



May 19, 2025

The Honorable Robin Weisz
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND 58505

Dear Speaker Weisz:

This is to inform you that on May 19, 2025, I have signed House Bill 1003 and filed it with the Secretary of State. I also have vetoed Section 12 of HB 1003.

Sincerely,


Kelly Armstrong
Governor

Received by:

Lamoyne Weigel

Date:

5-19-25

Time:

3:05 pm



May 19, 2025

The Honorable Robin Weisz
Speaker of the House
North Dakota House of Representatives
State Capitol
Bismarck, ND

Re: Section 12 of House Bill 1003

Dear Speaker Weisz:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have signed House Bill 1003 and filed it with the Secretary of State. I also have vetoed Section 12 of HB 1003.

The North Dakota Constitution authorizes the governor to veto items in an appropriation bill. House Bill 1003 is an appropriation bill for the expenses of the attorney general, and Section 12, relating to 24/7 sobriety program fees, is an item in the appropriation bill. Section 12 was not in HB 1003 when the bill was introduced. Section 12 was a standalone measure introduced as Senate Bill 2365, which went through the legislative process and ultimately failed in the House. It has been resurrected as Section 12 in House Bill 1003, but the failings of this policy remain: It invites a constitutional challenge and will only increase costs and jail overcrowding for counties.

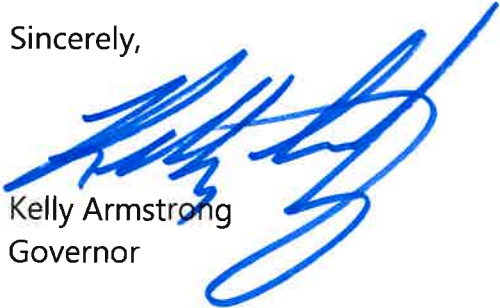
Currently, a district court judge has the flexibility to waive the costs for an individual participating in the 24/7 sobriety program. Section 12 prohibits a judge from waiving these fees, even in cases of hardship or indigency. One reason for allowing a judge to waive the fees is to protect the program from constitutional challenge. If the fee is not waivable, the individual is found not guilty, and the fee is not refunded, the fee becomes a pretrial punishment. This gives an individual grounds for challenging the program because the Constitution protects individuals from being punished for a crime prior to conviction.

Today, the 24/7 program fees are only waivable if a judge issues a finding of hardship. This is a similar process used when a judge finds an individual indigent, which is not an arbitrary decision. By removing the flexibility to waive the 24/7 fees, an indigent individual will be held in pre-trial custody for the inability to pay, likely with an added unaffordable bond. This would require the indigent individual to be placed in custody until the resolution of their case. This will have an adverse effect on counties, becoming far more expensive than the 24/7 program itself and contributing to the overcrowding of county jails.

Section 12 is a previously rejected policy item logrolled into an appropriation bill. This legislative maneuver does not restrict the executive's line-item veto authority. To do so would force the executive to choose between accepting a standalone policy item or risking the entire appropriation for a state agency. Allowing the Assembly to shoehorn general substantive policy provisions into an appropriation bill, while not simultaneously allowing the executive to veto those provisions, would undermine our system of checks and balances, and violate the longstanding principle of separation of powers.

For the reasons said above, Section 12 of House Bill 1003 is vetoed.

Sincerely,



Kelly Armstrong
Governor

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

**HOUSE BILL NO. 1003
(Appropriations Committee)**

AN ACT to provide an appropriation for defraying the expenses of the attorney general; to amend and reenact sections 31-01-16, 54-12-11, 54-12-30, and 54-27-25 of the North Dakota Century Code, relating to compensation and mileage and travel expenses for witnesses, the salary of the attorney general, twenty-four seven sobriety program fees, and the tobacco settlement trust fund; to provide for a report; to provide for a transfer; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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 other funds derived from special funds and federal funds, to the attorney general for the purpose of defraying the expenses of the attorney general, for the biennium beginning July 1, 2025, and ending June 30, 2027, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$53,007,980	\$8,323,325	\$61,331,305
New and vacant FTE pool	0	5,140,711	5,140,711
Operating expenses	17,579,264	(988,610)	16,590,654
Prosecution witness fees	0	360,056	360,056
Capital assets	606,000	1,391,280	1,997,280
Grants	3,903,440	0	3,903,440
Human trafficking victims grants	1,110,614	1,341,900	2,452,514
Forensic nurse examiners grants	252,676	1,568	254,244
Statewide litigation funding pool	0	5,000,000	5,000,000
Litigation fees	127,500	0	127,500
Medical examinations	660,000	0	660,000
Children's forensic interviews	304,560	0	304,560
North Dakota lottery	5,413,453	171,709	5,585,162
Arrest and return of fugitives	8,500	0	8,500
Gaming commission	7,489	0	7,489
Criminal justice information sharing	4,579,950	2,749,467	7,329,417
Law enforcement	<u>3,377,659</u>	<u>291,739</u>	<u>3,669,398</u>
Total all funds	\$90,939,085	\$23,783,145	\$114,722,230
Less other funds	<u>41,914,820</u>	<u>9,888,474</u>	<u>51,803,294</u>
Total general fund	\$49,024,265	\$13,894,671	\$62,918,936
Full-time equivalent positions	266.00	4.00	270.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SEVENTIETH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items included in the appropriation in section 1 of this Act which are not included in the entity's base budget for the 2027-29 biennium and which the entity shall report to the appropriations committees of the seventieth legislative assembly regarding the use of this funding:

