

**Attorney General
Budget No. 125
House Bill No. 1003**

	FTE Positions	General Fund	Other Funds	Total
2021-23 legislative appropriations	253.00	\$42,646,718	\$49,159,128	\$91,805,846
2021-23 base budget	245.00 ¹	45,604,596	35,886,284	81,490,880
Legislative increase (decrease) to base budget	8.00	(\$2,957,878)	\$13,272,844	\$10,314,966

¹The Attorney General was authorized 246 FTE positions for the 2019-21 biennium. One FTE position was considered a one-time position and is not considered part of the agency's 2021-23 biennium base budget.

ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2021-23 legislative appropriations	\$42,646,718	\$0	\$42,646,718
2019-21 legislative appropriations	45,604,596	200,000	45,804,596
2021-23 legislative increase (decrease) to 2019-21 appropriations	(\$2,957,878)	(\$200,000)	(\$3,157,878)
Percentage increase (decrease) to 2019-21 appropriations	(6.5%)	(100.0%)	(6.9%)

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		\$55,536	\$91,252	\$146,788
Added funding to provide employee salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100 and 2.0 percent on July 1, 2022		772,481	431,978	1,204,459
Added funding for employee health insurance premiums to reflect a revised premium estimate of \$1,428.77 per month		7,650	3,718	11,368
Added funding for Bureau of Criminal Investigation (BCI) and Medicaid Fraud Control Unit (MFCU) salary equity increases from lawsuit settlement proceeds deposited in the Attorney General refund fund			1,249,083	1,249,083
Added funding for Fire Marshal office salary equity increases from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund			125,906	125,906

Reduced funding for temporary salaries, including \$146,009 for IT temporary salaries and \$100,000 for agencywide temporary salaries		(246,009)		(246,009)
Added funding for a State Crime Laboratory data scientist position, of which \$200,162 is for salaries and wages and \$42,570 is for operating expenses	1.00	242,732		242,732
Added funding from gaming tax revenues deposited in the charitable gaming operating fund for Gaming Division FTE positions to address increased workloads related to increased electronic pull tabs activity in the state. Of the total, \$1,426,010 is for salaries and wages and \$253,463 is for operating expenses	7.00		1,679,473	1,679,473
Added funding from the charitable gaming operating fund for gaming grants to political subdivisions to provide a total of \$750,000			240,000	240,000
Adjusted funding for the Gaming Division from the general fund to the charitable gaming operating fund to provide total funding of \$5,926,068 from the charitable gaming operating fund for the Gaming Division, of which \$4,125,469 is for salaries and wages, \$1,043,110 is for operating expenses, \$750,000 is for grants to political subdivisions, and \$7,489 is for Gaming Commission expenses		(1,710,042)	1,710,042	0
Adjusted funding for operating expenses, including general fund decreases primarily for IT contractual services and repairs, IT software and supplies, travel, operating fees, rent, and increases from the Attorney General operating fund (\$185,464) and Attorney General refund fund (\$584,373) primarily for IT software, IT supplies, and IT contractual services and repairs		(1,699,628)	769,837	(929,791)
Added funding for technology fees, including Microsoft Office 365 license expenses		70,958		70,958
Added funding for BCI service contracts and monitoring fees		114,342	80,000	194,342
Adjusted base level funding, including decreases of \$12,866 for MFCU operating expenses and capital assets, \$22,500 for litigation fees to provide a total of \$127,500, \$1,500 for the arrest and return of fugitives to provide a total of \$8,500, and an increase of \$555 for State Crime Laboratory bond payments to provide a total of \$648,055 from the general fund		(36,311)		(36,311)
Reduced federal funding for capital assets to provide a total of \$1,739,221, of which \$648,055 is ongoing funding from the general fund and \$1,091,166 is one-time funding from federal funds			(148,400)	(148,400)

