

**NORTH DAKOTA
OFFICE OF THE
ATTORNEY GENERAL**

**2023-25 BIENNIUM
68TH LEGISLATIVE SESSION**

**BUDGET PRESENTATION
SUPPLEMENTARY MATERIALS**

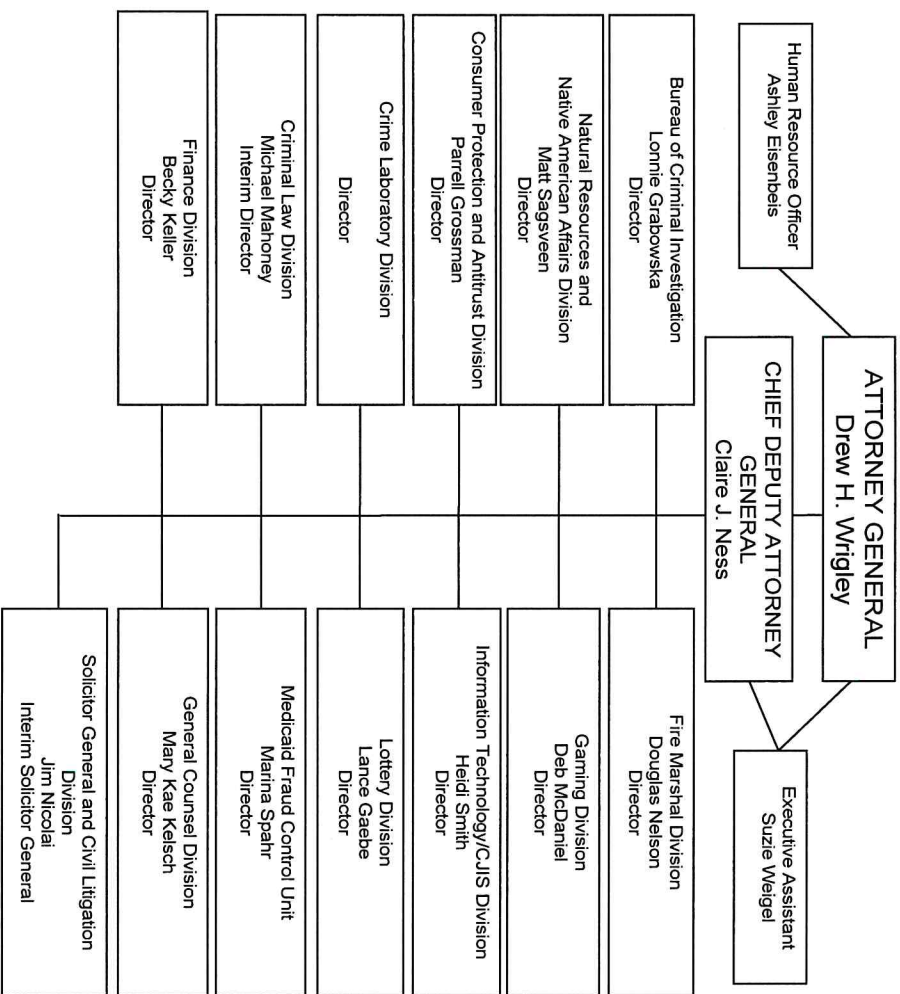
1

2

3

4

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
December 2022

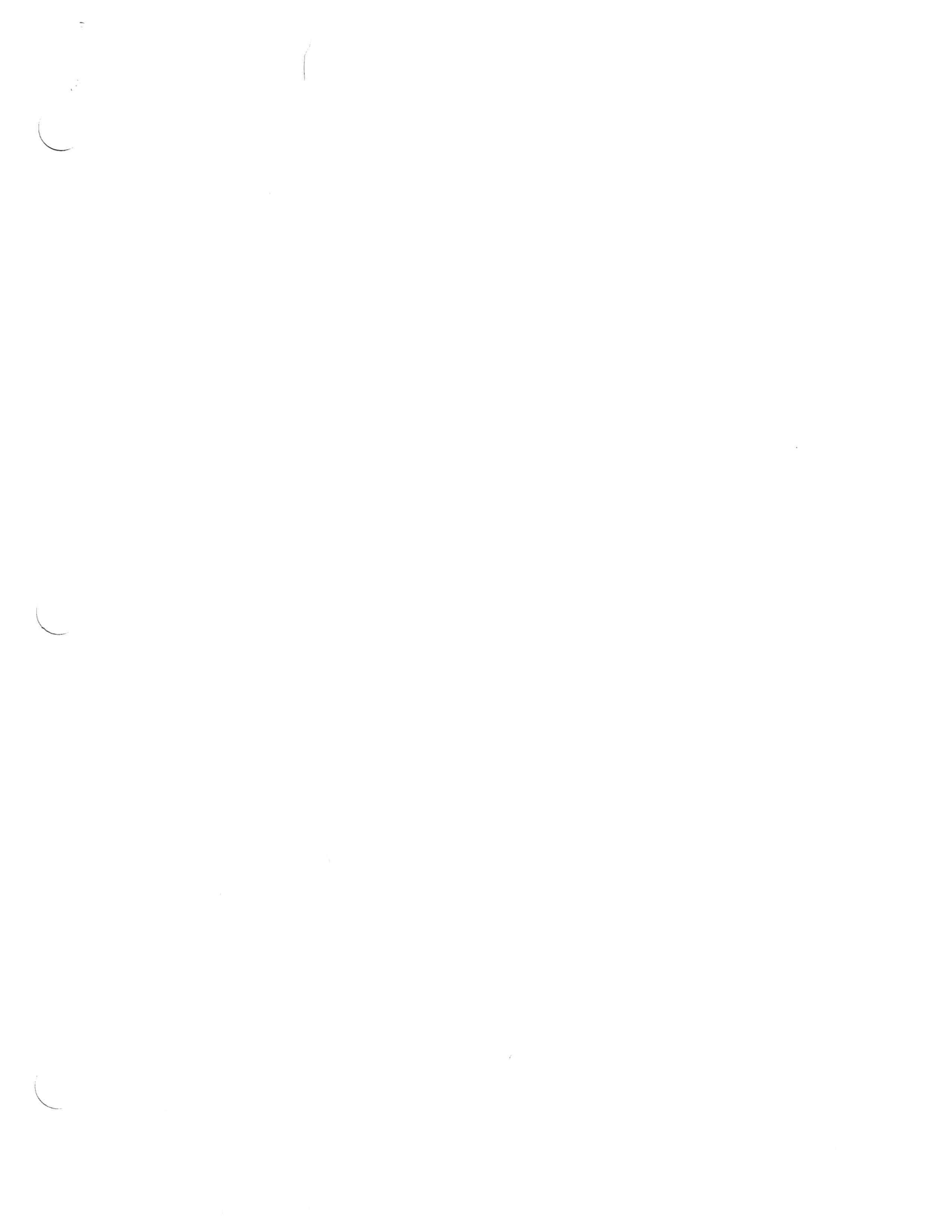




BUDGET DEVELOPMENT

Process for developing the 2023-25 budget request:

- ❖ Review of current budget
- ❖ Analysis of special funds
- ❖ Division director input
- ❖ Prioritization of needs



OPTIONAL REQUESTS

1. Attorney Equity and Merit-Based Pay and Promotion Package

- Assistant Attorneys General (AAGs) earn less than attorneys assigned to many other state agencies and local government entities.
 - A new Assistant States Attorney can earn up to \$20,000 per year more than a new AAG.
 - A junior AAG recently accepted a position at another state agency that will pay \$30,000 more per year.
 - AAGs are currently paid on a schedule based on their years of service.
 - Our proposed package would:
 - Allow us to implement a plan to pay AAGs on merit and achievement of specified criteria;
 - Provide AAGs the possibility of promotions;
 - Improve recruitment and retention; and
 - Reduce turnover costs and loss of legal expertise for the state.
- \$1,078,781 (\$974,392 General Fund)

10

10

10

OPTIONAL REQUESTS (con't)

2. Staff Equity Package

- Office leaderships evaluated the pay of non-attorney staff based on objective HRMS criteria.
- Division Directors provided input regarding underpaid staff.
- Our proposed package would allow the office to remedy salaries that diverge the most from where they should be based on objective analysis.
- \$307,613 (\$295,377 General Fund)

C

C

C

OPTIONAL REQUESTS (con't)

3. Attorneys – Civil Litigation (2.00 FTE) and General Counsel (2.00 FTE)

- Our office has hundreds of clients.
- Civil Litigation Division has just 7 attorneys.
 - 4.5 litigators have specified portfolios (State employment; DHHS economic benefits, child protective services, daycare licensing, foster parenting; tobacco settlement; Job Service; DOT implied consent; and other matters).
 - Only 2.5 litigators are available for other litigation on behalf of the state.
- General Counsel Division has just 14 attorneys responsible for:
 - Legal services to state agencies, the university system, boards, and commissions;
 - Open records/open meetings guidance to state and local government entities;
 - All open records/open meetings opinions; and
 - All Attorney General opinions.

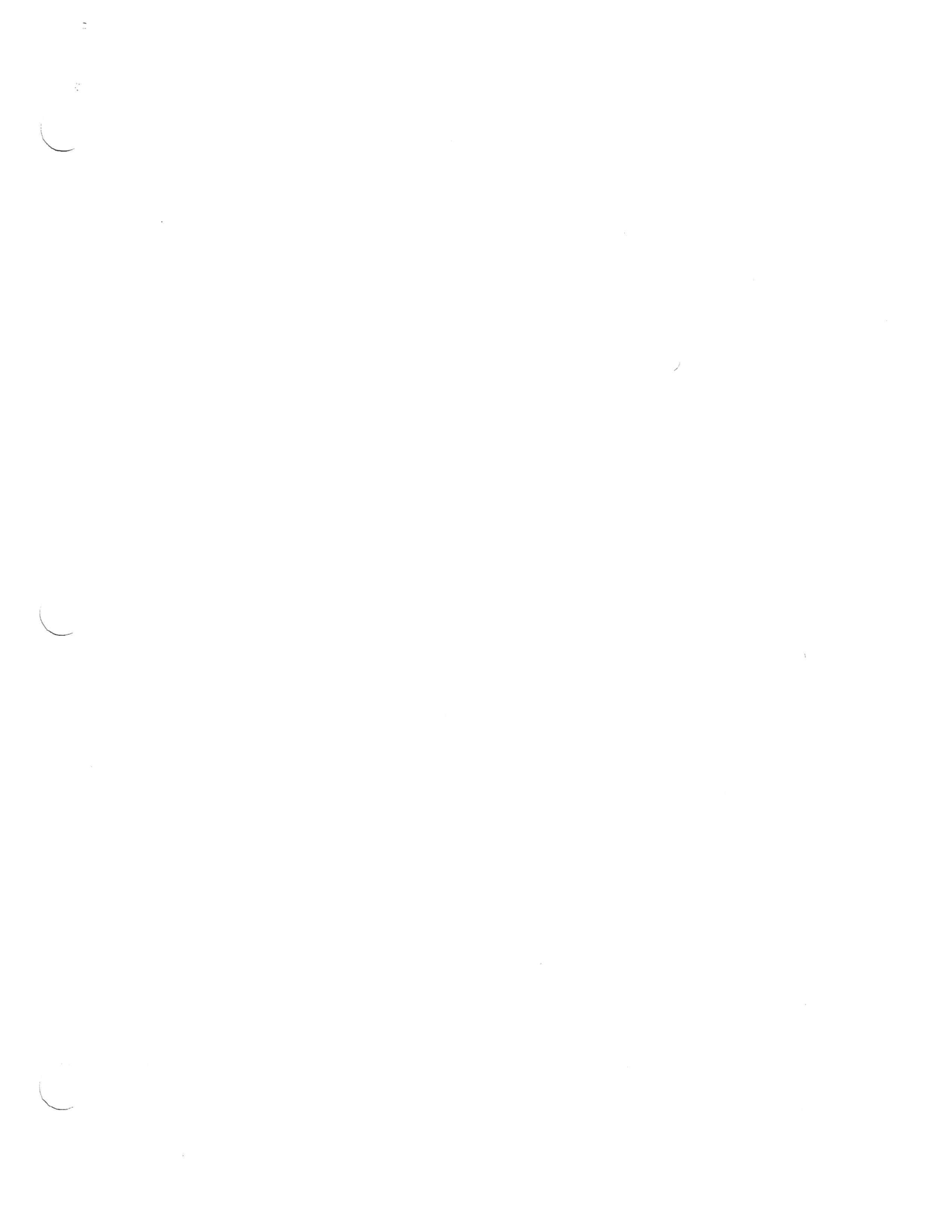
1

2

3

OPTIONAL REQUESTS (con't)

