex or labor act for money, shelter, drugs, or anything of value, between two parties.** This includes survival sex, stripping, sextortion, pornography, and numerous fields of work.

- A youth runs away from home or is kicked out of their home, and someone offers them a "safe" place to stay in exchange for a sexual act. That is survival sex.
- An individual works for a business in exchange for shelter, which may be shared with other individuals.
- A youth is coerced into sending a nude photo to someone via social media and that person blackmails the youth, forcing them to provide additional photos.

**Trafficking is exploitation involving force, fraud or coercion, or is facilitating the exploitation of a minor victim.** A party acts as a trafficker, using force, fraud or coercion to procure sex or labor acts for themselves, or a purchaser. The party profiting from the act is the trafficker.

- Parents cannot afford rent and the landlord agrees to waive rent in exchange for a sexual act from the child. Those parents are now the traffickers.
- A teen's boy/girlfriend coerces them to have sex with their friends in exchange for money, drugs, a new cell phone, clothing, etc. That boy/girlfriend is their trafficker.
- An employer forces an employee to work long hours for little/no pay, withholds payment, falsely claims that the employee owes money to the employer, and physically abuses and threatens the life of the employee, telling them that if they leave or report the exploitation, their family will be harmed. **This is a form of labor trafficking.**



# TRAFFICKING IN NORTH DAKOTA

## HISTORY

In response to the presence of human trafficking in North Dakota, a Human Trafficking Commission was created by the 64th Legislative Assembly and established within the Office of Attorney General. N.D.C.C. § 54-12-33. The Commission was originally charged with developing a coordinated and comprehensive plan to provide victims with services; collecting and evaluating data on human trafficking in this state and promoting public awareness about human trafficking, victim remedies and services, and trafficking prevention. During the 65th ND Legislative Assembly, the authority and duties of the Commission were narrowed in order to focus on the collection and evaluation of data, and to promote public awareness on human trafficking and victim services. The Attorney General's office partners with the federal North Dakota Human Trafficking Task Force on these efforts.

### HUMAN TRAFFICKING: VICTIM TREATMENT AND SUPPORT SERVICES FUNDING

The 66th Legislative Assembly approved an appropriation of $1.4 million to organizations involved in providing prevention and treatment services to human trafficking victims. The appropriated funds were awarded through an open, competitive process to organizations that demonstrated involvement in providing prevention and treatment services related to human trafficking victims, in coordination with state and local governments.

The grant award period commenced on September 1, 2019 and continues through June 30, 2021. Additional information on the grantees can be found on the Criminal Justice Resources page of the Attorney General's website.

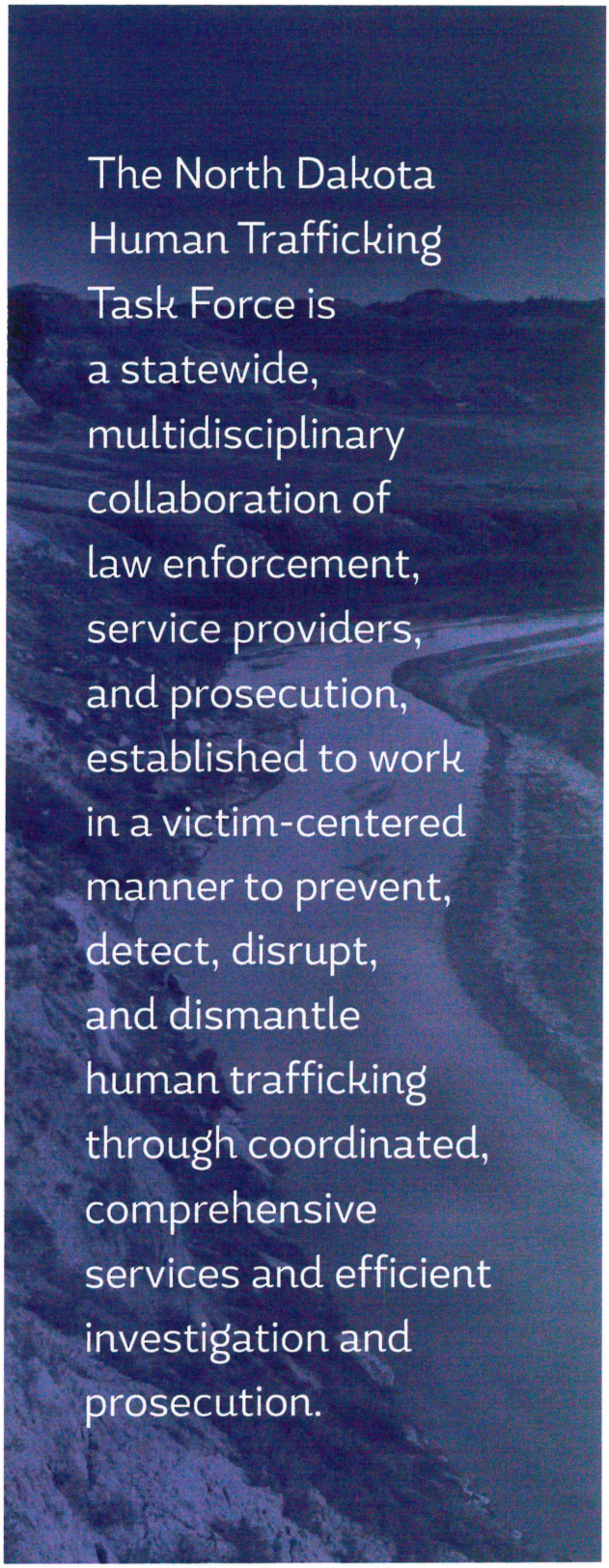
# NORTH DAKOTA HUMAN TRAFFICKING TASK FORCE

Since 2015, the Attorney General and the Human Trafficking Commission have been working closely with the North Dakota Human Trafficking Task Force (NDHTTF) to build a coordinated response to human trafficking in the state. The NDHTTF was founded in late 2015 through the North Dakota Office of Attorney General, CAWS North Dakota (CAWS ND), and the U.S. Attorney's Office in North Dakota (USAO), with First Nations Women's Alliance (FNWA) added to executive leadership in 2017.

## OVERVIEW OF NDHTTF

The North Dakota Human Trafficking Task Force is a collaborative team made up of law enforcement, prosecution, and service providers at federal, state, and local levels. We respond to victims of sex and labor trafficking, providing comprehensive services, investigating traffickers and solicitors, and prosecuting offenders. The NDHTTF is the nexus for a network of law enforcement and service providers to work in tandem to build capacity and combat trafficking statewide.

We do this through the following methods: train communities to identify exploitation and trafficking and provide points of contact upon identification, train local multidisciplinary teams to respond to victims and investigate trafficking-related crime, assist response agencies and communities with development of response protocol, provide technical assistance to local response teams upon request, run operations and investigate trafficking related crime, prosecute offenders and provide victims with restitution, engage in national anti-trafficking best practices and sharing of resources, and build networks for victims to access services and resources.



# NORTH DAKOTA HUMAN TRAFFICKING TASK FORCE

*continued*

The core of the NDHTTF model involves three components: ***1)*** Multi-disciplinary teams across the state *(operating in 9 communities)* that provide immediate response to trafficked individuals; ***2)*** A task force Director, Grant Tech, and Operational Team coordinating the activities of the task force and providing training and technical assistance to the local MDTs; and ***3)*** Five subcommittees including Law Enforcement, Legal, Tribal Engagement, Labor Trafficking, and Victim Services, help drive progress in developing best practices, solving common problems, and facilitating cooperation across the state.

The NDHTTF also developed a Human Trafficking Fund that is accessible to agencies across the state to support victims of sex and labor trafficking. Funding is accessed by completing a request form outlining the type of trafficking, basic demographic information, and a brief description of the client's need related to trafficking. This funding provides services to victims throughout their recovery process, from the moment someone is recovered through their steps toward self-sufficiency. **These services fall into one of the following categories:**

### Immediate Response/Relief

basic needs items, emergency food assistance, medical care, emergency shelter

### Recovery

therapeutic/mental health services, transitional housing, legal services

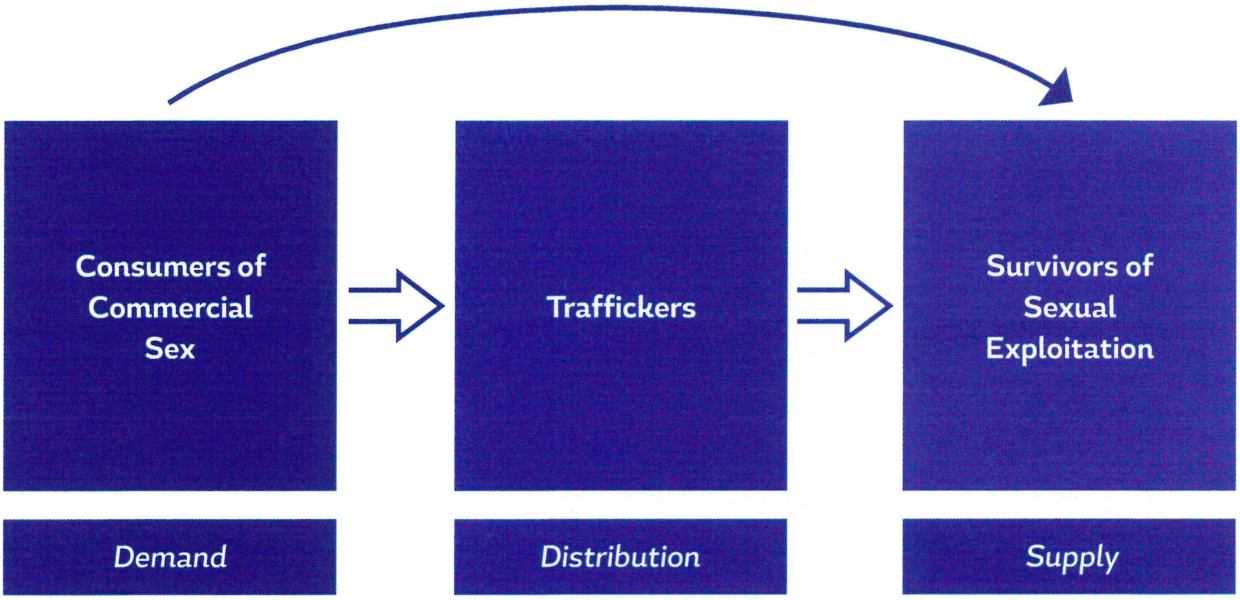
### Resilience

education, job training, life-skill building *(finances, self-care, etc.)*

# DEMAND REDUCTION PROGRAM

Demand Reduction Programs (DRPs), sometimes referred to as "John Schools", are targeted at reducing recidivism rates for participants. These programs target the buyers of sex instead of targeting the seller. DRPs educate participants on the impact of prostitution and sex trafficking on communities, survivors, spouses, and children.

*A Flow Model of Commercial Sex Markets*




Source: Michael Shively, P. K. (2012). A National Overview of Prostitution and Sex Trafficking Demand Reduction Efforts, Final Report. Cambridge, MA: Abt Associates. Retrieved from https://www.ncjrs.gov/pdffiles1/nij/grants/238796.pdf

***I have learned a great deal about human trafficking from this class, it has been an eye opener for me.***

*- Demand Reduction Program Participant*

The Human Trafficking Commission's Demand Reduction Committee worked with the University of Mary to create a comprehensive intermediate sentencing, diversion, and education option for ND offenders charged with purchasing prostitution. The program was rolled out in July of 2017. The educational courses are offered quarterly, and are held in the following communities, as need dictates: Fargo, Bismarck, Grand Forks, Watford City, or Minot. Since the inception of the program, fifteen offenders have completed the program. Attendees ranged in age from 20-52 years old.

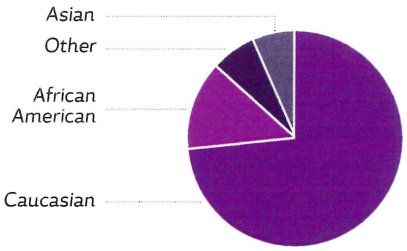
# DEMAND REDUCTION PROGRAM

*continued*

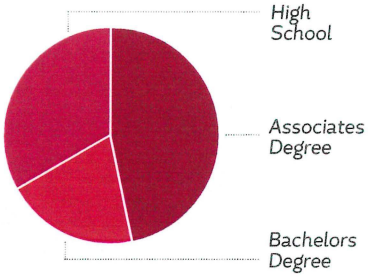
To increase awareness about the program among judges, attorneys, and law enforcement officers, the Demand Reduction Program Coordinator conducts outreach and education to individuals around the state, reaching over 1,500 people in 2019. As a result, there has been an increase in referrals to the program through law enforcement, probation officers, and prosecutors recommending the DRP as a sentencing option for judges.

## 2019 DRP DEMOGRAPHICS

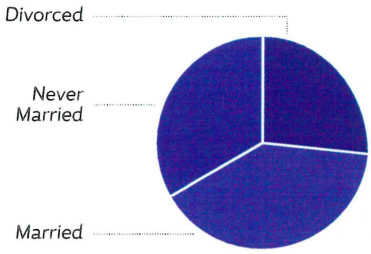
### BY RACE



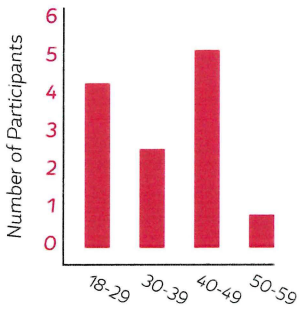

### BY EDUCATION



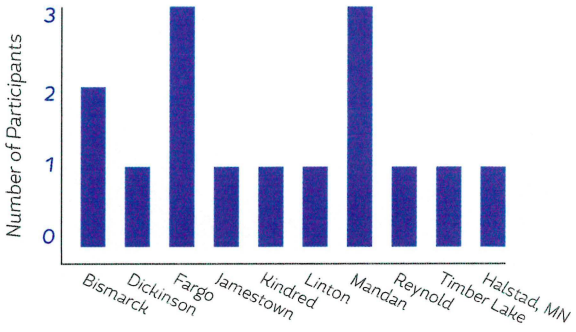

### BY MARITAL STATUS




### BY AGE




### BY LOCATION




*DRP demographics show reflect sample size of 15 offenders within the state of North Dakota, who have been charged with purchasing prostitution and sex trafficking related misdemeanors.*

# NORTH DAKOTA BY THE NUMBERS

Since its inception in 2015, the NDHTTF has trained communities to identify signs of trafficking, provided response and advocacy for victims, and investigated and prosecuted crimes related to trafficking.

## IN 2019, THE NDHTTF

- Served 114 victims of human trafficking—76 adults, and 38 children; 74 were North Dakotans
- Continued services to 83 victims from 2016
- Investigated 33 cases of human sex trafficking, 1 case of labor trafficking resulting in 21 victims being identified.
- Three (3) arrests were made and 3 cases were prosecuted with 3 resulting in pleas or convictions.
- Trained 3,506 professionals on human trafficking identification
- Held 310 community-based response meetings to combat human trafficking

**80%**

**VICTIMS SERVED**

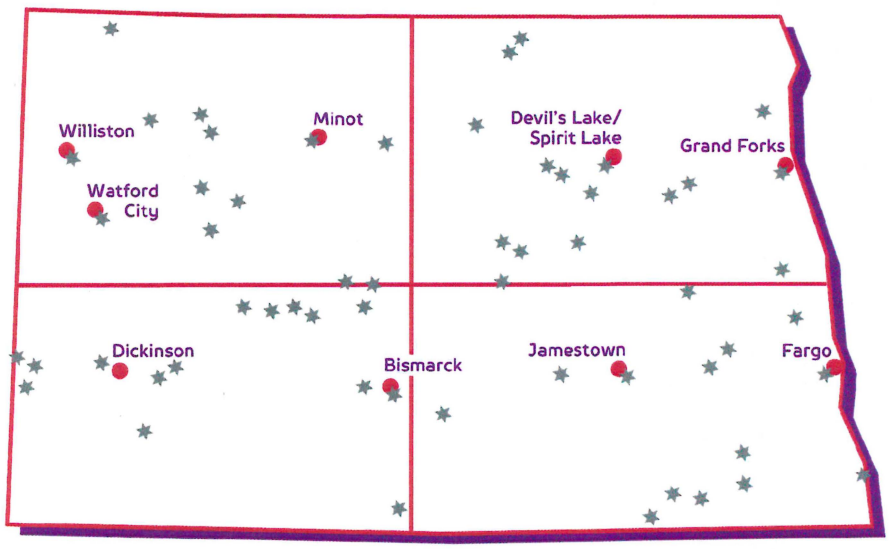
were North Dakota residents

Of Victims Served

**72%** adults

**28%** minors

### Trafficking Cases in North Dakota



# NORTH DAKOTA BY THE NUMBERS

## SINCE 2015, THE TASK FORCE HAS

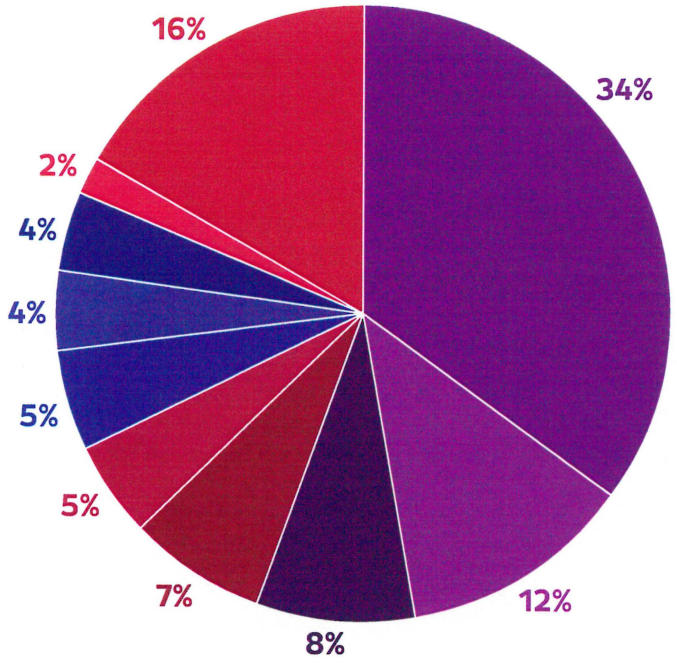
### SERVED

**482** victims of human trafficking

**349** adults **133** children

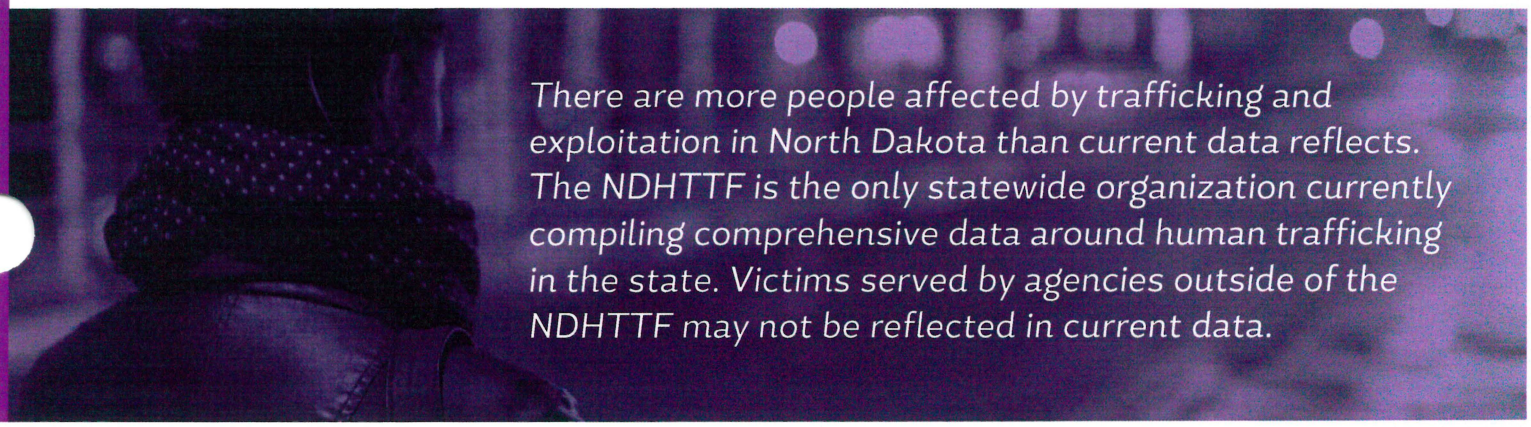
### TRAINED MORE THAN 13,700 PEOPLE

Trainers reported the single target audience of each training and the number of people in attendance from that group. This chart displays the top 10 audiences reached by percentage.




- Schools/Educational Institutions
- Medical/Public Health Providers
- State/Local Law Enforcement
- State/Local Government Agencies Other Than Law Enforcement
- Social Services Providers
- Youth Services Providers
- Mental Health/Substance Abuse Providers
- Victim Service Providers
- Housing/Shelter
- Other*

**Of trainings focused on "other" target audiences, most reached unknown/unreported audiences, potential homes for survivors, or students*



*There are more people affected by trafficking and exploitation in North Dakota than current data reflects. The NDHTTF is the only statewide organization currently compiling comprehensive data around human trafficking in the state. Victims served by agencies outside of the NDHTTF may not be reflected in current data.*

# LOOKING FORWARD

The NDHTTF utilizes these goals to guide their focus in the fight against human trafficking.

**Goal 1: Support diverse and accessible programming to sustain long-term independence for survivors of labor and sex trafficking.**

**Objectives:**

- Increase number of clients transitioning to long-term independence
- Develop innovative, culturally appropriate approaches to serving victims
- Identify and provide more accessible and affordable treatment options/facilities
- Identify labor trafficking and enhance services provided for labor trafficking victims

**Goal 2: Implement effective evaluation systems to secure multiple streams of funding and ensure data-driven equitable policies.**

**Objectives:**

- Adapt data collection system to ensure accuracy for reporting and interpretation
- Secure sustainable funding utilizing reliable data

**Goal 3: Create a collaborative and efficient team throughout ND communities.**

**Objectives:**

- Identify resources and plan to provide service and investigation in rural and tribal areas
- Establish, or maintain MDT meetings
- Conduct outreach operations with key community partners

**Goal 4: Justice for victims through offender prosecution and accountability.**

**Objectives:**

- Increase, and track, number of successful prosecutions
- Consistent charging and sentencing within judicial system
- Train judicial system

**Goal 5: Increased awareness, understanding, and prevention through education.**

**Objectives:**

- Provide prioritized education and outreach to communities and sectors, based on data
- Conduct outreach operations with key community partners

# SUCCESS STORY

The NDHTTF is grateful to have the consent of a client to share her story of trafficking for the Commission report. This testimonial demonstrates the need for ongoing prevention, service provision, and investigation for trafficking clients throughout the state. The NDHTTF is grateful to the survivor for her bravery in recounting her experience to better inform the public on human trafficking.

***As reported by a North Dakota human trafficking case manager with her client's consent:***

The client grew up on the Turtle Mountain Reservation in a home that was riddled with dysfunction, mental health issues, chemical dependency and domestic violence. She was abused physically by both parents, and at age six was sexually abused and sold to other men by her father and grandfather. Often, she would be given to other men in exchange for alcohol. The client faced other trauma while growing up, sharing stories of her home burning down and believes that her mother set the fire, but it was determined to be accidental. The client also remembers her relatives often talking about the disappearance of other women on the reservation.

When she was in early elementary school, she remembers her aunts and her mother talking and hearing them discussing that an acquaintance had been raped. The women did not say the word, rather they spelled it R-A-P-E, so that she would not hear the word. The client shared that she memorized those letters and then asked her grandmother what R-A-P-E means. The client noted she had her first boyfriend when she was 16, and every subsequent relationship with an intimate partner involved mistreatment and abuse. In her first relationship with a boyfriend, he became upset with her and punched her in the mouth, knocking her tooth out. She doesn't ever recall a romantic relationship that did not involve violence.

As an adult, the client decided to leave North Dakota and move to another state to get away from her past and trauma. She resided for several years in another state and had a professional level career. It was while she was working, that she began to have a romantic relationship with her boss, who would eventually become her husband and her trafficker. She was "in the life" for several years, and was able to escape from her situation when her trafficker was sentenced to prison on other charges. The client quit her job and lived off of her retirement account money; she ran out of money and ended up homeless.

The client chose to move back to the Turtle Mountain Reservation in North Dakota, to begin her healing process, and reconnect with her family and roots. She stayed with her brother

## SUCCESS STORY

*continued*

in his home, and shared that the house was in disrepair and was in a condition that was not healthy for human occupancy. Although the client values her heritage and has a strong desire to advocate for Native women, she realized that living on the reservation was not the right fit for her and she came to Fargo. She used nature and cultural teachings to begin her emotional healing.

Shortly after seeking shelter at the YWCA, the client disclosed that she was a victim of human trafficking. She began to participate in the human trafficking program at the YWCA, and was eventually moved into a private apartment connected to the shelter, designated for human trafficking victims. The client continued to address her trauma though nature and cultural practices, but also incorporated talk therapy and advocacy through the Rape and Abuse Crisis Center.

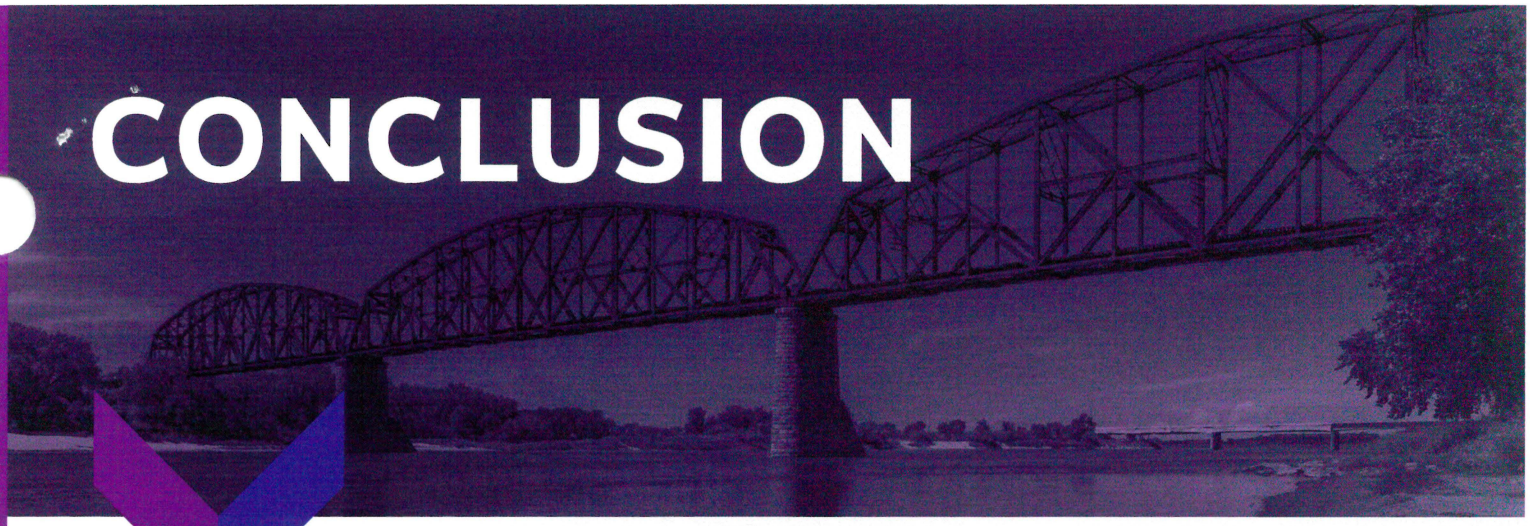
Working with the YWCA Education and Employment coordinator, the client secured all of her documents *(state ID/Driver's License, Social Security Card and Birth Certificate)* and a part-time job. She worked with the YWCA Human Trafficking Advocate and was approved for the YWCA Housing and Stabilization Program, moving into her own apartment 80 days after entering the shelter. The client continues to receive supportive services through all service providers at the YWCA, as well as RACC. The client is thriving and living independently. In addition to her employment, the client is active in community advocacy for Native American Women and human rights issues.

## RESOURCES

Additional information related to work of the NDHTTF can be found at:

www.ndhttf.org
https://attorneygeneral.nd.gov/public-safety/human-trafficking

# CONCLUSION



The Attorney General's Office and the North Dakota Human Trafficking Task Force continue to ***work together to shed light on the state of human trafficking in North Dakota.*** Turning the tide on exploitation and trafficking will take the continued attention and commitment of our elected leaders, law enforcement and non-profit partners. The Attorney General's Office urges elected officials, non-profit leaders, federal partners and all law enforcement jurisdictions to remain steadfast in their committment to working collaboratively to end human trafficking in North Dakota.

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee Government Operations Division**
Brynhild Haugland Room, State Capitol

HB 1003
1/26/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

**2:30 Chairman Vigesaa** called the meeting to order roll call was taken; Representative Vigesaa, Representative Bellew, Representative Howe, Representative Kempenich and Representative Meier are present. Vice Chairman Brandenburg and Representative Mock are absent.

**Discussion Topics:**

- Health care for victims
- FTE
- Human Trafficking Task Force
- Police Department Support
- Refund Fund

**2:40 Tisha Scheuer** – Executive Director Central Dakota Forensic Nurse Examiner; Testifying in favor of HB 1003

**2:55 Christina Sambor**- Director FUSE ND – Testifies in favor

**3:05 Emily Schwartz,** North Dakota Human Trafficking Task Force (testimony #3592)

**3:25 Amy Jacobson**- Human Trafficking Navigator- Youth Works answered questions

**3:35 Sgt. Mike Bolme**- Bismarck Police Department Human Trafficking Task Force; oral

testimony

**3:45 Wayne Stenehjem** Sums up the testimony and answers questions

**3:50 Becky Keller** Director Finance & Administration Attorney General's Office- answers questions

**4:00 Representative Vigesaa** closed the work session on HB 1003

*Risa Berube, for*

*Sheri Lewis, Committee Clerk*

Testimony in support of HB 1003
House Appropriations Committee
Emily Schwartz, North Dakota Human Trafficking Task Force
January 26, 2021

Chairman Vigessa and Members of the Committee:

I come before you today, along with several of my colleagues, to highlight the work that has gone on in North Dakota to fight human trafficking in the last biennium, to provide a summary of how funds appropriated in the 2019 Legislative Session were utilized, and to urge this committee to recommend a "do pass" on HB 1003, which will continue funding for anti-trafficking work in North Dakota. Attached to this summary you will find a description of the North Dakota Human Trafficking Task Force's work in the state, statistics on victim services and investigations data, and a map illustrating the communities in North Dakota where victims were located and/or where trafficking cases are known to have occurred. The problem is statewide, and affects tribal, rural and urban areas. The data we have collected over the last three biennia shows us that human trafficking continues to be a significant problem in North Dakota. The State's financial support has been absolutely critical to the success that victim service organizations and law enforcement have had in building a coordinated, effective response and in collecting data to support our work. We therefore ask that you recommend a do pass on HB 1003, allowing this important work to continue.

Some background information on the utilization of funds appropriated in the 2019 biennium follows:

- HB 1003 is the only appropriation in the state's budget that specifically addresses victim services to human trafficking victims.

- Human Trafficking services were funded at $1.4 million in the 2019 session, $825,000 in the 2017 session, and at $1.25M in 2015.
- The Attorney General's Drug and Violent Crime Policy Board distributed funds. The AG's Office created an application and held hearings with the Board, granting money to nine organizations.
    - Agencies receiving funding include Youthworks, CAWS North Dakota, AARC, CVIC, DVRCC, YWCA, LSND, FCS, and RACC. The funding predominantly supports direct services to exploited and trafficked individuals located in their local communities. This includes:
        - Staff positions, specialized services, and supplies for victim survivors. This includes legal services, shelter, regional case managers and advocates, Navigators, Labor Trafficking Specialists, NDHTTF Director and Grant Tech contracts, training and travel support, and contracts with survivor leader advisors who can best inform the work done in the state.
        - A Human Trafficking Fund created to support victim survivors throughout their healing, including at point of first contact. The fund supports emergency supplies throughout their recovery including medical, mental health, transitional housing, job training, and housing needs. Any organization in the state serving a survivor can request funding by submitting a reimbursement request form. Any request over $250.00 goes through review by a multidisciplinary team for approval prior to being submitted to the Attorney General's Office for approval.

        - The funding also supports the Demand Reduction Program which is an intermediate sentencing, diversion and education option for those charged with misdemeanor prostitution or human trafficking. This program educates participants on the impact of prostitution and sex trafficking on communities, survivors, spouses, and children.

- The funding is only available on a reimbursement basis. Organizations are required to provide documentation, receipts, and activity logs for employees, and the submitted costs are evaluated by the Attorney General's Office for allowability before they are reimbursed with state funds.
- The AG's office has reached out to grantees to ensure that money is obligated and will be spent within allotted timeframe. Reallocations have been made to move funds between grantees from those who indicated they would not be able to spend their funding to the grantees that indicated they needed additional funding.
- State funds were utilized as match funding for federal grants. The NDHTTF will be reapplying in coming months for the Enhanced Collaborative Model task force grant through the Department of Justice, a current key source of funding, and exploring additional federal grant opportunities.
    - State dollars are critical to getting federal funds as almost all programs have 25% match requirement.
    - Federal grants often have different guidelines than state grants and state human trafficking funds are used to cover costs that are unallowable through federal funds.

- Significant delays in releasing the awarded federal funds have occurred. Without the state funds, employees would have had to be furloughed or laid off.

- I'd like to highlight some key data points found in the supporting documents I've submitted today for testimony:
  - To date, the NDHTTF has served 535 exploited and trafficked individuals in the state.
    - Youth comprise 28% of our caseload, and adults 72%.
    - Sex trafficking is 84% of the caseload, labor trafficking 6%, sex and labor 9%, and other 1%.
    - The NDHTTF Operational Team has assisted in 3,366 instances of technical assistance requests.
    - 170 investigations into trafficking have been conducted.
      - 90% of investigations are for sex trafficking, 7% are labor trafficking, and sex and labor is 3%.
    - The number of individuals trained statewide is 14,151.
    - 80% of victims served were North Dakota residents.
- I'd like to close with a story of a client that was recently assisted as a result of the funds we are discussing today, as relayed by her human trafficking advocate at the YWCA shelter:
  - A human trafficking survivor was referred to the YWCA through a referral from the North Dakota Human Trafficking Task Force (NDHTTF). She shared that she was trafficked by a family member and was being held against her will at a local

hotel. After being at the hotel for approximately seven days, hotel staff noted the activity in and out of the hotel room and spoke with the client. Hotel staff limited her to two visitors per day. The client realized that hotel staff knew what was happening and cared. This interaction with hotel staff led to the client knowing that if she did not reach out for help, the trafficker would move her to another hotel. The client called the human trafficking hotline that connected her to the NDHTTF. The NDHTTF contact arranged for placement at the YWCA and provided safe a transportation from the hotel to the YWCA shelter. During the stay at the YWCA, the human trafficking advocate was able to arrange for medical care, free of charge through a partnership with YWCA and Sanford medical residency doctors. The client did not feel safe in her current location and identified family in another state willing to take her into their home until the she is able to find a job and establish safe housing. The YWCA human trafficking advocate used funding through the NDHTTF Human Trafficking Fund to purchase transportation to get the client to family and safety. The client stayed nine days at the YWCA before being relocated to safety with family members.

Again, I appreciate the opportunity to share the important work of the North Dakota Human Trafficking Task Force with you. I am happy to answer any questions. Thank you.

NORTH DAKOTA
HUMAN TRAFFICKING TASK FORCE

## Who We Are

The North Dakota Human Trafficking Task Force (NDHTTF) is a collaborative team made up of law enforcement, prosecution, and service providers at federal, state, and local levels.

## What We Do

We are a team that responds to victims of sex and labor trafficking; providing comprehensive services, investigating traffickers and solicitors, and prosecuting offenders. The NDHTTF is the nexus for a network of law enforcement and service providers to work in tandem to build capacity and combat trafficking statewide.

## When We Started

Since 2015, the Attorney General and the Human Trafficking Commission have been working closely with the NDHTTF to build a coordinated response to human trafficking in the state.

## Where We Serve

NDHTTF serves the entire state of North Dakota.

## Why We Exist

NDHTTF exists to prevent, detect, disrupt, and dismantle human trafficking.

## How We Do It

- Train communities to identify exploitation and trafficking and provide points of contact
- Train local multidisciplinary teams to respond to victims and investigate trafficking-related crime
- Assist response agencies and communities with the development of response protocol
- Provide technical assistance to local response teams upon request
- Run operations and investigate trafficking related crime
- Prosecute offenders and provide victims with restitution
- Engagement in national anti-trafficking best practices and sharing of resources
- Build networks for victims to access services and resources

NORTH DAKOTA
HUMAN TRAFFICKING TASK FORCE

## 535
**Number of Human Trafficking Victims Served in North Dakota**

Youth: 28%
Adults: 72%
Sex: 84%
Labor: 6%
Sex & Labor: 9%
Other 1%

## 170
**Number of Investigations**

Sex: 90%
Labor: 7%
Sex & Labor: 3%

## 14,151
**Number of Individuals Trained Statewide**

## 3,366
**Number of Technical Assistance Calls to NDHTTF Operational Team**

*Data provided: January 1st, 2016 through December 31st, 2020*

# *results of ndhttf work*

- The NDHTTF operates nine multi-disciplinary teams (MDTS) to provide local response to exploited and trafficked individuals. Locations include Williston, Watford City, Dickinson, Minot, Bismarck, Devils Lake/Spirit Lake, Jamestown, Grand Forks, and Fargo.

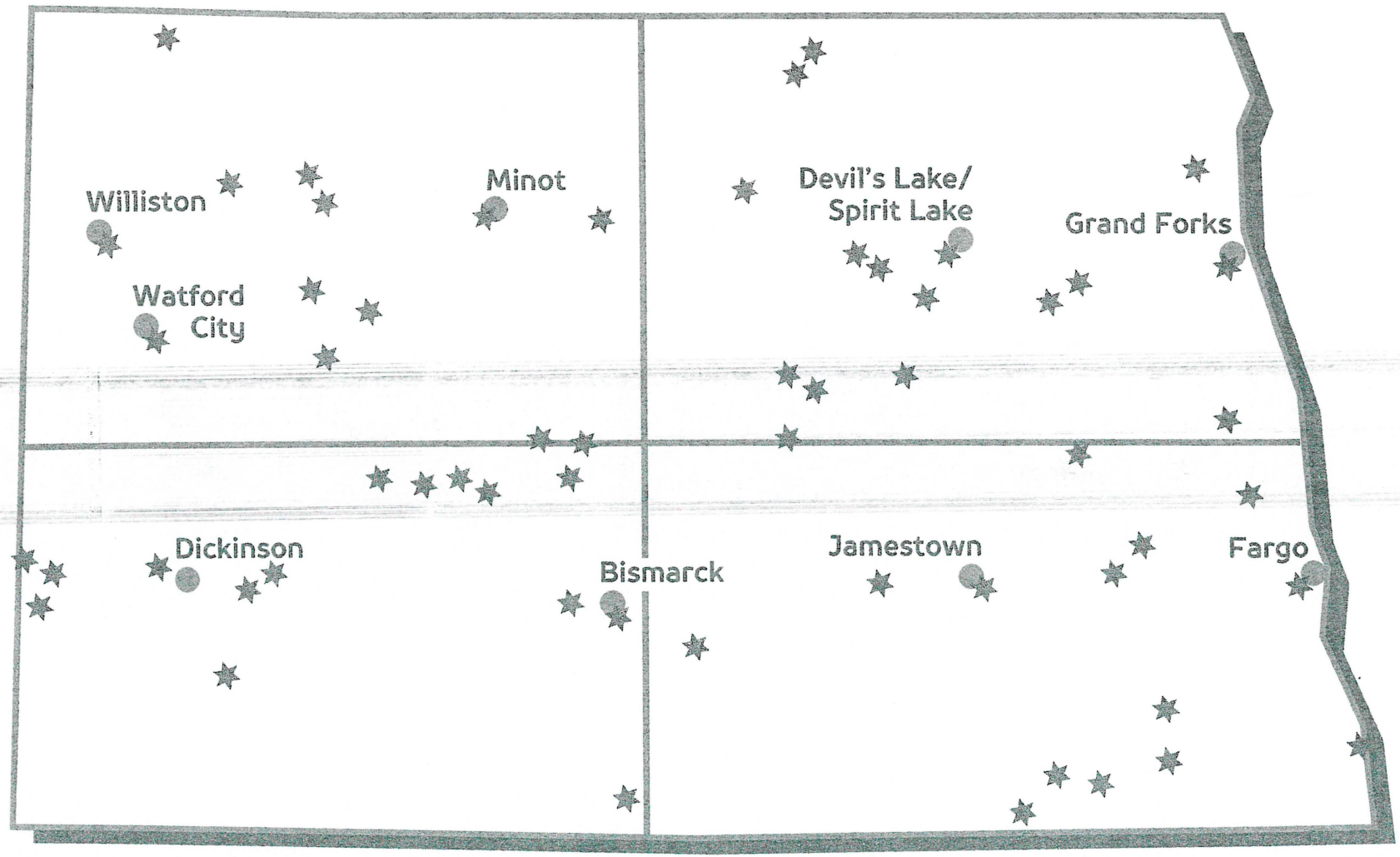
- The NDHTTF hosts a human trafficking fund that provides short and long-term resources to any victim in the state. The most requested services are for housing, behavioral health, medical/dental, legal assistance, basic needs and transportation.

- Training has yielded better, more accurate identification of suspected and confirmed labor and sex trafficking victims by law enforcement, community providers, and the public. Training includes best practices when working with victims and how to successfully investigate trafficking.

- Service providers and law enforcement have demonstrated continued commitment to survivors. Ongoing access to services is critical as approximately 80% of victims served are North Dakota residents.

ndhttf.org

# NORTH DAKOTA HUMAN TRAFFICKING MDT & TRAFFICKING CASES MAP




MDT Community  Communities Where Trafficking has been Identified

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
2/11/2021
AM

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

10:33 **Chairman Vigesaa** brought the committee to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich, Representative Howe, Representative Bellew, Representative Meier, Representative Mock.

**Discussion Topics:**

- Base level funding changes
- FTE's
- Amendments

10:34 **Representative Kempenich** explained the bill. Testimony #6412 and #6413.

10:48 **Becky Keller, Finance Director, Office of Attorney General** answered questions concerning the bill.

10:55 **Chairman Vigesaa** adjourned the meeting.

*Sheri Lewis, Committee Clerk*

#6412

| BCI and MFCU | Cost of Equity 2021-23 | | Cost to Continue Equity 2023-25 | | Total Investment |
|---|---|---|---|---|---|
| Equity plan: | FY 22 | FY 23 | FY 24 | FY 25 | |
| $7,500 annual increase | 503,663 | 503,663 | 503,663 | 503,663 | 2,014,652 |
| Increase based on years as an investigator | 387,726 | 387,726 | 510,940 | 510,940 | 1,797,332 |

about ½ general

Refund fund

| | 2021-23 Biennium Salary | Benefits | 2023-25 Biennium Salary | Benefits | Total |
|---|---|---|---|---|---|
| $7,500 annual increase | | | | | |
| BCI | 795,000 | 175,696 | 795,000 | 175,696 | 1,941,392 |
| MFCU | 30,000 | 6,630 | 30,000 | 6,630 | 73,260 |
| | | | | | 2,014,652 |
| Increase by years as CI | | | | | |
| BCI | 610,568 | 134,936 | 807,257 | 178,402 | 1,731,163 |
| MFCU | 24,528 | 5,421 | 29,664 | 6,556 | 66,169 |
| | | | | | 1,797,332 |

| FTE Count | BCI | MFCU |
|---|---|---|
| Criminal Investigator I | 17 | 1 |
| Criminal Investigator II | 11 | |
| Criminal Investigator III | 21 | 1 |
| Chief Agent | 3 | |
| Director | 1 | |
| | 53 | 2 |

1 vacant

| Fire Marshal - 7 FTE | Cost of Equity 2021-23 | | Cost to Continue Equity 2023-25 | | Total Investment |
|---|---|---|---|---|---|
| Equity plan: | FY 22 | FY 23 | FY 24 | FY 25 | |
| $7,500 annual increase | 62,953 | 62,953 | 62,953 | 62,953 | 251,812 |
| Increase by years at FM | 59,845 | 59,845 | 62,842 | 62,842 | 245,374 |

fee - cigarette paper safety

| | 2021-23 Biennium | | 2023-25 Biennium | | |
|---|---|---|---|---|---|
| | Salary | Benefits | Salary | Benefits | Total |
| $7,500 annual increase | 105,000 | 20,906 | 105,000 | 20,906 | 251,812 |
| Increase by years as CI | 99,816 | 19,873 | 104,816 | 20,869 | 245,374 |

| FTE Count | |
|---|---|
| Deputy Fire Marshal I | 5 |
| Deputy Fire Marshal II | 0 |
| Deputy Fire Marshal III | 0 |
| Chief Deputy Fire Marshal | 1 |
| State Fire Marshal | 1 |
| | 7 |

No vacant

Office of Attorney General | Becky K | 328-5521

**2/9/2021**

| Salary Ranges | # FTE | Years of Service | **$7,500 annual increase** Annual Salary Range | **Increase by Years of Service** Annual Salary Range |
|---|---|---|---|---|
| Criminal Investigator I | 18 | 1 - 5 | 71,520 - 75,312 | 69,060 - 75,680 |
| Criminal Investigator II | 11 | 6 - 10 | 76,080 - 81,780 | 76,752 - 79,200 |
| Criminal Investigator III | 22 | Over 10 | 82,176 - 106,008 | 80,826 - 101,800 |
| Chief Investigator | 3 | | 102,516 | 105,016 |
| Director | 1 | | 135,420 | 137,920 |
| **Total Investment** | | | **$2,014,652** | **$1,797,332** |

## Entry Level Investigator

| | Salary | Years Experience | Degree | |
|---|---|---|---|---|
| **Highway Patrol** | 76,332 | 5 | 4 yr | HP starts new troopers at $53,904 with no experience<br>A trooper can become an investigator after five years of experience |
| **BCI** | 61,560 | 5 | 4 yr | A BCI agent has to have five years of experience in law enforcement to be hired. |

# Attorney General - Budget No. 125
# House Bill No. 1003
# Base Level Funding Changes

| | Executive Budget Recommendation | | | | House Version | | | |
|---|---|---|---|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | | | $0 |
| Salary increase | | 876,260 | 416,389 | 1,292,649 | | | | 0 |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | | | 0 |
| Retirement contribution increase | | 128,683 | 65,672 | 194,355 | | | | 0 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | | | 0 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | | | | 0 |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | | | 0 |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | | | 0 |
| Adds funding for state agency Capitol grounds rent proposal | | 289,501 | | 289,501 | | | | 0 |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | | | 0 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | | | 0 |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | | | 0 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | | 0 |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | | 0 |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | | | 0 |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | | | | 0 |
| Reduces funding for the arrest and return of fugititives | | (1,500) | | (1,500) | | | | 0 |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | | | 0 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | | | 0 |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | | | 0 |
| Reduces funding for human trafficking victims grants | | (400,000) | | (400,000) | | | | 0 |
| Reduces funding for forensic nurse examiners grants | | (37,500) | | (37,500) | | | | 0 |
| Total ongoing funding changes | 3.00 | ($1,343,895) | $891,416 | ($452,479) | 0.00 | $0 | $0 | $0 |
| **One-time funding items** | | | | | | | | |
| Adds funding for the criminal history improvement project | | | $400,000 | $400,000 | | | | $0 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | | 0 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | | 0 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | | 0 |
| Adds funding for a statewide litigation pool | | $3,000,000 | 0 | 3,000,000 | | | | 0 |
| Total one-time funding changes | 0.00 | $3,000,000 | $2,286,706 | $5,286,706 | 0.00 | $0 | $0 | $0 |
| **Total Changes to Base Level Funding** | 3.00 | $1,656,105 | $3,178,122 | $4,834,227 | 0.00 | $0 | $0 | $0 |
| **2021-23 Total Funding** | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(2.9%)* | *2.5%* | *(0.6%)* | *0.0%* | *0.0%* | *0.0%* | *0.0%* |
| *Total changes as a percentage of base level* | *1.2%* | *3.6%* | *8.9%* | *5.9%* | *0.0%* | *0.0%* | *0.0%* | *0.0%* |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Attorney General salary | Section 3 would amend Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $166,662 effective July 1, 2021, and $169,995 effective July 1, 2022, to reflect the 2 percent annual recommended salary increase. | |
| Exemption - Attorney General refund fund | Section 4 would allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | |
| Transfer - Litigation pool to state agencies | Section 5 would require the Attorney General to transfer funds from the $3-million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. | |
| Appropriation - Additional federal funds or other federal funds | Section 6 would appropriate $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General would be required to report to OMB and the Legislative Council on the availability of this funding. | |
| Criminal history record checks - Fees | Section 7 would require any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | |
| Human trafficking victims grant program | Section 8 would identify $1 million from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General would be allowed to 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 would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. | |
| Forensic nurse examiners grant program | Section 9 would identify $212,499 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. | |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Exemption - Concealed weapon rewrite project | Section 10 would allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | |
| Exemption - Coronavirus emergency supplemental funding | Section 11 would allow the Attorney General to continue any federal funding received during the 2019-21 biennium in response to the COVID-19 pandemic into the 2021-23 biennium. | |

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
2/11/2021
PM

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

3:38 Chairman Vigesaa brought the committee to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich, Representative Howe, Representative Bellew, Representative Meier, Representative Mock.

**Discussion Topics:**

- Base level funding changes
- Amendments
- BCI agents
- One-time funding

3:27 **Chairman Vigesaa** went through the worksheet. Testimony #3130.

3:56 **Representative Howe** made a motion to adopt the amendments. LC# 21.0262.01002.

3:58 **Representative Meier** seconded the motion.

3:58 Voice vote.

3:58 Motion carried.

3:59 **Chairman Vigesaa** adjourned the meeting.

*Sheri Lewis, Committee Clerk*

21.0262.01002
Title.

Fiscal No. 1

Prepared by the Legislative Council staff for
the House Appropriations - Government
Operations Division Committee
February 19, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1003

Page 1, line 1, after "general" insert "; to amend and reenact section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general; to provide for a transfer; to provide an exemption; to provide for a statement of legislative intent; and to provide for a report"

Page 1, remove lines 8 through 24

Page 2, replace lines 1 through 4 with:

"

| | Base Level | Adjustments or Enhancements | Appropriation |
|---|---|---|---|
| Salaries and wages | $45,954,981 | $2,827,832 | $48,782,813 |
| Operating expenses | 15,588,646 | 87,126 | 15,675,772 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Statewide litigation funding pool | 0 | 3,000,000 | 3,000,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Total all funds | $81,490,880 | $5,284,802 | $86,775,682 |
| Less estimated income | 35,886,284 | 7,213,762 | 43,100,046 |
| Total general fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| Full-time equivalent positions | 245.00 | 3.00 | 248.00" |

Page 2, line 5, after "**FUNDING**" insert "**- EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY**"

Page 2, line 6, after "biennium" insert "and the one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 8 through 16 with:

| | | |
|---|---|---|
| "Criminal history improvement system | $400,000 | $400,000 |
| Capital assets | 1,851,956 | 1,111,706 |
| Undercover vehicles | 200,000 | 0 |
| Automated biometric identification system | 316,000 | 300,000 |
| Charitable gaming technology system | 400,000 | 475,000 |
| Statewide litigation funding pool | 0 | 3,000,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $5,286,706 |

| | | |
|---|---|---|
| Total other funds | 3,217,956 | 5,286,706 |
| Total general fund | $200,000 | $0 |

**SECTION 3. ADDITIONAL INCOME - APPROPRIATION - REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of $250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021, and ending June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

**SECTION 4. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - TRANSFER - LITIGATION POOL TO STATE AGENCIES - ONE-TIME FUNDING.** The statewide litigation funding pool line item in section 1 of this Act includes $3,000,000 from the strategic investment and improvements fund, which the attorney general shall transfer to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04.

**SECTION 5. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.** The human trafficking victims grants line item in section 1 of this Act includes $1,101,834 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, 2021, and ending June 30, 2023. 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 sixty-eighth legislative assembly on the use of the funds received and the outcomes of its program. The attorney general shall report to the legislative management during the 2021-22 interim on the status and results of the grant program.

**SECTION 6. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.** The forensic nurse examiners grants line item in section 1 of this Act includes $250,674 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, 2021, and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-eighth 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 sixty-eighth 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 7. ESTIMATED INCOME - SALARY EQUITY INCREASES - ATTORNEY GENERAL REFUND FUND.** The estimated income line item in section 1 of this Act includes $1,133,232 from the attorney general refund fund for the purpose of providing salary equity increases to employees in the attorney general's office, of which $1,007,326 is for bureau of criminal investigation positions and Medicaid fraud control

unit positions and $125,906 is for fire marshal office positions, for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 8. LEGISLATIVE INTENT - ATTORNEY GENERAL - SALARY EQUITY INCREASES - INVESTMENT OF LAWSUIT SETTLEMENT PROCEEDS - STATE INVESTMENT BOARD.** The attorney general may invest up to $2,266,464 of funding in the attorney general refund fund, of which $1,160,896 is derived from January 2021 lawsuit settlement proceeds, under the supervision of the state investment board for the period beginning July 1, 2021, and ending June 30, 2025. It is the intent of the sixty-seventh legislative assembly that $2,266,464 in the attorney general refund fund and any investment earnings on the funding be retained in the attorney general refund fund for the purpose of providing salary equity increases as provided for in section 7 of this Act and for the cost to continue the salary equity increases during the 2023-25 biennium, subject to legislative appropriations.

**SECTION 9. 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 ~~fifty-nine~~sixty-five thousand ~~four~~eight hundred ~~nine~~forty-five dollars through June 30, ~~2020~~2022, and one hundred ~~sixty-three~~sixty-eight thousand three hundred ~~ninety-four~~thirty-three dollars thereafter.

**SECTION 10. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any individual or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-seventh legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 11. EXEMPTION - ATTORNEY GENERAL REFUND FUND.** Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund which would otherwise be transferred to the general fund on June 30, 2021.

**SECTION 12. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.** The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021, and ending June 30, 2023."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Attorney General - House Action**

| | Base Budget | House Changes | House Version |
|---|---|---|---|
| Salaries and wages | $45,954,981 | $2,827,832 | $48,782,813 |
| Operating expenses | 15,588,646 | 87,126 | 15,675,772 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |

| | | | |
|---|---|---|---|
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | |
| Medical examinations | 660,000 | | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Additional income | | 250,000 | 250,000 |
| Statewide litigation funding pool | | 3,000,000 | 3,000,000 |
| Total all funds | $81,490,880 | $5,534,802 | $87,025,682 |
| Less estimated income | 35,886,284 | 7,463,762 | 43,350,046 |
| General fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| FTE | 245.00 | 3.00 | 248.00 |

## Department 125 - Attorney General - Detail of House Changes

| | Adjusts Funding for Base Payroll Changes[1] | Adds Funding for Salary and Benefit Increases[2] | Adds Funding for Salary Equity Increases[3] | Adds Funding for FTE Gaming Division Positions[4] | Adjusts Base Level Funding[5] | Removes Funding for Lottery Narcotics Task Force[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $82,962 | $1,042,784 | $1,133,232 | $814,863 | ($246,009) | |
| Operating expenses | | | | 144,836 | (1,253,250) | |
| Capital assets | | | | | (156,325) | |
| Grants | | | | | | ($755,000) |
| Litigation fees | | | | | (22,500) | |
| Intellectual property attorney | 5,707 | (2) | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 20,135 | 45,942 | | | (4,000) | |
| Arrest and return of fugitives | | | | | (1,500) | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 37,985 | 22,044 | | | | |
| Law enforcement | (3,378) | 64,439 | | | (340,360) | |
| Human trafficking victims grants | | 1,834 | | | | |
| Forensic nurse examiners grants | (1) | 675 | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $143,410 | $1,177,716 | $1,133,232 | $959,699 | ($2,023,944) | ($755,000) |
| Less estimated income | 87,874 | 388,187 | 1,133,232 | 959,699 | 113,064 | (755,000) |
| General fund | $55,536 | $789,529 | $0 | $0 | ($2,137,008) | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 4.00 | 0.00 | 0.00 |

| | Removes Intellectual Property Attorney[7] | Adds Funding for CJIS[8] | Reduces Funding for Human Trafficking Victims Grants[9] | Adds One-Time Funding for Criminal History Improvement System[10] | Adds One-Time Funding for Charitable Gaming Technology System[11] | Adds One-Time Funding for Automated Biometric Identification System[12] |
|---|---|---|---|---|---|---|
| Salaries and wages | | | | | | |
| Operating expenses | | | | $400,000 | $475,000 | $300,000 |
| Capital assets | | | | | | |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | ($447,790) | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | | $110,773 | | | | |
| Law enforcement | | | | | | |
| Human trafficking victims grants | | | ($300,000) | | | |
| Forensic nurse examiners grants | | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | ($447,790) | $110,773 | ($300,000) | $400,000 | $475,000 | $300,000 |
| Less estimated income | 0 | 0 | 0 | 400,000 | 475,000 | 300,000 |
| General fund | ($447,790) | $110,773 | ($300,000) | $0 | $0 | $0 |
| FTE | (1.00) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

| | Adds One-Time Funding for State Crime Laboratory Equipment[13] | Adds One-Time Funding for Statewide Litigation[14] | Adds One-Time Funding for Additional Income[15] | Total House Changes |
|---|---|---|---|---|
| Salaries and wages | | | | $2,827,832 |
| Operating expenses | $20,540 | | | 87,126 |
| Capital assets | 1,091,166 | | | 934,841 |
| Grants | | | | (755,000) |
| Litigation fees | | | | (22,500) |
| Intellectual property attorney | | | | (442,085) |
| Medical examinations | | | | |
| North Dakota lottery | | | | 62,077 |
| Arrest and return of fugitives | | | | (1,500) |
| Gaming commission | | | | |
| Criminal justice information sharing | | | | 170,802 |
| Law enforcement | | | | (279,299) |
| Human trafficking victims grants | | | | (298,166) |
| Forensic nurse examiners grants | | | | 674 |
| Additional income | | | $250,000 | 250,000 |
| Statewide litigation funding pool | | $3,000,000 | | 3,000,000 |
| Total all funds | $1,111,706 | $3,000,000 | $250,000 | $5,534,802 |
| Less estimated income | 1,111,706 | 3,000,000 | 250,000 | 7,463,762 |
| General fund | $0 | $0 | $0 | ($1,928,960) |
| FTE | 0.00 | 0.00 | 0.00 | 3.00 |

[1] Funding is adjusted for base payroll changes.

[2] The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250 for both years, and increases in health insurance premiums from $1,427 to $1,429 per month:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Salary increase | $781,879 | $384,469 | $1,166,348 |
| Health insurance increase | 7,650 | 3,718 | 11,368 |
| Total | $789,529 | $388,187 | $1,177,716 |

[3] Funding of $1,133,232 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906). Sections are added to the bill to provide legislative intent that the Attorney General, under the supervision of the State Investment Board, invest available funding for the salary equity raises and for the cost to continue the raises during the 2023-25 biennium.

[4] Funding of $959,699 is added from the Attorney General operating fund for 4 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $814,863 is for salaries and $144,836 is for related operating expenses.

[5] Base level funding is adjusted as follows:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Reduces funding for temporary salaries | ($246,009) | $0 | ($246,009) |
| Adjusts funding for operating expenses | (1,489,628) | 185,464 | (1,304,164) |
| Reduces funding for operating expenses | (210,000) | 0 | (210,000) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | 70,958 | 0 | 70,958 |
| Adds funding for BCI service contracts and monitoring fees | 114,342 | 80,000 | 194,342 |
| Reduces funding for MFCU | (12,866) | 0 | (12,866) |
| Adds funding for State Crime Laboratory bond payments | 555 | 0 | 555 |
| Reduces funding for capital assets | 0 | (152,400) | (152,400) |
| Reduces funding for litigation fees to provide a total of $127,500 | (22,500) | 0 | (22,500) |
| Reduces funding for the arrest and return of fugitives to provide a total of $8,500 from the general fund | (1,500) | 0 | (1,500) |
| Reduces funding for law enforcement operating expenses | (340,360) | 0 | (340,360) |
| Total | ($2,137,008) | $113,064 | ($2,023,944) |

[6] Funding of $755,000 from the lottery fund is removed for the Lottery Narcotics Task Force. North Dakota Century Code Section 53-12.1-09 provides for transfers totaling $1.6 million each biennium from the lottery fund to the multijurisdictional drug task force grant fund and provides the Attorney General a continuing appropriation for this funding.

[7] Funding of $447,790 from the general fund is removed for 1 FTE assistant attorney general position to eliminate the intellectual property attorney program.

[8] Funding of $110,773 is added for criminal justice information sharing (CJIS) to provide a total of $3,801,923. Of the $110,773 added, $271,889 related to CJIS information technology expenses is reduced and funding of $382,662 is added for CJIS projects, including a common statute tables project ($40,000), CJIS portal upgrades ($75,000), broker maintenance costs ($50,000), and law enforcement records and jail management system maintenance ($217,662).

[9] Funding of $300,000 is reduced from the general fund for human trafficking victims grants to provide a total of $1,101,834 from the general fund, of which $1,100,000 is for grants and $1,834 is for the administration of the program.

[10] One-time funding of $400,000 is added from the Attorney General refund fund to upgrade the criminal history improvement system. Funding of $400,000 was also appropriated from the Attorney General refund fund for this purpose for the 2019-21 biennium.

[11] One-time funding of $475,000 is added from the Attorney General operating fund for Phases 3 and 4 of the charitable gaming technology system project, which is expected to complete the project. Funding of $400,000 was appropriated to the Attorney General from gaming tax revenues deposited in the Attorney General operating fund for Phases 1 and 2 of the project during the 2019-21 biennium.

[12] One-time funding of $300,000 is added from federal funds to upgrade the automated biometric identification system, formerly known as the automated fingerprint identification system.

[13] One-time funding of $1,091,166 is added from federal funds for State Crime Laboratory equipment.

[14] One-time funding of $3 million is added from the strategic investment and improvements fund for a statewide litigation funding pool.

[15] One-time funding of $250,000 is added from federal funds or other funds received during the 2021-23 biennium, the same amount provided for the 2017-19 and 2019-21 bienniums. This amount is appropriated in a separate section of the bill.

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This amendment also:

- Adds a section to identify $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium.
- Adds a section to identify funding in the human trafficking victims grants line item, which the Attorney General is required to use for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium.
- Adds a section to identify funding in the forensic nurse examiners grants line item, which the Attorney General is required to use for providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs for the 2021-23 biennium.
- Adds a section to identify $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for salary equity increases for 55 FTE BCI positions and 2 FTE MFCU positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906).
- Adds a section to authorize the Attorney General, under the supervision of the State Investment Board, to invest up to $2,266,464 of funding available in the Attorney General refund fund for salary equity raises, of which $2,014,652 is for BCI and MFCU positions and $251,812 is for Fire Marshal positions, during the 2021-23 and 2023-25 bienniums. Of the $2,266,464 total, $1,160,896 is from an Apple lawsuit settlement deposited in the Attorney General refund fund in January 2021 and the remaining $1,105,568 is from previously unobligated funding available in the Attorney General refund fund. Legislative intent is provided that the $2,266,464 and any investment earnings on the funding be retained in the Attorney General refund fund and be used for the $1,133,232 of 2021-23 biennium salary equity increases and the cost to continue the salary equity increases during the 2023-25 biennium.
- Adds a section to provide the statutory changes necessary to increase the Attorney General's salary to reflect state employee salary increases approved by the House for the 2021-23 biennium.
- Adds a section that requires any person or entity requesting a criminal record check from BCI to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the general fund during the 2021-23 biennium.
- Adds a section to allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium.

