

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2017

2005 SENATE APPROPRIATIONS

SB 2017

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2017

Senate Appropriations Committee

Conference Committee

Hearing Date January 6, 2005

Tape Number	Side A	Side B	Meter #
3	A		3,014
Committee Clerk Signature <i>Jane T. Parks</i>			

Minutes:

Chairman Holmberg the session to order.

Allen Hoberg, Director, Office of Administration, recommends passage of **SB 2017**, the operating budget request 2005-07 for the office of administrative hearings. **Allen Hoberg** distributed a handout which included background information of the Office of Administration, budget analysis, request comparisons by year, service survey information and sample survey in support of the proposed operating budget as proposed.. He then discussed the hearing process and agencies hearings are provided for. The bulk of the 34 agencies requesting hearings were Human Services and Work Force Safety (WSI). Some agencies are required to use the Office of Administration and others are not. There are, however, a number of voluntary users. Since 2003 OAH has conducted the bulk of WSI hearings with permanent Administrative Law Judges (ALJs). (See testimony handout for a description of new staff hired). The budget analysis was discussed and the total funding request for 2005-07 is \$1,243,329. With the Governor's

recommendation, the proposed budget request is \$1,306,482. The decrease in total operating budget occurred because OAH is now using permanent ALJ services and not as much temporary contracted services. Budget provides for maintaining operations for administrative hearings as it has since 1995. The billing rates for all agencies are at the same rate. In addition a comprehensive service survey was conducted, the results of which and actual survey sample are documented in the testimony handouts.

Senator Schobinger asked clarification on the pre hearing conference requirements and reason for for more pre-hearing conferences in workplace safety vs. Human services who has more cases.

Allen Hoberg Law does not compel hearings reasons for the conference has to do with complexity of the case.

Senator Kilzer Do ALJ's, who telecommunicate still have other practices or jobs in addition to this.

Allen Hoberg the full-time person is strictly an ALJ the other two are part-time and do have other jobs.

Senator Tallackson What is subject of hearings.

Allen Hoberg have done hearings for about 70 agencies so issues are diverse.

Senator Andrist Findings are usually advisory are they usually accepted.

Allen Hoberg Advisory is not the right word, recommended decision is what we do although some areas are the final decision. There are legal guidelines as to how recommended decision can be overturned Occasionally decisions are rejected and recommendation are case specific.

Senator Lindaas How was this handled before this department.

Senate Appropriations Committee

Bill/Resolution Number 2017

Hearing Date January 6, 2005

Allen Hoberg before this office established agencies would come and have own hearing officers or contract with private agencies or attorney general's office.

No action taken at this time until budgets reviewed.

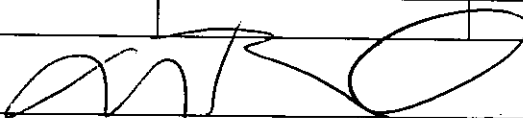
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2017

Senate Appropriations Committee

Conference Committee

Hearing Date 02/11/05

Tape Number	Side A	Side B	Meter #
2	x		223-605
Committee Clerk Signature 			

Minutes: **Chairman Holmberg** opened discussion on SB 2017.

Amendments were missing at this ,a motion was made to move the amendments however. A voice vote was taken, no one opposed. A **Do Pass as Amended** was moved, motion made by Sen. Grindberg, seconded by Sen. Mathern.

Sen. Tallackson: None of the employees have ever won when they have brought a case there.

11 yeas, 3 nays, and 1 absent and not voting. Sen. Mathern will be carrying the bill

Date 2/14/05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB ~~923~~ 2077

Senate SENATE APPROPRIATIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By G Seconded By M

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG	/		SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN			SEN. TALLACKSON		/
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD					
SENATOR SCHOBINGER	✓				
SENATOR THANE	✓				

Total (Yes) 12 No 1

Absent 2

Floor Assignment Matherm

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2017: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). SB 2017 was placed on the Sixth order on the calendar.

Page 1, line 14, replace "100,917" with "96,610"

Page 1, line 16, replace "63,524" with "59,217"

Page 1, line 22, replace "1,039,565" with "1,035,258"

Page 1, line 24, replace "1,306,482" with "1,302,175"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2017 - Office of Administrative Hearings - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$1,039,565	(\$4,307)	\$1,035,258
Operating expenses	<u>266,917</u>		<u>266,917</u>
Total all funds	\$1,306,482	(\$4,307)	\$1,302,175
Less estimated income	<u>1,306,482</u>	<u>(4,307)</u>	<u>1,302,175</u>
General fund	\$0	\$0	\$0
FTE	8.00	0.00	8.00

Dept. 140 - Office of Administrative Hearings - Detail of Senate Changes

	REDUCES COMPENSATION PACKAGE TO 3/4	TOTAL SENATE CHANGES
Salaries and wages	(\$4,307)	(\$4,307)
Operating expenses		
Total all funds	(\$4,307)	(\$4,307)
Less estimated income	<u>(4,307)</u>	<u>(4,307)</u>
General fund	\$0	\$0
FTE	0.00	0.00

2005 HOUSE APPROPRIATIONS

SB 2017

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2017

House Appropriations Committee
Education and Environment Division

Check here for Conference Committee

Hearing Date March 3, 2005

Tape Number	Side A	Side B	Meter #
1	X		0-7.6
Committee Clerk Signature <i>Robin P. P. P.</i>			

Minutes: Chairman Martinson opened hearing on SB2017.

Allen Hoberg, Director Office of Administrative Hearings I'm hearing today to recommend the Office of Administrative Hearings 2005-2007 budget request SB2017. (See written testimony 1-SB2017) The Office of Administrative Hearings' work consists almost exclusively of conducting administrative hearings for numerous state and local agencies or entities on a variety of administrative matters, including complaint or enforcement hearings, application hearings for a license or benefits, and appeals from various types of governmental actions. The following is OAH's current staff configuration, which now consists mostly of permanent staff: 1 full-time director/ALJ; 3 full-time ALJs; 3 full-time support staff; 2 half-time ALJs; 3 temporary, contract ALJs, used only on an as-needed basis (two in eastern ND and one in western ND) for a total of 8 full-time FTEs and three contract ALJs. Budget analysis (See handout) - OAH's 2003-2005 budget is \$1,242,958 which is all special funds. We asked for a budget this biennium slightly

higher than that, the Governor's recommendation \$1,306,482, a proposed increase of 5.1% from the previous budget request. The Senate adjusted it slightly to \$1,302,175. OAH's 1999-2001 budget was \$1,426,016. The Governor's request for OAH for 2005-2007 is 8.4% less than that budget.