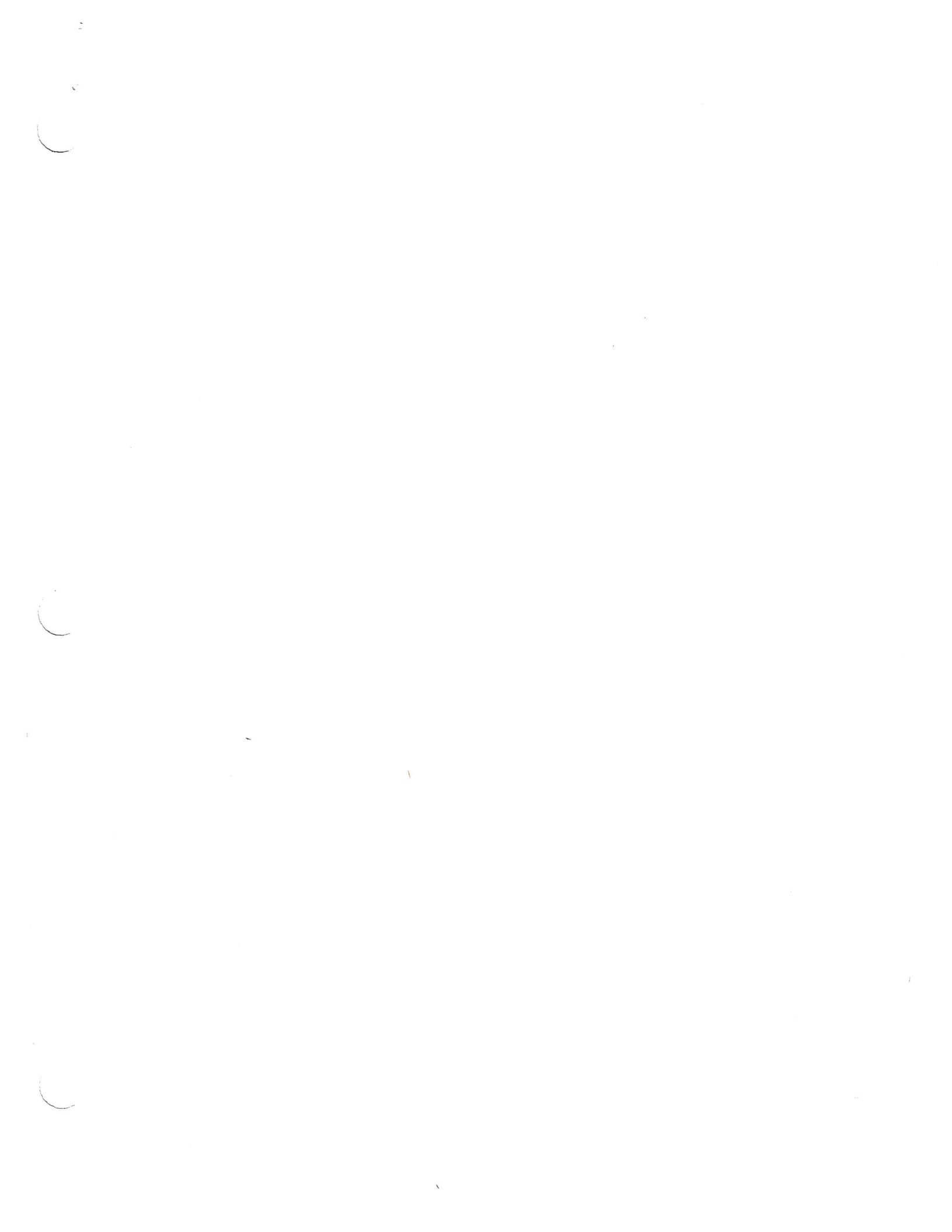
- North Dakota has relied on very costly Special Assistant Attorneys General (SAAGs), who are private attorneys hired to represent state entities.
 - Cost of private attorneys is generally \$250-\$600 per hour;
 - The state litigation pool does not cover a significant proportion of SAAGs; and
 - Some state entities pay for SAAGS from their own budget.
- AAGs are provided at no cost or minimal cost to clients (\$141 per hour).
- \$1,202,370 – General Fund



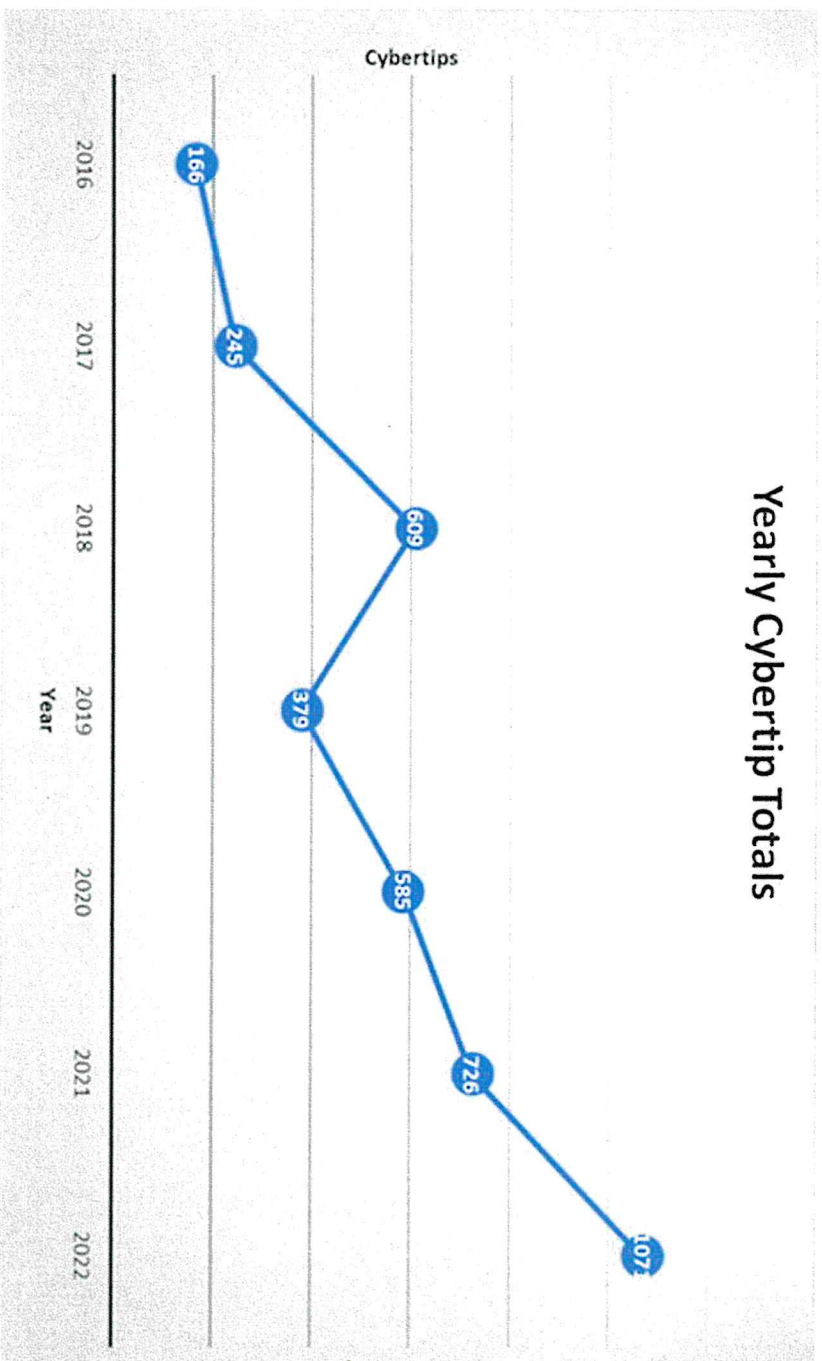
OPTIONAL REQUESTS (con't)

4. BCI Agents

- 3.00 FTE to lead taskforces to provide law enforcement on tribal lands.
 - BCI executed an MOU with the Spirit Lake Nation to operate a task force for law enforcement on the Spirit Lake Nation's 405 square miles of tribal lands.
 - BCI is working on similar agreements with the leaders of other tribal nations, totaling:
 - More than 5,388 square miles; and
 - At least 19,963 Native American residents living on reservations.
- 4.00 FTE for Cyber Crime
 - Cyber crime agents are needed to investigate many categories of crime, including drug trafficking, fraud, child pornography, child sexual abuse, and others.
- \$2,610,967 – General Fund



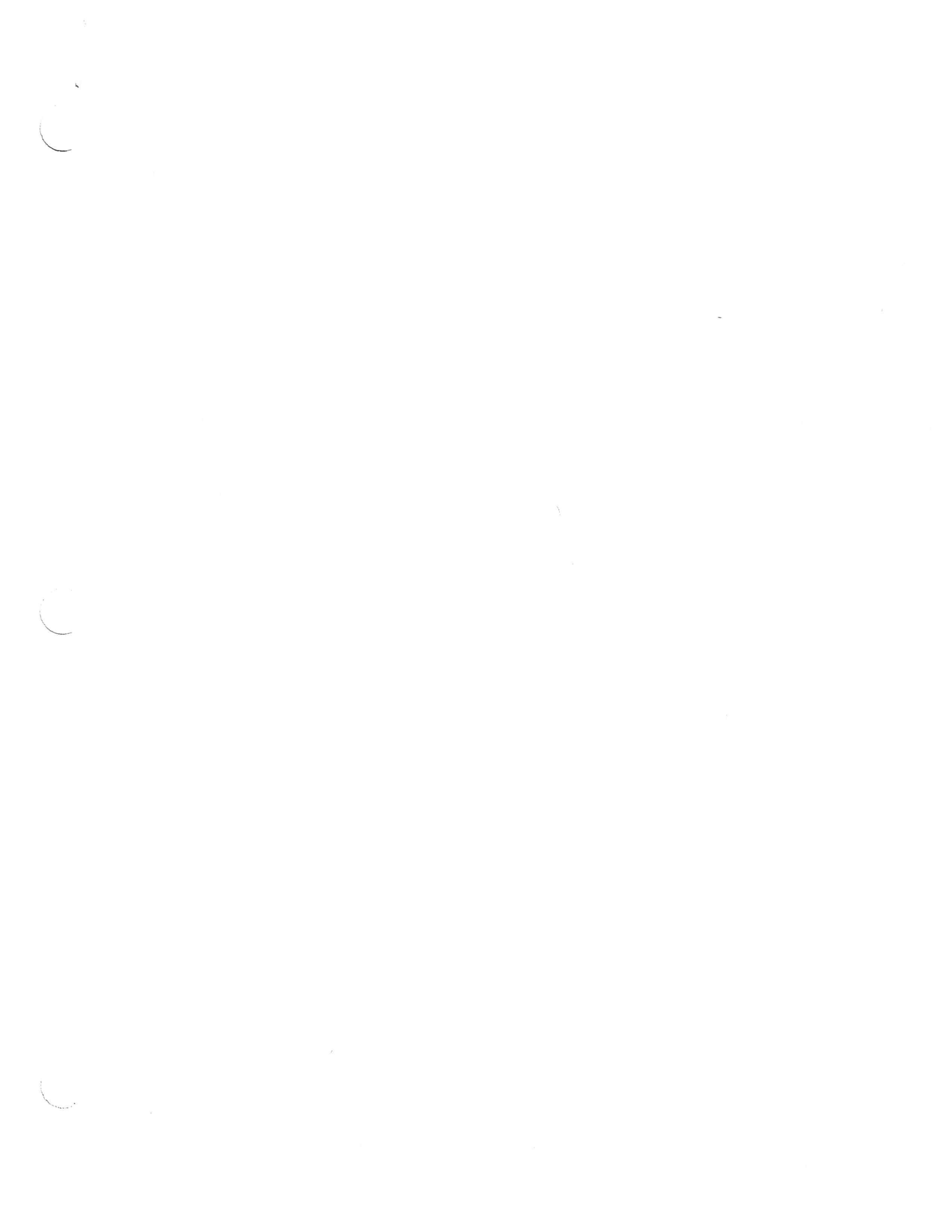
Increase in Cybertips from NCMMEC to ND



OPTIONAL REQUESTS (con't)