## Attorney General - Budget No. 125
## House Bill No. 1003
## Base Level Funding Changes

| | Executive Budget Recommendation | | | | House Version | | | |
|---|---|---|---|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | | | $0 |
| Salary increase | | 876,260 | 416,389 | 1,292,649 | | | | 0 |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | | | 0 |
| Retirement contribution increase | | 128,683 | 65,672 | 194,355 | | | | 0 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | | | 0 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | | | | 0 |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | | | 0 |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | | | 0 |
| Adds funding for state agency Capitol grounds rent proposal | | 289,501 | | 289,501 | | | | 0 |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | | | 0 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | | | 0 |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | | | 0 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | | 0 |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | | 0 |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | | | 0 |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | | | | 0 |
| Reduces funding for the arrest and return of fugititives | | (1,500) | | (1,500) | | | | 0 |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | | | 0 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | | | 0 |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | | | 0 |
| Reduces funding for human trafficking victims grants | | (400,000) | | (400,000) | | | | 0 |
| Reduces funding for forensic nurse examiners grants | | (37,500) | | (37,500) | | | | 0 |
| Total ongoing funding changes | 3.00 | ($1,343,895) | $891,416 | ($452,479) | 0.00 | $0 | $0 | $0 |
| **One-time funding items** | | | | | | | | |
| Adds funding for the criminal history improvement project | | | $400,000 | $400,000 | | | | $0 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | | 0 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | | 0 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | | 0 |
| Adds funding for a statewide litigation pool | | $3,000,000 | 0 | 3,000,000 | | | | 0 |
| Total one-time funding changes | 0.00 | $3,000,000 | $2,286,706 | $5,286,706 | 0.00 | $0 | $0 | $0 |
| **Total Changes to Base Level Funding** | 3.00 | $1,656,105 | $3,178,122 | $4,834,227 | 0.00 | $0 | $0 | $0 |
| **2021-23 Total Funding** | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(2.9%)* | *2.5%* | *(0.6%)* | *0.0%* | *0.0%* | *0.0%* | *0.0%* |
| *Total changes as a percentage of base level* | *1.2%* | *3.6%* | *8.9%* | *5.9%* | *0.0%* | *0.0%* | *0.0%* | *0.0%* |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Attorney General salary | Section 3 would amend Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $166,662 effective July 1, 2021, and $169,995 effective July 1, 2022, to reflect the 2 percent annual recommended salary increase. | |
| Exemption - Attorney General refund fund | Section 4 would allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | |
| Transfer - Litigation pool to state agencies | Section 5 would require the Attorney General to transfer funds from the $3-million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. | |
| Appropriation - Additional federal funds or other federal funds | Section 6 would appropriate $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General would be required to report to OMB and the Legislative Council on the availability of this funding. | |
| Criminal history record checks - Fees | Section 7 would require any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | |
| Human trafficking victims grant program | Section 8 would identify $1 million from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General would be allowed to 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 would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. | |
| Forensic nurse examiners grant program | Section 9 would identify $212,499 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. | |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Exemption - Concealed weapon rewrite project | Section 10 would allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | |
| Exemption - Coronavirus emergency supplemental funding | Section 11 would allow the Attorney General to continue any federal funding received during the 2019-21 biennium in response to the COVID-19 pandemic into the 2021-23 biennium. | |

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
2/15/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

10:36 **Chairman Vigesaa** brought the committee to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich, Representative Howe, Representative Meier, Representative Bellew, Representative Mock.

**Discussion Topics:**

- Base level funding changes
- SIIF Fund
- Amendments
- Vacant positions

10:37 **Chairman Vigesaa** went through the worksheet. Testimony #6832.

11:00 **Becky Keller, Director of Finance, ND Office of Attorney General** answered questions concerning budget.

11:16 **Chairman Vigesaa** adjourned the meeting.

*Sheri Lewis, Committee Clerk*

## Attorney General - Budget No. 125
## House Bill No. 1003
## Base Level Funding Changes

**Prepared for 2/15/2021**

| | Executive Budget Recommendation | | | | House Version | | | | House Changes to Executive Budget Increase (Decrease) - Executive Budget | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 0.00 | $0 | $0 | $0 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | $55,536 | $87,874 | $143,410 | | | | $0 |
| Salary increase | | 876,260 | 416,389 | 1,292,649 | | 781,883 | 384,469 | 1,166,352 | | ($94,377) | ($31,920) | (126,297) |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | 7,650 | 3,718 | 11,368 | | | | 0 |
| Retirement contribution increase | | 128,683 | 65,672 | 194,355 | | | | 0 | | (128,683) | (65,672) | (194,355) |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | (246,009) | | (246,009) | | | | 0 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | 4.00 | | 959,699 | 959,699 | | | | 0 |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | (1,489,628) | 185,464 | (1,304,164) | | | | 0 |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | 70,958 | | 70,958 | | | | 0 |
| Adds funding for state agency Capitol grounds rent proposal | | 289,501 | | 289,501 | | | | 0 | | (289,501) | | (289,501) |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | 114,342 | 80,000 | 194,342 | | | | 0 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | (12,866) | | (12,866) | | | | 0 |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | 555 | | 555 | | | | 0 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | (152,400) | (152,400) | | | | 0 |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | (755,000) | (755,000) | | | | 0 |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | (22,500) | | (22,500) | | | | 0 |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | (1.00) | (447,790) | | (447,790) | | | | 0 |
| Reduces funding for the arrest and return of fugitives | | (1,500) | | (1,500) | | (1,500) | | (1,500) | | | | 0 |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | 382,662 | | 382,662 | | | | 0 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | (271,889) | | (271,889) | | | | 0 |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | (340,360) | | (340,360) | | | | 0 |
| Reduces funding for human trafficking victims grants | | (400,000) | | (400,000) | | (300,000) | | (300,000) | | 100,000 | | 100,000 |
| Reduces funding for forensic nurse examiners grants | | (37,500) | | (37,500) | | | | 0 | | 37,500 | | 37,500 |
| Total ongoing funding changes | 3.00 | ($1,343,895) | $891,416 | ($452,479) | 3.00 | ($1,718,956) | $793,824 | ($925,132) | 0.00 | ($375,061) | ($97,592) | ($472,653) |
| **One-time funding items** | | | | | | | | | | | | |
| Adds funding for the criminal history improvement project | | | $400,000 | $400,000 | | | $400,000 | $400,000 | | | $0 | $0 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | 475,000 | 475,000 | | | 0 | 0 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | 300,000 | 300,000 | | | 0 | 0 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | 1,111,706 | 1,111,706 | | | 0 | 0 |
| Adds funding for a statewide litigation pool | | $3,000,000 | 0 | 3,000,000 | | $3,000,000 | | 3,000,000 | | $0 | 0 | 0 |
| Total one-time funding changes | 0.00 | $3,000,000 | $2,286,706 | $5,286,706 | 0.00 | $3,000,000 | $2,286,706 | $5,286,706 | 0.00 | $0 | $0 | $0 |
| **Total Changes to Base Level Funding** | 3.00 | $1,656,105 | $3,178,122 | $4,834,227 | 3.00 | $1,281,044 | $3,080,530 | $4,361,574 | 0.00 | ($375,061) | ($97,592) | ($472,653) |
| **2021-23 Total Funding** | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 | 248.00 | $46,885,640 | $38,966,814 | $85,852,454 | 0.00 | ($375,061) | ($97,592) | ($472,653) |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(2.9%)* | *2.5%* | *(0.6%)* | *1.2%* | *(3.8%)* | *2.2%* | *(1.1%)* | | | | |
| *Total changes as a percentage of base level* | *1.2%* | *3.6%* | *8.9%* | *5.9%* | *1.2%* | *2.8%* | *8.6%* | *5.4%* | | | | |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Attorney General salary | Section 3 would amend Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $166,662 effective July 1, 2021, and $169,995 effective July 1, 2022, to reflect the 2 percent annual recommended salary increase. | Section 3 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $168,333 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House. |
| Exemption - Attorney General refund fund | Section 4 would allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | Section 4 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. |
| Transfer - Litigation pool to state agencies | Section 5 would require the Attorney General to transfer funds from the $3-million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. | Section 5 requires the Attorney General to transfer funds from the $3-million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. |
| Appropriation - Additional federal funds or other federal funds | Section 6 would appropriate $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General would be required to report to OMB and the Legislative Council on the availability of this funding. | Section 6 appropriates $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to OMB and the Legislative Council on the availability of this funding. |
| Criminal history record checks - Fees | Section 7 would require any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | Section 7 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. |
| Human trafficking victims grant program | Section 8 would identify $1 million from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General would be allowed to 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 would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. | Section 8 identifies $1,101,834 from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. |
| Forensic nurse examiners grant program | Section 9 would identify $212,499 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. | Section 9 identifies $250,674 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Exemption - Concealed weapon rewrite project | Section 10 would allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | Section 10 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. |
| Exemption - Coronavirus emergency supplemental funding | Section 11 would allow the Attorney General to continue any federal funding received during the 2019-21 biennium in response to the COVID-19 pandemic into the 2021-23 biennium. | |

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
2/17/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

4:35 **Chairman Vigesaa** brought the committee to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich, Representative Howe, Representative Bellew, Representative Meier, Representative Mock.

**Discussion Topics:**

- Vacant FTE's
- Base level budget changes

4:35 **Chairman Vigesaa** explained the worksheet. Testimony # 6969.

5:03 **Chairman Vigesaa** adjourned the meeting.

*Sheri Lewis, Committee Clerk*

#6969

# Attorney General - Budget No. 125
# House Bill No. 1003
# Base Level Funding Changes

**Prepared for 2/16/2021**

| | Executive Budget Recommendation | | | | House Version | | | | House Changes to Executive Budget Increase (Decrease) - Executive Budget | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 0.00 | $0 | $0 | $0 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | $55,536 | $87,874 | $143,410 | | | | $0 |
| Salary increase | | 876,260 | 416,389 | 1,292,649 | | 781,879 | 384,469 | 1,166,348 | | ($94,381) | ($31,920) | (126,301) |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | 7,650 | 3,718 | 11,368 | | | | 0 |
| Retirement contribution increase | | 128,683 | 65,672 | 194,355 | | | | 0 | | (128,683) | (65,672) | (194,355) |
| Adds funding for Bureau of Criminal Investigation salary equity increases | | | | 0 | | | 1,007,326 | 1,007,326 | | | 1,007,326 | 1,007,326 |
| Adds funding for Fire Marshal salary equity increases | | | | 0 | | | 125,906 | 125,906 | | | 125,906 | 125,906 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | 4.00 | | 959,699 | 959,699 | | | | 0 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | (246,009) | | (246,009) | | | | 0 |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | (1,489,628) | 185,464 | (1,304,164) | | | | 0 |
| Underfunds operating expenses | | | | 0 | | (210,000) | | (210,000) | | (210,000) | | (210,000) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | 70,958 | | 70,958 | | | | 0 |
| Adds funding for state agency Capitol grounds rent proposal | | 289,501 | | 289,501 | | | | 0 | | (289,501) | | (289,501) |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | 114,342 | 80,000 | 194,342 | | | | 0 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | (12,866) | | (12,866) | | | | 0 |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | 555 | | 555 | | | | 0 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | (152,400) | (152,400) | | | | 0 |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | (755,000) | (755,000) | | | | 0 |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | (22,500) | | (22,500) | | | | 0 |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | (1.00) | (447,790) | | (447,790) | | | | 0 |
| Reduces funding for the arrest and return of fugitives | | (1,500) | | (1,500) | | (1,500) | | (1,500) | | | | 0 |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | 382,662 | | 382,662 | | | | 0 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | (271,889) | | (271,889) | | | | 0 |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | (340,360) | | (340,360) | | | | 0 |
| Reduces funding for human trafficking victims grants | | (400,000) | | (400,000) | | (300,000) | | (300,000) | | 100,000 | | 100,000 |
| Reduces funding for forensic nurse examiners grants | | (37,500) | | (37,500) | | | | 0 | | 37,500 | | 37,500 |
| Total ongoing funding changes | 3.00 | ($1,343,895) | $891,416 | ($452,479) | 3.00 | ($1,928,960) | $1,927,056 | ($1,904) | 0.00 | ($585,065) | $1,035,640 | $450,575 |
| **One-time funding items** | | | | | | | | | | | | |
| Adds funding for criminal history improvement system upgrades | | | $400,000 | $400,000 | | | $400,000 | $400,000 | | | $0 | $0 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | 475,000 | 475,000 | | | 0 | 0 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | 300,000 | 300,000 | | | 0 | 0 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | 1,111,706 | 1,111,706 | | | 0 | 0 |
| Adds funding for a statewide litigation funding pool | | $3,000,000 | 0 | 3,000,000 | | | 3,000,000 | 3,000,000 | | ($3,000,000) | 3,000,000 | 0 |
| Adds funding for additional income from federal or other sources | | | 0 | 0 | | | 250,000 | 250,000 | | | 250,000 | 250,000 |
| Total one-time funding changes | 0.00 | $3,000,000 | $2,286,706 | $5,286,706 | 0.00 | $0 | $5,536,706 | $5,536,706 | 0.00 | ($3,000,000) | $3,250,000 | $250,000 |
| **Total Changes to Base Level Funding** | 3.00 | $1,656,105 | $3,178,122 | $4,834,227 | 3.00 | ($1,928,960) | $7,463,762 | $5,534,802 | 0.00 | ($3,585,065) | $4,285,640 | $700,575 |
| **2021-23 Total Funding** | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 | 248.00 | $43,675,636 | $43,350,046 | $87,025,682 | 0.00 | ($3,585,065) | $4,285,640 | $700,575 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(2.9%)* | *2.5%* | *(0.6%)* | *1.2%* | *(4.2%)* | *5.4%* | *(0.0%)* | | | | |
| *Total changes as a percentage of base level* | *1.2%* | *3.6%* | *8.9%* | *5.9%* | *1.2%* | *(4.2%)* | *20.8%* | *6.8%* | | | | |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Appropriation - Additional federal funds or other federal funds | Section 6 would appropriate $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General would be required to report to the Office of Management and Budget and Legislative Council on the availability of this funding. | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. |
| Transfer - Litigation pool to state agencies | Section 5 would require the Attorney General to transfer funds from the $3-million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. | Section 4 requires the Attorney General to transfer funds from the $3-million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. |
| Human trafficking victims grant program | Section 8 would identify $1 million from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General would be allowed to 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 would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. | Section 5 identifies $1,101,834 from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. |
| Forensic nurse examiners grant program | Section 9 would identify $212,499 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. | Section 6 identifies $250,674 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs for the 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. |
| Estimated income - Salary equity increases - Attorney General refund fund | | Section 7 identifies $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for providing salary equity increases to Attorney General staff, of which $1,007,326 is for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is for Fire Marshal office positions, for the 2021-23 biennium. |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Legislative intent - Attorney General - Salary equity increases - Investment of lawsuit settlement proceeds - State Investment Board | | Section 8 allows the Attorney General to invest up to $2,266,464 of funding available in the Attorney General refund fund, of which $1,160,896 is derived from lawsuit settlement proceeds received by the Attorney General and deposited in the Attorney General refund fund in January 2021 and any investment earnings on the settlment amount, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 7 and for the the cost to continue the salary equity increases during the 2023-25 biennium. |
| Attorney General salary | Section 3 would amend Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $166,662 effective July 1, 2021, and $169,995 effective July 1, 2022, to reflect the 2 percent annual recommended salary increase. | Section 9 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $168,333 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House. |
| Criminal history record checks - Fees | Section 7 would require any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | Section 10 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. |
| Exemption - Attorney General refund fund | Section 4 would allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | Section 11 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. |
| Exemption - Concealed weapon rewrite project | Section 10 would allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | Section 12 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. |
| Exemption - Coronavirus emergency supplemental funding | Section 11 would allow the Attorney General to continue any federal funding received during the 2019-21 biennium in response to the COVID-19 pandemic into the 2021-23 biennium. | |

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
2/18/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

08:47 **Chairman Vigesaa** brought the committee to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich, Representative Howe, Representative Bellew, Representative Meier, Representative Mock.

**Discussion Topics:**

- BCI agents
- Amendments

08:47 **Representative Kempenich** discussed the bill. Testimony #6969.

08:53 **Chairman Vigesaa** adjourned the meeting.

*Sheri Lewis, Committee Clerk*

## Attorney General - Budget No. 125
## House Bill No. 1003
## Base Level Funding Changes

**Prepared for 2/16/2021**

| | Executive Budget Recommendation | | | | House Version | | | | House Changes to Executive Budget Increase (Decrease) - Executive Budget | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 0.00 | $0 | $0 | $0 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | $55,536 | $87,874 | $143,410 | | | | $0 |
| Salary increase | | 876,260 | 416,389 | 1,292,649 | | 781,879 | 384,469 | 1,166,348 | | ($94,381) | ($31,920) | (126,301) |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | 7,650 | 3,718 | 11,368 | | | | 0 |
| Retirement contribution increase | | 128,683 | 65,672 | 194,355 | | | | 0 | | (128,683) | (65,672) | (194,355) |
| Adds funding for Bureau of Criminal Investigation salary equity increases | | | | 0 | | | 1,007,326 | 1,007,326 | | | 1,007,326 | 1,007,326 |
| Adds funding for Fire Marshal salary equity increases | | | | 0 | | | 125,906 | 125,906 | | | 125,906 | 125,906 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | 4.00 | | 959,699 | 959,699 | | | | 0 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | (246,009) | | (246,009) | | | | 0 |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | (1,489,628) | 185,464 | (1,304,164) | | | | 0 |
| Underfunds operating expenses | | | | 0 | | (210,000) | | (210,000) | | (210,000) | | (210,000) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | 70,958 | | 70,958 | | | | 0 |
| Adds funding for state agency Capitol grounds rent proposal | | 289,501 | | 289,501 | | | | 0 | | (289,501) | | (289,501) |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | 114,342 | 80,000 | 194,342 | | | | 0 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | (12,866) | | (12,866) | | | | 0 |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | 555 | | 555 | | | | 0 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | (152,400) | (152,400) | | | | 0 |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | (755,000) | (755,000) | | | | 0 |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | (22,500) | | (22,500) | | | | 0 |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | (1.00) | (447,790) | | (447,790) | | | | 0 |
| Reduces funding for the arrest and return of fugitives | | (1,500) | | (1,500) | | (1,500) | | (1,500) | | | | 0 |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | 382,662 | | 382,662 | | | | 0 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | (271,889) | | (271,889) | | | | 0 |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | (340,360) | | (340,360) | | | | 0 |
| Reduces funding for human trafficking victims grants | | (400,000) | | (400,000) | | (300,000) | | (300,000) | | 100,000 | | 100,000 |
| Reduces funding for forensic nurse examiners grants | | (37,500) | | (37,500) | | | | 0 | | 37,500 | | 37,500 |
| Total ongoing funding changes | 3.00 | ($1,343,895) | $891,416 | ($452,479) | 3.00 | ($1,928,960) | $1,927,056 | ($1,904) | 0.00 | ($585,065) | $1,035,640 | $450,575 |
| **One-time funding items** | | | | | | | | | | | | |
| Adds funding for criminal history improvement system upgrades | | | $400,000 | $400,000 | | | $400,000 | $400,000 | | | $0 | $0 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | 475,000 | 475,000 | | | 0 | 0 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | 300,000 | 300,000 | | | 0 | 0 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | 1,111,706 | 1,111,706 | | | 0 | 0 |
| Adds funding for a statewide litigation funding pool | | $3,000,000 | 0 | 3,000,000 | | | 3,000,000 | 3,000,000 | | ($3,000,000) | 3,000,000 | 0 |
| Adds funding for additional income from federal or other sources | | | 0 | 0 | | | 250,000 | 250,000 | | | 250,000 | 250,000 |
| Total one-time funding changes | 0.00 | $3,000,000 | $2,286,706 | $5,286,706 | 0.00 | $0 | $5,536,706 | $5,536,706 | 0.00 | ($3,000,000) | $3,250,000 | $250,000 |
| **Total Changes to Base Level Funding** | 3.00 | $1,656,105 | $3,178,122 | $4,834,227 | 3.00 | ($1,928,960) | $7,463,762 | $5,534,802 | 0.00 | ($3,585,065) | $4,285,640 | $700,575 |
| **2021-23 Total Funding** | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 | 248.00 | $43,675,636 | $43,350,046 | $87,025,682 | 0.00 | ($3,585,065) | $4,285,640 | $700,575 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(2.9%)* | *2.5%* | *(0.6%)* | *1.2%* | *(4.2%)* | *5.4%* | *(0.0%)* | | | | |
| *Total changes as a percentage of base level* | *1.2%* | *3.6%* | *8.9%* | *5.9%* | *1.2%* | *(4.2%)* | *20.8%* | *6.8%* | | | | |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Appropriation - Additional federal funds or other federal funds | Section 6 would appropriate $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General would be required to report to the Office of Management and Budget and Legislative Council on the availability of this funding. | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. |
| Transfer - Litigation pool to state agencies | Section 5 would require the Attorney General to transfer funds from the $3-million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. | Section 4 requires the Attorney General to transfer funds from the $3-million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. |
| Human trafficking victims grant program | Section 8 would identify $1 million from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General would be allowed to 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 would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. | Section 5 identifies $1,101,834 from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. |
| Forensic nurse examiners grant program | Section 9 would identify $212,499 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. | Section 6 identifies $250,674 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs for the 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. |
| Estimated income - Salary equity increases - Attorney General refund fund | | Section 7 identifies $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for providing salary equity increases to Attorney General staff, of which $1,007,326 is for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is for Fire Marshal office positions, for the 2021-23 biennium. |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Legislative intent - Attorney General - Salary equity increases - Investment of lawsuit settlement proceeds - State Investment Board | | Section 8 allows the Attorney General to invest up to $2,266,464 of funding available in the Attorney General refund fund, of which $1,160,896 is derived from lawsuit settlement proceeds received by the Attorney General and deposited in the Attorney General refund fund in January 2021 and any investment earnings on the settlment amount, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 7 and for the the cost to continue the salary equity increases during the 2023-25 biennium. |
| Attorney General salary | Section 3 would amend Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $166,662 effective July 1, 2021, and $169,995 effective July 1, 2022, to reflect the 2 percent annual recommended salary increase. | Section 9 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $168,333 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House. |
| Criminal history record checks - Fees | Section 7 would require any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | Section 10 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. |
| Exemption - Attorney General refund fund | Section 4 would allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | Section 11 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. |
| Exemption - Concealed weapon rewrite project | Section 10 would allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | Section 12 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. |
| Exemption - Coronavirus emergency supplemental funding | Section 11 would allow the Attorney General to continue any federal funding received during the 2019-21 biennium in response to the COVID-19 pandemic into the 2021-23 biennium. | |

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
2/19/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

09:47 Chairman Vigesaa brought the meeting to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich, Representative Howe, Representative Bellew, Representative Meier, Representative Mock.

**Discussion Topics:**

- Vacant positions

09:48 Chairman Vigesaa explained the proposed amendment. Testimony #7020.

09:54 Chairman Vigesaa adjourned the meeting.

*Sheri Lewis, Committee Clerk*

21.0262.01002
Title.

Fiscal No. 1

Prepared by the Legislative Council staff for
the House Appropriations - Government
Operations Division Committee
February 19, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1003

Page 1, line 1, after "general" insert "; to amend and reenact section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general; to provide for a transfer; to provide an exemption; to provide for a statement of legislative intent; and to provide for a report"

Page 1, remove lines 8 through 24

Page 2, replace lines 1 through 4 with:

"

| | Base Level | Adjustments or Enhancements | Appropriation |
|---|---|---|---|
| Salaries and wages | $45,954,981 | $2,827,832 | $48,782,813 |
| Operating expenses | 15,588,646 | 87,126 | 15,675,772 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Statewide litigation funding pool | 0 | 3,000,000 | 3,000,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Total all funds | $81,490,880 | $5,284,802 | $86,775,682 |
| Less estimated income | 35,886,284 | 7,213,762 | 43,100,046 |
| Total general fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| Full-time equivalent positions | 245.00 | 3.00 | 248.00" |

Page 2, line 5, after "**FUNDING**" insert "**- EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY**"

Page 2, line 6, after "biennium" insert "and the one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 8 through 16 with:

| | | |
|---|---|---|
| "Criminal history improvement system | $400,000 | $400,000 |
| Capital assets | 1,851,956 | 1,111,706 |
| Undercover vehicles | 200,000 | 0 |
| Automated biometric identification system | 316,000 | 300,000 |
| Charitable gaming technology system | 400,000 | 475,000 |
| Statewide litigation funding pool | 0 | 3,000,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $5,286,706 |

| | | |
|---|---|---|
| Total other funds | 3,217,956 | 5,286,706 |
| Total general fund | $200,000 | $0 |

**SECTION 3. ADDITIONAL INCOME - APPROPRIATION - REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of $250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021, and ending June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

**SECTION 4. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - TRANSFER - LITIGATION POOL TO STATE AGENCIES - ONE-TIME FUNDING.** The statewide litigation funding pool line item in section 1 of this Act includes $3,000,000 from the strategic investment and improvements fund, which the attorney general shall transfer to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04.

**SECTION 5. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.** The human trafficking victims grants line item in section 1 of this Act includes $1,101,834 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, 2021, and ending June 30, 2023. 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 sixty-eighth legislative assembly on the use of the funds received and the outcomes of its program. The attorney general shall report to the legislative management during the 2021-22 interim on the status and results of the grant program.

**SECTION 6. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.** The forensic nurse examiners grants line item in section 1 of this Act includes $250,674 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, 2021, and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-eighth 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 sixty-eighth 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 7. ESTIMATED INCOME - SALARY EQUITY INCREASES - ATTORNEY GENERAL REFUND FUND.** The estimated income line item in section 1 of this Act includes $1,133,232 from the attorney general refund fund for the purpose of providing salary equity increases to employees in the attorney general's office, of which $1,007,326 is for bureau of criminal investigation positions and Medicaid fraud control

unit positions and $125,906 is for fire marshal office positions, for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 8. LEGISLATIVE INTENT - ATTORNEY GENERAL - SALARY EQUITY INCREASES - INVESTMENT OF LAWSUIT SETTLEMENT PROCEEDS - STATE INVESTMENT BOARD.** The attorney general may invest up to $2,266,464 of funding in the attorney general refund fund, of which $1,160,896 is derived from January 2021 lawsuit settlement proceeds, under the supervision of the state investment board for the period beginning July 1, 2021, and ending June 30, 2025. It is the intent of the sixty-seventh legislative assembly that $2,266,464 in the attorney general refund fund and any investment earnings on the funding be retained in the attorney general refund fund for the purpose of providing salary equity increases as provided for in section 7 of this Act and for the cost to continue the salary equity increases during the 2023-25 biennium, subject to legislative appropriations.

**SECTION 9. 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 ~~fifty-nine~~sixty-five thousand ~~four~~eight hundred ~~nine~~forty-five dollars through June 30, ~~2020~~2022, and one hundred ~~sixty-three~~sixty-eight thousand three hundred ~~ninety-four~~thirty-three dollars thereafter.

**SECTION 10. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any individual or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-seventh legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 11. EXEMPTION - ATTORNEY GENERAL REFUND FUND.** Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund which would otherwise be transferred to the general fund on June 30, 2021.

**SECTION 12. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.** The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021, and ending June 30, 2023."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Attorney General - House Action**

| | Base Budget | House Changes | House Version |
|---|---|---|---|
| Salaries and wages | $45,954,981 | $2,827,832 | $48,782,813 |
| Operating expenses | 15,588,646 | 87,126 | 15,675,772 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |

| | | | |
|---|---|---|---|
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | |
| Medical examinations | 660,000 | | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Additional income | | 250,000 | 250,000 |
| Statewide litigation funding pool | | 3,000,000 | 3,000,000 |
| Total all funds | $81,490,880 | $5,534,802 | $87,025,682 |
| Less estimated income | 35,886,284 | 7,463,762 | 43,350,046 |
| General fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| FTE | 245.00 | 3.00 | 248.00 |

## Department 125 - Attorney General - Detail of House Changes

| | Adjusts Funding for Base Payroll Changes[1] | Adds Funding for Salary and Benefit Increases[2] | Adds Funding for Salary Equity Increases[3] | Adds Funding for FTE Gaming Division Positions[4] | Adjusts Base Level Funding[5] | Removes Funding for Lottery Narcotics Task Force[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $82,962 | $1,042,784 | $1,133,232 | $814,863 | ($246,009) | |
| Operating expenses | | | | 144,836 | (1,253,250) | |
| Capital assets | | | | | (156,325) | |
| Grants | | | | | | ($755,000) |
| Litigation fees | | | | | (22,500) | |
| Intellectual property attorney | 5,707 | (2) | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 20,135 | 45,942 | | | (4,000) | |
| Arrest and return of fugitives | | | | | (1,500) | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 37,985 | 22,044 | | | | |
| Law enforcement | (3,378) | 64,439 | | | (340,360) | |
| Human trafficking victims grants | | 1,834 | | | | |
| Forensic nurse examiners grants | (1) | 675 | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $143,410 | $1,177,716 | $1,133,232 | $959,699 | ($2,023,944) | ($755,000) |
| Less estimated income | 87,874 | 388,187 | 1,133,232 | 959,699 | 113,064 | (755,000) |
| General fund | $55,536 | $789,529 | $0 | $0 | ($2,137,008) | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 4.00 | 0.00 | 0.00 |

| | Removes Intellectual Property Attorney[7] | Adds Funding for CJIS[8] | Reduces Funding for Human Trafficking Victims Grants[9] | Adds One-Time Funding for Criminal History Improvement System[10] | Adds One-Time Funding for Charitable Gaming Technology System[11] | Adds One-Time Funding for Automated Biometric Identification System[12] |
|---|---|---|---|---|---|---|
| Salaries and wages | | | | | | |
| Operating expenses | | | | $400,000 | $475,000 | $300,000 |
| Capital assets | | | | | | |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | ($447,790) | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | | $110,773 | | | | |
| Law enforcement | | | | | | |
| Human trafficking victims grants | | | ($300,000) | | | |
| Forensic nurse examiners grants | | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | ($447,790) | $110,773 | ($300,000) | $400,000 | $475,000 | $300,000 |
| Less estimated income | 0 | 0 | 0 | 400,000 | 475,000 | 300,000 |
| General fund | ($447,790) | $110,773 | ($300,000) | $0 | $0 | $0 |
| FTE | (1.00) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

| | Adds One-Time Funding for State Crime Laboratory Equipment[13] | Adds One-Time Funding for Statewide Litigation[14] | Adds One-Time Funding for Additional Income[15] | Total House Changes |
|---|---|---|---|---|
| Salaries and wages | | | | $2,827,832 |
| Operating expenses | $20,540 | | | 87,126 |
| Capital assets | 1,091,166 | | | 934,841 |
| Grants | | | | (755,000) |
| Litigation fees | | | | (22,500) |
| Intellectual property attorney | | | | (442,085) |
| Medical examinations | | | | |
| North Dakota lottery | | | | 62,077 |
| Arrest and return of fugitives | | | | (1,500) |
| Gaming commission | | | | |
| Criminal justice information sharing | | | | 170,802 |
| Law enforcement | | | | (279,299) |
| Human trafficking victims grants | | | | (298,166) |
| Forensic nurse examiners grants | | | | 674 |
| Additional income | | | $250,000 | 250,000 |
| Statewide litigation funding pool | | $3,000,000 | | 3,000,000 |
| Total all funds | $1,111,706 | $3,000,000 | $250,000 | $5,534,802 |
| Less estimated income | 1,111,706 | 3,000,000 | 250,000 | 7,463,762 |
| General fund | $0 | $0 | $0 | ($1,928,960) |
| FTE | 0.00 | 0.00 | 0.00 | 3.00 |

[1] Funding is adjusted for base payroll changes.

[2] The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250 for both years, and increases in health insurance premiums from $1,427 to $1,429 per month:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Salary increase | $781,879 | $384,469 | $1,166,348 |
| Health insurance increase | 7,650 | 3,718 | 11,368 |
| Total | $789,529 | $388,187 | $1,177,716 |

[3] Funding of $1,133,232 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906). Sections are added to the bill to provide legislative intent that the Attorney General, under the supervision of the State Investment Board, invest available funding for the salary equity raises and for the cost to continue the raises during the 2023-25 biennium.

[4] Funding of $959,699 is added from the Attorney General operating fund for 4 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $814,863 is for salaries and $144,836 is for related operating expenses.

[5] Base level funding is adjusted as follows:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Reduces funding for temporary salaries | ($246,009) | $0 | ($246,009) |
| Adjusts funding for operating expenses | (1,489,628) | 185,464 | (1,304,164) |
| Reduces funding for operating expenses | (210,000) | 0 | (210,000) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | 70,958 | 0 | 70,958 |
| Adds funding for BCI service contracts and monitoring fees | 114,342 | 80,000 | 194,342 |
| Reduces funding for MFCU | (12,866) | 0 | (12,866) |
| Adds funding for State Crime Laboratory bond payments | 555 | 0 | 555 |
| Reduces funding for capital assets | 0 | (152,400) | (152,400) |
| Reduces funding for litigation fees to provide a total of $127,500 | (22,500) | 0 | (22,500) |
| Reduces funding for the arrest and return of fugitives to provide a total of $8,500 from the general fund | (1,500) | 0 | (1,500) |
| Reduces funding for law enforcement operating expenses | (340,360) | 0 | (340,360) |
| Total | ($2,137,008) | $113,064 | ($2,023,944) |

[6] Funding of $755,000 from the lottery fund is removed for the Lottery Narcotics Task Force. North Dakota Century Code Section 53-12.1-09 provides for transfers totaling $1.6 million each biennium from the lottery fund to the multijurisdictional drug task force grant fund and provides the Attorney General a continuing appropriation for this funding.

[7] Funding of $447,790 from the general fund is removed for 1 FTE assistant attorney general position to eliminate the intellectual property attorney program.

[8] Funding of $110,773 is added for criminal justice information sharing (CJIS) to provide a total of $3,801,923. Of the $110,773 added, $271,889 related to CJIS information technology expenses is reduced and funding of $382,662 is added for CJIS projects, including a common statute tables project ($40,000), CJIS portal upgrades ($75,000), broker maintenance costs ($50,000), and law enforcement records and jail management system maintenance ($217,662).

[9] Funding of $300,000 is reduced from the general fund for human trafficking victims grants to provide a total of $1,101,834 from the general fund, of which $1,100,000 is for grants and $1,834 is for the administration of the program.

[10] One-time funding of $400,000 is added from the Attorney General refund fund to upgrade the criminal history improvement system. Funding of $400,000 was also appropriated from the Attorney General refund fund for this purpose for the 2019-21 biennium.

[11] One-time funding of $475,000 is added from the Attorney General operating fund for Phases 3 and 4 of the charitable gaming technology system project, which is expected to complete the project. Funding of $400,000 was appropriated to the Attorney General from gaming tax revenues deposited in the Attorney General operating fund for Phases 1 and 2 of the project during the 2019-21 biennium.

[12] One-time funding of $300,000 is added from federal funds to upgrade the automated biometric identification system, formerly known as the automated fingerprint identification system.

[13] One-time funding of $1,091,166 is added from federal funds for State Crime Laboratory equipment.

[14] One-time funding of $3 million is added from the strategic investment and improvements fund for a statewide litigation funding pool.

[15] One-time funding of $250,000 is added from federal funds or other funds received during the 2021-23 biennium, the same amount provided for the 2017-19 and 2019-21 bienniums. This amount is appropriated in a separate section of the bill.

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This amendment also:

- Adds a section to identify $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium.
- Adds a section to identify funding in the human trafficking victims grants line item, which the Attorney General is required to use for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium.
- Adds a section to identify funding in the forensic nurse examiners grants line item, which the Attorney General is required to use for providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs for the 2021-23 biennium.
- Adds a section to identify $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for salary equity increases for 55 FTE BCI positions and 2 FTE MFCU positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906).
- Adds a section to authorize the Attorney General, under the supervision of the State Investment Board, to invest up to $2,266,464 of funding available in the Attorney General refund fund for salary equity raises, of which $2,014,652 is for BCI and MFCU positions and $251,812 is for Fire Marshal positions, during the 2021-23 and 2023-25 bienniums. Of the $2,266,464 total, $1,160,896 is from an Apple lawsuit settlement deposited in the Attorney General refund fund in January 2021 and the remaining $1,105,568 is from previously unobligated funding available in the Attorney General refund fund. Legislative intent is provided that the $2,266,464 and any investment earnings on the funding be retained in the Attorney General refund fund and be used for the $1,133,232 of 2021-23 biennium salary equity increases and the cost to continue the salary equity increases during the 2023-25 biennium.
- Adds a section to provide the statutory changes necessary to increase the Attorney General's salary to reflect state employee salary increases approved by the House for the 2021-23 biennium.
- Adds a section that requires any person or entity requesting a criminal record check from BCI to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the general fund during the 2021-23 biennium.
- Adds a section to allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium.

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
2/22/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

08:13 **Chairman Vigesaa** brought the committee to order. Members present: Chairman Vigesaa, Representative Kempenich, Representative Howe, Representative Bellew, Representative Meier, Representative Mock. Members absent: Vice Chairman Brandenburg.

**Discussion Topics:**

- Human trafficking victims grant program
- BCI agents
- Effect on base budget

08:13 **Representative Kempenich** explained the amendment. LC# 21.0262.01002.

08:27 **Representative Kempenich** made a motion to adopt the amendment.

08:27 **Representative Mock** seconded the motion.

08:27 Voice vote

08:27 Motion carried.

08:27 **Representative Kempenich** made a motion for a "Do pass as Amended".

08:28 **Representative Mock** seconded the motion.

08:28 Roll call vote 6 Yeas 0 Nays 1 Absent

| ***Representatives*** | ***Yes*** | ***No*** |
|---|---|---|
| *Chairman Vigesaa* | *X* | |
| *Vice Chairman Brandenburg* | *A* | |
| *Representative Kempenich* | *X* | |
| *Representative Howe* | *X* | |
| *Representative Meier* | *X* | |
| *Representative Bellew* | *X* | |
| *Representative Mock* | *X* | |

Motion carried

08:29 **Chairman Vigesaa** closed the meeting.

*Sheri Lewis, Committee Clerk*

21.0262.01002
Title.

Fiscal No. 1

Prepared by the Legislative Council staff for
the House Appropriations - Government
Operations Division Committee
February 19, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1003

Page 1, line 1, after "general" insert "; to amend and reenact section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general; to provide for a transfer; to provide an exemption; to provide for a statement of legislative intent; and to provide for a report"

Page 1, remove lines 8 through 24

Page 2, replace lines 1 through 4 with:

"

| | Base Level | Adjustments or Enhancements | Appropriation |
|---|---|---|---|
| Salaries and wages | $45,954,981 | $2,827,832 | $48,782,813 |
| Operating expenses | 15,588,646 | 87,126 | 15,675,772 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Statewide litigation funding pool | 0 | 3,000,000 | 3,000,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Total all funds | $81,490,880 | $5,284,802 | $86,775,682 |
| Less estimated income | 35,886,284 | 7,213,762 | 43,100,046 |
| Total general fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| Full-time equivalent positions | 245.00 | 3.00 | 248.00" |

Page 2, line 5, after "**FUNDING**" insert "**- EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY**"

Page 2, line 6, after "biennium" insert "and the one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 8 through 16 with:

| | | |
|---|---|---|
| "Criminal history improvement system | $400,000 | $400,000 |
| Capital assets | 1,851,956 | 1,111,706 |
| Undercover vehicles | 200,000 | 0 |
| Automated biometric identification system | 316,000 | 300,000 |
| Charitable gaming technology system | 400,000 | 475,000 |
| Statewide litigation funding pool | 0 | 3,000,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $5,286,706 |

| | | |
|---|---|---|
| Total other funds | 3,217,956 | 5,286,706 |
| Total general fund | $200,000 | $0 |

**SECTION 3. ADDITIONAL INCOME - APPROPRIATION - REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of $250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021, and ending June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

**SECTION 4. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - TRANSFER - LITIGATION POOL TO STATE AGENCIES - ONE-TIME FUNDING.** The statewide litigation funding pool line item in section 1 of this Act includes $3,000,000 from the strategic investment and improvements fund, which the attorney general shall transfer to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04.

**SECTION 5. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.** The human trafficking victims grants line item in section 1 of this Act includes $1,101,834 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, 2021, and ending June 30, 2023. 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 sixty-eighth legislative assembly on the use of the funds received and the outcomes of its program. The attorney general shall report to the legislative management during the 2021-22 interim on the status and results of the grant program.

**SECTION 6. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.** The forensic nurse examiners grants line item in section 1 of this Act includes $250,674 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, 2021, and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-eighth 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 sixty-eighth 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 7. ESTIMATED INCOME - SALARY EQUITY INCREASES - ATTORNEY GENERAL REFUND FUND.** The estimated income line item in section 1 of this Act includes $1,133,232 from the attorney general refund fund for the purpose of providing salary equity increases to employees in the attorney general's office, of which $1,007,326 is for bureau of criminal investigation positions and Medicaid fraud control

unit positions and $125,906 is for fire marshal office positions, for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 8. LEGISLATIVE INTENT - ATTORNEY GENERAL - SALARY EQUITY INCREASES - INVESTMENT OF LAWSUIT SETTLEMENT PROCEEDS - STATE INVESTMENT BOARD.** The attorney general may invest up to $2,266,464 of funding in the attorney general refund fund, of which $1,160,896 is derived from January 2021 lawsuit settlement proceeds, under the supervision of the state investment board for the period beginning July 1, 2021, and ending June 30, 2025. It is the intent of the sixty-seventh legislative assembly that $2,266,464 in the attorney general refund fund and any investment earnings on the funding be retained in the attorney general refund fund for the purpose of providing salary equity increases as provided for in section 7 of this Act and for the cost to continue the salary equity increases during the 2023-25 biennium, subject to legislative appropriations.

**SECTION 9. 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 ~~fifty-nine~~sixty-five thousand ~~four~~eight hundred ~~nine~~forty-five dollars through June 30, ~~2020~~2022, and one hundred ~~sixty-three~~sixty-eight thousand three hundred ~~ninety-four~~thirty-three dollars thereafter.

**SECTION 10. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any individual or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-seventh legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 11. EXEMPTION - ATTORNEY GENERAL REFUND FUND.** Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund which would otherwise be transferred to the general fund on June 30, 2021.

**SECTION 12. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.** The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021, and ending June 30, 2023."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Attorney General - House Action**

| | Base Budget | House Changes | House Version |
|---|---|---|---|
| Salaries and wages | $45,954,981 | $2,827,832 | $48,782,813 |
| Operating expenses | 15,588,646 | 87,126 | 15,675,772 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |

| | | | |
|---|---|---|---|
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | |
| Medical examinations | 660,000 | | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Additional income | | 250,000 | 250,000 |
| Statewide litigation funding pool | | 3,000,000 | 3,000,000 |
| Total all funds | $81,490,880 | $5,534,802 | $87,025,682 |
| Less estimated income | 35,886,284 | 7,463,762 | 43,350,046 |
| General fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| FTE | 245.00 | 3.00 | 248.00 |

## Department 125 - Attorney General - Detail of House Changes

| | Adjusts Funding for Base Payroll Changes[1] | Adds Funding for Salary and Benefit Increases[2] | Adds Funding for Salary Equity Increases[3] | Adds Funding for FTE Gaming Division Positions[4] | Adjusts Base Level Funding[5] | Removes Funding for Lottery Narcotics Task Force[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $82,962 | $1,042,784 | $1,133,232 | $814,863 | ($246,009) | |
| Operating expenses | | | | 144,836 | (1,253,250) | |
| Capital assets | | | | | (156,325) | |
| Grants | | | | | | ($755,000) |
| Litigation fees | | | | | (22,500) | |
| Intellectual property attorney | 5,707 | (2) | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 20,135 | 45,942 | | | (4,000) | |
| Arrest and return of fugitives | | | | | (1,500) | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 37,985 | 22,044 | | | | |
| Law enforcement | (3,378) | 64,439 | | | (340,360) | |
| Human trafficking victims grants | | 1,834 | | | | |
| Forensic nurse examiners grants | (1) | 675 | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $143,410 | $1,177,716 | $1,133,232 | $959,699 | ($2,023,944) | ($755,000) |
| Less estimated income | 87,874 | 388,187 | 1,133,232 | 959,699 | 113,064 | (755,000) |
| General fund | $55,536 | $789,529 | $0 | $0 | ($2,137,008) | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 4.00 | 0.00 | 0.00 |

| | Removes Intellectual Property Attorney[7] | Adds Funding for CJIS[8] | Reduces Funding for Human Trafficking Victims Grants[9] | Adds One-Time Funding for Criminal History Improvement System[10] | Adds One-Time Funding for Charitable Gaming Technology System[11] | Adds One-Time Funding for Automated Biometric Identification System[12] |
|---|---|---|---|---|---|---|
| Salaries and wages | | | | | | |
| Operating expenses | | | | $400,000 | $475,000 | $300,000 |
| Capital assets | | | | | | |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | ($447,790) | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | | $110,773 | | | | |
| Law enforcement | | | | | | |
| Human trafficking victims grants | | | ($300,000) | | | |
| Forensic nurse examiners grants | | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | ($447,790) | $110,773 | ($300,000) | $400,000 | $475,000 | $300,000 |
| Less estimated income | 0 | 0 | 0 | 400,000 | 475,000 | 300,000 |
| General fund | ($447,790) | $110,773 | ($300,000) | $0 | $0 | $0 |
| FTE | (1.00) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

| | Adds One-Time Funding for State Crime Laboratory Equipment[13] | Adds One-Time Funding for Statewide Litigation[14] | Adds One-Time Funding for Additional Income[15] | Total House Changes |
|---|---|---|---|---|
| Salaries and wages | | | | $2,827,832 |
| Operating expenses | $20,540 | | | 87,126 |
| Capital assets | 1,091,166 | | | 934,841 |
| Grants | | | | (755,000) |
| Litigation fees | | | | (22,500) |
| Intellectual property attorney | | | | (442,085) |
| Medical examinations | | | | |
| North Dakota lottery | | | | 62,077 |
| Arrest and return of fugitives | | | | (1,500) |
| Gaming commission | | | | |
| Criminal justice information sharing | | | | 170,802 |
| Law enforcement | | | | (279,299) |
| Human trafficking victims grants | | | | (298,166) |
| Forensic nurse examiners grants | | | | 674 |
| Additional income | | | $250,000 | 250,000 |
| Statewide litigation funding pool | | $3,000,000 | | 3,000,000 |
| Total all funds | $1,111,706 | $3,000,000 | $250,000 | $5,534,802 |
| Less estimated income | 1,111,706 | 3,000,000 | 250,000 | 7,463,762 |
| General fund | $0 | $0 | $0 | ($1,928,960) |
| FTE | 0.00 | 0.00 | 0.00 | 3.00 |

[1] Funding is adjusted for base payroll changes.

[2] The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250 for both years, and increases in health insurance premiums from $1,427 to $1,429 per month:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Salary increase | $781,879 | $384,469 | $1,166,348 |
| Health insurance increase | 7,650 | 3,718 | 11,368 |
| Total | $789,529 | $388,187 | $1,177,716 |

[3] Funding of $1,133,232 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906). Sections are added to the bill to provide legislative intent that the Attorney General, under the supervision of the State Investment Board, invest available funding for the salary equity raises and for the cost to continue the raises during the 2023-25 biennium.

[4] Funding of $959,699 is added from the Attorney General operating fund for 4 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $814,863 is for salaries and $144,836 is for related operating expenses.

[5] Base level funding is adjusted as follows:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Reduces funding for temporary salaries | ($246,009) | $0 | ($246,009) |
| Adjusts funding for operating expenses | (1,489,628) | 185,464 | (1,304,164) |
| Reduces funding for operating expenses | (210,000) | 0 | (210,000) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | 70,958 | 0 | 70,958 |
| Adds funding for BCI service contracts and monitoring fees | 114,342 | 80,000 | 194,342 |
| Reduces funding for MFCU | (12,866) | 0 | (12,866) |
| Adds funding for State Crime Laboratory bond payments | 555 | 0 | 555 |
| Reduces funding for capital assets | 0 | (152,400) | (152,400) |
| Reduces funding for litigation fees to provide a total of $127,500 | (22,500) | 0 | (22,500) |
| Reduces funding for the arrest and return of fugitives to provide a total of $8,500 from the general fund | (1,500) | 0 | (1,500) |
| Reduces funding for law enforcement operating expenses | (340,360) | 0 | (340,360) |
| Total | ($2,137,008) | $113,064 | ($2,023,944) |

[6] Funding of $755,000 from the lottery fund is removed for the Lottery Narcotics Task Force. North Dakota Century Code Section 53-12.1-09 provides for transfers totaling $1.6 million each biennium from the lottery fund to the multijurisdictional drug task force grant fund and provides the Attorney General a continuing appropriation for this funding.

[7] Funding of $447,790 from the general fund is removed for 1 FTE assistant attorney general position to eliminate the intellectual property attorney program.

[8] Funding of $110,773 is added for criminal justice information sharing (CJIS) to provide a total of $3,801,923. Of the $110,773 added, $271,889 related to CJIS information technology expenses is reduced and funding of $382,662 is added for CJIS projects, including a common statute tables project ($40,000), CJIS portal upgrades ($75,000), broker maintenance costs ($50,000), and law enforcement records and jail management system maintenance ($217,662).

[9] Funding of $300,000 is reduced from the general fund for human trafficking victims grants to provide a total of $1,101,834 from the general fund, of which $1,100,000 is for grants and $1,834 is for the administration of the program.

[10] One-time funding of $400,000 is added from the Attorney General refund fund to upgrade the criminal history improvement system. Funding of $400,000 was also appropriated from the Attorney General refund fund for this purpose for the 2019-21 biennium.

[11] One-time funding of $475,000 is added from the Attorney General operating fund for Phases 3 and 4 of the charitable gaming technology system project, which is expected to complete the project. Funding of $400,000 was appropriated to the Attorney General from gaming tax revenues deposited in the Attorney General operating fund for Phases 1 and 2 of the project during the 2019-21 biennium.

[12] One-time funding of $300,000 is added from federal funds to upgrade the automated biometric identification system, formerly known as the automated fingerprint identification system.

[13] One-time funding of $1,091,166 is added from federal funds for State Crime Laboratory equipment.

[14] One-time funding of $3 million is added from the strategic investment and improvements fund for a statewide litigation funding pool.

[15] One-time funding of $250,000 is added from federal funds or other funds received during the 2021-23 biennium, the same amount provided for the 2017-19 and 2019-21 bienniums. This amount is appropriated in a separate section of the bill.

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This amendment also:

- Adds a section to identify $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium.
- Adds a section to identify funding in the human trafficking victims grants line item, which the Attorney General is required to use for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium.
- Adds a section to identify funding in the forensic nurse examiners grants line item, which the Attorney General is required to use for providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs for the 2021-23 biennium.
- Adds a section to identify $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for salary equity increases for 55 FTE BCI positions and 2 FTE MFCU positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906).
- Adds a section to authorize the Attorney General, under the supervision of the State Investment Board, to invest up to $2,266,464 of funding available in the Attorney General refund fund for salary equity raises, of which $2,014,652 is for BCI and MFCU positions and $251,812 is for Fire Marshal positions, during the 2021-23 and 2023-25 bienniums. Of the $2,266,464 total, $1,160,896 is from an Apple lawsuit settlement deposited in the Attorney General refund fund in January 2021 and the remaining $1,105,568 is from previously unobligated funding available in the Attorney General refund fund. Legislative intent is provided that the $2,266,464 and any investment earnings on the funding be retained in the Attorney General refund fund and be used for the $1,133,232 of 2021-23 biennium salary equity increases and the cost to continue the salary equity increases during the 2023-25 biennium.
- Adds a section to provide the statutory changes necessary to increase the Attorney General's salary to reflect state employee salary increases approved by the House for the 2021-23 biennium.
- Adds a section that requires any person or entity requesting a criminal record check from BCI to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the general fund during the 2021-23 biennium.
- Adds a section to allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium.

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**
Brynhild Haugland Room, State Capitol

HB 1003
2/22/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

**10:07 Chairman Delzer**- Opened the meeting for HB 1003

| Attendance | P/A |
|---|---|
| Representative Jeff Delzer | P |
| Representative Keith Kempenich | P |
| Representative Bert Anderson | P |
| Representative Larry Bellew | P |
| Representative Tracy Boe | A |
| Representative Mike Brandenburg | A |
| Representative Michael Howe | P |
| Representative Gary Kreidt | P |
| Representative Bob Martinson | P |
| Representative Lisa Meier | P |
| Representative Alisa Mitskog | P |
| Representative Corey Mock | P |
| Representative David Monson | P |
| Representative Mike Nathe | P |
| Representative Jon O. Nelson | P |
| Representative Mark Sanford | P |
| Representative Mike Schatz | P |
| Representative Jim Schmidt | P |
| Representative Randy A. Schobinger | P |
| Representative Michelle Strinden | P |
| Representative Don Vigesaa | P |

**Discussion Topics:**

- Amendment

**10:09 Representative Kempenich** Explains the budget and the amendment 21.0262.01002

**10:26 Committee discussion**

**10:26 Representative Kempenich** Makes a motion to adopt the amendment

**Representative Meier** Second

Further discussion

**10:27 Voice Vote- Motion Carries**

**Representative Kempenich** Makes a motion for a Do Pass as Amended

**Representative Meier** Second

Further discussion

**10: 27 Roll Call Vote was taken;**

| Representatives | Vote |
|---|---|
| Representative Jeff Delzer | Y |
| Representative Keith Kempenich | Y |
| Representative Bert Anderson | Y |
| Representative Larry Bellew | Y |
| Representative Tracy Boe | A |
| Representative Mike Brandenburg | A |
| Representative Michael Howe | Y |
| Representative Gary Kreidt | Y |
| Representative Bob Martinson | Y |
| Representative Lisa Meier | Y |
| Representative Alisa Mitskog | Y |
| Representative Corey Mock | Y |
| Representative David Monson | Y |
| Representative Mike Nathe | Y |
| Representative Jon O. Nelson | Y |
| Representative Mark Sanford | Y |
| Representative Mike Schatz | Y |
| Representative Jim Schmidt | Y |
| Representative Randy A. Schobinger | Y |
| Representative Michelle Strinden | Y |
| Representative Don Vigesaa | Y |

M**otion Carries 19-0-2 Representative Kempenich will carry the bill**

**Additional written testimony:** No Written Testimony

**10:28 Chairman Delzer**- Closes the meeting for HB 1003

*Risa Berube,*

*House Appropriations Committee Clerk*

DP 2/20/21
1 of 7

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Title.02000

Fiscal No. 1

Prepared by the Legislative Council staff for
the House Appropriations - Government
Operations Division Committee
February 19, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1003

Page 1, line 1, after "general" insert "; to amend and reenact section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general; to provide for a transfer; to provide an exemption; to provide for a statement of legislative intent; and to provide for a report"

Page 1, remove lines 8 through 24

Page 2, replace lines 1 through 4 with:

"

| | Base Level | Adjustments or Enhancements | Appropriation |
|---|---|---|---|
| Salaries and wages | $45,954,981 | $2,827,832 | $48,782,813 |
| Operating expenses | 15,588,646 | 87,126 | 15,675,772 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Statewide litigation funding pool | 0 | 3,000,000 | 3,000,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Total all funds | $81,490,880 | $5,284,802 | $86,775,682 |
| Less estimated income | 35,886,284 | 7,213,762 | 43,100,046 |
| Total general fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| Full-time equivalent positions | 245.00 | 3.00 | 248.00" |

Page 2, line 5, after "**FUNDING**" insert "**- EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY**"

Page 2, line 6, after "biennium" insert "and the one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 8 through 16 with:

| | | |
|---|---|---|
| "Criminal history improvement system | $400,000 | $400,000 |
| Capital assets | 1,851,956 | 1,111,706 |
| Undercover vehicles | 200,000 | 0 |
| Automated biometric identification system | 316,000 | 300,000 |
| Charitable gaming technology system | 400,000 | 475,000 |
| Statewide litigation funding pool | 0 | 3,000,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $5,286,706 |

| | | |
|---|---|---|
| Total other funds | 3,217,956 | 5,286,706 |
| Total general fund | $200,000 | $0 |

**SECTION 3. ADDITIONAL INCOME - APPROPRIATION - REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of $250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021, and ending June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

**SECTION 4. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - TRANSFER - LITIGATION POOL TO STATE AGENCIES - ONE-TIME FUNDING.** The statewide litigation funding pool line item in section 1 of this Act includes $3,000,000 from the strategic investment and improvements fund, which the attorney general shall transfer to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04.

**SECTION 5. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.** The human trafficking victims grants line item in section 1 of this Act includes $1,101,834 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, 2021, and ending June 30, 2023. 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 sixty-eighth legislative assembly on the use of the funds received and the outcomes of its program. The attorney general shall report to the legislative management during the 2021-22 interim on the status and results of the grant program.

**SECTION 6. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.** The forensic nurse examiners grants line item in section 1 of this Act includes $250,674 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, 2021, and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-eighth 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 sixty-eighth 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 7. ESTIMATED INCOME - SALARY EQUITY INCREASES - ATTORNEY GENERAL REFUND FUND.** The estimated income line item in section 1 of this Act includes $1,133,232 from the attorney general refund fund for the purpose of providing salary equity increases to employees in the attorney general's office, of which $1,007,326 is for bureau of criminal investigation positions and Medicaid fraud control

unit positions and $125,906 is for fire marshal office positions, for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 8. LEGISLATIVE INTENT - ATTORNEY GENERAL - SALARY EQUITY INCREASES - INVESTMENT OF LAWSUIT SETTLEMENT PROCEEDS - STATE INVESTMENT BOARD.** The attorney general may invest up to $2,266,464 of funding in the attorney general refund fund, of which $1,160,896 is derived from January 2021 lawsuit settlement proceeds, under the supervision of the state investment board for the period beginning July 1, 2021, and ending June 30, 2025. It is the intent of the sixty-seventh legislative assembly that $2,266,464 in the attorney general refund fund and any investment earnings on the funding be retained in the attorney general refund fund for the purpose of providing salary equity increases as provided for in section 7 of this Act and for the cost to continue the salary equity increases during the 2023-25 biennium, subject to legislative appropriations.

**SECTION 9. 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 ~~fifty-nine~~sixty-five thousand ~~four~~eight hundred ~~nine~~forty-five dollars through June 30, ~~2020~~2022, and one hundred ~~sixty-three~~sixty-eight thousand three hundred ~~ninety-four~~thirty-three dollars thereafter.

**SECTION 10. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any individual or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-seventh legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 11. EXEMPTION - ATTORNEY GENERAL REFUND FUND.** Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund which would otherwise be transferred to the general fund on June 30, 2021.

**SECTION 12. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.** The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021, and ending June 30, 2023."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Attorney General - House Action**

| | Base Budget | House Changes | House Version |
|---|---|---|---|
| Salaries and wages | $45,954,981 | $2,827,832 | $48,782,813 |
| Operating expenses | 15,588,646 | 87,126 | 15,675,772 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |

| | | | |
|---|---|---|---|
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | |
| Medical examinations | 660,000 | | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Additional income | | 250,000 | 250,000 |
| Statewide litigation funding pool | | 3,000,000 | 3,000,000 |
| Total all funds | $81,490,880 | $5,534,802 | $87,025,682 |
| Less estimated income | 35,886,284 | 7,463,762 | 43,350,046 |
| General fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| FTE | 245.00 | 3.00 | 248.00 |

## Department 125 - Attorney General - Detail of House Changes

| | Adjusts Funding for Base Payroll Changes[1] | Adds Funding for Salary and Benefit Increases[2] | Adds Funding for Salary Equity Increases[3] | Adds Funding for FTE Gaming Division Positions[4] | Adjusts Base Level Funding[5] | Removes Funding for Lottery Narcotics Task Force[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $82,962 | $1,042,784 | $1,133,232 | $814,863 | ($246,009) | |
| Operating expenses | | | | 144,836 | (1,253,250) | |
| Capital assets | | | | | (156,325) | |
| Grants | | | | | | ($755,000) |
| Litigation fees | | | | | (22,500) | |
| Intellectual property attorney | 5,707 | (2) | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 20,135 | 45,942 | | | (4,000) | |
| Arrest and return of fugitives | | | | | (1,500) | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 37,985 | 22,044 | | | | |
| Law enforcement | (3,378) | 64,439 | | | (340,360) | |
| Human trafficking victims grants | | 1,834 | | | | |
| Forensic nurse examiners grants | (1) | 675 | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $143,410 | $1,177,716 | $1,133,232 | $959,699 | ($2,023,944) | ($755,000) |
| Less estimated income | 87,874 | 388,187 | 1,133,232 | 959,699 | 113,064 | (755,000) |
| General fund | $55,536 | $789,529 | $0 | $0 | ($2,137,008) | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 4.00 | 0.00 | 0.00 |

| | Removes Intellectual Property Attorney[7] | Adds Funding for CJIS[8] | Reduces Funding for Human Trafficking Victims Grants[9] | Adds One-Time Funding for Criminal History Improvement System[10] | Adds One-Time Funding for Charitable Gaming Technology System[11] | Adds One-Time Funding for Automated Biometric Identification System[12] |
|---|---|---|---|---|---|---|
| Salaries and wages | | | | | | |
| Operating expenses | | | | $400,000 | $475,000 | $300,000 |
| Capital assets | | | | | | |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | ($447,790) | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | | $110,773 | | | | |
| Law enforcement | | | | | | |
| Human trafficking victims grants | | | ($300,000) | | | |
| Forensic nurse examiners grants | | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | ($447,790) | $110,773 | ($300,000) | $400,000 | $475,000 | $300,000 |
| Less estimated income | 0 | 0 | 0 | 400,000 | 475,000 | 300,000 |
| General fund | ($447,790) | $110,773 | ($300,000) | $0 | $0 | $0 |
| FTE | (1.00) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

| | Adds One-Time Funding for State Crime Laboratory Equipment[13] | Adds One-Time Funding for Statewide Litigation[14] | Adds One-Time Funding for Additional Income[15] | Total House Changes |
|---|---|---|---|---|
| Salaries and wages | | | | $2,827,832 |
| Operating expenses | $20,540 | | | 87,126 |
| Capital assets | 1,091,166 | | | 934,841 |
| Grants | | | | (755,000) |
| Litigation fees | | | | (22,500) |
| Intellectual property attorney | | | | (442,085) |
| Medical examinations | | | | |
| North Dakota lottery | | | | 62,077 |
| Arrest and return of fugitives | | | | (1,500) |
| Gaming commission | | | | |
| Criminal justice information sharing | | | | 170,802 |
| Law enforcement | | | | (279,299) |
| Human trafficking victims grants | | | | (298,166) |
| Forensic nurse examiners grants | | | | 674 |
| Additional income | | | $250,000 | 250,000 |
| Statewide litigation funding pool | | $3,000,000 | | 3,000,000 |
| Total all funds | $1,111,706 | $3,000,000 | $250,000 | $5,534,802 |
| Less estimated income | 1,111,706 | 3,000,000 | 250,000 | 7,463,762 |
| General fund | $0 | $0 | $0 | ($1,928,960) |
| FTE | 0.00 | 0.00 | 0.00 | 3.00 |

[1] Funding is adjusted for base payroll changes.

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[2] The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250 for both years, and increases in health insurance premiums from $1,427 to $1,429 per month:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Salary increase | $781,879 | $384,469 | $1,166,348 |
| Health insurance increase | 7,650 | 3,718 | 11,368 |
| Total | $789,529 | $388,187 | $1,177,716 |

[3] Funding of $1,133,232 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906). Sections are added to the bill to provide legislative intent that the Attorney General, under the supervision of the State Investment Board, invest available funding for the salary equity raises and for the cost to continue the raises during the 2023-25 biennium.

[4] Funding of $959,699 is added from the Attorney General operating fund for 4 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $814,863 is for salaries and $144,836 is for related operating expenses.

[5] Base level funding is adjusted as follows:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Reduces funding for temporary salaries | ($246,009) | $0 | ($246,009) |
| Adjusts funding for operating expenses | (1,489,628) | 185,464 | (1,304,164) |
| Reduces funding for operating expenses | (210,000) | 0 | (210,000) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | 70,958 | 0 | 70,958 |
| Adds funding for BCI service contracts and monitoring fees | 114,342 | 80,000 | 194,342 |
| Reduces funding for MFCU | (12,866) | 0 | (12,866) |
| Adds funding for State Crime Laboratory bond payments | 555 | 0 | 555 |
| Reduces funding for capital assets | 0 | (152,400) | (152,400) |
| Reduces funding for litigation fees to provide a total of $127,500 | (22,500) | 0 | (22,500) |
| Reduces funding for the arrest and return of fugitives to provide a total of $8,500 from the general fund | (1,500) | 0 | (1,500) |
| Reduces funding for law enforcement operating expenses | (340,360) | 0 | (340,360) |
| Total | ($2,137,008) | $113,064 | ($2,023,944) |

[6] Funding of $755,000 from the lottery fund is removed for the Lottery Narcotics Task Force. North Dakota Century Code Section 53-12.1-09 provides for transfers totaling $1.6 million each biennium from the lottery fund to the multijurisdictional drug task force grant fund and provides the Attorney General a continuing appropriation for this funding.

[7] Funding of $447,790 from the general fund is removed for 1 FTE assistant attorney general position to eliminate the intellectual property attorney program.