Chairman Martinson Was the reason for the decrease the salary package?

Allen Hoberg Yes.

Chairman Martinson So basically they did nothing to your budget?

Allen Hoberg That's correct. Our budget in 2001-2003 was \$1,374,820. The Governor's request for OAH for 2005-2007 is 5% less than that budget. Basically our previously decreasing budget over the last four years is due to a decrease in WSI's caseload and a corresponding decrease in the cost of providing hearing officer services to WSI and is especially due to the decrease costs of providing WSI services using permanent ALJs rather than temporary ALJs. (See written testimony page four and five). There is nothing new in this budget. OAH will maintain its operations. Voluntary user agencies seem to be happy with the services provided by OAH. We will continue to bill all user agencies at an hourly rate, determined by our billing consultant, to fund all of its administrative hearings budget. With the budget proposed today, OAH should be able to fulfill its mission of providing quality, independent hearing officer services to all state agencies required to use its services.

Chairman Martinson closed hearing on SB2017.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2017

House Appropriations Committee
Education and Environment Division

Check here for Conference Committee

Hearing Date March 17, 2003

Tape Number	Side A	Side B	Meter #
1	X		17.6-18

Committee Clerk Signature *Robin Pursley*

Minutes: Chairman Martinson opened hearing on SB2017. We did not assign Administrative Hearings, basically that's a pass through.

Vice Chairman Brusegaard Well, we should give them a budget to do something.

Chairman Martinson closed hearing on SB1017.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2017

House Appropriations Committee
Education and Environment Division

Check here for Conference Committee

Hearing Date March 22, 2005

Tape Number	Side A	Side B	Meter #
1	X		0-2.9
Committee Clerk Signature <i>Robin Pursley</i>			

Minutes: Chairman Martinson opened hearing on SB2017. Let's take up SB2017 -

Administrative Hearings.

Rep. Aarsvold This is the budget for the Office of Administrative Hearings. It is totally special funded agency. They have eight full-time folks that they use to carry out their responsibilities. Four of those, in fact, are full-time positions, one shared between ALJ and administration, three support staff and two half time administrative law judges who carry out work as needed. This is also the case for three temporaries that are hired to use whenever there's a heavy case load. The agency has been instrumental in reducing costs, reduced funding from \$1,400,000 in '99-'01 to \$1,300,000 for the next biennium. They have a continuing appropriation because they are a special funded agency. There are times in the budget cycle they have no dollars because they are not getting funds from the agencies that they are having hearings for, Target their continuing

Page 2

Education and Environment Division

Bill/Resolution Number SB2017

Hearing Date March 22, 2005

appropriation at \$100,000 biennially Their total budget is \$1,302,175. Senate made no changes except salary and health insurance adjustments. I move the adoption of SB2017.

Rep. Wald Second.

VOTE 4 YES 0 NO with 2 absent not voting. Rep. Aarsvold will carry to full committee.

Don With do pass, do you want the health care adjustment on there? Would that be Do Pass As Amended?

Rep. Aarsvold The Senate did not make that adjustment?

Don The Senate made the salary adjustments from 4 to 3, to 3 to 4. We've been doing the health adjustment - very minor adjustment.

Rep. Aarsvold How do you want to handle that?

Chairman Martinson Just make it part of you motion. Let the record show that that is part of the motion.

Chairman Martinson closed hearing on SB2017.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2017
Office of Administrative Hearings

House Appropriations Full Committee

Conference Committee

Hearing Date March 23, 2005

Tape Number	Side A	Side B	Meter #
1		X	#36.7 - #41.7
Committee Clerk Signature <i>Chris Alexander</i>			

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on SB2017.

Rep. Ole Aarsvold moved to adopt amendment #0102 to SB2017

Rep. Tom Brusegaard seconded

Rep. Ole Aarsvold explained that this office conducts hearings on issues concerning departmental rules. In the past these hearings had been handled in house by the respective agencies and in 1991 a concern arose that the same entity who establishes the rules also enforces the rules and adjudicated the rules, so the Office of Administrative Hearings was established. This office has conducted some 70 state agencies and local entities. They hear about 250 cases annually. 85% of these cases are Human Services related or Workforce Safety related. There are 8 FTEs in this office. There are also three temporary personnel on call who handle cases that cannot be handled by the full time staff. This is a totally special funded agency who collect fees from the agencies for whom they work. They have reduced their budget by hiring full time staff

instead of contracted workers. They have a continuing appropriation authority because they are a special funds agency who has no income at the beginning of the biennium even though they have ongoing expenses. The only amendment is the adjustment for the health insurance.

Rep. Ken Svedjan, Chairman called for a voice vote on the motion to adopt amendment #0102 to SB2017. Motion carried

Rep. Ole Aarsvold moved a Do Pass As Amended motion to SB2017

Rep. Bob Martinson seconded

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion for SB2017. Motion carried with a vote of 21 yeas, 0 nays and 2 absences. Rep Aarsvold will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed the discussion on SB2017.

Date: 3.22.05
Roll Call Vote #: _____

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2017

House Appropriations Education and Environment

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Rep. Aarsvold Seconded By Rep. Wald

Representatives		Yes	No	Representatives		Yes	No
Chairman Martinson		✓		Rep. Aarsvold	✓		
Vice Chairman Brusegaard		absent		Rep. Gulleston	absent		
Rep. Rennerfeldt		✓					
Rep. Wald		✓					

Total 6 (Yes) 4 No 0

Absent 2

Floor Assignment Rep. Aarsvold

If the vote is on an amendment, briefly indicate intent:

Date: March 23, 2005
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2017

House Appropriations - Full Committee

Check here for Conference Committee

Legislative Council Amendment Number 58017.0102²⁰¹

Action Taken DO PASS AS AMENDED

Motion Made By Rep Aarsvold Seconded By Rep Martinson

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	AB	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	AB		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleeson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes 21 No 0

Absent 2

Floor Assignment Rep Aarsvold

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2017, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2017 was placed on the Sixth order on the calendar.