<u>One-Time Funding Description</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Bureau of criminal investigation equipment	\$161,000	\$0	\$161,000
Laboratory equipment and supplies	400,000	554,000	954,000
Network switches	32,000	0	32,000
Undercover vehicles	0	540,000	540,000
Portable handheld radios	0	105,000	105,000

Intoxilyzers	0	188,000	188,000
Human trafficking victims grants	650,000	0	650,000
Statewide litigation funding pool	0	5,000,000	5,000,000
Jail management system replacement	650,000	0	650,000
Statewide automated victim identification notification system replacement	0	1,500,000	1,500,000
Total	\$1,893,000	\$7,887,000	\$9,780,000

SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST. The attorney general may not spend funds appropriated in the new and vacant FTE pool line item in section 1 of this Act, but may request the office of management and budget to transfer funds from the new and vacant FTE pool line item to the salaries and wages line item and other line items with salaries and wages in accordance with the guidelines and reporting provisions included in House Bill No. 1015, as approved by the sixty-ninth legislative assembly.

SECTION 4. ADDITIONAL INCOME - APPROPRIATION - ONE-TIME FUNDING - REPORT. In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or special 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, 2025, and ending June 30, 2027. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section. The appropriation in this section is considered a one-time funding item.

SECTION 5. OTHER FUNDS - TRANSFER - COMMUNITY HEALTH TRUST FUND TO ATTORNEY GENERAL OPERATING FUND. The other funds line item in section 1 of this Act includes the sum of \$239,716 from the community health trust fund which the office of management and budget shall transfer to the attorney general operating fund for defraying expenses related to the enforcement of the master settlement agreement and consent agreement and any disputes with the agreement during the biennium beginning July 1, 2025, and ending June 30, 2027.

SECTION 6. OTHER FUNDS - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TRANSFER - STATEWIDE LITIGATION FUNDING POOL TO STATE AGENCIES. The other funds line item in section 1 of this Act includes the sum of \$7,466,000 from the strategic investment and improvements fund, of which \$321,000 is for state crime laboratory equipment and supplies, \$540,000 is for the replacement of bureau of criminal investigation undercover vehicles, \$105,000 is for portable handheld dual-band radios, \$5,000,000 is for the statewide litigation funding pool, and \$1,500,000 is for the replacement of the statewide automated victim identification notification system. The attorney general shall transfer funding from the statewide litigation funding pool to eligible state agencies for litigation expenses during the biennium beginning July 1, 2025, and ending June 30, 2027. The attorney general may not use funding from the statewide litigation funding pool to pay judgments under section 32-12-04.

SECTION 7. HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS. The human trafficking victims grants line item in section 1 of this Act includes \$2,452,514 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, 2025, and ending June 30, 2027. 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 seventieth legislative assembly on the use of the funds received and the outcomes of its programs. The attorney general shall report to the legislative management during the 2025-26 interim on the status and results of the grant program.

SECTION 8. FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS. The forensic nurse examiners grants line item in section 1 of this Act includes \$254,244 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, 2025, and ending June 30, 2027. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the seventieth 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 seventieth 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. BUREAU OF CRIMINAL INVESTIGATION CYBER CRIME RESOURCES. The salaries and wages line item, operating expenses line item, and capital assets line item in section 1 of this Act includes the sum of \$825,000 from the general fund for the purpose of hiring two full-time equivalent bureau of criminal investigation cyber crime agent positions and for related equipment and capital asset costs. The personnel hired and resources purchased pursuant to this section must be dedicated to assisting a police department in a city in northeastern North Dakota with at least 50,000 residents with the prevention and detection of cyber crime.

SECTION 10. AMENDMENT. Section 31-01-16 of the North Dakota Century Code is amended and reenacted as follows:

31-01-16. Compensation and mileage and travel expense of witness.

1. A witness in a civil or criminal case is entitled to receive:
 - 1- a. A sum of twenty-five dollars for each day necessarily in attendance before the district court or before any other board or tribunal, except municipal court.
 - 2- b. A sum for mileage and travel expense reimbursement equal to the reimbursement rates provided for state employees in sections 44-08-04 and 54-06-09.
2. In all criminal cases in district court, the attorney general shall pay prosecution witness fees and expenses, in an amount not to exceed ~~twenty-five thousand~~ thirty thousand dollars per county per biennium, and the commission on legal counsel for indigents shall pay witness fees and expenses for witnesses in those cases in which counsel has been provided by the commission. Prisoners may not be compensated as witnesses under this section. If a county exceeds the thirty thousand dollar reimbursement during a biennium, the county may enter an agreement with another county to allow the county to receive another county's unused reimbursement funds for that biennium, with the approval of the attorney general.