[8] Funding of $110,773 is added for criminal justice information sharing (CJIS) to provide a total of $3,801,923. Of the $110,773 added, $271,889 related to CJIS information technology expenses is reduced and funding of $382,662 is added for CJIS projects, including a common statute tables project ($40,000), CJIS portal upgrades ($75,000), broker maintenance costs ($50,000), and law enforcement records and jail management system maintenance ($217,662).

[9] Funding of $300,000 is reduced from the general fund for human trafficking victims grants to provide a total of $1,101,834 from the general fund, of which $1,100,000 is for grants and $1,834 is for the administration of the program.

[10] One-time funding of $400,000 is added from the Attorney General refund fund to upgrade the criminal history improvement system. Funding of $400,000 was also appropriated from the Attorney General refund fund for this purpose for the 2019-21 biennium.

[11] One-time funding of $475,000 is added from the Attorney General operating fund for Phases 3 and 4 of the charitable gaming technology system project, which is expected to complete the project. Funding of $400,000 was appropriated to the Attorney General from gaming tax revenues deposited in the Attorney General operating fund for Phases 1 and 2 of the project during the 2019-21 biennium.

[12] One-time funding of $300,000 is added from federal funds to upgrade the automated biometric identification system, formerly known as the automated fingerprint identification system.

[13] One-time funding of $1,091,166 is added from federal funds for State Crime Laboratory equipment.

[14] One-time funding of $3 million is added from the strategic investment and improvements fund for a statewide litigation funding pool.

[15] One-time funding of $250,000 is added from federal funds or other funds received during the 2021-23 biennium, the same amount provided for the 2017-19 and 2019-21 bienniums. This amount is appropriated in a separate section of the bill.

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This amendment also:

- Adds a section to identify $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium.
- Adds a section to identify funding in the human trafficking victims grants line item, which the Attorney General is required to use for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium.
- Adds a section to identify funding in the forensic nurse examiners grants line item, which the Attorney General is required to use for providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs for the 2021-23 biennium.
- Adds a section to identify $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for salary equity increases for 55 FTE BCI positions and 2 FTE MFCU positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906).
- Adds a section to authorize the Attorney General, under the supervision of the State Investment Board, to invest up to $2,266,464 of funding available in the Attorney General refund fund for salary equity raises, of which $2,014,652 is for BCI and MFCU positions and $251,812 is for Fire Marshal positions, during the 2021-23 and 2023-25 bienniums. Of the $2,266,464 total, $1,160,896 is from an Apple lawsuit settlement deposited in the Attorney General refund fund in January 2021 and the remaining $1,105,568 is from previously unobligated funding available in the Attorney General refund fund. Legislative intent is provided that the $2,266,464 and any investment earnings on the funding be retained in the Attorney General refund fund and be used for the $1,133,232 of 2021-23 biennium salary equity increases and the cost to continue the salary equity increases during the 2023-25 biennium.
- Adds a section to provide the statutory changes necessary to increase the Attorney General's salary to reflect state employee salary increases approved by the House for the 2021-23 biennium.
- Adds a section that requires any person or entity requesting a criminal record check from BCI to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the general fund during the 2021-23 biennium.
- Adds a section to allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium.

**REPORT OF STANDING COMMITTEE**

**HB 1003: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1003 was placed on the Sixth order on the calendar.

Page 1, line 1, after "general" insert "; to amend and reenact section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general; to provide for a transfer; to provide an exemption; to provide for a statement of legislative intent; and to provide for a report"

Page 1, remove lines 8 through 24

Page 2, replace lines 1 through 4 with:

"

| | Base Level | Adjustments or Enhancements | Appropriation |
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| Grants | 4,418,440 | (755,000) | 3,663,440 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Statewide litigation funding pool | 0 | 3,000,000 | 3,000,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Total all funds | $81,490,880 | $5,284,802 | $86,775,682 |
| Less estimated income | 35,886,284 | 7,213,762 | 43,100,046 |
| Total general fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| Full-time equivalent positions | 245.00 | 3.00 | 248.00" |

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Page 2, line 6, after "biennium" insert "and the one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 8 through 16 with:

| | | |
|---|---|---|
| "Criminal history improvement system | $400,000 | $400,000 |
| Capital assets | 1,851,956 | 1,111,706 |
| Undercover vehicles | 200,000 | 0 |
| Automated biometric identification system | 316,000 | 300,000 |
| Charitable gaming technology system | 400,000 | 475,000 |
| Statewide litigation funding pool | 0 | 3,000,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $5,286,706 |
| Total other funds | 3,217,956 | 5,286,706 |
| Total general fund | $200,000 | $0 |

**SECTION 3. ADDITIONAL INCOME - APPROPRIATION - REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of $250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021, and ending

June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

**SECTION 4. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - TRANSFER - LITIGATION POOL TO STATE AGENCIES - ONE-TIME FUNDING.** The statewide litigation funding pool line item in section 1 of this Act includes $3,000,000 from the strategic investment and improvements fund, which the attorney general shall transfer to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04.

**SECTION 5. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.** The human trafficking victims grants line item in section 1 of this Act includes $1,101,834 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, 2021, and ending June 30, 2023. 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 sixty-eighth legislative assembly on the use of the funds received and the outcomes of its program. The attorney general shall report to the legislative management during the 2021-22 interim on the status and results of the grant program.

**SECTION 6. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.** The forensic nurse examiners grants line item in section 1 of this Act includes $250,674 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, 2021, and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-eighth 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 sixty-eighth 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 7. ESTIMATED INCOME - SALARY EQUITY INCREASES - ATTORNEY GENERAL REFUND FUND.** The estimated income line item in section 1 of this Act includes $1,133,232 from the attorney general refund fund for the purpose of providing salary equity increases to employees in the attorney general's office, of which $1,007,326 is for bureau of criminal investigation positions and Medicaid fraud control unit positions and $125,906 is for fire marshal office positions, for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 8. LEGISLATIVE INTENT - ATTORNEY GENERAL - SALARY EQUITY INCREASES - INVESTMENT OF LAWSUIT SETTLEMENT PROCEEDS - STATE INVESTMENT BOARD.** The attorney general may invest up to $2,266,464 of funding in the attorney general refund fund, of which $1,160,896 is derived from January 2021 lawsuit settlement proceeds, under the supervision of the state investment board for the period beginning July 1, 2021, and ending June 30, 2025. It is the intent of the sixty-seventh legislative assembly that $2,266,464 in the attorney general refund fund and any investment earnings on the funding be retained in the attorney general refund fund for the purpose of providing salary equity increases as

provided for in section 7 of this Act and for the cost to continue the salary equity increases during the 2023-25 biennium, subject to legislative appropriations.

**SECTION 9. 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 ~~fifty-nine~~sixty-five thousand ~~four~~eight hundred ~~nine~~forty-five dollars through June 30, ~~2020~~2022, and one hundred ~~sixty-three~~sixty-eight thousand three hundred ~~ninety-four~~thirty-three dollars thereafter.

**SECTION 10. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any individual or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-seventh legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 11. EXEMPTION - ATTORNEY GENERAL REFUND FUND.** Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund which would otherwise be transferred to the general fund on June 30, 2021.

**SECTION 12. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.** The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021, and ending June 30, 2023."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Attorney General - House Action**

| | Base Budget | House Changes | House Version |
|---|---|---|---|
| Salaries and wages | $45,954,981 | $2,827,832 | $48,782,813 |
| Operating expenses | 15,588,646 | 87,126 | 15,675,772 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | |
| Medical examinations | 660,000 | | 660,000 |
| North Dakota lottery | 5,191,454 | 62,077 | 5,253,531 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | | 7,489 |
| Criminal justice information sharing | 3,631,121 | 170,802 | 3,801,923 |
| Law enforcement | 2,982,284 | (279,299) | 2,702,985 |
| Human trafficking victims grants | 1,400,000 | (298,166) | 1,101,834 |
| Forensic nurse examiners grants | 250,000 | 674 | 250,674 |
| Additional income | | 250,000 | 250,000 |
| Statewide litigation funding pool | | 3,000,000 | 3,000,000 |
| Total all funds | $81,490,880 | $5,534,802 | $87,025,682 |
| Less estimated income | 35,886,284 | 7,463,762 | 43,350,046 |
| General fund | $45,604,596 | ($1,928,960) | $43,675,636 |
| FTE | 245.00 | 3.00 | 248.00 |

## Department 125 - Attorney General - Detail of House Changes

| | Adjusts Funding for Base Payroll Changes[1] | Adds Funding for Salary and Benefit Increases[2] | Adds Funding for Salary Equity Increases[3] | Adds Funding for FTE Gaming Division Positions[4] | Adjusts Base Level Funding[5] | Removes Funding for Lottery Narcotics Task Force[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $82,962 | $1,042,784 | $1,133,232 | $814,863 | ($246,009) | |
| Operating expenses | | | | 144,836 | (1,253,250) | |
| Capital assets | | | | | (156,325) | |
| Grants | | | | | | ($755,000) |
| Litigation fees | | | | | (22,500) | |
| Intellectual property attorney | 5,707 | (2) | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 20,135 | 45,942 | | | (4,000) | |
| Arrest and return of fugitives | | | | | (1,500) | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 37,985 | 22,044 | | | | |
| Law enforcement | (3,378) | 64,439 | | | (340,360) | |
| Human trafficking victims grants | | 1,834 | | | | |
| Forensic nurse examiners grants | (1) | 675 | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $143,410 | $1,177,716 | $1,133,232 | $959,699 | ($2,023,944) | ($755,000) |
| Less estimated income | 87,874 | 388,187 | 1,133,232 | 959,699 | 113,064 | (755,000) |
| General fund | $55,536 | $789,529 | $0 | $0 | ($2,137,008) | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 4.00 | 0.00 | 0.00 |

| | Removes Intellectual Property Attorney[7] | Adds Funding for CJIS[8] | Reduces Funding for Human Trafficking Victims Grants[9] | Adds One-Time Funding for Criminal History Improvement System[10] | Adds One-Time Funding for Charitable Gaming Technology System[11] | Adds One-Time Funding for Automated Biometric Identification System[12] |
|---|---|---|---|---|---|---|
| Salaries and wages | | | | | | |
| Operating expenses | | | | $400,000 | $475,000 | $300,000 |
| Capital assets | | | | | | |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | ($447,790) | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | | $110,773 | | | | |
| Law enforcement | | | | | | |
| Human trafficking victims grants | | | ($300,000) | | | |
| Forensic nurse examiners grants | | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | ($447,790) | $110,773 | ($300,000) | $400,000 | $475,000 | $300,000 |
| Less estimated income | 0 | 0 | 0 | 400,000 | 475,000 | 300,000 |
| General fund | ($447,790) | $110,773 | ($300,000) | $0 | $0 | $0 |
| FTE | (1.00) | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

| | Adds One-Time Funding for State Crime Laboratory Equipment[13] | Adds One-Time Funding for Statewide Litigation[14] | Adds One-Time Funding for Additional Income[15] | Total House Changes |
|---|---|---|---|---|
| Salaries and wages | | | | $2,827,832 |
| Operating expenses | $20,540 | | | 87,126 |
| Capital assets | 1,091,166 | | | 934,841 |
| Grants | | | | (755,000) |
| Litigation fees | | | | (22,500) |
| Intellectual property attorney | | | | (442,085) |
| Medical examinations | | | | |
| North Dakota lottery | | | | 62,077 |
| Arrest and return of fugitives | | | | (1,500) |
| Gaming commission | | | | |
| Criminal justice information sharing | | | | 170,802 |
| Law enforcement | | | | (279,299) |
| Human trafficking victims grants | | | | (298,166) |
| Forensic nurse examiners grants | | | | 674 |
| Additional income | | | $250,000 | 250,000 |
| Statewide litigation funding pool | | $3,000,000 | | 3,000,000 |
| Total all funds | $1,111,706 | $3,000,000 | $250,000 | $5,534,802 |
| Less estimated income | 1,111,706 | 3,000,000 | 250,000 | 7,463,762 |
| General fund | $0 | $0 | $0 | ($1,928,960) |
| FTE | 0.00 | 0.00 | 0.00 | 3.00 |

[1] Funding is adjusted for base payroll changes.

[2] The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250 for both years, and increases in health insurance premiums from $1,427 to $1,429 per month:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Salary increase | $781,879 | $384,469 | $1,166,348 |
| Health insurance increase | 7,650 | 3,718 | 11,368 |
| Total | $789,529 | $388,187 | $1,177,716 |

[3] Funding of $1,133,232 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906). Sections are added to the bill to provide legislative intent that the Attorney General, under the supervision of the State Investment Board, invest available funding for the salary equity raises and for the cost to continue the raises during the 2023-25 biennium.

[4] Funding of $959,699 is added from the Attorney General operating fund for 4 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $814,863 is for salaries and $144,836 is for related operating expenses.

[5] Base level funding is adjusted as follows:

| | General Fund | Other Funds | Total |
|---|---|---|---|
| Reduces funding for temporary salaries | ($246,009) | $0 | ($246,009) |
| Adjusts funding for operating expenses | (1,489,628) | 185,464 | (1,304,164) |
| Reduces funding for operating expenses | (210,000) | 0 | (210,000) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | 70,958 | 0 | 70,958 |
| Adds funding for BCI service contracts and monitoring fees | 114,342 | 80,000 | 194,342 |
| Reduces funding for MFCU | (12,866) | 0 | (12,866) |
| Adds funding for State Crime Laboratory bond payments | 555 | 0 | 555 |
| Reduces funding for capital assets | 0 | (152,400) | (152,400) |
| Reduces funding for litigation fees to provide a total of $127,500 | (22,500) | 0 | (22,500) |
| Reduces funding for the arrest and return of fugitives to provide a total of $8,500 from the general fund | (1,500) | 0 | (1,500) |
| Reduces funding for law enforcement operating expenses | (340,360) | 0 | (340,360) |
| Total | ($2,137,008) | $113,064 | ($2,023,944) |

[6] Funding of $755,000 from the lottery fund is removed for the Lottery Narcotics Task Force. North Dakota Century Code Section 53-12.1-09 provides for transfers totaling $1.6 million each biennium from the lottery fund to the multijurisdictional drug task force grant fund and provides the Attorney General a continuing appropriation for this funding.

[7] Funding of $447,790 from the general fund is removed for 1 FTE assistant attorney general position to eliminate the intellectual property attorney program.

[8] Funding of $110,773 is added for criminal justice information sharing (CJIS) to provide a total of $3,801,923. Of the $110,773 added, $271,889 related to CJIS information technology expenses is reduced and funding of $382,662 is added for CJIS projects, including a common statute tables project ($40,000), CJIS portal upgrades ($75,000), broker maintenance costs ($50,000), and law enforcement records and jail management system maintenance ($217,662).

[9] Funding of $300,000 is reduced from the general fund for human trafficking victims grants to provide a total of $1,101,834 from the general fund, of which $1,100,000 is for grants and $1,834 is for the administration of the program.

[10] One-time funding of $400,000 is added from the Attorney General refund fund to upgrade the criminal history improvement system. Funding of $400,000 was also appropriated from the Attorney General refund fund for this purpose for the 2019-21 biennium.

[11] One-time funding of $475,000 is added from the Attorney General operating fund for Phases 3 and 4 of the charitable gaming technology system project, which is expected to complete the project. Funding of $400,000 was appropriated to the Attorney General from gaming tax revenues deposited in the Attorney General operating fund for Phases 1 and 2 of the project during the 2019-21 biennium.

[12] One-time funding of $300,000 is added from federal funds to upgrade the automated biometric identification system, formerly known as the automated fingerprint identification system.

[13] One-time funding of $1,091,166 is added from federal funds for State Crime Laboratory equipment.

[14] One-time funding of $3 million is added from the strategic investment and improvements fund for a statewide litigation funding pool.

[15] One-time funding of $250,000 is added from federal funds or other funds received during the 2021-23 biennium, the same amount provided for the 2017-19 and 2019-21 bienniums. This amount is appropriated in a separate section of the bill.

This amendment also:

- Adds a section to identify $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line

item to eligible state agencies for litigation expenses during the 2021-23 biennium.

- Adds a section to identify funding in the human trafficking victims grants line item, which the Attorney General is required to use for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium.
- Adds a section to identify funding in the forensic nurse examiners grants line item, which the Attorney General is required to use for providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs for the 2021-23 biennium.
- Adds a section to identify $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for salary equity increases for 55 FTE BCI positions and 2 FTE MFCU positions ($1,007,326) and 7 FTE Fire Marshal office positions ($125,906).
- Adds a section to authorize the Attorney General, under the supervision of the State Investment Board, to invest up to $2,266,464 of funding available in the Attorney General refund fund for salary equity raises, of which $2,014,652 is for BCI and MFCU positions and $251,812 is for Fire Marshal positions, during the 2021-23 and 2023-25 bienniums. Of the $2,266,464 total, $1,160,896 is from an Apple lawsuit settlement deposited in the Attorney General refund fund in January 2021 and the remaining $1,105,568 is from previously unobligated funding available in the Attorney General refund fund. Legislative intent is provided that the $2,266,464 and any investment earnings on the funding be retained in the Attorney General refund fund and be used for the $1,133,232 of 2021-23 biennium salary equity increases and the cost to continue the salary equity increases during the 2023-25 biennium.
- Adds a section to provide the statutory changes necessary to increase the Attorney General's salary to reflect state employee salary increases approved by the House for the 2021-23 biennium.
- Adds a section that requires any person or entity requesting a criminal record check from BCI to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the general fund during the 2021-23 biennium.
- Adds a section to allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium.

**2021 SENATE APPROPRIATIONS**

**HB 1003**

# Department 125 - Attorney General
# House Bill No. 1003

## Executive Budget Comparison to Prior Biennium Appropriations

| | FTE Positions | General Fund | Other Funds | Total |
|---|---|---|---|---|
| 2021-23 Executive Budget | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 |
| 2019-21 Legislative Appropriations[1, 2] | 246.00 | 45,804,596 | 39,104,240 | 84,908,836 |
| Increase (Decrease) | 2.00 | $1,456,105 | ($39,834) | $1,416,271 |

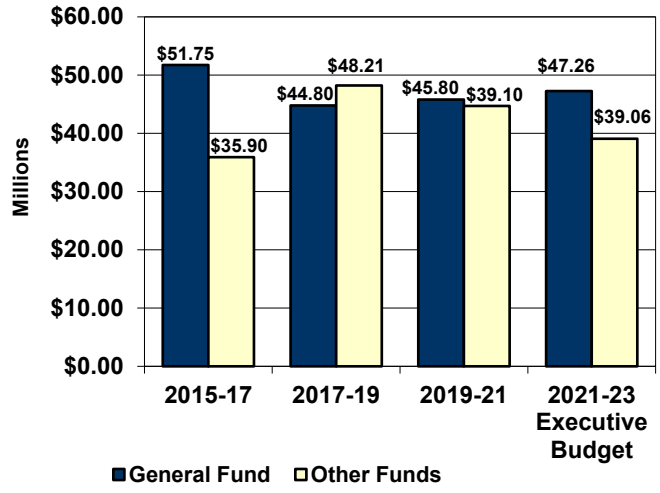
[1]The 2019-21 biennium agency appropriation amounts have not been adjusted for additional federal Coronavirus (COVID-19) funds authority of $2,082,871 resulting from Emergency Commission action during the 2019-21 biennium.

[2]Section 3 of Senate Bill No. 2015 (2019) authorized 1 assistant attorney general full-time equivalent (FTE) position to assist in litigation relating to voter identification for the 2019-21 biennium. Salaries and wages costs for the position are to be paid from funds in the Office of Management and Budget's (OMB) litigation funding pool line item. Pursuant to Section 2 of the bill, funding for the litigation funding pool is considered one-time funding and is not part of OMB's base budget for the 2021-23 biennium. Accordingly, the FTE position authorized in Section 3 of the bill is considered a one-time funding item and is not part of the Attorney General's base budget for the 2021-23 biennium.

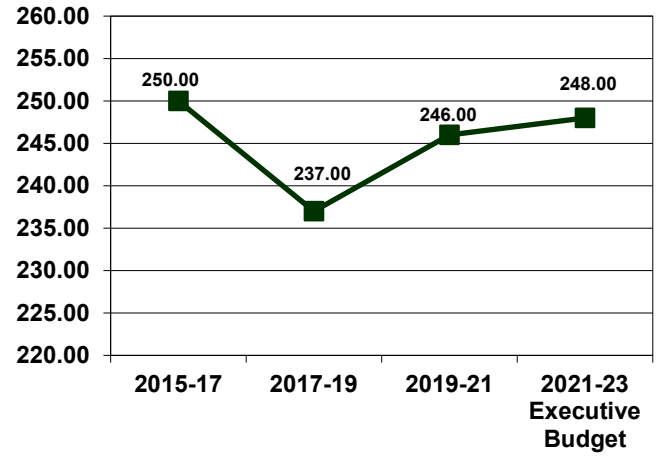
## Ongoing and One-Time General Fund Appropriations

| | Ongoing General Fund Appropriation | One-Time General Fund Appropriation | Total General Fund Appropriation |
|---|---|---|---|
| 2021-23 Executive Budget | $44,260,701 | $3,000,000 | $47,260,701 |
| 2019-21 Legislative Appropriations | 45,604,596 | 200,000 | 45,804,596 |
| Increase (Decrease) | ($1,343,895) | $2,800,000 | $1,456,105 |

**Agency Funding**




**FTE Positions**




## Executive Budget Comparison to Base Level

| | General Fund | Other Funds | Total |
|---|---|---|---|
| 2021-23 Executive Budget | $47,260,701 | $39,064,406 | $86,325,107 |
| 2021-23 Base Level | 45,604,596 | 35,886,284 | 81,490,880 |
| Increase (Decrease) | $1,656,105 | $3,178,122 | $4,834,227 |

## First House Action

Attached is a comparison worksheet detailing first house changes to base level funding and the executive budget.

## Executive Budget Highlights
## (With First House Changes in Bold)

| | General Fund | Other Funds | Total |
|---|---|---|---|
| 1. Provides funding for state employee salary and benefit increases, of which $1,292,649 is for salary increases, $11,368 is for health insurance increases, and $194,355 is for retirement contribution increases. **The House added funding for salary adjustments** | $1,012,593 | $485,779 | $1,498,372 |

| | | | |
|---|---|---|---|
| **of 1.5 percent per year with a $100 minimum and $250 maximum monthly increase and increases in health insurance premiums from $1,427 to $1,429 per month. The House did not add funding for retirement contribution increases.** | | | |
| 2. Removes 1 FTE assistant attorney general position considered a one-time position to assist in litigation related to voter identification during the 2019-21 biennium | $0 | $0 | $0 |
| 3. Reduces funding for temporary salaries | ($246,009) | $0 | ($246,009) |
| 4. Adds funding from the Attorney General operating fund for 4 FTE gaming division positions due to electronic pull tab activity, of which $814,863 is for salaries and wages and $144,836 is for related operating expenses | $0 | $959,699 | $959,699 |
| 5. Adjusts funding for operating expenses from the general fund and Attorney General operating fund, primarily for information technology contractual services and repairs, information technology software and supplies, travel, operating fees, and rent | ($1,489,628) | $185,464 | ($1,304,164) |
| 6. Adds funding for the state agency Capitol grounds rent proposal. **The House did not add funding for this purpose.** | $289,501 | $0 | $289,501 |
| 7. Removes funding from the lottery fund for the Lottery Narcotics Task Force. North Dakota Century Code Section 53-12.1-09 provides for transfers totaling $1.6 million each biennium from the lottery fund to the multijurisdictional drug task force grant fund and provides the Attorney General a continuing appropriation for this funding. | $0 | ($755,000) | ($755,000) |
| 8. Removes funding for 1 FTE assistant attorney general position for the intellectual property attorney program | ($447,790) | $0 | ($447,790) |
| 9. Reduces funding for human trafficking victims grants to provide a total of $1,002,356 from the general fund. **The House reduced funding for human trafficking victims grants by $300,000. After adjusting for salary and health insurance increases approved by the House, a total of $1,101,834 from the general fund was approved for the program.** | ($400,000) | $0 | ($400,000) |
| 10. Reduces funding for forensic nurse examiner grants to provide a total of $213,365 from the general fund. **The House did not reduce funding for forensic nurse examiner grants. After adjusting for salary and health insurance increases approved by the House, a total of $250,674 from the general fund was approved for the program.** | ($37,500) | $0 | ($37,500) |
| 11. Adds **one-time funding** from the Attorney General refund fund for the criminal history improvement project | $0 | $400,000 | $400,000 |
| 12. Adds **one-time funding** from the Attorney General operating fund for Phases 3 and 4 of the charitable gaming technology system project, which would complete the project | $0 | $475,000 | $475,000 |
| 13. Adds **one-time funding** from federal funds to upgrade the automated biometric identification system, formerly known as the automated fingerprint identification system | $0 | $300,000 | $300,000 |
| 14. Adds **one-time funding** from federal funds for State Crime Laboratory equipment, including cameras, a rapid DNA instrument, and an intoxilyzer | $0 | $1,111,706 | $1,111,706 |
| 15. Adds **one-time funding** for a statewide litigation funding pool. **The House changed the funding source for the statewide litigation funding pool to the strategic investment and improvements fund.** | $3,000,000 | $0 | $3,000,000 |

## Other Sections in House Bill No. 1003

**Appropriation - Additional federal funds or other funds -** Section 3 appropriates $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to OMB and the Legislative Council on the availability of this funding.

**Transfer - Litigation pool to state agencies -** Section 4 identifies $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium.

**Human trafficking victims grant program** - Section 5 identifies $1,101,834 from the general fund in Section 1 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 2021-23 biennium. 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program.

**Forensic nurse examiners grant program** - Section 6 identifies $250,674 from the general fund in Section 1 for providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs and related administrative costs, for the 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to the Appropriations Committees of the 68th 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.

**Salary equity increases** - Section 7 identifies $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for providing salary equity increases to Attorney General staff, of which $1,007,326 is for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is for Fire Marshal office positions, for the 2021-23 biennium.

**Salary equity increases - Investment of lawsuit settlement proceeds** - Section 8 allows the Attorney General to invest up to $2,266,464 of funding available in the Attorney General refund fund, of which $1,160,896 is derived from lawsuit settlement proceeds received by the Attorney General and deposited in the Attorney General refund fund in January 2021 and any investment earnings on the settlement amount, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 7 and for the cost to continue the salary equity increases during the 2023-25 biennium.

**Attorney General salary** - Section 9 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $168,333 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House.

**Criminal history record checks - Fees** - Section 10 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium.

**Exemption - Attorney General refund fund** - Section 11 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund.

**Exemption - Concealed weapon rewrite project** - Section 12 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium.

## Continuing Appropriations

**Assets forfeiture fund** - Section 54-12-14 - To pay costs related to law enforcement activities of the Attorney General's office.

**Lottery operating fund** - Section 53-12.1-09 - To pay costs of operating the lottery.

**Refund fund** - Section 54-12-18 - To pay costs of the Consumer Protection and Antitrust Division and the Gaming Division.

**Special operations team reimbursement fund** - Section 54-12-23 - To reimburse city and county governments that provide special operations team services to rural areas.

**24/7 sobriety program fund** - Section 54-12-29 - To pay costs of administering and operating the 24/7 sobriety program.

**Multijurisdictional drug task force fund** - Section 54-12-26 - To provide support for the narcotics enforcement efforts of the state.

## Deficiency Appropriation

Section 2 of House Bill No. 1025 (2021) requires the Office of Management and Budget to make payments totaling $181,152 from the litigation funding pool appropriated to the Office of Management and Budget for the 2019-21 biennium on behalf of the Attorney General for court-ordered judgements.

## Significant Audit Findings

The operational audit of the Attorney General conducted by the State Auditor's office for the period ending June 30, 2018, did not identify any findings but included two recommendations related to the State Crime Laboratory, including hiring temporary employees or re-evaluating FTE positions to reduce evidence testing turnaround time and to implement a fee schedule to strategically charge for services rendered.

## Major Related Legislation

**House Bill No. 1212** - This bill creates a charitable gaming operating fund; provides the Attorney General a continuing appropriation from the fund for quarterly allocations to the gambling disorder prevention and treatment fund and the charitable gaming operating fund; requires gaming taxes, monetary fines, and interest and penalties collected to be deposited in the charitable gaming operating fund rather than the general fund; repeals the requirement to deposit 7 percent of gaming taxes in the gaming tax allocation fund; and requires gaming tax to be based on adjusted gross profits instead of gross profits.

**House Bill No. 1234** - This bill authorizes sports betting as a game of chance for individuals aged 21 years or older; establishes a Sports Wagering Commission as a division of the Attorney General's office; establishes licenses and fees; creates a sports wagering operating fund; and provides for a Legislative Management study of sports wagering. This bill is contingent on voters approving House Concurrent Resolution No. 3032.

**House Bill No. 1389** - This bill authorizes individuals aged 21 years or older to play Internet live poker; establishes an Internet live poker tax; requires the Attorney General to license and regulate the playing of Internet live poker at licensed Internet live poker establishments; and creates an Internet live poker proceeds fund consisting of Internet live poker tax, licensing fees, and other moneys to be allocated annually to the gambling disorder prevention and treatment fund, common schools trust fund, and general fund. This bill is contingent on voters approving House Concurrent Resolution No. 3012.

**House Bill No. 1394** - This bill provides a 2019-21 biennium appropriation of $2,082,871 to the Attorney General from federal funds received as a result of the COVID-19 pandemic for justice assistance grants. Section 2 of the bill provides an exemption for the Attorney General to continue the funding into the 2021-23 biennium.

**House Bill No. 1494** - This bill provides for a Legislative Management study of the recruitment, retention, turnover, and training of law enforcement and correctional officers employed by state agencies and political subdivisions.

**Senate Bill No. 2259** - This bill relates to tobacco product manufacturer certification, service, and reporting requirements, including requirements of the Attorney General to develop and publish on the Attorney General's website a directory listing all tobacco product manufacturers that have provided current and accurate certifications.

**Senate Bill No. 2281** - This bill requires the State Crime Laboratory to develop and implement a statewide sexual assault evidence collection kit tracking system.

**House Concurrent Resolution No. 3012** - This resolution would amend the Constitution of North Dakota, if approved by voters, and require the Legislative Assembly to authorize Internet live poker in the state. This resolution relates to House Bill No. 1389.

**House Concurrent Resolution No. 3032** - This resolution would amend the Constitution of North Dakota, if approved by voters, and require the Legislative Assembly to authorize sports betting in the state. This resolution relates to House Bill No. 1234.

## Attorney General - Budget No. 125
## House Bill No. 1003
## Base Level Funding Changes

| | Executive Budget Recommendation | | | | House Version | | | |
|---|---|---|---|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | $55,536 | $87,874 | $143,410 |
| Salary increase | | 876,260 | 416,389 | 1,292,649 | | 781,879 | 384,469 | 1,166,348 |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | 7,650 | 3,718 | 11,368 |
| Retirement contribution increase | | 128,683 | 65,672 | 194,355 | | | | 0 |
| Adds funding for Bureau of Criminal Investigation salary equity increases | | | | 0 | | | 1,007,326 | 1,007,326 |
| Adds funding for Fire Marshal salary equity increases | | | | 0 | | | 125,906 | 125,906 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | 4.00 | | 959,699 | 959,699 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | (246,009) | | (246,009) |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | (1,489,628) | 185,464 | (1,304,164) |
| Reduces operating expenses | | | | 0 | | (210,000) | | (210,000) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | 70,958 | | 70,958 |
| Adds funding for state agency Capitol grounds rent proposal | | 289,501 | | 289,501 | | | | 0 |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | 114,342 | 80,000 | 194,342 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | (12,866) | | (12,866) |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | 555 | | 555 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | (152,400) | (152,400) |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | (755,000) | (755,000) |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | (22,500) | | (22,500) |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | (1.00) | (447,790) | | (447,790) |
| Reduces funding for the arrest and return of fugititives | | (1,500) | | (1,500) | | (1,500) | | (1,500) |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | 382,662 | | 382,662 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | (271,889) | | (271,889) |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | (340,360) | | (340,360) |
| Reduces funding for human trafficking victims grants | | (400,000) | | (400,000) | | (300,000) | | (300,000) |
| Reduces funding for forensic nurse examiners grants | | (37,500) | | (37,500) | | | | 0 |
| Total ongoing funding changes | 3.00 | ($1,343,895) | $891,416 | ($452,479) | 3.00 | ($1,928,960) | $1,927,056 | ($1,904) |
| **One-time funding items** | | | | | | | | |
| Adds funding for criminal history improvement system upgrades | | | $400,000 | $400,000 | | | $400,000 | $400,000 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | 475,000 | 475,000 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | 300,000 | 300,000 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | 1,111,706 | 1,111,706 |
| Adds funding for a statewide litigation funding pool | | $3,000,000 | 0 | 3,000,000 | | | 3,000,000 | 3,000,000 |
| Adds funding for additional income from federal or other sources | | | 0 | 0 | | | 250,000 | 250,000 |
| Total one-time funding changes | 0.00 | $3,000,000 | $2,286,706 | $5,286,706 | 0.00 | $0 | $5,536,706 | $5,536,706 |
| **Total Changes to Base Level Funding** | 3.00 | $1,656,105 | $3,178,122 | $4,834,227 | 3.00 | ($1,928,960) | $7,463,762 | $5,534,802 |
| **2021-23 Total Funding** | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 | 248.00 | $43,675,636 | $43,350,046 | $87,025,682 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(2.9%)* | *2.5%* | *(0.6%)* | *1.2%* | *(4.2%)* | *5.4%* | *(0.0%)* |
| *Total changes as a percentage of base level* | *1.2%* | *3.6%* | *8.9%* | *5.9%* | *1.2%* | *(4.2%)* | *20.8%* | *6.8%* |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Appropriation - Additional federal funds or other federal funds | Section 6 would appropriate $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General would be required to report to the Office of Management and Budget and Legislative Council on the availability of this funding. | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. |
| Strategic investment and improvements fund - Transfer - Litigation pool to state agencies - One-time funding | Section 5 would require the Attorney General to transfer funds from the $3 million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. | Section 4 identifies $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium. |
| Human trafficking victims grant program | Section 8 would identify $1 million from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General would be allowed to 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 would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. | Section 5 identifies $1,101,834 from the general fund in Section 1 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 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program. |
| Forensic nurse examiners grant program | Section 9 would identify $212,499 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. | Section 6 identifies $250,674 from the general fund in Section 1 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 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to Appropriations Committees of the 68th 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. |
| Estimated income - Salary equity increases - Attorney General refund fund | | Section 7 identifies $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for providing salary equity increases to Attorney General staff, of which $1,007,326 is for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is for Fire Marshal office positions, for the 2021-23 biennium. |

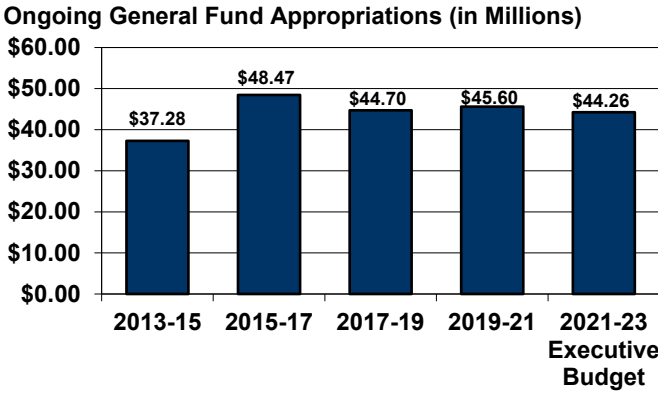
**Other Sections in Attorney General - Budget No. 125**

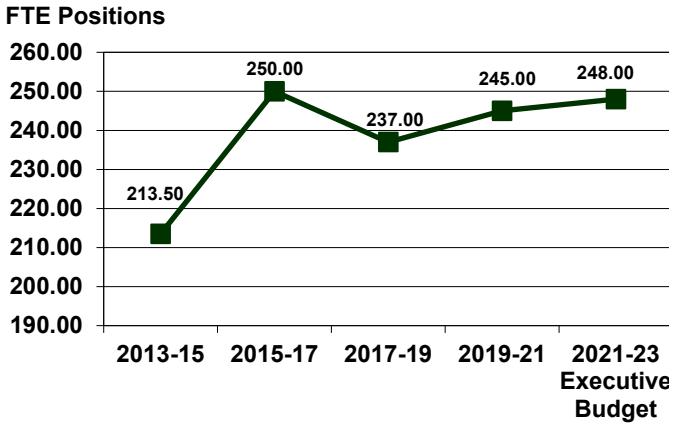
| | Executive Budget Recommendation | House Version |
|---|---|---|
| Legislative intent - Attorney General - Salary equity increases - Investment of lawsuit settlement proceeds - State Investment Board | | Section 8 allows the Attorney General to invest up to $2,266,464 of funding available in the Attorney General refund fund, of which $1,160,896 is derived from lawsuit settlement proceeds received by the Attorney General and deposited in the Attorney General refund fund in January 2021 and any investment earnings on the settlement amount, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 7 and for the cost to continue the salary equity increases during the 2023-25 biennium. |
| Attorney General salary | Section 3 would amend Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $166,662 effective July 1, 2021, and $169,995 effective July 1, 2022, to reflect the 2 percent annual recommended salary increase. | Section 9 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $168,333 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House. |
| Criminal history record checks - Fees | Section 7 would require any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | Section 10 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. |
| Exemption - Attorney General refund fund | Section 4 would allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | Section 11 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. |
| Exemption - Concealed weapon rewrite project | Section 10 would allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | Section 12 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. |
| Exemption - Coronavirus emergency supplemental funding | Section 11 would allow the Attorney General to continue any federal funding received during the 2019-21 biennium in response to the COVID-19 pandemic into the 2021-23 biennium. | |

**Department 125 - Attorney General**

# Historical Appropriations Information

## Ongoing General Fund Appropriations Since 2013-15




| Ongoing General Fund Appropriations | | | | | |
|---|---|---|---|---|---|
| | 2013-15 | 2015-17 | 2017-19 | 2019-21 | 2021-23 Executive Budget |
| Ongoing general fund appropriations | $37,275,528 | $48,466,861 | $44,695,840 | $45,604,596 | $44,260,701 |
| Increase (decrease) from previous biennium | N/A | $11,191,333 | ($3,771,021) | $908,756 | ($1,343,895) |
| Percentage increase (decrease) from previous biennium | N/A | 30.0% | (7.8%) | 2.0% | (2.9%) |
| Cumulative percentage increase (decrease) from 2013-15 biennium | N/A | 30.0% | 19.9% | 22.3% | 18.7% |

## Major Increases (Decreases) in Ongoing General Fund Appropriations

**2015-17 Biennium**

| | |
|---|---|
| 1. Added law enforcement-related funding for 8 FTE criminal investigator positions, 3 FTE intelligence analyst positions, 2 FTE assistant attorney general positions, 1 FTE administrative position, 1 FTE grants administrator position, 1 FTE forensic scientist position, and 0.5 FTE attorney position | $3,724,698 |
| 2. Added 2 FTE criminal history identification technician positions | $310,536 |
| 3. Added 1 FTE gaming auditor position | $82,907 |
| 4. Added funding for transfer of the criminal justice information sharing system, including 3 FTE positions transferred and 1 FTE new business analyst position and related operating expenses | $3,270,219 |
| 5. Restored 1 FTE programmer analyst position identified as one-time funding for the 2013-15 biennium | $142,278 |
| 6. Added funding and 9 FTE positions for providing legal services to the North Dakota University System | $3,079,724 |

**2017-19 Biennium**

| | |
|---|---|
| 1. Removed 13 FTE undesignated positions | ($130,782) |
| 2. Reduced salaries and wages in anticipation of savings from vacant positions and employee turnover | ($929,297) |
| 3. Changed funding source for 8 FTE positions from the general fund to federal and other funds | ($1,120,322) |
| 4. Reduced funding for criminal justice information sharing to provide total funding of $3,391,562 | ($188,741) |
| 5. Reduced funding for law enforcement programs | ($219,348) |
| 6. Added funding to provide grants to organizations involved in providing prevention and treatment services related to human trafficking victims | $125,000 |

**2019-21 Biennium**

| | |
|---|---|
| 1. Removed 4 FTE positions, including 1 paralegal position, 1 criminal records specialist II position, 1 assistant attorney general position, and 1 administrative assistant II position | ($641,089) |
| 2. Added 1 FTE forensic scientist position | $224,500 |

| | |
|---|---|
| 3. Transferred 2 FTE criminal justice information sharing positions, including $372,555 of salaries and wages and $9,388 of operating expenses from the Adjutant General - Department of Emergency Services to the Bureau of Criminal Investigation. The total amount transferred was $381,943, including $111,766 from other funds. | $270,177 |
| 4. Added funding for the human trafficking victims grants program to provide total funding of $1.4 million from the general fund | $1,275,000 |
| 5. Added funding for a forensic nurse examiners grant program | $250,000 |

**2021-23 Biennium (Executive Budget Recommendation)**

| | |
|---|---|
| 1. Reduces funding for temporary salaries | ($246,009) |
| 2. Adjusts funding for operating expenses, primarily for information technology contractual services and repairs, information technology software and supplies, travel, operating fees, and rent | ($1,489,628) |
| 3. Adds funding for the state agency Capitol grounds rent proposal. **The House did not add funding for this purpose.** | $289,501 |
| 4. Removes funding for 1 FTE assistant attorney general position for the intellectual property attorney program | ($447,790) |
| 5. Reduces funding for human trafficking victims grants to provide a total of $1,002,356 from the general fund. **The House reduced funding for human trafficking victims grants by $300,000. After adjusting for salary and health insurance increases approved by the House, a total of $1,101,834 from the general fund was approved for the program.** | ($400,000) |
| 6. Reduces funding for forensic nurse examiner grants to provide a total of $213,365 from the general fund. **The House did not reduce funding for forensic nurse examiner grants. After adjusting for salary and health insurance increases approved by the House, a total of $250,674 from the general fund was approved for the program.** | ($37,500) |

# GOVERNOR'S RECOMMENDATION FOR THE ATTORNEY GENERAL AS SUBMITTED BY THE OFFICE OF MANAGEMENT AND BUDGET

**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, 2021 and ending June 30, 2023, as follows:

| | Base Level | Adjustments or Enhancements | Appropriation |
|---|---|---|---|
| Salaries and Wages | $45,954,981 | $1,978,929 | $47,933,910 |
| Operating Expenses | 15,588,646 | 586,627 | 16,175,273 |
| Capital Assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (755,000) | 3,663,440 |
| Human Trafficking Victims Grants | 1,400,000 | (397,644) | 1,002,356 |
| Forensic Nurse Examiner Grants | 250,000 | (36,635) | 213,365 |
| Litigation Fees | 150,000 | (22,500) | 127,500 |
| Intellectual Property Attorney | 442,085 | (442,085) | 0 |
| Statewide Litigation Pool | 0 | 3,000,000 | 3,000,000 |
| Medical Examinations | 660,000 | 0 | 660,000 |
| North Dakota Lottery | 5,191,454 | 76,036 | 5,267,490 |
| Arrest and Return of Fugitives | 10,000 | (1,500) | 8,500 |
| Gaming Commission | 7,489 | 0 | 7,489 |
| Criminal Justice Info Sharing | 3,631,121 | 179,381 | 3,810,502 |
| Law Enforcement | 2,982,284 | (266,223) | 2,716,061 |
| Total All Funds | $81,490,880 | $4,834,227 | $86,325,107 |
| Less Estimated Income | 35,886,284 | 3,178,122 | 39,064,406 |
| Total General Fund | $45,604,596 | $1,656,105 | $47,260,701 |
| Full-time Equivalent Positions | 245.00 | 3.00 | 248.00 |

**SECTION 2. ONE-TIME FUNDING – EFFECT ON BASE BUDGET – REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty- sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

| One-Time Funding Description | 2019-21 | 2021-23 |
|---|---|---|
| Capital Assets | $1,851,956 | $ 0 |
| Undercover Vehicle Replacement | 200,000 | 0 |
| Criminal History Improvement Project | 400,000 | 0 |
| AFIS Replacement | 316,000 | 0 |
| Charitable Gaming Technology | 400,000 | 0 |
| Crime Lab Equipment | 0 | 1,111,706 |
| CJIS Broker Implementation | 0 | 1,175,000 |
| Statewide Litigation Pool | 0 | 3,000,000 |
| Total All Funds | $3,167,956 | $5,286,706 |
| Total Special Funds | 2,967,956 | 2,286,706 |
| Total General Fund | $ 200,000 | $3,000,000 |

The 2021-23 one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The attorney general shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021 and ending June 30, 2023.

**SECTION 3. 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 fifty-nine thousand four hundred nine dollars through June 30, 2020~~ one hundred sixty-six thousand six hundred sixty-two dollars through June 30, 2022, and ~~one hundred sixty-three thousand three hundred ninety-four dollars~~ one hundred sixty-nine thousand nine hundred ninety-five dollars thereafter.

**SECTION 4. 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, 2021.

**SECTION 5. TRANSFER – LITIGATION POOL TO STATE AGENCIES.** The attorney general shall transfer funds from the statewide litigation pool line item appropriated in section 1 of this Act to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021 and ending June 30, 2023. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04.

**SECTION 6. ADDITIONAL INCOME - APPROPRIATION - REPORT.** In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other funds, the sum of $250,000, or so much of the sum as may be necessary, to the attorney general for the purposes of defraying the expenses of the office, for the biennium beginning July 1, 2021 and ending June 30, 2023. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

**SECTION 7. CRIMINAL HISTORY RECORD CHECKS - FEES.** Any person or entity requesting a criminal history record check from the bureau of criminal investigation, as a result of legislation enacted by the sixty-sixth legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2021 and ending June 30, 2023.

**SECTION 8. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.** The human trafficking victims grants line item in section 1 of this Act includes $1,000,000 from the general fund for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the biennium beginning July 1, 2021 and ending June 30, 2023. 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 sixty-seventh legislative assembly on the use of the funds received and the outcomes of its program.

**SECTION 9. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.** The forensic nurse examiners grants line item in section 1 of this Act includes $212,499 from the general fund for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the biennium beginning July 1, 2021 and ending June 30, 2023. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-seventh legislative assembly on the use of the funds received and the outcomes of its programs.

**SECTION 10. EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.** The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19 and 2019-21 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2021 and ending June 30, 2023.

**SECTION 11. EXEMPTION - CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING.** The amount appropriated to the attorney general from federal funds for coronavirus emergency supplemental funding, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general during the biennium beginning July 1, 2021 and ending June 30, 2023.

# 2021 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**
Roughrider Room, State Capitol

HB 1003
3/5/2021
Senate Appropriations Committee

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

**Senator Holmberg** opened the hearing at 8:29 a.m.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

**Discussion Topics:**

- Bureau and Criminal Investigation Division
- Drones
- Human Trafficking
- Medicaid Fraud Division
- Civil Litigation Cases
- Crime Laboratory
- Gaming

**Wayne Stenehjem, State Attorney General,** testified in favor and presented testimony #7504.

**Cassidy Hasseth,** testified in favor and presented testimony #7557

**Alec Droske, Special Agent,** testified in favor and presented testimony #7540

**Robyn Quinn, Director of Crime Laboratory Division, Attorney General's Officer,** answered questions of the committee.

**Emily Schwartz, Director, North Dakota Human Trafficking Task Force,** testified in favor and submitted testimony #7473.

**Stacy Schaffer, Executive Director, 31:8 Project,** testified in favor and submitted testimony #7474.

**Megan Lundborg, Survivor Expert, Youthworks,** testified in favor and submitted testimony #7475.

**Lane Masters, Detective, Bismarck Police Department** testified in favor and submitted testimony #7476.

**Whitney Brothers, Nurse Site Manager,** testified in favor and submitted testimony #7559.

**Senator Holmberg** closed the hearing at 11:10 a.m.

*Skyler Strand, Committee Clerk*

7504

# 2021-23 BUDGET

## Office of Attorney General
## State of North Dakota

Wayne Stenehjem
Attorney General

**For the Senate Appropriations Committee**

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# 2021 HOUSE BILL 1003

## Office of Attorney General

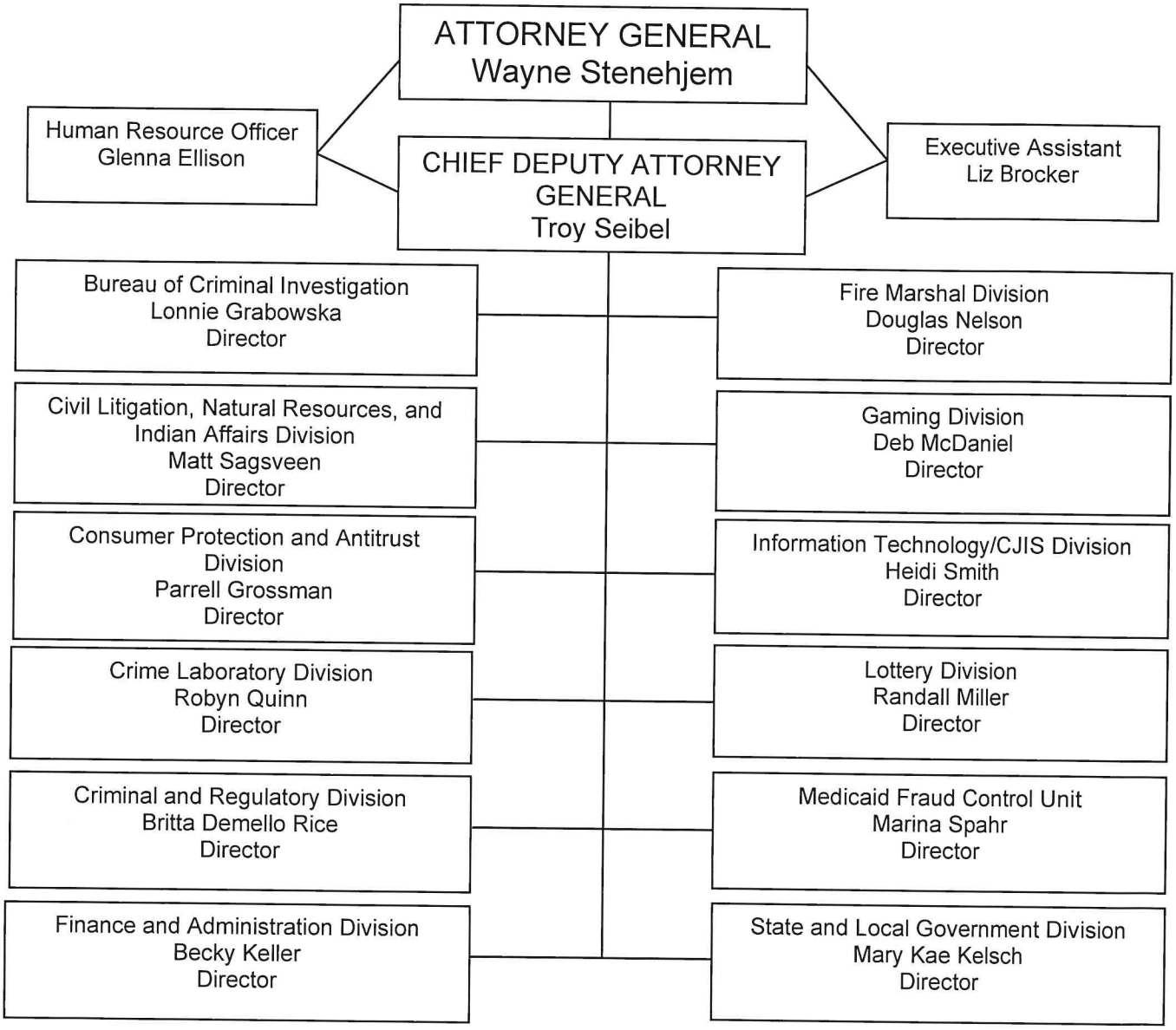
The Office of Attorney General represents and defends the interests of the citizens of North Dakota by executing the responsibilities charged to the North Dakota Attorney General by the North Dakota Constitution, state statutes and administrative rules, North Dakota and federal case law, and common law. The Attorney General is the chief legal counsel and advisor to state government providing legal representation to all facets of state government, including the Governor, all departments of state government, local government and all state agencies, boards, and commissions.

The Attorney General has primary authority to act on behalf of the state of North Dakota in other areas, including criminal investigations; full arrest and law enforcement authority; sex offender risk assessment and registration; Medicaid fraud control; evidence examination and testimony; consumer protection and antitrust; administration, regulation, and enforcement of charitable gaming and lottery activity; and fire inspections, investigations, and mitigation of hazardous materials incidents. Attorney General staff members provided a significant amount of training to North Dakota citizens and others, including law enforcement and the fire services.

The office consists of 13 divisions:

- Administration
- Bureau of Criminal Investigation (BCI)
- Civil Litigation and Natural Resources & Indian Affairs
- Consumer Protection and Antitrust (CPAT)
- Crime Laboratory (Crime Lab)
- Criminal and Regulatory
- Criminal Justice Information Sharing (CJIS) and Information Technology (IT)
- Finance
- Fire Marshal
- Gaming
- Lottery
- Medicaid Fraud Control Unit (MFCU)
- State and Local Government

# NORTH DAKOTA
# OFFICE OF ATTORNEY GENERAL
January 2021



# SUMMARY OF OFFICE OF ATTORNEY GENERAL MAJOR ACCOMPLISHMENTS

## BUREAU OF CRIMINAL INVESTIGATION

- Teamed with local law enforcement partners in establishing task forces which are having a significant impact on major drug trafficking organizations
- Processed approximately 51,000 requests for criminal history record information in 2020.
- Provided National Forensic Academy-trained criminal investigators to respond to crime scenes
- Teamed with federal and tribal partners in establishing the North Dakota Human Trafficking Task Force
- Supplied local law enforcement with updated automated Sex Offender Registry kiosks
- SLIC collaborated with state and private sector partners in establishing the North Dakota Cyber Security Task Force.

### Cyber Crime Unit

The Cyber Crime Unit investigates crimes that are facilitated with the use of a computer or the internet. The unit frequently obtains data from internet service providers through legal processes such as search warrants and administrative subpoenas. The unit's expert level forensic examiners are trained to recover data from digital media devices. These forensic examiners then analyze and report their findings which are often used to further criminal investigations and are frequently used for evidence purposes in court.

Forensic capable labs are operational in Minot, Bismarck, and Fargo. For the years of 2019 and 2020, the Cyber Crime Unit investigated over 665 cases and forensically examined 1,317 digital media devices. Of those devices, 869 were cellular phones. The total amount of electronically stored information examined was over 115 terabytes.

### 24/7 Sobriety Program

The 24/7 Sobriety Program is designed to remove intoxicated drivers from the road, improve their ability to succeed in their treatment choices, and provide a safer driving environment for the traveling public. Offenders participate in twice-per-day breath

tests or electronic alcohol monitoring, seven days per week, for as long as the court order mandates. Participants are required to pay a fee for the monitoring, which in turn is used to pay for breath alcohol devices, electronic monitoring devices, and other program costs.

Here is some 24/7 Sobriety Program information:

- Total participants since the inception of the program in January 2008 (includes pilot counties): 28,930
- Total participants who graduated from the program: 19,954
- Total participants who have had a test failure (temporary status, have not failed or graduated): 3,335
- Participants currently active in the program: 1,583
- Total breath tests administered since the inception of the program: 1,671,976
- Pass rate of breath tests taken: 97.08% (1,665,551)

The program has been supported by law enforcement, the courts, and the participants, and it is proving to be a successful alternative to incarceration.

## Concealed Weapon Licenses

As of December 15, 2020, 39,332 individuals held North Dakota concealed weapon licenses compared to a total of 46,970 active licenses at the end of 2017, and 29,131 active licenses at the end of 2013. The BCI issued 4,213 concealed weapon licenses in 2019 and 5,450 concealed weapon licenses in 2020. Of the total active concealed weapon licenses, about 21,478 are slated to be renewed in the 2021-23 biennium.

## Criminal History Record Information Requests

BCI processed approximately 51,000 criminal history record information requests in 2020. Of those, 30,000 were requests for data from the state database and 21,000 were requests for federal record checks.

## Sex Offender and Offenders Against Children Registry

Sex offenders and offenders against children are required to be registered with the agency where they reside and appear on the Office of Attorney General's website. As of December 2020, there are 1,534 registered sex offenders, 421 of which were incarcerated within North Dakota. As of December 2020, there are 120 registered offenders against children, 41 of which were incarcerated within North Dakota.

## Information Processing

The Information Processing Unit provides case management support to over 40 BCI agents statewide. 1,628 case numbers were issued over the 2018-2019 2-year period.

Cases consist of many reports. In total during this same time period, the IP unit processed 5,685 individual agent reports.

## ND State and Local Intelligence Center

The BCI is a member of the State and Local Intelligence Center (SLIC) whose mission it is to gather, store, analyze, and disseminate information on crimes, both real and suspected, to the law enforcement community, government officials, and private industry, concerning dangerous drugs, fraud, organized crime, terrorism, and other criminal activity for the purposes of decision making, public safety, and proactive law enforcement while ensuring the rights and privacy of citizens.

The BCI supports the SLIC by being a member of the executive board, and by providing personnel in the form of the director of the SLCI and criminal intelligence analysts as well as training and equipment for these personnel.

The SLIC has processed 1,871 requests for information in 2019. In addition, the SLIC has partnered with NDIT to create a multi-state Joint Cyber Security Operations Center.

In 2019–2020, North Dakota experienced an increase in Outlaw Motorcycle Gang activity. This was due to a rival OMG club trying to establish a presence in the state. Prior to 2019 there was only one documented OMG in the state. To compete for control of the state, BCI assesses that both OMG's will continue to increase their membership numbers in North Dakota. It is very likely there will be violent altercations between the two clubs.

## Significant BCI Cases 2019-Present

Brandon Lee Bjornstad of Neche, North Dakota, was sentenced to 60 years in federal prison followed by a lifetime of supervised release for the charges of Sexual Exploitation of Minors, Extortion, Receipt and Distribution of Materials Containing Child Pornography, and Possession of Materials Containing Child Pornography. Bjornstad solicited thousands of self-produced child pornography from hundreds of children located across the United States and elsewhere. Using various aliases, Bjornstad coerced hundreds of children into producing and electronically sharing their self-produced sexually explicit images and videos. Bjornstad illegally enticed his victims with the use of multiple social media platforms such as Skype, Kik, Snapchat, and Musical.ly, among others. On hundreds of occasions, he directed the children to engage in very specific sexually explicit conduct after which he recorded the live presentations. In many cases, Bjornstad then shared this material with others, including other children, and other adult men who shared his sexual interest in children. To date, the North Dakota Bureau of Criminal Investigation has identified 90 children residing in three different countries as part of this investigation.

Dustin W. Kewley and Bryan James Hogle were sentenced to 35 and 45 years in federal prison, respectively, for the charges of Conspiracy to Transport a Minor, and Coercion and Enticement. A forensic examination of Dustin Kewley's computer and cell phone determined that there were chat conversations between Hogle and Kewley, wherein they discussed in horrific detail their plan to meet for the purpose of sexually abusing a one-year-old child. Kewley transported the one-year-old child from Fargo, North Dakota, to Moorhead, Minnesota, to meet Hogle, who traveled from Las Vegas, Nevada, the previous day. The two men met at a hotel in Moorhead where together they sexually abused the child. Kewley and Hogle subsequently took steps to conceal their crime such as deleting their communications and bathing the child.

Dustin James Gilleo was sentenced to 10 years in federal prison for the charge of Transportation of a Minor. The Beautfort County Sheriff's Office, South Carolina, reported that a missing juvenile female from Burton, South Carolina, had been located via cellular phone tracking at the Minneapolis-St. Paul (MSP) International Airport. Further investigation by the MSP Airport Security revealed the missing juvenile entered a vehicle belonging to Dustin Gilleo of Wahpeton, North Dakota. On January 4, 2020, the Wahpeton Police Department located the missing juvenile at a residence in Wahpeton and removed her from the residence, and later interviewed her. During the interview, she said she left her residence in South Carolina and met Gilleo at the MSP Airport as they had previously planned. Gilleo then drove the juvenile to his residence in Wahpeton, where Gilleo and the juvenile engaged in sexual intercourse. Gilleo admitted that the female found at his apartment was the missing juvenile from Burton, South Carolina. He acknowledged meeting the juvenile online and the two had been communicating for over five months. Gilleo admitted their communications were sexual in nature and that they had exchanged sexually explicit images of one another via text and various apps. Gilleo further admitted that he knew the girl was 16 years old at the time she traveled to North Dakota, and he admitted to having sexual intercourse with the girl at his apartment.

Williston BCI Case

On February 10, 2020, BCI was asked to investigate a report that a 21-year-old was sending inappropriate texts and pictures to his 12-year-old stepsister. The suspect was charged with promoting obscenity to minors and luring a minor by electronic means. During this investigation, it was found that the suspect was also in contact with a 14-year-old female from Missouri. An investigation was conducted and as a result, the suspect was also charged with a second luring a minor by electronic means, possession of child pornography, and promoting sexual performance by a minor.

A BCI special agent assisted the Internet Crimes Against Children (ICAC) Task Force on multiple operations and conducted six tactical polygraph examinations with the suspects. Eight previously unknown victims of child sexual abuse were identified due to the examination and subsequent interviews.

RJR Murder Case

On April 1, 2019, at approximately 7:20 am, the Mandan Police Department was called to RJR Maintenance and Management for a medical assist. Law enforcement located three additional RJR Maintenance and Management employees deceased in the building. The Mandan Police Department contacted BCI to assist with the investigation. BCI documented and processed the crime scene using a UAS (drone), Pointgun, Total Station, Panoscan, and the Scan Station. BCI agents, some trained in advanced crime scene techniques from the National Forensic Academy, processed the scene and processed a pickup that was driven from the scene by the suspect and left in a nearby business parking lot. A BCI agent trained in video collection, preservation, and enhancement collected video from the scene and other businesses throughout the Mandan area. BCI agents completed numerous interviews and a follow-up investigation which led to locating a person of interest. On April 4, 2019, the suspect was detained by members of the McLean County Sheriff's Department. After further investigation on April 4, 2019, the suspect was arrested on four counts of murder. Throughout the investigation, evidence collected by BCI has been processed by the ND State Crime Laboratory and the ATF Forensic Science Laboratory. This case is scheduled for a three-week jury trial in August 2021. In total, 20 BCI agents assisted in this investigation.

# MEDICAID FRAUD CONTROL UNIT

Medicaid is funded jointly by federal and state government but administered by the state in accordance with federal requirements. Twenty-one percent (21%) of the US population is covered by Medicaid. Ten to fourteen percent (10-14%) of the North Dakota population is covered by Medicaid. Nationally, improper Medicaid payment rates in 2019 were 14.9% and 9.8% in 2018. The national rate of recovery is $6 for every $1 spent on the grant.

The 2019 Legislative Assembly established the Medicaid Fraud Control Unit (Unit) and placed it under the direction of the Attorney General.

- The Unit was substantially staffed in November 2019 and began establishing office procedures and investigating cases at that time.
- The State portion of the budget for the 2019-21 biennium is $207,570 ($103,785 per year).
- From November 1, 2019, through December 24, 2020, the Unit has opened 29 cases.
- Of those 29 cases, 2 criminal prosecutions were filed, and a 3rd case will be filed if the offer for settlement is refused. The fraudulent Medicaid billing involved in 2 of these cases totals $125,000.

- The Unit has investigated 9 abuse/neglect cases, 7 misappropriation cases, and 14 fraud cases.
- 15 of the 29 cases were closed without need for civil or criminal action.
- 3 of the closed cases were referred to other investigative entities.
- 5 of the closed cases were satisfactorily settled, without the need for civil or criminal actions.
- Currently, the Unit is involved in 9 large-scale open investigations.
- The Unit also participates in joint investigations with our federal counterparts.
- On average, most fraud investigations that lead to a prosecution (criminal or civil) require 12-18 months to complete.
- Criminal abuse/neglect investigations typically take 6 months to complete.
- The statistical data will not reflect recoveries until some of the cases make their way through the court system.
- The Unit also provides data for national, or global, Medicaid provider fraud cases, which involve multiple states. This past year, the Unit participated in 39 global cases, some of which resulted in civil settlements. Those settlements provided $84,000 in repayment for North Dakota Medicaid.

In December 2020, the Coronavirus Relief and Omnibus Funding Bill was enacted. The bill expanded the investigative and prosecutorial jurisdiction of MFCU's to include cases of abuse and neglect of Medicaid patients in non-institutional settings. Examples of settings that could now be allowed to be investigated are in-home, community-based services and office settings. The current trend is to assist people, including Medicaid recipients, to be able to stay and function in their homes as long as possible.