Page 1, line 14, replace "96,610" with "95,487"

Page 1, line 16, replace "59,217" with "58,094"

Page 1, line 22, replace "1,035,258" with "1,034,135"

Page 1, line 24, replace "1,302,175" with "1,301,052"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2017 - Office of Administrative Hearings - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$1,039,565	\$1,035,258	(\$1,123)	\$1,034,135
Operating expenses	<u>266,917</u>	<u>266,917</u>		<u>266,917</u>
Total all funds	\$1,306,482	\$1,302,175	(\$1,123)	\$1,301,052
Less estimated income	<u>1,306,482</u>	<u>1,302,175</u>	<u>(1,123)</u>	<u>1,301,052</u>
General fund	\$0	\$0	\$0	\$0
FTE	8.00	8.00	0.00	8.00

Dept. 140 - Office of Administrative Hearings - Detail of House Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE 1	TOTAL HOUSE CHANGES
Salaries and wages	(\$1,123)	(\$1,123)
Operating expenses	<u> </u>	<u> </u>
Total all funds	(\$1,123)	(\$1,123)
Less estimated income	<u>(1,123)</u>	<u>(1,123)</u>
General fund	\$0	\$0
FTE	0.00	0.00

1 This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

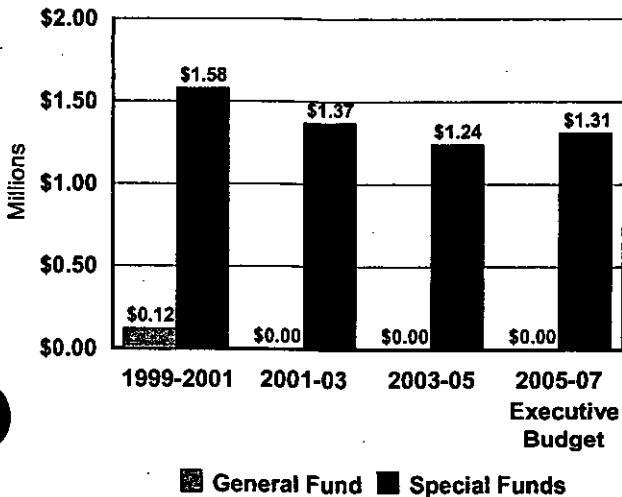
2005 TESTIMONY

SB 2017

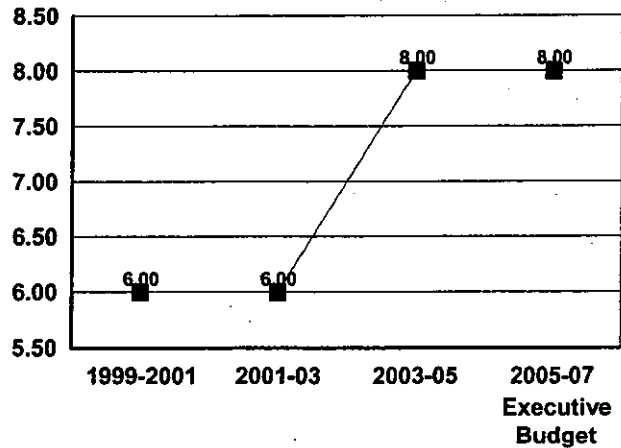
Department 140 - Office of Administrative Hearings
 Senate Bill No. 2017

	FTE Positions	General Fund	Other Funds	Total
2005-07 Executive Budget	8.00	\$0	\$1,306,482	\$1,306,482
2003-05 Legislative Appropriations	8.00	0	1,242,958	1,242,958
Increase (Decrease)	0.00	\$0	\$63,524	\$63,524

Agency Funding



FTE Positions



First House Action

Attached is a summary of the first house changes.

Executive Budget Highlights
 (With First House Changes Noted)

	General Fund	Other Funds	Total
1. Decreases funding for operating expenses due to completion of the change from using primarily temporary to primarily permanent administrative law judges for Workforce Safety and Insurance hearings		(\$39,140)	(\$39,140)
2. Adds funding to continue salary merit increases given to two administrative law judges and two support staff and probationary raises to three new administrative law judges and one new support staff		\$37,764	\$37,764

Major Related Legislation

Senate Bill No. 2070 provides that administrative law judges employed by the Office of Administrative Hearings before August 1, 1995, need not be attorneys at law and may be designated by the director of the Office of Administrative Hearings to preside at any administrative proceeding or adjudicative proceeding.

ATTACH:1

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2017 - Office of Administrative Hearings - Senate Action

	Executive Budget	Senate Changes	Senate Version
Salaries and wages	\$1,039,565	(\$4,307)	\$1,035,258
Operating expenses	266,917		266,917
Total all funds	\$1,306,482	(\$4,307)	\$1,302,175
Less estimated income	1,306,482	(4,307)	1,302,175
General fund	\$0	\$0	\$0
FTE	8.00	0.00	8.00

Department No. 140 - Office of Administrative Hearings - Detail of Senate Changes

	Reduces Compensation Package to 3/4	Total Senate Changes
Salaries and wages	(\$4,307)	(\$4,307)
Operating expenses		
Total all funds	(\$4,307)	(\$4,307)
Less estimated income	(4,307)	(4,307)
General fund	\$0	\$0
FTE	0.00	0.00



OFFICE OF ADMINISTRATIVE HEARINGS
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Allen C. Hoberg
DIRECTOR

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MEMORANDUM

TO: Fifty-ninth Legislative Assembly
State of North Dakota
Senate Appropriations Committee

FROM: Allen C. Hoberg, Director *ALH*
Office of Administrative Hearings

RE: OAH 2005-2007 Operating Budget Request
Senate Bill No. 2017

DATE: January 6, 2005

BACKGROUND INFORMATION

The Office of Administrative Hearings' work consists almost exclusively of conducting administrative hearings for numerous state and local agencies or entities on a variety of administrative matters, including complaint or enforcement hearings, application hearings for a license or benefits, and appeals from various types of governmental actions. OAH provides independent administrative law judges (ALJs) to conduct hearings that were formerly conducted by in-house agency hearing officers, assistant attorneys general, or agency contract hearing officers.