Reduced funding for human trafficking victims grants to provide a total of \$1,101,879 from the general fund, of which \$1,100,000 is for grants and \$1,879 is for administration of the program	(300,000)		(300,000)
Removed 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		(755,000)	(755,000)
Reduced funding for the North Dakota Lottery capital assets to provide total lottery funding of \$5,254,844 from the lottery fund		(4,000)	(4,000)
Transferred \$447,790 from the intellectual property attorney line item to the salaries and wages line item (\$426,094) and operating expenses line item (\$21,696) to eliminate the intellectual property attorney line item			
Added funding for Criminal Justice Information Sharing (CJIS), for 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)	382,662		382,662
Adjusted funding for CJIS IT expenses from the general fund to the Attorney General refund fund to provide total CJIS funding of \$4,074,968, of which \$2,952,761 is from the general fund, \$650,000 is from federal funds, and \$472,207 is from the Attorney General refund fund	(271,889)	271,889	0
Adjusted funding from the general fund to the Attorney General refund fund for law enforcement operating expenses, of which \$279,850 relates to BCI, \$34,377 relates to the State Crime Laboratory, and \$26,133 are administrative law enforcement operating expenses. Total funding in the law enforcement line item is \$3,048,927, of which \$2,475,393 is from the general fund, \$229,796 is from federal funds, and \$343,738 is from the Attorney General refund fund.	(340,360)	340,360	0
Added one-time funding from the Attorney General refund fund to upgrade the criminal history improvement system		400,000	400,000
Added one-time funding from the charitable gaming operating fund for Phases 3 and 4 of the charitable gaming technology system project, which is expected to complete the project		475,000	475,000
Added one-time funding from federal funds to upgrade the automated biometric identification system, formerly known as the automated fingerprint identification system		300,000	300,000

Added one-time funding from federal funds for State Crime Laboratory capital assets			1,111,706	1,111,706
Added one-time funding for the statewide litigation funding pool, of which \$3 million is from the strategic investment and improvements fund and \$1.65 million is from the gaming tax allocation fund			4,650,000	4,650,000
Added one-time funding from federal and other funds for any additional income received by the Attorney General during the 2021-23 biennium			250,000	250,000
Total	<u>8.00</u>	<u>(\$2,957,878)</u>	<u>\$13,272,844</u>	<u>\$10,314,966</u>

FTE Changes

The Legislative Assembly authorized 253 FTE positions for the Attorney General for the 2021-23 biennium, an increase of 8 FTE positions from the 2019-21 biennium base level of 245 FTE positions. The Legislative Assembly added 1 FTE State Crime Laboratory data scientist position and 7 FTE Gaming Division positions.

One-Time Funding

The Legislative Assembly appropriated \$7,186,706 of one-time funding to the Attorney General for the 2021-23 biennium as follows:

	General Fund	Other Funds	Total Funds
Criminal history improvement system upgrades ¹		\$400,000	\$400,000
Charitable gaming technology system project ²		475,000	475,000
Automated biometric identification system ³		300,000	300,000
State Crime Laboratory capital assets ⁴		1,111,706	1,111,706
Statewide litigation funding pool ⁵		4,650,000	4,650,000
Additional income from federal and other funds		250,000	250,000
Total	\$0	\$7,186,706	\$7,186,706

¹Funding for the criminal history improvement system is from the Attorney General refund fund. The 2019-21 biennium appropriation was also \$400,000 from the Attorney General fund.

²Funding for Phases 3 and 4 of the charitable gaming technology system project is from the charitable gaming operating fund. The 2019-21 biennium appropriation for Phases 1 and 2 of the project was \$400,000 from gaming tax revenues deposited in the Attorney General operating fund.

³Funding for the automated biometric identification system, formerly known as the automated fingerprint identification system, is from federal funds. The 2019-21 biennium appropriation for the system was \$316,000, of which \$158,000 was from federal funds and \$158,000 was from the Attorney General refund fund.

⁴Funding for State Crime Laboratory capital assets is from federal funds.

⁵Funding for the statewide litigation funding pool, of which \$3 million is from the strategic investment and improvements fund and \$1.65 million is from the gaming tax allocation fund.

Deficiency and Supplemental Appropriations - 2019-21 Biennium

Sexual assault evidence collection kit tracking system and drug analyzers - Section 4 of House Bill No. 1003 (2021) includes a 2019-21 biennium federal funds appropriation of \$355,000 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. The federal funds will 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. Section 28 declares this section to be an emergency measure.

House Bill No. 1025 - Court-ordered payments - Section 2 of this bill provides authorization for the Office of Management and Budget to pay \$181,152 from the strategic investment and improvements fund in the litigation funding pool line item in Senate Bill No. 2015 (2019) on behalf of the Attorney General for court-ordered judgements.