5. Crime Lab

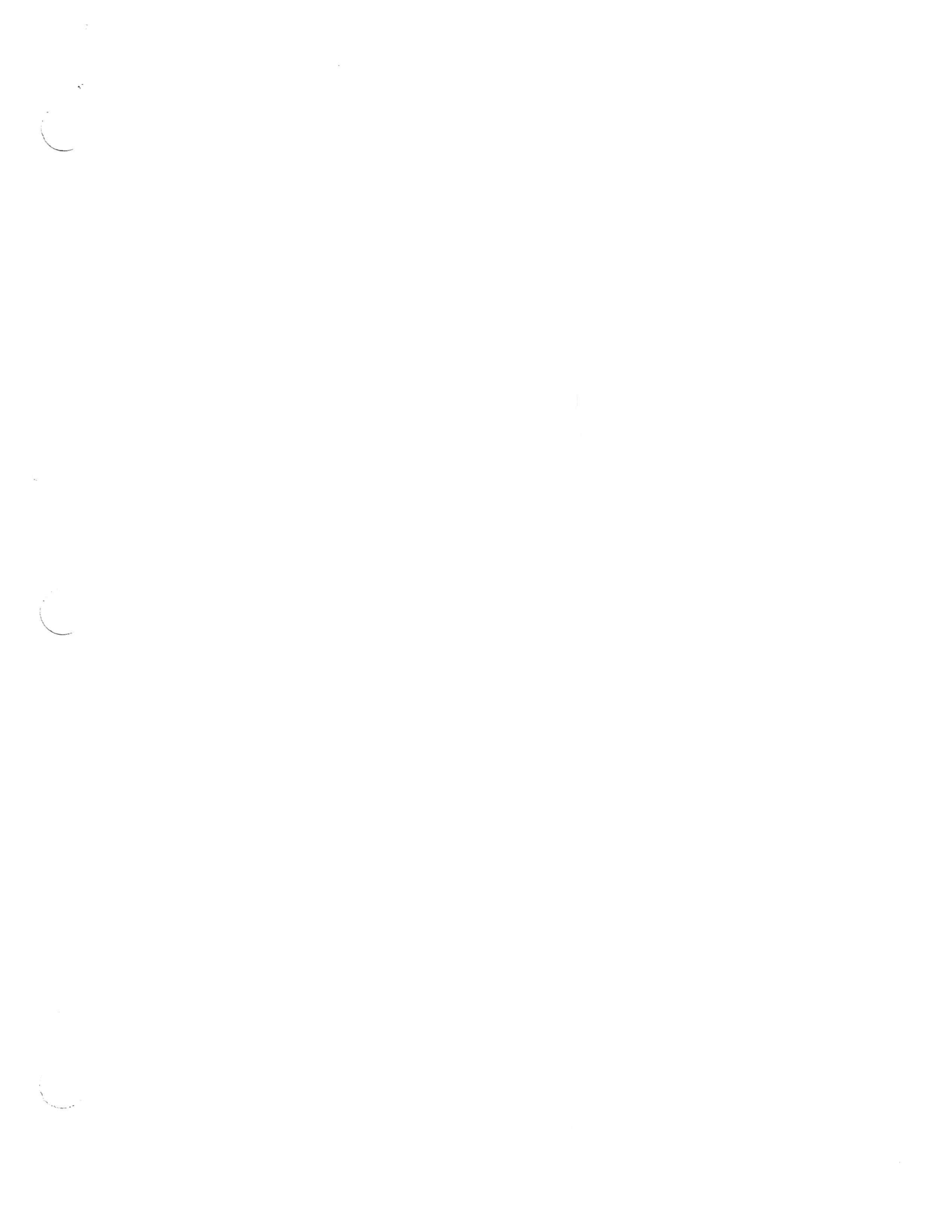
- Restores firearms testing – 2.00 FTE
- Restores fingerprint testing – 2.00 FTE
- Evidence Vaults
 - Currently, there is one vault of insufficient capacity.
 - Additional space is needed for security and separation of evidence.
- Building addition - \$4.25 million
 - Additional lab space for current and additional forensic scientists is needed.
 - Additional workspace for writing and processing reports is needed.
- \$8,375,168 (\$7,620,491 General Fund)



OPTIONAL REQUESTS (con't)

6. North Dakota Medicaid Fraud Control Unit (MFCU)

- 3.00 FTE – 1 Attorney, 1 Investigator, and 1 Paralegal.
- Current staff includes only 1 attorney/division director, 2 investigators, 1 auditor, 1 nurse auditor, and 1 administrative assistant.
- Federal government pays 75% of MFCU costs. (25 percent general fund)
- MFCU recovered more money than the state budgeted for the Unit since inception in October 2019.
 - State general fund expenditures for the 2019-21 and 2021-23 bienniums = \$343,991.
 - State received \$512,433 in MFCU recoveries to date.
 - Judges ordered an additional \$185,144 in MFCU recoveries to date.
- MFCU received 132 referrals for cases over which the Unit has jurisdiction.
 - At least 20 cases provided potential recoveries but could not yet be started due to lack of staff.
- MFCU cases typically involve complex financial and medical issues and thousands of pages of documents.
- \$932,915 (\$233,229 General Fund)



OPTIONAL REQUESTS (con't)

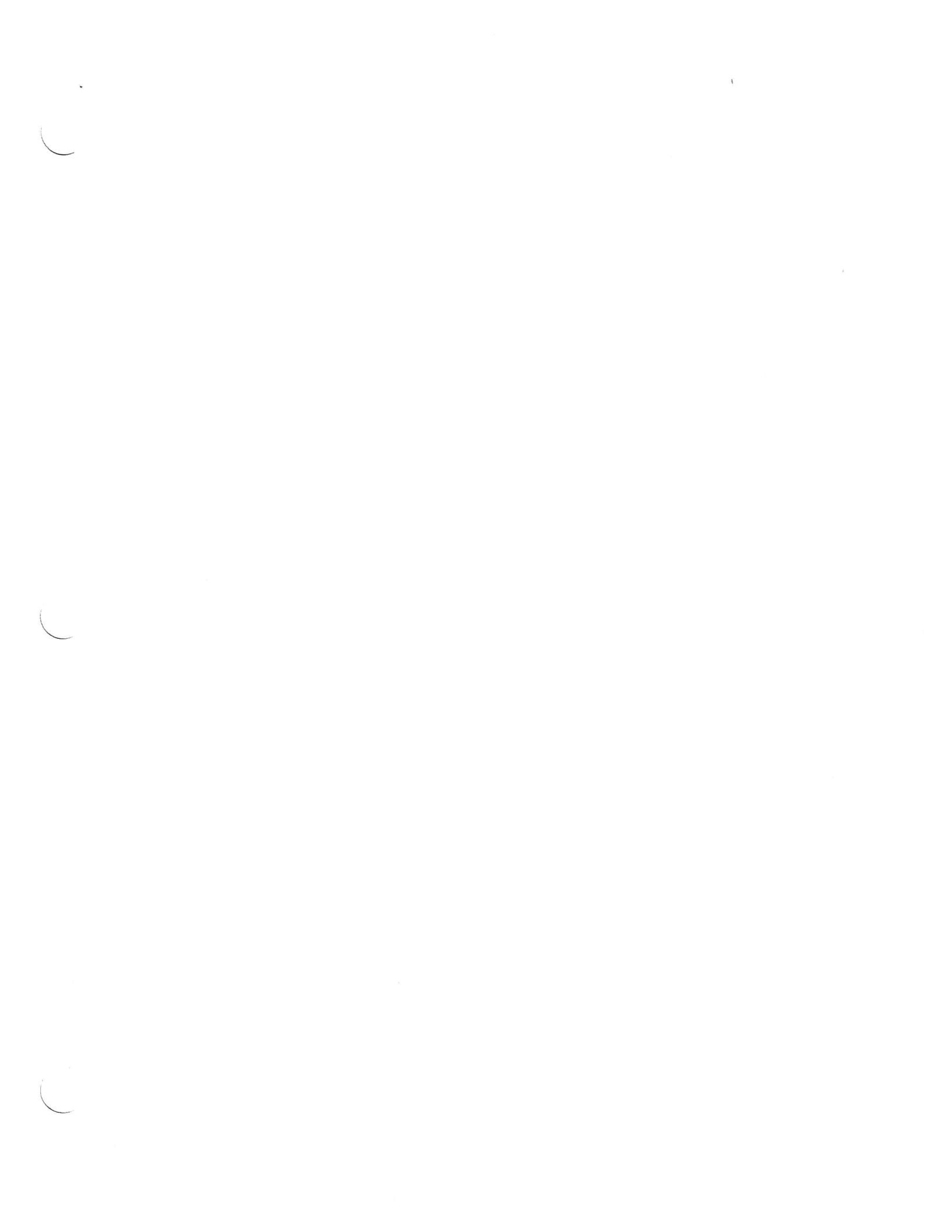
7. Funding Source Changes for BCI, Crime Lab, and IT/CJIS

- This is a truth-in-budgeting measure to increase transparency and sustainability.
 - Recurring costs of salary increases, and operating expenses should be moved to the general fund and out of special funds that fluctuate.
- \$3,260,551 – General Fund

OPTIONAL REQUESTS (con't)

8. Information Technology

- Programmer Analysts – 2.00 FTE
 - Will reduce intractable backlog and delays for high priority projects for BCI and other divisions.
- Business Analyst – 1.00 FTE
 - Will reduce the need for expensive contract IT support.
- Two contractors at a cost of \$970,826 for the biennium will be needed if these FTEs are not authorized, resulting in \$253,120 excess expense and inefficiency.
- \$717,706 – General Fund



OPTIONAL REQUESTS (con't)

9. Public Services FTE

- This position would assist with intake and responses to mandates and communications from legislators, the public, executive branch officials, and other state employees to ensure the office's responses are timely and accurate.
 - Legislators' and Legislative Council's requests for information;
 - Open records requests;
 - Requests for open records/open meetings opinions;
 - Requests for Attorney General Opinions;
 - Other executive branch agencies' requests for data or statistics;
 - Comments and inquires from the public; and
 - Other communications.
- \$186,108 – General Fund

1

2

3

OPTIONAL REQUESTS (con't)

10. Funding Source Changes for Criminal Law Division and MFCCU

- Criminal Law Division – replace \$114, 250 in unavailable federal grant.
- MFCCU – replace \$227,497 in federal funds due to the general fund cost share increasing from 10% to 25%.
 - This is the only reduction in federal cost share for MFCCU.
- \$341,747 – General Fund

1

2

3

4

5

6

OPTIONAL REQUESTS (con't)

11. IT/CJIS Software and Maintenance

- IT/CJIS provides essential support for 75 law enforcement agencies as well as the Office of Attorney General.
- IT/CJIS maintains over 70 systems necessary for its mission, many of which require software licenses and maintenance.
- NDIR is increasing the cost of state accounts by 1300 percent.
 - These accounts are provided to law enforcement agencies so they can access the CJIS system.
- \$489,297 – General Fund
 - \$300,000 of this request is to cover the increased cost for law enforcement agencies.