Since it began operations on July 1, 1991, OAH has received requests to conduct hearings from about 70 different state and local government agencies or entities.

Fifty-ninth Legislative Assembly
State of North Dakota
Senate Appropriations Committee
January 6, 2005
Page 2 of 7

Some agencies have many hearings each year, while others have made only a few requests for hearings since 1991. For example, in calendar years 2003 and 2004 34 agencies or entities made requests for OAH services. The bulk of those requests came from two agencies, the Department of Human Services and Workforce Safety and Insurance ("WSI").

Under N.D.C.C. ch. 54-57, most state agencies are required to use the services of OAH. N.D.C.C. § 54-57-03(1) lists those state agencies exempted. However, some exempted agencies, including WSI, the Insurance Commissioner, the Bank of North Dakota, and the Public Service Commission voluntarily use the services of OAH for some or all of their hearings, contracting with OAH to do so. Additionally, some local government entities use the services of OAH for such administrative hearings as employee discipline, tobacco sales enforcement, and public nuisance abatement, also contracting with OAH to do so.

In September 1995, OAH began conducting all of the administrative hearings for WSI. OAH originally used both permanent ALJs and temporary, contract ALJs to provide services for WSI. However, temporary ALJs conducted the bulk of WSI hearings for OAH.

Since July 1, 2003, OAH has conducted the bulk of WSI hearings using permanent ALJs. To accomplish this change, which was requested by WSI, OAH was authorized two new FTEs last legislative session, and OAH filled a vacant FTE. With the two new FTEs, OAH hired one full-time ALJ and two half-time ALJs to conduct, primarily, WSI hearings. All three of these ALJs telecommute. The full-time ALJ is located in eastern North Dakota, in Fargo, and two half-time ALJs are located in western North Dakota, in Bismarck. The vacant FTE was a support staff FTE, filled to provide secretarial and administrative support for the three new ALJs. The support staff person is located in Bismarck, at OAH's main office.

The following is OAH's current staff configuration, which now consists mostly of permanent staff:

- 1 full-time Director/ALJ
- 3 full-time ALJs
- 3 full-time support staff
- 2 half-time ALJs
- 3 temporary, contract ALJs, used only on an as-needed basis (two in eastern ND and one in western ND)
- Total - 8 full-time FTEs, and three contract ALJs

BUDGET ANALYSIS

OAH's 2003-2005 budget for administrative hearings shows a total funding of \$1,242,958. OAH asked for a budget of \$1,243,329 for 2005-2007. With the

Governor's recommendations, OAH's proposed budget is \$1,306,482, a proposed increase of 5.1% from the previous budget request. OAH's 1999-2001 budget was \$1,426,016. The Governor's request for OAH for 2005-2007 is 8.4% less than that budget. OAH's 2001-2003 budget was \$1,374,820. The Governor's request for OAH for 2005-2007 is 5.0% less than that budget. OAH's previously decreasing budget over a four year period is due to the decrease in WSI's caseload and a corresponding decrease in the cost of providing hearing officer services to WSI; it is especially due to the decreased costs of providing WSI services using permanent ALJs rather than temporary ALJs under the 2003-2005 budget and the proposed 2005-2007 budget. Essentially, one full-time ALJ and two half-time ALJs now provide the hearing services for WSI that eight temporary, contract ALJs previously provided.

The decrease in total operating for this proposed budget occurs because OAH no longer pays rather large amounts for temporary, contract ALJs on an hourly basis for WSI work. OAH will still pay temporary, contract ALJs, but much more infrequently, on an as-needed basis, for overflow caseload. Paying OAH permanent ALJs a salary is cheaper than paying eight contract ALJs on an hourly basis for conducting the bulk of WSI hearings.

This budget for administrative hearings contains nothing that is really new. OAH will maintain its operations for administrative hearings work essentially as it has since September 1995, conducting WSI hearings and the hearings of other voluntary users and conducting the hearings of all other agencies required to use OAH. OAH is aware of no new legislation that will expand or contract OAH's jurisdiction. Voluntary user agencies seem to be happy with the services provided by OAH and intend to continue to use OAH. OAH will continue to bill all user agencies at an hourly rate, determined by our billing consultant, to fund all of its administrative hearings budget. The billing rate is the same for all agencies, whether they are required to use OAH or do so voluntarily.

OAH began issuing a comprehensive user service survey in July 2004. Unlike previous OAH surveys that surveyed either just user agencies or attorneys representing parties at hearings, this survey surveys all hearing participants, citizens appearing at the hearing pro se, agency representatives, attorneys representing a private party, and attorneys representing agencies. It surveys about various aspects of administrative hearing services provided by OAH. It has been sent to hearing participants with the decision issued by the ALJ. Although the survey shows some area of concern with the length of time to issue some WSI decisions and some concern about the conduct of telephone hearings, the vast majority of hearing

participants believe that services provided by OAH, both its support staff and its hearing officers (ALJs), is at least satisfactory. A memorandum reporting the results of the surveys and a blank sample survey are attached.

Also attached to this memorandum are various statistical documents of OAH, including a breakdown of requests received by agency, and the number of prehearing conferences and hearings held. The documents should be self-explanatory. They show a substantial increase in the number of requests OAH received from agencies in calendar year 2004 over calendar year 2003 - an increase of 44. They also show an increase in the number of prehearing conferences held by OAH ALJs - an increase of 72 from the previous year. They also show a decrease in the number of hearings held by OAH ALJs - a decrease of 17 from the previous year. In total, the statistics confirm an increase in the workload of OAH from calendar year 2003 to calendar year 2004. Other statistics can be provided, if the Committee desires.

Also, attached to this memorandum, for the Committee's information, is a memorandum concerning OAH's continuing appropriation.