**Cases Filed or Otherwise Completed**

State v. Reilly – Pembina County – Reckless Endangerment (2 counts) and Theft (10 counts) – A Licensed Practical Nurse (LPN) was allegedly stealing pain medications from basic care residents. She has also been charged with replacing pain medications in the residents' bubble packs with unprescribed over the counter or prescription medications. Replacement of the opioids created a substantial risk of serious bodily injury to the residents. Jury trial is set for June 2021.

State v. Fruge – Burleigh County – Medicaid Provider Fraud and Theft – A Qualified Service Provider has been charged with failure to supply any records for the services provided. She is charged with not keeping track of services provided, when they were provided or to whom they were provided. She was required by the Medicaid Provider Agreement to maintain records of services and turn them over to the North Dakota Department of Human Services when requested. She billed North Dakota Medicaid for $80,000 of undocumented services.

Another case has a settlement offer being considered. If the settlement offer is not accepted, it will also involve a criminal filing. A clinical social worker fraudulently

billed Medicaid for services not rendered. She obtained Medicaid patient identification numbers belonging to members she had never seen or had seen on a limited basis, many of them children, and then billed Medicaid, Blue Cross Blue Shield, and Tricare for services that were not provided. The minimum Medicaid losses are $45,000.

Three cases involving the improper use of stimulus checks by long term care (LTC) facilities were resolved without the necessity for filing an action. Once the Unit explained the law applicable to residents receiving stimulus money, the LTC facility administrators were very willing to modify their policies and procedures to comply with the law.

### Sample of Current Investigations

The Unit is investigating a psychologist who appears to be upcoding, billing for Saturdays and holidays, and failing to document the time associated with providing some other services. The total Medicaid liability is approximately $88,000. While investigating this matter it became evident that other insurance entities may also have been defrauded in a similar matter. The Unit will provide their investigative results to the other insurance providers allowing them to initiate other recovery proceedings if they so choose. The Unit is also working with the North Dakota Insurance Department investigators regarding the loss to private insurance entities. The total loss to other insurance providers is approximately $270,000.

## CIVIL LITIGATION & NATURAL RESOURCES

### Dakota Access Pipeline Protest Related Lawsuits

<u>North Dakota v. United States Army Corp of Engineers (FTCA) (2018)</u>

North Dakota sued the U.S. under the Federal Tort Claims Act (FTCA) in July of 2019, seeking to recover the over $38 million in damages due the U.S. Army Corps of Engineers failure to follow its own rules for federal lands during the 2016 – 2017 protests over the construction of the Dakota Access Pipeline. The federal District Court in North Dakota denied the U.S.'s first effort to dismiss the case, holding that the Corps circumvented mandatory permit requirements when it invited and enabled the protesters to occupy federal lands. The case is now in the discovery phase.

<u>DAPL Personal/Constitutional Injury Lawsuits</u>

Four separate lawsuits arising out of the DAPL protests were filed in US District Court between 2018 and 2020 against various defendants, including some state defendants, for alleged constitutional or personal injuries. One of the lawsuits alleges the closure of a portion of Highway 1806 during the DAPL protests violated multiple constitutional rights of the protestors, including the First Amendment. The other three lawsuits involve personal injuries of individual protestors that occurred during the DAPL protests. The state defendants have succeeded in having the three

personal injury lawsuits dismissed. In September 2020, the district court dismissed all but a First Amendment free speech claim against the state defendants in the lawsuit involving the closure of Highway 1806. The state defendants have appealed that decision to the Eighth Circuit Court of Appeals arguing they are entitled to qualified immunity on the First Amendment claim.

## Significant Accomplishments and Cases

Burgum v. Jaeger (2020)

Governor Burgum filed a petition for writ of mandamus with the North Dakota Supreme Court claiming he had the constitutional authority to fill a vacancy in the North Dakota House of Representatives caused by the death of David Andahl during the 2020 election. The Governor challenged the right of the District 8 Republican Committee to appoint someone to fill the vacancy, as outlined in an Attorney General opinion addressing the manner in which the vacancy should be filled under existing statutes.

The North Dakota Supreme Court, in a unanimous ruling, denied the petition, concluding the Governor did not have the authority to fill the vacancy because the law already provided a method for filling the vacancy.

Oil & Gas Development and Enforcement

The Division's assigned attorney presided over almost 2,700 oil & gas administrative hearings during the 2017-19 biennium through 2020 (total by calendar years for the past 4 years: 2017 – 811, 2018 – 909, 2019 – 953 and 2020 – 451). The Division assisted the Industrial Commission's Department of Mineral Resources in pursuing 14 civil administrative cases for violations of the Commission's rules, orders, and regulations for the 2017-19 biennium, and 6 civil administrative cases for violation of the Commission's rules, orders, and regulations from July 1, 2019, to date. In the 2017-19 biennium, $2,590,034.78 was collected; and, from July 1, 2019, to date, $1,892,058.85 has been collected. As of the end of the 2017-19 biennium, 6 cases were pending, and 5 civil administrative cases were pending at the end of 2020.

Environmental Protection

The Division assisted the Department of Environmental Quality with its regulatory work involving air pollution control, asbestos removal, water pollution control, radioactive materials management, and solid waste and hazardous waste management. During the biennium, the Division assisted the Department in pursuing more than 120 enforcement actions, collecting more than $377,000 in penalties for violations.

Hydraulic Fracturing (Fracking) Rule Cases

In December 2017, the BLM rescinded the Obama-era 2015 Fracking Rule, returning regulatory authority over hydraulic fracturing to the states (North Dakota had

already successfully obtained a court order striking down the 2015 Fracking Rule). BLM's decision is currently being challenged in the 9th Circuit by a coalition of states led by California and several environmental groups. North Dakota is monitoring this case because if the 9th Circuit overturns BLM's decision and the 2015 Fracking Rule is reinstated, North Dakota's successful litigation against 2015 Fracking Rule would come into play again. Briefing was completed in early February 2021 and the 9th Circuit's decision is pending.

Venting and Flaring Rule Cases

In October of 2020 the federal District Court in Wyoming vacated the Obama BLM's 2016 Venting and Flaring Rule, which imposed air quality regulations on venting and flaring of natural gas from split estates common in North Dakota where state and private lands are pooled with federal mineral interests. The Court agreed with North Dakota's split estate arguments, concluding that BLM did not give have the authority to impose federal requirements on communitized state and private mineral interests.

2016 and 2020 Methane Rule Cases

North Dakota has played a leading role in the consolidated litigation challenging the validity of the Obama EPA 2016 Methane Rule (regulating of methane emissions from oil and gas operations) in the D.C. Circuit Court of Appeals. When EPA issued a more reasonable methane rule in 2020, that rule was immediately challenged by a group of states led by California, as well as by several environmental groups. North Dakota is the only state to have intervened on EPA's side and in support of reasonable regulation of methane emissions from the state's important oil and gas sector.

The Clean Power Plan and Affordable Clean Energy Rule Cases

North Dakota played a leading role in persuading the U.S. Supreme Court in 2016 to prohibit implementation of Obama EPA's 2015 Clean Power Plan (CPP), which unlawfully regulated greenhouse gas emissions from large existing power plants and would have had a significant negative impact on North Dakota's power plants, electricity rates, and the lignite coal mining sector. In July of 2019 EPA replaced the CPP with the Affordable Clean Energy Rule (ACE Rule) which was promptly challenged in the DC Circuit. North Dakota intervened on behalf of EPA and filed a brief in support of the ACE Rule. The DC Circuit vacated the ACE Rule on January 19, 2021, but the opinion was ambiguous as to the status of the CPP that had been repealed by the ACE Rule. At the request of EPA, on February 22, 2021 the DC Circuit agreed to stay its mandate with respect to vacating the repeal of the CPP Rule, meaning that the CPP Rule was not revived and will not be implemented. This will allow EPA time to initiate a new rulemaking to regulate greenhouse gas emission regulations for power plants. North Dakota is continuing to monitor the status of EPA's rulemaking efforts.

Waters of the United States

North Dakota continues to play a major role in the litigation over the definition of Waters of the United States (WOTUS), a very important issue for North Dakota's farmers and ranchers. North Dakota successfully obtained a federal Court injunction preventing the 2015 WOTUS rule from taking effect, though the Court has yet to issue a final ruling in that case because in 2020 the Trump EPA replaced the 2015 WOTUS Rule, generating a new round of lawsuits. North Dakota's challenge to the 2015 WOTUS rule is stayed pending the outcome of the litigation over the 2020 rule, and the WOTUS landscape is expected to shift again with the incoming Biden administration.

Paul Sorum, et al., v. The State of North Dakota (2018)

The plaintiffs challenged the Legislature's 2017 enactment of Senate Bill No. 2134, which created a statutory process for establishing the Ordinary High Watermark for Lake Sakakawea and a certain portion of the Missouri River upstream from the Lake. The district court held that a majority of the new law was constitutional, but also held that a subdivision of the law was unconstitutional and awarded over $700,000 in attorney's fees. The North Dakota Supreme Court subsequently upheld the constitutionality of the law and rejected the plaintiffs' attorneys fee award. The plaintiffs recently petitioned the United States Supreme Court to hear their case, but the court denied their petition.

North Dakota v. United States (Section Lines) (2012)

In 2012 the State and certain Counties brought suit in federal district court against the United States Forest Service, to quiet title to section line rights-of-way in the National Grasslands in North Dakota. The district court dismissed the State and Counties section line claims based upon the federal Quiet Title Act's statute of limitations. Both the State and the Counties appealed the district court's dismissal of the parties' section line claims to the 8th Circuit Court of Appeals. The State and Counties have filed their briefs with the Court, and are awaiting the United States' response.

Northwest Landowners Association v. State of North Dakota, et al.; Case No. 1:18-cv-00236

The Northwest Landowners Association (NWLA) brought suit against the State of North Dakota, the Industrial Commission, the Board of University and School Lands, the Governor, and the Attorney General, challenging Senate Bill 2344 (2019) (SB 2344). SB 2344 includes a variety of provisions, including a designation that carbon dioxide is an acceptable method for enhanced recovery of oil, gas, and other minerals; public interest statements related to the use of carbon dioxide; limitations on a surface landowner's remedies relative to a person conducting operations approved by the Industrial Commission under N.D.C.C. ch. 38-08; amendments to legislative findings; amendments to definitions; and a recognition that in North Dakota the mineral estate is the dominant estate. The State and the Counties have both moved for summary judgment and the case is pending before the state district court. The

court recently ruled in favor of NWLA, and concluded SB 2344 is unconstitutional in its entirety. The State is appealing the ruling to the North Dakota Supreme Court.

Missouri River/Garrison Diversion Litigation

The State of Missouri has sued the Garrison Diversion and Bureau of Reclamation over the Central Dakota Water Project, which would divert 20 cubic feet per second of water from the Missouri River to the McClusky canal. The State intervened in the litigation because Missouri's complaint seems to indicate that Missouri is less concerned about the Garrison Diversion's Central Dakota project, but rather intends to use the lawsuit as a mechanism to litigate water use out of the Missouri River generally.

Pharmaceutical Care Management Association v. Mylynn Tufte, et al. (2017)

Pharmaceutical Care Management Association (PCMA) filed a complaint in federal district court challenging the Legislature's 2017 enactment of Senate Bill No. 2301, which was one of two bills that sought to define the rights of pharmacists in relation to pharmacy benefit managers (PBMs), and to regulate certain practices by PBMs. PCMA alleged federal law preempts SB 2301. The parties filed cross motions for summary judgment, and the district court granted the State's motion in part and denied it in part. PCMA appealed the district court's decision to the Eighth Circuit Court of Appeals, which affirmed and reversed the district court's decision in part. The end result was that the State had lost its appeal. The State has further appealed the decision by petitioning the U.S. Supreme Court. The Supreme Court, after issuing an opinion on Rutledge v. PCMA (a case from Arkansas) that was favorable to North Dakota, recently vacated and remanded the judgment of the Eighth Circuit. The parties will soon start a new round of briefing.

Guardian Flight LLC v. Jon Godfread (2018)

The plaintiffs are challenging the Legislature's 2017 enactment of Senate Bill No. 2231, which provides that payment by an insurer to a provider for air ambulance services is full and final payment with no option for the provider to seek the balance from the patient. S.B. 2231 also prohibits air ambulance subscription agreements. The plaintiffs are arguing that the law is expressly preempted by federal law. The parties filed cross-motions for Judgment on the Pleadings. The US District Court found that the payment provision in S.B. 2231 is preempted by federal law, and state officials are enjoined from enforcing that part of the law. However, the US District Court found that the portion of S.B. 2231 prohibiting air ambulance subscription agreements is not preempted by federal law and is enforceable. The parties cross-appealed to the 8th Circuit Court of Appeals. Briefing on the appeals is concluded and oral arguments were heard on June 16, 2020. The 8th Circuit Court of Appeals has not yet ruled on the case.

Breanna Berndsen, et al. v. The North Dakota University System (2018)
Former members of the University of North Dakota (UND) women's hockey program filed a class action lawsuit against the University System, alleging that UND violated Title IX by eliminating its women's hockey program. The federal district court granted UND's motion to dismiss the plaintiffs' claims and the plaintiffs appealed the decision to the 8th Circuit Court of Appeals, which recently held arguments regarding the case.

Tobacco Enforcement
In 2018 the State settled a long dispute with tobacco companies concerning the 1998 Master Settlement Agreement, and allegations that the State had not diligently enforced the Agreement. The 2018 settlement resulted in the release of millions of dollars belonging to North Dakota that tobacco companies had held in an escrow account during the decades-long dispute, and the settlement of future years to 2023. In addition, North Dakota will continue to receive the annual payments it is due under the Master Settlement Agreement.

Mickelson et al v. ND DoH et al. (2020)
On March 26, 2020, Plaintiffs challenged the new administrative cottage food rules, effective January 1, 2020. The parties made cross-motions for judgment on the pleadings, regarding whether DoH had statutory authority to enact the new cottage food rules. On December 10, 2020, the state district court granted Plaintiffs' motion for judgment on the pleadings, ruling that DoH exceeded its authority in enacting the new cottage food rules, and enjoined enforcement on the rules.

Northwest Area Water Supply (NAWS) Pipeline
The court battle over the NAWS, which will bring much-needed water from the Missouri River to Minot and surrounding counties, was finally successfully concluded in this biennium.

Spoofcard v. Stenehjem (2020)
Spoofcard, LLC filed suit in US District Court alleging that North Dakota's "Caller ID Anti-Spoofing Act" was preempted by federal law and violated both the Commerce Clause and the First Amendment. In November 2020, the district court determined the Anti-Spoofing Act violated the Commerce Clause and granted judgment in favor of Spoofcard without addressing the First Amendment and preemption claims.

Election Lawsuits
Several election lawsuits were filed in 2020 relating to the COVID-19 pandemic, including Sinner v. Jaeger, wherein a sponsoring committee seeking to circulate an initiative petition for signatures brought suit in federal court against the Secretary of State, claiming the in-person signature gathering requirements were unconstitutional in light of the pandemic. The court denied the sponsoring committee's motion for preliminary injunction, finding it was unlikely to prevail on

the merits, after which the sponsoring committee voluntarily dismissed its lawsuit. In Self Advocacy Solutions N.D. v. Jaeger, the plaintiffs sued the Secretary of State in federal court, alleging that North Dakota's system of comparing signatures on absentee ballot applications with signatures on the voter's affidavit on ballot envelopes violates due process and the right to vote. The Court granted the plaintiffs' motion for preliminary injunction and ordered the parties to confer and agree upon procedures sufficient to safeguard voters' constitutional rights in the June 2020 primary election. The parties stipulated to a new procedure of notice and opportunity to cure. The new procedure was used successfully during the June 9, 2020 primary election, after which the parties stipulated to make the injunction permanent, to be in effect as long as North Dakota continues to rely on signature matching for absentee ballot verification, unless legislation is enacted to provide a different procedure.

In addition to the COVID-19 related election cases, two federal voter ID cases were resolved in 2020. In Spirit Lake v. Jaeger and Brakebill v. Jaeger, the plaintiff's brought suit against the Secretary of State, alleging North Dakota's voter ID laws and the SOS's enforcement of the laws violated the constitutional rights of Native American voters. Both cases were settled in April 2020 with a consent decree that did not change any of North Dakota's voter ID laws, but contained provisions by which the SOS agreed to assist the Plaintiffs in complying with those laws. As part of the settlement, the Plaintiffs waived their right to recovery of attorneys' fees, with the exception of a portion of the fees in Brakebill v. Jaeger, which is currently the subject of an appeal to the Eighth Circuit Court of Appeals.

Dakota Access, Limited Liability Corporation (LLC) (2018)

On July 3, 2018, the Division filed a Complaint in state court to compel Dakota Access, LLC to divest ranch land. On April 12, 2019, Dakota Access, LLC divested subject lands, by warranty deed, to 1806 Ranch LLC, a family farm/ranch LLC. On April 30, 2019, the ND District Court dismissed the case with prejudice.

Farm Equipment Dealership Network Law (SB 2289) (2017)

The Division defended 2017 Senate Bill No. 2289, regulating farm equipment dealer and farm equipment manufacturer contractual relationships. On July 24, 2017, several major farm equipment manufacturers challenged the law under numerous constitutional and federal preemption legal theories. On October 19, 2020, the U.S. District Court ruled that all of SB 2289 shall be applied prospectively from its effective date of August 1, 2017, the court nullified the arbitration provision. Nothing in SB 2289 may be applied retroactively.

Farm Bureau, et al.: Corporate Farming Challenge (2016)

The Division defended the state's corporate farming law in federal court from a constitutional challenge. In September 2018, the US. District Court found that the statute violated the dormant Commerce Clause. In August of 2019, the US District Court awarded Plaintiffs $175K in attorneys' fees. This award order has been

submitted to OMB, for subsequent consideration by the upcoming Legislative session to make an appropriation to pay it.

Fleck v. Wetch (2015)
Arnold Fleck filed suit in US District Court alleging that mandatory membership in North Dakota's integrated bar association violated his First Amendment rights to free speech and association. The suit made claims against both the State Bar Association and the State Board of Law Examiners. After the defendants successfully had the case dismissed in both the district court and the Eighth Circuit Court of Appeals, the United States Supreme Court reversed and remanded the case to the Eighth Circuit for reconsideration in light of a recent Supreme Court decision that was decided in the interim.

In August 2019, the Eighth Circuit again held in favor of the defendants and concluded that Fleck failed to show North Dakota's integrated bar violated the First Amendment. In April 2020, the United States Supreme Court denied Fleck's request to review the Eighth Circuit's decision.

Sexually Dangerous Individuals (2013)
The State recently settled a challenge to its civil commitment laws, N.D.C.C. ch. 25-03.3, for individuals who have been assessed as "sexually dangerous" and involuntarily committed to the State Hospital for treatment. The case dates back to 2013. The plaintiffs argued that the Department of Human Services/the North Dakota State Hospital violated certain alleged constitutional rights by, among other things, the classification methods of sexually dangerous individuals, the methods and timing of certain treatments and privileges, as well as alleged violations of religious freedoms. The plaintiffs also argued that the Department of Corrections and Rehabilitation violated the constitutional rights of individuals by failing to provide certain notifications to the individuals while incarcerated. The State agreed, through the settlement agreement, to certain changes to its policies and procedures, and payment of attorney fees to court appointed counsel.

# CRIMINAL & REGULATORY DIVISION

Attorneys in the Criminal & Regulatory Division prosecute criminal cases statewide, at the request of the county state's attorneys. Since July 1, 2019, two attorneys assumed prosecution, from the Williams County State's Attorney, of a seventeen-year-old defendant who shot two nineteen-year-olds – one of whom died – during a drug deal involving LSD. The now eighteen-year-old defendant was convicted and is serving ten years at the North Dakota Department of Corrections.

The division worked on many federal habeas corpus petitions during the biennium. There were twelve matters requiring responses at the U.S. District Court

level. Seven were dismissed by that court. The rest are pending. Eight cases were worked on at the 8th Circuit Court of Appeals, seven have been dismissed and one remains pending. One case was taken to the United States Supreme Court and the Writ of Certiorari was denied by that court. Thanks to the good work of state's attorneys across the state, none of the cases resulted in reversals of convictions or new trials. The petitioners included four cases involving deaths, five involving sexual offenses, and one kidnapping.

Although the Bureau of Criminal Investigation handles sex offender registration, attorneys from the division help lead the monthly meeting of the Sex Offender Risk Assessment Committee. During this biennium, the SORAC assessed 480 offenders residing or working in the State of North Dakota. In addition, an attorney and the offender registration supervisor visited four cities in the state to provide sex offender registration training to staff at local law enforcement agencies.

Division attorneys serve as instructors at the Law Enforcement Training Academy (LETA) in Bismarck. The LETA graduates three classes of basic law enforcement candidates each year. During this biennium, attorneys taught Criminal Law, North Dakota Criminal Procedure, North Dakota Rules of Evidence, Legal Aspects of Use of Force, and Criminal Investigations of Sex Crimes. Attorneys also instructed on topics such as Search & Seizure, Miranda, and Courtroom Testimony to law enforcement students who attended the BCI Criminal Investigations School, which was held twice during the biennium.

Following civil asset forfeiture reform in early 2019, attorneys have continued to advise law enforcement and local prosecutors on compliance with the new regulations. This has included revising law enforcement MOUs, compilation of civil asset forfeiture reports, and proposing potential legislative fixes to streamline reporting to lessen the burden on local prosecutor offices.

## STATE AND LOCAL GOVERNMENT DIVISION

Since July 1, 2019, the office has issued a total of 36 opinions, of which 23 were open records opinions, and 13 were opinions on questions of law related to matters involving state statutes, the state Constitution, and issues having statewide significance, including the October 13, 2020, opinion addressing the effect of votes cast for a deceased candidate for political office, an opinion that was upheld by the North Dakota Supreme Court. In addition, division attorneys reviewed 80 administrative rules submitted for review by other state entities.

The attorneys in the division provide general counsel to 70 state agencies, regulatory boards, and state created boards and commissions. General counsel work includes contract review, policy review, legal advice regarding contract implementation, employment issues, and compliance with state and federal rules and laws.

During the pandemic, the work of general counsel has proven crucial. The attorneys have helped clients navigate a new landscape of COVID employment policies, executive orders, acquisition and distribution of PPE, and contract disruptions. One assistant attorney general represents the Department of Health which is at the epicenter of the state's response to the pandemic. Many clients, such as the Department of Commerce, Job Service, the Bank of North Dakota, and the Department of Public Instruction needed legal advice to navigate the federal CARES Act. State regulatory boards such as the Board of Medical Imaging and Radiation Therapy, Board of Respiratory Care, and the Education Standards and Practices Board, among others, were inundated with demands to adapt to a workforce stressed by COVID. Almost every client has had to address issues brought on by this pandemic.

# CRIME LABORATORY DIVISION

The office received 10,802 cases (excluding breath alcohol tests) from January 2019 to December 2020.

The current turnaround times are as follows:

- Approximately 67 days for drug cases
- Approximately 8 days for fire debris cases
- Approximately 109 days for DNA cases – currently 481 DNA analysis cases are awaiting completion
- Approximately 30 days for toxicology (blood alcohol cases)
- Firearms cases are outsourced due to staffing issues
- Approximately 60 days for latent print cases (confirmations are outsourced due to staffing issues – there is only one qualified latent print examiner at the Crime Lab)

## Combined DNA Index System (CODIS)

The NDOAG-CLD DNA Unit processed a total of 4,993 convicted offender and arrestee samples in 2019 and 2020. There are approximately 50,331 DNA profiles in North Dakota's State DNA Index System database (SDIS). Since 2003, the Crime Laboratory Division has averaged 574 convicted offender samples per year. Since 2009, the Crime Laboratory Division has averaged 2,606 arrestee samples per year.

North Dakota CODIS Database

| | 12/2000-12/2018 | 01/2019-12/2020 |
|---|---|---|
| Convicted Offender DNA Profiles | 12,773 | 513 |
| Arrestee DNA Profiles | 26,861 | 4,480 |
| NDIS Forensic DNA Profiles* | 1,612 | 416 |
| SDIS Forensic DNA Profiles ** | 242 | 33 |

North Dakota CODIS Hits

| | 12/2000-12/2018 | 01/2019-12/2020 |
|---|---|---|
| Investigations Aided *** | 764 | 254 |
| State Forensic Hits (crime scene to crime scene) | 99 | 52 |
| State Arrestee Hits | 343 | 167 |
| State Convicted Offender Hits | 195 | 33 |
| National Forensic Hits | 36 | 30 |
| National Arrestee Hits | 135 | 51 |
| National Convicted Offender Hits | 172 | 42 |

* State forensic unknown, partial and mixture DNA profiles that qualify for NDIS and are therefore compared against the national database.
**State forensic unknown, partial and mixture DNA profiles that do not qualify for NDIS and are therefore compared against only the North Dakota database
*** Investigations aided are the number of cases where CODIS has added value to the investigative process.

The National DNA Index System (NDIS) has existed since 1998 and contains DNA profiles contributed by all 50 states, the District of Columbia, the federal government, the U.S. Army Criminal Investigation Laboratory, Puerto Rico, and local participating forensic laboratories.

NDIS (National DNA Index System)

| | |
|---|---|
| Convicted Offender DNA Profiles | 13,444,810 |
| Arrestee DNA Profiles | 3,323,611 |
| Forensic DNA Profiles (Unknown, Partial and Mixture) | 894,747 |
| TOTAL | 17,663,168 |

NDIS (National DNA Index System)

| | |
|---|---|
| Investigations aided | 42,808 |
| Forensic hits (crime scene to crime scene) | 67,462 |
| Intrastate hits (crime scene to convicted offender within a state) | 323,210 |
| Interstate hits (crime scene in one state to convicted offender in another state where CODIS aided an investigation) | 49,674 |

# INFORMATION TECHNOLOGY/CRIMINAL JUSTICE INFORMATION SHARING

Throughout the 2019-21 biennium, the IT/CJIS Division has completed a variety of IT projects. A majority of the projects contribute to increasing public and law enforcement safety. Automating the sending and receiving of criminal history, disposition, and case filing data across various platforms increases the timeliness and accuracy of criminal history records and information that law enforcement relies on to safely perform their job duties.

BCI and IT/CJIS leveraged grant funds to automate the process of transmitting disposition data from the courts and state's attorneys to the state criminal history system. The data includes information on all persons prohibited from possessing firearms for mental health reasons from the courts, felony convictions, convictions for misdemeanors involving domestic violence and stalking, and drug convictions. This information is then reported to the FBI, resulting in more complete and accurate criminal history information.

IT/CJIS also completed a re-write of the North Dakota criminal history system. The previous system was designed 20 years ago. The new criminal history includes accepting the incoming disposition workflow that allows BCI staff to review and import received dispositions much more efficiently.

Another project IT/CJIS completed was the development of an "E-charging" system which allows paperless submission of case charging information from the IT/CJIS state's attorney's records management system (STARS) to the court's case management system, Odyssey. This system allows for initial and supplemental electronic filing of court cases from a state's attorney's office directly to Odyssey. Agencies utilizing these programs can now paperlessly file a case from the point of arrest to prosecution, disposition, and reporting back to criminal history.

In addition to the criminal justice programs that IT/CJIS develops and maintains, we completed phase one of the gaming core re-write project. Phase one provides a new online application that charitable gaming organizations (CGO) can use to fill out their tax forms and pay online. The system also includes extensive tax information checking to streamline the collection of tax information. Before the system, CGOs would submit hundreds of pages of tax information by mail. The next phases for the project include an online application for distributors to buy gaming stamps and report sales, as well as upgrades to the core gaming system to a new platform to allow integration with the new online systems.

IT/CJIS has various ongoing and upcoming projects that will continue to improve and streamline workflows and business processes for criminal justice, the general public, and the Office of Attorney General. IT/CJIS is developing a warrant system that integrates with the Odyssey system. This system will receive warrant information electronically. Law enforcement will be able to add additional details to active warrants, validate warrants, and send updates to the FBI. This system will notify law enforcement and the courts when updates to warrants are completed.

The IT/CJIS staff supports and maintains over 45 software programs for the Office of Attorney General, criminal justice agencies, victims of crime, and the general public. Staff also provide desktop support services to all employees of the Office of Attorney General.

## Marsy's Law Implementation

Another initiative that IT/CJIS completed this biennium was the Marsy's Law Initiative projects. During the 2017-19 biennium, IT/CJIS identified notification gaps between Marsy's Law requirements and what the North Dakota Statewide Automated Victim Information and Notification (ND SAVIN) system provided. In the 2019-21 biennium, IT/CJIS finalized all projects relating to victim notifications required by Marsy's Law. The projects included adding commitment, juvenile court, sentencing, and open record request notifications. IT/CJIS also developed a statewide repository where victims can assert their rights, and criminal justice personnel can search and track victim assertions statewide.

# CONSUMER PROTECTION AND ANTITRUST DIVISION

CPAT opened 646 consumer complaints and investigations and closed 639 files in 2020. The division recovered or collected $647,299 in consumer restitution and $1,405,310 in attorneys' fees, investigation costs, and civil penalties relating to litigation completed. The division took legal action against 73 companies or individuals. The division also obtained unpaid legal judgments in the amount of $414,740.

Most notable for the 2019-21 biennium are the division's: 1) investigation and legal actions relating to opioids manufacturers and distributors; 2) investigations and legal actions relating to anticompetitive conduct by the "Big Tech" firms; 3) participation in multistate Equifax data breach investigation and legal action involving compromised personal or financial information affecting over 250,000 North Dakota consumers; and 4) processing of 618 ID theft complaints between January and December, 2020 related to the Job Service North Dakota false claims for unemployment insurance.

The division has identified the top ten consumer complaints through December 2020:

1. Identity theft
2. Imposter scams
3. Telemarketing/Do Not Call
4. Contractor/Home improvement
5. Automobile
6. Mail order
7. Entertainment
8. Services
9. Retail
10. Debt adjustment/Settlement – credit counseling

## GAMING DIVISION

The legalization and implementation of electronic pull tab devices during the 2019 fiscal year significantly increased the gaming wagers for the 2017-19 biennium. Final numbers for the 2017-19 biennium include wagers of $852.6 million raising over $51.6 million for charitable uses (such as student scholarships, community crime prevention projects, financial and other assistance to injured and disabled veterans) and generating over $10.8 million for the general fund. This compares to $544.5 million in wagers, $43.8 million in charitable uses, and $6.5 million for the state's general fund during the 2015-17 biennium.

The number of e-tab devices has grown significantly. As of December 31, 2020, there were 3,221 devices conducted by 220 organizations in 828 sites. This compares to 1,814 devices conducted by 178 organizations at 488 sites at the end of the 2017-19 biennium.

Despite restrictions in hours of operation and game types due to COVID-19, there has been a dramatic increase in the estimated amounts for fiscal year 2020 including gaming wagers of $882.6 million, charitable uses of $38.1 million and general fund deposits of $13 million.

Due to this increase in gaming activity there has also been an intense increase in workload for the Gaming Division. To help organizations with reporting responsibilities, the Attorney General requested funding during the 2019 legislative session for a new gaming system to allow organizations to file and pay their gaming taxes online. This system is in phase 2 of completion and with additional funding the division will complete phase 4, the final phase, by 2022. This system greatly reduces the time and paperwork for organizations while creating an easy and convenient way to file and pay gaming tax. Though this system will immediately help licensed organizations it will not reduce the extra workload for the Gaming Division. The

division is struggling to effectively regulate the rapidly expanding gaming industry and keep pace with continuously changing technical standards.

# FIRE MARSHAL DIVISION

The Fire Marshal's Division accomplishes fire prevention goals through fire investigation, fire inspection and code enforcement, plan review, data collection, fire safer cigarettes, and public education programs.

## Fire Investigations

Fire investigations are conducted to assist local fire departments and law enforcement agencies with origin and cause investigations and reports. Staff respond all days of the week and at any hour of the day to accomplish this task. In 2019, fire investigation activities included 121 total investigations, of which 96 were closed (22 accidental, 1 natural, 12 incendiary, and 61 undetermined). There are currently 25 open cases.

## Arson Case Summaries

State of North Dakota vs. Jerry Ray Gerard

On June 1, 2019, the State Fire Marshal's Office was notified of a vehicle fire. In working with local law enforcement, the State Fire Marshal's Office was able to determine that the fire was intentionally set to cause harm to the property over a domestic dispute. Ignitable liquids were recovered at the scene by the State Fire Marshal's Office and were identified as gasoline by the State Crime Lab. Video was recovered at the scene by local law enforcement showing an individual near the vehicle when the fire ignited. Jerry Ray Gerard pled guilty to charges of endangering by fire and criminal mischief.

State of North Dakota vs. Edward Gonzalez and Another Individual

On August 14, 2020, the State Fire Marshal's Office was requested to assist with the fire investigation of a commercial bar and restaurant. During the investigation gas cans strewn throughout the building were recovered, security cameras were found dismantled, the property was for sale, insurance coverage was identified to be higher than the listed sale price, and other indications that helped determine that the fire was intentionally set. The State Fire Marshal's Office worked with local law enforcement and the State Insurance Fraud Division to identify other indicators of insurance fraud and evidence of the fire being arson. Edward Gonzalez has pled guilty to conspiracy to commit/endangering by fire. Another Individual has been charged with Conspiracy to commit arson and endangering by fire or explosion.

Residential Arson Case

On January 2, 2020, the State Fire Marshal's Office was requested to assist with the fire investigation of a residential structure fire with a body located inside. During the investigation two separate fires were identified: a basement fire located at a furnace, and a bedroom fire where the body was found. Ignitable liquids were identified at both fire origins, and the cause of death was identified to not have been caused by the fire. Through collaboration with local law enforcement, the Bureau of Criminal Investigation, the Bureau of Alcohol, Tobacco and Firearms, the State Crime Lab and the State Forensic Examiner, the State Fire Marshal's Office was able to determine the fire was intentionally set to conceal other crimes. One individual has been charged with arson and conspiracy to commit arson. Another individual has been charged with conspiracy to commit arson.

## Fire Inspection and Code Enforcement

The fire inspection program is conducted through the State Fire Marshal's rules for prevention of fires, inspection of facilities as outlined in the North Dakota Century Code, and assisting other agencies/local fire departments with code enforcement as requested.

Effective July 1, 2020, the State Fire Marshal's Office adopted the 2018 Edition of the International Fire Code as our state rules for fire prevention. This was done through the administrative rule process and brought the state closer in-line with local government fire code adoptions resulting in a more level regulatory environment across the state.

In 2020 (the most recent year full statistics were available at the time of this report), the State Fire Marshal's Office completed:

- Total Fire Inspections - 364
- Schools – 86
- State Buildings – 236
- Other (childcare, assembly/liquor license, requested assistance by local fire department) – 42

The division is in the process of researching software for the fire inspections program with the goal of being software based by January 1, 2022. If this transition is accomplished, it will make inspections, reporting, data collection, and data analysis much more efficient.

## Fire Protection Systems Plan

The plan review program is designed to help meet Century Code requirements and to ensure that fire protection systems, above-ground fuel storage tanks, and liquid petroleum gas tanks are designed and installed according to code. This program has

been updated resulting in a higher workload, better quality review, and partnership with local businesses and contractors to resolve fire code issues prior to installation. Over the past 4 years, it is clear to see the increase in workload that this program has resulted in.

- Plans received/reviewed in 2017 – 21
- Plans received/reviewed in 2018 – 23
- Plans received/reviewed in 2019 – 141
- Plans received/reviewed in 2020 – 121

The division is in the process of researching software solutions to increase the efficiency of assignments, tracking and data analysis for the plan review program. The goal for this software solution is to be online July 1, 2021.

## Public Education

The State Fire Marshal is charged with fire safety public education initiatives. Currently the State Fire Marshal's Office provides public education through the childcare fire safety program, monthly fire safety messages to fire chiefs, and through assistance with fire prevention training and certificate programs. Public Education initiatives that are not available due to current workload include smoke alarm installation campaigns, youth fire-setter prevention, new construction requirements, and communication.

## Fire Data Collection

The National Fire Incident Reporting System (NFIRS) program requires the State Fire Marshal to be the State Program Manager for all reporting of fires into both the state and national databases. This is accomplished through the use of the NFIRS system and a fire incident reporting software state contract. The state contract provides a free fire incident reporting software (Emergency Reporting) to all fire departments in the state. The state contract with Emergency Reporting has been paid for by the Department of Forestry through grants over the last four years. The state contract is necessary to increase participation of fire reporting in North Dakota and important for the State Fire Marshal and Department of Forestry to fund.

- Fires reported in 2019 (most recent year of complete data) – 2,257
- Fires resulting in fatality in 2019 – 8
- Dollar loss attributed to fire in 2019 - $25,461,162
- Percentage of fire departments reporting fires – 56% (205/366)

## Fire Safer Cigarettes

The fire safer cigarettes program was established in 2010 and requires cigarette manufacturers to comply in order to sell their product in North Dakota. The

requirements include but are not limited to the ability to ignite material, self-extinguishment, and markings on packaging for identification purposes. Every year division staff inspect the cigarettes to ensure that what has been submitted to the office matches what is being sold in the state.

- Cigarettes certified since the program's inception (2010) – **1,482**
- Cigarettes currently certified – **1,044**
- Cigarettes types certified in 2019-20 – **932**

### DOT Emergency Responder Guidebooks (ERG's)

The division partners with the US Department of Transportation to assist with distribution of Emergency Response Guidebooks (ERG) to first responders in the state. The ERG provides first responders chemical information to aid in decision-making in the first thirty minutes of a hazardous materials incident. Through December 2020, the division received 5,124 ERG's and distributed 2,713. There were 1,792 hazardous materials incidents in North Dakota in 2019.

## LOTTERY DIVISION

The North Dakota Lottery conducts 5 games: Powerball, Lucky for Life, Mega Millions, Lotto America, and 2by2. The Lottery Division transferred $15.9 million to the state general fund, $845,000 to the multijurisdictional drug task force grant fund, and $640,000 to the compulsive gambling prevention and treatment fund for the 2017-19 biennium. For fiscal year 2020, the Lottery transferred $4.1 million to the state general fund, $800,000 to the multijurisdictional drug task force grant fund, and $320,000 to the compulsive gambling prevention and treatment fund.

# CURRENT AND FUTURE CRITICAL ISSUES

## Fentanyl, Heroin, and Other Illicit Drugs

In the last two years, opiate usage has continued to increase. Pills such as Oxycodone, heroin, and heroin cut with Fentanyl encompass the opiates in question. A majority of these products being seized can be positively linked to Detroit, Michigan, as the source area.

Naloxone (also known as Narcan) temporarily counteracts the effects of opiate overdoses and is being increasingly used to counteract the increasing number of overdoses in the state.

The following examples reflect the impact of opioid use and overdoses on local communities:

- Minot Community Ambulance has documented 132 opiate related overdoses for 2020. Of those 132 overdoses, 15 resulted in death. Further, they have utilized 90 units of Narcan.
- Narcan was administered in Williams County (reported by EMS) from July 2019 through December 2020 to 60 individuals.
- In the Grand Forks area most of the heroin being sold is actually Fentanyl. The Grand Forks Narcotics Task Force has seen an increase in overdoses with three of those being fatal.
- In a 7-day period in early December 2020, the Cass County Drug Task Force (CCDTF) and Fargo Narcotics Unit seized 9 pounds of methamphetamine, 11 ounces of heroin, 194 M30 (Fentanyl) pills, over $120,000 in U.S. currency, and 8 firearms (illegally possessed). In August 2020, the CCDTF, in collaboration with the Fargo Narcotic Unit, Grand Forks Task Force, Ward County Task Force, and Metro Area Narcotic Task Force dismantled a narcotic ring of individuals responsible for multiple overdoses and deaths. As a result, approximately 1,400 M30 (Fentanyl) pills, 2 ounces of heroin, methamphetamine, a Glock 9 mm pistol, and $52,785 were seized.
- The Bismarck/Mandan Metro Area Task Force (MANTF) seized 10,997 Oxycodone pills during 2019 and 2020, a 142% increase from the previous two years. In addition, over four pounds of heroin has been seized, which is an increase of 193 percent over the previous two years.
- In 2020, the Southwest Narcotics Task Force seized 426 units of Fentanyl or 4,260 individual dosage units. Each dosage unit has the potential to be a fatal

dose of the drug. The SWNTF also saw 49.2g or 492 dosage units of heroin in 2020.

## Criminal Investigators Salary Issue

The office has historically attempted to recruit and hire experienced investigators from local agencies or other state agencies to fill criminal investigator positions. The office's hiring requirements include five years of law enforcement experience, a bachelor's degree, and a license as a peace officer. In order to acquire and retain investigators with the above qualifications, the office must offer higher salaries.

It has been difficult to hire these individuals in the last few years due largely to the office's limited salary levels, including the starting criminal investigator salary. Because of the substantial crime increase throughout North Dakota, calls for assistance, and population growth, the office concentrates on retaining experienced and trained investigators. The office needs these experienced investigators to combat the organized and dangerous criminals in North Dakota. BCI criminal investigations have become much more sophisticated, detailed, and time consuming than in the past. For all these reasons the office needs to continue to hire and retain experienced investigators to serve the public and keep the public safe.

## Criminal Investigator Work Demands

The fluctuation in the state's population due to the energy industry and good business climate continues to be very taxing on Bureau of Criminal Investigation (BCI) criminal investigator's time, resources, and well-being. Criminal investigators are investigating crimes that have not traditionally occurred in this state, including gang activity, murder for hire, and organized crime including organized drug trafficking and human trafficking crimes. This new, very mobile workforce is responsible for not only trafficking drugs from their home state but also introducing new drug production methods. Although the mobile workforce related to the energy industry has decreased, criminals have stayed and are responsible for trafficking drugs from their home state. Most North Dakota counties' population remained and did not experience a growth reduction.

BCI continues to see a significant increase in requests for officer involved shooting (OIS) investigations by local law enforcement agencies. Use of deadly force investigations are extensive investigations that are manpower intensive and time consuming as well they should be. Once BCI receives a request for an OIS investigation, the case takes priority and other investigations often must be suspended until the conclusion of the OIS investigation.

BCI has seen a steady increase for assistance to local law enforcement agencies for investigations pertaining to child sexual abuse. Child sexual abuse investigations are

on the rise across the state and the majority of local law enforcement agencies request BCI assistance in some facet of the investigation. Child sexual abuse investigations are difficult cases to work because of family dynamics as well as the age and maturity of the victims.

Local law enforcement agencies are increasingly requesting BCI's assistance with financial crime and fraud related investigations. Financial crimes investigations are manpower and documentation intensive. There seems to be an increase in public entity financial crimes investigations that are high profile in the local communities.

BCI has not experienced any type of workload slowdown in any part of the state post oil boom nor during the COVID pandemic. Counterfeit Oxycodone pills made from Fentanyl have resulted in numerous overdoses and overdose death investigations for office criminal investigators and is at an all-time high. Marijuana, prescription drug abuse, and methamphetamine (meth) are still prevalent. The 10 drug task forces around the state continue to be busy. BCI is part of each of these task forces and has a criminal investigator assigned as a supervisor to all but one of the task forces. The office continues to deal with organized drug trafficking organizations in all parts of the state.

Aside from continued drug enforcement, criminal investigators have been continually busy with general investigations including homicides, multi-county burglaries, officer involved shootings, and have seen an increase in agency internal investigations and other numerous regular cases. The office has trained and equipped a group of criminal investigators to respond to and process crime scenes. The training consists of 10 weeks at the National Forensic Academy in Tennessee and the office now has 3 crime scene units to bring specialized equipment and staff wherever needed. These crime scene units now respond to crime scenes in departments of every size including Fargo, Grand Forks, Minot, Mandan, Bismarck, Williston, and throughout the state. These crime scene trucks and teams are located in Williston, Bismarck, and Grand Forks.

The BCI Cyber Crime Unit, which also oversees the Internet Crimes Against Children (ICAC) Task Force and Human Trafficking Task Force, continues to be a critical part of criminal investigations throughout the state. The six full-time investigators not only assist with child exploitation cases, but also many other types of crimes that involve digital media devices and/or investigations that require a high level of technological skills. In addition, in 2019 and 2020, over 930 reports of child sexual exploitation were received by the BCI Cyber Crime Unit from the National Center for Missing and Exploited Children. This high demand of child exploitation reports has led to local affiliates being over burdened with investigations, to the point that BCI Agents from outside of the Cyber Crime Unit have been assigned to assist with the investigations.

## Unmanned Aircraft Systems

The use of UAS or drones has been growing quite a bit in recent years. The entry level price tag for drones is relatively inexpensive and many city and county agencies are finding ways to fund the drone operations themselves. However, the drones have limited capability without post-processing software as well as the local agencies are unable to purchase the more expensive DJI Matrice drone. BCI's UAS team has conducted many drone operations from searching for missing persons, assisting other agencies with foot pursuits, collecting point data for digital reconstruction, and providing visual surveillance of suspects in cooperation with regional SWAT teams.

## Information Technology Division Infrastructure and Program Needs

The office's BCI and Crime Lab operations rely heavily on the expertise and skills of the office's Information Technology (IT) Division to develop new programs, and maintain and support new and existing projects. Between 80-90% of all IT services used in this office are for the BCI and Crime Lab.

It is essential that the IT Division receive the funding, staff, and other resources needed to ensure that critical internal and external existing programs function efficiently, that project funding deadlines can be met, and delays in development are kept at a minimum.

# STATUS OF 2019-21 BIENNIUM ONE-TIME APPROPRIATIONS

### Capital Assets

These funds have been allocated and will be spent.

### Undercover Vehicles

These funds have been allocated and will be spent.

### DOS-Based Deposit System Rewrite Carryover

Carryover authority of $43,179 has been allocated and will be spent this biennium.

### Criminal History Improvement Project

These funds have been allocated and have been spent. The office has requested an additional $400,000 to continue the enhancement of the system in the 2021-23 biennium.

Voter ID Attorney

It is estimated that approximately $260,319 will be transferred from the litigation pool to the Office of Attorney General to fund the one-time voter ID attorney. This position has been removed for the 2021-23 biennium.

Automated Fingerprint Identification System

This project is in development and includes an update from a fingerprint identification system to a biometric identification system. $158,000 from federal funds for this project was received later than anticipated so federal funding has been requested to continue the project into the 2021-23 biennium. It is anticipated the $158,000 special fund appropriation will be spent during the 2019-21 biennium.

Charitable Gaming Technology System

It is anticipated the $400,000 appropriation will be spent during the 2019-21 biennium; however, if unforeseen challenges arise, the office may need to request carryover for any unspent appropriation. Funding of $475,000 has been requested to finish the project in the 2021-23 biennium.

Concealed Weapon Rewrite Carryover

$95,000 of the $155,711 carryover has been allocated for the 2019-23 biennium. The remaining funding will be requested as carryover to continue the project in the 2021-23 biennium.

Statewide Automated Victim Identification Notification Program Carryover

Approximately $400,000 of the $540,000 carryover has been expended to complete the SAVIN program. The remaining $140,000 will be requested as carryover to the 2021-23 biennium for replacement of the legal case management system.

# OFFICE OF ATTORNEY GENERAL BUDGET ISSUES AND REQUESTS

## Office/State Impacts Due to 2021-23 Biennium 15% General Fund Reduction Required

The vast majority of the office's staff (81%) provides legal and law enforcement services to state and local entities. General fund reductions at this level significantly affect the office's ability to assist with local law enforcement cases, provide training and hands-on legal and law enforcement support, purchase needed supplies and equipment, travel to other locations, and assist law enforcement throughout the state.

Governor Burgum required state agencies to submit budgets reflecting 15% general fund reductions (85% budgets). For this office it translated into a $6.74 million general fund reduction.

The salaries line was reduced by over $3.5 million which would have resulted in the loss of several FTE positions including BCI agents, attorneys, gaming auditors, forensic scientists, and IT staff. The Executive Recommendation restored all but $246,000 of the salary reduction. The office did not request funding to be restored for some temporary salaries.

General fund operating expenses were reduced by over $1.5 million. The Executive Recommendation did not restore any of the operating expenses. This will result in a loss of funding for criminal investigator case travel and equipment; Fire Marshal travel, equipment and supplies; IT maintenance, contractual services, software and supplies; building maintenance supplies; necessary crime scene supplies; Crime Lab consumables used to test local law enforcement submitted evidence; Crime Lab service contracts on critical, specialized equipment; office equipment; professional supplies; and printing. **The House did not restore this funding.**

The law enforcement line was reduced by $343,738. The Executive Recommendation did not restore this funding. This will result in the loss of one BCI criminal investigator and one administrative assistant in the Williston area and necessary operating expenses for the Crime Lab. **The House did not restore this funding.**

The Criminal Justice Information Sharing line was reduced by $454,172 including $182,283 for salaries and $271,889 for operating expenses. The Executive Recommendation restored the salary funding but did not restore the operating funding. This will result in portals and interfaces not being updated and projects being delayed or not completed. **The House did not restore the operating funding of $271,889.**

Human trafficking grants were reduced by $400,000 and forensic nurse examiner grants were reduced by $37,500. The Executive Recommendation did not restore either of these grant reductions. **The House restored $100,000 of human trafficking grants and fully restored the forensic nurse examiner grants.**

Litigation fees were reduced by $22,500 and arrest/return of fugitives was reduced by $1,500. The Executive Recommendation did not restore either of these reductions. **The House did not restore this funding.**

The intellectual property (IP) attorney line item totaling $447,791 was removed and an optional package was added to request the funding be restored to the salaries and operating lines. The Executive Recommendation did not restore the IP attorney. **The House did not restore the IP Attorney position.**

# Office of Attorney General
# Reductions in the Executive Recommendation
# 2021 House Bill 1003

The Executive Recommendation included the following general fund changes:

1. Funding source changes were made from the general fund to other funds for the following:
   a. Criminal Regulatory salary expenses in the law enforcement line ($134,343)
   b. State and Local Government operating expenses ($60,225)
2. Removes an assistant attorney general.
3. Removes funding for one BCI agent and one administrative assistant
4. Significantly reduces BCI operating expenses.
5. Significantly reduces Crime Lab operating expenses.
6. Significantly reduces Fire Marshal operating expenses.
7. Significantly reduces IT and CJIS operating expenses.

# PROPOSED CHANGES TO 2021 HOUSE BILL 1003

The office's optional adjustments requested in the submitted budget and as approved in the Executive Recommendation are shown below. **The House included these requests.**

| Description | Priority | General Fund | Federal Fund | Other Funds |
|---|---|---|---|---|
| P1 maintenance and license | 3 | 217,662 | | |
| Tech fee increase | 3 | 13,680 | | |
| Office 365 increase | 3 | 57,278 | | |
| Gaming regulation FTE (4) | 4 | | | $814,863 |
| Gaming regulation operating | 4 | | | 144,836 |
| CJIS portal, broker, common statutes table | 5 | 165,000 | | |
| Crime Lab equipment | 6 | | $1,111,706 | |
| Peak Performance contract | 7 | 34,342 | | |
| SyTech trap and trace | 7 | 80,000 | | 80,000 |
| ABIS | 7 | | 300,000 | |
| Criminal History project | 8 | | | 400,000 |
| Gaming Project | 8 | | | 475,000 |
| Total | | $567,962 | $1,411,706 | $1,914,699 |

The office's optional adjustments requested in the submitted budget and not included in the Executive Recommendation were **included by the House** as shown below.

| Description | Priority | General Fund | Federal Fund | Other Funds |
|---|---|---|---|---|
| Agent equity | 2 | | | $1,007,326 |
| Fire Marshal equity | 2 | | | 125,906 |
| Total | | $797,908 | $15,455 | $1,133,232 |

The office's optional adjustments requested in the submitted budget and **not included by the House** are shown below.

| Description | Priority | General Fund | Federal Fund | Other Funds |
|---|---|---|---|---|
| Agent reclassifications | 2 | 64,006 | | |
| Deputy Fire Marshal step incr | 2 | 16,234 | | |
| Gaming regulation FTE (4) | 4 | | | $814,863 |
| Gaming regulation operating | 4 | | | 144,836 |
| Legal case management system | 5 | 500,000 | | 120,000 |
| Crime lab maint agreements | 6 | 7,305 | | |
| Gas cylinders | 6 | 8,235 | | |
| Narcotics buy fund | 7 | 100,000 | | |
| Ammunition | 7 | 21,941 | | |
| Total | | $717,721 | | $1,079,699 |

## House Changes to House Bill 1003

The House made the following adjustments to House Bill 1003:

- Salary Equity Adjustments – The House added $1.3 million for salary equity adjustments for 53 Bureau of Criminal Investigation positions, 2 Medicaid Fraud Control Unit positions and 7 State Fire Marshal positions.
- Human trafficking grants – The House restored $100,000, to provide for $1.1 million in human trafficking grants.
- Forensic nurse examiner grants – The House restored the forensic nurse examiner grant line to its 2019-21 level of $250,000.
- Litigation Pool – The House changed the funding source for the $3.0 million litigation pool included in the Executive Recommendation from the general fund to the Strategic Investment and Improvements fund.
- Operating Adjustment – The House removed an additional $210,000 from the general fund for operating expenses, for a total operating reduction of over $1.7 million.

## The following sections are requested to be added to Engrossed House Bill 1003:

SECTION _. CONTINGENT FEE ARRANGEMENT. Notwithstanding section 54-15-08.1 of the North Dakota Century Code, the office of attorney general may contract for legal services which will be compensated for by a contingent fee arrangement, relating to ongoing technology multi-state lawsuits, during the biennium beginning July 1, 2021, and ending June 30, 2023

SECTION _. EXEMPTION – STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION PROGRAM. The $815,000 from other funds appropriated to the attorney general for the statewide automated victim information and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws and section 9 of chapter 28 of the 2019 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 for replacement of the legal case management system, during the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION _. GAMING GRANTS. Notwithstanding subsection 4 of Section 53-06.1-12 of the North Dakota Century Code, the office of attorney general may distribute the 2019-21 biennium seventh and eighth quarter gaming taxes to cities and counties by October 31, 2021.

SECTION _. EMERGENCY. $255,000 of other income for a sexual assault evidence collection kit tracking system and $100,000 of other income for drug analyzers, included in section 1 of this Act is considered to be an emergency measure.

# 2021 Legislation Having a Fiscal Impact on the Office of Attorney General

Several legislative bills have been introduced which impact the Office of Attorney General.

- **Engrossed House Bill 1025** provides a supplemental general fund appropriation of $181,152 to the Office for the 2019-21 biennium for lawsuit expenses associated with a constitutional challenge to North Dakota's corporate farming laws.

- **Engrossed House Bill 1212** changes the gaming tax structure and creates a charitable gaming operation fund for deposit of all gaming taxes. Appropriated Gaming Division administrative and operating costs would be paid from this fund. This bill also provides a continuing appropriation for allocations related to gambling disorder prevention and treatment. Any gaming tax revenue remaining in the fund at the end of the biennium would be transferred to the general fund. **The $1,756,101 general fund share of the Gaming Division's appropriation has not been moved to special funds in the Office's appropriation bill or this bill.**

- **Engrossed House Bill 1234** provides authorization of sports betting and the creation of a sports wagering commission within the Attorney General's office, contingent on adoption of House Concurrent Resolution 3032 by the qualified electors of North Dakota in the November 2022 general election. **The effective date of this bill will be August 1, 2023** so there is no fiscal impact during the 2021-23 biennium.

