

**Attorney General
Budget No. 125
Senate Bill Nos. 2003 and 2015**

	FTE Positions	General Fund	Other Funds	Total
2019-21 legislative appropriations	246.00	\$45,804,596	\$39,104,240	\$84,908,836
2019-21 base budget	237.00	44,695,840	30,647,320	75,343,160
Legislative increase (decrease) to base budget	9.00	\$1,108,756	\$8,456,920	\$9,565,676

ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2019-21 legislative appropriations	\$45,604,596	\$200,000	\$45,804,596
2017-19 legislative appropriations	44,695,840	150,000 ¹	44,845,840 ¹
2019-21 legislative increase (decrease) to 2017-19 appropriations	\$908,756	\$50,000	\$958,756
Percentage increase (decrease) to 2017-19 appropriations	2.0%	33.3%	2.1%

¹The 2017-19 biennium general fund appropriations reflects a deficiency appropriation of \$50,000 made in Senate Bill No. 2024. See the **Deficiency and Supplemental Appropriations** section below for additional information.

SUMMARY OF LEGISLATIVE CHANGES TO THE BASE BUDGET AND MAJOR FUNDING ITEMS
Changes to Base Budget

	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Adjusted funding for base payroll changes.		(\$1,492,594)	(\$250,559)	(\$1,743,153)
Added funding to provide employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and 2.5 percent on July 1, 2020.		1,053,211	378,374	1,431,585
Added funding for employee health insurance premiums to reflect a revised premium estimate of \$1,426.74 per month.		808,511	291,392	1,099,903
Adjusted funding for salaries.		(182,457)	2,348,217	2,165,760
Removed 4 FTE positions, including 1 paralegal, 1 criminal records specialist II, 1 assistant Attorney General, and 1 administrative assistant II.	(4.00)	(641,089)		(641,089)
Added 1 FTE forensic scientist position.	1.00	224,500		224,500

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 for the Bureau of Criminal Investigation.	2.00	270,177	111,766	381,943
Added federal funding for 2 FTE Social Security Administration Cooperative Disability Investigations program FTE positions for the investigation of fraudulent Social Security disability claims.	2.00		661,888	661,888
Added funding from general and federal funds for 6 Medicaid Fraud Control Unit (MFCU) positions, including 1 attorney, 2 auditors, 2 criminal investigators, and 1 administrative assistant.	6.00	111,902	1,007,113	1,119,015
Added funding for MFCU operating expenses, primarily related to travel, professional development, and operating fees and services, as well as capital assets.		40,961	368,644	409,605
Added 1 FTE fire marshal administrative assistant position (\$128,716), funding for 1 previously unfunded FTE deputy fire marshal position (\$169,924), and related fire marshal operating expenses (\$124,888). Of the total, \$382,488 is from the Attorney General operating fund and \$41,040 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund.	1.00		423,528	423,528
Added funding from the Attorney General refund fund to provide salary equity increases for attorneys during the 2019-21 biennium.			425,000	425,000
Added funding for Microsoft Office 365 licensing expenses.		168,000		168,000
Reduced funding for operating expenses, primarily related to operating fees and services, travel, repairs, information technology (IT) contractual repairs and services, and professional service fees to provide total operating expenses of \$16,388,646.		(775,404)	(843,728)	(1,619,132)
Removed funding from the tobacco settlement trust fund relating to tobacco settlement litigation.			(200,000)	(200,000)
Added federal funding for sex offender sentencing, monitoring, apprehending, registering, and tracking (SMART) IT operating expenses.			650,000	650,000
Added federal funding for the Project Safe Neighborhood program.			291,232	291,232
Added funding for the Lottery Narcotics Task Force, increasing the quarterly transfer from the lottery operating fund to the multijurisdictional drug task force grant fund from \$105,625 to \$200,000, providing total transfers of \$1.6 million each biennium, resulting in a general fund revenue decrease of			756,664	756,664

\$755,000. Operating expenses of \$1,664 are also added for this purpose.