Fifty-ninth Legislative Assembly
State of North Dakota
Senate Appropriations Committee
January 6, 2005
Page 7 of 7

In summary, with the budget proposed today, OAH should be able to fulfill its mission of providing quality, independent hearing officer services to all state agencies required to use its services and to all state or local entities wishing, for whatever reason, to engage an independent ALJ to conduct a hearing. OAH respectfully requests that the Senate approve OAH's 2005-2007 operating budget request for administrative hearings as proposed today.

fz



Allen C. Hoberg
DIRECTOR

OFFICE OF ADMINISTRATIVE HEARINGS

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MEMORANDUM

TO: Fifty-ninth Legislative Assembly
State of North Dakota
Senate Appropriations Committee

FROM: Allen C. Hoberg, Director 
Office of Administrative Hearings

RE: North Dakota Office of Administrative Hearings Service Survey

DATE: January 6, 2005

On July 1, 2004, OAH decided to implement a comprehensive service survey that would survey, not agencies, but hearing participants, such as citizens, agency representatives, attorneys representing private parties, and agency attorneys about various aspects of the administrative hearings services provided by OAH. A blank copy of the survey is attached. Since July 1, 2004, OAH has held 131 hearings. We have issued 135 decisions since July 1. (In some cases, the hearings for these decisions were held prior to July 1.) We have sent the survey only to those who participated in a hearing when a decision was issued after July 1. We have received 55 responses to the survey since July 1, 2004. By the end of 2004 we had received 5 surveys from citizens who were parties at a hearing, 8 surveys from agency representatives who represented agency's at a hearing, 14 surveys from attorneys who represented citizens or private parties at a hearing and 23 surveys from

attorneys representing an agency at a hearing. Six responders did not identify themselves. Twenty-two responders said they were participants in Workforce Safety and Insurance ("WSI") hearings. Eleven responders said they were participants in Department of Human Services ("DHS") Hearings. Ten responders said they were participants in other agency hearings (*e.g.*, Tax Department). Thirteen responders did not say in what type of hearing they were a participant.

The survey form has three separate parts. The first part asks responders to rate, as either "satisfactory" or "needs improvement," five queries about OAH staff. The second part asks responders to respond either "yes," "no," or "uncertain" to questions about the hearing and hearing officer, including questions involving pre-hearing, hearing, and post-hearing matters. The third part asks responders to tell OAH "how we can improve" and to "make any comment or suggestion" they care to make. Space is provided to do so. The survey concludes seeking information about the responder.

Thirty responders expressed general satisfaction with OAH in all areas of response. Nine responders expressed general satisfaction with OAH support staff activities but did not respond to the second portion of the survey regarding the hearing and the hearing officers. One responder turned in the survey blank noting that the person

who handled the matter was no longer present. One responder noted specially that everyone was very courteous and professional.

Fourteen responders made special comments or were not entirely satisfied with OAH. Of those 14, 11 gave satisfactory responses to section one of the survey, regarding staff activities. One said that OAH staff needs improvement in all areas. The person noted that "nobody assisted me." Two did not answer section one of the survey, but one specifically said they were "content with your staff."

Four of the responders making special comment said that they were satisfied with OAH. One expressly complimented support staff and the "organization" saying "it is eminently professional, responsible, and trustworthy," singling out a specific ALJ for praise. One noted general satisfaction with OAH in all areas but pointed out a temporary problem with the telephone connection in a telephone hearing. One noted general satisfaction with OAH in all areas and specially stated "I am very pleased with the availability of the ALJ and his staff. His opinion was well reasoned, rational, and right on the money. Participation in conferences through the use of the telephone was very convenient and helpful." One said, "OAH does not need to improve" but complained about the Department of Agriculture.

Of the ten responders who were not entirely satisfied with OAH, nine were participants in WSI hearings. Three were citizens, three were attorneys representing private parties, and three were attorneys representing WSI. One citizen said that he couldn't afford an attorney and the ALJ did not get the facts right. He said that the support staff in all of their activities needs improvement. He did not believe that he understood the hearing procedures and did not believe that he got fair and impartial treatment from the ALJ. One citizen responding noted that their attorney had all of the contact with OAH but the citizen thought that the case was not concluded within a reasonable time. One citizen was generally satisfied with OAH staff and the hearing and hearing officer, but noted that there were problems with the telephone portion of the hearing and asked OAH "to keep in mind that OAH was set in place to serve the people not WSI."

One private party attorney thought most services were satisfactory but was not happy with the hearing facility, claiming it was too cramped, and that the telephone connection for a telephone witness was not good. The attorney also complained about the length of time it sometimes took to get a WSI decision. Another private party attorney thought most services were satisfactory but specifically complained about the length of time between the attorney's submission of briefs and the issuance of a decision. The third private party attorney thought that many of the

services were satisfactory but complained about the telephone connection from the hearing room, that the hearing room was not comfortable, and that it took too long from the time the request for hearing was made until a hearing was held and from the time the hearing was held until a decision was issued.

One WSI attorney thought that most services were satisfactory but complained about the length of time between the hearing and the issuance of the decision. Another WSI attorney thought that most services were satisfactory but complained about both the length of time from the hearing request until a hearing was held and about the length of time between the hearing and the issuance of a decision. The third WSI attorney thought generally that the services were all satisfactory but specifically commented that for "some cases it takes too long for ALJ's to get out their recommended decisions."

The other respondent was an agency representative in a DHS case who did not fill out any of the sections of the survey, but commented that they were not initially sent a copy of the appeal request and stated they believed there was a misinterpretation of the appeal issue by OAH. (It should be noted, however, that the issue in this case, stated by the ALJ in the notice of hearing, was the same issue supplied to

Fifty-ninth Legislative Assembly
State of North Dakota
Senate Appropriations Committee
January 6, 2005
Page 6 of 6

OAH by DHS - the decision was based on that issue and affirmed by the executive director of DHS.)

By and large, although there was some concern expressed about the time it took for the issuance of WSI decisions and some concern expressed about telephone hearings, it appears the vast majority of hearing participants, at least those responding to the service survey, believe that the services provided by OAH, both its support staff and its hearing officers (ALJs), is at least satisfactory.

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NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS SERVICE SURVEY

HOW DID WE DO?

The Office of Administrative Hearings (OAH) asks for your assistance in evaluating the quality of service you received during the hearing process. Your comments are important and will help us to provide the best possible service to you and other hearing participants. Your completed survey will be held in the strictest confidence; no one deciding your case will see this form.