Federal COVID-19 Funding - 2019-21 Biennium

In House Bill No. 1394, the Legislative Assembly appropriated \$2,082,871 from federal COVID-19 funds to the Attorney General for the 2019-21 biennium for justice assistance grants from the Department of Justice for staff overtime, equipment, personal protective equipment, supplies, training, travel, addressing medical needs of inmates in state, local, and tribal prisons, jails and detention centers, and other items or projects related to the prevention, preparation, and response to the COVID-19 pandemic.

Medicaid Fraud Control Unit

In Senate Bill No. 2347 (2019), the Legislative Assembly created Chapter 50-24.8, which provided for the establishment of a Medicaid Fraud Control Unit for the investigation of false medical assistance claims in North Dakota. Section 2 of the bill provided 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 (2019), the 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.

The 2021 Legislative Assembly continued funding for 6 FTE positions and reduced funding for operating expenses and capital assets by \$12,865 from the general fund to provide total MFCU operating expenses and capital assets of \$396,739, of which \$28,095 is from the general fund and \$368,644 is from federal funds. In Section 8 of House Bill No. 1349 (2021), the Legislative Assembly added a new subsection to Section 50-24.8-12 to provide that active investigation records of the MFCU are exempt records unless the investigation is closed and not referred for further investigation or adjudication.

Prosecution Witness Fees

Section 4 of Senate Bill No. 2003 (2019) amended 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		
2013-15	\$100,000	\$50,000		\$120,000	\$270,000
2015-17	100,000		\$121,714		221,714
2017-19	95,056	50,000		50,000	195,056
2019-21	95,056				95,056
2021-23	95,056				95,056
Total	\$485,168	\$100,000	\$121,714	\$170,000	\$876,882

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. The Attorney General did not relocate into the Job Service North Dakota central office building during the 2017-19 biennium, resulting in receiving the contingent \$500,000 appropriation from the Department of Trust Lands.

In Section 9 of Senate Bill No. 2003 (2019), the 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.

In Section 21 of House Bill No. 1003 (2021), the Legislative Assembly provided the Attorney General an exemption to continue any remaining SAVIN program funding remaining from the 2017-19 biennium and continued into the 2019-21 biennium for the agency's legal case management system during the 2021-23 biennium. The system is used to track attorney time and billing within the agency. The Attorney General estimated approximately \$140,000 would be unspent at the end of the 2019-21 biennium and available for the 2021-23 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. A recent history of funding for the human trafficking victims grant program in the Attorney General's office is as follows:

Biennium	Bill No.	General Fund
2015-17 ¹	SB 2199	\$500,000
2017-19 ²	SB 2203	125,000
2019-21	SB 2003	1,400,000
2021-23 ³	HB 1003	1,101,879
Total		\$3,126,879

¹In addition to the appropriation provided to the Attorney General for prevention and treatment services related to human trafficking victims in non-oil-producing counties for the 2015-17 biennium, the Legislative Assembly, in Section 2 of Senate Bill No. 2199 (2015), directed the Board of University and School Lands, from funds designated from the oil and gas impact grant fund in House Bill No. 1176 (2015) for grants to law enforcement agencies impacted by oil and gas development, to make available \$750,000 for grants to

organizations involved in providing prevention and treatment services related to human trafficking victims in hub cities located in oil-producing counties for the 2015-17 biennium. The Board of University and School Lands was required to award the grants as directed by the Attorney General.

²In addition to the appropriation provided to the Attorney General for the 2017-19 biennium, the Legislative Assembly, in Section 2 of Senate Bill No. 2203 (2017), directed the Board of University and School Lands to award, based on recommendations from the Attorney General, up to \$700,000 in grants to organizations involved in providing prevention and treatment services related to human trafficking victims, from funds designated from the oil and gas impact grant fund for grants to law enforcement agencies impacted by oil and gas development in subsection 3 of Section 5 of Chapter 463 of the 2015 Session Laws.

³Of the \$1,101,879 identified in Section 9 of House Bill No. 1003 (2021), as appropriated to the Attorney General in Section 1 for the human trafficking victims grant program during the 2021-23 biennium, \$1,000,000 is for grants and \$1,879 is for administration of the program.

Forensic Nurse Examiners Grant Program

In Senate Bill No. 2191 (2017), 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- or hospital-based sexual assault examiner programs for the 2017-19 biennium. In Senate Bill No. 2003 (2019), the Legislative Assembly appropriated ongoing funding of \$250,000 from the general fund for the program for the 2019-21 biennium.