1

2

3

OPTIONAL REQUESTS (con't)

12. BCI Forensic Equipment

- MAFIN, GrayKey, and Cellebrite software is needed to forensically analyze mobile phones seized from suspects believed to be storing child pornography, information about drug trafficking, associated violent crimes, and other offenses.
- \$528,000 (\$486,000 General Fund)

.....
C

C

C

OPTIONAL REQUESTS (con't)

13. Inflationary Increases

- This request is to cover inflationary increases in the cost of ammunition, supplies, services, buy fund, rent at remote locations, and utilities.
- \$376,463 (\$356,463 General Fund)

111

111

111

OPTIONAL REQUESTS (con't)

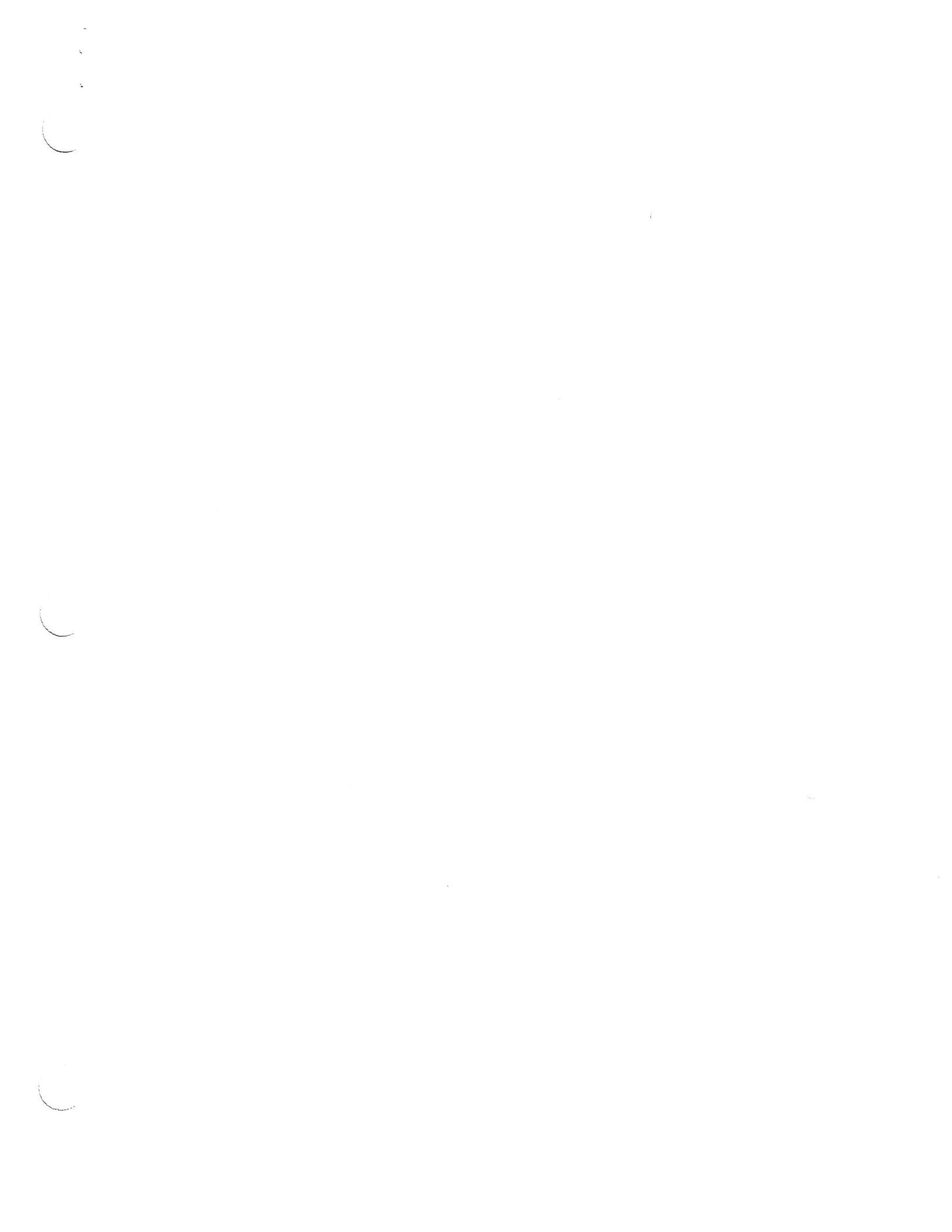
14. Civil Litigation Discovery Software

- Civil Litigation division uses software to manage complex discovery documents.
- Currently, the division has a license for a minimal number of cases. The software has proven essential for support of state litigation.
- Additional licenses are needed to save countless hours of staff time and avoid even further division expansion.
- \$100,000 – General Fund

OPTIONAL REQUESTS (con't)

15. Gaming and CPAT Investigator Equipment

- The Gaming and CPAT Divisions have BCI agents assigned to them to assist their investigations.
- This request is to equip the agents with the standard BCI vehicles and radios.
- \$102,000 – Special Funds



OPTIONAL REQUESTS (con't)

16. Gaming IT Solutions

- ND Gaming Distributor solution is an external application for distributors of gaming equipment to facilitate licensing, data submissions, online payments, deposits, and other activities.
- Enhancements to the external applications for charitable gaming organizations and an internal application for the Gaming Division to manage licensing, open records requests, oversee gaming machines, and other improvements are needed.
- The general fund portion will provide enhancements for the office's licensing division for licensing applications and deposits.
- \$950,000 (\$214,000 General Fund, \$736,000 from gaming tax fund)

OPTIONAL REQUESTS (con't)

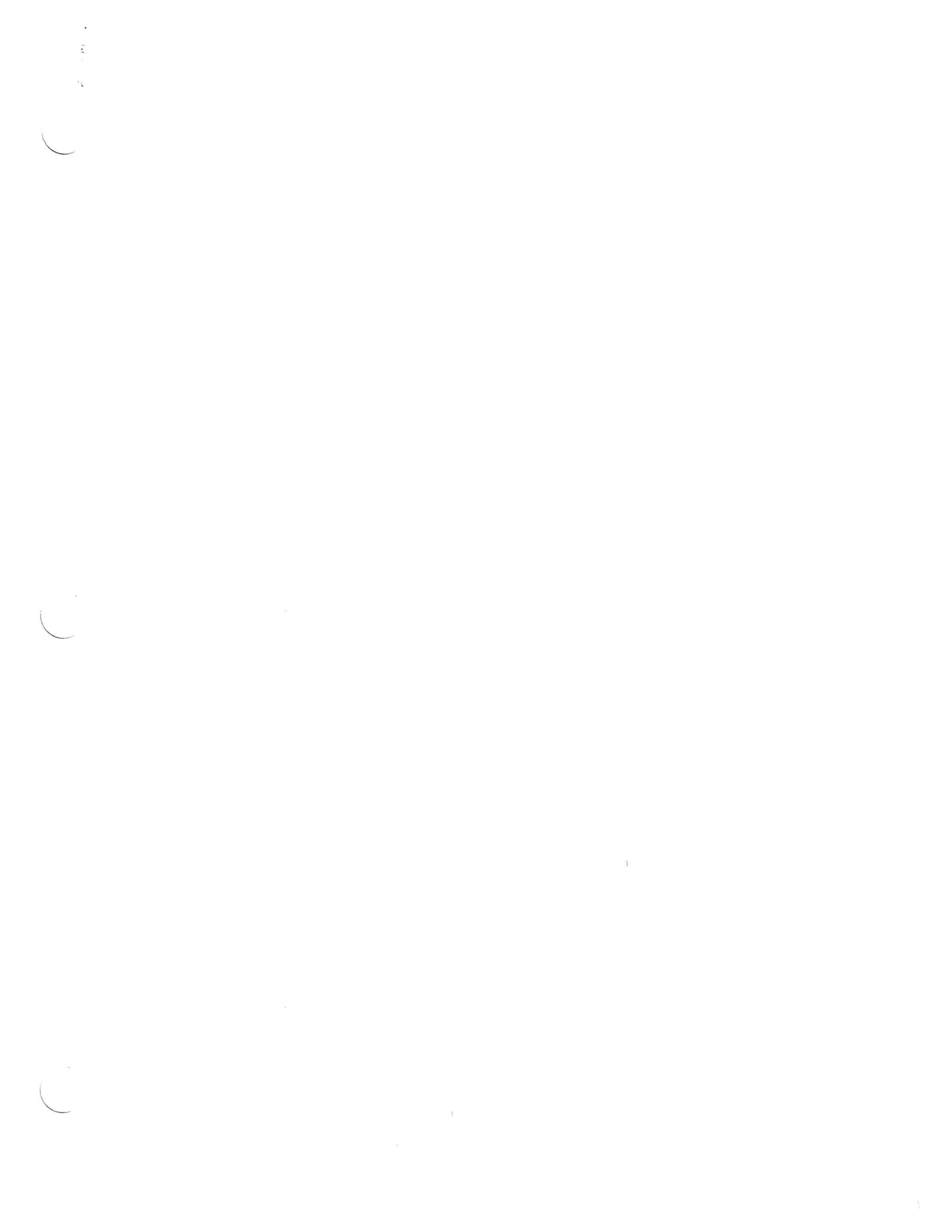
17. IT Servers

- 8 servers are necessary to run the office's IT systems.
 - 2 of the 8 servers must be replaced each year to ensure operations continue.
- This request is to replace 4 servers in the 2023-25 biennium, per the replacement cycle.
- \$54,000 - General Fund

OPTIONAL REQUESTS (con't)

18. Employee Reclassifications

- This request is to cover the cost of employee reclassifications for employees who met state HRMS requirements to advance in their career with the office.
- \$92,995 (\$78,508 General Fund)



OPTIONAL REQUESTS (con't)