Please mark the appropriate answers, make any comments that you believe are necessary, and return the survey by mailing it to OAH or by dropping it off at OAH's offices. Thank you for taking the time and making the effort to respond!

HOW DO YOU RATE THE FOLLOWING? (Please check only one box after each applicable question.)

	Satisfactory	Needs Improvement
1. Availability of OAH staff to assist you	<input type="checkbox"/>	<input type="checkbox"/>
2. Helpfulness, courtesy, and professionalism of OAH staff assisting you	<input type="checkbox"/>	<input type="checkbox"/>
3. Knowledge of OAH staff assisting you	<input type="checkbox"/>	<input type="checkbox"/>
4. Promptness of response to your request for information from OAH staff	<input type="checkbox"/>	<input type="checkbox"/>
5. Accuracy of information received by you from OAH staff	<input type="checkbox"/>	<input type="checkbox"/>

Please tell us how we can better assist you (attach additional sheets if additional space is needed): _____

PLEASE RESPOND TO THE FOLLOWING QUESTIONS (Please check only one box after each applicable question.)

	Yes	No	Uncertain
1. Were you a party represented by an attorney?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Were OAH brochures, forms, correspondence, and instructions clear, understandable and helpful?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Was the Notice of Hearing clear and understandable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(continued on reverse side)

(continued from previous page)	Yes	No	Uncertain
4. Was your case mediated or arbitrated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Was the time between the date of the request for hearing and the hearing acceptable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Did you understand the hearing procedures?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Was your case concluded within a reasonable time?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Do you believe you received fair and impartial treatment from the presiding administrative law judge?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Was the hearing location convenient to you?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Was the hearing facility comfortable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Was there adequate parking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. If you participated in the hearing via telephone, did you encounter any problems with the hearing because of the use of a telephone connection? (Please specify in space provided for comments).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Did you require an accommodation for a disability?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. If yes, was the facility adequate to meet your needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How can we improve? Please make any comment or suggestion (attach additional sheets if additional space is needed): _____

Yours was what type of case? _____
 (Department of Human Services, Workforce Safety and Insurance, other agency - specify)

Survey was completed by (check one):
 citizen agency representative attorney representing private party attorney representing agency

Thank you for completing our survey. Your input will be most helpful to us in improving our services to the public!

Request Comparison by Year

Files Received Between January 1, 2001, and December 31, 2004

Office of Administrative Hearings

Agency	Totals	2001	2002	2003	2004	Difference 2003-2004
Addiction Counseling Examiners Board	1	0	1	0	0	0
Agriculture Commissioner	17	10	2	4	1	-3
Animal Health, Board of	3	1	2	0	0	0
Architecture, State Board of	2	0	1	0	1	1
Attorney General, Office of	9	2	1	4	2	-2
Attorney General, Racing Commission	1	0	0	0	1	1
BND, Student Loans of North Dakota	21	6	4	8	3	-5
Corrections - Parole & Probation	4	3	0	1	0	-1
County, Burleigh	5	0	0	4	1	-3
County, Morton	2	0	0	1	1	0
Dental Examiners, Board of	1	0	1	0	0	0
DHS, Human Services, Department of	723	162	197	145	219	74
Education Standards & Practices Board	6	0	0	4	2	-2
Electrical Board, N.D. State	1	1	0	0	0	0
FI, Banking Board	4	2	0	2	0	-2
FI, Financial Institutions, Department of	3	1	0	2	0	-2
Game and Fish Department	12	2	3	2	5	3
Garrison Diversion Conservancy District	1	1	0	0	0	0
Hazen, ND, City of	1	0	0	1	0	-1
Health, Department of	5	1	1	1	2	1
Human Resource Management Services	42	12	6	9	15	6
IC, Insurance Commissioner	2	0	1	0	1	-1
Labor Commissioner	1	0	0	0	1	1
Medical Examiners, State Board of	25	3	2	14	6	-8
Minot State University	2	1	0	1	0	-1
Minot, ND, City of	2	0	1	0	1	1
Nursing, State Board of	16	8	3	0	5	5
OMB - Central Services	1	0	0	0	1	1
Peace Officers Standards and Training Board	1	0	0	1	0	-1
Pharmacy, State Board of	3	1	2	0	0	0
Professional Engineers & Land Surveyors Board	2	1	0	0	1	1
PSC, Public Service Commission	33	11	4	8	10	2
Public Instruction, Department of	34	10	7	13	4	-9
Real Estate Appraisers, Board of	1	0	0	0	1	1
Real Estate Commission	10	2	5	0	3	3
Securities Department	37	12	3	18	4	-14
Seed Department	1	1	0	0	0	0
Tax Commissioner, State	8	3	4	1	0	-1
UND, University of North Dakota	1	0	0	0	1	1
University System, N.D.	1	1	0	0	0	0
Veterans Affairs, Department of	1	0	0	1	0	-1
Water Commission, State/State Engineer	5	2	2	1	0	-1
Workforce Safety & Insurance	709	148	193	185	183	-2
Grand Totals	1760	408	446	431	475	44