In Section 10 of House Bill No. 1003 (2021), the Legislative Assembly identified ongoing funding of \$250,674 from the general fund appropriated for the program in Section 1 for the 2021-23 biennium, of which \$250,000 is for grants and \$674 is for administration of the program. Section 10 requires the Attorney General to report to the 68th 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 68th 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 Phases 1 and 2 of 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.

In Section 8 of House Bill No. 1003 (2021), the Legislative Assembly identified a one-time appropriation provided in Section 1 of \$400,000 from the charitable gaming operating fund to the Attorney General for Phases 3 and 4 of the charitable gaming technology system project for additional system enhancements during the 2021-23 biennium, which is expected to complete the project.

Charitable Gaming

In Section 1 of House Bill No. 1212, the 2021 Legislative Assembly created a new section to Chapter 53-06.1 and established a charitable gaming operating fund, consisting of all gaming taxes, monetary fines, interest, and penalties. The bill provided the Attorney General a continuing appropriation from the fund, however, Section 13 of House Bill No. 1003 (2021) amended Section 1 of House Bill No. 1212 to remove the continuing appropriation authority, resulting in all money in the fund, excluding funding appropriated by the Legislative Assembly for administrative and operating costs associated with charitable gaming, be allocated by the Attorney General on a quarterly basis as follows:

- \$10,000 to the gambling disorder prevention and treatment fund; and
- 5 percent of the total money deposited in the charitable gaming operating fund to cities and counties, subject to legislative appropriations. The Legislative Assembly appropriated \$750,000 for gaming grants to political subdivisions for the 2021-23 biennium, an increase of \$240,000 from the 2019-21 biennium appropriation of \$510,000 from the gaming tax allocation fund.

On or before June 30th of each odd-numbered year, the Attorney General is required to 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 is required to transfer the certified amount from the charitable gaming operating fund to the general fund prior to the end of each biennium.

Section 2 of House Bill No. 1212 amended Section 53-06.1-12 to provide the gaming tax is imposed quarterly on:

- 1 percent of adjusted gross proceeds if the licensed organization's adjusted gross proceeds do not exceed \$50,000, rather than 1 percent of total gross proceeds if the total gross proceeds do not exceed \$1.5 million; and
- \$500 plus 12 percent of adjusted gross proceeds if the licensed organization's adjusted gross proceeds exceed \$50,000, rather than \$15,000 plus 2.25 percent of total gross proceeds if the total gross proceeds exceed \$1.5 million.

The passage of House Bill Nos. 1003 and 1212 results in gaming revenues being deposited in and spent from the charitable gaming operating fund rather than the gaming tax allocation fund. The remaining balance in the gaming tax allocation fund, estimated to be \$1.65 million, after the distribution of 2019-21 biennium 7th and 8th quarter political subdivision gaming tax revenue grants, was appropriated to the Attorney General for the statewide litigation funding pool for the 2021-23 biennium.

In House Bill No. 1003 (2021), the Legislative Assembly authorized the Attorney General 7 new FTE Gaming Division positions and \$1,679,473 from the charitable gaming operating fund to address increased workloads related to increased electronic pull tabs activity in the state, of which \$1,426,010 is for salaries and wages and \$253,463 is for operating expenses. The Legislative Assembly replaced \$1,710,042 from the general fund with funding from 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 Legislative Assembly also replaced 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.

Total Gaming Division funding appropriated from the Legislative Assembly from the charitable gaming operating fund for the 2021-23 biennium 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.

Exemption - Use of gaming tax allocation fund - Section 7 of House Bill No. 1003 (2021) identifies one-time funding of \$1.65 million appropriated in Section 1 is from the gaming tax allocation fund and provides an exemption to allow the Attorney General to transfer this funding to eligible state agencies for litigation expenses during the 2021-23 biennium as part of the statewide litigation funding pool after the distribution of gaming tax revenue grants provided for in Section 17.

Exemption - Gaming tax revenue grants - Section 17 of House Bill No. 1003 (2021) provides the Attorney General an exemption to allow for the distribution of gaming tax revenue grants to cities and counties relating to the 7th and 8th quarters of the 2019-21 biennium through October 31, 2021. Collection and distribution of gaming tax revenues were delayed due to the COVID-19 pandemic.

Gaming Division legislative intent - Section 23 of House Bill No. 1003 (2021) provides legislative intent that the expenses of the Attorney General's Gaming Division be paid from gaming tax revenues.