Reduced funding for Crime Laboratory bond payments.	(118,512)		(118,512)
Reduced funding for capital assets, including equipment over \$5,000 (\$1,583,910), Crime Laboratory motor vehicles (\$130,000), and IT equipment and software over \$5,000 (\$262,450).	(83,450)	(1,892,910)	(1,976,360)
Added federal funding for community oriented policing grants (\$1,021,237) and reduced funding for other federal grants (\$73,797).		947,440	947,440
Reduced funding from the lottery fund for North Dakota Lottery operating expenses to provide a total of \$3,156,500 for North Dakota Lottery operating expenses.		(375,097)	(375,097)
Added funding for the human trafficking victims grants program to provide total funding of \$1.4 million from the general fund.	1,275,000		1,275,000
Added funding for a forensic nurse examiners grant program.	250,000		250,000
Added funding from the Attorney General refund fund for criminal justice information sharing improvements.		140,000	140,000
Added one-time funding from the Attorney General refund fund for a criminal history improvement project.		400,000	400,000
Added one-time funding from federal funds for capital assets, including equipment over \$5,000 (\$1,522,956), Crime Laboratory motor vehicles (\$130,000), and IT equipment and software over \$5,000 (\$199,000).		1,851,956	1,851,956
Added one-time funding for eight undercover Bureau of Criminal Investigation vehicles.	200,000		200,000
Added one-time funding for an automated finger identification system replacement project, of which \$158,000 is from the Attorney General refund fund and \$158,000 is from federal funds.		316,000	316,000
Added one-time funding from federal and other funds for any additional income received by the Attorney General during the 2019-21 biennium.		250,000	250,000
Added one-time funding from the Attorney General operating fund for a charitable gaming technology system.		400,000	400,000
Authorized 1 FTE assistant Attorney General position to assist in litigation relating to voter identification and required the Attorney General to request funding transfers from the Office of Management and Budget's litigation funding pool line item for the salaries and wages of the position (Senate Bill No. 2015).	1.00		
Total	<u>9.00</u>	<u>\$1,108,756</u>	<u>\$8,456,920</u>
			<u>\$9,565,676</u>

FTE Changes

The 2019-21 biennium appropriations for the Attorney General include funding for 246 FTE positions, an increase of 9 FTE positions from the 2017-19 biennium authorized level of 237, as follows:

Position	FTE	General Fund	Other Funds	Total Funds
Paralegal	(1.00)	(\$134,989)		(\$134,989)
Criminal records specialist II	(1.00)	(125,320)		(125,320)
Assistant Attorney General	(1.00)	(255,460)		(255,460)
Administrative assistant II	(1.00)	(125,320)		(125,320)
Forensic scientist	1.00	224,500		224,500
Criminal justice information sharing	2.00	260,789	\$111,766	372,555
Social Security Administration program	2.00		661,888	661,888
MFCU - Attorney	1.00	21,471	193,231	214,702
MFCU - Auditor	2.00	45,328	407,960	453,288
MFCU - Criminal investigator	2.00	32,126	289,142	321,268
MFCU - Administrative assistant	1.00	12,977	116,780	129,757
Fire marshal administrative assistant position	1.00		128,716	128,716
Assistant Attorney General (Senate Bill No. 2015) ¹	1.00			
Total	9.00	(\$43,898)	\$1,909,483	\$1,865,585

¹Section 3 of Senate Bill No. 2015 authorizes 1 FTE assistant Attorney General position for the Attorney General for the 2019-21 biennium. The Attorney General is required to request funding transfers from the Office of Management and Budget's litigation funding pool line item for the salaries and wages costs of the position.

One-Time Funding

The Legislative Assembly appropriated \$3,417,956 of one-time funding to the Attorney General for the 2019-21 biennium as follows:

	General Fund	Other Funds	Total Funds
Criminal history improvement project ¹		\$400,000	\$400,000
Capital assets ²		1,851,956	1,851,956
Undercover vehicles	\$200,000		200,000
Finger identification system replacement project ³		316,000	316,000
Charitable gaming technology system ⁴		400,000	400,000
Additional income from federal and other funds		250,000	250,000
Total	\$200,000	\$3,217,956	\$3,417,956

¹Funding for the criminal history improvement project is from the Attorney General refund fund.

²Funding for capital assets is from federal funds.

³Funding for the finger identification system replacement project is from the Attorney General refund fund (\$158,000) and federal funds (\$158,000).

⁴Funding for the charitable gaming technology system is from gaming tax revenues deposited in the Attorney General operating fund.

Deficiency and Supplemental Appropriations

Senate Bill No. 2024 - This bill provides deficiency and supplemental appropriations of \$905,910 to the Attorney General, of which \$50,000 is from the general fund for prosecution witness fees and \$855,910 is from federal funds for capital assets. The supplemental appropriation for capital assets includes funding for 15 handheld narcotics analyzers (\$455,910) for each Bureau of Criminal Investigation office and 1 analyzer for the Crime Laboratory and for the Crime Laboratory to purchase a liquid chromatography mass spectrometer for the analysis of narcotics evidence.