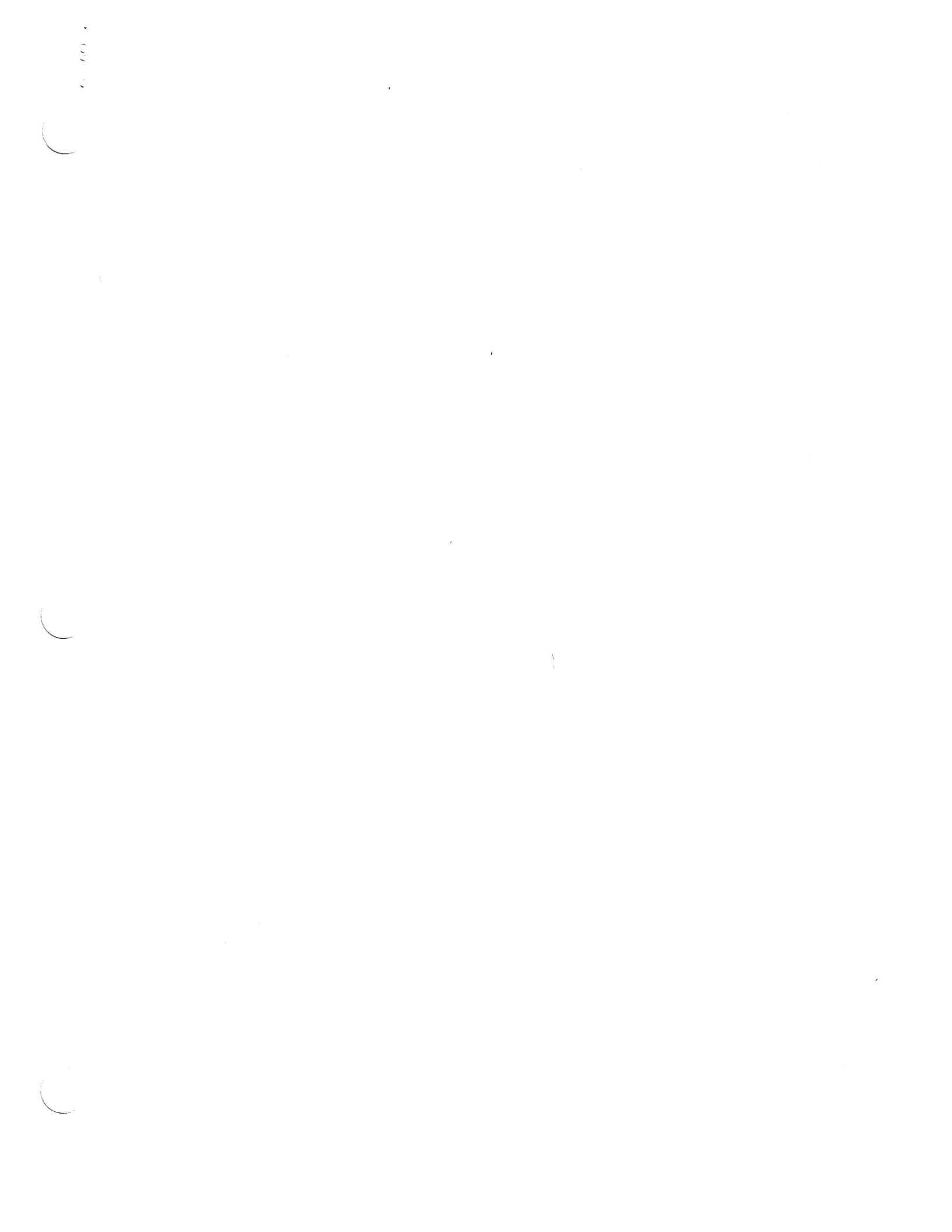
19. BCI Agent Multiplier

- BCI have a dangerous and extremely physically demanding job.
- The average age of hire for a BCI agent is 34 due to BCI's enhanced qualification criteria, including a four year degree and five years of experience.
 - A BCI agent hired at 34 (before 1/1/20) would have to work until 64 to achieve 60% retirement pay.
 - A BCI agent hired at 34 (after 1/1/20) would have to work until 68 or 69 to achieve 60% retirement pay.
- The request is to raise the BCI agent multiplier so agents can retire after 20 years of service with 60% retirement pay.
 - The multiplier would increase from 2.0 (if in PERS already) or 1.75 (if a new employee with no PERS history) to 3.0 for an agent's first 20 years of service.
 - The multiplier would then fall to 1.75 after 20 years of service to promote retirement and safety for the agent and the public.
- Current estimate - \$543,580 (\$407,685 General Fund)

OPTIONAL REQUESTS (con't)

20. BCI Agent Training

- Each year, up to 2 BCI agents may be admitted to the National Forensic Academy, an intensive, 400-hour training program on crime scene processing and forensic investigation.
 - Unique field experience and classroom instruction by national experts.
 - Improves agents' abilities to collect, identify, preserve, and analyze evidence.
 - Improves public safety by elevating agents' skillsets and exposure to emerging best practices.
- \$50,000 - General Fund



OPTIONAL REQUESTS (con't)

21. Renovation to Internet Crimes Against Children (ICAC) Lab in Fargo

- The renovation would remove walls and use modular work surface to provide for up to six digital forensic labs in the BCI's Fargo location.
 - Currently, an area in the Fargo location is separated into two digital forensic labs.
 - Increases in case numbers and possible increases in FTEs require additional lab space.
- \$75,000 - General Fund

1000

1000

1000

1000

OPTIONAL REQUESTS (con't)

22. Sex Assault Kit Tracking Software

- The legislatively mandated sexual assault kit tracking system will go live in 2023.
- A yearly maintenance fee of \$85,000 is required for hosting the software, backups, user support, and updates. A federal grant will cover the cost for the 2023-25 biennium.
- \$180,000 - Federal Funds

100



TABLE OF CONTENTS

2023 Senate Bill 20031

Office Organizational Chart.....2

Summary of Office of Attorney General Divisions.....3

Attorney General Administration Division.....3

Bureau of Criminal Investigation3

Consumer Protection and Antitrust Division.....4

Crime Laboratory Division4

Criminal Law Division4

Finance Division5

Fire Marshal Division5

Gaming Division.....5

General Counsel6

Information Technology/Criminal Justice Information Sharing6

Lottery Division.....7

Medicaid Fraud Control Unit.....7

Natural Resources and Native American Affairs7

Solicitor General and Civil Litigation7

Status of 2021-23 Biennium One-Time Appropriations.....8

Proposed Changes to 2023 Senate Bill 200310

2023 Legislation Having Fiscal Impact on the Office of Attorney General.....15

Optional Adjustments Summary15

2023 SENATE BILL 2003

Office of Attorney General

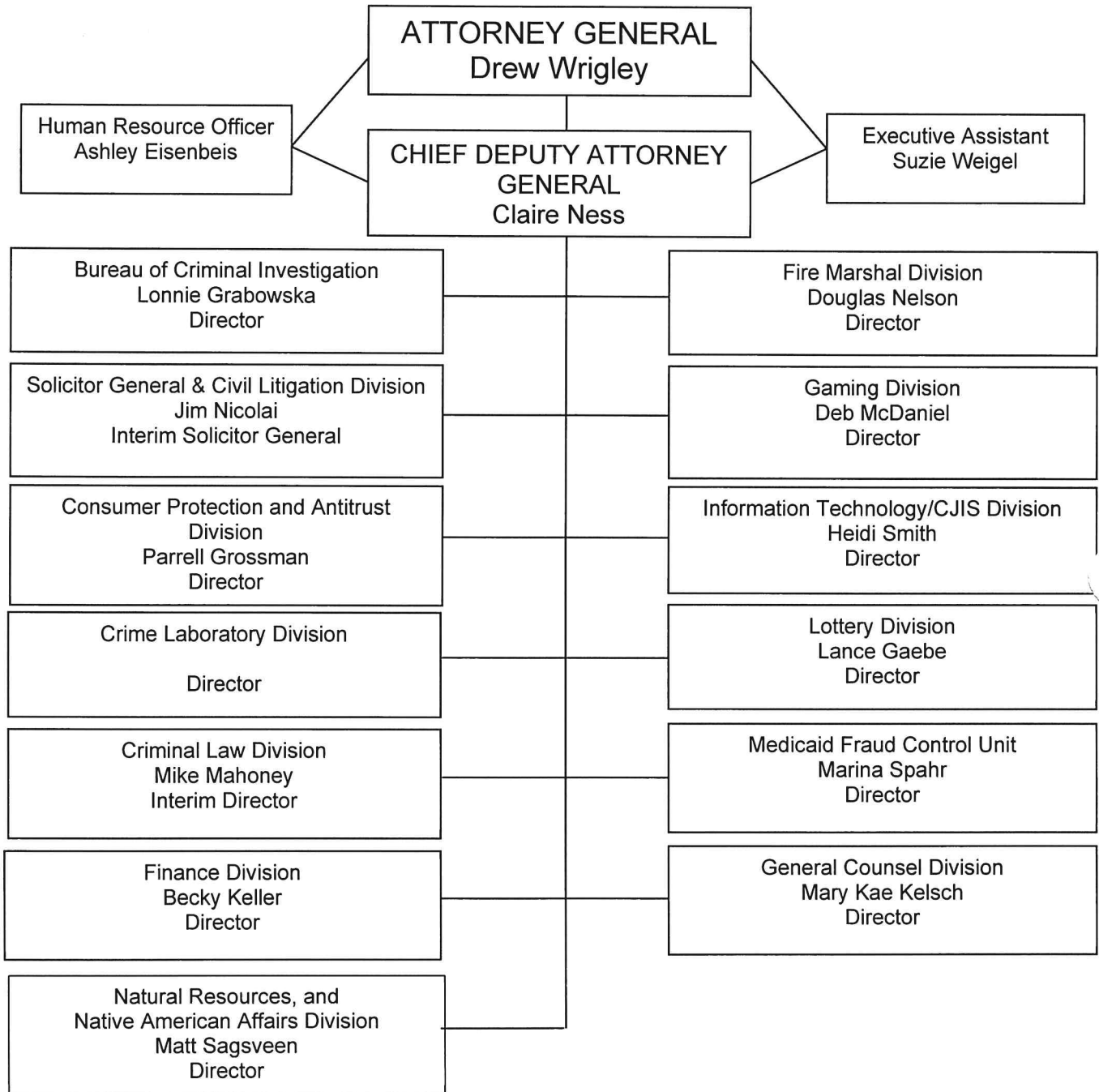
The Office of Attorney General represents and defends the interests of the citizens of North Dakota by executing the responsibilities charged to the North Dakota Attorney General by the North Dakota Constitution, state statutes and administrative rules, North Dakota and federal case law, and common law. The Attorney General is the chief legal counsel and advisor to state government providing legal representation to all facets of state government, including the Governor, all departments of state government, local government and all state agencies, boards, and commissions.

The Attorney General has primary authority to act on behalf of the state of North Dakota in other areas, including criminal investigations; full arrest and law enforcement authority; sex offender risk assessment and registration; Medicaid fraud control; evidence examination and testimony; consumer protection and antitrust; administration, regulation, and enforcement of charitable gaming and lottery activity; and fire inspections, investigations, and mitigation of hazardous materials incidents. Attorney General staff members provided a significant amount of training to North Dakota citizens and others, including law enforcement and the fire services.

The office consists of 14 divisions:

- Administration
- Bureau of Criminal Investigation (BCI)
- Consumer Protection and Antitrust (CPAT)
- Crime Laboratory (Crime Lab)
- Criminal Law
- Criminal Justice Information Sharing (CJIS) and Information Technology (IT)
- Finance
- Fire Marshal
- Gaming
- General Counsel
- Lottery
- Medicaid Fraud Control Unit (MFCU)
- Natural Resources & Native American Affairs
- Solicitor General and Civil Litigation

NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL
January 2023



SUMMARY OF OFFICE OF ATTORNEY GENERAL DIVISIONS

OFFICE OF ATTORNEY GENERAL ADMINISTRATION

The Administration Division of the office includes the Attorney General, the Chief Deputy Attorney General, the Human Resources Director and the Executive Assistant to the Attorney General.

The Administrative Division provides legal, administrative, and human resource support services to the other office divisions, and informational services to citizens and other state agencies.

BUREAU OF CRIMINAL INVESTIGATION

The Bureau of Criminal Investigation (BCI) division is comprised of 92 FTE positions including 53 sworn personnel, and 39 support personnel consisting of criminal intelligence analysts (6), administrative services (4), uniform crime reporting and statistics (1), offender registration (3), information processing (4), concealed weapons (4), criminal history (13), CJIS Systems Officers (3), and Peace Officer Standards and Training and 24/7 Sobriety Program (1). The salary for the director is also included. The Bureau of Criminal Investigation's primary duties are as follows:

- Assist local law enforcement agencies with general and specialized investigations including cyber-crime, homicide, sexual assault, human trafficking, organized crime, child abuse, arson, and terrorism
- Provide drug trafficking reduction support through participation in 10 narcotics task forces, including supervision of 9 of the task forces
- Maintain a statewide sex offender and offenders against children registration system and a registered offenders' website for lifetime registrants and high-risk offenders
- Maintain the statewide criminal history record information system and provide this information to the federal criminal history database
- Maintain the ABIS for identification and criminal investigation purposes
- Provide training for law enforcement and corrections officers, maintain officer training records, and issue peace officer licenses
- Provide training to children and the general public about the dangers of drugs and criminal activity
- Facilitate the 24/7 sobriety program
- As the Criminal Justice Information Services (CJIS) Systems Agency (CSA), BCI is responsible for planning and providing the necessary hardware, software, funding, quality assurance and training for complete access to all FBI CJIS data services for all authorized agencies within the state

- The Concealed Weapons Licensing (CWL) Division is the only agency in the state of North Dakota that processes applications for a North Dakota Concealed Weapons License. NDBCI offers two concealed weapons licenses (Class 1 or Class 2)

CONSUMER PROTECTION AND ANTI-TRUST DIVISION

The Consumer Protection and Antitrust Division staff consists of the Division director, 3 consumer investigators, 2 assistant attorneys general, 1 paralegal and 2 administrative assistants for a total of 9 FTE positions. Services provided by the Division include:

- Investigating consumer complaints and violations of antitrust, consumer fraud, transient merchant, identity theft, data security breach, privacy, nonprofit corporations, charitable solicitations, and do-not-call laws, etc., and taking legal action to obtain injunctive relief, civil penalties, restitution, and other equitable relief
- Investigation, participation, and prosecution referral of criminal violations
- Statewide consumer fraud and education presentations to the elderly, students, civic, and professional groups, etc., and providing consumer warnings
- Coordinating consumer protection investigations, enforcement, and education with other federal, state and local law enforcement and regulatory agencies, including participation in multi-state investigations and legal actions
- Consumer fraud training for law enforcement
- Researching state and federal consumer fraud law and issues and assisting state and federal legislators in the development and implementation of consumer and antitrust issues legislation

CRIME LABORATORY DIVISION

The Crime Laboratory Division consists of 25 FTE positions including 22 forensic scientists, a state toxicologist, 1 evidence technician, and 1 administrative assistant. The staff members are responsible for analyzing evidence, preparation of laboratory reports, certified documents, data collection, law enforcement training and certification, courtroom testimony, and associated administrative duties.