Legislative Management study - Charitable gaming laws - Section 26 of House Bill No. 1003 (2021) provides for a Legislative Management study of laws regarding the state's charitable gaming taxation and use of net proceeds for eligible organizations.

Legislative Management study - Gaming addiction and support - Section 27 of House Bill No. 1003 (2021) provides for a Legislative Management study of 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.

Salary Equity Increases - 2019-21 Biennium

In April 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. Section 14 of Senate Bill No. 2003 (2019), included 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 (2019) allows the Attorney General to invest up to \$1,215,561 of the settlement proceeds under the supervision of the State Investment Board during the 2019-21, 2021-23, and 2023-25 bienniums.

Salary Equity Increases - 2021-23 Biennium

In January 2021, the Consumer Protection Division received a \$1,160,896 lawsuit settlement from Apple, Inc., regarding Apple's 2016 decision to adjust the speed of consumer iPhones to address unexpected shutdowns in some devices and Apple's concealment of the issue, which led to a software update in December 2016 that reduced iPhone performance. The funding was deposited in the Attorney General refund fund.

In April 2021, the Consumer Protection Division received a \$1,416,728 lawsuit settlement from Boston Scientific Corporation related to a defective surgical mesh medical device that has caused complications in some women who used the device. The funding was deposited in the Attorney General refund fund.

Salary equity increases - Estimated income - Section 11 of House Bill No. 1003 (2021) 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 55 FTE BCI and 2 FTE MFCU positions and \$125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for 8 FTE Fire Marshal office positions.

Salary equity increases - Legislative intent - Section 12 of House Bill No. 1003 (2021) 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 April 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 11 and for the cost to continue the salary equity increases during the 2023-25 biennium, subject to legislative appropriations.

Other Sections in House Bill No. 1003

Additional income - Section 3 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 2021-23 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.

Opioid addiction prevention and treatment program - Department of Human Services - 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 purpose 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.

Statewide litigation funding pool - Strategic investment and improvements fund - Section 6 identifies \$3 million of one-time funding in the statewide litigation funding pool line item in Section 1 as 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. The Attorney General may not use the funding to pay judgements under Section 32-12-04.

Statewide litigation funding pool - Gaming tax allocation fund - 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 17, 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.

Salary of the Attorney General - Section 14 includes the statutory changes necessary to increase the Attorney General's salary from the current annual salary of \$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 - Section 15 requires any individual or entity requesting a criminal history record check from BCI 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 16 provides the Attorney General may contract for legal services that are compensated by a contingent fee arrangement, relating to ongoing multi-state technology litigation through June 30, 2023. Section 28 declares this section an emergency measure.

Exemption - Attorney General refund fund - Section 18 provides the Attorney General an exemption to retain the 2019-21 biennium ending balance of the Attorney General refund fund for the 2021-23 biennium rather than transferring the balance to the general fund on June 30, 2021. Please refer to the **TRUST FUND ANALYSES** section of this report for an analysis of the Attorney General refund fund.

Exemption - Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund - Section 19 provides 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 20 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 - Information technology equipment - Section 22 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 24 provides for a Legislative Management study of the feasibility and desirability of consolidating attorney and legal related positions in state government.

Legislative Management study - State government litigation funding - Section 25 provides for a Legislative Management study regarding the feasibility and desirability of consolidating litigation-related funding in state government.

Related Legislation

House Bill No. 1025 - Court ordered payments - This bill authorizes the Office of Management and Budget to pay \$181,152 from the strategic investment and improvements fund in the litigation funding pool line item in Senate Bill No. 2015 (2019) on behalf of the Attorney General for court-ordered judgements.

House Bill No. 1212 - Charitable gaming - This bill relates to charitable gaming. See the **Charitable Gaming** section for more information.

House Bill No. 1349 - State Fire Marshal - This bill amends Section 44-04-30 to provide an investigation record of the State Fire Marshal is confidential until the investigation is closed and not referred for further criminal investigation or prosecution or the criminal investigation is no longer active.

House Bill No. 1394 - Federal COVID-19 funding - This appropriates \$2,082,871 from federal COVID-19 funds to the Attorney General for the 2019-21 biennium.

House Bill No. 1494 - Legislative Management study - Law enforcement - 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 - Tobacco - 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 - Sexual assault evidence collection kit tracking system - This bill requires the State Crime Laboratory to develop and implement a statewide sexual assault evidence collection kit tracking system.