

**Attorney General
Budget No. 125
House Bill Nos. 1003, 1394, and 1506; Senate Bill No. 2345**

	FTE Positions	General Fund	Other Funds	Total
2021-23 legislative appropriation	253.00	\$42,646,718	\$51,046,425	\$93,693,143
2019-21 legislative appropriation	246.00 ¹	45,804,596	41,542,111	87,346,707
2021-23 appropriation increase (decrease) to 2019-21 appropriation	7.00	(\$3,157,878)	\$9,504,314	\$6,346,436

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

Item Description

FTE position changes - The 2021 Legislative Assembly authorized 253 FTE positions for the Attorney General for the 2021-23 biennium, an increase of 7 FTE positions from the 2019-21 biennium level of 246 FTE positions. One FTE position authorized for the 2019-21 biennium was considered a one-time position, resulting in 245 FTE positions included in the agency's 2021-23 biennium base budget. The Legislative Assembly added 1 FTE State Crime Laboratory data scientist position and 7 FTE Gaming Division positions.

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

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

¹Funding for the statewide litigation funding pool is from the strategic investment and improvements fund (\$3 million) and from the gaming tax allocation fund (\$1.65 million).

²Funding 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.

³Funding 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.

⁴Funding 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.

⁵Funding for State Crime Laboratory capital assets is from federal funds.

Status/Result

Through March 2022, 3 of the FTE Gaming Division positions have been filled. The Attorney General anticipates filling the FTE data scientist position and the remaining 4 FTE Gaming Division positions by the end of the 2021-23 biennium.

The following is a summary of the status of the Attorney General's one-time funding items:

Additional income from federal or other funds	See the Additional income section below.
Statewide litigation funding pool	See the Statewide litigation funding pool section below.
Criminal history improvement system upgrades	Through March 2022, the Attorney General has spent \$1,008 of the \$400,000 appropriation and anticipates spending the entire appropriation during the 2021-23 biennium.
Charitable gaming technology system project	See the Charitable gaming technology system section below.
Automated biometric identification system	Through March 2022, the Attorney General has not spent any federal funding for the automated biometric identification system but anticipates spending the entire amount by the end of the biennium. The system is scheduled to be completed in March 2023.
State Crime Laboratory capital assets	Through March 2022, the Attorney General has spent \$697,689 of the \$1,111,706 appropriation and expects the entire appropriation will be spent by the end of the 2021-23 biennium.

Federal COVID-19 funding - 2021-23 biennium - During the November 2021 special legislative session, the Legislative Assembly appropriated one-time funding of \$1.35 million in Senate Bill No. 2345 from the federal State Fiscal Recovery Fund to the Attorney General, as follows:

	Other Funds
Missing persons database	\$300,000
Prosecuting case management system	1,000,000
Information technology costs related to charitable gaming tax changes in House Bill No. 1509 (2021)	50,000
Total	\$1,350,000

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 United States 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.

Section 2 of the bill provides the Attorney General an exemption to continue the funding into the 2021-23 biennium.

Deficiency and supplemental appropriations - Section 4 of House Bill No. 1003 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.

Additional income - In Section 3 of House Bill No. 1003, the Legislative Assembly authorized the Attorney General to receive and spend up to \$250,000 of federal or other funding for defraying the expenses of the office.

The following is a summary of the status of the Attorney General's one-time funding items approved during the November 2021 special legislative session:

Missing persons database	The Attorney General is reviewing system requirements and options and anticipates spending the majority of the appropriation during the 2021-23 biennium but may request the 2023 Legislative Assembly authorize an exemption to continue funding into the 2023-25 biennium.
Prosecuting case management system	Through March 2022, the Attorney General is in the procurement process and anticipates issuing a request for proposal for the system in the spring or summer of 2022. The Attorney General may request the 2023 Legislative Assembly authorize an exemption to continue funding into the 2023-25 biennium.
Information technology costs related to charitable gaming tax changes	Primary development on system changes has been complete. Through March 2022, the Attorney General has spent \$45,821 of the \$50,000 appropriation and anticipates spending the remaining \$4,179 by the end of the biennium.