The Crime Laboratory's objective is to provide scientific support to the state's law enforcement and criminal justice system by use of accepted techniques in the analysis, identification, and comparison of physical and toxicological evidence involved in the investigation and prosecution of criminal offenses.

CRIMINAL LAW DIVISION

The Criminal Law Division includes 7 attorneys and 1 legal assistant to prosecute criminal cases statewide, at the request of the county state's attorneys. The objectives of the Criminal Law Division are to efficiently and impartially provide quality legal and informational services to the North Dakota government. The program also assists other Office of Attorney General's divisions to provide quality law enforcement, regulatory, and investigatory services, and provides prosecutorial assistance to the 53 county state's attorneys upon request. In addition, the Division handles prosecutions of child sexual abuse offenses.

FINANCE DIVISION

The Finance Division consists of 14 FTE positions including the financial administrator, 1 accounting manager, 4 grants staff, 3 payroll and accounting staff, 2 licensing staff, 2 administrative assistants and 1 purchasing agent.

The division staff provide technical, budget, finance, payroll, grants administration, records management, purchasing, licensing, reception, and other administrative services for the entire office.

FIRE MARSHAL DIVISION

The Fire Marshal's Division's 8 FTE positions consist of the State Fire Marshal, 1 chief deputy fire marshal, 5 deputy fire marshals, and 1 administrative assistant. The Division is responsible for issuance of the fire safety codes and rules for the state, fire investigations, fire inspections, and public fire safety education. The Division is also responsible for a number of special programs including fire reporting, existence of fire departments, delegation of authority, property loss insurance reporting, fire safer cigarettes and emergency response guidebooks.

GAMING DIVISION

The Gaming Division consists of the Division Director, 13 auditors, 2 audit technicians, 2 investigators, 1 training and communications specialist and 1 administrative assistant for a total of 20 FTE positions. The Division's duties include:

- Administration, regulation, and provision of enforcement for the charitable gaming industry
- Assistance to local law enforcement officials, gaming organizations, distributors, manufacturers, and the general public regarding gaming laws and rules, recordkeeping, and preparation of tax returns
- State Gaming Commission assistance in drafting proposed gaming laws and rules and conducting public hearings
- Conducting gaming training sessions for organization board members, gaming employees and volunteers
- Developing standard recordkeeping systems and model systems of internal control for gaming organizations
- Gaming compliance and financial office and field audits of gaming, distributor, and manufacturer licensees
- Reviews and processing of Gaming distributor records and gaming tax returns
- Collection of delinquent gaming taxes, interest, penalties, and monetary fines
- Coordination and application of investigations into illegal gaming activity and thefts
- Laboratory testing of pull-tab dispensing devices, electronic pull-tab dispensing devices, electronic bingo devices, bingo card marking devices, and electronic 50/50 raffle systems
- Inspections of gaming businesses manufacturing pull-tabs and paper bingo cards
- Gaming legislative research and legislative testimony at hearings
- Gaming administrative complaints, assessing monetary fines, and imposing appropriate sanctions
- Inspections of tribal casinos to ensure compliance with tribal-state gaming compacts

GENERAL COUNSEL DIVISION

The General Counsel Division has 14 attorneys, 1 paralegal, 1 legal assistant, and 2 administrative assistants. The General Counsel Division provides general counsel legal services to more than 70 state agencies, boards, and commissions. The Division drafts Attorney General opinions, reviews all administrative rules adopted by state agencies, and assists client agencies and members of the Legislative Assembly by drafting bills and amendments, explaining the ramifications of proposed legislation, and testifying before legislative committees.

INFORMATION TECHNOLOGY/CRIMINAL JUSTICE INFORMATION SYSTEM

The Information Technology and Criminal Justice Information Sharing (IT/CJIS) Division has 17 FTE positions including the Division Director, 1 architect associate, 1 IT manager, 1 CJIS manager, 1 project manager, 3 business analysts, 3 programmer analysts, 2 system administrators, 1 database design analyst, 1 computer and network specialist, 1 customer tech support specialist, and 1 administrative assistant. IT/CJIS staff provide the following services:

- Support for computer equipment and network needs of all the divisions of the Office of Attorney General with several locations within the Bismarck area as well as 17 remote locations across the state
- Desktop support and troubleshooting for all office staff and several task force personnel
- Administration of servers housed in a secured room within the Division's office area, including maintenance, disaster recovery, and security
- Staff and management of a help desk that supports office staff, as well as any external customers that utilize the office's applications or equipment
- 24 hour, 7 days a week support for computer applications utilized by law enforcement and other criminal justice personnel statewide on a rotating on-call schedule
- On-going support, enhancements, changes, additional functionality, and upgrades to all business applications on a regular basis
- Management and support for several statewide criminal justice systems, including a case management system for North Dakota state's attorneys; a records management system used by 71 local law enforcement agencies and 9 correctional facilities; an information sharing hub for criminal justice personnel; and a statewide victim notification system used for incarceration, court, parole and probation, commitment and protection order notifications as well as a statewide database used to track victim rights assertions
- Access to office records through the CJIS portal to North Dakota criminal justice personnel and through BCI to law enforcement across the entire country
- Audit participation in FBI, Sex Offender, Security, Gaming, grants and other audits, as needed, providing information as needed, determining changes needed, and developing timelines for changes

LOTTERY DIVISION

Eight FTE positions make up the Lottery Division, including the Division Director, an account budget specialist, 1 security officer, 2 customer service specialists, 1 sales and marketing manager and two administrative assistants. The Division also has three temporary draw operators.

The North Dakota Lottery is responsible for administering, regulating, enforcing, and promoting the state's lottery. The North Dakota Lottery conducts 5 games: Powerball, Lucky for Life, Mega Millions, Lotto America, and 2by2. The Lottery Division transfers net proceeds annually to the state general fund, and makes quarterly transfers to the multijurisdictional drug task force grant fund and compulsive gambling prevention and treatment fund.

MEDICAID FRAUD CONTROL UNIT

The Medicaid Fraud Control Unit (MFCU) was established by the 2019 Legislative Assembly and is funded jointly by federal and state government but administered by the state in accordance with federal requirements. The program contains salaries and wages for 6 FTEs, including the Unit Director who is an attorney, two investigators that are also BCI agents, two auditors, and one administrative support staff. The Medicaid Fraud Control Unit investigates and prosecutes health care providers who defraud the ND Medicaid Program. The unit also investigates and prosecutes any provider who abuses, neglects, or financially exploits a patient in any facility that accepts Medicaid funds.

NATURAL RESOURCES AND NATIVE AMERICAN AFFAIRS

The Natural Resources and Native American Affairs Division includes 6 attorneys and one paralegal. The Division provides legal advice to state agencies with responsibilities towards the state's natural resources. This includes assisting the Land Department in managing state-owned lands and minerals; the State Engineer in regulating the appropriation of water, regulating dams, dikes, and drains, and managing the beds of navigable rivers and lakes; the Water Commission in developing water resources; the Industrial Commission in regulating the exploration and development of mineral resources and administering grant programs for the lignite and oil and gas industries; the Department of Environmental Quality in protecting our environment; the Game and Fish Department in managing wildlife and wildlife habitat; the Parks and Recreation Department in managing public recreation areas; and the State Mill and Elevator. The division also administers the state's anti-corporate farming law and represents other Boards and Commissions including the Board of Animal Health, and commodity boards. Lastly, the division advises state as well as local officials on Native American law issues.

SOLICITOR GENERAL AND CIVIL LITIGATION

The Civil Litigation Division is led by the Solicitor General and includes 17 FTE positions. In addition to the Solicitor General, the division has 8 attorneys, 4 paralegals, 3 legal assistants and 1 administrative staff officer. The Division represents the State, as well as all elected and appointed officials, the Legislature, state employees, agencies, boards, commissions, and councils in all litigation except when specialized litigation counsel is appointed. The Solicitor General oversees and manages the litigation of Special Assistant Attorneys General.

STATUS OF 2021-23 BIENNIUM ONE-TIME APPROPRIATIONS

Capital Assets

These funds have been allocated and will be spent.

Statewide Litigation Funding Pool

These funds have been allocated and will be spent.

Criminal History Improvement Project

These funds have been allocated and work on the project continues. It is anticipated the office will request carryover authority for any unspent appropriation.

Missing Persons Database

The missing persons database will be completed this biennium and any unused funds will be turned back.

Automated Fingerprint Identification System

This project is in development and includes an update from a fingerprint identification system to a biometric identification system. Approximately \$176,000 has been spent to date during the 2021-23 biennium. If unforeseen challenges arise, the office may need to request carryover for any unspent appropriation.

Charitable Gaming Technology System

The \$475,000 appropriation will be spent during the 2021-23 biennium. Funding of \$736,000 from gaming taxes and \$214,000 from the general fund has been requested to complete the project in the 2023-25 biennium. The general fund share will be used to complete licensing and deposit solutions for the office.

Charitable Gaming Technology System Updates for Tax Changes

The \$50,000 appropriation will be spent and the project will be completed during the 2021-23 biennium.

Concealed Weapon Rewrite Carryover

\$55,000 of the \$143,531 carryover has been allocated for the 2023-25 biennium. The remaining funding will be requested as carryover to continue the project in the 2023-25 biennium.

Prosecuting Case Management System

These funds have been allocated and work on the project continues. It is anticipated the office will request carryover authority for any unspent appropriation.

PROPOSED CHANGES TO 2023 SENATE BILL 2003

The office's optional adjustments requested in the submitted budget and as approved in the Executive Recommendation are shown below.

Description	Priority	General Fund	Federal Fund	Other Funds
Civil Litigation Attorney (2)	3	644,356		
Cybercrime investigators (2)	4	745,990		
Firearm/fric ridge FTE (4)	5	1,927,321		
Crime lab equipment, vault	5		754,677	
Equipment maintenance	5	200,000		
Crime lab building maint	5	22,000		
Medicaid Fraud Unit FTE (2)	6	178,549	535,647	
Fund source change – equity	7	2,060,551		(2,060,551)
Fund source change – operating	7	1,200,000		(1,200,000)
Replace federal fund authority	10	341,747	(341,747)	
Increase tech fees	11	12,000		
Increase software maint, subscriptions, active directory	11	407,297		
MAFIN, GrayKey, Cellebrite	12	384,000	144,000	
Inflation – ammo, buy fund, rent, utilities, supplies	13	281,463		20,000
Discovery software	14	100,000		
Vehicles, radios for Gaming, CPAT investigators	15			102,200
Gaming, licensing, deposit project	16	214,000		736,000
IT Servers	17	54,000		
Sex assault kit tracking software	22		180,000	
Undercover vehicle replacement (10)	23	200,000		
Litigation Pool	24	4,557,748		442,252
Total		\$8,973,274	\$1,272,577	(\$1,960,099)

The office's optional adjustments requested in the submitted budget and **not included** in the Executive Recommendation are shown below.