24/7 Sobriety Program

The 2007 Legislative Assembly authorized the Attorney General to establish a sobriety program pilot project during the 2007-09 biennium. The pilot program began on January 1, 2008. The Attorney General established a 24/7 sobriety pilot program in 12 counties in the South Central Judicial District. The 2009 Legislative

Assembly, in House Bill No. 1306, authorized the Attorney General to establish a statewide 24/7 sobriety program, established guidelines and program fees, and created and provided a continuing appropriation to the Attorney General from the 24/7 sobriety program fund. The goal of the program is to remove intoxicated drivers from the road and improve their ability to succeed in treatment. From January 2008, through February 2019, the program has included 22,463 participants, of which 14,594 graduated from the program, 4,813 failed the program, 872 reoffended, and 2,184 were still active in the program.

Medicaid Fraud Control Unit

In Senate Bill No. 2347, the 2019 Legislative Assembly approved the establishment of a Medicaid Fraud Control Unit for the investigation of false medical assistance claims in North Dakota. Section 2 of the bill provides for a civil penalty of not less than \$1,000 and not more than \$10,000 for each violation related to Medicaid fraud and provides parameters for the courts related to the amount of damages assessed. Section 3 provides a civil action for the MFCU must be brought by the later of 6 years after the date the violation was committed or 3 years after the date material facts are known or reasonably should have been known. Section 4 allows the Attorney General's MFCU to investigate any alleged violation related to false medical assistance claims and allows the Attorney General to file a civil action, a criminal action, or both against any person that violated or is violating these provisions. Section 7 provides if the state favorably settles or prevails in a civil action, the state is entitled to be awarded reasonable expenses, consultant and expert witness fees, costs, and attorney's fees. The expenses, fees, and costs must be awarded against the defendant, as the state is not liable for costs, attorney's fees, or other expenses incurred by a person in bringing or defending an action related to false medical assistance claims.

Section 9 of Senate Bill No. 2347 establishes the MFCU as a division in the Attorney General's office. The Medicaid Fraud Control Unit is under the supervision of the Attorney General, is staffed by the agents and employees the Attorney General considers necessary and appropriate, and is considered a criminal justice agency. Agents designated by the Attorney General have peace officer status and authority, including the authority of search, seizure, and arrest. All recovered money is required to be forwarded to the designated state Medicaid agency for appropriate allocation between the federal government and the state general fund. The required state match for the MFCU is appropriated from the general fund. The federal government will pay up to 90 percent of the expenses of the program for the first 3 years. After the first 3 years, the federal government will pay up to 75 percent of the expenses of the program.

Section 10 of Senate Bill No. 2347 establishes the powers and duties of the MFCU. Section 11 provides for Medicaid fraud criminal penalties. Section 12 allows the Attorney General to issue a civil investigative demand or subpoena requiring a person to produce documents for inspection and copying, answer in writing written interrogatories related to the documents, give oral testimony regarding the investigation, and furnish any materials, answers, or testimony related to the Medicaid fraud in question. Section 13 requires all local, county, and state departments and agencies to cooperate with the MFCU and the unit's agents and employees. Section 14 allows the Attorney General to adopt rules to implement the MFCU and the related statutes.

In Senate Bill No. 2003, the 2019 Legislative Assembly appropriated \$1,528,620 for the MFCU for the 2019-21 biennium, of which \$152,863, or 10 percent, is from the general fund and \$1,375,757, or 90 percent, is from federal funds. The funding includes salaries and wages funding of \$1,119,015 for 6 FTE positions, including 1 attorney, 2 auditors, 2 criminal investigators, and 1 administrative assistant. The remaining \$409,605 is for operating expenses and capital assets of the MFCU for the 2019-21 biennium.