Thursday, January 06, 2005

Comparison by Year - Hearings

Held Between January 1, 2001, and December 31, 2004

Office of Administrative Hearings

Agency	Total	2001	2002	2003	2004
Agriculture Commissioner	9	5	1	1	2
Animal Health, Board of	3	1	1	1	0
Architecture, State Board of	2	0	1	0	1
Attorney General, Office of	5	2	1	1	1
Attorney General, Racing Commission	1	0	0	0	1
BND, Student Loans of North Dakota	6	2	1	2	1
Corrections - Parole & Probation	2	1	0	1	0
County, Burleigh	2	0	0	2	0
County, Morton	2	0	0	1	1
DHS, Human Services, Department of	409	96	125	84	104
Education Standards & Practices Board	2	0	0	1	1
FI, Banking Board	3	2	0	1	0
FI, Financial Institutions, Department of	2	0	0	2	0
Game and Fish Department	6	1	2	1	2
Garrison Diversion Conservancy District	1	1	0	0	0
Hazen, ND, City of	1	0	0	1	0
Human Resource Management Services	18	5	4	2	7
Medical Examiners, State Board of	19	0	3	9	7
Minot State University	1	0	0	1	0
Minot, ND, City of	2	0	1	0	1
Nursing, State Board of	4	1	3	0	0
OMB - Central Services	1	0	0	0	1
Pharmacy, State Board of	3	1	0	2	0
Private Investigative and Security Board	1	1	0	0	0
Professional Engineers & Land Surveyors Board	2	1	0	0	1
PSC, Public Service Commission	26	10	8	2	6
Public Instruction, Department of	24	4	5	10	5
Real Estate Commission	3	2	1	0	0
Securities Department	10	1	0	9	0
Seed Department	2	2	0	0	0
Tax Commissioner, State	2	0	0	0	2
University System, N.D.	1	0	1	0	0
Veterans Affairs, Department of	1	0	0	0	1
Water Commission, State/State Engineer	3	0	2	1	0
Workforce Safety & Insurance	408	94	87	127	100
Grand Totals	987	233	247	262	245

Comparison by Year - Prehearing Conferences

Held Between January 1, 2001, and December 31, 2004

Office of Administrative Hearings

Agency	Total	2001	2002	2003	2004
Agriculture Commissioner	8	0	3	1	4
Animal Health, Board of	2	1	1	0	0
Attorney General, Office of	1	0	0	1	0
BND, Student Loans of North Dakota	9	2	2	4	1
County, Burleigh	6	0	0	5	1
County, Morton	2	0	0	1	1
DHS, Human Services, Department of	101	26	21	31	23
Education Standards & Practices Board	4	0	0	2	2
FI, Banking Board	1	0	0	1	0
Game and Fish Department	8	1	1	0	6
Hazen, ND, City of	1	0	0	1	0
Health, Department of	6	2	2	1	1
Human Resource Management Services	38	14	6	6	12
IC, Insurance Commissioner	3	0	3	0	0
Medical Examiners, State Board of	14	2	1	7	4
Minot State University	2	1	0	1	0
Nursing, State Board of	9	5	4	0	0
Professional Engineers & Land Surveyors Board	2	1	0	0	1
PSC, Public Service Commission	3	0	0	1	2
Public Instruction, Department of	10	5	0	2	3
Securities Department	23	9	3	8	3
Tax Commissioner, State	14	3	4	6	1
UND, University of North Dakota	1	0	0	0	1
University System, N.D.	1	0	1	0	0
Veterans Affairs, Department of	1	0	0	1	0
Water Commission, State/State Engineer	9	2	5	2	0
Workforce Safety & Insurance	208	35	23	31	119
Grand Totals	487	109	80	113	185



OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA

1707 North 9th Street

Bismarck, North Dakota 58501-1882

Allen C. Hoberg
DIRECTOR

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Fax 701-328-3254
oah@state.nd.us
www.state.nd.us/oah

MEMORANDUM

TO: Fifty-ninth Legislative Assembly
State of North Dakota
Senate Appropriations Committee

FROM: Allen C. Hoberg, Director
Office of Administrative Hearings

A handwritten signature in black ink, appearing to be "A.C. Hoberg", written over the printed name of the sender.

RE: Continuing Appropriation

DATE: January 6, 2005

OAH operates much like a business. It receives no general funds. All of its revenues come from billing user agencies and entities. OAH has a special fund established in which it deposits all moneys received by the office for providing services to agencies. The moneys in the fund are a standing and continuing appropriation to OAH to pay for all of OAH's expenses in providing services, salaries and benefits, operating and equipment. N.D.C.C. § 54-57-07(3). Because OAH receives no other sources of funds, it must maintain a balance at the end of each biennium to begin the next biennium. OAH's expenses at the beginning of each new biennium are always greater in the first month of the biennium.

OAH's expenditures, revenues and fund balance for the previous three biennia are as follows:

	<u>Expenditures</u>	<u>Revenues</u>	<u>Fund Balance</u>
1999-2001	1,113,952*	1,143,952	82,027
2001-2003	964,391	1,004,985	122,621
2003-2005	831,168**	828,049**	117,811**
2005-2007 (projected)	1,306,482	1,306,482	100,000***

* this amount does not include the \$150,000 operating loan from BND which was paid back at end of biennium.

** actual to date - November 30, 2004 - 17 months. It is estimated that at current rates, expenditures will be \$1,173,414; revenues will be \$1,169,010; and the ending fund balance will be \$116,726.

*** OAH tries to keep approximately \$100,000 in its fund balance for the beginning of each new biennium.

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1-SB2017



OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF NORTH DAKOTA
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MEMORANDUM

TO: Fifty-ninth Legislative Assembly
State of North Dakota
House Appropriations Committee
(Education and Environment Division)

FROM: Allen C. Hoberg, Director
Office of Administrative Hearings *AH*

RE: OAH 2005-2007 Operating Budget Request
Senate Bill No. 2017

DATE: March 3, 2005

BACKGROUND INFORMATION

The Office of Administrative Hearings' work consists almost exclusively of conducting administrative hearings for numerous state and local agencies or entities on a variety of administrative matters, including complaint or enforcement hearings, application hearings for a license or benefits, and appeals from various types of governmental actions. OAH provides independent administrative law judges (ALJs) to conduct hearings that were formerly conducted by in-house agency hearing officers, assistant attorneys general, or agency contract hearing officers.

Since it began operations on July 1, 1991, OAH has received requests to conduct hearings from about 70 different state and local government agencies or entities. Some

Fifty-eighth Legislative Assembly
State of North Dakota
House Appropriations Committee (Education and Environment)
March 3, 2005
Page 2

agencies have many hearings each year, while others have made only a few requests for hearings since 1991. For example, in calendar years 2003 and 2004, 34 agencies or entities made requests for OAH services. The bulk of those requests came from two agencies, the Department of Human Services and Workforce Safety and Insurance ("WSI").

Under N.D.C.C. ch. 54-57, most state agencies are required to use the services of OAH. N.D.C.C. § 54-57-03(1) lists those state agencies exempted. However, some exempted agencies, including WSI, the Insurance Commissioner, the Bank of North Dakota, and the Public Service Commission, voluntarily use the services of OAH for some or all of their hearings, contracting with OAH to do so. Additionally, some local government entities use the services of OAH for such hearings as employee discipline, tobacco sales enforcement, and public nuisance abatement, also contracting with OAH to do so.