Description	Priority	General Fund	Federal Fund	Other Funds
Attorney pay schedule	1	974,392	41,512	62,877
Staff equity	2	295,377		12,236
General Counsel FTE (2)	3	558,014		
Cybercrime agents (2)	4	814,006		
Criminal Investigators (5)	4	1,050,971		
Forensic Scientists (3)	5	688,658		
Operating – firearms FTE		152,556		
Crime lab admin FTE (1)	5	154,356		
Crime lab building addition	5	4,253,600		
Crime lab maint agreements	5	200,000		
Crime lab building maint	5	22,000		
Medicaid Fraud FTE (1)	6	54,680	164,039	
IT programmers, analysts (3)	8	717,706		
AG admin FTE (1)	9	186,108		
IT maintenance, subscriptions	11	70,000		
Inflation – ammo, rent	13	75,000		
Reclassifications	18	78,508		14,487
Agent multiplier	19	407,685	27,179	108,716
Forensic Academy	20	50,000		
ICAC lab renovation	21	75,000		
Undercover vehicle replacement (5)	23	100,000		
Contingent IT maintenance	25	700,000		
Total		\$11,678,617	\$232,730	\$198,316

The Governor’s recommendation includes two budget items that were not included in the office’s request:

1. \$5 million general fund appropriation from the general fund for a Back the Blue grant.
2. \$259,708 general fund appropriation for a rent model change.

The Governor’s recommendation also increased the office’s request for the litigation pool from \$4.65 million to \$5 million and changed the funding source to \$4.6 million from the general fund and \$442,252 from gaming taxes. The office’s request included \$4.65 million from the strategic improvement and investments fund.

[The following sections are requested to be added to Senate Bill 2003:

SECTION __. 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, 2023.

SECTION _ . ADDITIONAL INCOME - APPROPRIATION - REPORT.

In addition to the amounts appropriated to the attorney general in section 1 of this Act, there is appropriated from federal or other 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, 2023, and ending June 30, 2025. The attorney general shall notify the office of management and budget and the legislative council of any funding made available pursuant to this section.

SECTION _ . 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-sixth legislative assembly, shall pay a reasonable fee established by the attorney general to the attorney general to be deposited in the state's general fund for the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION _ . HUMAN TRAFFICKING VICTIMS GRANT PROGRAM - REQUIREMENTS - REPORTS.

The human trafficking victims grants line item in section 1 of this Act includes \$1,101,879 from the general fund for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims for the biennium beginning July 1, 2023, and ending June 30, 2025. 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 sixty-seventh legislative assembly on the use of the funds received and the outcomes of its program.

SECTION _ . FORENSIC NURSE EXAMINERS GRANT PROGRAM - REPORTS.

The forensic nurse examiners grants line item in section 1 of this Act includes \$250,691 from the general fund for the purpose of providing forensic nurse examiner program grants for community-based or hospital-based sexual assault examiner programs, for the biennium beginning July 1, 2023, and ending June 30, 2025. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-seventh legislative assembly on the use of the funds received and the outcomes of its programs.

SECTION _ . EXEMPTION - CONCEALED WEAPON REWRITE PROJECT.

The amount appropriated to the attorney general from the general fund for a concealed weapon rewrite project as contained in section 1 of chapter 37 of the 2015 Session Laws and continued into the 2017-19, 2019-21, and 2021-23 bienniums, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the concealed weapon rewrite project, during the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION __. EXEMPTION – CORONAVIRUS EMERGENCY SUPPLEMENTAL FUNDING.

The amount appropriated to the attorney general from federal funds for coronavirus emergency supplemental funding, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general during the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION __. EXEMPTION – STATE FISCAL RECOVERY FUND.

The amount appropriated to the attorney general from federal funds for state fiscal recovery funding, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general during the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION __. ESTIMATED INCOME - CHARITABLE GAMING TECHNOLOGY SYSTEM - CHARITABLE GAMING OPERATING FUND.

The estimated income line item in section 1 of this Act includes \$736,000 from the charitable gaming operating fund for defraying expenses related to the continued development and implementation of the charitable gaming technology system.

SECTION __. EXEMPTION – CRIMINAL HISTORY IMPROVEMENT PROJECT.

The amount appropriated to the attorney general from the attorney general refund fund for a criminal history improvement project as contained in section 1 of chapter 3 of the 2021 Session Laws, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general for the criminal history improvement project, during the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION __. 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 period beginning with the effective date of this Act and ending June 30, 2025.

SECTION __. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID ADDICTION PREVENTION AND TREATMENT PROGRAM - APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - ONE-TIME FUNDING - REPORT.

The office of management and budget shall transfer up to \$30,000,000 from opioid-related lawsuit settlement proceeds deposited in the attorney general refund fund to the department of health and human services which is appropriated to the department of health and human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2023, and ending June 30, 2025. The department of health and human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of health and human services for this program. This funding is considered a one-time funding item.

SECTION_ . AMENDMENT. Section 53-12.1-09 of the North Dakota Century Code is amended and reenacted as follows:

53-12.1-09. Operating fund - Continuing appropriation - Authorization of disbursements - Report - Net proceeds.

There is established within the state treasury the lottery operating fund into which must be deposited all revenue from the sale of tickets, interest received on money in the fund, and all other fees and moneys collected, less a prize on a lottery promotion, prize on a winning ticket paid by a retailer, and a retailer's commission. Except for moneys in the lottery operating fund appropriated by the legislative assembly for administrative and operating costs of the lottery under section 53-12.1-10, all other money in the fund is continuously appropriated for the purposes specified in this section. During each regular session, the attorney general shall present a report to the appropriations committee of each house of the legislative assembly on the actual and estimated operating revenue and expenditures for the current biennium and projected operating revenue and expenditures for the subsequent biennium authorized by this section. A payment of a prize or expense or transfer of net proceeds by the lottery may be made only against the fund or money collected from a retailer on the sale of a ticket. A disbursement from the fund must be for the following purposes:

1. Payment of a prize as the director deems appropriate to the owner of a valid, winning ticket;
2. Notwithstanding section 53-12.1-10, payment of a marketing expense that is directly offset by cosponsorship funds collected;
3. Payment of a gaming system or related service expense, retailer record and credit check fees, game group dues, and retailer commissions; and
4. Transfer of net proceeds:
 - a. Eighty thousand dollars must be transferred to the state treasurer each quarter for deposit in the gambling disorder prevention and treatment fund;
 - b. An amount for the lottery's share of a game's prize reserve pool must be transferred to the multistate lottery association;
 - c. Starting July 1, ~~2019~~2023, two hundred fifty thousand dollars must be transferred to the state treasurer each quarter for deposit in the attorney general multijurisdictional drug task force grant fund; and

The balance of the net proceeds, less holdback of any reserve funds the director may need for continuing operations, must be transferred to the state treasurer on at least an annual basis for deposit in the state general fund.

2023 Legislation Having a Fiscal Impact on the Office of Attorney General

Two legislative bills have been introduced thus far, that impact the Office of Attorney General.

- Senate Bill 2025 provides a supplemental general fund appropriation of \$75,000 to the Office for the 2021-23 biennium for prosecution witness fees.
- Senate Bill 2124 increases the per diem rate for all state employees from \$35 per day to \$42 dollars per day.

Optional Adjustments Summary

01 Attorney Pay Schedule and Merit-Based Tiering System

The Attorney General's office cannot currently compete with attorney salaries offered by state entities, local government entities, or the private sector. The existing attorney pay schedule for our office is significantly less than the attorney pay schedules for most other state agencies and even some political subdivisions, not to mention private law firms and businesses. For example:

- Some counties pay entry-level attorneys up to \$20,000 more annually than this office can pay them under its current budget, which has historically been based on a longevity pay schedule.
- Several attorneys in the past 2 years left this office to make higher salaries in other state agencies. One state agency hired a second-year attorney from our office by offering him a raise of more than \$30,000 per year, or more than 40% of his salary in this office.
- Multiple attorneys in the past several months have received higher-paying job offers from other state and local government employers. We have not remained competitive within the government.
- At least one attorney doubled his salary by accepting a job for a private company and is now able to work from home.

Additionally, unlike in other state agencies, the Attorney General's office has no tiering system for attorneys to earn promotions. For many years, an Assistant Attorney General's salary was based on the number of years the attorney had practiced law, regardless of merit. These factors significantly impair recruitment and retention of legal talent to this office. Newer and mid-level attorneys are most

affected by this pre-existing lack of inter-governmental equity, and there is too much inefficient turnover in these ranks as a result.

To improve recruitment and retention, this office plans to adopt a reasonable increase to the attorney pay schedule and implement a merit based tiering system to promote attorneys based on proven ability and achievement of specified goals. Under the new system, an Assistant Attorney General will have to master identified criteria in order to move up from one tier to the next. This system will reward talented, motivated, hard-working attorneys and give them an avenue for advancement based on excellence in legal representation of North Dakota's interests.

02 Staff Equity

The Attorney General's office carefully reviewed classified staff members' salaries based on the state's pay schedules established by the Office of Management and Budget. Far too many staff members, especially some administrative staff, are paid significantly below the midpoints of their relative classifications' pay schedules. These staff members' supervisors were consulted on the reasons for their pay inequities and for input on the appropriate salaries based on the staff members' ability, work capacity, and years of service. The office plans to use this equity funding to increase salaries for the staff members whose salaries diverge the most negatively from the appropriate merit-based salaries for them.

03 New Attorney FTEs (4.0)

The legal matters facing North Dakota continue to unavoidably increase in complexity, expense, and volume. Attorneys in the General Counsel Division and the Solicitor General/Civil Litigation Division of the Office of Attorney General are responsible for the legal representation and litigation impacting the most pressing and important legal matters facing the state. Assistant Attorneys General in both divisions carry extremely large client portfolios and heavy workloads. An attorney in the General Counsel Division typically serves as general counsel for multiple state agencies, boards, and commissions, and each client generates a large volume of legal matters for the attorney to handle. Litigators in the Attorney General's office manage several cases at any given time, many of which are highly complex and often appealed to the North Dakota Supreme Court or Eighth Circuit Court of Appeals. The large workloads have contributed to burn outs, turnovers, loss of expertise and institutional knowledge, and difficulty recruiting new attorneys. Meanwhile, state entities understandably must continuously demand their attorneys acquire more specialized expertise, which takes time to develop and requires workloads be spread among more attorneys. We are at a critical juncture.

The work of the General Counsel Division and Solicitor General/Civil Litigation Division are highly specialized. Attorneys in these divisions must have deep and seasoned understanding of state government as well as the relevant subject matters administered by their clients. Moreover, in lawsuits and contract negotiations, other parties often have teams of attorneys opposing just one of our Assistant Attorneys General, who is representing the state's interests. In particularly specialized cases or when this office's attorneys are unable to take on a new matter, this office must hire outside private attorneys, who are much more expensive and more difficult to supervise than attorneys in this office. Over the past several bienniums, this office was forced by circumstances to expend tens of millions of dollars on outside attorneys. A small portion of those resources could be used to hire more attorneys for the office. If some portion of those funds had instead been used to hire additional in-house Assistant

Attorneys General, there would have been substantial short and long-term savings, with an overall positive impact on legal service to North Dakota. We plan to change this trend over the next several years, but that altered course will require the legislative support we are now requesting.

Increasing the number of attorneys in these divisions will:

- Allow Assistant Attorneys General to develop deeper subject matter expertise to better serve state entities;
- Reduce expensive turnover rates and the loss of expertise and institutional knowledge;
- Reduce premature staff burn out;
- Improve recruitment; and
- Significantly reduce the amount of money the state currently spends on outside attorneys.