Prosecution Witness Fees

Section 4 of Senate Bill No. 2003 amends North Dakota Century Code Section 31-01-16 to limit the amount of prosecution witness fees a county may be reimbursed by the Attorney General to \$25,000 per county per biennium. The Attorney General has budgeted \$95,056 in the operating expenses line item for prosecution witness fees for the 2019-21 biennium. A recent history of funding for prosecution witness fees in the Attorney General's office is as follows:

Biennium	General Fund				Emergency Commission State Contingency Funds	Total
	Budgeted by the Attorney General	Deficiency Appropriation	Emergency Commission Line Item Transfers	General Fund Subtotal		
2013-15	\$100,000	\$50,000		\$150,000	\$120,000	\$270,000
2015-17	100,000		\$121,714	221,714		221,714
2017-19	95,056	50,000		145,056	50,000	195,056
2019-21	95,056			95,056		95,056
Total	\$390,112	\$100,000	\$121,714	\$611,826	\$170,000	\$781,826

Statewide Automated Victim Information and Notification Program

The 2017 Legislative Assembly amended Section 27-01-10 related to fee assessments for funding crime victim and witness programs and changed the assessment of a fee from optional to mandatory. The Legislative Assembly appropriated \$315,000 from funds received from political subdivisions and directed the Attorney General to consult with the North Dakota Association of Counties and the North Dakota League of Cities to establish a cost-sharing program to provide for each political subdivision to share in the cost of the statewide automated victim information and notification (SAVIN) program enhancement project. The Legislative Assembly authorized the Attorney General to use up to \$500,000 of rent savings as the result of an expected move of employees into space available in the Job Service North Dakota central office building for the SAVIN program enhancements and provided a contingent appropriation of \$500,000 from a Department of Trust Lands grant, from funds provided for law enforcement grants during the 2015-17 biennium, for the 2017-19 biennium, if the move does not occur, for a total appropriation of \$815,000 for the SAVIN program.

In Section 9 of Senate Bill No. 2003, the 2019 Legislative Assembly provided the Attorney General an exemption to continue the \$815,000 of other funds appropriated to the Attorney General for the SAVIN program in the 2017-19 biennium into the 2019-21 biennium.

Human Trafficking Victims Grant Program

The 2015 Legislative Assembly in Senate Bill No. 2107 created Chapter 12.1-41 relating to the Uniform Act on Prevention of and Remedies for Human Trafficking, which provided a penalty for human trafficking, and authorized the Attorney General to grant or contract with service providers to develop or expand service programs for victims of human trafficking. The 2017 Legislative Assembly appropriated \$125,000 from the general fund in Senate Bill No. 2203 to the Attorney General to provide human trafficking victims grants during the 2017-19 biennium. The 2019 Legislative Assembly appropriated \$1.4 million from the general fund to the Attorney General for human trafficking victims grants during the 2019-21 biennium. Section 10 of Senate Bill No. 2003 provides guidelines for the distribution of grant funding and requires the Attorney General to report to the Legislative Management regarding the status of the grant program.

Forensic Nurse Examiners Grant Program

In 2017 Senate Bill No. 2191, the Legislative Assembly appropriated one-time funding of \$150,000 from the strategic investment and improvements fund to the Attorney General for the purpose of providing grants for a domestic violence and rape crisis program, also known as the sexual assault forensic nurse examiners grant program for community-based or hospital-based sexual assault examiner programs for the 2017-19 biennium. In 2019 Senate Bill No. 2003, the Legislative Assembly appropriated ongoing funding of \$250,000 from the general fund for the program for the 2019-21 biennium. Section 11 requires the Attorney General to report to the 67th Legislative Assembly on the use of the funds received and the outcomes of the programs. The Attorney General is required to report to the Appropriations Committees of the 67th Legislative Assembly on the number of nurses trained, the number and location of nurses providing services related to the 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.

Charitable Gaming Technology System

The 2019 Legislative Assembly provided a one-time appropriation of \$400,000 from the Attorney General operating fund to the Attorney General to purchase equipment and software for a charitable gaming technology system to address charitable gaming needs in the state during the 2019-21 biennium. Section 12 of Senate Bill No. 2003 provides an exemption from Section 53-06.1-12(3) to allow the Attorney General to retain \$400,000 of gaming tax revenues and deposit the revenue in the Attorney General operating fund during fiscal year 2020. This change reduced 2019-21 estimated general fund revenues from gaming tax collections by \$400,000.

Attorney Salary Equity Increases

On April 10, 2019, the Consumer Protection Division of the Attorney General's office received a \$1,215,561 settlement for a Wells Fargo lawsuit related to Wells Fargo's automobile gap insurance, the company opening accounts without consumers knowledge, and its mortgage interest rate extension fees. The funding was deposited in the Attorney General refund fund. The 2019 Legislative Assembly appropriated \$425,000, of which \$25,000 relates to anticipated interest and earnings of the settlement amount, of this funding to the Attorney General for the 2019-21 biennium. In Section 14 of Senate Bill No. 2003, the Legislative Assembly provided legislative intent that the Attorney General use up to \$425,000 from the April 2019 settlement for providing salary equity increases to attorney positions in the Attorney General's office for the 2019-21 biennium. Further intent was provided that the remaining settlement proceeds and investment earnings on the remaining proceeds be retained in the Attorney General refund fund and be used for the cost to continue the salary equity increases provided in the 2019-21 biennium during the 2021-23 and 2023-25 bienniums, subject to legislative appropriations. Section 15 of Senate Bill No. 2003 allows the Attorney General to invest up to \$1,215,561 of the settlement proceeds under the supervision of the State Investment Board for the period beginning July 1, 2019, and ending June 30, 2025.