- **Engrossed House Bill 1389** provides for licensing and regulation of live poker contingent on adoption of House Concurrent Resolution 3012 by the qualified electors of North Dakota in the November 2022 general election. This bill would be effective for the last six months of the 2021-23 biennium. It is estimated a new division would be required within the Attorney General's office. The fiscal impact of this bill cannot be determined at this time, so **no funding has been added to the Office's appropriation bill or this bill.**

- **Engrossed Senate Bill 2281** requires the State Crime Lab to develop and implement a statewide sexual assault evidence collection kit tracking system and provides an emergency clause. Federal funds of $255,000 are available under the SAFE ITR grant for this project but an appropriation has not been added to this bill. **The $255,000 and an emergency clause have not been added to the Office's appropriation bill.**

# NORTH DAKOTA OFFICE OF ATTORNEY GENERAL

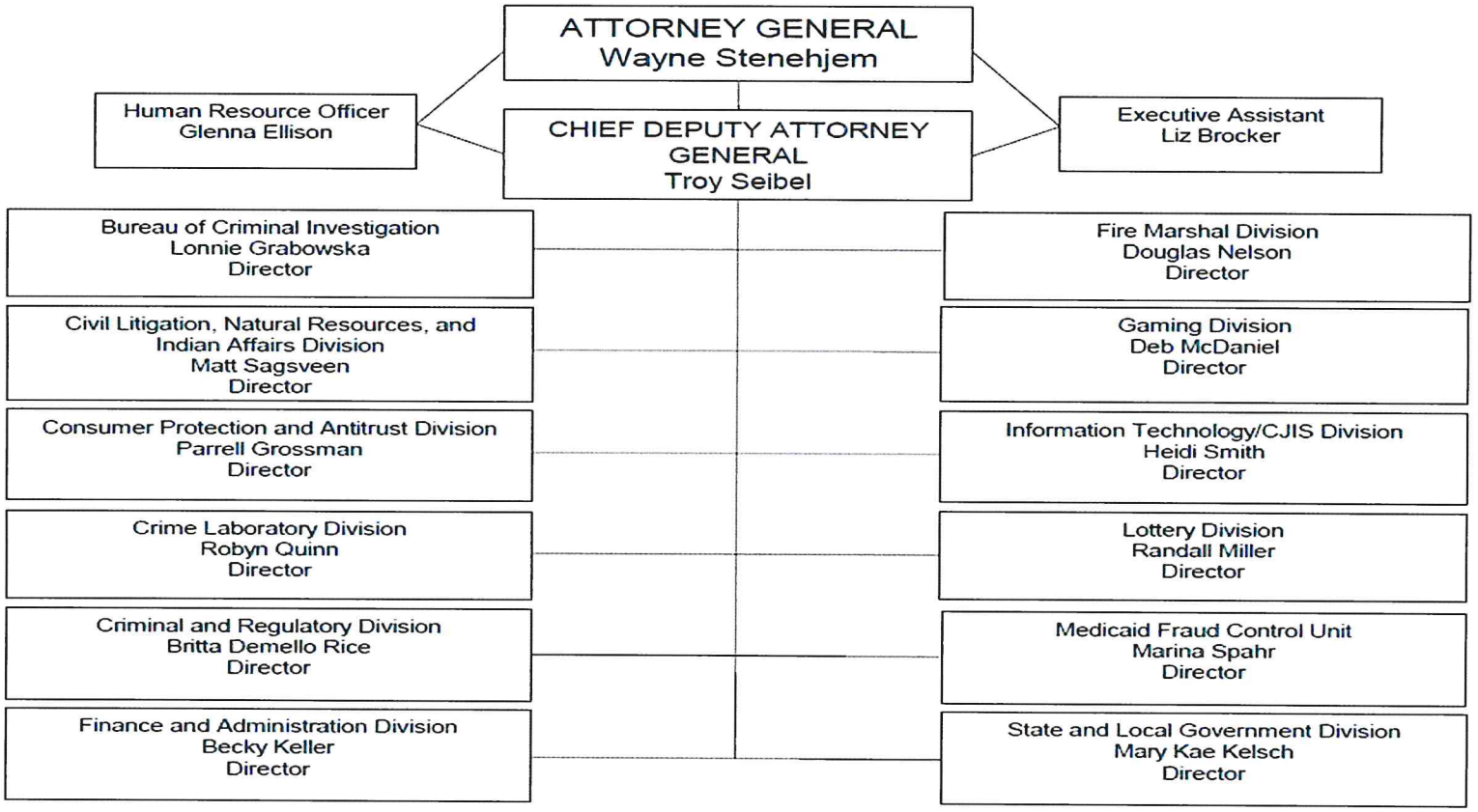
2021-23 BIENNIUM

67TH LEGISLATIVE SESSION

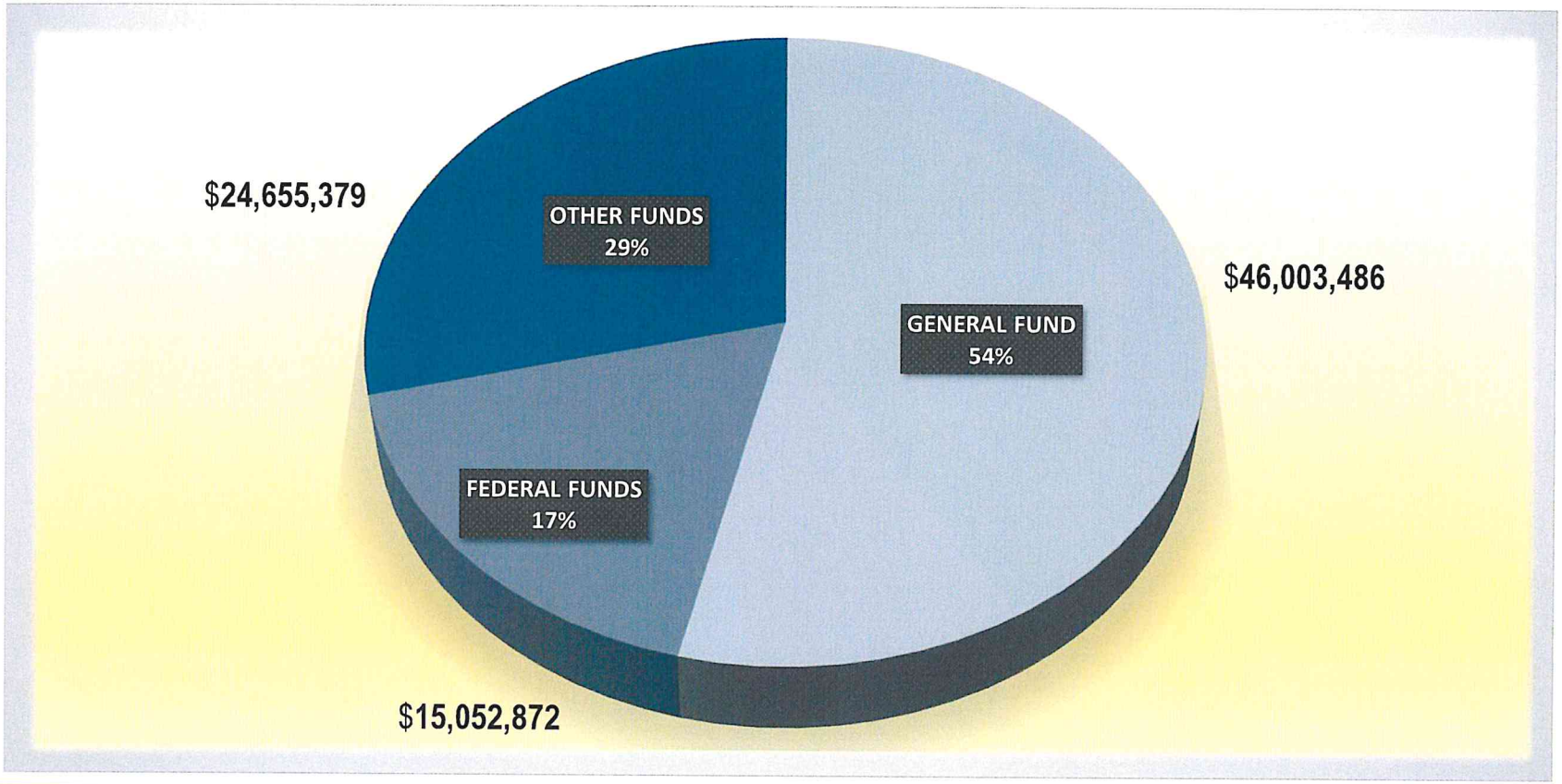
BUDGET PRESENTATION

SUPPLEMENTARY MATERIALS

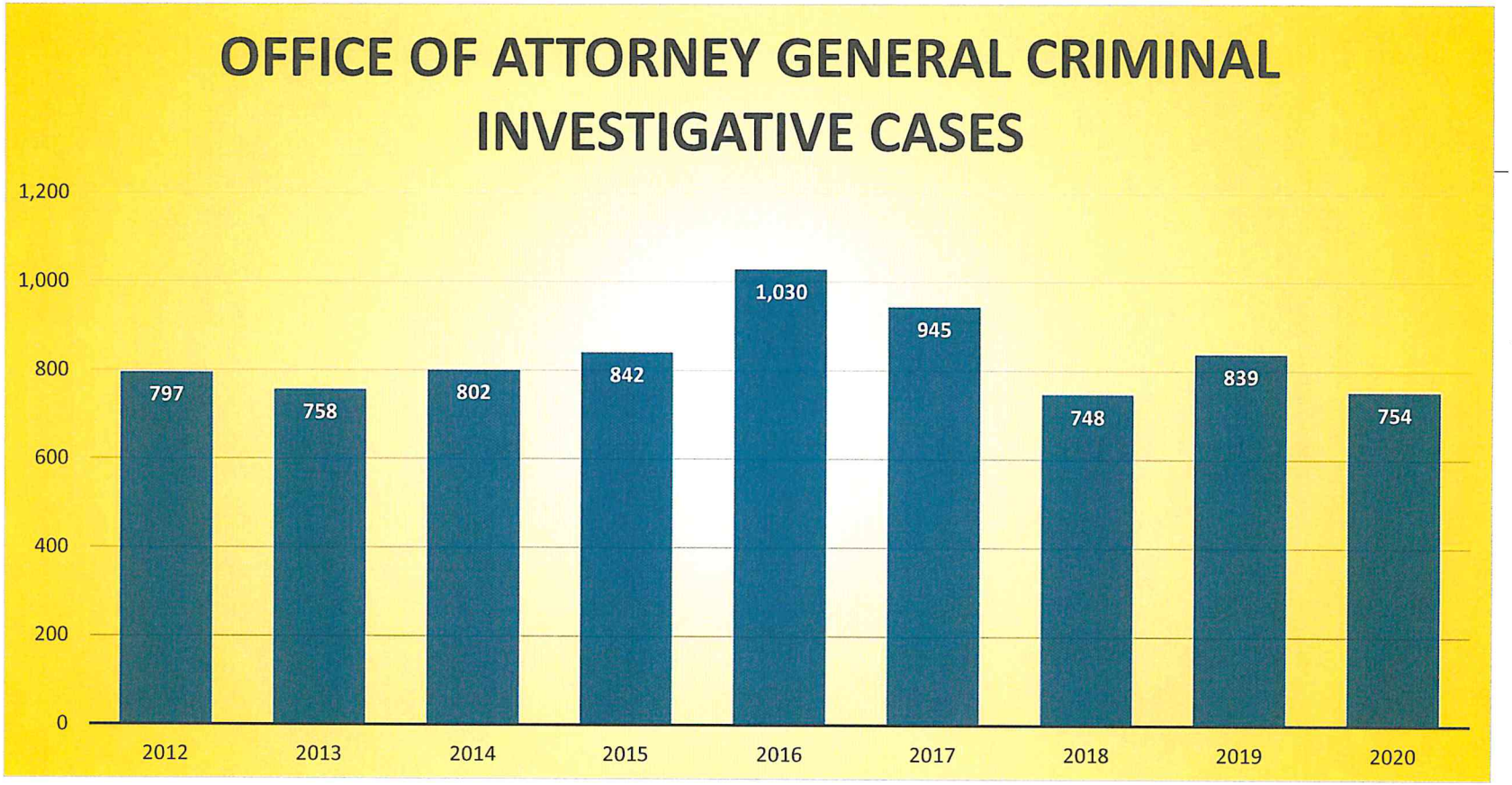
# NORTH DAKOTA
# OFFICE OF ATTORNEY GENERAL
May 2020



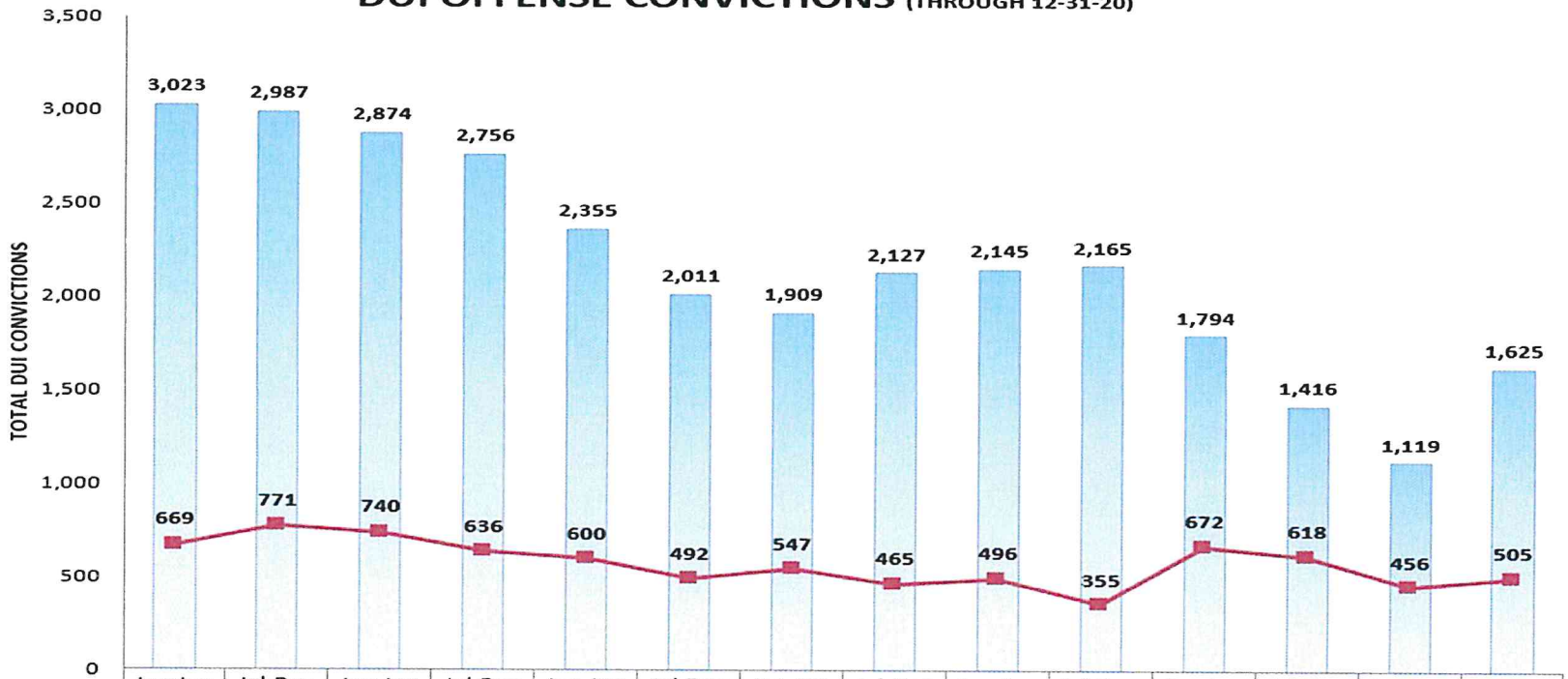
# 2019-21 BIENNIUM APPROPRIATION BY FUNDING SOURCE
# $85,711,737



# OFFICE OF ATTORNEY GENERAL CRIMINAL INVESTIGATIVE CASES



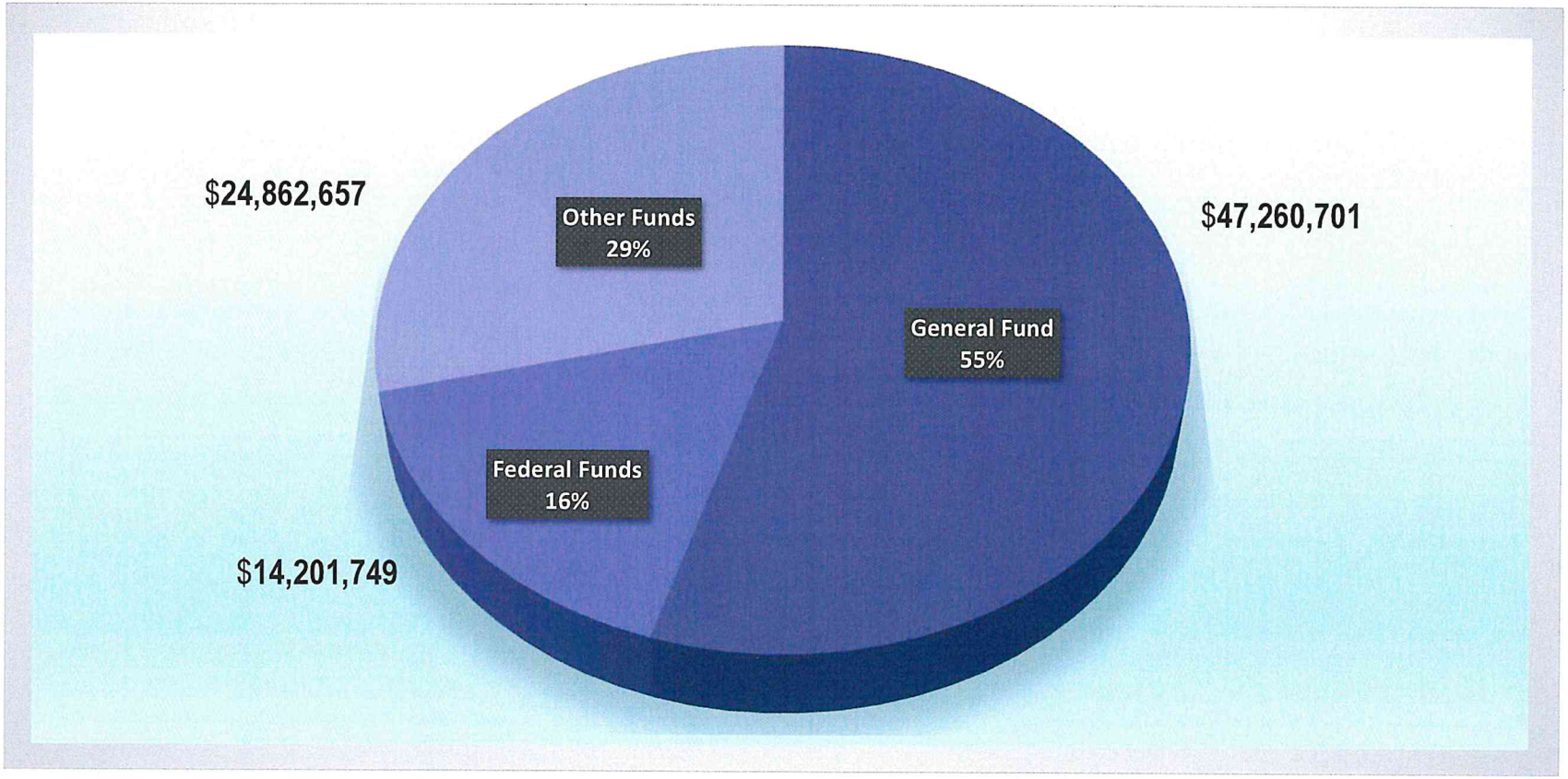
# DUI OFFENSE CONVICTIONS (THROUGH 12-31-20)




| | Jan-Jun 2014 | Jul-Dec 2014 | Jan-Jun 2015 | Jul-Dec 2015 | Jan-Jun 2016 | Jul-Dec 2016 | Jan-Jun 2017 | Jul-Dec 2017 | Jan-Jun 2018 | Jul-Dec 2018 | Jan-Jun 2019 | Jul-Dec 2019 | Jan-Jun 2020 | Jul-Dec 2020 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Total | 3,023 | 2,987 | 2,874 | 2,756 | 2,355 | 2,011 | 1,909 | 2,127 | 2,145 | 2,165 | 1,794 | 1,416 | 1,119 | 1,625 |
| Refusals | 669 | 771 | 740 | 636 | 600 | 492 | 547 | 465 | 496 | 355 | 672 | 618 | 456 | 505 |

Source: ND DOT

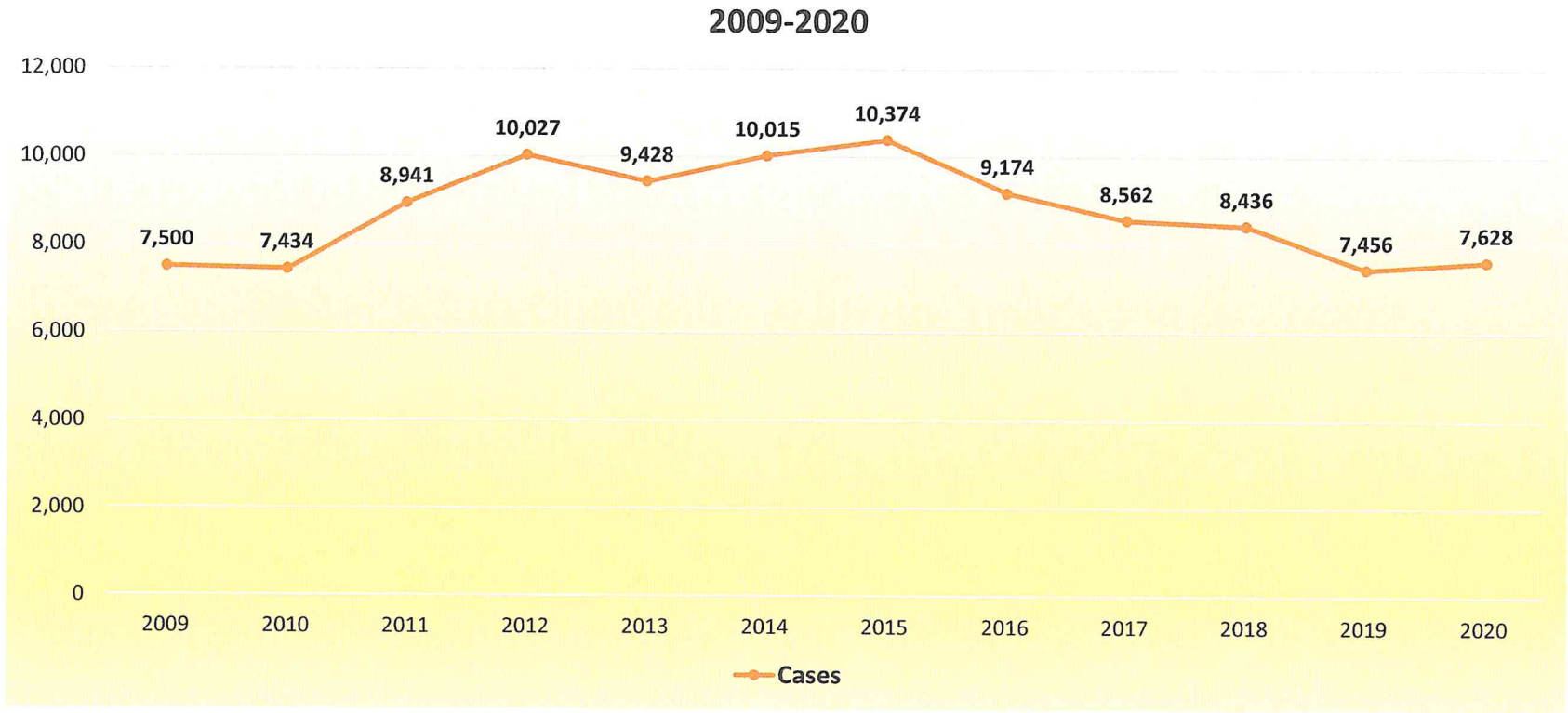
# 2021-23 BIENNIUM EXECUTIVE RECOMMENDATION BY FUNDING SOURCE $86,325,107



TOP 25 NARCOTICS SAMPLES
SUBMITTED TO THE CRIME LABORATORY
FOR THE PERIOD FROM JANUARY - DECEMBER 2020

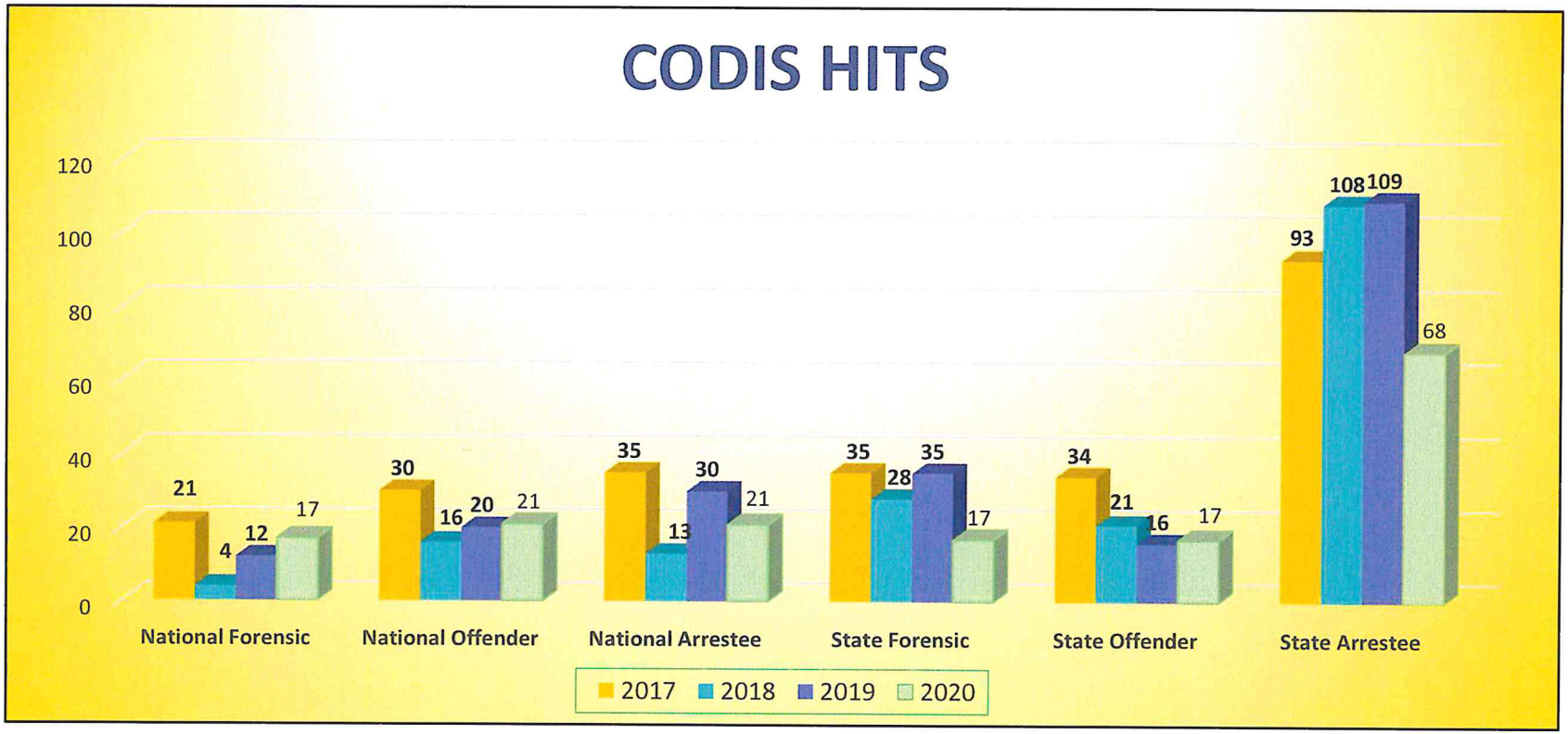
| DESCRIPTION | TOTAL | PERCENT |
|---|---|---|
| METHAMPHETAMINE | 2427 | 53.54% |
| CANNABIS | 878 | 19.37% |
| HEROIN | 297 | 6.55% |
| COCAINE | 213 | 4.70% |
| FENTANYL | 144 | 3.18% |
| OXYCODONE | 115 | 2.54% |
| BUPRENORPHINE | 43 | 0.95% |
| ALPRAZOLAM | 39 | 0.86% |
| CLONAZEPAM | 27 | 0.60% |
| HYDROCODONE | 22 | 0.49% |
| CAFFEINE | 20 | 0.44% |
| PSILOCYBIN/PSILOCYN | 19 | 0.42% |
| NALOXONE | 17 | 0.38% |
| MORPHINE | 15 | 0.33% |
| TRAMADOL | 15 | 0.33% |
| SODIUM BICARBONATE | 14 | 0.31% |
| AMPHETAMINE | 13 | 0.29% |
| LYSERGIC ACID DIETHYLAMIDE | 13 | 0.29% |
| DIMETHYLSULFONE | 11 | 0.24% |
| LORAZEPAM | 11 | 0.24% |
| ACETYL FENTANYL | 10 | 0.22% |
| GABAPENTIN | 10 | 0.22% |
| MDMA | 10 | 0.22% |
| DIAZEPAM | 9 | 0.20% |
| DIPHENHYDRAMINE | 8 | 0.18% |
| **TOTAL TOP 25 DRUGS** | **4,400** | **97.07%** |
| **TOTAL ALL DRUGS** | **4,533** | |

# ND Crime Laboratory Workload

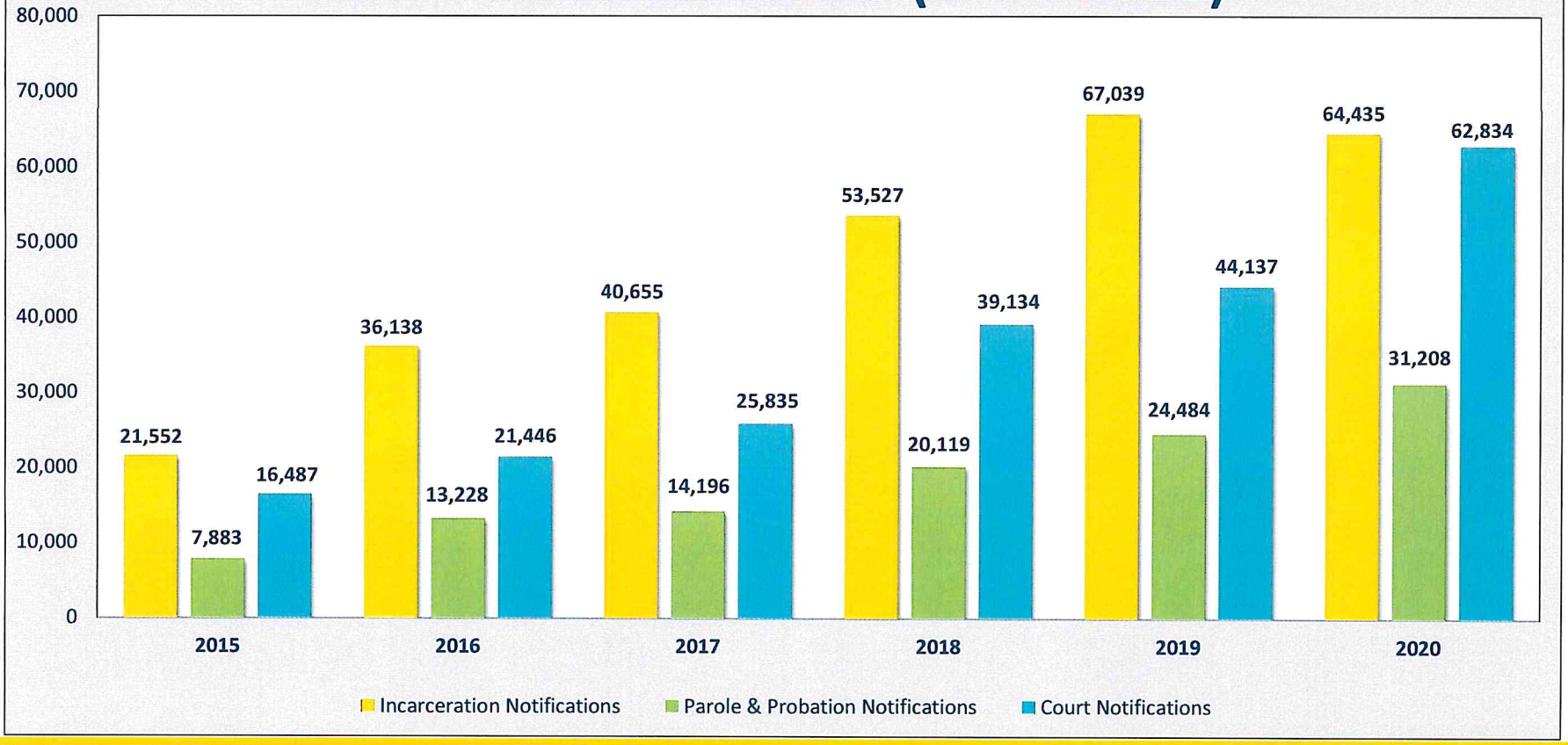



Previous reports included Breath Alcohol tests, Convicted Offender and Arrestee samples

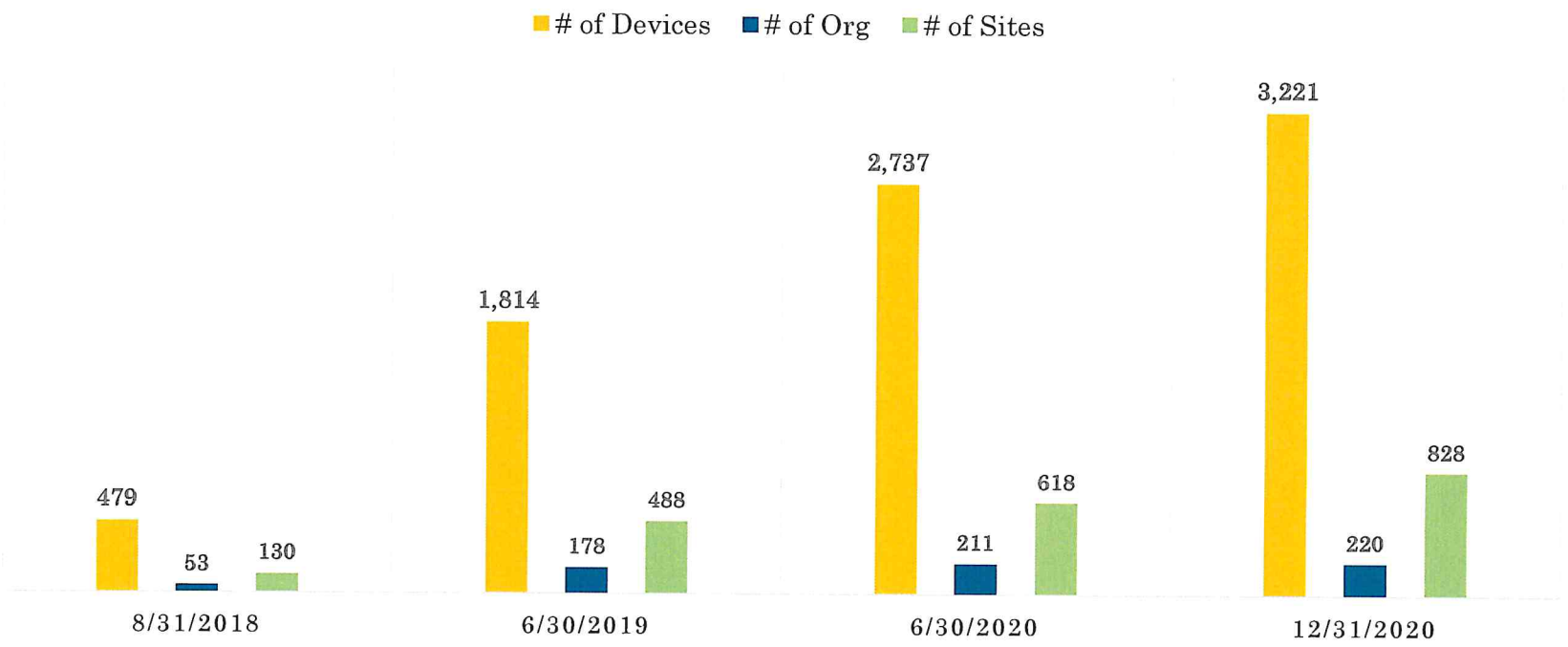
# ND CRIME LABORATORY WORKLOAD



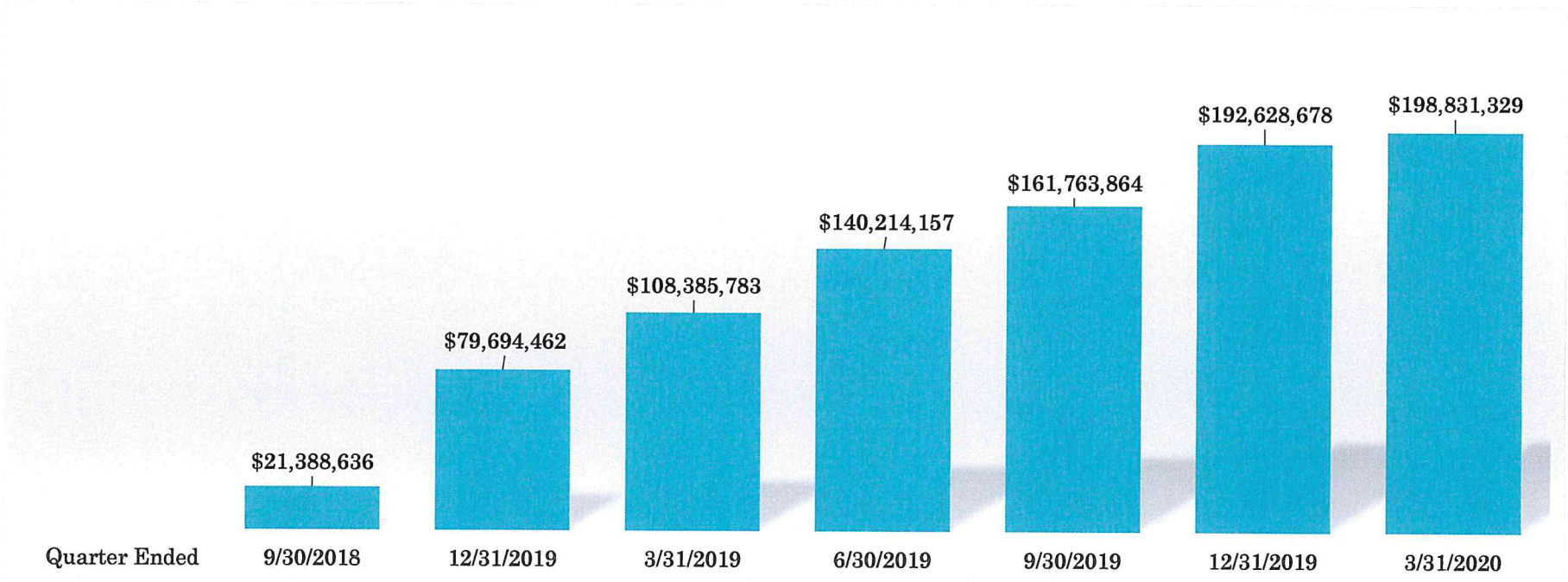
# OFFICE OF ATTORNEY GENERAL
# SAVIN NOTIFICATIONS (2015-2020)



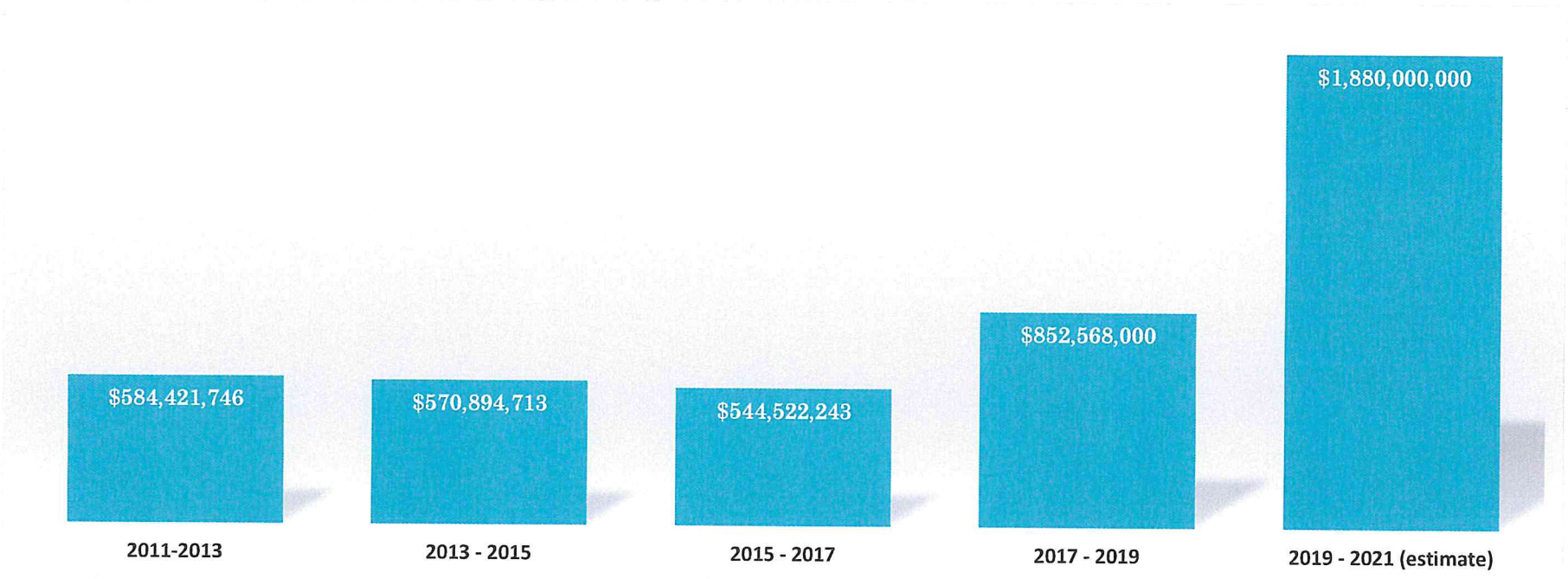
# E-TAB DEVICES



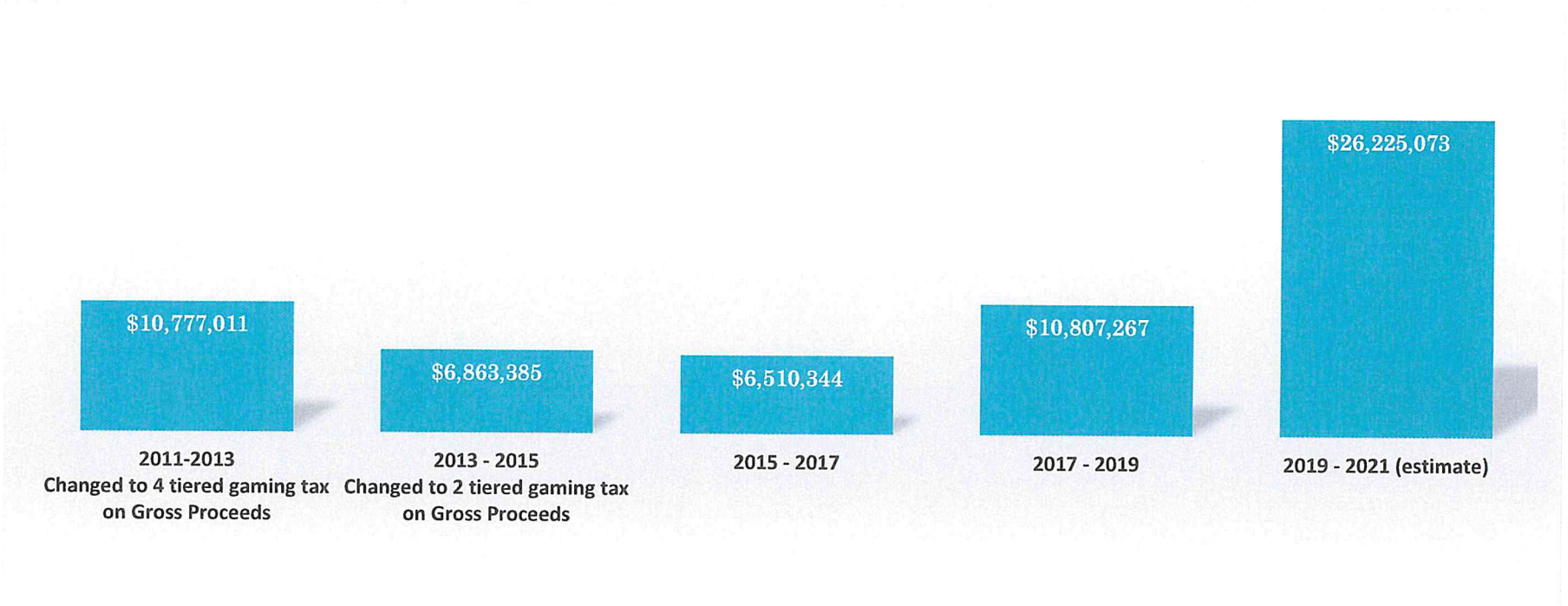
# E-TAB GROSS PROCEEDS PER QUARTER



# ALL GAME TYPE GROSS PROCEEDS PER BIENNIUM



# TOTAL GAMING TAX PER BIENNIUM



# Link for Cassidy Hasseth's Testimonial Video

HB 1003

https://www.legis.nd.gov/downloads/bill-history-media-file/67-2021/hb1003/SAPPR-1003-20210305-7557-F-SMITH_JESSIE.avi

7540

# NDBCI UAS Program

## 2020 review

The North Dakota Bureau of Criminal Investigation Unmanned Aerial Systems (UAS) Team is comprised with multiple Special Agents throughout the State of North Dakota.

These Special Agents are all certified with the FAA under part 107. Part 107 Certificate will allow our pilots to fly day or night UAVs in the United States for Law Enforcement operations while following the guidelines set forth in NDCC, search and seizure and FAA regulations.

# Airframes

## Phantom 4 Pro

The Phantom 4 Pro is the work horse of NDBCI. The Phantom has a camera used to photographically document aerial images and video of crime scenes, traffic accidents, natural disasters, fire/arsons, etc.

The camera sensor is still the best sensor used to collect images and import those images into a program we use Pix4D. This images can be used to create a 3D environment for reconstruction of a scene. The scene reconstruction can be used to measure points anywhere in the image and give an accurate measurement.

# Pix4D

# Airframes

## Matrice 210 V2

The Matrice 210 V2 is an ideal UAV platform for a range of law enforcement missions to include Search and Rescue, Fleeing Subjects, Active Fire calls/Arson, Missing Persons, Over watch Surveillance, Tactical Reconnaissance for SWAT Teams, Search Warrants, etc. This airframe has been used to assist other law enforcement agencies in North Dakota with Amber and Silver Alerts.

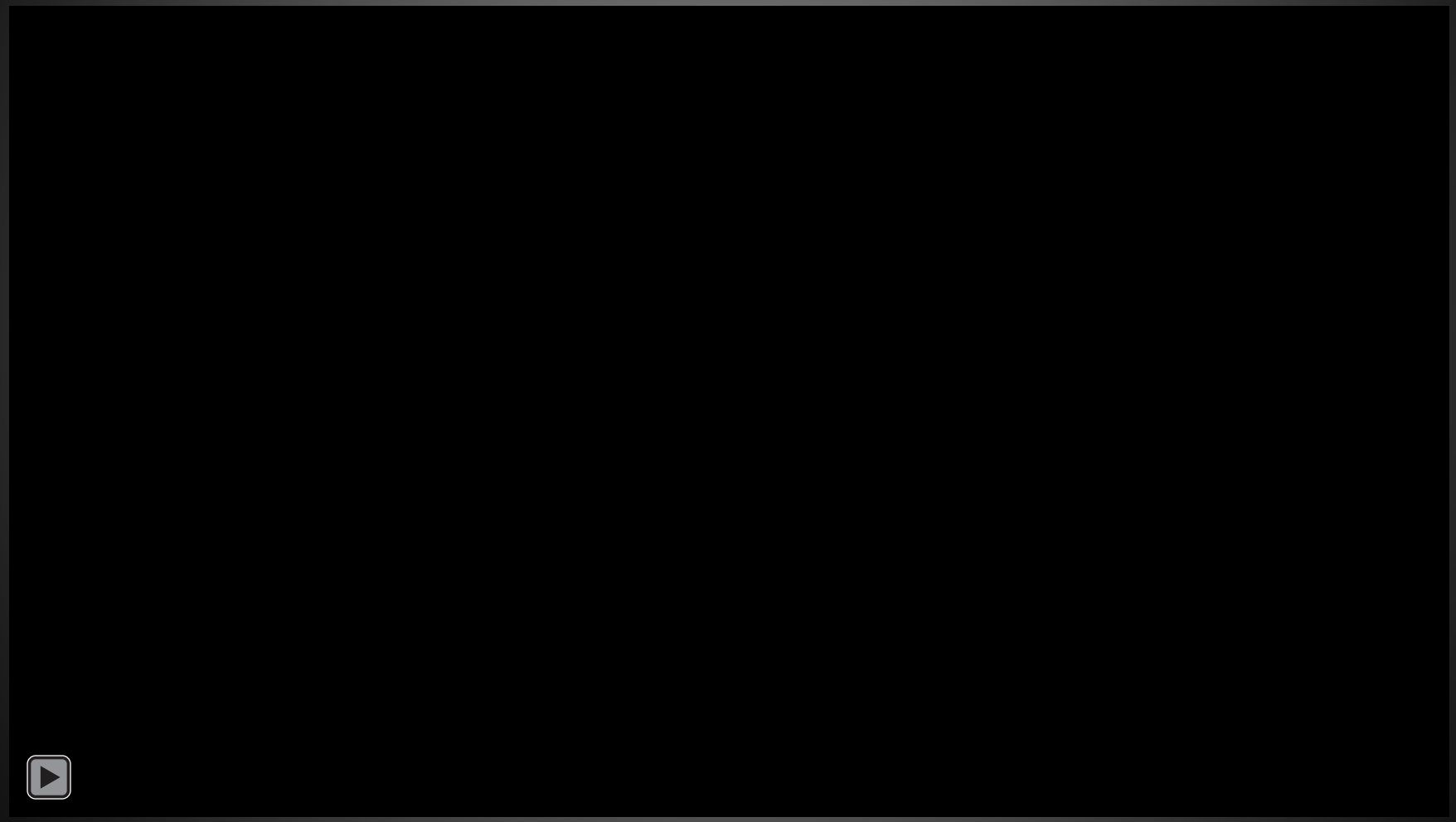
The Matrice 210 V2 used a dual gimbal configuration allowing it to use up to (2) different sensors at once. Currently NDBCI use these drones in conjunction with a Z30 optical zoom camera and a XT2 FLIR camera.

# XT2 Thermal Camera

## By FLIR

# Z30 Zoom Camera

## Can zoom in at 180%



# Continuing to Assist Agencies in North Dakota

Since the creation of the NDBCI UAS Team, the NDBCI have seen numerous successes. The NDBCI has actively assisted several agencies with Missing Person and Search and Rescues. The NDBCI have also assisted Federal Law Enforcement Agencies with border protection and active crime scenes to aid in their investigations.

The NDBCI has taken an active part to train Law Enforcement on UAS rules and regulations. The NDBCI have also trained with local Law enforcement agencies and Emergency Responders on search and rescue scenarios.

Lastly the NDBCI is continuing to strive to assist local agencies whenever we can.
The NDBCI will continue to perform these duties safely and within the State and Federal guidelines.

Testimony in support of HB 1003
Senate Appropriations Committee
Emily Schwartz, Director, North Dakota Human Trafficking Task Force
March 5, 2021

Chairman Holmberg and Members of the Committee:

I come before you today, along with several of my colleagues, to highlight the work that has gone on in North Dakota to fight human trafficking in the last biennium, to provide a summary of how funds appropriated in the 2019 Legislative Session were utilized, and to urge this committee to recommend a "do pass" on HB 1003, which will continue funding for anti-trafficking work in North Dakota. Attached to this summary you will find a description of the North Dakota Human Trafficking Task Force's work in the state, statistics on victim services and investigations data, and a map illustrating the communities in North Dakota where victims were located and/or where trafficking cases are known to have occurred. The problem is statewide, and affects tribal, rural and urban areas. The data we have collected over the last three biennia shows us that human trafficking continues to be a significant problem in North Dakota. The State's financial support has been absolutely critical to the success that victim service organizations and law enforcement have had in building a coordinated, effective response and in collecting data to support our work. We therefore ask that you recommend a do pass on HB 1003, allowing this important work to continue.

Some background information on the utilization of funds appropriated in the 2019 biennium follows:

- HB 1003 is the only appropriation in the state's budget that specifically addresses victim services to human trafficking victims.

- Human Trafficking services were funded at $1.4 million in the 2019 session, $825,000 in the 2017 session, and at $1.25M in 2015.
- The Attorney General's Drug and Violent Crime Policy Board distributed funds. The AG's Office created an application and held hearings with the Board, granting money to nine organizations.
    - Agencies receiving funding include Youthworks, CAWS North Dakota, AARC, CVIC, DVRCC, YWCA, LSND, FCS, and RACC. The funding predominantly supports direct services to exploited and trafficked individuals located in their local communities. This includes:
        - Staff positions, specialized services, and supplies for victim survivors. This includes legal services, shelter, regional case managers and advocates, Navigators, Labor Trafficking Specialists, NDHTTF Director and Grant Tech contracts, training and travel support, and contracts with survivor leader advisors who can best inform the work done in the state.
        - A Human Trafficking Fund created to support victim survivors throughout their healing, including at point of first contact. The fund supports emergency supplies throughout their recovery including medical, mental health, transitional housing, job training, and housing needs. Any organization in the state serving a survivor can request funding by submitting a reimbursement request form. Any request over $250.00 goes through review by a multidisciplinary team for approval prior to being submitted to the Attorney General's Office for approval.

        - The funding also supports the Demand Reduction Program which is an intermediate sentencing, diversion and education option for those charged with misdemeanor prostitution or human trafficking. This program educates participants on the impact of prostitution and sex trafficking on communities, survivors, spouses, and children.

- The funding is only available on a reimbursement basis. Organizations are required to provide documentation, receipts, and activity logs for employees, and the submitted costs are evaluated by the Attorney General's Office for allowability before they are reimbursed with state funds.
- The AG's office has reached out to grantees to ensure that money is obligated and will be spent within allotted timeframe. Reallocations have been made to move funds between grantees from those who indicated they would not be able to spend their funding to the grantees that indicated they needed additional funding.
- State funds were utilized as match funding for federal grants. The NDHTTF will be reapplying in coming months for the Enhanced Collaborative Model task force grant through the Department of Justice, a current key source of funding, and exploring additional federal grant opportunities.
    - State dollars are critical to getting federal funds as almost all programs have 25% match requirement.
    - Federal grants often have different guidelines than state grants and state human trafficking funds are used to cover costs that are unallowable through federal funds.
    - Significant delays in releasing the awarded federal funds have occurred. Without the state funds, employees would have had to be furloughed or laid off.

- I'd like to highlight some key data points found in the supporting documents I've submitted today for testimony:
    - To date, the NDHTTF has served 535 exploited and trafficked individuals in the state.
        - Youth comprise 28% of our caseload, and adults 72%.
        - Sex trafficking is 84% of the caseload, labor trafficking 6%, sex and labor 9%, and other 1%.
        - The NDHTTF Operational Team has assisted in 3,366 instances of technical assistance requests.
        - 170 investigations into trafficking have been conducted.
            - 90% of investigations are for sex trafficking, 7% are labor trafficking, and sex and labor is 3%.
        - The number of individuals trained statewide is 14,151.
        - 80% of victims served were North Dakota residents.
- I'd like to close with a story of a client that was recently assisted as a result of the funds we are discussing today, as relayed by her human trafficking advocate at the YWCA shelter:
    - A human trafficking survivor was referred to the YWCA through a referral from the North Dakota Human Trafficking Task Force (NDHTTF). She shared that she was trafficked by a family member and was being held against her will at a local hotel. After being at the hotel for approximately seven days, hotel staff noted the activity in and out of the hotel room and spoke with the client. Hotel staff limited

her to two visitors per day. The client realized that hotel staff knew what was happening and cared. This interaction with hotel staff led to the client knowing that if she did not reach out for help, the trafficker would move her to another hotel. The client called the human trafficking hotline that connected her to the NDHTTF. The NDHTTF contact arranged for placement at the YWCA and provided safe a transportation from the hotel to the YWCA shelter. During the stay at the YWCA, the human trafficking advocate was able to arrange for medical care, free of charge through a partnership with YWCA and Sanford medical residency doctors. The client did not feel safe in her current location and identified family in another state willing to take her into their home until the she is able to find a job and establish safe housing. The YWCA human trafficking advocate used funding through the NDHTTF Human Trafficking Fund to purchase transportation to get the client to family and safety. The client stayed nine days at the YWCA before being relocated to safety with family members.

Again, I appreciate the opportunity to share the important work of the North Dakota Human Trafficking Task Force with you. I am happy to answer any questions. Thank you.

NORTH DAKOTA
HUMAN TRAFFICKING TASK FORCE

## 535
**Number of Human Trafficking Victims Served in North Dakota**

Youth: 28%
Adults: 72%
Sex: 84%
Labor: 6%
Sex & Labor: 9%
Other 1%

## 170
**Number of Investigations**

Sex: 90%
Labor: 7%
Sex & Labor: 3%

## 14,151
**Number of Individuals Trained Statewide**

## 3,366
**Number of Technical Assistance Calls to NDHTTF Operational Team**

*Data provided: January 1st, 2016 through December 31st, 2020*

# *results of ndhttf work*

- The NDHTTF operates nine multi-disciplinary teams (MDTS) to provide local response to exploited and trafficked individuals. Locations include Williston, Watford City, Dickinson, Minot, Bismarck, Devils Lake/Spirit Lake, Jamestown, Grand Forks, and Fargo.

- The NDHTTF hosts a human trafficking fund that provides short and long-term resources to any victim in the state. The most requested services are for housing, behavioral health, medical/dental, legal assistance, basic needs and transportation.

- Training has yielded better, more accurate identification of suspected and confirmed labor and sex trafficking victims by law enforcement, community providers, and the public. Training includes best practices when working with victims and how to successfully investigate trafficking.

- Service providers and law enforcement have demonstrated continued commitment to survivors. Ongoing access to services is critical as approximately 80% of victims served are North Dakota residents.

ndhttf.org

NORTH DAKOTA
HUMAN TRAFFICKING TASK FORCE

## Who We Are

The North Dakota Human Trafficking Task Force (NDHTTF) is a collaborative team made up of law enforcement, prosecution, and service providers at federal, state, and local levels.

## What We Do

We are a team that responds to victims of sex and labor trafficking; providing comprehensive services, investigating traffickers and solicitors, and prosecuting offenders. The NDHTTF is the nexus for a network of law enforcement and service providers to work in tandem to build capacity and combat trafficking statewide.

## When We Started

Since 2015, the Attorney General and the Human Trafficking Commission have been working closely with the NDHTTF to build a coordinated response to human trafficking in the state.

## Where We Serve

NDHTTF serves the entire state of North Dakota.

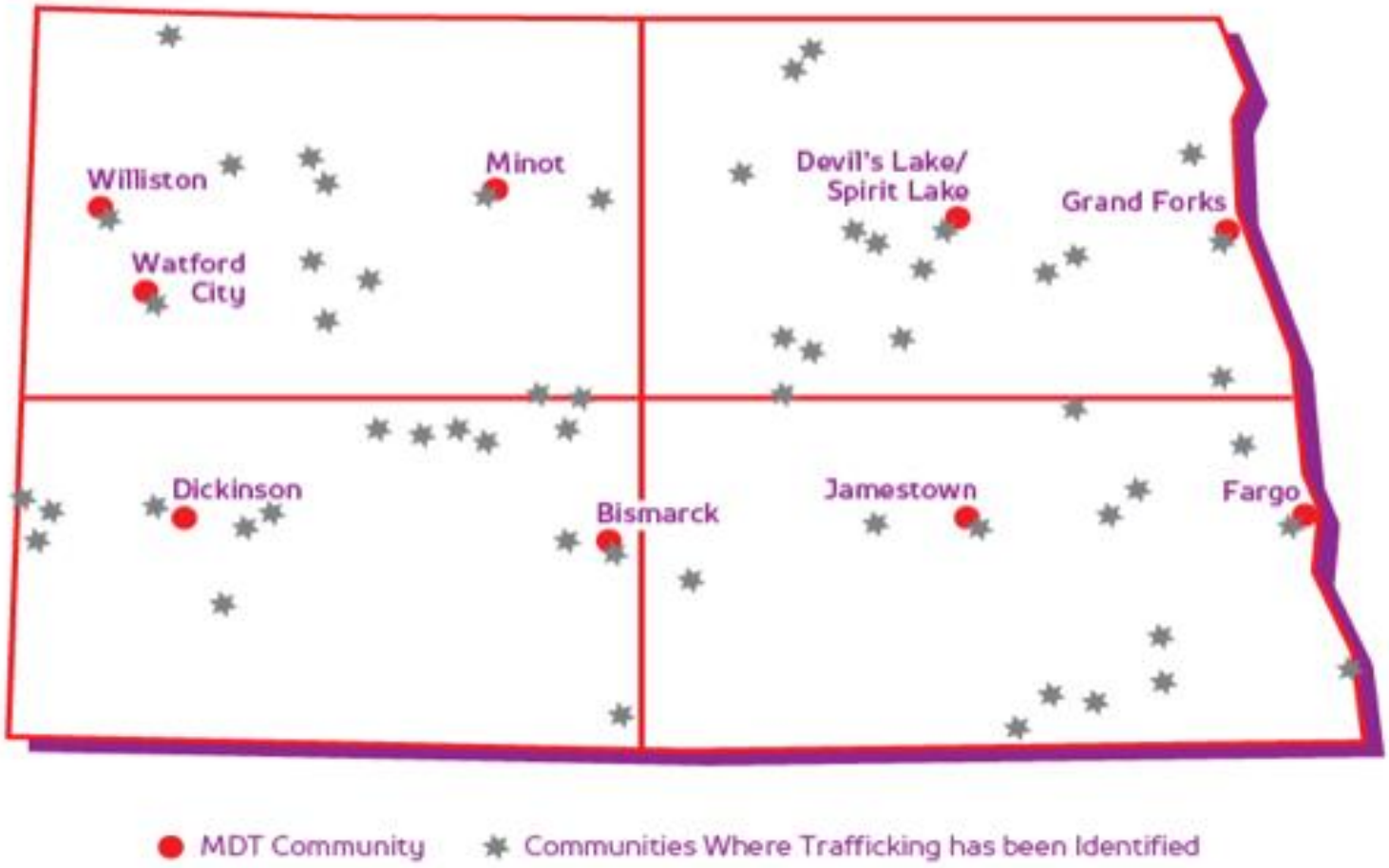
## Why We Exist

NDHTTF exists to prevent, detect, disrupt, and dismantle human trafficking.

## How We Do It

- Train communities to identify exploitation and trafficking and provide points of contact
- Train local multidisciplinary teams to respond to victims and investigate trafficking-related crime
- Assist response agencies and communities with the development of response protocol
- Provide technical assistance to local response teams upon request
- Run operations and investigate trafficking related crime
- Prosecute offenders and provide victims with restitution
- Engagement in national anti-trafficking best practices and sharing of resources
- Build networks for victims to access services and resources

# NORTH DAKOTA HUMAN TRAFFICKING MDT & TRAFFICKING CASES MAP



**Senate Appropriations Committee**
**House Bill 1003 - Human Trafficking Victims Grants**
Chairman Holmberg
March 5, 2021
Stacy Schaffer
Program Coordinator for the Demand Reduction Program and Executive Director of 31:8 Project
schaffer@318project.org – 701-321-1061

Chairman Holmberg and members of the Senate Appropriations Committee, I would like to thank you for the opportunity to speak before you today. My name is Stacy Schaffer and I am the Program Coordinator for the Demand Reduction Program and Executive Director of 31:8 Project.

The Demand Reduction Program (DRP) is an intermediate sentencing, diversion and education option for those charged with misdemeanor prostitution or human trafficking. This program was added to the North Dakota Century Code during the 2015 Legislative Session. DRPs are sometimes referred to as "John Schools" with the goal of reducing recidivism rates for participants. It educates on the impact of prostitution and sex trafficking on communities, survivors, spouses, and children.

After introduction of the DRP in 2015, the first class was held in 2017. The educational courses are offered quarterly and can be hosted in the following communities: Fargo, Bismarck, Grand Forks, Watford City, and Minot. Since the inception of the program, twenty-one offenders have completed the program. Attendees ranged in age from 20-54 years old from various rural and urban areas in North Dakota. To increase awareness about the program among judges, attorneys, and law enforcement officers, I conduct outreach and education to individuals around the state, reaching over 1,500 people in 2019. As a result, there has been an increase in referrals to the program through law enforcement, probation officers, and prosecutors recommending the DRP as a sentencing option for judges. This program also incorporates input from survivors of human trafficking. As the program grows and generates additional revenue, it will provide support for victim services.

I believe it is critical that financial support is available to help reduce the demand as part of prevention. As one participant of the DRP stated, "I have learned a great deal about Human Trafficking from this class, it has been an eye opener for me. I hope this education can continue to be a mainstream in our community." Thank you for your time and consideration.

Megan Lundborg, Youthworks
Testimony on House Bill 1003 - Human Trafficking Victims Grants
Senate Appropriations Committee
March 5, 2021

My name is Megan Lundborg. I am a licensed social worker, an advocate, a sister, a daughter, and a survivor of human trafficking. Several years ago I was exploited and sold in the state of North Dakota. I don't tell you this for sympathy or to be told I'm strong and brave; I tell you this to give you a face, to show you this is real.

I have been a part of the anti-trafficking work in this state since the inception of the North Dakota Human Trafficking Task Force. I have worked primarily with the youth victims of our state. I have worked with youth, our nation's future, that feel unheard, unseen, and forgotten. I have watched them change and grow after having a team of law enforcement, prosecutors, and service providers tell them "we believe you.". Before even reaching legal adulthood, they have experienced more trauma and abuse than some experience in a lifetime. They don't experience these things because they chose to. They experience these things because they have been failed by adults in their lives. Science tells us it takes one adult to change the trajectory of someone struggling. Our task force is made up of many adults looking to be the positive, consistent advocates for the future of our state.

The past several years I have been facilitating a group called My Life My Choice. This is a prevention group for females ages 12-17 years old. What I have found is while I am providing prevention education to my referrals, over half of them have already experienced exploitation. We are reaching them after the trauma has already been inflicted. Our world continues to be evolving within social media. Social media is a major link to this crime, and the only way to combat it is to continue our knowledge, services, and team of passionate individuals fighting to provide a way out for the victims.

As a survivor, an advocate, and citizen anti-trafficking work is dear to my heart. Survivors need compassion, support, and to know they are not alone. For years I was told what happened to was not a crime, but a choice I made. As a child I wanted to be a veterinarian, not what some would refer to as a prostitute with little to no choice regarding if I would eat that day or who I would have to give my body to. I was alone. Without these services, that is how our citizens, our survivors, will remain; they will feel hopeless, destitute, and uncared for. It is our job to provide change. This could happen to your family. I never thought it would happen to mine. However, human trafficking does not discriminate. For every human trafficker and exploiter we prosecute, there are many more. This does not stop with one victim and one trafficker. It crosses our entire state, a place we should speak proudly of. We have the opportunity to be a leader in our nation, combatting a crime that effects the people and the communities, but is hidden if we choose to not see it.

Funding for these services isn't just for anti-trafficking work and intervention; these services combat substance use, mental illness, crime, and social injustices connected to the additional crimes and the victimizations linked. Please support the appropriation in the Attorney General's budget to continue to support these important services.

Testimony in support of HB 1003
Senate Appropriations Committee
Lane Masters, Bismarck Police Department
March 5, 2021

My Name is Lane K. Masters, I work for the Bismarck Police department. I have worked for the department for over seven years, serving as a detective for four of those years. During my time as a detective, I became involved in human trafficking, and commercial sexual exploitation of youth cases. Prior to this I worked as a Patrolman, a field training Officer, a property crimes investigator, a financial crimes investigator, a child abuse investigator, and a violent crimes investigator.

During this time, I have interviewed embezzlers, thieves, drug dealers, murderers, and even those who would violently assault an infant. For most of the people who commit crime, their behavior stems from a weakness in character, such as addiction. A pimp, however, is a different class of criminal. Pimps are cunning and manipulative and seek out the most vulnerable of young women to enroll into this slavery. Often these women enter “the life” as children. I can say from personal experience investigating cases within the jurisdiction of Bismarck, the young girls who become trapped in “the life” are girls who have been failed by their parents, failed by society, and live a life of such despair that drugs are often their solitary means of escape. The pimp often starts as a provider of shelter and these drugs. Keeping the child off the streets and in a numbed state to manipulate them into servitude. Do not think for a second that this cannot happen to North Dakota youth. This has and continues to happen to our youth; in fact, during my time investigating within this discipline the bulk of my work has been with young runaway girls being exploited.

I was relieved to find, when I entered this field of work, that there was a small but highly skilled, motivated, and passionate team of people dedicated to combating this hideous mark on our society. You have heard from many of these people today. Human trafficking is a complicated problem, and complicated problems require multi-faceted solutions. Law Enforcement's approach to human trafficking has significantly changed over the years, having run the spectrum from arresting the victims, to recognizing them as such. Now when we identify a victim of human trafficking, this team of people approach each case, together. I often tell people that amongst this team, I am the least important person in the room, as the people who comprise this team are capable of remarkable things with the victims of human trafficking. This team, this task force, takes a truly holistic approach to the problem, with efforts emphasizing victim safety, recovery, and even helping them thrive after getting out of "the life."

With exploited youth this team works with other entities to place, protect, educate, and treat the youth in effort to give them a life better than the one they were dealt. This often takes multiple attempts, as addiction, despair, and trauma are difficult demons to slay. A grizzled old detective once told me, "We speak for those who cannot speak for themselves." I feel this way about this team, and about the work they do for youth of North Dakota. There is truly, none more needing of our effort, and none more deserving of our charity than a forsaken child.

We can no longer claim innocence by the guise of ignorance. Our state is a state in high demand for this commodity of human suffering. The same assets which make us financially strong make us morally responsible. We are a state with a reputation amongst traffickers as having this demand, due to the need for laborers in our prosperity. I have viewed multiple cell phone conversations between out of state pimps and their victims wherein the pimp discusses how easy it is to obtain clients in North Dakota. But do not be deceived, the people who patronize these

endeavors are not limited to out of state laborers. In fact, through many John stings I learned that there is no set societal nor economic category of person who would seek to purchase a human being for sexual service. Many delusion themselves with the belief that it is a transaction amongst consenting adults, however for the overwhelming majority of such women, there is a pimp not far away, profiting from modern slavery.

Amongst all the people in this room, prosecutors, Law Enforcement, judges, service providers, and you as law makers, we collectively have the power to change our state's reputation. North Dakotan's value kindness and "North Dakota nice" has long been a motto describing our citizens. "Be Legendary" is our state's brand. "Legendary" simply means remarkable enough to be famous. I would say that Theodore Roosevelt was Legendary, but also Genghis Kahn; albeit for very different reasons. All of us in this room, right now, can do something important for the front lines of a crisis which is only just recently gaining the national attention it deserves.

Right now, North Dakota has the opportunity to address this crisis. We are a state with a small enough population, a large enough wealth, and a people armed with kindness. I envision that with the right leadership, the right funding, and commitment to the cause, North Dakota could turn our reputation around from being a state in demand for trafficking, to a bastion of safety for those so trafficked. I think we all would prefer that pimps fear sending their victims to North Dakota, lest they be rescued from them, rather than profiting from our resources.

Let us today be legendary for the right reasons. Thank you.

Hello, my name is Whitney Brothers and I am one of the Nurse Site Managers for Central Dakota Forensic Nurse Examiners. I have worked with CDFNE as a sexual assault nurse since 2016.

I have been invited to share with you today some information regarding our organization and specifically how it relates to the SANE bill grant. CDFNE is a non-profit 501(c)3 organization that performs medical forensic exams for patients who are reporting sexual assault. CDFNE's headquarters is in Bismarck, but we have expanded locations to include Minot, Dickinson, and Williston. Throughout those four regions, we currently have about 22 nurses working to provide services to patients in those areas. Our mission is to provide professional, compassionate, and timely collection of forensic evidence for survivors of sexual assault across the lifespan. Our patients can include anyone from a newborn infant to an elderly patient and all ages in between. Our organization provides forensic medical services which can include collection of evidence including DNA samples, taking photographs of any injuries present during the exam and assessing the patient's health and wellbeing.

2019 was the first year the SANE funding was included as a line item in Attorney General Wayne Stenehjem's budget. This money totaled $250,000 for all the SANE services throughout the state of North Dakota. That money was allocated to the different SANE programs through a grant process. CDFNE completed the application process and with the money we were awarded two years ago, we have been able to provide services to over 760 victims who have experienced sexual violence. Keep in mind, I am only able to speak to the number of victims that our organization sees, this is not a total number for the state of North Dakota. In addition to CDFNE, there is a fully staffed SANE program in Jamestown, two in Fargo, one in Grand Forks and they are working to develop one in Devils Lake. There is also a small number of SANE nurses practicing in scattered areas around rural North Dakota.

Taking a closer look at the statistics, in 2019, across all four locations of CDFNE we served 439 victims. In 2020, we served 321 victims. In total, over the past two years, we have provided services to 760 sexual assault victims in the western part of North Dakota. These victims are of all ages, including babies,

small children, adolescents, adults, and the elderly. Now let me put that into perspective, over the past two years, we have seen 760 victims, there are 730 days in two years, so we have been able to provide services to more than one patient per day over the past two years. One of the reasons we can provide services to these patients is due to the money that we received from the SANE grant program. We are extremely grateful for this money and all that it has allowed us to do for the patients in our communities throughout western North Dakota.