In September 1995, OAH began conducting all of the administrative hearings for WSI. OAH originally used both permanent ALJs and temporary, contract ALJs to provide services for WSI. However, temporary ALJs conducted the bulk of WSI hearings for OAH.

Fifty-eighth Legislative Assembly
State of North Dakota
House Appropriations Committee (Education and Environment)
March 3, 2005
Page 3

Since July 1, 2003, OAH has conducted the bulk of WSI hearings using permanent ALJs. To accomplish this change, which was requested by WSI, OAH was authorized two new FTEs last legislative session, and OAH filled a vacant FTE. With the two new FTEs, OAH hired one full-time ALJ and two half-time ALJs to conduct, primarily, WSI hearings. All three of these ALJs telecommute. The full-time ALJ is located in eastern North Dakota, in Fargo, and two half-time ALJs are located in western North Dakota, in Bismarck. The vacant FTE was a support staff FTE, filled to provide secretarial and administrative support for the three new ALJs. The support staff person is located in Bismarck, at OAH's main office.

The following is OAH's current staff configuration, which now consists mostly of permanent staff:

- 1 full-time Director/ALJ
- 3 full-time ALJs
- 3 full-time support staff
- 2 half-time ALJs
- 3 temporary, contract ALJs, used only on an as-needed basis (two in eastern ND and one in western ND)
- Total - 8 full-time FTEs, and three contract ALJs

BUDGET ANALYSIS

OAH's 2003-2005 budget for administrative hearings is \$1,242,958. OAH's budget is all special funds. OAH asked for a budget of \$1,243,329 for 2005-2007. With the Governor's recommendations, OAH's proposed budget is \$1,306,482, a proposed

increase of 5.1% from the previous budget request. The Senate adjusted the Governor's recommendation to \$1,302,175. OAH's 1999-2001 budget was \$1,426,016. The Governor's request for OAH for 2005-2007 is 8.4% less than that budget. OAH's 2001-2003 budget was \$1,374,820. The Governor's request for OAH for 2005-2007 is 5.0 % less than that budget. OAH's previously decreasing budget over a four year period is due to the decrease in WSI's caseload and a corresponding decrease in the cost of providing hearing officer services to WSI; it is especially due to the decreased costs of providing WSI services using permanent ALJs rather than temporary ALJs under the 2003-2005 budget and the proposed 2005-2007 budget. Essentially, two full-time ALJs now provide the hearing services for WSI that eight temporary, contract ALJs previously provided.

The decrease in total operating for this proposed budget occurs because OAH no longer pays rather large amounts for temporary, contract ALJs on an hourly basis for WSI work. OAH will still pay temporary, contract ALJs, but much more infrequently, on an as-needed basis, for overflow caseload. Paying OAH permanent ALJs a salary is cheaper than paying eight contract ALJs on an hourly basis for conducting the bulk of WSI hearings.

Since OAH started using primarily permanent ALJs, we have seen an increase in the number of hearing requests. In fact, OAH hearing requests were 431 in calendar year 2003, 475 in 2004, and at the current rate of receiving requests, they will be 546 in 2005. Although we will be able to handle this increase in requests, it may, at times require increased services from the temporary, contract ALJs, both because the overall increase in number of requests and because the number of requests can vary considerably from month to month. Currently, we have 18 cases being handled by temporary ALJs, all of them WSI cases.

This budget for administrative hearings contains nothing that is really new. OAH will maintain its operations for administrative hearings work essentially as it has since September 1995, conducting WSI hearings and the hearings of other voluntary users, and conducting the hearings of all other agencies required to use OAH. OAH is aware of no new legislation that will expand or contract OAH's jurisdiction. Voluntary user agencies seem to be happy with the services provided by OAH and intend to continue to use OAH. OAH will continue to bill all user agencies at an hourly rate, determined by our billing consultant, to fund all of its administrative hearings budget. The billing rate is the same for all agencies, whether they are required to use OAH or do so voluntarily.

OAH began issuing a comprehensive user service survey in July 2004. Unlike previous OAH surveys that surveyed either just user agencies or attorneys representing parties at hearings, this survey surveyed all hearing participants, citizens appearing at the hearing pro se, agency representatives, attorneys representing a private party, and attorneys representing agencies. It surveyed about various aspects of administrative hearing services provided by OAH. It was sent to hearing participants with the decision issued by the ALJ. Although the survey showed some area of concern with the length of time to issue some WSI decisions and some concern about the conduct of telephone hearings, the vast majority of hearing participants believed that services provided by OAH, both its support staff and its hearing officers (ALJs), is at least satisfactory. A memorandum reporting the results of the surveys and a blank sample survey are attached.

Also, attached to this memorandum, for the Committee's information, are various statistical documents of OAH, including a breakdown of requests received by agency, and the number of prehearing conferences and hearings held. The documents should be self explanatory. They show a substantial increase in the number of requests OAH received from agencies in calendar year 2004 over calendar year 2003 - an increase of 44. They also show an increase in the number of prehearing conferences held by OAH ALJs - an increase of 72 from the previous year. They also show a decrease in the

Fifty-eighth Legislative Assembly
State of North Dakota
House Appropriations Committee (Education and Environment)
March 3, 2005
Page 7

number of hearings held by OAH ALJs - a decrease of 17 from the previous year. In total, the statistics confirm a considerable increase of the workload of OAH from calendar year 2003 to calendar year 2004. Other statistics can be provided if the Committee desires.

Also, attached to this memorandum, for the Committee's information, is a memorandum concerning OAH's continuing appropriation. This memorandum was prepared for the Senate and I have attached it for your convenience.

In summary, with the budget proposed today, OAH should be able to fulfill its mission of providing quality, independent hearing officer services to all state agencies required to use its services and to all state or local entities wishing, for whatever reason, to engage an independent ALJ to conduct a hearing. OAH respectfully requests that the House approve OAH's 2005-2007 operating budget request for administrative hearings as proposed and as further recommended by the Governor.

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