Other Sections in Senate Bill No. 2003

Exemption - Attorney General refund fund - Section 3 provides the Attorney General an exemption to retain the 2017-19 biennium ending balance of the Attorney General refund fund for the 2019-21 biennium rather than transferring the balance to the general fund on June 30, 2019.

Lottery operating fund - Section 5 amends Section 53-12.1-09 to increase the quarterly transfer from the lottery operating fund to the multijurisdictional drug task force grant fund from \$105,625 to \$200,000 to provide total transfers of \$1.6 million during the 2019-21 biennium. This additional funding for the Lottery Narcotics Task Force results in a general fund revenue decrease of \$755,000.

Salary of the Attorney General - Section 6 includes the statutory changes necessary to increase the Attorney General's salary from the current annual salary of \$157,009 to \$159,409 (\$200 monthly increase) on July 1, 2019, and to \$163,394 (2.5 percent increase) on July 1, 2020.

Additional income - Section 7 provides an appropriation of \$250,000 from federal or other funds to the Attorney General for defraying the expenses of the Attorney General's office during the 2019-21 biennium. The Attorney General is required to notify the Office of Management and Budget and the Legislative Council of any funding made available pursuant to this section.

Criminal history record checks - Section 8 requires any individual or entity requesting a criminal history 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 2019-21 biennium.

Exemption - Concealed weapon rewrite project - Section 13 provides the Attorney General an exemption to continue unexpended 2015-17 biennium funding that was continued into the 2017-19 biennium for a concealed weapon rewrite project into the 2019-21 biennium.

Related Legislation

House Bill No. 1286 - Seizures and forfeitures of property and currency - This bill requires law enforcement agencies to file an annual report with the Attorney General relating to seizures and forfeitures of property and currency. By November 1 of each year, the Attorney General must submit a written report to the Legislative Management and the Governor summarizing activity in the state for the preceding fiscal year to include the type, approximate value, and disposition of any civilly forfeited property, and the amount of proceeds received. The Attorney General is required to make the reports and the Attorney General's aggregated report available on the Attorney General's website. The bill requires funds obtained through civil asset forfeiture be deposited into the Attorney General assets forfeiture fund.

House Bill No. 1313 - Missing and murdered indigenous people - This bill requires the Attorney General's criminal justice data information sharing system to include data related to missing and murdered indigenous people.

House Bill No. 1507 - Human Trafficking Commission educational training - This bill requires the Attorney General's Human Trafficking Commission to establish an educational training program related to identification and reporting of suspected human trafficking and provides a continuing appropriation to the Human Trafficking Commission for furthering the objectives of human trafficking prevention training and incentivizing proprietors to participate in human trafficking prevention training.

House Bill No. 1521 - North Dakota Ethics Commission - This bill establishes the North Dakota Ethics Commission, allows the Attorney General to approve the legality of Commission nonemergency rules, and requires the Attorney General to serve as legal counsel for the Commission unless the Commission objects to representation by the Attorney General in a specific matter. When a conflict of interest prevents the Attorney General from providing legal services to the Commission, the Attorney General may appoint a special assistant Attorney General to serve as legal counsel for the Commission.

Senate Bill No. 2012 - Tobacco settlement trust fund - Section 9 of this bill amends Section 54-57-25 to remove the Attorney General's authority to use funds from the tobacco settlement trust fund.

Senate Bill No. 2024 - Deficiency and supplemental appropriations - Subdivision 8 of Section 1 of this bill provides deficiency and supplemental appropriations to the Attorney General for the 2017-19 biennium.

Senate Bill No. 2162 - Charitable gaming prizes - This bill increases the primary prize an organization may award from \$6,000 to \$8,000. The total of prizes paid for all games is increased from \$12,000 to \$40,000 per year.

Senate Bill No. 2347 - MFCU - This bill establishes a MFCU as a division of the Attorney General's office and establishes statutory requirements for the program.