The Attorney General spent \$466,991 during the 2019-21 biennium and through March 2022 has spent \$367,661. The Attorney General has spent funding on equipment, grant administration payroll, and grants to counties and cities. It is unknown how much of the \$2,082,871 will be spent during the 2021-23 biennium.

The Attorney General did not spend any of the \$255,000 appropriation for the sexual assault evidence collection kit tracking system during the 2019-21 biennium. During the 2021-23 biennium through March 2022, the Attorney General spent \$25,009. The system has been tested and training is being scheduled for system users. The Attorney General anticipates spending the entire \$255,000 appropriation during the 2021-23 biennium.

The Attorney General spent the entire \$100,000 for drug analyzers during the 2021-23 biennium.

Through March 2022, the Attorney General has not received any additional federal or other funding.

Opioid addiction prevention and treatment program - Section 5 of House Bill No. 1003 provides for a transfer of up to \$2 million 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.

Statewide litigation funding pool - Section 6 of House Bill No. 1003 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 North Dakota Century Code Section 32-12-04.

Section 7 of the bill 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 gaming tax revenue grants to cities and counties 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.

Charitable gaming - In Section 1 of House Bill No. 1212 (2021), the 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 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

In March 2021, the Attorney General received \$892,400 of lawsuit settlement proceeds. It is unknown if additional proceeds will be received. Through March 2022, no funding has been transferred to the Department of Human Services.

Through March 2022, the Attorney General has spent \$1,630,687 from the gaming tax allocation fund and anticipates spending the entire \$4,650,000 appropriation during the 2021-23 biennium. The following is a summary of litigation expenses through March 2022:

Agency	Amount
108 - Secretary of State	\$2,225
125 - Attorney General	406,895
127 - Tax Commissioner	1,715
303 - Department of Environmental Quality	41,890
405 - Industrial Commission	1,177,962
Total	\$1,630,687

Pursuant to House Bill No. 1003, all gaming revenue is being deposited in the charitable gaming operating fund and all Gaming Division expenses are being paid from the fund. Through March 2022, quarterly transfers totaling \$30,000 have been made from the charitable gaming operating fund to the compulsive gambling prevention fund. A total of \$93,749 of gaming grants have been distributed, of which \$87,773 has been paid to cities and \$5,976 has been paid to counties.

The estimated fiscal impact of House Bill No. 1212 included a reduction of gaming tax revenues; however, electronic pull tab activity has exceeded projections. Through March 2022, gaming tax revenue deposited in the charitable gaming operating fund totaled \$18.5 million. The Attorney General anticipates an increase in gaming operating costs for the 2023-25 biennium.

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.

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.

Charitable gaming technology system - In Senate Bill No. 2003 (2019), the Legislative Assembly appropriated \$400,000 of one-time funding 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 the bill 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 House Bill No. 1003 (2021), the Legislative Assembly appropriated \$475,000 from the charitable gaming operating fund for Phases 3 and 4 of the charitable gaming technology system project, which was expected to complete the project.

Human trafficking prevention - In House Bill No. 1003, the Legislative Assembly appropriated \$1,101,879 from the general fund to the Attorney General for human trafficking victims grants during the 2021-23 biennium. Section 9 of the bill authorizes the Attorney General 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.

Forensic nurse examiners grant program - In House Bill No. 1003, the Legislative Assembly appropriated \$250,691 from the general fund for the

The project consists of four phases. Phase 1 includes development of the charitable gaming organization system. Phase 2 includes a core system rewrite. Phase 3 includes development of the gaming distributor system. Phase 4 includes enhancing the functionality of the three systems developed in Phases 1, 2, and 3.

The Attorney General spent the 2019-21 biennium appropriation of \$400,000 to complete Phase 1 and a portion of Phase 2. Phase 1 was completed in February 2021.