CDFNE is proud to announce we have now opened a clinic in our Bismarck office where we will be able to see the patients, we saw in the hospital for follow up care. Unfortunately for victims of sexual violence, follow up care has been a struggle for multiple reasons. One of the reasons patients do not receive follow up care is that they do not want to have to tell another person about what has happened to them, forcing them to relive their experience over again. Often, they do not want this to be a permanent part of their medical record. Sometimes they are not able to afford follow up care or testing. But because CDFNE was awarded money from the SANE grant to help cover the costs of SANE services, we are now able to allocate some of the other grant money we received and put it towards opening this follow up clinic. This clinic has been on the drawing board for a quite a few years now and we are extremely excited to open our doors and see how we can continue to serve patients in our community. We are specialized in sexual violence and we are focused on providing compassionate care to these victims. Our staff saw them initially, so we know their story, they do not have to repeat it, they do not have to relive it. Our clinic will be focused on follow up care, including a full head to toe assessment, providing reassessment and documentation on any injuries that were either present at the initial exam or might not have been present but are present at the follow up exam. For example, some injuries related to strangulation often take time to appear. We will provide testing for sexually transmitted infections and we are able to provide a range of other services for certain preexisting health conditions. Through this follow up clinic we are excited to help close the gap for these patients who otherwise might not have received the follow up care that they need.

At this time, we will only have a follow up clinic in our Bismarck location, but we hope in the future that we can expand these services to our other locations, including Minot, Dickinson, and Williston. Our goal would be to provide follow up care and services to each of the 760 patients we have seen over the past two years.

I wanted to talk a little bit about being a SANE nurse. When people hear that I am a nurse, they seem to always get this excited look on their face and say "Oh! Where do you work? What kind of nurse are you?". Honestly, I am always a little hesitant to respond. Normally I say, "Well I work part time at Sanford on their observation unit" and then I pause and say, "I also work part time as a SANE nurse" and people will say, "A SANE nurse? What's that?" I tell them it stands for sexual assault nurse examiner, so I work with patients who have been sexually assaulted. Immediately the excited look on their face goes away, they avoid eye contact and respond, "Oh that must be really hard. Why would you want to do that?". That got me thinking, why do I do this? Why do I choose to be a SANE nurse? Where I am called in the middle of the night from the local hospital saying there is a patient who needs to see me? Or I get a call and must leave a family function because there is a patient requesting an exam. Why do I put myself through those emotional and sometimes stressful, lengthy exams that can take anywhere from 4-6 hours? Why do I get all stressed out about testifying in court? And I know why. It is because of the patients who at the end of their lengthy 6-hour exam, that was filled with high emotions and reliving trauma, ask if they can give me a hug? The patients who say thank you, thank you for being here for me. For the parents who brought their child in for an exam because they found out someone is assaulting their little one. For the teenager who is scarred to tell her parents because she thinks she will get in trouble. For the elderly patient crying "Why me? Why would anyone do this to an old lady like me?" All these patients are the reasons why I continue to practice as a SANE nurse. And on behalf of these patients and SANE nurses across the state, I would like to thank you all for including us in the budget and allocating money so that we can continue to serve these patients who otherwise might not have anyone. Thank you.

# 2021 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**
Roughrider Room, State Capitol

HB 1003
3/15/2021
Attorney General Subcommittee

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

**Senator Bekkedahl** opened the hearing at 2:08 p.m.

Senators present: **Bekkedahl, Holmberg and Heckaman.**

**Discussion Topics:**

- Litigation
- Other Bills being considered

**Wayne Stenehjem, Attorney General,** answered questions of the sub-committee and provided testimony #9300.

**Jason Bohrer, Lignite Council,** answered questions from the sub-committee

**Becky Keller, Office of the Attorney General,** answered questions of the sub-committee and continued on testimony #9300.

**Additional Written Testimony:** #9301

**Senator Bekkedahl** closed the hearing at 3:01 p.m.

*Skyler Strand, Committee Clerk*

9300

3/15/2021

**15% Reductions that we need to have restored:**

| | Priority | General Fund | Federal Funds | Other Funds | Reason for Need: |
|---|---|---|---|---|---|
| Operating Line: | | | | | |
| IT operating | 1 | 568,350 | | | Software, IT supplies, contractual services |
| BCI operating | 1 | 454,562 | | | Travel, equipment, equipment rental, professional development, operating fees |
| Crime Lab operating | 1 | 126,646 | | | Lab supplies, travel, professional services, repairs for equipment, utilities, travel |
| Fire Marshal operating | 1 | 145,619 | | | Equipment repairs, IT communications, rent, travel, supplies |
| | | 1,295,177 | | | |
| Law Enforcement Line | | | | | |
| BCI | 1 | 283,227 | | | criminal investigator (Williston area), admin assistant (Bismarck office) |
| Crime Lab | 1 | 34,377 | | | professional development, operating fees and services, travel, supplies, |
| Fin Admin | 1 | 26,133 | | | travel and operating for grant staff |
| | | 343,737 | | | |
| CJIS Line - operating | 1 | 271,889 | | | portal, broker, maintenance |
| IP Attorney Line - salary/operating | 1 | 447,791 | | | Legislature can determine need |

**Optional requests NOT included in House Version:**

| | | GF | FF | OF | |
|---|---|---|---|---|---|
| Gaming regulation salaries - 4 FTE | 4 | | | 814,863 | will leave gaming short-staffed; Fund Gaming Division through gaming taxes. |
| Gaming regulation operating | 4 | | | 144,836 | Operating expenses for new FTE |
| Justware - CJIS IT | 6 | 500,000 | - | 120,000 | cannot start legal system replacement; Special fund from SAVIN carryover |
| Narcotics Buy Fund | 7 | 100,000 | | | |
| Ammunition | 7 | 21,941 | | | |
| | | 621,941 | 0 | 1,079,699 | |

**Additional Requests**

| | GF | FF | OF | |
|---|---|---|---|---|
| IT maintenance - Fund 250 | | | 650,000 | To cover additional maintenance costs for several new projects |
| Increase ABIS - NARIP (NCIS Act Record Improvement Program) | | 290,000 | | Additional grant funding available to finish the project in 21-23 |
| tracking system SB 2281 - SAFE ITR | | 255,000 | | Need authority and **emergency clause** |
| Crime Lab renovation - COVERDELL | | 98,900 | | Grant funding to add glass window for evidence drop off; **emergency clause** |
| Crime Lab drug analyzers - DOT | | 100,000 | | DOT grant additional funding awarded in January 2021; **emergency clause** |
| Contingency Attorney Fees | | | | **Need emergency clause** |
| Carryover authority for delayed shipment | | | | Desktops, laptops etc - shipping delays on items already ordered. |
| Litigation fees | 1 | 22,500 | | If don't get it back, will go to EC |
| Arrest/return | 1 | 1,500 | | If don't get it back, will go to EC |
| Nitrogen Generator - maintenance | 6 | 5,405 | | Won't have maintenance money for equipment |
| ELISA Plate Reader - maintenance | 6 | 1,900 | | Won't have maintenance money for equipment |
| Gas Cylinders | 6 | 8,235 | | Need for intoxylizers that were included in budget |
| **House Reduction** | | 210,000 | | The House removed an additional $210,000 from base operating. |

**15% Reductions that we need to have restored:**

| | | General Fund |
|---|---|---|
| Operating Line: | | |
| IT operating | | |
| Software, IT supplies | (218,350) | |
| Contractual Services | (350,000) | |
| Total IT operating reduction | | (568,350) |
| BCI operating | | |
| Travel | (132,543) | |
| Equipment | (101,636) | |
| Leases/Rent equip | (100,000) | |
| Repairs/Service contracts | (6,383) | |
| Professional Development | (14,000) | |
| Operating Fees/Services | (100,000) | |
| Total BCI operating reduction | | (454,562) |
| Crime Lab operating | | |
| Travel | (5,300) | |
| Supplies | (5,850) | |
| Equipment | (1,900) | |
| Utilities | (9,850) | |
| Repairs/Service Contracts | (28,146) | |
| Professional Development | (1,600) | |
| Operating Fees/Services | (25,000) | |
| Professional Services | (24,000) | |
| Medical Supplies | (25,000) | |
| Total Crime Lab operating reductions | | (126,646) |
| Fire Marshal operating | | |
| Travel | (5,000) | |
| Supplies | (13,500) | |
| Equipment | (6,000) | |
| Leases | (50,000) | |
| Repairs/Service Contracts | (30,000) | |
| IT Communications | (30,000) | |
| Operating fees/Services | (11,119) | |
| Total FM operating reduction | | (145,619) |
| Total Operating Line Reduction | | (1,295,177) |
| Law Enforcement Line | | |
| BCI | | |
| Agent Salary | | (218,762) |
| Admin Assistant Salary (50% reduction) | | (64,465) |
| Crime Lab | | |
| Building maintenance | | (8,000) |
| Supplies | | (10,382) |
| Equipment | | (8,812) |
| Repairs | | (7,183) |
| Fin Admin | | |
| Travel for grant staff | | (10,000) |
| Operating for grant staff | | (16,133) |
| Total Law Enforcement line reduction | | (343,737) |
| CJIS Line - portal, broker, maintenance | | (271,889) |
| IP Attorney Line - salary/operating | | (447,791) |

Other Sections to be Added to Engrossed House Bill 1003:

3/15/2021

**SECTION _. CONTINGENT FEE ARRANGEMENT.** Notwithstanding section 54-15-08.1 of the North Dakota Century Code, the office of attorney general may contract for legal services which will be compensated for by a contingent fee arrangement, relating to ongoing technology multi-state litigation, during the biennium beginning July 1, 2021, and ending June 30, 2023

**SECTION _. EXEMPTION – STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION PROGRAM.** The sum of $815,000 from other funds appropriated to the attorney general for the statewide automated victim information and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws and section 9 of chapter 28 of the 2019 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 for replacement of the legal case management system, during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION _. EXEMPTION – INFORMATION TECHNOLOGY EQUIPMENT.** The sume of $43,058 from the general fund appropriated to the attorney general for information technology equipment in section 1 of chapter 28 of the 2019 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 for purchase of information technology equipment, during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION _. ESTIMATED INCOME - CHARITABLE GAMING TECHNOLOGY SYSTEM - EXEMPTION - GAMING TAX ALLOCATION**. The estimated income line item in section 1 of this Act includes $475,000 from the attorney general operating fund for the purpose of purchasing equipment and software for a charitable gaming technology system. Notwithstanding the provisions of section 53-06.1-12, from the deposits designated for deposit in the general fund under subsection 3 of section 53-06.1-12 in fiscal year 2020, the attorney general shall deposit $475,000 into the attorney general operating fund during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION _. GAMING GRANTS.** Notwithstanding subsection 4 of Section 53-06.1-12 of the North Dakota Century Code, the office of attorney general may distribute the 2019-21 biennium seventh and eighth quarter gaming taxes to cities and counties by October 31, 2021.

**SECTION _. REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND.** Notwithstanding section 18-13-03 of the North Dakota Century Code, the office of attorney general may invest $125,906 from the reduced cigarette ignition prpensity and firefighter protection act enforcement fund, for the purpose of providing salary equity increases to fire marshal positions, during the biennium beginning July 1, 2021, and ending June 30, 2023

**SECTION _. EMERGENCY.** Section __ relating to contingent fee arrangements; $255,000 of other income for a sexual assault evidence collection kit tracking system; and $100,000 of other income for drug analyzers, included in section 1 of this Act are considered to be emergency measures.

**ION 7. ESTIMATED INCOME - SALARY EQUITY INCREASES - ATTORNEY GENERAL REFUND FUND - REDUCED RETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND.** The estimated income line n section 1 of this Act includes ~~$1,133,232~~ $1,007,326 from the attorney general refund fund for the purpose of providing salary equity ses to ~~employees in the attorney general's office, of which $1,007,326 is for~~ bureau of criminal investigation positions and Medicaid control unit positions and $125,906 from the reduced cigarette ignition propensity and firefighter protection act enforcement fund ~~is~~ purpose of providing salary equity increases for fire marshal office positions, for the biennium beginning July 1, 2021, and ending 30, 2023.

**ION 8. LEGISLATIVE INTENT - ATTORNEY GENERAL - SALARY EQUITY INCREASES - INVESTMENT OF LAWSUIT LEMENT PROCEEDS - STATE INVESTMENT BOARD.** The attorney general may invest up to ~~$2,266,464~~ $2,500,000 of funding in torney general refund fund, ~~of~~ which ~~$1,160,896~~ is derived from ~~January 2021~~ lawsuit settlement proceeds and $251,812 of funding reduced cigarette ignition prpensity and firefighter protection act enforcement fund, under the supervision of the state investment for the period beginning July 1, 2021, and ending June 30, 2025. It is the intent of the sixty-seventh legislative assembly that ~~,464~~ $2,500,000 in the attorney general refund fund and any investment earnings on the funding be retained in the attorney general l fund and $251,812 in the reduced cigarette ignition prpensity and firefighter protection act enforcement fund and any investment igs on the funding be retained in the reduced cigarette ignition propensity and firefighter protection act enforcement fund, for the se of providing salary equity increases as provided for in section 7 of this Act and for the cost to continue the salary equity increases the 2023-25 biennium, subject to legislative appropriations.

**Engrossed House Bill 1025** provides a supplemental general fund appropriation of $181,152 to the Office for the 2019-21 biennium for lawsuit expenses associated with a constitutional challenge to North Dakota's corporate farming laws.

**Engrossed House Bill 1162** allows licensed organizations to conduct online raffles in North Dakota. **The impact of this bill is unknown.**

**Engrossed House Bill 1212** changes the gaming tax structure and creates a charitable gaming operation fund for deposit of all gaming taxes. Appropriated Gaming Division administrative and operating costs would be paid from this fund. This bill also provides a continuing appropriation for allocations related to gambling disorder prevention and treatment. Any gaming tax revenue remaining in the fund at the end of the biennium would be transferred to the general fund. **The $1,756,101 general fund share of the Gaming Division's appropriation has not been moved to special funds in the Office's appropriation bill or this bill.**

**Engrossed House Bill 1234** provides authorization of sports betting and the creation of a sports wagering commission within the Attorney General's office, contingent on adoption of House Concurrent Resolution 3032 by the qualified electors of North Dakota in the November 2022 general election. **The effective date of this bill will be August 1, 2023** so there is no fiscal impact during the 2021-23 biennium.

**Engrossed House Bill 1389** provides for licensing and regulation of live poker contingent on adoption of House Concurrent Resolution 3012 by the qualified electors of North Dakota in the November 2022 general election. This bill would be effective for the last six months of the 2021-23 biennium. It is estimated a new division would be required within the Attorney General's office. The fiscal impact of this bill cannot be determined at this time, so **no funding has been added to the Office's appropriation bill or this bill.**

**Engrossed Senate Bill 2281** requires the State Crime Lab to develop and implement a statewide sexual assault evidence collection kit tracking system and provides an emergency clause. Federal funds of $255,000 are available under the SAFE ITR grant for this project but an appropriation has not been added to this bill. **The $255,000 and an emergency clause have not been added to the Office's appropriation bill.**

**Criminal history record checks:** Several bills require the Office to conduct criminal history record checks. The Office estimates one FTE per 3,000 record checks per year. The current number of new record checks being requested is **938**. These additional record checks will be absorbed by existing staff. The Office will continue to monitor the number of record checks being requested.

Bills including criminal record history checks:

| | | # per Year |
|---|---|---|
| HB 1122 | Reserve Peace Officers | 100 |
| HB 1253 | Secretary of State | 5 |
| HB 1347 | DHS - Early Childhood Services | 578 |
| HB 1359 | Dept of Health - medical marijuana | 20 |
| HB 1420 | Dept of Health - retail edible marijuana | 125 |
| | | 828 |

| | | # per Year |
|---|---|---|
| SB 2062 | State Historical Society | 30 |
| SB 2110 | Dept of Transportation | 10 |
| SB 2131 | DHS - Children's Advocacy | 30 |
| SB 2174 | Commission on Legal Counsel | 10 |
| SB 2187 | Board of Dietetic Practice | 10 |
| SB 2338 | Public Service Commissioner | 20 |
| | | 110 |

**Cost of Gaming Division:**

| | | |
|---|---|---|
| | FTE | 17.00 |
| Engrossed HB 1003 | | |
| Salaries and wages | 3,506,256 | |
| Operating | 459,483 | |
| Gaming Grants | 510,000 | |
| Gaming Commission | 7,489 | |
| | 4,483,228 | |
| Four Addt'l FTE not included by House: | | |
| Salaries[1] | 814,863 | 4.00 |
| Operating | 144,836 | |
| Gaming System Phases 3 and 4 | 475,000 | |
| Total Gaming Tax Revenue needed | 5,917,927 | 21.00 |

[1] Amount does not include compensation increase.

| Current Funding Spread | Gen Fund | Oth Funds | Total |
|---|---|---|---|
| | 1,749,241 | 2,733,987 | 4,483,228 |

## New Gaming FTE:

| | | |
|---|---|---|
| Auditor I | 3.00 | Gaming auditors; one auditor would assist the auditor-in-charge for audits of distributors and manufacturers |
| Auditor III | 1.00 | Auditor with IT background to assist with drafting technical standards for the manufacturers, operations of electronic devices and assist with technical changes with state forms and the state gaming system |
| Auditor III | 1.00 | Special projects manager to assist with drafting rules and regulations and to assist with legislative items and other projects as needed |
| Auditor IV | 1.00 | Auditor-in-charge to audit distributors and manufacturers and to assist with licensing and rule writing |
| Investigators | 2.00 | Licensed peace officers with accounting background to assist local law enforcement with regulation, compliance, and prosecution. Will conduct covert operations and train local law enforcement, city and county auditors on gaming rules and regulations. |
| | 8.00 | |

Crime Labe Forensic Scientist Estimates

3/15/2021

| | Average Salary | | Starting Salary | |
|---|---|---|---|---|
| | Toxicologist | DNA | FS I | FS II |
| Salaries | 118,344 | 138,648 | 93,000 | 123,600 |
| Benefits | 57,642 | 61,514 | 55,363 | 60,100 |
| Total | 175,986 | 200,162 | 148,363 | 183,700 |
| | | | | |
| Travel | 4,000 | 4,000 | 4,000 | 4,000 |
| It Software/Supp. | 1,155 | 1,155 | 1,155 | 1,155 |
| Professional Supp. & Materials | 1,500 | 1,500 | 1,500 | 1,500 |
| Food & Clothing | 1,000 | 1,000 | 1,000 | 1,000 |
| Bldg./Equip. Supp. | 1,000 | 1,000 | 1,000 | 1,000 |
| Misc. Supplies | 1,500 | 1,500 | 1,500 | 1,500 |
| Office Supplies | 500 | 500 | 500 | 500 |
| Postage | 500 | 500 | 500 | 500 |
| Printing | 500 | 500 | 500 | 500 |
| It Equip. Under $5,000 | 1,815 | 1,815 | 1,815 | 1,815 |
| Other Equip. Under $5,000 | - | - | - | - |
| Office Equip. Under $5,000 | 5,500 | 5,500 | 5,500 | 5,500 |
| Insurance | 300 | 300 | 300 | 300 |
| Lease/Rent Equip | 300 | 300 | 300 | 300 |
| Lease/Rent Bldgs. | - | - | - | - |
| Repairs/Service Contracts | 3,000 | 3,000 | 3,000 | 3,000 |
| Itd - Data Proc. | 3,000 | 3,000 | 3,000 | 3,000 |
| Itd - Communications | 3,000 | 3,000 | 3,000 | 3,000 |
| Professional Develop. | 5,000 | 5,000 | 5,000 | 5,000 |
| Operating Fees & Services | 2,000 | 2,000 | 2,000 | 2,000 |
| Profess. Serv. | 2,000 | 2,000 | 2,000 | 2,000 |
| Med., Dent. Optical Supplies | 5,000 | 5,000 | 5,000 | 5,000 |
| TOTAL | 42,570 | 42,570 | 42,570 | 42,570 |
| | | | | |
| TOTAL EST, COST | 218,556 | 242,732 | 190,933 | 226,270 |

**Estimated Cost for Agent**
**2021-23 Biennium**

3/15/2021

| | Criminal Investigator 6,110 |
|---|---|
| **SALARIES & WAGES** | |
| PERMANENT | 146,640 |
| TEMPORARY | - |
| OVERTIME | 6,500 |
| BENEFITS | 71,277 |
| TOTAL | 224,417 |
| | |
| **OPERATING EXPENSES** | |
| TRAVEL | 16,065 |
| IT SOFTWARE/SUPP. | 865 |
| PROFESSIONALSUPP. & MATERIALS | 1,427 |
| FOOD & CLOTHING | 510 |
| BLDG./EQUIP. SUPP. | 2,550 |
| MISC. SUPPLIES | 765 |
| OFFICE SUPPLIES | 1,224 |
| POSTAGE | 2,550 |
| PRINTING | 1,836 |
| IT EQUIP. UNDER $5,000 | 3,200 |
| OTHER EQUIP. UNDER $5,000 | 3,060 |
| OFFICE EQUIP. UNDER $5,000 | 4,590 |
| INSURANCE | 1,020 |
| LEASE/RENT EQUIP | - |
| LEASE/RENT BLDGS. | 11,340 |
| REPAIRS/SERVICE CONTRACTS | 6,120 |
| ITD - DATA PROC. | 4,882 |
| ITD - COMMUNICATIONS | 7,560 |
| PROFESSIONAL DEVELOP. | 6,120 |
| OPERATING FEES & SERVICES | - |
| PROFESS. SERV. | 6,000 |
| MED., DENT. OPTICAL SUPPLIES | - |
| TOTAL | 81,684 |
| | |
| IT OVER $5,000 | |
| SOFTWARE OVER $5,000 | - |
| EQUIP. OVER $5,000 | - |
| MOTOR VEHICLE | 35,000 |
| TOTAL | 35,000 |
| | |
| **TOTAL ESTIMATED COSTS** | 341,101 |

BCI VACANT POSITIONS

3/15/2021

On 10/01/20, NDBCI opened the hiring process for NDBCI to fill (4) vacant agent positions. NDBCI tested for these openings on 11/13/20. NDBCI interviewed for the positions on 12/16-12/18/20. NDBCI offered positions to (4) persons. The details are below per location:

1. Williston Criminal Narcotics Investigator
   a. Vacant since S/A Mike Mees transferred to Bismarck MANTF in August 2019.
   b. NDBCI tested for this position, but due to low starting NDBCI wage, no applicants accepted the Williston vacancy. The applicants would have had to take a pay cut of approximately $10,000.00 per year.

2. Williston Criminal Narcotics Investigator
   a. Vacated when S/A Rob Sanderson transferred to Social Security Administration Cooperative Disability Investigative Unit (SSA CDIU) in Bismarck on 09/03/20.
   b. NDBCI tested for this position, but due to low starting NDBCI wage, no applicants accepted the Williston vacancy. The applicants would have had to take a pay cut of approximately $10,000.00 per year.

3. Wahpeton Criminal Narcotics Investigator
   a. Vacated when S/A Ward Williams left NDBCI on 04/30/20 to work for Minnesota BCA for approximately $8,000.00 more per year.
   b. NDBCI tested for this position, but due to low starting NDBCI wage, no applicants accepted the Wahpeton vacancy. The primary applicant would need to take a pay cut of approximately $20,000.00 per year.

4. Dickinson Criminal Narcotics Investigator
   a. Vacated when S/A Philip Worley left NDBCI on 05/01/20 to work for Georgia BCI for approximately $6,000.00 more per year.
   b. NDBCI tested for this position and hired S/A Karmen Kupper on Monday, 03/01/21.

NDBCI has (3) remaining open positions as outlined above.

# IT OPERATING REDUCTION CONSEQUENCES

$271,889 CJIS

Loss of funding would result in the loss of the CJIS Portal used by law enforcement and criminal justice agencies across the state to increase public and officer safety by accessing comprehensive data, such as warrants, driver's license, criminal records, and concealed weapons information on potential criminals. It would also result in a loss of funding for the Victim Notification Protection Order system that provides notification on the status of the protection orders.

$568,350 IT

Loss of funding would have a statewide impact on state and local agencies. The gaming project, criminal history enhancement project, and federal grant-funded projects would halt. Maintenance on OAG systems, such as the sex offender registry, criminal history, and concealed weapon licensing systems, would slow, putting these systems at high risk for failure. Other state and local agencies that rely on data from these systems would risk losing access. Specialized software used by all AG divisions would be eliminated.

## Attorney General - Budget No. 125
## House Bill No. 1003
## Base Level Funding Changes

| | Executive Budget Recommendation | | | | House Version | | | | House Changes to Executive Budget Increase (Decrease) - Executive Budget | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 0.00 | $0 | $0 | $0 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | $55,536 | $87,874 | $143,410 | | | | $0 |
| Salary increase | | 876,260 | 416,389 | 1,292,649 | | 781,879 | 384,469 | 1,166,348 | | ($94,381) | ($31,920) | (126,301) |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | 7,650 | 3,718 | 11,368 | | | | 0 |
| Retirement contribution increase | | 128,683 | 65,672 | 194,355 | | | | 0 | | (128,683) | (65,672) | (194,355) |
| Adds funding for Bureau of Criminal Investigation salary equity increases | | | | 0 | | | 1,007,326 | 1,007,326 | | | 1,007,326 | 1,007,326 |
| Adds funding for Fire Marshal salary equity increases | | | | 0 | | | 125,906 | 125,906 | | | 125,906 | 125,906 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | 4.00 | | 959,699 | 959,699 | | | | 0 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | (246,009) | | (246,009) | | | | 0 |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | (1,489,628) | 185,464 | (1,304,164) | | | | 0 |
| Reduces operating expenses | | | | 0 | | (210,000) | | (210,000) | | (210,000) | | (210,000) |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | 70,958 | | 70,958 | | | | 0 |
| Adds funding for state agency Capitol grounds rent proposal | | 289,501 | | 289,501 | | | | 0 | | (289,501) | | (289,501) |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | 114,342 | 80,000 | 194,342 | | | | 0 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | (12,866) | | (12,866) | | | | 0 |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | 555 | | 555 | | | | 0 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | (152,400) | (152,400) | | | | 0 |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | (755,000) | (755,000) | | | | 0 |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | (22,500) | | (22,500) | | | | 0 |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | (1.00) | (447,790) | | (447,790) | | | | 0 |
| Reduces funding for the arrest and return of fugitives | | (1,500) | | (1,500) | | (1,500) | | (1,500) | | | | 0 |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | 382,662 | | 382,662 | | | | 0 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | (271,889) | | (271,889) | | | | 0 |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | (340,360) | | (340,360) | | | | 0 |
| Reduces funding for human trafficking victims grants | | (400,000) | | (400,000) | | (300,000) | | (300,000) | | 100,000 | | 100,000 |
| Reduces funding for forensic nurse examiners grants | | (37,500) | | (37,500) | | | | 0 | | 37,500 | | 37,500 |
| Total ongoing funding changes | 3.00 | ($1,343,895) | $891,416 | ($452,479) | 3.00 | ($1,928,960) | $1,927,056 | ($1,904) | 0.00 | ($585,065) | $1,035,640 | $450,575 |
| **One-time funding items** | | | | | | | | | | | | |
| Adds funding for criminal history improvement system upgrades | | | $400,000 | $400,000 | | | $400,000 | $400,000 | | | $0 | $0 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | 475,000 | 475,000 | | | 0 | 0 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | 300,000 | 300,000 | | | 0 | 0 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | 1,111,706 | 1,111,706 | | | 0 | 0 |
| Adds funding for a statewide litigation funding pool | | $3,000,000 | 0 | 3,000,000 | | | 3,000,000 | 3,000,000 | | ($3,000,000) | 3,000,000 | 0 |
| Adds funding for additional income from federal or other sources | | | 0 | 0 | | | 250,000 | 250,000 | | | 250,000 | 250,000 |
| Total one-time funding changes | 0.00 | $3,000,000 | $2,286,706 | $5,286,706 | 0.00 | $0 | $5,536,706 | $5,536,706 | 0.00 | ($3,000,000) | $3,250,000 | $250,000 |
| **Total Changes to Base Level Funding** | 3.00 | $1,656,105 | $3,178,122 | $4,834,227 | 3.00 | ($1,928,960) | $7,463,762 | $5,534,802 | 0.00 | ($3,585,065) | $4,285,640 | $700,575 |
| **2021-23 Total Funding** | 248.00 | $47,260,701 | $39,064,406 | $86,325,107 | 248.00 | $43,675,636 | $43,350,046 | $87,025,682 | 0.00 | ($3,585,065) | $4,285,640 | $700,575 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(2.9%)* | *2.5%* | *(0.6%)* | *1.2%* | *(4.2%)* | *5.4%* | *(0.0%)* | | | | |
| *Total changes as a percentage of base level* | *1.2%* | *3.6%* | *8.9%* | *5.9%* | *1.2%* | *(4.2%)* | *20.8%* | *6.8%* | | | | |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Appropriation - Additional federal funds or other federal funds | Section 6 would appropriate $250,000 from federal or other funds to the Attorney General, for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General would be required to report to the Office of Management and Budget and Legislative Council on the availability of this funding. | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. |
| Strategic investment and improvements fund - Transfer - Litigation pool to state agencies - One-time funding | Section 5 would require the Attorney General to transfer funds from the $3 million of one-time funding in Section 1 for a statewide litigation pool to eligible state agencies for litigation expenses during the 2021-23 biennium. | Section 4 identifies $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium. |
| Human trafficking victims grant program | Section 8 would identify $1 million from the general fund in Section 1 for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the 2021-23 biennium. The Attorney General would be allowed to 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 would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. | Section 5 identifies $1,101,834 from the general fund in Section 1 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 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program. |
| Forensic nurse examiners grant program | Section 9 would identify $212,499 from the general fund in Section 1 for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the 2021-23 biennium. Any organization that receives a grant under this section would be required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. | Section 6 identifies $250,674 from the general fund in Section 1 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 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to Appropriations Committees of the 68th 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. |

**Other Sections in Attorney General - Budget No. 125**

| | Executive Budget Recommendation | House Version |
|---|---|---|
| Estimated income - Salary equity increases - Attorney General refund fund | | Section 7 identifies $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for providing salary equity increases to Attorney General staff, of which $1,007,326 is for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is for Fire Marshal office positions, for the 2021-23 biennium. |
| Legislative intent - Attorney General - Salary equity increases - Investment of lawsuit settlement proceeds - State Investment Board | | Section 8 allows the Attorney General to invest up to $2,266,464 of funding available in the Attorney General refund fund, of which $1,160,896 is derived from lawsuit settlement proceeds received by the Attorney General and deposited in the Attorney General refund fund in January 2021 and any investment earnings on the settlement amount, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 7 and for the cost to continue the salary equity increases during the 2023-25 biennium. |
| Attorney General salary | Section 3 would amend Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $166,662 effective July 1, 2021, and $169,995 effective July 1, 2022, to reflect the 2 percent annual recommended salary increase. | Section 9 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $168,333 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House. |
| Criminal history record checks - Fees | Section 7 would require any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | Section 10 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. |
| Exemption - Attorney General refund fund | Section 4 would allow the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | Section 11 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. |
| Exemption - Concealed weapon rewrite project | Section 10 would allow the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | Section 12 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. |
| Exemption - Coronavirus emergency supplemental funding | Section 11 would allow the Attorney General to continue any federal funding received during the 2019-21 biennium in response to the COVID-19 pandemic into the 2021-23 biennium. | |

# 2021 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**
Roughrider Room, State Capitol

HB 1003
3/24/2021
Attorney General sub-committee

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

**Senator Bekkedahl** opened the hearing at 11:00 a.m.

Senators present: **Bekkedahl, Holmberg and Heckaman.**

**Discussion Topics:**

- FTE's
- Agricultural Commissioner

**Levi Kinnischtzke, Fiscal Analyst, Legislative Council,** provides an update

**Wayne Stenehjem, Attorney General,** answers questions of the sub-committee.

**Becky Keller, Finance Director, Office of the Attorney General,** answers questions of the sub-committee.

**Senator Bekkedahl** closed the hearing at 12:00 p.m.

*Skyler Strand, Committee Clerk*

# 2021 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**
Roughrider Room, State Capitol

HB 1003
3/29/2021
Attorney General Sub-committee

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

**Senator Bekkedahl** opened the hearing at 8:00 AM.

Senators present: **Bekkedahl, Holmberg and Heckaman**.

**Discussion Topics:**

- CJIS
- Gaming taxes
- CARES funding

**Wayne Stenejhem, North Dakota State Attorney General** – testified in favor and submitted testimony #10900, #10901.

**Deb McDaniels, Director, Gaming Division, ND Attorney General's Office** – testified in favor.

**Additional written testimony:** #10899

**Senator Bekkedahl** closed the hearing at 8:25 AM.

*Rose Laning, Committee Clerk*

3/25/2021

10900

15% Reductions that we need to have restored:

| Priority | | | General Fund |
|---|---|---|---|
| Critical | Operating Line - IT | | |
| | Software, IT supplies | (218,350) | |
| | Contractual Services | (350,000) | |
| | Total IT operating reduction | | (568,350) |
| Critical | Law Enforcement Line | | |
| | BCI | | |
| | Agent Salary | (218,762) | |
| | Admin Assistant Salary | (64,465) | |
| | Crime Lab | | |
| | Building maintenance | (8,000) | |
| | Supplies | (10,382) | |
| | Equipment | (8,812) | |
| | Repairs | (7,183) | |
| | Fin Admin | | |
| | Travel for grant staff | (10,000) | |
| | Operating for grant staff | (16,133) | |
| | Total Law Enforcement line reduction | | (343,737) |
| Critical | CJIS Line - portal, broker, maintenance | | (271,889) |
| Vital | Operating Line - IT | | |
| | Travel | (132,543) | |
| | Equipment | (101,636) | |
| | Leases/Rent equip | (100,000) | |
| | Repairs/Service contracts | (6,383) | |
| | Professional Development | (14,000) | |
| | Operating Fees/Services | (100,000) | |
| | Total BCI operating reduction | | (454,562) |
| Vital | Operating Line - Crime Lab | | |
| | Travel | (5,300) | |
| | Supplies | (5,850) | |
| | Equipment | (1,900) | |
| | Utilities | (9,850) | |
| | Repairs/Service Contracts | (28,146) | |
| | Professional Development | (1,600) | |
| | Operating Fees/Services | (25,000) | |
| | Professional Services | (24,000) | |
| | Medical Supplies | (25,000) | |
| | Total Crime Lab operating reductions | | (126,646) |
| Vital | Operating Line - Fire Marshal | | |
| | Travel | (5,000) | |
| | Supplies | (13,500) | |
| | Equipment | (6,000) | |
| | Leases | (50,000) | |
| | Repairs/Service Contracts | (30,000) | |
| | IT Communications | (30,000) | |
| | Operating fees/Services | (11,119) | |
| | Total FM operating reduction | | (145,619) |
| Vital | House - Additional Reduction | | (210,000) |
| | **Total Reductions** | | **(2,120,803)** |

| Agency | Attorney |
|---|---|
| DHS | Alm, Jonathan E. |
| DHS | Austin, Timothy J. |
| DHS | Dittus, Bethany L. |
| DHS | Fleming, James C. |
| DHS | Nisbet, Jason |
| DHS | Olson, L.D. Storm |
| DHS | Steffan, Beth L. |
| DHS | Webb, Aaron K. |
| DOCR | Goebel, Molly B. |
| DOT | Kautzmann, Dreux C. H. |
| DOT | Morgenstern, Clint D. |
| INSURANCE | Herauf, Helen |
| INSURANCE | Palsgraaf, Johannes |
| OMB – RM | Anderson, Tag C. |
| PSC | Johnson, Brian L. |
| PSC | Schuh, John M. |
| SECURITIES | Daley, Michael F. |
| TAX | Rouse, Daniel L. |
| TAX | Wald, Donnita A. |
| WSI | Bjornson, Jodi Billing |
| WSI | Ereth, Shawnda R. |
| WSI | Green, Anne Jorgenson |
| WSI | Schaibley, Ann M. |
| WSI | Wahlin, Timothy J. |

Special Assistant Attorneys General 3/26/2021

| Agency | Attorney |
|---|---|
| DHS | Alm, Jonathan E. |
| DHS | Austin, Timothy J. |
| DHS | Dittus, Bethany L. |
| DHS | Fleming, James C. |
| DHS | Nisbet, Jason |
| DHS | Olson, L.D. Storm |
| DHS | Steffan, Beth L. |
| DHS | Webb, Aaron K. |
| DOCR | Goebel, Molly B. |
| DOT | Kautzmann, Dreux C. H. |
| DOT | Morgenstern, Clint D. |
| INSURANCE | Herauf, Helen |
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| OMB – RM | Anderson, Tag C. |
| PSC | Johnson, Brian L. |
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| TAX | Wald, Donnita A. |
| WSI | Bjornson, Jodi Billing |
| WSI | Ereth, Shawnda R. |
| WSI | Green, Anne Jorgenson |
| WSI | Schaibley, Ann M. |
| WSI | Wahlin, Timothy J. |

## Attorney General - Budget No. 125
## House Bill No. 1003
## Base Level Funding Changes

**Updated for Discussion Through: 3/24/2021**

| | House Version | | | | Senate Version | | | | Senate Changes to House Version Increase (Decrease) - House Version | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 0.00 | $0 | $0 | $0 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | $55,536 | $87,874 | $143,410 | | | | $0 |
| Salary increase | | 781,879 | 384,469 | 1,166,348 | | 822,481 | 381,978 | 1,204,459 | | $40,602 | ($2,491) | 38,111 |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | 7,650 | 3,718 | 11,368 | | | | 0 |
| Adds funding for Bureau of Criminal Investigation salary equity increases | | | 1,007,326 | 1,007,326 | | | 1,123,777 | 1,123,777 | | | 116,451 | 116,451 |
| Adds funding for Fire Marshal salary equity increases | | | 125,906 | 125,906 | | | 125,906 | 125,906 | | | | 0 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | 4.00 | | 959,699 | 959,699 | | | | 0 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | (246,009) | | (246,009) | | | | 0 |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | (1,489,628) | 185,464 | (1,304,164) | | | | 0 |
| Reduces operating expenses | | (210,000) | | (210,000) | | (210,000) | | (210,000) | | | | 0 |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | 70,958 | | 70,958 | | | | 0 |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | 114,342 | 80,000 | 194,342 | | | | 0 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | (12,866) | | (12,866) | | | | 0 |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | 555 | | 555 | | | | 0 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | (152,400) | (152,400) | | | | 0 |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | (755,000) | (755,000) | | | | 0 |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | (22,500) | | (22,500) | | | | 0 |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | (1.00) | (447,790) | | (447,790) | | | | 0 |
| Restores funding for 1 FTE position for the intellectual property attorney program | | | | 0 | 1.00 | 447,790 | | 447,790 | 1.00 | 447,790 | | 447,790 |
| Reduces funding for the arrest and return of fugitives | | (1,500) | | (1,500) | | (1,500) | | (1,500) | | | | 0 |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | 382,662 | | 382,662 | | | | 0 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | (271,889) | | (271,889) | | | | 0 |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | (340,360) | | (340,360) | | | | 0 |
| Reduces funding for human trafficking victims grants | | (300,000) | | (300,000) | | (300,000) | | (300,000) | | | | 0 |
| Total ongoing funding changes | 3.00 | ($1,928,960) | $1,927,056 | ($1,904) | 4.00 | ($1,440,568) | $2,041,016 | $600,448 | 1.00 | $488,392 | $113,960 | $602,352 |
| **One-time funding items** | | | | | | | | | | | | |
| Adds funding for criminal history improvement system upgrades | | | $400,000 | $400,000 | | | $400,000 | $400,000 | | | | $0 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | 475,000 | 475,000 | | | | 0 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | 300,000 | 300,000 | | | | 0 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | 1,111,706 | 1,111,706 | | | | 0 |
| Adds funding for a statewide litigation funding pool | | | 3,000,000 | 3,000,000 | | | 4,000,000 | 4,000,000 | | | $1,000,000 | 1,000,000 |
| Adds funding for additional income from federal or other sources | | | 250,000 | 250,000 | | | 250,000 | 250,000 | | | | 0 |
| Total one-time funding changes | 0.00 | $0 | $5,536,706 | $5,536,706 | 0.00 | $0 | $6,536,706 | $6,536,706 | 0.00 | $0 | $1,000,000 | $1,000,000 |
| **Total Changes to Base Level Funding** | 3.00 | ($1,928,960) | $7,463,762 | $5,534,802 | 4.00 | ($1,440,568) | $8,577,722 | $7,137,154 | 1.00 | $488,392 | $1,113,960 | $1,602,352 |
| **2021-23 Total Funding** | 248.00 | $43,675,636 | $43,350,046 | $87,025,682 | 249.00 | $44,164,028 | $44,464,006 | $88,628,034 | 1.00 | $488,392 | $1,113,960 | $1,602,352 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(4.2%)* | *5.4%* | *(0.0%)* | *1.6%* | *(3.2%)* | *5.7%* | *0.7%* | | | | |
| *Total changes as a percentage of base level* | *1.2%* | *(4.2%)* | *20.8%* | *6.8%* | *1.6%* | *(3.2%)* | *23.9%* | *8.8%* | | | | |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version |
|---|---|---|
| Appropriation - Additional federal funds or other federal funds | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. |
| Appropriation - 2019-21 biennium - Sexual assault evidence collection kit tracking system Drug analyzers - Exemption - One-time funding | | Section 4 provides a 2019-21 biennium supplemental appropriation of $355,000 to the Attorney General from federal funds, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers received from the Department of Transportation and granted to the Attorney General. The section includes an exemption to allow the Attorney General to continue the funding into the 2021-23 biennium. Section 23 declares this section to be an emergency measure. |
| Transfer - Lawsuit settlement proceeds - Opioid addiction prevention and treatment program - Appropriation - Department of Human Services - One-Time Funding - Report | | Section 5 provides for a transfer of up to $2,000,000 from opioid related lawsuit settlement proceeds deposited in the Attorney General refund fund to the Department of Human Services, which is appropriated to the Department of Human Services for the purposes of defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Department of Human Services is required to consult with the Attorney General regarding the use of this funding. The Attorney General is required to notify the Legislative Council and the Office of Management and Budget of any lawsuit settlement proceeds that become available for transfer to the Department of Human Services for this program. |
| Strategic investment and improvements fund - Transfer - Litigation pool to state agencies One-time funding | Section 4 identifies $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium. | Section 6 identifies $4 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium. |
| Estimated income - Charitable gaming technology system - Exemption - Gaming tax allocation | | Section 7 identifies $475,000 in Section 1 is from the Attorney General operating fund for the purpose of defraying expenses related to the continued development and implementation of the charitable gaming technology system. Notwithstanding Section 53-06.1-12, from funding designed for deposit in the general fund under subsection 3 of Section 53-06.1-12 in fiscal year 2022, the Attorney General shall deposit $475,000 into the attorney general operating fund during the 2021-23 biennium. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version |
|---|---|---|
| Human trafficking victims grant program | Section 5 identifies $1,101,834 from the general fund in Section 1 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 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program. | Section 8 identifies $1,101,879 from the general fund in Section 1 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 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program. |
| Forensic nurse examiners grant program | Section 6 identifies $250,674 from the general fund in Section 1 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 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to Appropriations Committees of the 68th 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 identifies $250,691 from the general fund in Section 1 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 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to Appropriations Committees of the 68th 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. |
| Estimated income - Salary equity increases - Attorney General refund fund - Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund | Section 7 identifies $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for providing salary equity increases to Attorney General staff, of which $1,007,326 is for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is for Fire Marshal office positions, for the 2021-23 biennium. | Section 10 identifies $1,249,083 in the estimated income line item in Section 1 is for providing salary equity increases to Attorney General staff during the 2021-23 biennium, of which $1,123,777 is from the Attorney General refund fund for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for Fire Marshal office positions. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version |
|---|---|---|
| Legislative intent - Attorney General - Salary equity increases - Investment of lawsuit settlement proceeds - State Investment Board | Section 8 allows the Attorney General to invest up to $2,266,464 of funding available in the Attorney General refund fund, of which $1,160,896 is derived from lawsuit settlement proceeds received by the Attorney General and deposited in the Attorney General refund fund in January 2021 and any investment earnings on the settlement amount, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 7 and for the cost to continue the salary equity increases during the 2023-25 biennium. | Section 11 allows the Attorney General to invest up to $2,577,624 of funding in the Attorney General refund fund, which is derived from lawsuit settlement proceeds received by the Attorney General and was deposited in the Attorney General refund fund in January 2021 ($1,160,896) and March 2021 ($1,416,728) and any investment earnings on the settlement amount, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund and Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 10 and for the cost to continue the salary equity increases during the 2023-25 biennium. |
| Attorney General salary | Section 9 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $168,333 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House. | Section 12 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $169,162 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House. |
| Criminal history record checks - Fees | Section 10 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | Section 13 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. |
| Exemption - Contingent fee arrangement | | Section 14 provides, notwithstanding Section 54-12-08.1, the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing technology multi-state litigation, during the period beginning with the effective date of this Act and ending June 30, 2023. Section 23 declares this section an emergency measure. |
| Exemption - Gaming tax revenue grants | | Section 15 provides, notwithstanding Section 53-06.1-12, the Attorney General may distribute quarters seven and eight 2019-21 biennium gaming tax revenues to cities and counties through October 31, 2021. |
| Exemption - Attorney General refund fund | Section 11 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | Section 16 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. |
| Exemption - Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund | | Section 17 provides, notwithstanding Subsection 6 of Section 18-13-03, the Attorney General may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to Fire Marshal office positions during the 2021-23 biennium. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version |
|---|---|---|
| Exemption - Concealed weapon rewrite project | Section 12 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | Section 18 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. |
| Exemption - Statewide automated victim information and notification program | | Section 19 allows the Attorney General to continue any remaining funding appropriated from other funds for the 2017-19 biennium and continued into the 2019-21 biennium for the statewide automated victim information and notification system into the 2021-23 biennium. |
| Exemption - Information technology equipment | | Section 20 allows the Attorney General to continue any remaining funding appropriated from the general fund for the 2019-21 biennium for the purchase of information technology equipment into the 2021-23 biennium. |
| Legislative Management study - State government attorneys | | Section 21 provides for a Legislative Management study regarding the feasibility and desirability of consolidating attorney and legal related positions in state government. The study must include an analysis of the number of attorney and legal-related positions in state government, the agency the positions are assigned to, the nature of the work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government authorized for the 2021-23 biennium. |
| Legislative Management study - State government litigation funding | | Section 22 provides for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of litigation-related funding in state government agency budgets, including the nature and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. |
| Emergency measure | | Section 23 declares sections 4 and 14 an emergency measure. |

# 2021 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**
Roughrider Room, State Capitol

HB 1003 & 1212
4/1/2021
Attorney General Sub-committee

HB 1003: A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.
HB 1212: A BILL for an Act to create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to the creation of a charitable gaming operating fund; to amend and reenact section 53-06.1-12 of the North Dakota Century Code, relating to charitable gaming tax; to provide a continuing appropriation; to provide for a transfer; and to provide an effective date.

**Senator Bekkedahl** opened the hearing at 2:48 p.m.

Senators present: **Bekkedahl, Holmberg and Heckaman.**

**Discussion Topics:**

- Federal Issues
- Gaming

**Wayne Stenehjem, Attorney General,** answered questions of the sub-committee

**Levi Kinnischtzke, Fiscal Analyst,** answered questions of the sub-committee.

**Senator Bekkedahl** closed the hearing at 3:31 p.m.

*Skyler Strand, Committee Clerk*

# 2021 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**
Roughrider Room, State Capitol

HB 1003
4/6/2021
Senate Appropriations Committee

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general; to amend and reenact section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general; to provide for a transfer; to provide an exemption; to provide for a statement of legislative intent; and to provide for a report.

**Chairman Holmberg** opened the hearing at 8:56 a.m.

Senators present: Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.

**Discussion Topics:**

- Vote

**Senator Bekkedahl** moved to adopt amendment LC 21.0262.02002; testimony #11390
**Senator Heckaman** seconded the motion

| *Senators* | | | *Senators* | |
|---|---|---|---|---|
| *Senator Holmberg* | *Y* | | *Senator Hogue* | *Y* |
| *Senator Krebsbach* | *Y* | | *Senator Oehlke* | *Y* |
| *Senator Wanzek* | *Y* | | *Senator Poolman* | *Y* |
| *Senator Bekkedahl* | *Y* | | *Senator Rust* | *Y* |
| *Senator Davison* | *Y* | | *Senator Sorvaag* | *Y* |
| *Senator Dever* | *Y* | | *Senator Heckaman* | *Y* |
| *Senator Erbele* | *Y* | | *Senator Mathern* | *Y* |

Motion Passed 14-0-0 – Motion Passed

**Senator Bekkedahl** moved to DO PASS AS AMENDED
**Senator Heckaman** seconded the motion

| *Senators* | | | *Senators* | |
|---|---|---|---|---|
| *Senator Holmberg* | *Y* | | *Senator Hogue* | *Y* |
| *Senator Krebsbach* | *Y* | | *Senator Oehlke* | *Y* |
| *Senator Wanzek* | *Y* | | *Senator Poolman* | *Y* |
| *Senator Bekkedahl* | *Y* | | *Senator Rust* | *Y* |
| *Senator Davison* | *Y* | | *Senator Sorvaag* | *Y* |
| *Senator Dever* | *Y* | | *Senator Heckaman* | *Y* |
| *Senator Erbele* | *Y* | | *Senator Mathern* | *Y* |

Motion Passed 14-0-0 – Motion Passed

**Chairman Holmberg** closed the hearing at 9:14 a.m.

*Rose Laning, Committee Clerk*

21.0262.02002
Title.03000
Fiscal No. 2

Prepared by the Legislative Council staff for
Senator Bekkedahl
April 5, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1003

Page 1, line 1, after "general" insert "; to provide an appropriation to the department of human services"

Page 1, line 2, replace "section" with "sections 53-06.1-12 and"

Page 1, line 2, after the second "to" insert "the gaming tax allocation fund and"

Page 1, line 4, remove "and"

Page 1, line 4, after "report" insert "; to provide for a legislative management study; and to declare an emergency"

Page 1, remove lines 13 through 24

Page 2, replace lines 1 through 7 with:

| | | | |
|---|---|---|---|
| "Salaries and wages | $45,954,981 | $4,140,206 | $50,095,187 |
| Operating expenses | 15,588,646 | 801,822 | 16,390,468 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (515,000) | 3,903,440 |
| Human trafficking victims grants | 1,400,000 | (298,121) | 1,101,879 |
| Forensic nurse examiners grants | 250,000 | 691 | 250,691 |
| Statewide litigation funding pool | 0 | 4,000,000 | 4,000,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 63,390 | 5,254,844 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 443,847 | 4,074,968 |
| Law enforcement | 2,982,284 | 66,643 | 3,048,927 |
| Total all funds | $81,490,880 | $9,172,234 | $90,663,114 |
| Less estimated income | 35,886,284 | 12,372,844 | 48,259,128 |
| Total general fund | $45,604,596 | ($3,200,610) | $42,403,986 |
| Full-time equivalent positions | 245.00 | 7.00 | 252.00" |

Page 2, replace lines 18 through 22 with:

| | | |
|---|---|---|
| "Statewide litigation funding pool | 0 | 4,000,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $6,286,706 |
| Total other funds | 3,217,956 | 6,286,706 |
| Total general fund | $200,000 | $0" |

Page 2, after line 29, insert:

"**SECTION 4. APPROPRIATION - 2019-21 BIENNIUM - SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM - DRUG ANALYZERS - EXEMPTION - ONE-TIME FUNDING.** There is appropriated from federal funds, not otherwise appropriated, the sum of $355,000, or so much as the sum as may be necessary, to the attorney general, of which $255,000 is for the development and

implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers with federal funding received from the department of transportation, for the period beginning with the effective date of this Act, and ending June 30, 2021. The funding provided under this section is not subject to section 54-44.1-11 and any unexpended funds may be continued and are available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item.

**SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID ADDICTION PREVENTION AND TREATMENT PROGRAM - APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - ONE-TIME FUNDING - REPORT.** The office of management and budget shall transfer up to $2,000,000 from opioid-related lawsuit settlement proceeds deposited in the attorney general refund fund to the department of human services which is appropriated to the department of human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of human services for this program. This funding is considered a one-time funding item."

Page 3, line 1, replace "$3,000,000" with "$4,000,000"

Page 3, after line 5, insert:

"**SECTION 7. ESTIMATED INCOME - CHARITABLE GAMING TECHNOLOGY SYSTEM - GAMING TAX ALLOCATION FUND.** The estimated income line item in section 1 of this Act includes $475,000 from the gaming tax allocation fund for defraying expenses related to the continued development and implementation of the charitable gaming technology system."

Page 3, line 8, replace "$1,101,834" with "$1,101,879"

Page 3, line 19, replace "$250,674" with "$250,691"

Page 3, line 31, after "**FUND**" insert "**- REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND**"

Page 4, line 1, replace "$1,133,232 from the attorney general refund fund" with "$1,374,989"

Page 4, line 2, replace "$1,007,326 is" with "$1,249,083 is from the attorney general refund fund"

Page 4, line 3, after "is" insert "from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 7, replace "$2,266,464" with "$2,577,624"

Page 4, line 9, after "proceeds" insert "and $1,416,728 is derived from March 2021 lawsuit settlement proceeds, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 11, replace "$2,266,464" with "$2,577,624"

Page 4, line 12, after "fund" insert "and $251,812 in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund and any investment earnings on the

funding be retained in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund,"

Page 4, line 13, replace "7" with "10"

Page 4, after line 14, insert:

"**SECTION 12. AMENDMENT.** Section 53-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-12. Gaming tax - ~~Deposits and allocations~~Gaming tax allocation fund - Attorney general - State treasurer - Allocations - Transfer to the general fund.**

1. A gaming tax is imposed on the total gross proceeds received by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. For a licensed organization with gross proceeds:

   a. Not exceeding one million five hundred thousand dollars the tax is one percent of gross proceeds.

   b. Exceeding one million five hundred thousand dollars the tax is fifteen thousand dollars plus two and twenty-five hundredths percent of gross proceeds exceeding one million five hundred thousand dollars.

2. The tax must be paid to the attorney general at the time tax returns are filed.

~~3. Except as provided in subsection 4, the attorney general shall deposit gaming taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.~~

~~4.~~3. The attorney general shall deposit ~~seven percent of the total~~all taxes, monetary fines, and interest and penalties, less refunds, collected under this section into a gaming tax allocation fund. Pursuant to legislative appropriation, the attorney general shall distribute seven percent of moneys deposited in the fund ~~must be distributed~~ quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

4. Pursuant to legislative appropriation, the attorney general shall use moneys available in the gaming tax allocation fund for the administration and operating costs associated with charitable gaming.

5. On or before June thirtieth of each odd-numbered year, the attorney general shall certify to the state treasurer the amount of accumulated funds in the gaming tax allocation fund which exceed fifty percent of the amount appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming for the subsequent biennium. The

state treasurer shall transfer the certified amount from the gaming tax allocation fund to the general fund before the end of each biennium."

Page 4, line 20, replace "sixty-eight" with "sixty-nine"

Page 4, line 20, overstrike "three" and insert immediately thereafter "one"

Page 4, line 20, replace "thirty-three" with "sixty-two"

Page 4, after line 25, insert:

"**SECTION 15. EXEMPTION - CONTINGENT FEE ARRANGEMENT.** Notwithstanding section 54-12-08.1, the attorney general may contract for legal services compensated by a contingent fee arrangement for ongoing multi-state technology litigation during the period beginning with the effective date of this Act and ending June 30, 2023.

**SECTION 16. EXEMPTION - GAMING TAX REVENUE GRANTS.** Notwithstanding section 53-06.1-12, the attorney general may distribute gaming tax revenue grants to cities and counties relating to the seventh and eighth quarters of the 2019-21 biennium through October 31, 2021."

Page 4, after line 28, insert:

"**SECTION 18. EXEMPTION - REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND.** Notwithstanding subsection 6 of section 18-13-03, the attorney general may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to fire marshal office positions during the biennium beginning July 1, 2021, and ending June 30, 2023."

Page 5, after line 4, insert:

"**SECTION 20. EXEMPTION - STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION PROGRAM.** The amount appropriated to the attorney general from other funds for the statewide automated victim information and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws and continued into the 2019-21 biennium, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the legal case management system during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 21. EXEMPTION - INFORMATION TECHNOLOGY EQUIPMENT.** The amount appropriated to the attorney general from the general fund for the purchase of information technology equipment as contained in section 1 of chapter 28 of the 2019 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 for the purchase of information technology equipment, during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 22. LEGISLATIVE INTENT - GAMING DIVISION.** It is the intent of the sixty-seventh legislative assembly that the expenses of the attorney general's gaming division be paid from gaming tax revenues.

**SECTION 23. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT ATTORNEYS.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating attorney and legal-related positions in state government. The study must include an analysis of the number of attorney and legal-related positions in state government, the agency to which the positions are assigned, the type of work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 24. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT LITIGATION FUNDING.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of litigation-related funding in state government agency budgets, including the purpose and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 25. LEGISLATIVE MANAGEMENT STUDY - CHARITABLE GAMING LAWS.** During the 2021-22 interim, the legislative management shall consider studying laws regarding the state's charitable gaming taxation and use of net proceeds for eligible organizations. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 26. EMERGENCY.** Sections 4 and 15 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Summary of Senate Action**

| | Base Budget | House Version | Senate Changes | Senate Version |
|---|---|---|---|---|
| Attorney General | | | | |
| Total all funds | $81,490,880 | $87,025,682 | $3,887,432 | $90,913,114 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,159,082 | 48,509,128 |
| General fund | $45,604,596 | $43,675,636 | ($1,271,650) | $42,403,986 |
| FTE | 245.00 | 248.00 | 4.00 | 252.00 |
| DHS - Other | | | | |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 |
| Bill total | | | | |
| Total all funds | $81,490,880 | $87,025,682 | $5,887,432 | $92,913,114 |

| | | | | |
|---|---|---|---|---|
| Less estimated income | 35,886,284 | 43,350,046 | 7,159,082 | 50,509,128 |
| General fund | $45,604,596 | $43,675,636 | ($1,271,650) | $42,403,986 |
| FTE | 245.00 | 248.00 | 4.00 | 252.00 |

## House Bill No. 1003 - Attorney General - Senate Action

| | Base Budget | House Version | Senate Changes | Senate Version |
|---|---|---|---|---|
| Salaries and wages | $45,954,981 | $48,782,813 | $1,312,374 | $50,095,187 |
| Operating expenses | 15,588,646 | 15,675,772 | 714,696 | 16,390,468 |
| Capital assets | 804,380 | 1,739,221 | | 1,739,221 |
| Grants | 4,418,440 | 3,663,440 | 240,000 | 3,903,440 |
| Litigation fees | 150,000 | 127,500 | | 127,500 |
| Intellectual property attorney | 442,085 | | | |
| Medical examinations | 660,000 | 660,000 | | 660,000 |
| North Dakota lottery | 5,191,454 | 5,253,531 | 1,313 | 5,254,844 |
| Arrest and return of fugitives | 10,000 | 8,500 | | 8,500 |
| Gaming commission | 7,489 | 7,489 | | 7,489 |
| Criminal justice information sharing | 3,631,121 | 3,801,923 | 273,045 | 4,074,968 |
| Law enforcement | 2,982,284 | 2,702,985 | 345,942 | 3,048,927 |
| Human trafficking victims grants | 1,400,000 | 1,101,834 | 45 | 1,101,879 |
| Forensic nurse examiners grants | 250,000 | 250,674 | 17 | 250,691 |
| Additional income | | 250,000 | | 250,000 |
| Statewide litigation funding pool | | 3,000,000 | 1,000,000 | 4,000,000 |
| Total all funds | $81,490,880 | $87,025,682 | $3,887,432 | $90,913,114 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,159,082 | 48,509,128 |
| General fund | $45,604,596 | $43,675,636 | ($1,271,650) | $42,403,986 |
| FTE | 245.00 | 248.00 | 4.00 | 252.00 |

## Department 125 - Attorney General - Detail of Senate Changes

| | Adjusts Funding for Salary and Benefit Increases[1] | Adds Funding for Salary Equity Increases[2] | Adjusts Funding for the Gaming Division[3] | Adds Funding for Gaming Grants to Political Subdivisions[4] | Adds Funding for Gaming Division Positions[5] | Adjusts Funding for Salaries and Operating Expenses[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $33,376 | $241,757 | | | $611,147 | |
| Operating expenses | | | | | 108,627 | $584,373 |
| Capital assets | | | | | | |
| Grants | | | | $240,000 | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 1,313 | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 1,156 | | | | | 271,889 |
| Law enforcement | 2,204 | | | | | 343,738 |
| Human trafficking victims grants | 45 | | | | | |
| Forensic nurse examiners grants | 17 | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $38,111 | $241,757 | $0 | $240,000 | $719,774 | $1,200,000 |
| Less estimated income | 47,509 | 241,757 | 1,710,042 | 240,000 | 719,774 | 1,200,000 |
| General fund | ($9,398) | $0 | ($1,710,042) | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 3.00 | 0.00 |

| | Restores Intellectual Property Attorney[7] | Adds One-Time Funding for Statewide Litigation[8] | Total Senate Changes |
|---|---|---|---|
| Salaries and wages | $426,094 | | $1,312,374 |
| Operating expenses | 21,696 | | 714,696 |
| Capital assets | | | |
| Grants | | | 240,000 |
| Litigation fees | | | |
| Intellectual property attorney | | | |
| Medical examinations | | | |
| North Dakota lottery | | | 1,313 |
| Arrest and return of fugitives | | | |
| Gaming commission | | | |
| Criminal justice information sharing | | | 273,045 |
| Law enforcement | | | 345,942 |
| Human trafficking victims grants | | | 45 |
| Forensic nurse examiners grants | | | 17 |
| Additional income | | | |
| Statewide litigation funding pool | | $1,000,000 | 1,000,000 |
| Total all funds | $447,790 | $1,000,000 | $3,887,432 |
| Less estimated income | 0 | 1,000,000 | 5,159,082 |
| General fund | $447,790 | $0 | ($1,271,650) |
| FTE | 1.00 | 0.00 | 4.00 |

[1] Salaries and wages funding is adjusted for 2021-23 biennium salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of $100 and 2 percent on July 1, 2022. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250. Of these amounts, $50,000 is reduced from the general fund and $50,000 is added from gaming tax revenues deposited in the gaming tax allocation fund for salary increases related to Gaming Division positions.

[2] Funding of $241,757 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions to provide a total of $1,249,083 of salary equity increases for these FTE positions from the Attorney General refund fund, which is derived from lawsuit settlement proceeds. The House provided $1,007,326 from the Attorney General refund fund for these FTE positions.

An additional $125,906 of salary equity funding is provided for 2 FTE Fire Marshal office positions from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund. The House provided the $125,906 for the Fire Marshal office positions from the Attorney General refund fund.

[3] Funding from the general fund of $1,710,042 is replaced with funding from gaming tax revenues deposited in the gaming tax allocation fund for Gaming Division expenses, including $1,669,103 in the salaries and wages line item, $37,599 in the operating expenses line item, and $3,340 in the gaming commission line item. A section is added to the bill to amend North Dakota Century Code Section 53-06.1-12 to authorize the Attorney General to use gaming tax revenues for the administration and operating costs of the Gaming Division.

[4] Funding of $240,000 is added from the gaming tax allocation fund to provide a total of $750,000 for grants to political subdivisions.

[5] Funding of $719,774 is added from the gaming tax revenues deposited in the gaming tax allocation fund for 3 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $611,147 is for salaries and wages and $108,627 is for related operating expenses.

The Senate amendments also adjust the funding source for $959,699 approved by the House, of which $814,863 is for salaries and wages of 4 FTE Gaming Division positions and $144,836 is for related operating expenses, from the Attorney General operating fund to gaming tax revenues deposited in the gaming tax allocation fund to provide a total of 7 new FTE Gaming Division positions at a cost of $1,679,473, of which $1,426,010 is for salaries and wages and $253,463 is for related operating expenses.

The Senate amendments also replace funding of $692,291 from the Attorney General refund fund, of which $640,282 is for salaries and wages, $47,860 is for operating expenses and $4,149 is for the Gaming Commission,

and $147,560 from the Attorney General operating fund, of which $24,000 is for salaries and wages and $123,560 is for operating expenses, with funding from the gaming tax allocation fund.