SECTION 11. 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 seventy-nine thousand three hundred twelve~~ one hundred ninety-two thousand seventy-nine dollars through June 30, ~~2024~~ 2026, and ~~one hundred eighty-six thousand four hundred eighty-four~~ one hundred ninety-seven thousand eight hundred forty-one dollars thereafter.

SECTION 12. AMENDMENT. Section 54-12-30 of the North Dakota Century Code is amended and reenacted as follows:

54-12-30. Twenty-four seven sobriety program fees.

A criminal justice agency may collect program fees from offenders participating in the twenty-four seven sobriety program, including fees for twice per day breath alcohol testing, urine testing, drug patch testing, installation and deactivation fees for remote electronic alcohol monitoring devices, and remote electronic alcohol monitoring daily fees. A district court judge or judicial referee may not waive program

~~fees for offenders participating in the twenty-four seven sobriety program. The criminal justice agency shall pay all program fees into the general fund of the governing body. The fees may only be applied to twenty-four seven sobriety program support services, equipment maintenance and replacement, and compliance with the program. The governing body shall pay any daily fees collected for remote electronic alcohol monitoring to the twenty-four seven sobriety program fund.~~

SECTION 13. AMENDMENT. Section 54-27-25 of the North Dakota Century Code is amended and reenacted as follows:

54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.

There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under subsection IX(c)(1) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Moneys received by the state under subsection IX(c)(1) must be deposited in the fund. Moneys in the fund must be transferred within thirty days of receipt by the state to a community health trust fund. Moneys in the fund may be appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state, and for the enforcement of the master settlement agreement and consent agreement and any disputes with the agreement.

SECTION 14. 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-ninth legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the general fund, for the biennium beginning July 1, 2025, and ending June 30, 2027.

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 multistate technology litigation during the biennium beginning July 1, 2025, and ending June 30, 2027.

SECTION 16. 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, 2025.

SECTION 17. EXEMPTION - UNEXPENDED APPROPRIATIONS. The following appropriations are not subject to the provisions of section 54-44.1-11 and may be continued into the biennium beginning July 1, 2025, and ending June 30, 2027:

1. The amount appropriated to the attorney general from other funds for the statewide automated victim identification and notification system as contained in sections 1 and 8 of chapter 3 of the 2017 Session Laws, continued into the 2019-21 biennium for the statewide automated victim identification and notification system, and continued into the 2021-23 biennium and 2023-25 biennium for the legal case management system in section 17 of chapter 35 of the 2023 Session Laws.
2. The sum of \$400,000 appropriated from the attorney general refund fund for the criminal history improvement project in section 1 of chapter 3 of the 2021 Session Laws, and continued into the 2023-25 biennium in section 18 of chapter 35 of the 2023 Session Laws.
3. The sum of \$1,000,000 appropriated from the federal state fiscal recovery fund for the replacement of the prosecuting case management system in subsection 20 of section 1 of chapter 550 of the 2021 Special Session Session Laws and continued into the 2023-25 biennium in section 21 of chapter 35 of the 2023 Session Laws.

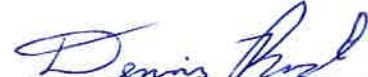
4. The sum of \$736,000 appropriated from the charitable gaming operating fund for the charitable gaming technology system in section 1 of chapter 35 of the 2023 Session Laws.
5. The sum of \$177,000 appropriated from the general fund for a licensing and deposit software system in section 1 of chapter 35 of the 2023 Session Laws.
6. The sum of \$1,772,038 appropriated from federal funds for the justice community oriented policing services anti-methamphetamine program in section 1 of chapter 35 of the 2023 Session Laws.

SECTION 18. EXEMPTION - STATEWIDE LITIGATION FUNDING POOL. The sum of \$3,000,000 appropriated from the general fund as a deficiency appropriation for the statewide litigation funding pool during the 2023-25 biennium, as approved by the sixty-ninth legislative assembly in House Bill No. 1024, is not subject to section 54-44.1-11 and any unexpended funds may be continued into the biennium beginning July 1, 2025, and ending June 30, 2027.


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1003.

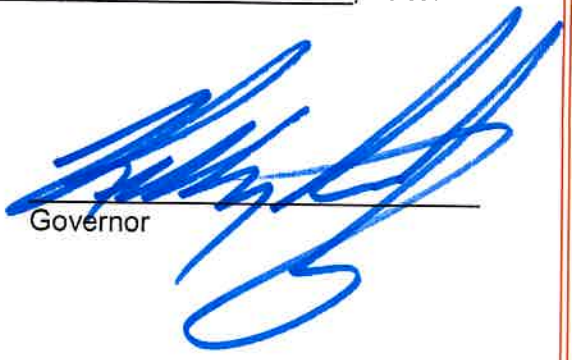
House Vote: Yeas 74 Nays 12 Absent 8

Senate Vote: Yeas 45 Nays 2 Absent 0


Chief Clerk of the House

Received by the Governor at 4:07 P M. on May 2nd, 2025.

Approved at 12:07 A M. on May 19th, 2025.


Governor

Filed in this office this 19th day of May, 2025,
at 3:39 o'clock P M.


Secretary of State