Through March 2022, the Attorney General has spent \$273,798 of the \$475,000 appropriation and anticipates spending the entire appropriation during the biennium. Phase 2 was completed in April 2022. The Attorney General anticipates requesting additional funding from the 2023 Legislative Assembly to complete Phase 3 and Phase 4 of the project; however, the amount to be requested is not yet known.

Through March 2022, the Attorney General has spent \$260,456 of the \$1,101,879 appropriation. It is unknown how much will be spent in total during the biennium.

Through March 2022, the Attorney General has spent \$59,282 of the \$250,691 appropriation. It is unknown how much will be spent in total during the biennium.

forensic nurse examiners grant program for the 2021-23 biennium. Section 10 of the bill requires the Attorney General 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.

Attorney salary equity increases - 2019-21 biennium - 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.

In Senate Bill No. 2003 (2019), the Legislative Assembly appropriated \$425,000, of which \$25,000 relates to anticipated interest and earnings of the settlement amount, of the \$1,215,561 settlement to the Attorney General for the 2019-21 biennium. In Section 14 of the bill, 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 the bill 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.

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.

Section 11 of House Bill No. 1003 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 Bureau of Criminal Investigation

In September 2019, the Attorney General invested \$1,100,000 with the State Investment Board. The Attorney General spent \$354,192 during the 2019-21 biennium to provide salary equity increases to 29 FTE attorney positions. The Attorney General anticipates spending an additional \$370,682 to continue the salary equity increases during the 2021-23 biennium.

In August 2021, the Attorney General invested \$2,185,895 from the Attorney General refund fund with the State Investment Board. Through March 2022, the Attorney General provided \$449,425 of salary equity increases to 48 FTE Bureau of Criminal Investigation positions and 2 FTE Medicaid Fraud Control Unit positions. The Attorney General anticipates spending a total of \$1,230,125 of the \$1,249,083 appropriation during the 2021-23 biennium.

In August 2021, the Attorney General invested \$220,336 from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund with the State Investment Board. Through March 2022, the Attorney General provided \$39,720 of salary equity increases to 7 FTE Fire Marshal office positions. The Attorney General anticipates spending a total of \$118,411 of the \$125,906 appropriation during the 2021-23 biennium.

positions and 2 FTE Medicaid Fraud Control Unit positions and \$125,906 is from the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund for 8 FTE Fire Marshal office positions.

Section 12 of House Bill No. 1003 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.

State Crime Laboratory salary equity increases - 2021-23 biennium - During the November 2021 special legislative session, the Legislative Assembly appropriated \$537,297 in House Bill No. 1506 (2021) from the Attorney General refund fund to the Attorney General for salary equity increases for 25 FTE State Crime Laboratory positions.

Concealed weapon rewrite project - Section 20 of House Bill No. 1003 provides the Attorney General an exemption to continue unexpended 2015-17 biennium funding that was continued into the 2017-19 and 2019-21 bienniums for a concealed weapon rewrite project into the 2021-23 biennium.

In December 2021, the Attorney General invested \$508,578 from the Attorney General refund fund with the State Investment Board. Through March 2022, the Attorney General provided \$72,850 of salary equity increases to 17 FTE State Crime Laboratory positions. The Attorney General anticipates spending \$503,627 of the appropriation to provide salary equity increases to 25 FTE positions during the 2021-23 biennium.

The Attorney General continued \$155,711 of unexpended 2015-17 biennium funding that was continued into the 2017-19 biennium into the 2019-21 biennium. During the 2019-21 biennium, the Attorney General spent \$12,180 of this funding, resulting in \$143,531 being continued into the 2021-23 biennium. During the 2021-23 biennium through March 2022, the Attorney General has spent \$117. The Attorney General has not prioritized this project among the Bureau of Criminal Investigation activities and anticipates requesting an exemption from the 2023 Legislative Assembly to continue funding into the 2023-25 biennium.