Total Gaming Division funding provided by the Senate from the gaming tax allocation fund is $5,504,366, of which $3,809,395 is for salaries and wages, $937,482 is for operating expenses, $750,000 is for grants to cities and counties, and $7,489 is for the Gaming Commission.

A section of legislative intent is added to the bill that the Attorney General's Gaming Division be paid from gaming tax revenues.

[6] Funding of $1.2 million is added from the Attorney General refund fund for salaries and wages and operating expenses funding from the general fund reduced by the House. Of the total, $283,227 is for salaries and wages of a BCI agent and a BCI administrative assistant, $34,377 is for operating expenses of the State Crime Laboratory, $271,889 is for operating expenses of the Criminal Justice Information System, and $610,507 is for other operating expenses of the Attorney General's office, primarily related to information technology-related expenses.

[7] Funding of $447,790 from the general fund is restored for 1 FTE assistant attorney general position for the intellectual property attorney program. The House removed this position and eliminated the program.

[8] One-time funding of $1 million is added from the strategic investment and improvements fund for a statewide litigation funding pool, to provide a total of $4 million. The House added $3 million from the strategic investment and improvements fund.

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This amendment also:

- Adds a section to provide a 2019-21 biennium supplemental appropriation of $355,000 to the Attorney General from federal funds, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers to be received from the Department of Transportation. The section includes an exemption to allow the Attorney General to continue the funding into the 2021-23 biennium. This section is declared an emergency measure.
- Adds a section to provide a transfer of $2 million from lawsuit settlement proceeds deposited in the Attorney General refund fund to the Department of Human Services, which is appropriated to the Department of Human Services for defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Department of Human Services is required to consult with the Attorney General regarding the use of this funding. The Attorney General is required to notify the Legislative Council and the Office of Management and Budget of any lawsuit settlement proceeds that become available for transfer to the Department of Human Services for this program.
- Adds a section to identify $475,000 appropriated in Section 1 for the continued development and implementation of the charitable gaming technology system is from the gaming tax allocation fund. The House provided this funding from the Attorney General operating fund.
- Amends a section to identify $1,374,989 in the estimated income line item in Section 1 is for providing salary equity increases to Attorney General staff during the 2021-23 biennium, of which $1,249,083 is from the Attorney General refund fund for BCI and MFCU positions and $125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for Fire Marshal office positions.
- Amends a section to allow the Attorney General to invest up to $2,577,624 of funding in the Attorney General refund fund, which is derived from lawsuit settlement proceeds received by the Attorney General and was deposited in the Attorney General refund fund in January 2021 ($1,160,896) and March 2021 ($1,416,728) and any investment earnings on the settlement amount, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund and Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for the purpose of providing salary equity increases for the 2021-23 biennium and for the cost to continue the salary equity increases during the 2023-25 biennium.
- Amends a section increasing the Attorney General's statutory salary to reflect salary increases of 1.5 percent and 2 percent approved for the 2021-23 biennium.
- Adds a section to provide, notwithstanding Section 54-12-08.1, the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing multi-state technology litigation, during the period beginning with the effective date of this Act and ending June 30, 2023. This section is declared an emergency measure.
- Adds a section to provide, notwithstanding Section 53-06.1-12, the Attorney General may distribute quarters seven and eight of 2019-21 biennium gaming tax revenue grants to cities and counties through October 31, 2021.
- Adds a section to provide, notwithstanding subsection 6 of Section 18-13-03, the Attorney General may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to Fire Marshal office positions during the 2021-23 biennium.

- Adds a section to allow the Attorney General to continue any remaining funding appropriated from other funds for the 2017-19 biennium and continued into the 2019-21 biennium for the statewide automated victim information and notification system into the 2021-23 biennium for the legal case management system, which is used to track attorney time and billing within the agency.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund for the 2019-21 biennium for the purchase of information technology equipment into the 2021-23 biennium.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating attorney and legal-related positions in state government.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government.
- Adds a section to provide for a Legislative Management study regarding the state's charitable gaming tax laws and the use of net proceeds for eligible organizations.

## House Bill No. 1003 - DHS - Other - Senate Action

| | Base Budget | House Version | Senate Changes | Senate Version |
|---|---|---|---|---|
| Operating expenses | | | $2,000,000 | $2,000,000 |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 |

## Department 325 - DHS - Other - Detail of Senate Changes

| | Adds One-Time Funding for Opioid Addiction Prevention Program[1] | Total Senate Changes |
|---|---|---|
| Operating expenses | $2,000,000 | $2,000,000 |
| Total all funds | $2,000,000 | $2,000,000 |
| Less estimated income | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 |
| FTE | 0.00 | 0.00 |

[1] One-time funding of $2 million is added from lawsuit settlement proceeds received by the Attorney General and transferred to the Department of Human Services for defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The House did not include this appropriation.

**REPORT OF STANDING COMMITTEE**

**HB 1003, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1003 was placed on the Sixth order on the calendar.

Page 1, line 1, after "general" insert "; to provide an appropriation to the department of human services"

Page 1, line 2, replace "section" with "sections 53-06.1-12 and"

Page 1, line 2, after the second "to" insert "the gaming tax allocation fund and"

Page 1, line 4, remove "and"

Page 1, line 4, after "report" insert "; to provide for a legislative management study; and to declare an emergency"

Page 1, remove lines 13 through 24

Page 2, replace lines 1 through 7 with:

| | | | |
|---|---|---|---|
| "Salaries and wages | $45,954,981 | $4,140,206 | $50,095,187 |
| Operating expenses | 15,588,646 | 801,822 | 16,390,468 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (515,000) | 3,903,440 |
| Human trafficking victims grants | 1,400,000 | (298,121) | 1,101,879 |
| Forensic nurse examiners grants | 250,000 | 691 | 250,691 |
| Statewide litigation funding pool | 0 | 4,000,000 | 4,000,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 63,390 | 5,254,844 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 443,847 | 4,074,968 |
| Law enforcement | 2,982,284 | 66,643 | 3,048,927 |
| Total all funds | $81,490,880 | $9,172,234 | $90,663,114 |
| Less estimated income | 35,886,284 | 12,372,844 | 48,259,128 |
| Total general fund | $45,604,596 | ($3,200,610) | $42,403,986 |
| Full-time equivalent positions | 245.00 | 7.00 | 252.00" |

Page 2, replace lines 18 through 22 with:

| | | |
|---|---|---|
| "Statewide litigation funding pool | 0 | 4,000,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $6,286,706 |
| Total other funds | 3,217,956 | 6,286,706 |
| Total general fund | $200,000 | $0" |

Page 2, after line 29, insert:

"**SECTION 4. APPROPRIATION - 2019-21 BIENNIUM - SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM - DRUG ANALYZERS - EXEMPTION - ONE-TIME FUNDING.** There is appropriated from federal funds, not otherwise appropriated, the sum of $355,000, or so much as the sum as may be necessary, to the attorney general, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers with federal funding received from the department of transportation, for the period beginning with the effective date of this Act, and ending June 30, 2021. The funding provided under this section is not subject to section

54-44.1-11 and any unexpended funds may be continued and are available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item.

**SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID ADDICTION PREVENTION AND TREATMENT PROGRAM - APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - ONE-TIME FUNDING - REPORT.** The office of management and budget shall transfer up to $2,000,000 from opioid-related lawsuit settlement proceeds deposited in the attorney general refund fund to the department of human services which is appropriated to the department of human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of human services for this program. This funding is considered a one-time funding item."

Page 3, line 1, replace "$3,000,000" with "$4,000,000"

Page 3, after line 5, insert:

"**SECTION 7. ESTIMATED INCOME - CHARITABLE GAMING TECHNOLOGY SYSTEM - GAMING TAX ALLOCATION FUND.** The estimated income line item in section 1 of this Act includes $475,000 from the gaming tax allocation fund for defraying expenses related to the continued development and implementation of the charitable gaming technology system."

Page 3, line 8, replace "$1,101,834" with "$1,101,879"

Page 3, line 19, replace "$250,674" with "$250,691"

Page 3, line 31, after "**FUND**" insert "**- REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND**"

Page 4, line 1, replace "$1,133,232 from the attorney general refund fund" with "$1,374,989"

Page 4, line 2, replace "$1,007,326 is" with "$1,249,083 is from the attorney general refund fund"

Page 4, line 3, after "is" insert "from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 7, replace "$2,266,464" with "$2,577,624"

Page 4, line 9, after "proceeds" insert "and $1,416,728 is derived from March 2021 lawsuit settlement proceeds, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 11, replace "$2,266,464" with "$2,577,624"

Page 4, line 12, after "fund" insert "and $251,812 in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund and any investment earnings on the funding be retained in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund,"

Page 4, line 13, replace "7" with "10"

Page 4, after line 14, insert:

"**SECTION 12. AMENDMENT.** Section 53-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-12. Gaming tax - ~~Deposits and allocations~~Gaming tax allocation fund - Attorney general - State treasurer - Allocations - Transfer to the general fund.**

1. A gaming tax is imposed on the total gross proceeds received by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. For a licensed organization with gross proceeds:

   a. Not exceeding one million five hundred thousand dollars the tax is one percent of gross proceeds.

   b. Exceeding one million five hundred thousand dollars the tax is fifteen thousand dollars plus two and twenty-five hundredths percent of gross proceeds exceeding one million five hundred thousand dollars.

2. The tax must be paid to the attorney general at the time tax returns are filed.

~~3. Except as provided in subsection 4, the attorney general shall deposit gaming taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.~~

~~4.~~3. The attorney general shall deposit ~~seven percent of the total~~all taxes, monetary fines, and interest and penalties, less refunds, collected under this section into a gaming tax allocation fund. Pursuant to legislative appropriation, the attorney general shall distribute seven percent of moneys deposited in the fund ~~must be distributed~~ quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

4. Pursuant to legislative appropriation, the attorney general shall use moneys available in the gaming tax allocation fund for the administration and operating costs associated with charitable gaming.

5. On or before June thirtieth of each odd-numbered year, the attorney general shall certify to the state treasurer the amount of accumulated funds in the gaming tax allocation fund which exceed fifty percent of the amount appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming for the subsequent biennium. The state treasurer shall transfer the certified amount from the gaming tax allocation fund to the general fund before the end of each biennium."

Page 4, line 20, replace "sixty-eight" with "sixty-nine"

Page 4, line 20, overstrike "three" and insert immediately thereafter "one"

Page 4, line 20, replace "thirty-three" with "sixty-two"

Page 4, after line 25, insert:

"**SECTION 15. EXEMPTION - CONTINGENT FEE ARRANGEMENT.** Notwithstanding section 54-12-08.1, the attorney general may contract for legal services compensated by a contingent fee arrangement for ongoing multi-state technology litigation during the period beginning with the effective date of this Act and ending June 30, 2023.

**SECTION 16. EXEMPTION - GAMING TAX REVENUE GRANTS.** Notwithstanding section 53-06.1-12, the attorney general may distribute gaming tax revenue grants to cities and counties relating to the seventh and eighth quarters of the 2019-21 biennium through October 31, 2021."

Page 4, after line 28, insert:

"**SECTION 18. EXEMPTION - REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND.** Notwithstanding subsection 6 of section 18-13-03, the attorney general may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to fire marshal office positions during the biennium beginning July 1, 2021, and ending June 30, 2023."

Page 5, after line 4, insert:

"**SECTION 20. EXEMPTION - STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION PROGRAM.** The amount appropriated to the attorney general from other funds for the statewide automated victim information and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws and continued into the 2019-21 biennium, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the legal case management system during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 21. EXEMPTION - INFORMATION TECHNOLOGY EQUIPMENT.** The amount appropriated to the attorney general from the general fund for the purchase of information technology equipment as contained in section 1 of chapter 28 of the 2019 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 for the purchase of information technology equipment, during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 22. LEGISLATIVE INTENT - GAMING DIVISION.** It is the intent of the sixty-seventh legislative assembly that the expenses of the attorney general's gaming division be paid from gaming tax revenues.

**SECTION 23. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT ATTORNEYS.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating attorney and legal-related positions in state government. The study must include an analysis of the number of attorney and legal-related positions in state government, the agency to which the positions are assigned, the type of work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 24. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT LITIGATION FUNDING.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of

litigation-related funding in state government agency budgets, including the purpose and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 25. LEGISLATIVE MANAGEMENT STUDY - CHARITABLE GAMING LAWS.** During the 2021-22 interim, the legislative management shall consider studying laws regarding the state's charitable gaming taxation and use of net proceeds for eligible organizations. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 26. EMERGENCY.** Sections 4 and 15 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Summary of Senate Action**

| | Base Budget | House Version | Senate Changes | Senate Version |
|---|---|---|---|---|
| Attorney General | | | | |
| Total all funds | $81,490,880 | $87,025,682 | $3,887,432 | $90,913,114 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,159,082 | 48,509,128 |
| General fund | $45,604,596 | $43,675,636 | ($1,271,650) | $42,403,986 |
| FTE | 245.00 | 248.00 | 4.00 | 252.00 |
| DHS - Other | | | | |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 |
| Bill total | | | | |
| Total all funds | $81,490,880 | $87,025,682 | $5,887,432 | $92,913,114 |
| Less estimated income | 35,886,284 | 43,350,046 | 7,159,082 | 50,509,128 |
| General fund | $45,604,596 | $43,675,636 | ($1,271,650) | $42,403,986 |
| FTE | 245.00 | 248.00 | 4.00 | 252.00 |

## House Bill No. 1003 - Attorney General - Senate Action

| | Base Budget | House Version | Senate Changes | Senate Version |
|---|---|---|---|---|
| Salaries and wages | $45,954,981 | $48,782,813 | $1,312,374 | $50,095,187 |
| Operating expenses | 15,588,646 | 15,675,772 | 714,696 | 16,390,468 |
| Capital assets | 804,380 | 1,739,221 | | 1,739,221 |
| Grants | 4,418,440 | 3,663,440 | 240,000 | 3,903,440 |
| Litigation fees | 150,000 | 127,500 | | 127,500 |
| Intellectual property attorney | 442,085 | | | |
| Medical examinations | 660,000 | 660,000 | | 660,000 |
| North Dakota lottery | 5,191,454 | 5,253,531 | 1,313 | 5,254,844 |
| Arrest and return of fugitives | 10,000 | 8,500 | | 8,500 |
| Gaming commission | 7,489 | 7,489 | | 7,489 |
| Criminal justice information sharing | 3,631,121 | 3,801,923 | 273,045 | 4,074,968 |
| Law enforcement | 2,982,284 | 2,702,985 | 345,942 | 3,048,927 |
| Human trafficking victims grants | 1,400,000 | 1,101,834 | 45 | 1,101,879 |
| Forensic nurse examiners grants | 250,000 | 250,674 | 17 | 250,691 |
| Additional income | | 250,000 | | 250,000 |
| Statewide litigation funding pool | | 3,000,000 | 1,000,000 | 4,000,000 |
| Total all funds | $81,490,880 | $87,025,682 | $3,887,432 | $90,913,114 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,159,082 | 48,509,128 |
| General fund | $45,604,596 | $43,675,636 | ($1,271,650) | $42,403,986 |
| FTE | 245.00 | 248.00 | 4.00 | 252.00 |

## Department 125 - Attorney General - Detail of Senate Changes

| | Adjusts Funding for Salary and Benefit Increases[1] | Adds Funding for Salary Equity Increases[2] | Adjusts Funding for the Gaming Division[3] | Adds Funding for Gaming Grants to Political Subdivisions[4] | Adds Funding for Gaming Division Positions[5] | Adjusts Funding for Salaries and Operating Expenses[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $33,376 | $241,757 | | | $611,147 | |
| Operating expenses | | | | | 108,627 | $584,373 |
| Capital assets | | | | | | |
| Grants | | | | $240,000 | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 1,313 | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 1,156 | | | | | 271,889 |
| Law enforcement | 2,204 | | | | | 343,738 |
| Human trafficking victims grants | 45 | | | | | |
| Forensic nurse examiners grants | 17 | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $38,111 | $241,757 | $0 | $240,000 | $719,774 | $1,200,000 |
| Less estimated income | 47,509 | 241,757 | 1,710,042 | 240,000 | 719,774 | 1,200,000 |
| General fund | ($9,398) | $0 | ($1,710,042) | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 3.00 | 0.00 |

| | Restores Intellectual Property Attorney[7] | Adds One-Time Funding for Statewide Litigation[8] | Total Senate Changes |
|---|---|---|---|
| Salaries and wages | $426,094 | | $1,312,374 |
| Operating expenses | 21,696 | | 714,696 |
| Capital assets | | | |
| Grants | | | 240,000 |
| Litigation fees | | | |
| Intellectual property attorney | | | |
| Medical examinations | | | |
| North Dakota lottery | | | 1,313 |
| Arrest and return of fugitives | | | |
| Gaming commission | | | |
| Criminal justice information sharing | | | 273,045 |
| Law enforcement | | | 345,942 |
| Human trafficking victims grants | | | 45 |
| Forensic nurse examiners grants | | | 17 |
| Additional income | | | |
| Statewide litigation funding pool | | $1,000,000 | 1,000,000 |
| Total all funds | $447,790 | $1,000,000 | $3,887,432 |
| Less estimated income | 0 | 1,000,000 | 5,159,082 |
| General fund | $447,790 | $0 | ($1,271,650) |
| FTE | 1.00 | 0.00 | 4.00 |

[1] Salaries and wages funding is adjusted for 2021-23 biennium salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of $100 and 2 percent on July 1, 2022. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250. Of these amounts, $50,000 is reduced from the general fund and $50,000 is added from gaming tax revenues deposited in the gaming tax allocation fund for salary increases related to Gaming Division positions.

[2] Funding of $241,757 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions to provide a total of $1,249,083 of salary equity increases for these FTE positions from the Attorney General refund fund, which is derived from lawsuit settlement proceeds. The House provided $1,007,326 from the Attorney General refund fund for these FTE positions.

An additional $125,906 of salary equity funding is provided for 2 FTE Fire Marshal office positions from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund. The House provided the $125,906 for the Fire Marshal office positions from the Attorney General refund fund.

[3] Funding from the general fund of $1,710,042 is replaced with funding from gaming tax revenues deposited in the gaming tax allocation fund for Gaming Division expenses, including $1,669,103 in the salaries and wages line item, $37,599 in the operating expenses line item, and $3,340 in the gaming commission line item. A section is added to the bill to amend North Dakota Century Code Section 53-06.1-12 to authorize the Attorney General to use gaming tax revenues for the administration and operating costs of the Gaming Division.

[4] Funding of $240,000 is added from the gaming tax allocation fund to provide a total of $750,000 for grants to political subdivisions.

[5] Funding of $719,774 is added from the gaming tax revenues deposited in the gaming tax allocation fund for 3 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $611,147 is for salaries and wages and $108,627 is for related operating expenses.

The Senate amendments also adjust the funding source for $959,699 approved by the House, of which $814,863 is for salaries and wages of 4 FTE Gaming Division positions and $144,836 is for related operating expenses, from the Attorney General operating fund to gaming tax revenues deposited in the gaming tax allocation fund to provide a total of 7 new FTE Gaming Division positions at a cost of $1,679,473, of which $1,426,010 is for salaries

and wages and $253,463 is for related operating expenses.

The Senate amendments also replace funding of $692,291 from the Attorney General refund fund, of which $640,282 is for salaries and wages, $47,860 is for operating expenses and $4,149 is for the Gaming Commission, and $147,560 from the Attorney General operating fund, of which $24,000 is for salaries and wages and $123,560 is for operating expenses, with funding from the gaming tax allocation fund.

Total Gaming Division funding provided by the Senate from the gaming tax allocation fund is $5,504,366, of which $3,809,395 is for salaries and wages, $937,482 is for operating expenses, $750,000 is for grants to cities and counties, and $7,489 is for the Gaming Commission.

A section of legislative intent is added to the bill that the Attorney General's Gaming Division be paid from gaming tax revenues.

[6] Funding of $1.2 million is added from the Attorney General refund fund for salaries and wages and operating expenses funding from the general fund reduced by the House. Of the total, $283,227 is for salaries and wages of a BCI agent and a BCI administrative assistant, $34,377 is for operating expenses of the State Crime Laboratory, $271,889 is for operating expenses of the Criminal Justice Information System, and $610,507 is for other operating expenses of the Attorney General's office, primarily related to information technology-related expenses.

[7] Funding of $447,790 from the general fund is restored for 1 FTE assistant attorney general position for the intellectual property attorney program. The House removed this position and eliminated the program.

[8] One-time funding of $1 million is added from the strategic investment and improvements fund for a statewide litigation funding pool, to provide a total of $4 million. The House added $3 million from the strategic investment and improvements fund.

This amendment also:

- Adds a section to provide a 2019-21 biennium supplemental appropriation of $355,000 to the Attorney General from federal funds, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers to be received from the Department of Transportation. The section includes an exemption to allow the Attorney General to continue the funding into the 2021-23 biennium. This section is declared an emergency measure.
- Adds a section to provide a transfer of $2 million from lawsuit settlement proceeds deposited in the Attorney General refund fund to the Department of Human Services, which is appropriated to the Department of Human Services for defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Department of Human Services is required to consult with the Attorney General regarding the use of this funding. The Attorney General is required to notify the Legislative Council and the Office of Management and Budget of any lawsuit settlement proceeds that become available for transfer to the Department of Human Services for this program.
- Adds a section to identify $475,000 appropriated in Section 1 for the continued development and implementation of the charitable gaming technology system is from the gaming tax allocation fund. The House provided this funding from the Attorney General operating fund.
- Amends a section to identify $1,374,989 in the estimated income line item in Section 1 is for providing salary equity increases to Attorney General staff during the 2021-23 biennium, of which $1,249,083 is from the Attorney General refund fund for BCI and MFCU positions and $125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for Fire Marshal office

positions.

- Amends a section to allow the Attorney General to invest up to $2,577,624 of funding in the Attorney General refund fund, which is derived from lawsuit settlement proceeds received by the Attorney General and was deposited in the Attorney General refund fund in January 2021 ($1,160,896) and March 2021 ($1,416,728) and any investment earnings on the settlement amount, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund and Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for the purpose of providing salary equity increases for the 2021-23 biennium and for the cost to continue the salary equity increases during the 2023-25 biennium.
- Amends a section increasing the Attorney General's statutory salary to reflect salary increases of 1.5 percent and 2 percent approved for the 2021-23 biennium.
- Adds a section to provide, notwithstanding Section 54-12-08.1, the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing multi-state technology litigation, during the period beginning with the effective date of this Act and ending June 30, 2023. This section is declared an emergency measure.
- Adds a section to provide, notwithstanding Section 53-06.1-12, the Attorney General may distribute quarters seven and eight of 2019-21 biennium gaming tax revenue grants to cities and counties through October 31, 2021.
- Adds a section to provide, notwithstanding subsection 6 of Section 18-13-03, the Attorney General may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to Fire Marshal office positions during the 2021-23 biennium.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from other funds for the 2017-19 biennium and continued into the 2019-21 biennium for the statewide automated victim information and notification system into the 2021-23 biennium for the legal case management system, which is used to track attorney time and billing within the agency.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund for the 2019-21 biennium for the purchase of information technology equipment into the 2021-23 biennium.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating attorney and legal-related positions in state government.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government.
- Adds a section to provide for a Legislative Management study regarding the state's charitable gaming tax laws and the use of net proceeds for eligible organizations.

**House Bill No. 1003 - DHS - Other - Senate Action**

| | Base Budget | House Version | Senate Changes | Senate Version |
|---|---|---|---|---|
| Operating expenses | | | $2,000,000 | $2,000,000 |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 |

## Department 325 - DHS - Other - Detail of Senate Changes

| | Adds One-Time Funding for Opioid Addiction Prevention Program[1] | Total Senate Changes |
|---|---|---|
| Operating expenses | $2,000,000 | $2,000,000 |
| Total all funds | $2,000,000 | $2,000,000 |
| Less estimated income | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 |
| FTE | 0.00 | 0.00 |

[1] One-time funding of $2 million is added from lawsuit settlement proceeds received by the Attorney General and transferred to the Department of Human Services for defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The House did not include this appropriation.

21.0262.02002
Title.
Fiscal No. 2

Prepared by the Legislative Council staff for
Senator Bekkedahl
April 5, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1003

Page 1, line 1, after "general" insert "; to provide an appropriation to the department of human services"

Page 1, line 2, replace "section" with "sections 53-06.1-12 and"

Page 1, line 2, after the second "to" insert "the gaming tax allocation fund"

Page 1, line 4, remove "and"

Page 1, line 4, after "report" insert "; to provide for a legislative management study; and to declare an emergency"

Page 1, remove lines 13 through 24

Page 2, replace lines 1 through 7 with:

| | | | |
|---|---|---|---|
| "Salaries and wages | $45,954,981 | $4,140,206 | $50,095,187 |
| Operating expenses | 15,588,646 | 801,822 | 16,390,468 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (515,000) | 3,903,440 |
| Human trafficking victims grants | 1,400,000 | (298,121) | 1,101,879 |
| Forensic nurse examiners grants | 250,000 | 691 | 250,691 |
| Statewide litigation funding pool | 0 | 4,000,000 | 4,000,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 63,390 | 5,254,844 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 443,847 | 4,074,968 |
| Law enforcement | 2,982,284 | 66,643 | 3,048,927 |
| Total all funds | $81,490,880 | $9,172,234 | $90,663,114 |
| Less estimated income | 35,886,284 | 12,372,844 | 48,259,128 |
| Total general fund | $45,604,596 | ($3,200,610) | $42,403,986 |
| Full-time equivalent positions | 245.00 | 7.00 | 252.00" |

Page 2, replace lines 18 through 22 with:

| | | |
|---|---|---|
| "Statewide litigation funding pool | 0 | 4,000,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $6,286,706 |
| Total other funds | 3,217,956 | 6,286,706 |
| Total general fund | $200,000 | $0" |

Page 2, after line 29, insert:

**"SECTION 4. APPROPRIATION - 2019-21 BIENNIUM - SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM - DRUG ANALYZERS - EXEMPTION - ONE-TIME FUNDING.** There is appropriated from federal funds, not otherwise appropriated, the sum of $355,000, or so much as the sum as may be necessary, to the attorney general, of which $255,000 is for the development and

implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers with federal funding received from the department of transportation, for the period beginning with the effective date of this Act, and ending June 30, 2021. The funding provided under this section is not subject to section 54-44.1-11 and any unexpended funds may be continued and are available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item.

**SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID ADDICTION PREVENTION AND TREATMENT PROGRAM - APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - ONE-TIME FUNDING - REPORT.** The office of management and budget shall transfer up to $2,000,000 from opioid-related lawsuit settlement proceeds deposited in the attorney general refund fund to the department of human services, which is appropriated to the department of human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of human services for this program. This funding is considered a one-time funding item."

Page 3, line 1, replace "$3,000,000" with "$4,000,000"

Page 3, after line 5, insert:

**"SECTION 7. ESTIMATED INCOME - CHARITABLE GAMING TECHNOLOGY SYSTEM - GAMING TAX ALLOCATION FUND.** The estimated income line item in section 1 of this Act includes $475,000 from the gaming tax allocation fund for defraying expenses related to the continued development and implementation of the charitable gaming technology system."

Page 3, line 8, replace "$1,101,834" with "$1,101,879"

Page 3, line 19, replace "$250,674" with "$250,691"

Page 3, line 31, after "**FUND**" insert "**- REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND**"

Page 3, line 31, format the boldfaced period

Page 4, line 1, replace "$1,133,232 from the attorney general refund fund" with "$1,374,989"

Page 4, line 2, replace "$1,007,326 is" with "$1,249,083 is from the attorney general refund fund"

Page 4, line 3, after "is" insert "from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 7, replace "$2,266,464" with "$2,577,624"

Page 4, line 9, after "proceeds" insert "and $1,416,728 is derived from March 2021 lawsuit settlement proceeds, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 11, replace "$2,266,464" with "$2,577,624"

Page 4, line 12, after "fund" insert "and $251,812 in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund and any investment earnings on the funding be retained in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund,"

Page 4, line 13, replace "7" with "10"

Page 4, after line 14, insert:

"**SECTION 12. AMENDMENT.** Section 53-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-12. Gaming tax - ~~Deposits and allocations~~Gaming tax allocation fund - Attorney general - State treasurer - Allocations - Transfer to the general fund.**

1. A gaming tax is imposed on the total gross proceeds received by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. For a licensed organization with gross proceeds:

   a. Not exceeding one million five hundred thousand dollars the tax is one percent of gross proceeds.

   b. Exceeding one million five hundred thousand dollars the tax is fifteen thousand dollars plus two and twenty-five hundredths percent of gross proceeds exceeding one million five hundred thousand dollars.

2. The tax must be paid to the attorney general at the time tax returns are filed.

~~3. Except as provided in subsection 4, the attorney general shall deposit gaming taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.~~

~~4.~~3. The attorney general shall deposit ~~seven percent of the total~~all taxes, monetary fines, and interest and penalties, less refunds, collected under this section into a gaming tax allocation fund. Pursuant to legislative appropriation, the attorney general shall distribute seven percent of moneys deposited in the fund ~~must be distributed~~ quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

4. Pursuant to legislative appropriation, the attorney general shall use moneys available in the gaming tax allocation fund for the administration and operating costs associated with charitable gaming.

5. On or before June thirtieth of each odd-numbered year, the attorney general shall certify to the state treasurer the amount of accumulated funds in the gaming tax allocation fund which exceed fifty percent of the amount

appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming for the subsequent biennium. The state treasurer shall transfer the certified amount from the gaming tax allocation fund to the general fund prior to the end of each biennium."

Page 4, line 20, replace "sixty-eight" with "sixty-nine"

Page 4, line 20, overstrike "three" and insert immediately thereafter "one"

Page 4, line 20, replace "thirty-three" with "sixty-two"

Page 4, after line 25, insert:

**"SECTION 15. EXEMPTION - CONTINGENT FEE ARRANGEMENT.** Notwithstanding section 54-12-08.1, the attorney general may contract for legal services compensated by a contingent fee arrangement for ongoing multi-state technology litigation during the period beginning with the effective date of this Act and ending June 30, 2023.

**SECTION 16. EXEMPTION - GAMING TAX REVENUE GRANTS.** Notwithstanding section 53-06.1-12, the attorney general may distribute gaming tax revenue grants to cities and counties relating to the seventh and eighth quarters of the 2019-21 biennium through October 31, 2021."

Page 4, after line 28, insert:

**"SECTION 18. EXEMPTION - REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND.** Notwithstanding subsection 6 of section 18-13-03, the attorney general may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to fire marshal office positions during the biennium beginning July 1, 2021, and ending June 30, 2023."

Page 5, after line 4, insert:

**"SECTION 20. EXEMPTION - STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION PROGRAM.** The amount appropriated to the attorney general from other funds for the statewide automated victim information and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws and continued into the 2019-21 biennium, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the legal case management system during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 21. EXEMPTION - INFORMATION TECHNOLOGY EQUIPMENT.** The amount appropriated to the attorney general from the general fund for the purchase of information technology equipment as contained in section 1 of chapter 28 of the 2019 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 for the purchase of information technology equipment, during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 22. LEGISLATIVE INTENT - GAMING DIVISION.** It is the intent of the sixty-seventh legislative assembly that the expenses of the attorney general's gaming division be paid from gaming tax revenues.

**SECTION 23. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT ATTORNEYS.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating attorney and legal-related positions in state government. The study must include an analysis of the number of attorney and legal-related positions in state government, the agency to which the positions are assigned, the type of work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 24. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT LITIGATION FUNDING.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of litigation-related funding in state government agency budgets, including the purpose and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 25. LEGISLATIVE MANAGEMENT STUDY - CHARITABLE GAMING LAWS.** During the 2021-22 interim, the legislative management shall consider studying laws regarding the state's charitable gaming taxation and use of net proceeds for eligible organizations. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 26. EMERGENCY.** Sections 4 and 15 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Summary of Senate Action**

| | Base Budget | House Version | Senate Changes | Senate Version |
|---|---|---|---|---|
| Attorney General | | | | |
| Total all funds | $81,490,880 | $87,025,682 | $3,887,432 | $90,913,114 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,159,082 | 48,509,128 |
| General fund | $45,604,596 | $43,675,636 | ($1,271,650) | $42,403,986 |
| FTE | 245.00 | 248.00 | 4.00 | 252.00 |
| DHS - Other | | | | |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 |
| Bill total | | | | |
| Total all funds | $81,490,880 | $87,025,682 | $5,887,432 | $92,913,114 |

| | | | | |
|---|---|---|---|---|
| Less estimated income | 35,886,284 | 43,350,046 | 7,159,082 | 50,509,128 |
| General fund | $45,604,596 | $43,675,636 | ($1,271,650) | $42,403,986 |
| FTE | 245.00 | 248.00 | 4.00 | 252.00 |

## House Bill No. 1003 - Attorney General - Senate Action

| | Base Budget | House Version | Senate Changes | Senate Version |
|---|---|---|---|---|
| Salaries and wages | $45,954,981 | $48,782,813 | $1,312,374 | $50,095,187 |
| Operating expenses | 15,588,646 | 15,675,772 | 714,696 | 16,390,468 |
| Capital assets | 804,380 | 1,739,221 | | 1,739,221 |
| Grants | 4,418,440 | 3,663,440 | 240,000 | 3,903,440 |
| Litigation fees | 150,000 | 127,500 | | 127,500 |
| Intellectual property attorney | 442,085 | | | |
| Medical examinations | 660,000 | 660,000 | | 660,000 |
| North Dakota lottery | 5,191,454 | 5,253,531 | 1,313 | 5,254,844 |
| Arrest and return of fugitives | 10,000 | 8,500 | | 8,500 |
| Gaming commission | 7,489 | 7,489 | | 7,489 |
| Criminal justice information sharing | 3,631,121 | 3,801,923 | 273,045 | 4,074,968 |
| Law enforcement | 2,982,284 | 2,702,985 | 345,942 | 3,048,927 |
| Human trafficking victims grants | 1,400,000 | 1,101,834 | 45 | 1,101,879 |
| Forensic nurse examiners grants | 250,000 | 250,674 | 17 | 250,691 |
| Additional income | | 250,000 | | 250,000 |
| Statewide litigation funding pool | | 3,000,000 | 1,000,000 | 4,000,000 |
| Total all funds | $81,490,880 | $87,025,682 | $3,887,432 | $90,913,114 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,159,082 | 48,509,128 |
| General fund | $45,604,596 | $43,675,636 | ($1,271,650) | $42,403,986 |
| FTE | 245.00 | 248.00 | 4.00 | 252.00 |

## Department 125 - Attorney General - Detail of Senate Changes

| | Adjusts Funding for Salary and Benefit Increases[1] | Adds Funding for Salary Equity Increases[2] | Adjusts Funding for the Gaming Division[3] | Adds Funding for Gaming Grants to Political Subdivisions[4] | Adds Funding for Gaming Division Positions[5] | Adjusts Funding for Salaries and Operating Expenses[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $33,376 | $241,757 | | | $611,147 | |
| Operating expenses | | | | | 108,627 | $584,373 |
| Capital assets | | | | | | |
| Grants | | | | $240,000 | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 1,313 | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 1,156 | | | | | 271,889 |
| Law enforcement | 2,204 | | | | | 343,738 |
| Human trafficking victims grants | 45 | | | | | |
| Forensic nurse examiners grants | 17 | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $38,111 | $241,757 | $0 | $240,000 | $719,774 | $1,200,000 |
| Less estimated income | 47,509 | 241,757 | 1,710,042 | 240,000 | 719,774 | 1,200,000 |
| General fund | ($9,398) | $0 | ($1,710,042) | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 3.00 | 0.00 |

| | Restores Intellectual Property Attorney[7] | Adds One-Time Funding for Statewide Litigation[8] | Total Senate Changes |
|---|---|---|---|
| Salaries and wages | $426,094 | | $1,312,374 |
| Operating expenses | 21,696 | | 714,696 |
| Capital assets | | | |
| Grants | | | 240,000 |
| Litigation fees | | | |
| Intellectual property attorney | | | |
| Medical examinations | | | |
| North Dakota lottery | | | 1,313 |
| Arrest and return of fugitives | | | |
| Gaming commission | | | |
| Criminal justice information sharing | | | 273,045 |
| Law enforcement | | | 345,942 |
| Human trafficking victims grants | | | 45 |
| Forensic nurse examiners grants | | | 17 |
| Additional income | | | |
| Statewide litigation funding pool | | $1,000,000 | 1,000,000 |
| Total all funds | $447,790 | $1,000,000 | $3,887,432 |
| Less estimated income | 0 | 1,000,000 | 5,159,082 |
| General fund | $447,790 | $0 | ($1,271,650) |
| FTE | 1.00 | 0.00 | 4.00 |

[1] Salaries and wages funding is adjusted for 2021-23 biennium salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of $100 and 2 percent on July 1, 2022. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250. Of these amounts, $50,000 is reduced from the general fund and $50,000 is added from gaming tax revenues deposited in the gaming tax allocation fund for salary increases related to Gaming Division positions.

[2] Funding of $241,757 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions to provide a total of $1,249,083 of salary equity increases for these FTE positions from the Attorney General refund fund, which is derived from lawsuit settlement proceeds. The House provided $1,007,326 from the Attorney General refund fund for these FTE positions.

An additional $125,906 of salary equity funding is provided for 2 FTE Fire Marshal office positions from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund. The House provided the $125,906 for the Fire Marshal office positions from the Attorney General refund fund.

[3] Funding from the general fund of $1,710,042 is replaced with funding from gaming tax revenues deposited in the gaming tax allocation fund for Gaming Division expenses, including $1,669,103 in the salaries and wages line item, $37,599 in the operating expenses line item, and $3,340 in the gaming commission line item. A section is added to the bill to amend North Dakota Century Code Section 53-06.1-12 to authorize the Attorney General to use gaming tax revenues for the administration and operating costs of the Gaming Division.

[4] Funding of $240,000 is added from the gaming tax allocation fund to provide a total of $750,000 for grants to political subdivisions.

[5] Funding of $719,774 is added from the gaming tax revenues deposited in the gaming tax allocation fund for 3 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $611,147 is for salaries and wages and $108,627 is for related operating expenses.

The Senate amendments also adjust the funding source for $959,699 approved by the House, of which $814,863 is for salaries and wages of 4 FTE Gaming Division positions and $144,836 is for related operating expenses, from the Attorney General operating fund to gaming tax revenues deposited in the gaming tax allocation fund to provide a total of 7 new FTE Gaming Division positions at a cost of $1,679,473, of which $1,426,010 is for salaries and wages and $253,463 is for related operating expenses.

The Senate amendments also replace funding of $692,291 from the Attorney General refund fund, of which $640,282 is for salaries and wages, $47,860 is for operating expenses and $4,149 is for the Gaming Commission,

and $147,560 from the Attorney General operating fund, of which $24,000 is for salaries and wages and $123,560 is for operating expenses, with funding from the gaming tax allocation fund.

Total Gaming Division funding provided by the Senate from the gaming tax allocation fund is $5,504,366, of which $3,809,395 is for salaries and wages, $937,482 is for operating expenses, $750,000 is for grants to cities and counties, and $7,489 is for the Gaming Commission.

A section of legislative intent is added to the bill that the Attorney General's Gaming Division be paid from gaming tax revenues.

[6] Funding of $1.2 million is added from the Attorney General refund fund for salaries and wages and operating expenses funding from the general fund reduced by the House. Of the total, $283,227 is for salaries and wages of a BCI agent and a BCI administrative assistant, $34,377 is for operating expenses of the State Crime Laboratory, $271,889 is for operating expenses of the Criminal Justice Information System, and $610,507 is for other operating expenses of the Attorney General's office, primarily related to information technology-related expenses.

[7] Funding of $447,790 from the general fund is restored for 1 FTE assistant attorney general position for the intellectual property attorney program. The House removed this position and eliminated the program.

[8] One-time funding of $1 million is added from the strategic investment and improvements fund for a statewide litigation funding pool, to provide a total of $4 million. The House added $3 million from the strategic investment and improvements fund.

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This amendment also:

- Adds a section to provide a 2019-21 biennium supplemental appropriation of $355,000 to the Attorney General from federal funds, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers to be received from the Department of Transportation. The section includes an exemption to allow the Attorney General to continue the funding into the 2021-23 biennium. This section is declared an emergency measure.
- Adds a section to provide a transfer of $2 million from lawsuit settlement proceeds deposited in the Attorney General refund fund to the Department of Human Services, which is appropriated to the Department of Human Services for defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Department of Human Services is required to consult with the Attorney General regarding the use of this funding. The Attorney General is required to notify the Legislative Council and the Office of Management and Budget of any lawsuit settlement proceeds that become available for transfer to the Department of Human Services for this program.
- Adds a section to identify $475,000 appropriated in Section 1 for the continued development and implementation of the charitable gaming technology system is from the gaming tax allocation fund. The House provided this funding from the Attorney General operating fund.
- Amends a section to identify $1,374,989 in the estimated income line item in Section 1 is for providing salary equity increases to Attorney General staff during the 2021-23 biennium, of which $1,249,083 is from the Attorney General refund fund for BCI and MFCU positions and $125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for Fire Marshal office positions.
- Amends a section to allow the Attorney General to invest up to $2,577,624 of funding in the Attorney General refund fund, which is derived from lawsuit settlement proceeds received by the Attorney General and was deposited in the Attorney General refund fund in January 2021 ($1,160,896) and March 2021 ($1,416,728) and any investment earnings on the settlement amount, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund and Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for the purpose of providing salary equity increases for the 2021-23 biennium and for the cost to continue the salary equity increases during the 2023-25 biennium.
- Amends a section increasing the Attorney General's statutory salary to reflect salary increases of 1.5 percent and 2 percent approved for the 2021-23 biennium.
- Adds a section to provide, notwithstanding Section 54-12-08.1, the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing multi-state technology litigation, during the period beginning with the effective date of this Act and ending June 30, 2023. This section is declared an emergency measure.
- Adds a section to provide, notwithstanding Section 53-06.1-12, the Attorney General may distribute quarters seven and eight of 2019-21 biennium gaming tax revenue grants to cities and counties through October 31, 2021.
- Adds a section to provide, notwithstanding subsection 6 of Section 18-13-03, the Attorney General may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to Fire Marshal office positions during the 2021-23 biennium.

- Adds a section to allow the Attorney General to continue any remaining funding appropriated from other funds for the 2017-19 biennium and continued into the 2019-21 biennium for the statewide automated victim information and notification system into the 2021-23 biennium for the legal case management system, which is used to track attorney time and billing within the agency.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund for the 2019-21 biennium for the purchase of information technology equipment into the 2021-23 biennium.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating attorney and legal-related positions in state government.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government.
- Adds a section to provide for a Legislative Management study regarding the state's charitable gaming tax laws and the use of net proceeds for eligible organizations.

## House Bill No. 1003 - DHS - Other - Senate Action

| | Base Budget | House Version | Senate Changes | Senate Version |
|---|---|---|---|---|
| Operating expenses | | | $2,000,000 | $2,000,000 |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 |

## Department 325 - DHS - Other - Detail of Senate Changes

| | Adds One-Time Funding for Opioid Addiction Prevention Program[1] | Total Senate Changes |
|---|---|---|
| Operating expenses | $2,000,000 | $2,000,000 |
| Total all funds | $2,000,000 | $2,000,000 |
| Less estimated income | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 |
| FTE | 0.00 | 0.00 |

[1] One-time funding of $2 million is added from lawsuit settlement proceeds received by the Attorney General and transferred to the Department of Human Services for defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The House did not include this appropriation.

**2021 CONFERENCE COMMITTEE**

**HB 1003**

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
4/14/2021
Conference Committee

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

10:30 **Chairman Kempenich** brought the conference committee to order. Members present: Chairman Kempenich, Representative Howe, Representative Mock, Senator Bekkedahl, Senator Holmberg, Senator Mathern.

**Discussion Topics:**

- Base level funding changes
- Gaming tax allocation fund

10:30 **Senator Bekkedahl** explained the changes. Testimony #11517.

10:57 **Chairman Kempenich** adjourned the conference committee.

*Sheri Lewis, Committee Clerk*

## Attorney General - Budget No. 125
## House Bill No. 1003
## Base Level Funding Changes

| | House Version | | | | Senate Version | | | | Senate Changes to House Version | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Increase (Decrease) - House Version | | | |
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 0.00 | $0 | $0 | $0 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | $55,536 | $91,252 | $146,788 | | | $3,378 | $3,378 |
| Salary increase | | 781,879 | 384,469 | 1,166,348 | | 772,481 | 431,978 | 1,204,459 | | ($9,398) | $47,509 | 38,111 |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | 7,650 | 3,718 | 11,368 | | | | 0 |
| Adds funding for Bureau of Criminal Investigation salary equity increases | | | 1,007,326 | 1,007,326 | | | 1,249,083 | 1,249,083 | | | 241,757 | 241,757 |
| Adds funding for Fire Marshal salary equity increases | | | 125,906 | 125,906 | | | 125,906 | 125,906 | | | | 0 |
| Adjusts funding for the Gaming Division | | | | 0 | | (1,710,042) | 1,710,042 | 0 | | (1,710,042) | 1,710,042 | 0 |
| Adds funding for gaming grants to political subdivisions | | | | 0 | | | 240,000 | 240,000 | | | 240,000 | 240,000 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | 7.00 | | 1,679,473 | 1,679,473 | 3.00 | | 719,774 | 719,774 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | (246,009) | | (246,009) | | | | 0 |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | (1,489,628) | 185,464 | (1,304,164) | | | | 0 |
| Adjusts operating expenses | | (210,000) | | (210,000) | | (210,000) | 584,373 | 374,373 | | | 584,373 | 584,373 |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | 70,958 | | 70,958 | | | | 0 |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | 114,342 | 80,000 | 194,342 | | | | 0 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | (12,866) | | (12,866) | | | | 0 |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | 555 | | 555 | | | | 0 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | (152,400) | (152,400) | | | | 0 |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | (755,000) | (755,000) | | | | 0 |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | (22,500) | | (22,500) | | | | 0 |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | (1.00) | (447,790) | | (447,790) | | | | 0 |
| Restores funding for 1 FTE position for the intellectual property attorney program | | | | 0 | 1.00 | 447,790 | | 447,790 | 1.00 | 447,790 | | 447,790 |
| Reduces funding for the arrest and return of fugititives | | (1,500) | | (1,500) | | (1,500) | | (1,500) | | | | 0 |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | 382,662 | | 382,662 | | | | 0 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | (271,889) | 271,889 | 0 | | | 271,889 | 271,889 |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | (340,360) | 340,360 | 0 | | | 340,360 | 340,360 |
| Reduces funding for human trafficking victims grants | | (300,000) | | (300,000) | | (300,000) | | (300,000) | | | | 0 |
| Total ongoing funding changes | 3.00 | ($1,928,960) | $1,927,056 | ($1,904) | 7.00 | ($3,200,610) | $6,086,138 | $2,885,528 | 4.00 | ($1,271,650) | $4,159,082 | $2,887,432 |
| **One-time funding items** | | | | | | | | | | | | |
| Adds funding for criminal history improvement system upgrades | | | $400,000 | $400,000 | | | $400,000 | $400,000 | | | | $0 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | 475,000 | 475,000 | | | | 0 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | 300,000 | 300,000 | | | | 0 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | 1,111,706 | 1,111,706 | | | | 0 |
| Adds funding for a statewide litigation funding pool | | | 3,000,000 | 3,000,000 | | | 4,000,000 | 4,000,000 | | | $1,000,000 | 1,000,000 |
| Adds funding for additional income from federal or other sources | | | 250,000 | 250,000 | | | 250,000 | 250,000 | | | | 0 |
| Total one-time funding changes | 0.00 | $0 | $5,536,706 | $5,536,706 | 0.00 | $0 | $6,536,706 | $6,536,706 | 0.00 | $0 | $1,000,000 | $1,000,000 |
| **Total Changes to Base Level Funding** | 3.00 | ($1,928,960) | $7,463,762 | $5,534,802 | 7.00 | ($3,200,610) | $12,622,844 | $9,422,234 | 4.00 | ($1,271,650) | $5,159,082 | $3,887,432 |
| **2021-23 Total Funding** | 248.00 | $43,675,636 | $43,350,046 | $87,025,682 | 252.00 | $42,403,986 | $48,509,128 | $90,913,114 | 4.00 | ($1,271,650) | $5,159,082 | $3,887,432 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(4.2%)* | *5.4%* | *(0.0%)* | *2.9%* | *(7.0%)* | *17.0%* | *3.5%* | | | | |
| *Total changes as a percentage of base level* | *1.2%* | *(4.2%)* | *20.8%* | *6.8%* | *2.9%* | *(7.0%)* | *35.2%* | *11.6%* | | | | |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version |
|---|---|---|
| Appropriation - Additional federal funds or other federal funds | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. |
| Appropriation - 2019-21 biennium - Sexual assault evidence collection kit tracking system Drug analyzers - Exemption - One-time funding | | Section 4 provides a 2019-21 biennium supplemental appropriation of $355,000 to the Attorney General from federal funds, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers received from the Department of Transportation and granted to the Attorney General. The section includes an exemption to allow the Attorney General to continue the funding into the 2021-23 biennium. Section 26 declares this section to be an emergency measure. |
| Transfer - Lawsuit settlement proceeds - Opioid addiction prevention and treatment program - Appropriation - Department of Human Services - One-Time Funding - Report | | Section 5 provides for a transfer of up to $2,000,000 from opioid related lawsuit settlement proceeds deposited in the Attorney General refund fund to the Department of Human Services, which is appropriated to the Department of Human Services for the purposes of defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Department of Human Services is required to consult with the Attorney General regarding the use of this funding. The Attorney General is required to notify the Legislative Council and the Office of Management and Budget of any lawsuit settlement proceeds that become available for transfer to the Department of Human Services for this program. |
| Strategic investment and improvements fund - Transfer - Litigation pool to state agencies One-time funding | Section 4 identifies $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium. | Section 6 identifies $4 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium. |
| Estimated income - Charitable gaming technology system - Gaming tax allocation fund | | Section 7 identifies $475,000 in Section 1 is from the gaming tax allocation fund for the purpose of defraying expenses related to the continued development and implementation of the charitable gaming technology system during the 2021-23 biennium. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version |
|---|---|---|
| Human trafficking victims grant program | Section 5 identifies $1,101,834 from the general fund in Section 1 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 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program. | Section 8 identifies $1,101,879 from the general fund in Section 1 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 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program. |
| Forensic nurse examiners grant program | Section 6 identifies $250,674 from the general fund in Section 1 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 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to Appropriations Committees of the 68th 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 identifies $250,691 from the general fund in Section 1 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 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to Appropriations Committees of the 68th 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. |
| Estimated income - Salary equity increases - Attorney General refund fund - Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund | Section 7 identifies $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for providing salary equity increases to Attorney General staff, of which $1,007,326 is for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is for Fire Marshal office positions, for the 2021-23 biennium. | Section 10 identifies $1,374,989 in the estimated income line item in Section 1 is for providing salary equity increases to Attorney General staff during the 2021-23 biennium, of which $1,249,083 is from the Attorney General refund fund for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for Fire Marshal office positions. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version |
|---|---|---|
| Legislative intent - Attorney General - Salary equity increases - Investment of lawsuit settlement proceeds - State Investment Board | Section 8 allows the Attorney General to invest up to $2,266,464 of funding available in the Attorney General refund fund, of which $1,160,896 is derived from lawsuit settlement proceeds received by the Attorney General and deposited in the Attorney General refund fund in January 2021 and any investment earnings on the settlement amount, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 7 and for the cost to continue the salary equity increases during the 2023-25 biennium. | Section 11 allows the Attorney General to invest up to $2,577,624 of funding in the Attorney General refund fund, which is derived from lawsuit settlement proceeds received by the Attorney General and was deposited in the Attorney General refund fund in January 2021 ($1,160,896) and March 2021 ($1,416,728) and any investment earnings on the settlement amount, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund and Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 10 and for the cost to continue the salary equity increases during the 2023-25 biennium. |
| Gaming tax - Gaming tax allocation fund - Attorney general - State Treasurer - Allocations - Transfer to the general fund | | Section 12 amends Section 53-06.1-12 to authorize the Attorney General to use gaming tax revenues for the administration and operating costs of the Gaming Division. |
| Attorney General salary | Section 9 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $168,333 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House. | Section 13 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $169,162 effective July 1, 2022, to reflect annual salary increases of 1.5 percent and 2 percent. |
| Criminal history record checks - Fees | Section 10 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | Section 14 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. |
| Exemption - Contingent fee arrangement | | Section 15 provides, notwithstanding Section 54-12-08.1, the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing multi-state technology litigation, during the period beginning with the effective date of this Act and ending June 30, 2023. Section 26 declares this section an emergency measure. |
| Exemption - Gaming tax revenue grants | | Section 16 provides, notwithstanding Section 53-06.1-12, the Attorney General may distribute quarters seven and eight 2019-21 biennium gaming tax revenues to cities and counties through October 31, 2021. |
| Exemption - Attorney General refund fund | Section 11 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | Section 17 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version |
|---|---|---|
| Exemption - Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund | | Section 18 provides, notwithstanding Subsection 6 of Section 18-13-03, the Attorney General may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to Fire Marshal office positions during the 2021-23 biennium. |
| Exemption - Concealed weapon rewrite project | Section 12 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | Section 19 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. |
| Exemption - Statewide automated victim information and notification program | | Section 20 allows the Attorney General to continue any remaining funding appropriated from other funds for the 2017-19 biennium and continued into the 2019-21 biennium for the statewide automated victim information and notification system into the 2021-23 biennium for the legal case management system, which is used to track attorney time and billing within the agency. |
| Exemption - Information technology equipment | | Section 21 allows the Attorney General to continue any remaining funding appropriated from the general fund for the 2019-21 biennium for the purchase of information technology equipment into the 2021-23 biennium. |
| Legislative intent - Gaming Division | | Section 22 provides legislative intent that the Attorney General's Gaming Division be paid for using gaming tax revenues. |
| Legislative Management study - State government attorneys | | Section 23 provides for a Legislative Management study regarding the feasibility and desirability of consolidating attorney and legal related positions in state government. The study must include an analysis of the number of attorney and legal-related positions in state government, the agency the positions are assigned to, the nature of the work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government authorized for the 2021-23 biennium. |
| Legislative Management study - State government litigation funding | | Section 24 provides for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of litigation-related funding in state government agency budgets, including the nature and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. |
| Legislative Management study - Charitable gaming laws | | Section 25 provides for a Legislative Management study regarding the state's charitable gaming taxation laws and the use of net proceeds for eligible organizations. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version | |
|---|---|---|---|
| Emergency measure | | Section 26 declares sections 4 and 15 an emergency measure. | |

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
4/15/2021
Conference Committee

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

3:32 **Chairman Kempenich** brought the conference committee to order. Members present: Chairman Kempenich, Representative Howe, Representative Mock, Senator Bekkedahl, Senator Holmberg, Senator Mathern.

**Discussion Topics:**

- Litigation fund
- FTE's
- BCI agents

3:32 **Chairman Kempenich** made a proposal to remove $1 million out of the litigation fund.

3:34 **Wayne Stenehjem, Attorney General, ND Office of the Attorney General** answered questions from the conference committee.

3:40 **Levi Kinnitschzke, Fiscal Analyst, ND Legislative Council** answered questions from the committee.

3:45 **Chairman Kempenich** proposed a study for gambling addiction.

3:49 **Chairman Kempenich** adjourned the conference committee.

*Sheri Lewis, Committee Clerk*

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
4/19/2021
Conference Committee

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

10:34 **Chairman Kempenich** brought the conference committee to order. Members present: Chairman Kempenich, Representative Howe, Representative Mock, Senator Bekkedahl, Senator Holmberg, Senator Mathern.

**Discussion Topics:**

- BCI agents
- Crime lab

10:35 **Chairman Kempenich** discussed the differences on the bill.

10:42 **Wayne Stenehjem, Attorney General, ND Office of Attorney General** answered questions from the conference committee.

10:50 **Chairman Kempenich** adjourned the conference committee.

*Sheri Lewis, Committee Clerk*

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Appropriations - Government Operations Division**
Brynhild Haugland Room, State Capitol

HB1003
4/21/2021
Conference Committee

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general.

4:00 **Chairman Kempenich** brought the conference committee to order. Members present: Chairman Kempenich, Representative Howe, Representative Mock, Senator Bekkedahl, Senator Holmberg, Senator Mathern.

**Discussion Topics:**

- Base budget changes

4:01 **Chairman Kempenich** went through the changes. Testimony #11596.

4:06 **Senator Bekkedahl** submitted amendment 21.0262.02004 (testimony # 11719) to be added to the bill.

4:07 **Senator Holmberg** made a motion that the Senate recede from the Senate amendments and amend with LC 21.0262.02003.

4:07 **Representative Howe** seconded the motion.

4:07 Roll call vote 6 Yeas 0 Nays 0 Absent

4:08 Motion carried.

4:08 **Chairman Kempenich** closed the conference committee.

*Sheri Lewis, Committee Clerk*

Prepared by the Legislative Council staff for
Conference Committee
April 22, 2021

4/22/21
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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1003

That the Senate recede from its amendments as printed on pages 1484-1492 of the House Journal and pages 1192-1201 of the Senate Journal and that Engrossed House Bill No. 1003 be amended as follows:

Page 1, line 1, after "general" insert "; to provide an appropriation to the department of human services"

Page 1, line 2, after "reenact" insert "the new section to chapter 53-06.1, as created by section 1 of House Bill No. 1212, as approved by the sixty-seventh legislative assembly and"

Page 1, line 3, after "general" insert "and charitable gaming tax revenue distributions"

Page 1, line 4, remove "and"

Page 1, line 4, after "report" insert "; to provide for a legislative management study; and to declare an emergency"

Page 1, remove lines 13 through 24

Page 2, replace lines 1 through 7 with:

| | | | |
|---|---|---|---|
| "Salaries and wages | $45,954,981 | $4,340,368 | $50,295,349 |
| Operating expenses | 15,588,646 | 844,392 | 16,433,038 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (515,000) | 3,903,440 |
| Human trafficking victims grants | 1,400,000 | (298,121) | 1,101,879 |
| Forensic nurse examiners grants | 250,000 | 691 | 250,691 |
| Statewide litigation funding pool | 0 | 4,650,000 | 4,650,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 63,390 | 5,254,844 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 443,847 | 4,074,968 |
| Law enforcement | 2,982,284 | 66,643 | 3,048,927 |
| Total all funds | $81,490,880 | $10,064,966 | $91,555,846 |
| Less estimated income | 35,886,284 | 13,022,844 | 48,909,128 |
| Total general fund | $45,604,596 | ($2,957,878) | $42,646,718 |
| Full-time equivalent positions | 245.00 | 8.00 | 253.00" |

Page 2, replace lines 18 through 22 with:

| | | |
|---|---|---|
| "Statewide litigation funding pool | 0 | 4,650,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $6,936,706 |
| Total other funds | 3,217,956 | 6,936,706 |
| Total general fund | $200,000 | $0" |

Page 2, after line 29, insert:

"**SECTION 4. APPROPRIATION - 2019-21 BIENNIUM - SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM - DRUG ANALYZERS - EXEMPTION - ONE-TIME FUNDING.** There is appropriated from federal funds, not otherwise appropriated, the sum of $355,000, or so much as the sum as may be necessary, to the attorney general, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers with federal funding received from the department of transportation, for the period beginning with the effective date of this Act, and ending June 30, 2021. The funding provided under this section is not subject to section 54-44.1-11 and any unexpended funds may be continued and are available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item.

**SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID ADDICTION PREVENTION AND TREATMENT PROGRAM - APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - ONE-TIME FUNDING - REPORT.** The office of management and budget shall transfer up to $2,000,000 from opioid-related lawsuit settlement proceeds deposited in the attorney general refund fund to the department of human services which is appropriated to the department of human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of human services for this program. This funding is considered a one-time funding item."

Page 3, after line 5, insert:

"**SECTION 7. ESTIMATED INCOME - EXEMPTION - USE OF GAMING TAX ALLOCATION FUND - TRANSFER - LITIGATION POOL TO STATE AGENCIES - ONE-TIME FUNDING.** The statewide litigation funding pool line item in section 1 of this Act includes $1,650,000 from the gaming tax allocation fund. Notwithstanding section 53-06.1-12, the attorney general shall transfer this funding to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021, and ending June 30, 2023, after the distribution of gaming tax revenue grants provided for in section 17 of this Act. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04. This funding is considered a one-time funding item.

**SECTION 8. ESTIMATED INCOME - CHARITABLE GAMING TECHNOLOGY SYSTEM - CHARITABLE GAMING OPERATING FUND.** The estimated income line item in section 1 of this Act includes $475,000 from the charitable gaming operating fund for defraying expenses related to the continued development and implementation of the charitable gaming technology system."

Page 3, line 8, replace "$1,101,834" with "$1,101,879"

Page 3, line 19, replace "$250,674" with "$250,691"

Page 3, line 31, after "**FUND**" insert "**- REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND**"

Page 4, line 1, replace "$1,133,232 from the attorney general refund fund" with "$1,374,989"

Page 4, line 2, replace "$1,007,326 is" with "$1,249,083 is from the attorney general refund fund"

Page 4, line 3, after "is" insert "from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 7, replace "$2,266,464" with "$2,577,624"

Page 4, line 9, after "proceeds" insert "and $1,416,728 is derived from March 2021 lawsuit settlement proceeds, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 11, replace "$2,266,464" with "$2,577,624"

Page 4, line 12, after "fund" insert "and $251,812 in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund and any investment earnings on the funding be retained in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund,"

Page 4, line 13, replace "7" with "11"

Page 4, after line 14, insert:

"**SECTION 13. AMENDMENT.** The new section to chapter 53-06.1 of the North Dakota Century Code, as created by section 1 of House Bill No. 1212, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**Charitable gaming operating fund - Attorney general - State treasurer ~~- Continuing appropriation~~ - Allocations - Transfer to the general fund.**

1. There is created in the state treasury the charitable gaming operating fund. The fund consists of all gaming taxes, monetary fines, and interest and penalties collected under this chapter.

2. Excluding moneys in the charitable gaming operating fund appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming, ~~all other~~the attorney general shall allocate remaining moneys in the charitable gaming operating fund ~~are appropriated to the attorney general~~ on a ~~continuing basis for~~ quarterly ~~allocations~~basis as follows:

   a. Ten thousand dollars to the gambling disorder prevention and treatment fund.

   b. ~~Five~~Subject to legislative appropriations, five percent of the total moneys deposited in the charitable gaming operating fund to cities and counties in proportion to the taxes collected under section 53-06.1-12 from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

3. On or before June thirtieth of each odd-numbered year, the attorney general shall certify to the state treasurer the amount of accumulated funds in the charitable gaming operating fund which exceed the amount appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming for the subsequent biennium. The state treasurer shall transfer the certified amount from the charitable

gaming operating fund to the general fund prior to the end of each biennium."

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Page 4, line 20, replace "sixty-eight" with "sixty-nine"

Page 4, line 20, overstrike "three" and insert immediately thereafter "one"

Page 4, line 20, replace "thirty-three" with "sixty-two"

Page 4, after line 25, insert:

"**SECTION 16. EXEMPTION - CONTINGENT FEE ARRANGEMENT.** Notwithstanding section 54-12-08.1, the attorney general may contract for legal services compensated by a contingent fee arrangement for ongoing multistate technology litigation during the period beginning with the effective date of this Act and ending June 30, 2023.

**SECTION 17. EXEMPTION - GAMING TAX REVENUE GRANTS.** Notwithstanding section 53-06.1-12, the attorney general may distribute gaming tax revenue grants to cities and counties relating to the seventh and eighth quarters of the 2019-21 biennium through October 31, 2021."

Page 4, after line 28, insert:

"**SECTION 19. EXEMPTION - REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND.** Notwithstanding subsection 6 of section 18-13-03, the attorney general may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to fire marshal office positions during the biennium beginning July 1, 2021, and ending June 30, 2023."

Page 5, after line 4, insert:

"**SECTION 21. EXEMPTION - STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION PROGRAM.** The amount appropriated to the attorney general from other funds for the statewide automated victim information and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws and continued into the 2019-21 biennium, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the legal case management system during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 22. EXEMPTION - INFORMATION TECHNOLOGY EQUIPMENT.** The amount appropriated to the attorney general from the general fund for the purchase of information technology equipment as contained in section 1 of chapter 28 of the 2019 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 for the purchase of information technology equipment, during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 23. LEGISLATIVE INTENT - GAMING DIVISION.** It is the intent of the sixty-seventh legislative assembly that the expenses of the attorney general's gaming division be paid from gaming tax revenues.

**SECTION 24. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT ATTORNEYS.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating attorney and legal-related positions in state government. The study must include an analysis of the number of attorney and legal-related positions in state government, the agency to which the positions are assigned, the type of work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 25. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT LITIGATION FUNDING.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of litigation-related funding in state government agency budgets, including the purpose and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 26. LEGISLATIVE MANAGEMENT STUDY - CHARITABLE GAMING LAWS.** During the 2021-22 interim, the legislative management shall consider studying laws regarding the state's charitable gaming taxation and use of net proceeds for eligible organizations. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 27. LEGISLATIVE MANAGEMENT STUDY - GAMING ADDICTION AND SUPPORT.** During the 2021-22 interim, the legislative management shall consider studying the economic and societal impacts of gambling addiction in the state. The study must include a review of the trend of gambling addiction since the expansion of electronic pull tab gambling in the state, state funding provided for gambling addiction and disorder prevention and treatment, and support programs for individuals and families affected by gambling addiction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 28. EMERGENCY.** Sections 4 and 16 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Summary of Conference Committee Action**

| | Base Budget | House Version | Conference Committee Changes | Conference Committee Version | Senate Version | Comparison to Senate |
|---|---|---|---|---|---|---|
| Attorney General | | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| Total all funds | $81,490,880 | $87,025,682 | $4,780,164 | $91,805,846 | $90,913,114 | $892,732 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,809,082 | 49,159,128 | 48,509,128 | 650,000 |
| General fund | $45,604,596 | $43,675,636 | ($1,028,918) | $42,646,718 | $42,403,986 | $242,732 |
| FTE | 245.00 | 248.00 | 5.00 | 253.00 | 252.00 | 1.00 |
| DHS - Other | | | | | | |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 | $2,000,000 | $0 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 | 2,000,000 | 0 |
| General fund | $0 | $0 | $0 | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Bill total | | | | | | |
| Total all funds | $81,490,880 | $87,025,682 | $6,780,164 | $93,805,846 | $92,913,114 | $892,732 |
| Less estimated income | 35,886,284 | 43,350,046 | 7,809,082 | 51,159,128 | 50,509,128 | 650,000 |
| General fund | $45,604,596 | $43,675,636 | ($1,028,918) | $42,646,718 | $42,403,986 | $242,732 |
| FTE | 245.00 | 248.00 | 5.00 | 253.00 | 252.00 | 1.00 |

## House Bill No. 1003 - Attorney General - Conference Committee Action

| | Base Budget | House Version | Conference Committee Changes | Conference Committee Version | Senate Version | Comparison to Senate |
|---|---|---|---|---|---|---|
| Salaries and wages | $45,954,981 | $48,782,813 | $1,512,536 | $50,295,349 | $50,095,187 | $200,162 |
| Operating expenses | 15,588,646 | 15,675,772 | 757,266 | 16,433,038 | 16,390,468 | 42,570 |
| Capital assets | 804,380 | 1,739,221 | | 1,739,221 | 1,739,221 | |
| Grants | 4,418,440 | 3,663,440 | 240,000 | 3,903,440 | 3,903,440 | |
| Litigation fees | 150,000 | 127,500 | | 127,500 | 127,500 | |
| Intellectual property attorney | 442,085 | | | | | |
| Medical examinations | 660,000 | 660,000 | | 660,000 | 660,000 | |
| North Dakota lottery | 5,191,454 | 5,253,531 | 1,313 | 5,254,844 | 5,254,844 | |
| Arrest and return of fugitives | 10,000 | 8,500 | | 8,500 | 8,500 | |
| Gaming commission | 7,489 | 7,489 | | 7,489 | 7,489 | |
| Criminal justice information sharing | 3,631,121 | 3,801,923 | 273,045 | 4,074,968 | 4,074,968 | |
| Law enforcement | 2,982,284 | 2,702,985 | 345,942 | 3,048,927 | 3,048,927 | |
| Human trafficking victims grants | 1,400,000 | 1,101,834 | 45 | 1,101,879 | 1,101,879 | |
| Forensic nurse examiners grants | 250,000 | 250,674 | 17 | 250,691 | 250,691 | |
| Additional income | | 250,000 | | 250,000 | 250,000 | |
| Statewide litigation funding pool | | 3,000,000 | 1,650,000 | 4,650,000 | 4,000,000 | 650,000 |
| Total all funds | $81,490,880 | $87,025,682 | $4,780,164 | $91,805,846 | $90,913,114 | $892,732 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,809,082 | 49,159,128 | 48,509,128 | 650,000 |
| General fund | $45,604,596 | $43,675,636 | ($1,028,918) | $42,646,718 | $42,403,986 | $242,732 |
| FTE | 245.00 | 248.00 | 5.00 | 253.00 | 252.00 | 1.00 |

## Department 125 - Attorney General - Detail of Conference Committee Changes

| | Adjusts Funding for Salary and Benefit Increases[1] | Adds Funding for Salary Equity Increases[2] | Adjusts Funding for the Gaming Division[3] | Adds Funding for Gaming Grants to Political Subdivisions[4] | Adds Funding for Gaming Division Positions[5] | Adds Funding for a Data Scientist Position[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $33,376 | $241,757 | | | $611,147 | $200,162 |
| Operating expenses | | | | | 108,627 | 42,570 |
| Capital assets | | | | | | |
| Grants | | | | $240,000 | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 1,313 | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 1,156 | | | | | |
| Law enforcement | 2,204 | | | | | |
| Human trafficking victims grants | 45 | | | | | |
| Forensic nurse examiners grants | 17 | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $38,111 | $241,757 | $0 | $240,000 | $719,774 | $242,732 |
| Less estimated income | 47,509 | 241,757 | 1,710,042 | 240,000 | 719,774 | 0 |
| General fund | ($9,398) | $0 | ($1,710,042) | $0 | $0 | $242,732 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 3.00 | 1.00 |

| | Adjusts Funding for Salaries and Operating Expenses[7] | Restores Intellectual Property Attorney[8] | Adds One-Time Funding for Statewide Litigation[9] | Total Conference Committee Changes |
|---|---|---|---|---|
| Salaries and wages | | $426,094 | | $1,512,536 |
| Operating expenses | $584,373 | 21,696 | | 757,266 |
| Capital assets | | | | |
| Grants | | | | 240,000 |
| Litigation fees | | | | |
| Intellectual property attorney | | | | |
| Medical examinations | | | | |
| North Dakota lottery | | | | 1,313 |
| Arrest and return of fugitives | | | | |
| Gaming commission | | | | |
| Criminal justice information sharing | 271,889 | | | 273,045 |
| Law enforcement | 343,738 | | | 345,942 |
| Human trafficking victims grants | | | | 45 |
| Forensic nurse examiners grants | | | | 17 |
| Additional income | | | | |
| Statewide litigation funding pool | | | $1,650,000 | 1,650,000 |
| Total all funds | $1,200,000 | $447,790 | $1,650,000 | $4,780,164 |
| Less estimated income | 1,200,000 | 0 | 1,650,000 | 5,809,082 |
| General fund | $0 | $447,790 | $0 | ($1,028,918) |
| FTE | 0.00 | 1.00 | 0.00 | 5.00 |

[1] Salaries and wages funding is adjusted for 2021-23 biennium salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of $100 and 2 percent on July 1, 2022, the same as provided by the Senate. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250. Of these amounts, $50,000 is reduced from the general

fund and $50,000 is added from gaming tax revenues deposited in the charitable gaming operating fund for salary increases related to Gaming Division positions.

[2] Funding of $241,757 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions to provide a total of $1,249,083 of salary equity increases for these FTE positions from the Attorney General refund fund, which is derived from lawsuit settlement proceeds, the same as provided by the Senate. The House provided $1,007,326 from the Attorney General refund fund for these FTE positions.

An additional $125,906 of salary equity funding is provided for 8 FTE Fire Marshal office positions from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, the same as provided by the Senate. The House provided the $125,906 for the Fire Marshal office positions from the Attorney General refund fund.

[3] Funding from the general fund of $1,710,042 is replaced with funding from gaming tax revenues deposited in the charitable gaming operating fund for Gaming Division expenses, including $1,669,103 in the salaries and wages line item, $37,599 in the operating expenses line item, and $3,340 in the gaming commission line item. The Senate provided the funding would be from the gaming tax allocation fund. The House did not adjust funding for the Gaming Division.

[4] Funding of $240,000 is added from the charitable gaming operating fund to provide a total of $750,000 for grants to political subdivisions. The Senate added this funding from the gaming tax allocation fund. The House did not add funding for gaming grants.

[5] Funding of $719,774 is added from the gaming tax revenues deposited in the charitable gaming operating fund for 3 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $611,147 is for salaries and wages and $108,627 is for related operating expenses. The Senate provided this funding from the gaming tax allocation fund.

The Conference Committee amendments also adjust the funding source for $959,699 approved by the House, of which $814,863 is for salaries and wages of 4 FTE Gaming Division positions and $144,836 is for related operating expenses, from the Attorney General operating fund to gaming tax revenues deposited in the charitable gaming operating fund to provide a total of 7 new FTE Gaming Division positions at a cost of $1,679,473, of which $1,426,010 is for salaries and wages and $253,463 is for related operating expenses. The Senate provided this funding from the gaming tax allocation fund.

The Conference Committee amendments also replace funding of $1,113,993 from the Attorney General refund fund, of which $956,356 is for salaries and wages, $153,488 is for operating expenses and $4,149 is for the Gaming Commission, and $147,560 from the Attorney General operating fund, of which $24,000 is for salaries and wages and $123,560 is for operating expenses, with funding from the charitable gaming operating fund. The Senate provided this funding from the gaming tax allocation fund.

Total Gaming Division funding provided by the Conference Committee from the charitable gaming operating fund is $5,926,068, of which $4,125,469 is for salaries and wages, $1,043,110 is for operating expenses, $750,000 is for grants to cities and counties, and $7,489 is for the Gaming Commission. The Senate provided this funding from the gaming tax allocation fund.

A section of legislative intent is added to the bill that the Attorney General's Gaming Division be paid from gaming tax revenues, the same as the Senate.

[6] Funding of $242,732 is added from the general fund for 1 FTE data scientist position for the State Crime Laboratory, of which $200,162 is for salaries and wages and $42,570 is for related operating expenses. The House and Senate did not previously approve this item.

[7] Funding of $1.2 million is added from the Attorney General refund fund for salaries and wages and operating expenses reduced from the general fund by the House. Of the total, $283,227 is for salaries and wages of a BCI agent and a BCI administrative assistant, $34,377 is for operating expenses of the State Crime Laboratory, $271,889 is for operating expenses of the criminal justice information sharing system, and $610,507 is for other operating expenses of the Attorney General's office, primarily related to information technology-related expenses. The Senate also provided $1.2 million from the Attorney General refund fund for this purpose.

[8] Funding of $447,790 from the general fund is restored for 1 FTE assistant attorney general position for the intellectual property attorney program, the same as provided by the Senate. The House removed this position and eliminated the program.

[9] One-time funding of $1.65 million is added from the gaming tax allocation fund for a statewide litigation funding pool, to provide a total of $4.65 million, of which $3 million is from the strategic investment and improvements fund. The House provided a total of $3 million from the strategic investment and improvements fund. The Senate provided

a total of $4 million from the strategic investment and improvements fund. A separate section of the bill is added to identify the $1.65 million in Section 1 and to provide an exemption from North Dakota Century Code Section 53-06.1-12 to authorize the Attorney General to use the funding for litigation expenses.

4/23/21
9 of 10

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The Conference Committee did not approve a section added by the Senate that would have amended Section 53-06.1-12 to authorize the Attorney General to use gaming tax revenues from the gaming tax allocation fund for the administration and operating costs of the Gaming Division. Due to the passage of House Bill No. 1212 (2021), the Attorney General is authorized to use gaming tax revenues deposited in the newly created charitable gaming operating fund for the administration and operating costs of the Gaming Division.

This amendment also:

- Adds a section to provide a 2019-21 biennium supplemental appropriation of $355,000 to the Attorney General from federal funds, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers to be received from the Department of Transportation. The section includes an exemption to allow the Attorney General to continue the funding into the 2021-23 biennium. This section is declared an emergency measure. The Senate included this section.
- Adds a section to provide a transfer of $2 million from lawsuit settlement proceeds deposited in the Attorney General refund fund to the Department of Human Services, which is appropriated to the Department of Human Services for defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Department of Human Services is required to consult with the Attorney General regarding the use of this funding. The Attorney General is required to notify the Legislative Council and the Office of Management and Budget of any lawsuit settlement proceeds that become available for transfer to the Department of Human Services for this program. The Senate included this section.
- Adds a section to identify $475,000 appropriated in Section 1 for the continued development and implementation of the charitable gaming technology system is from the charitable gaming operating fund. The House provided this funding from the Attorney General operating fund. The Senate provided this funding from the gaming tax allocation fund.
- Amends a section to identify $1,374,989 in the estimated income line item in Section 1 is for providing salary equity increases to Attorney General staff during the 2021-23 biennium, of which $1,249,083 is from the Attorney General refund fund for BCI and MFCU positions and $125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for Fire Marshal office positions. The Senate included this section.
- Amends a section to allow the Attorney General to invest up to $2,577,624 of funding in the Attorney General refund fund, which is derived from lawsuit settlement proceeds received by the Attorney General and was deposited in the Attorney General refund fund in January 2021 ($1,160,896) and March 2021 ($1,416,728) and any investment earnings on the settlement amount, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund and Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for the purpose of providing salary equity increases for the 2021-23 biennium and for the cost to continue the salary equity increases during the 2023-25 biennium. The Senate included this section.
- Amends a section increasing the Attorney General's statutory salary to reflect salary increases of 1.5 percent and 2 percent approved for the 2021-23 biennium. The Senate included this section.
- Adds a section to amend House Bill No. 1212 (2021) to provide gaming tax revenue grants distributed to cities and counties are subject to legislative appropriations. This change will result in an estimated additional $34,373 of gaming tax revenues being deposited in the general fund during the 2021-23 biennium.
- Adds a section to provide, notwithstanding Section 54-12-08.1, the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing multistate technology litigation, during the period beginning with the effective date of this Act and ending June 30, 2023. This section is declared an emergency measure. The Senate included this section.
- Adds a section to provide, notwithstanding Section 53-06.1-12, the Attorney General may distribute quarters seven and eight of 2019-21 biennium gaming tax revenue grants to cities and counties through October 31, 2021. The Senate included this section.
- Adds a section to provide, notwithstanding subsection 6 of Section 18-13-03, the Attorney General may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to Fire Marshal office positions during the 2021-23 biennium. The Senate included this section.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from other funds for the 2017-19 biennium and continued into the 2019-21 biennium for the statewide automated victim information and notification system into the 2021-23 biennium for the legal case management system, which is used to track attorney time and billing within the agency. The Senate included this section.

- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund for the 2019-21 biennium for the purchase of information technology equipment into the 2021-23 biennium. The Senate included this section.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating attorney and legal-related positions in state government. The Senate included this section.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government. The Senate included this section.
- Adds a section to provide for a Legislative Management study regarding the state's charitable gaming tax laws and the use of net proceeds for eligible organizations. The Senate included this section.
- Adds a section to provide for a Legislative Management study of gaming addiction and support. Neither the Senate nor the House included this section.



### House Bill No. 1003 - DHS - Other - Conference Committee Action

| | Base Budget | House Version | Conference Committee Changes | Conference Committee Version | Senate Version | Comparison to Senate |
|---|---|---|---|---|---|---|
| Operating expenses | | | $2,000,000 | $2,000,000 | $2,000,000 | |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 | $2,000,000 | $0 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 | 2,000,000 | 0 |
| General fund | $0 | $0 | $0 | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

### Department 325 - DHS - Other - Detail of Conference Committee Changes

| | Adds One-Time Funding for Opioid Addiction Prevention Program[1] | Total Conference Committee Changes |
|---|---|---|
| Operating expenses | $2,000,000 | $2,000,000 |
| Total all funds | $2,000,000 | $2,000,000 |
| Less estimated income | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 |
| FTE | 0.00 | 0.00 |

[1] One-time funding of $2 million is added from lawsuit settlement proceeds received by the Attorney General and transferred to the Department of Human Services for defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Senate also included this appropriation.

Date: 4/21/2021
Roll Call Vote #: 1

**2021 HOUSE CONFERENCE COMMITTEE**
**ROLL CALL VOTES**

BILL/RESOLUTION NO. HB1003 as (re) engrossed

**House Government Operations Committee**

**Action Taken**
- ☐ **HOUSE accede to Senate Amendments**
- ☐ **HOUSE accede to Senate Amendments and further amend**
- ☐ **SENATE recede from Senate amendments**
- ☒ **SENATE recede from Senate amendments and amend as follows**

☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Holmberg Seconded by: Representative Howe

| Representatives | 4/14 | 4/15 | 4/21 | Yes | No | | Senators | 4/14 | 4/15 | 4/21 | Yes | No |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Chairman Kempenich | X | X | X | X | | | Senator Bekkedahl | X | X | X | X | |
| Representative Howe | X | X | X | X | | | Senator Holmberg | X | X | X | X | |
| Representative Mock | X | XB | X | X | | | Senator Mathern | X | X | X | X | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| Total Rep. Vote | | | | | | | Total Senate Vote | | | | | |

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Representative Kempenich Senate Carrier Senator Bekkedahl

LC Number 21.0262 . 02003 of amendment

LC Number 21.0262 . 04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment –

**Insert LC: 21.0262.02003**
**House Carrier: Kempenich**
**Senate Carrier: Bekkedahl**

## REPORT OF CONFERENCE COMMITTEE

**HB 1003, as engrossed:** Your conference committee (Sens. Bekkedahl, Holmberg, Mathern and Reps. Kempenich, Howe, Mock) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1484-1492, adopt amendments as follows, and place HB 1003 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1484-1492 of the House Journal and pages 1192-1201 of the Senate Journal and that Engrossed House Bill No. 1003 be amended as follows:

Page 1, line 1, after "general" insert "; to provide an appropriation to the department of human services"

Page 1, line 2, after "reenact" insert "the new section to chapter 53-06.1, as created by section 1 of House Bill No. 1212, as approved by the sixty-seventh legislative assembly and"

Page 1, line 3, after "general" insert "and charitable gaming tax revenue distributions"

Page 1, line 4, remove "and"

Page 1, line 4, after "report" insert "; to provide for a legislative management study; and to declare an emergency"

Page 1, remove lines 13 through 24

Page 2, replace lines 1 through 7 with:

| | | | |
|---|---|---|---|
| "Salaries and wages | $45,954,981 | $4,340,368 | $50,295,349 |
| Operating expenses | 15,588,646 | 844,392 | 16,433,038 |
| Capital assets | 804,380 | 934,841 | 1,739,221 |
| Grants | 4,418,440 | (515,000) | 3,903,440 |
| Human trafficking victims grants | 1,400,000 | (298,121) | 1,101,879 |
| Forensic nurse examiners grants | 250,000 | 691 | 250,691 |
| Statewide litigation funding pool | 0 | 4,650,000 | 4,650,000 |
| Litigation fees | 150,000 | (22,500) | 127,500 |
| Intellectual property attorney | 442,085 | (442,085) | 0 |
| Medical examinations | 660,000 | 0 | 660,000 |
| North Dakota lottery | 5,191,454 | 63,390 | 5,254,844 |
| Arrest and return of fugitives | 10,000 | (1,500) | 8,500 |
| Gaming commission | 7,489 | 0 | 7,489 |
| Criminal justice information sharing | 3,631,121 | 443,847 | 4,074,968 |
| Law enforcement | 2,982,284 | 66,643 | 3,048,927 |
| Total all funds | $81,490,880 | $10,064,966 | $91,555,846 |
| Less estimated income | 35,886,284 | 13,022,844 | 48,909,128 |
| Total general fund | $45,604,596 | ($2,957,878) | $42,646,718 |
| Full-time equivalent positions | 245.00 | 8.00 | 253.00" |

Page 2, replace lines 18 through 22 with:

| | | |
|---|---|---|
| "Statewide litigation funding pool | 0 | 4,650,000 |
| Additional income | 250,000 | 0 |
| Total all funds | $3,417,956 | $6,936,706 |
| Total other funds | 3,217,956 | 6,936,706 |
| Total general fund | $200,000 | $0" |

Page 2, after line 29, insert:

"**SECTION 4. APPROPRIATION - 2019-21 BIENNIUM - SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM - DRUG ANALYZERS - EXEMPTION - ONE-TIME FUNDING.** There is appropriated from federal funds, not otherwise appropriated, the sum of $355,000, or so much as the sum as may be necessary, to the attorney general, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers with federal funding received from the department of transportation, for the period beginning with the effective date of this Act, and ending June 30, 2021. The funding provided under this section is not subject to section 54-44.1-11 and any unexpended funds may be continued and are available for the program during the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered a one-time funding item.

**SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID ADDICTION PREVENTION AND TREATMENT PROGRAM - APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - ONE-TIME FUNDING - REPORT.** The office of management and budget shall transfer up to $2,000,000 from opioid-related lawsuit settlement proceeds deposited in the attorney general refund fund to the department of human services which is appropriated to the department of human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of human services for this program. This funding is considered a one-time funding item."

Page 3, after line 5, insert:

"**SECTION 7. ESTIMATED INCOME - EXEMPTION - USE OF GAMING TAX ALLOCATION FUND - TRANSFER - LITIGATION POOL TO STATE AGENCIES - ONE-TIME FUNDING.** The statewide litigation funding pool line item in section 1 of this Act includes $1,650,000 from the gaming tax allocation fund. Notwithstanding section 53-06.1-12, the attorney general shall transfer this funding to eligible state agencies for litigation expenses during the biennium beginning July 1, 2021, and ending June 30, 2023, after the distribution of gaming tax revenue grants provided for in section 17 of this Act. The attorney general may not use funding from the litigation pool to pay judgments under section 32-12-04. This funding is considered a one-time funding item.

**SECTION 8. ESTIMATED INCOME - CHARITABLE GAMING TECHNOLOGY SYSTEM - CHARITABLE GAMING OPERATING FUND.** The estimated income line item in section 1 of this Act includes $475,000 from the charitable gaming operating fund for defraying expenses related to the continued development and implementation of the charitable gaming technology system."

Page 3, line 8, replace "$1,101,834" with "$1,101,879"

Page 3, line 19, replace "$250,674" with "$250,691"

Page 3, line 31, after "**FUND**" insert "**- REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND**"

Page 4, line 1, replace "$1,133,232 from the attorney general refund fund" with "$1,374,989"

Page 4, line 2, replace "$1,007,326 is" with "$1,249,083 is from the attorney general refund fund"

Page 4, line 3, after "is" insert "from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 7, replace "$2,266,464" with "$2,577,624"

Page 4, line 9, after "proceeds" insert "and $1,416,728 is derived from March 2021 lawsuit settlement proceeds, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund"

Page 4, line 11, replace "$2,266,464" with "$2,577,624"

Page 4, line 12, after "fund" insert "and $251,812 in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund and any investment earnings on the funding be retained in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund,"

Page 4, line 13, replace "7" with "11"

Page 4, after line 14, insert:

"**SECTION 13. AMENDMENT.** The new section to chapter 53-06.1 of the North Dakota Century Code, as created by section 1 of House Bill No. 1212, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**Charitable gaming operating fund - Attorney general - State treasurer ~~- Continuing appropriation~~ - Allocations - Transfer to the general fund.**

1. There is created in the state treasury the charitable gaming operating fund. The fund consists of all gaming taxes, monetary fines, and interest and penalties collected under this chapter.

2. Excluding moneys in the charitable gaming operating fund appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming, ~~all other~~the attorney general shall allocate remaining moneys in the charitable gaming operating fund ~~are appropriated to the attorney general~~ on a ~~continuing basis for~~ quarterly ~~allocations~~basis as follows:

   a. Ten thousand dollars to the gambling disorder prevention and treatment fund.

   b. ~~Five~~Subject to legislative appropriations, five percent of the total moneys deposited in the charitable gaming operating fund to cities and counties in proportion to the taxes collected under section 53-06.1-12 from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

3. On or before June thirtieth of each odd-numbered year, the attorney general shall certify to the state treasurer the amount of accumulated funds in the charitable gaming operating fund which exceed the amount appropriated by the legislative assembly for administrative and operating costs associated with charitable gaming for the subsequent biennium. The state treasurer shall transfer the certified amount from the charitable

gaming operating fund to the general fund prior to the end of each biennium."

Page 4, line 20, replace "sixty-eight" with "sixty-nine"

Page 4, line 20, overstrike "three" and insert immediately thereafter "one"

Page 4, line 20, replace "thirty-three" with "sixty-two"

Page 4, after line 25, insert:

"**SECTION 16. EXEMPTION - CONTINGENT FEE ARRANGEMENT.** Notwithstanding section 54-12-08.1, the attorney general may contract for legal services compensated by a contingent fee arrangement for ongoing multistate technology litigation during the period beginning with the effective date of this Act and ending June 30, 2023.

**SECTION 17. EXEMPTION - GAMING TAX REVENUE GRANTS.** Notwithstanding section 53-06.1-12, the attorney general may distribute gaming tax revenue grants to cities and counties relating to the seventh and eighth quarters of the 2019-21 biennium through October 31, 2021."

Page 4, after line 28, insert:

"**SECTION 19. EXEMPTION - REDUCED CIGARETTE IGNITION PROPENSITY AND FIREFIGHTER PROTECTION ACT ENFORCEMENT FUND.** Notwithstanding subsection 6 of section 18-13-03, the attorney general may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to fire marshal office positions during the biennium beginning July 1, 2021, and ending June 30, 2023."

Page 5, after line 4, insert:

"**SECTION 21. EXEMPTION - STATEWIDE AUTOMATED VICTIM INFORMATION AND NOTIFICATION PROGRAM.** The amount appropriated to the attorney general from other funds for the statewide automated victim information and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws and continued into the 2019-21 biennium, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the legal case management system during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 22. EXEMPTION - INFORMATION TECHNOLOGY EQUIPMENT.** The amount appropriated to the attorney general from the general fund for the purchase of information technology equipment as contained in section 1 of chapter 28 of the 2019 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 for the purchase of information technology equipment, during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 23. LEGISLATIVE INTENT - GAMING DIVISION.** It is the intent of the sixty-seventh legislative assembly that the expenses of the attorney general's gaming division be paid from gaming tax revenues.

**SECTION 24. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT ATTORNEYS.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating attorney and legal-related positions in state government. The study must include an

analysis of the number of attorney and legal-related positions in state government, the agency to which the positions are assigned, the type of work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 25. LEGISLATIVE MANAGEMENT STUDY - STATE GOVERNMENT LITIGATION FUNDING.** During the 2021-22 interim, the legislative management shall consider studying the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of litigation-related funding in state government agency budgets, including the purpose and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 26. LEGISLATIVE MANAGEMENT STUDY - CHARITABLE GAMING LAWS.** During the 2021-22 interim, the legislative management shall consider studying laws regarding the state's charitable gaming taxation and use of net proceeds for eligible organizations. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 27. LEGISLATIVE MANAGEMENT STUDY - GAMING ADDICTION AND SUPPORT.** During the 2021-22 interim, the legislative management shall consider studying the economic and societal impacts of gambling addiction in the state. The study must include a review of the trend of gambling addiction since the expansion of electronic pull tab gambling in the state, state funding provided for gambling addiction and disorder prevention and treatment, and support programs for individuals and families affected by gambling addiction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 28. EMERGENCY.** Sections 4 and 16 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1003 - Summary of Conference Committee Action**

| | Base Budget | House Version | Conference Committee Changes | Conference Committee Version | Senate Version | Comparison to Senate |
|---|---|---|---|---|---|---|
| Attorney General | | | | | | |
| Total all funds | $81,490,880 | $87,025,682 | $4,780,164 | $91,805,846 | $90,913,114 | $892,732 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,809,082 | 49,159,128 | 48,509,128 | 650,000 |
| General fund | $45,604,596 | $43,675,636 | ($1,028,918) | $42,646,718 | $42,403,986 | $242,732 |
| FTE | 245.00 | 248.00 | 5.00 | 253.00 | 252.00 | 1.00 |
| DHS - Other | | | | | | |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 | $2,000,000 | $0 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 | 2,000,000 | 0 |
| General fund | $0 | $0 | $0 | $0 | $0 | $0 |

| | | | | | | |
|---|---|---|---|---|---|---|
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Bill total | | | | | | |
| Total all funds | $81,490,880 | $87,025,682 | $6,780,164 | $93,805,846 | $92,913,114 | $892,732 |
| Less estimated income | 35,886,284 | 43,350,046 | 7,809,082 | 51,159,128 | 50,509,128 | 650,000 |
| General fund | $45,604,596 | $43,675,636 | ($1,028,918) | $42,646,718 | $42,403,986 | $242,732 |
| FTE | 245.00 | 248.00 | 5.00 | 253.00 | 252.00 | 1.00 |

## House Bill No. 1003 - Attorney General - Conference Committee Action

| | Base Budget | House Version | Conference Committee Changes | Conference Committee Version | Senate Version | Comparison to Senate |
|---|---|---|---|---|---|---|
| Salaries and wages | $45,954,981 | $48,782,813 | $1,512,536 | $50,295,349 | $50,095,187 | $200,162 |
| Operating expenses | 15,588,646 | 15,675,772 | 757,266 | 16,433,038 | 16,390,468 | 42,570 |
| Capital assets | 804,380 | 1,739,221 | | 1,739,221 | 1,739,221 | |
| Grants | 4,418,440 | 3,663,440 | 240,000 | 3,903,440 | 3,903,440 | |
| Litigation fees | 150,000 | 127,500 | | 127,500 | 127,500 | |
| Intellectual property attorney | 442,085 | | | | | |
| Medical examinations | 660,000 | 660,000 | | 660,000 | 660,000 | |
| North Dakota lottery | 5,191,454 | 5,253,531 | 1,313 | 5,254,844 | 5,254,844 | |
| Arrest and return of fugitives | 10,000 | 8,500 | | 8,500 | 8,500 | |
| Gaming commission | 7,489 | 7,489 | | 7,489 | 7,489 | |
| Criminal justice information sharing | 3,631,121 | 3,801,923 | 273,045 | 4,074,968 | 4,074,968 | |
| Law enforcement | 2,982,284 | 2,702,985 | 345,942 | 3,048,927 | 3,048,927 | |
| Human trafficking victims grants | 1,400,000 | 1,101,834 | 45 | 1,101,879 | 1,101,879 | |
| Forensic nurse examiners grants | 250,000 | 250,674 | 17 | 250,691 | 250,691 | |
| Additional income | | 250,000 | | 250,000 | 250,000 | |
| Statewide litigation funding pool | | 3,000,000 | 1,650,000 | 4,650,000 | 4,000,000 | 650,000 |
| Total all funds | $81,490,880 | $87,025,682 | $4,780,164 | $91,805,846 | $90,913,114 | $892,732 |
| Less estimated income | 35,886,284 | 43,350,046 | 5,809,082 | 49,159,128 | 48,509,128 | 650,000 |
| General fund | $45,604,596 | $43,675,636 | ($1,028,918) | $42,646,718 | $42,403,986 | $242,732 |
| FTE | 245.00 | 248.00 | 5.00 | 253.00 | 252.00 | 1.00 |

## Department 125 - Attorney General - Detail of Conference Committee Changes

| | Adjusts Funding for Salary and Benefit Increases[1] | Adds Funding for Salary Equity Increases[2] | Adjusts Funding for the Gaming Division[3] | Adds Funding for Gaming Grants to Political Subdivisions[4] | Adds Funding for Gaming Division Positions[5] | Adds Funding for a Data Scientist Position[6] |
|---|---|---|---|---|---|---|
| Salaries and wages | $33,376 | $241,757 | | | $611,147 | $200,162 |
| Operating expenses | | | | | 108,627 | 42,570 |
| Capital assets | | | | | | |
| Grants | | | | $240,000 | | |
| Litigation fees | | | | | | |
| Intellectual property attorney | | | | | | |
| Medical examinations | | | | | | |
| North Dakota lottery | 1,313 | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming commission | | | | | | |
| Criminal justice information sharing | 1,156 | | | | | |
| Law enforcement | 2,204 | | | | | |
| Human trafficking victims grants | 45 | | | | | |
| Forensic nurse examiners grants | 17 | | | | | |
| Additional income | | | | | | |
| Statewide litigation funding pool | | | | | | |
| Total all funds | $38,111 | $241,757 | $0 | $240,000 | $719,774 | $242,732 |
| Less estimated income | 47,509 | 241,757 | 1,710,042 | 240,000 | 719,774 | 0 |
| General fund | ($9,398) | $0 | ($1,710,042) | $0 | $0 | $242,732 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 3.00 | 1.00 |

| | Adjusts Funding for Salaries and Operating Expenses[7] | Restores Intellectual Property Attorney[8] | Adds One-Time Funding for Statewide Litigation[9] | Total Conference Committee Changes |
|---|---|---|---|---|
| Salaries and wages | | $426,094 | | $1,512,536 |
| Operating expenses | $584,373 | 21,696 | | 757,266 |
| Capital assets | | | | |
| Grants | | | | 240,000 |
| Litigation fees | | | | |
| Intellectual property attorney | | | | |
| Medical examinations | | | | |
| North Dakota lottery | | | | 1,313 |
| Arrest and return of fugitives | | | | |
| Gaming commission | | | | |
| Criminal justice information sharing | 271,889 | | | 273,045 |
| Law enforcement | 343,738 | | | 345,942 |
| Human trafficking victims grants | | | | 45 |
| Forensic nurse examiners grants | | | | 17 |
| Additional income | | | | |
| Statewide litigation funding pool | | | $1,650,000 | 1,650,000 |
| Total all funds | $1,200,000 | $447,790 | $1,650,000 | $4,780,164 |
| Less estimated income | 1,200,000 | 0 | 1,650,000 | 5,809,082 |
| General fund | $0 | $447,790 | $0 | ($1,028,918) |
| FTE | 0.00 | 1.00 | 0.00 | 5.00 |

[1] Salaries and wages funding is adjusted for 2021-23 biennium salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of $100 and 2 percent on July 1, 2022, the same as provided by the Senate. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of $100 and a maximum monthly increase of $250. Of these amounts, $50,000 is reduced from the general fund and $50,000 is added from gaming tax revenues deposited in the charitable gaming operating fund for salary increases related to Gaming Division positions.

[2] Funding of $241,757 is added from the Attorney General refund fund for salary equity increases for 55 FTE Bureau of Criminal Investigation (BCI) positions and 2 FTE Medicaid Fraud Control Unit (MFCU) positions to provide a total of $1,249,083 of salary equity increases for these FTE positions from the Attorney General refund fund, which is derived from lawsuit settlement proceeds, the same as provided by the Senate. The House provided $1,007,326 from the Attorney General refund fund for these FTE positions.

An additional $125,906 of salary equity funding is provided for 8 FTE Fire Marshal office positions from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, the same as provided by the Senate. The House provided the $125,906 for the Fire Marshal office positions from the Attorney General refund fund.

[3] Funding from the general fund of $1,710,042 is replaced with funding from gaming tax revenues deposited in the charitable gaming operating fund for Gaming Division expenses, including $1,669,103 in the salaries and wages line item, $37,599 in the operating expenses line item, and $3,340 in the gaming commission line item. The Senate provided the funding would be from the gaming tax allocation fund. The House did not adjust funding for the Gaming Division.

[4] Funding of $240,000 is added from the charitable gaming operating fund to provide a total of $750,000 for grants to political subdivisions. The Senate added this funding from the gaming tax allocation fund. The House did not add funding for gaming grants.

[5] Funding of $719,774 is added from the gaming tax revenues deposited in the charitable gaming operating fund for 3 FTE Gaming Division positions to address increased workloads related to increased electronic pull tabs activity in the state, of which $611,147 is for salaries and wages and $108,627 is for related operating expenses. The Senate provided this funding from the gaming tax allocation fund.

The Conference Committee amendments also adjust the funding source for $959,699 approved by the House, of which $814,863 is for salaries and wages of 4 FTE Gaming Division positions and $144,836 is for related operating expenses, from the Attorney General operating fund to gaming tax revenues deposited in the charitable gaming operating fund to provide a total of 7 new FTE Gaming Division positions at a cost of $1,679,473, of which $1,426,010 is for salaries and wages and $253,463 is for related operating expenses. The Senate provided this funding from the gaming tax allocation fund.

The Conference Committee amendments also replace funding of $1,113,993 from the Attorney General refund fund, of which $956,356 is for salaries and wages, $153,488 is for operating expenses and $4,149 is for the Gaming Commission, and $147,560 from the Attorney General operating fund, of which $24,000 is for salaries and wages and $123,560 is for operating expenses, with funding from the charitable gaming operating fund. The Senate provided this funding from the gaming tax allocation fund.

Total Gaming Division funding provided by the Conference Committee from the charitable gaming operating fund is $5,926,068, of which $4,125,469 is for salaries and wages, $1,043,110 is for operating expenses, $750,000 is for grants to cities and counties, and $7,489 is for the Gaming Commission. The Senate provided this funding from the gaming tax allocation fund.

A section of legislative intent is added to the bill that the Attorney General's Gaming Division be paid from gaming tax revenues, the same as the Senate.

[6] Funding of $242,732 is added from the general fund for 1 FTE data scientist position for the State Crime Laboratory, of which $200,162 is for salaries and wages and $42,570 is for related operating expenses. The House and Senate did not previously approve this item.

[7] Funding of $1.2 million is added from the Attorney General refund fund for salaries and wages and operating expenses reduced from the general fund by the House. Of the total, $283,227 is for salaries and wages of a BCI agent and a BCI administrative assistant, $34,377 is for operating expenses of the State Crime Laboratory, $271,889 is for operating expenses of the criminal justice information sharing system, and $610,507 is for other operating expenses of the Attorney General's office, primarily related to information technology-related expenses. The Senate also provided $1.2 million from the Attorney General refund fund for this purpose.

[8] Funding of $447,790 from the general fund is restored for 1 FTE assistant attorney general position for the intellectual property attorney program, the same as provided by the Senate. The House removed this position and eliminated the program.

[9] One-time funding of $1.65 million is added from the gaming tax allocation fund for a statewide litigation funding pool, to provide a total of $4.65 million, of which $3 million is from the strategic investment and improvements fund. The House provided a total of $3 million from the strategic investment and improvements fund. The Senate provided a total of $4 million from the strategic investment and improvements fund. A separate section of the bill is added to identify the $1.65 million in Section 1 and to provide an exemption from North Dakota Century Code Section 53-06.1-12 to authorize the Attorney General to use the funding for litigation expenses.

The Conference Committee did not approve a section added by the Senate that would have amended Section 53-06.1-12 to authorize the Attorney General to use gaming tax revenues from the gaming tax allocation fund for the administration and operating costs of the Gaming Division. Due to the passage of House Bill No. 1212 (2021), the Attorney General is authorized to use gaming tax revenues deposited in the newly created charitable gaming operating fund for the administration and operating costs of the Gaming Division.

This amendment also:

- Adds a section to provide a 2019-21 biennium supplemental appropriation of $355,000 to the Attorney General from federal funds, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers to be received from the Department of Transportation. The section includes an exemption to allow the Attorney General to continue the funding into the 2021-23 biennium. This section is declared an emergency measure. The Senate included this section.
- Adds a section to provide a transfer of $2 million from lawsuit settlement proceeds deposited in the Attorney General refund fund to the Department of Human Services, which is appropriated to the Department of Human Services for defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Department of Human Services is required to consult with the Attorney General regarding the use of this funding. The Attorney General is required to notify the Legislative Council and the Office of Management and Budget of any lawsuit settlement proceeds that become available for transfer to the Department of Human Services for this program. The Senate included this section.
- Adds a section to identify $475,000 appropriated in Section 1 for the continued development and implementation of the charitable gaming technology system is from the charitable gaming operating fund. The House provided this funding from the Attorney General operating fund. The Senate provided this funding from the gaming tax allocation fund.
- Amends a section to identify $1,374,989 in the estimated income line item in Section 1 is for providing salary equity increases to Attorney General staff during the 2021-23 biennium, of which $1,249,083 is from the Attorney General refund fund for BCI and MFCU positions and $125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for Fire Marshal office positions. The Senate included this section.
- Amends a section to allow the Attorney General to invest up to $2,577,624 of funding in the Attorney General refund fund, which is derived from lawsuit settlement proceeds received by the Attorney General and was deposited in the Attorney General refund fund in January 2021 ($1,160,896) and March 2021 ($1,416,728) and any investment earnings on the settlement amount, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund and Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for the purpose of providing salary equity increases for the 2021-23 biennium and for the cost to continue the salary equity increases during the 2023-25 biennium. The Senate included this section.
- Amends a section increasing the Attorney General's statutory salary to reflect salary increases of 1.5 percent and 2 percent approved for the 2021-23 biennium. The Senate included this section.
- Adds a section to amend House Bill No. 1212 (2021) to provide gaming tax revenue grants distributed to cities and counties are subject to legislative appropriations. This change will result in an estimated additional $34,373 of gaming tax revenues being deposited in the general fund during the 2021-23 biennium.
- Adds a section to provide, notwithstanding Section 54-12-08.1, the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing multistate technology litigation, during the period beginning with the effective date of this Act and ending June 30, 2023. This section is declared an emergency measure. The Senate included this section.
- Adds a section to provide, notwithstanding Section 53-06.1-12, the Attorney General

may distribute quarters seven and eight of 2019-21 biennium gaming tax revenue grants to cities and counties through October 31, 2021. The Senate included this section.

- Adds a section to provide, notwithstanding subsection 6 of Section 18-13-03, the Attorney General may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to Fire Marshal office positions during the 2021-23 biennium. The Senate included this section.
- Adds a section to allow the Attorney General to continue any remaining funding appropriated from other funds for the 2017-19 biennium and continued into the 2019-21 biennium for the statewide automated victim information and notification system into the 2021-23 biennium for the legal case management system, which is used to track attorney time and billing within the agency. The Senate included this section.

- Adds a section to allow the Attorney General to continue any remaining funding appropriated from the general fund for the 2019-21 biennium for the purchase of information technology equipment into the 2021-23 biennium. The Senate included this section.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating attorney and legal-related positions in state government. The Senate included this section.
- Adds a section to provide for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government. The Senate included this section.
- Adds a section to provide for a Legislative Management study regarding the state's charitable gaming tax laws and the use of net proceeds for eligible organizations. The Senate included this section.
- Adds a section to provide for a Legislative Management study of gaming addiction and support. Neither the Senate nor the House included this section.

**House Bill No. 1003 - DHS - Other - Conference Committee Action**

| | Base Budget | House Version | Conference Committee Changes | Conference Committee Version | Senate Version | Comparison to Senate |
|---|---|---|---|---|---|---|
| Operating expenses | | | $2,000,000 | $2,000,000 | $2,000,000 | |
| Total all funds | $0 | $0 | $2,000,000 | $2,000,000 | $2,000,000 | $0 |
| Less estimated income | 0 | 0 | 2,000,000 | 2,000,000 | 2,000,000 | 0 |
| General fund | $0 | $0 | $0 | $0 | $0 | $0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

**Department 325 - DHS - Other - Detail of Conference Committee Changes**

| | Adds One-Time Funding for Opioid Addiction Prevention Program[1] | Total Conference Committee Changes |
|---|---|---|
| Operating expenses | $2,000,000 | $2,000,000 |
| Total all funds | $2,000,000 | $2,000,000 |
| Less estimated income | 2,000,000 | 2,000,000 |
| General fund | $0 | $0 |
| FTE | 0.00 | 0.00 |

[1] One-time funding of $2 million is added from lawsuit settlement proceeds received by the Attorney General and transferred to the Department of Human Services for defraying the

expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Senate also included this appropriation.

Engrossed HB 1003 was placed on the Seventh order of business on the calendar.

## Attorney General - Budget No. 125
## House Bill No. 1003
## Base Level Funding Changes

**Reflecting Discussion Through: 4/19/2021**

| | House Version | | | | Senate Version | | | | Conference Committee Version | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total | FTE Positions | General Fund | Other Funds | Total |
| **2021-23 Biennium Base Level** | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 | 245.00 | $45,604,596 | $35,886,284 | $81,490,880 |
| **2021-23 Ongoing Funding Changes** | | | | | | | | | | | | |
| Base payroll changes | | $55,536 | $87,874 | $143,410 | | $55,536 | $91,252 | $146,788 | | $55,536 | $91,252 | $146,788 |
| Salary increase | | 781,879 | 384,469 | 1,166,348 | | 772,481 | 431,978 | 1,204,459 | | 772,481 | 431,978 | 1,204,459 |
| Health insurance increase | | 7,650 | 3,718 | 11,368 | | 7,650 | 3,718 | 11,368 | | 7,650 | 3,718 | 11,368 |
| Adds funding for Bureau of Criminal Investigation salary equity increases | | | 1,007,326 | 1,007,326 | | | 1,249,083 | 1,249,083 | | | 1,249,083 | 1,249,083 |
| Adds funding for Fire Marshal salary equity increases | | | 125,906 | 125,906 | | | 125,906 | 125,906 | | | 125,906 | 125,906 |
| Adjusts funding for the Gaming Division | | | | 0 | | (1,710,042) | 1,710,042 | 0 | | (1,710,042) | 1,710,042 | 0 |
| Adds funding for gaming grants to political subdivisions | | | | 0 | | | 240,000 | 240,000 | | | 240,000 | 240,000 |
| Adds funding for FTE gaming division positions due to electronic pull tabs activity | 4.00 | | 959,699 | 959,699 | 7.00 | | 1,679,473 | 1,679,473 | 7.00 | | 1,679,473 | 1,679,473 |
| Adds funding for a State Crime Laboratory data scientist position | | | | 0 | | | | 0 | 1.00 | 242,732 | | 242,732 |
| Reduces funding for temporary salaries | | (246,009) | | (246,009) | | (246,009) | | (246,009) | | (246,009) | | (246,009) |
| Adjusts funding for operating expenses | | (1,489,628) | 185,464 | (1,304,164) | | (1,489,628) | 185,464 | (1,304,164) | | (1,489,628) | 185,464 | (1,304,164) |
| Adjusts operating expenses | | (210,000) | | (210,000) | | (210,000) | 584,373 | 374,373 | | (210,000) | 584,373 | 374,373 |
| Adds funding for technology fees, including Microsoft Office 365 license expenses | | 70,958 | | 70,958 | | 70,958 | | 70,958 | | 70,958 | | 70,958 |
| Adds funding for Bureau of Criminal Investigation service contracts and monitoring fees | | 114,342 | 80,000 | 194,342 | | 114,342 | 80,000 | 194,342 | | 114,342 | 80,000 | 194,342 |
| Reduces funding for the Medicaid Fraud Control Unit | | (12,866) | | (12,866) | | (12,866) | | (12,866) | | (12,866) | | (12,866) |
| Adds funding for State Crime Laboratory bond payments | | 555 | | 555 | | 555 | | 555 | | 555 | | 555 |
| Reduces funding for capital assets | | | (152,400) | (152,400) | | | (152,400) | (152,400) | | | (152,400) | (152,400) |
| Removes funding for the Lottery Narcotics Task Force | | | (755,000) | (755,000) | | | (755,000) | (755,000) | | | (755,000) | (755,000) |
| Reduces funding for litigation fees | | (22,500) | | (22,500) | | (22,500) | | (22,500) | | (22,500) | | (22,500) |
| Removes funding for 1 FTE position for the intellectual property attorney program | (1.00) | (447,790) | | (447,790) | (1.00) | (447,790) | | (447,790) | (1.00) | (447,790) | | (447,790) |
| Restores funding for 1 FTE position for the intellectual property attorney program | | | | 0 | 1.00 | 447,790 | | 447,790 | 1.00 | 447,790 | | 447,790 |
| Reduces funding for the arrest and return of fugitives | | (1,500) | | (1,500) | | (1,500) | | (1,500) | | (1,500) | | (1,500) |
| Adds funding for criminal justice information sharing projects | | 382,662 | | 382,662 | | 382,662 | | 382,662 | | 382,662 | | 382,662 |
| Reduces funding for criminal justice information sharing IT expenses | | (271,889) | | (271,889) | | (271,889) | 271,889 | 0 | | (271,889) | 271,889 | 0 |
| Reduces funding for law enforcement operating expenses | | (340,360) | | (340,360) | | (340,360) | 340,360 | 0 | | (340,360) | 340,360 | 0 |
| Reduces funding for human trafficking victims grants | | (300,000) | | (300,000) | | (300,000) | | (300,000) | | (300,000) | | (300,000) |
| Total ongoing funding changes | 3.00 | ($1,928,960) | $1,927,056 | ($1,904) | 7.00 | ($3,200,610) | $6,086,138 | $2,885,528 | 8.00 | ($2,957,878) | $6,086,138 | $3,128,260 |
| **One-time funding items** | | | | | | | | | | | | |
| Adds funding for criminal history improvement system upgrades | | | $400,000 | $400,000 | | | $400,000 | $400,000 | | | $400,000 | $400,000 |
| Adds funding for the charitable gaming technology system | | | 475,000 | 475,000 | | | 475,000 | 475,000 | | | 475,000 | 475,000 |
| Adds funding for the automated biometric identification system | | | 300,000 | 300,000 | | | 300,000 | 300,000 | | | 300,000 | 300,000 |
| Adds funding for State Crime Laboratory equipment | | | 1,111,706 | 1,111,706 | | | 1,111,706 | 1,111,706 | | | 1,111,706 | 1,111,706 |
| Adds funding for a statewide litigation funding pool | | | 3,000,000 | 3,000,000 | | | 4,000,000 | 4,000,000 | | | 4,650,000 | 4,650,000 |
| Adds funding for additional income from federal or other sources | | | 250,000 | 250,000 | | | 250,000 | 250,000 | | | 250,000 | 250,000 |
| Total one-time funding changes | 0.00 | $0 | $5,536,706 | $5,536,706 | 0.00 | $0 | $6,536,706 | $6,536,706 | 0.00 | $0 | $7,186,706 | $7,186,706 |
| **Total Changes to Base Level Funding** | 3.00 | ($1,928,960) | $7,463,762 | $5,534,802 | 7.00 | ($3,200,610) | $12,622,844 | $9,422,234 | 8.00 | ($2,957,878) | $13,272,844 | $10,314,966 |
| **2021-23 Total Funding** | 248.00 | $43,675,636 | $43,350,046 | $87,025,682 | 252.00 | $42,403,986 | $48,509,128 | $90,913,114 | 253.00 | $42,646,718 | $49,159,128 | $91,805,846 |
| *Total ongoing changes as a percentage of base level* | *1.2%* | *(4.2%)* | *5.4%* | *(0.0%)* | *2.9%* | *(7.0%)* | *17.0%* | *3.5%* | *3.3%* | *(6.5%)* | *17.0%* | *3.8%* |
| *Total changes as a percentage of base level* | *1.2%* | *(4.2%)* | *20.8%* | *6.8%* | *2.9%* | *(7.0%)* | *35.2%* | *11.6%* | *3.3%* | *(6.5%)* | *37.0%* | *12.7%* |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version | Conference Committee Version |
|---|---|---|---|
| Appropriation - Additional federal funds or other federal funds | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. | Section 3 appropriates $250,000 from federal or other funds to the Attorney General for the purpose of defraying the expenses of the Attorney General for the 2021-23 biennium. The Attorney General is required to report to the Office of Management and Budget and the Legislative Council on the availability of this funding. |
| Appropriation - 2019-21 biennium - Sexual assault evidence collection kit tracking system - Drug analyzers - Exemption - One-time funding | | Section 4 provides a 2019-21 biennium supplemental appropriation of $355,000 to the Attorney General from federal funds, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers received from the Department of Transportation and granted to the Attorney General. The section includes an exemption to allow the Attorney General to continue the funding into the 2021-23 biennium. Section 26 declares this section to be an emergency measure. | Section 4 provides a 2019-21 biennium supplemental appropriation of $355,000 to the Attorney General from federal funds, of which $255,000 is for the development and implementation of a sexual assault evidence collection kit tracking system and $100,000 is for drug analyzers received from the Department of Transportation and granted to the Attorney General. The section includes an exemption to allow the Attorney General to continue the funding into the 2021-23 biennium. Section 26 declares this section to be an emergency measure. |
| Transfer - Lawsuit settlement proceeds - Opioid addiction prevention and treatment program - Appropriation - Department of Human Services - One-Time Funding - Report | | Section 5 provides for a transfer of up to $2,000,000 from opioid related lawsuit settlement proceeds deposited in the Attorney General refund fund to the Department of Human Services, which is appropriated to the Department of Human Services for the purposes of defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Department of Human Services is required to consult with the Attorney General regarding the use of this funding. The Attorney General is required to notify the Legislative Council and the Office of Management and Budget of any lawsuit settlement proceeds that become available for transfer to the Department of Human Services for this program. | Section 5 provides for a transfer of up to $2,000,000 from opioid related lawsuit settlement proceeds deposited in the Attorney General refund fund to the Department of Human Services, which is appropriated to the Department of Human Services for the purposes of defraying the expenses of an opioid addiction prevention and treatment program during the 2021-23 biennium. The Department of Human Services is required to consult with the Attorney General regarding the use of this funding. The Attorney General is required to notify the Legislative Council and the Office of Management and Budget of any lawsuit settlement proceeds that become available for transfer to the Department of Human Services for this program. |
| Strategic investment and improvements fund - Transfer - Litigation pool to state agencies - One-time funding | Section 4 identifies $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium. | Section 6 identifies $4 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium. | Section 6 identifies $3 million of one-time funding in the statewide litigation funding pool line item in Section 1 is from the strategic investment and improvements fund and requires the Attorney General to transfer funds from this line item to eligible state agencies for litigation expenses during the 2021-23 biennium. |
| Estimated income - Exemption - Use of gaming tax allocation fund - Litigation pool to state agencies - One-time funding. | | | Section 7 identifies $1.65 million of one-time funding from the gaming tax allocation fund and provides notwithstanding Section 53-06.1-12 and after the distribution of the funding authorized in Section 15, the Attorney General may transfer this funding to eligible state agencies for litigation expenses during the 2021-23 biennium. The Attorney General may not use the funding to pay judgements under Section 32-12-04. |
| Estimated income - Charitable gaming technology system | | Section 7 identifies $475,000 in Section 1 is from the gaming tax allocation fund for the purpose of defraying expenses related to the continued development and implementation of the charitable gaming technology system during the 2021-23 biennium. | Section 8 identifies $475,000 in Section 1 is from the charitable gaming operating fund for the purpose of defraying expenses related to the continued development and implementation of the charitable gaming technology system during the 2021-23 biennium. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version | Conference Committee Version |
|---|---|---|---|
| Human trafficking victims grant program | Section 5 identifies $1,101,834 from the general fund in Section 1 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 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program. | Section 8 identifies $1,101,879 from the general fund in Section 1 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 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program. | Section 9 identifies $1,101,879 from the general fund in Section 1 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 2021-23 biennium. The Attorney General is allowed to 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 is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its program. The Attorney General is required to report to the Legislative Management during the 2021-22 interim on the status and results of the grant program. |
| Forensic nurse examiners grant program | Section 6 identifies $250,674 from the general fund in Section 1 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 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to Appropriations Committees of the 68th 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 identifies $250,691 from the general fund in Section 1 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 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to Appropriations Committees of the 68th 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 10 identifies $250,691 from the general fund in Section 1 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 2021-23 biennium. Any organization that receives a grant under this section is required to report to the Attorney General and the Appropriations Committees of the 68th Legislative Assembly on the use of the funds received and the outcomes of its programs. The Attorney General is required to report to Appropriations Committees of the 68th 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. |
| Estimated income - Salary equity increases - Attorney General refund fund - Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund | Section 7 identifies $1,133,232 in the estimated income line item in Section 1 is from the Attorney General refund fund for providing salary equity increases to Attorney General staff, of which $1,007,326 is for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is for Fire Marshal office positions, for the 2021-23 biennium. | Section 10 identifies $1,374,989 in the estimated income line item in Section 1 is for providing salary equity increases to Attorney General staff during the 2021-23 biennium, of which $1,249,083 is from the Attorney General refund fund for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for Fire Marshal office positions. | Section 11 identifies $1,374,989 in the estimated income line item in Section 1 is for providing salary equity increases to Attorney General staff during the 2021-23 biennium, of which $1,249,083 is from the Attorney General refund fund for Bureau of Criminal Investigation and Medicaid Fraud Control Unit positions and $125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for Fire Marshal office positions. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version | Conference Committee Version |
|---|---|---|---|
| Legislative intent - Attorney General - Salary equity increases - Investment of lawsuit settlement proceeds - State Investment Board | Section 8 allows the Attorney General to invest up to $2,266,464 of funding available in the Attorney General refund fund, of which $1,160,896 is derived from lawsuit settlement proceeds received by the Attorney General and deposited in the Attorney General refund fund in January 2021 and any investment earnings on the settlement amount, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 7 and for the cost to continue the salary equity increases during the 2023-25 biennium. | Section 11 allows the Attorney General to invest up to $2,577,624 of funding in the Attorney General refund fund, which is derived from lawsuit settlement proceeds received by the Attorney General and was deposited in the Attorney General refund fund in January 2021 ($1,160,896) and March 2021 ($1,416,728) and any investment earnings on the settlement amount, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund and Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 10 and for the cost to continue the salary equity increases during the 2023-25 biennium. | Section 12 allows the Attorney General to invest up to $2,577,624 of funding in the Attorney General refund fund, which is derived from lawsuit settlement proceeds received by the Attorney General and was deposited in the Attorney General refund fund in January 2021 ($1,160,896) and March 2021 ($1,416,728) and any investment earnings on the settlement amount, and $251,812 of funding in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, under the supervision of the State Investment Board for the 2021-23 and 2023-25 bienniums. Legislative intent is provided that this funding and any investment earnings on the funding be retained in the Attorney General refund fund and Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for the purpose of providing salary equity increases for the 2021-23 biennium as authorized in Section 10 and for the cost to continue the salary equity increases during the 2023-25 biennium. |
| Gaming tax - Gaming tax allocation fund - Attorney general - State Treasurer - Allocations - Transfer to the general fund | | Section 12 amends Section 53-06.1-12 to authorize the Attorney General to use gaming tax revenues for the administration and operating costs of the Gaming Division. | |
| Attorney General salary | Section 9 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $168,333 effective July 1, 2022, to reflect the 1.5 percent annual salary increase approved by the House. | Section 13 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $169,162 effective July 1, 2022, to reflect annual salary increases of 1.5 percent and 2 percent. | Section 13 amends Section 54-12-11 to provide for the Attorney General's annual salary to increase from $163,394 to $165,845 effective July 1, 2021, and $169,162 effective July 1, 2022, to reflect annual salary increases of 1.5 percent and 2 percent. |
| Criminal history record checks - Fees | Section 10 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | Section 14 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. | Section 14 requires any person or entity requesting a criminal record check from the Bureau of Criminal Investigation to pay a reasonable fee as determined by the Attorney General. The funding must be deposited in the state general fund during the 2021-23 biennium. |
| Exemption - Contingent fee arrangement | | Section 15 provides, notwithstanding Section 54-12-08.1, the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing multi-state technology litigation, during the period beginning with the effective date of this Act and ending June 30, 2023. Section 26 declares this section an emergency measure. | Section 15 provides, notwithstanding Section 54-12-08.1, the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing multi-state technology litigation, during the period beginning with the effective date of this Act and ending June 30, 2023. Section 26 declares this section an emergency measure. |
| Exemption - Gaming tax revenue grants | | Section 16 provides, notwithstanding Section 53-06.1-12, the Attorney General may distribute quarters seven and eight 2019-21 biennium gaming tax revenues to cities and counties through October 31, 2021. | Section 16 provides, notwithstanding Section 53-06.1-12, the Attorney General may distribute quarters seven and eight 2019-21 biennium gaming tax revenues to cities and counties through October 31, 2021. |
| Exemption - Attorney General refund fund | Section 11 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | Section 17 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. | Section 17 allows the Attorney General to retain the balance in the Attorney General refund fund at the end of the 2019-21 biennium to be used during the 2021-23 biennium, rather than transferring the balance to the general fund. |
| Exemption - Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund | | Section 18 provides, notwithstanding Subsection 6 of Section 18-13-03, the Attorney General may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to Fire Marshal office positions during the 2021-23 biennium. | Section 18 provides, notwithstanding Subsection 6 of Section 18-13-03, the Attorney General may invest $125,906 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund, for the purpose of providing salary equity increases to Fire Marshal office positions during the 2021-23 biennium. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version | Conference Committee Version |
|---|---|---|---|
| Exemption - Concealed weapon rewrite project | Section 12 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | Section 19 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. | Section 19 allows the Attorney General to continue any remaining funding appropriated from the general fund during the 2015-17 biennium and continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium. |
| Exemption - Statewide automated victim information and notification program | | Section 20 allows the Attorney General to continue any remaining funding appropriated from other funds for the 2017-19 biennium and continued into the 2019-21 biennium for the statewide automated victim information and notification system into the 2021-23 biennium for the legal case management system, which is used to track attorney time and billing within the agency. | Section 20 allows the Attorney General to continue any remaining funding appropriated from other funds for the 2017-19 biennium and continued into the 2019-21 biennium for the statewide automated victim information and notification system into the 2021-23 biennium for the legal case management system, which is used to track attorney time and billing within the agency. |
| Exemption - Information technology equipment | | Section 21 allows the Attorney General to continue any remaining funding appropriated from the general fund for the 2019-21 biennium for the purchase of information technology equipment into the 2021-23 biennium. | Section 21 allows the Attorney General to continue any remaining funding appropriated from the general fund for the 2019-21 biennium for the purchase of information technology equipment into the 2021-23 biennium. |
| Legislative intent - Gaming Division | | Section 22 provides legislative intent that the Attorney General's Gaming Division be paid for using gaming tax revenues. | Section 22 provides legislative intent that the Attorney General's Gaming Division be paid for using gaming tax revenues. |
| Legislative Management study - State government attorneys | | Section 23 provides for a Legislative Management study regarding the feasibility and desirability of consolidating attorney and legal related positions in state government. The study must include an analysis of the number of attorney and legal-related positions in state government, the agency the positions are assigned to, the nature of the work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government authorized for the 2021-23 biennium. | Section 23 provides for a Legislative Management study regarding the feasibility and desirability of consolidating attorney and legal related positions in state government. The study must include an analysis of the number of attorney and legal-related positions in state government, the agency the positions are assigned to, the nature of the work performed by the positions, and any efficiencies that may be gained through the consolidation of these positions into the attorney general's office. The study must include consultation with the attorney general and any agency with attorney and legal-related positions in state government authorized for the 2021-23 biennium. |
| Legislative Management study - State government litigation funding | | Section 24 provides for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of litigation-related funding in state government agency budgets, including the nature and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. | Section 24 provides for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government. The study must include an analysis of litigation-related funding in state government agency budgets, including the nature and source of funding for the litigation and any efficiencies that may be gained through the consolidation of the litigation funding into the attorney general's office. The study must include consultation with the attorney general and any agency with litigation-related funding appropriated for the 2021-23 biennium. |
| Legislative Management study - Charitable gaming laws | | Section 25 provides for a Legislative Management study regarding the state's charitable gaming taxation laws and the use of net proceeds for eligible organizations. | Section 25 provides for a Legislative Management study regarding the state's charitable gaming taxation laws and the use of net proceeds for eligible organizations. |
| Legislative Management study - Gaming addiction and support | | | Section 26 provides for a Legislative Management study regarding economic and societal impacts of gambling addiction in the state. The study must include a review of the trend of gambling addiction since the expansion of electronic pull tab gambling in the state, state funding provided for gambling addiction and disorder prevention and treatment, and support programs for individuals and families affected by gambling addiction. |

**Other Sections in Attorney General - Budget No. 125**

| | House Version | Senate Version | Conference Committee Version |
|---|---|---|---|
| Emergency measure | | Section 26 declares sections 4 and 15 an emergency measure. | Section 27 declares sections 4 and 15 an emergency measure. |

21.0262.02004
Title.

Prepared by the Legislative Council staff for
Senator Bekkedahl
April 20, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1003

Page 1, line 4, after the semicolon insert "to provide for a legislative management study;"

Page 5, after line 4, insert:

"**SECTION 13. LEGISLATIVE MANAGEMENT STUDY - GAMING ADDICTION AND SUPPORT.** During the 2021-22 interim, the legislative management shall consider studying the economic and societal impacts of gambling addiction in the state. The study must include a review of the trend of gambling addiction since the expansion of electronic pull tab gambling in the state, state funding provided for gambling addiction and disorder prevention and treatment, and support programs for individuals and families affected by gambling addiction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly."

Renumber accordingly