04 BCI Cyber Crime Agents and Criminal Investigators

BCI's Cyber Crime Unit (CCU) receives and reviews leads of suspected child exploitation from the National Center for Missing and Exploited Children. The number of leads originating from illicit activity in North Dakota is growing at an alarming rate, growing to 1,071 in 2022, compared to 166 in 2016. In 2021, the CCU forensic agents conducted over 899 forensic examinations totaling over 217,554 gigabytes of data, and assisted or investigated 429 in-state cases. BCI currently has just six agents with the specialized training to conduct these investigations. To manage the dramatically escalating number of exploitation tips and investigations requiring digital forensics, BCI needs four additional cybercrime agents. Without these additional agents, child sexual exploitation case investigations will be delayed beyond current backlogs. Put bluntly, without these additional investigative resources, BCI will face increasing difficulty finding and stopping sexual exploitation of children, among other cybercrimes. The salary request is \$74,000 plus benefits for each specially trained agent.

The requested three additional BCI criminal investigators will assist BIA and tribal law enforcement with narcotics investigations on and off reservations, under a new BCI initiative that is already creating unprecedented cooperative investigative/enforcement agreements between tribal, federal, state, county and local law enforcement entities near North Dakota's Indian reservations. The plan establishes BCI-coordinated narcotics task forces in Legislative Districts 2, 9, and 31 with local and tribal officers and jurisdiction on and off tribal lands. Those BCI agents will require all standard equipment assigned to each agent to conduct investigations.

05 Crime Lab FTE, Operating, Equipment

After the 2017 legislative session, the North Dakota State Crime Lab (NDCL) incurred budgetary cuts that led to the reduction in force (RIF) of several NDCL positions, including the forensic scientists trained in firearms and fingerprint analysis. These positions were not resurrected in the 2019 nor 2021 legislative sessions. As a result of the RIF, North Dakota lost the capacity for firearms testing and fingerprint processing. These are essential investigative functions, and law enforcement agencies across the state routinely implore this office to urge that the Legislature fund these disciplines and return this investigative capacity to the NDCL.

After firearm and fingerprint testing capabilities were cut from the NDCL, the NDCL was initially able to contract with the South Dakota Crime Lab for firearms testing. However, after a year, the South Dakota Division of Criminal Investigation ended that contract because of its own workload. As

a result, North Dakota's political subdivisions now need to send firearm and fingerprint cases to out-of-state private labs for testing, at significantly elevated expense. Investigations and prosecutions are negatively impacted by the lack of these capabilities and approving these changes will enhance public safety in our state.

By funding these four new FTEs, the NDCL will be able to hire, train, and fill the requirement of scientists tasked with re-establishing accreditation in firearms and friction ridge/fingerprint disciplines. At the same time, an additional three forensic scientist FTE are needed to handle escalating testing volumes and surmount existing case backlogs and lagging turnaround time at the NDCL. One administrative assistant is needed to assist all crime lab staff.

06 Medicaid Fraud Unit FTE, Operating, Equipment

The Medicaid Fraud Control Unit (MFCU) retrieves more fraud-loss funds for the state than it expends. The more cases it handles, the greater the amount of funds brought into the state. Surprisingly, the MFCU has only one attorney who is also the Unit's director. That person now handles all civil, criminal, and global litigation cases and all administrative duties. The Unit has six employees, so the administrative workload also is significant for the director and detracts from time for her other duties.

The director's responsibilities include the ongoing work of establishing this still-new Unit while also initiating detailed working policies and procedures that support the 12 mandatory performance standards set forth by the federal Department of Health and Human Services. Compliance with those performance standards is mandatory for yearly recertification and qualifying for the yearly federal grant that pays 75% of the MFCU budget. The director also supervises and trains all Unit staff and opens and closes all cases after careful reviews. As the Unit's only attorney, the director also must develop investigative plans and legal work (search warrants, administrative subpoenas, trial prep, trial, etc.). If the director is preparing for trial, in trial, drafting court documents, writing settlement letters, or other legal work, then all the director's administrative work stops. Conversely, if the director is at a mandatory training, supplying recertification statistics and documents, meeting with the Attorney General or stakeholders, training a new staff member, etc., then all attorney work stops. This large workload and start-stop work process means that cases cannot get reviewed, charged, or settled when appropriate. The director has had as many as 40 cases open at one time and now has 15 very large, active cases open. When the MFCU was first established, the Office of Attorney General recommended seven MFCU staff which included the additional attorney now requested.

An additional Special Agent for the MFCU also is imperative. Currently, the Unit is staffed by just two special agents. The cases being investigated by MFCU are extremely document- and medical record-intensive. Each case has several thousand documents to review. Most of these fraud cases take more than a year to investigate fully. Additionally, there is an increasing volume of case referrals to the Unit. During MFCU's first year, the Unit had to issue an informal directive that only felony matters would be charged, and fraud cases would be taken only if they involve fraudulent billings greater than \$10,000.00. When one of our agents is in court, actively investigating a case, at mandatory training, on leave, or ill, the other agent must maintain his/her own case load and address all new cases and situations that occur. The lack of essential resources means that North Dakota is unable to immediately address fraud cases that are detected, and money due to the state is not being returned.

Additionally, the increase in attorneys and investigators will then require that a paralegal be authorized to provide essential legal assistance to the attorneys and investigators.

07 Funding Source Change for Operating and Equity

During the 2021 legislative session and the November 2021 special session, the Legislative Assembly authorized equity increases for BCI agents and Crime Lab scientists. However, the equity increases totaling \$2.06 million were funded through the Attorney General refund fund, an unpredictable, one-time funding source. The refund fund is not able to sustain these increases because a significant number of settlement dollars are legally restricted to specified purposes.

Similarly, the 2021 Legislative Assembly restored \$1.2 million in funding for operating expenses for BCI and IT/CJIS but changed the funding source from general fund to the Attorney General refund fund as explained in the previous paragraph.

08 IT Analysts and Operating

As the responsibilities of the Attorney General's office grow, so do the IT needs of the agency. Demands for IT projects increase every year. With every system that is developed, additional maintenance is also required. In order to sustain the current IT needs of the agency, the IT/CJIS division must increase staffing levels to support and maintain over seventy current systems and several more in development. By adding two Programmer Analyst III FTEs, IT/CJIS will be able to complete projects more efficiently and maintain the current systems at a more manageable level.

A full-time business analyst is needed within the IT/CJIS division. The Attorney General's office has several divisions with IT projects and needs. Lack of IT/CJIS resources causes project delays and workflow bottlenecks. Having a business analyst is vital to provide accurate and efficient IT programs. Doing proper analysis beforehand allows for more detailed requirements and eliminates the risk of rework due to missed requirements. This role also will assist with project management on small- and mid-level projects, eliminating the need to contract additional roles, which reduces project costs.

09 Public Services FTE

The volume of mandates, comments, and requests (including requests for open records) made to the office is increasing rapidly, and the office has a responsibility to respond to the general public and others in a transparent and thorough manner. The position would manage inquiries, comments, and requests made to the office (including those made to the office via the general information email account) by legislators, state residents, state agencies, and others; respond to and track open records requests; track requests for Attorney General opinions and ensure timely opinions are issued to legislators and others; and assist with other mandates and projects as required by a burgeoning officewide workload.

10 Federal Fund Change

The general fund match for the Medicaid Fraud Control Unit has increased from 10 percent to 25 percent. Federal funds available under the High Intensity Drug Trafficking Areas grant have decreased, requiring additional general funds to maintain two attorneys' salaries in the Special Prosecution Unit.

11 Software Maintenance, Subscription Increases

The Attorney General's office utilizes several software systems across each division as well as part of our server infrastructure. Each software system requires support or a maintenance agreement. The cost for these systems typically increases each year. To continue to use several application or software tools needed to perform daily tasks, an additional \$16,000 in maintenance costs and an additional \$20,000 in subscription costs is needed. These costs include programs like Adobe Acrobat Pro, Nessus (vulnerability scanner), Windows Server Enterprise, SQL Server Standard, VMWare, Atlassian JIRA, and Visual Studio.

The North Dakota Information Technology agency (NDIT) is changing its fee structure (technology fee and Office 365 fee) for state agencies. NDIT's technology fee is tied to the number of Office 365 Premium Users. IT/CJIS pays the fee for this office's staff and task force employees. The technology fee has decreased, but the number of users will increase slightly. This will result in a savings of \$41,000. However, NDIT increased the Office 365 fee from 36.00/user to 43.25/user. The total Office 365 fee increase for this office is \$51,852. The total increase needed for the technology fee and Office 365 fee is \$12,000.

IT/CJIS provide support and maintain the legal case management system, currently JustWare, for this office and several county state's attorneys. The maintenance and support for JustWare increases 5% each year, per the current contract. IT/CJIS anticipates this increase to be \$34,000 from the current budget for the next biennium.

The Atlassian Software subscription recently increased. AGIT uses this product for all help desk support tickets and software development tickets, as well as project and document tracking. This product is an essential tool for an IT department to do daily work. The increase of license for this system is \$11,000 a year, \$22,000 a biennium.

CJIS provides a statewide law enforcement records management and jail management system. The program is the Premiere One (P1) system. P1 maintenance and support increases approximately 5% each year, per the contract. The estimated increase is approximately \$23,282 for the biennium.

The maintenance and support for the ND Statewide Automated Victim Information and Notification system (ND SAVIN) that CJIS supports will increase 5% each year, per the contract. The anticipated increase will be \$38,314.84 for the biennium.

Our conferencing equipment requires maintenance and support. We currently have ten Polycom systems throughout this office which were purchased during 2021-23 biennium. The maintenance on the ten systems is \$12,000.

The yearly subscription cost of the Crime Lab's Failure Analysis - Laboratory Information Management System is increasing, per the contract. For the first year of the next biennium, the cost will increase \$4,500, and the second year's increase will be \$7,200. The total increase for the biennium will be \$11,700.

CJIS provides Active Directory (AD) accounts (state government accounts) for users who need access to the CJIS systems but would otherwise not need an AD account. For example, political subdivisions'

law enforcement agencies often need CJIS accounts, which require CJIS to provide them AD accounts. CJIS does this at no cost to the political subdivisions. NDIR informed this office it will increase the monthly price for an AD account from \$1.35 to approximately \$7.10. We currently have 1,620 accounts for users that need access to CJIS programs only, and this number is subject to change. CJIS will need an increase of approximately \$300,000 to be able to continue to allow agencies to use our systems with no cost impact to the users.

12 MAFIN, GrayKey, and Cellebrite

The shared Automated Fingerprint Identification System (AFIS) operated through a partnership with Minnesota known as the Midwest Automated Fingerprint Identification Network (MAFIN) is being upgraded to a new Automated Biometric Identification System (ABIS). This system receives, stores, and analyzes all fingerprint records for North Dakota and Minnesota. This new system will be completed by approximately August of 2023. Once the new system is completed there will be ongoing maintenance costs for North Dakota of \$92,000 per year associated with this cloud-based system.

Mobile devices are more than two-thirds of the devices the NDBCI Cyber Crime Unit (CCU) receives for data extraction. These devices are frequently locked with facial recognition, fingerprints, or pin codes. Opening these devices and extracting the data for law enforcement is paramount to the success of cases. Currently, the two major vendors in this market are Cellebrite Premium and Graykey, but they do not do exactly the same thing. GrayKey is the best tool to open and extract Apple iOS devices, and Cellebrite Premium is the best tool to open and extract Android devices. The annual cost of GrayKey for our three CCU sites (Minot, Bismarck, and Fargo) is \$102,000, and the annual cost of Cellebrite Premium is \$72,000 per year. Achieving the maximum capability and coverage for the state will require \$174,000 per year or \$348,000 per biennium.

13 Inflationary Increases

NDBCI uses ammunition for the qualification, training, and effective carrying of handguns, shotguns, and rifles in the performance of field operations and legislatively assigned duties. NDBCI requires each sworn agent to qualify with their handgun on a minimum of two occasions per year and shoot qualifying scores related to shotgun and rifles on one occasion per year. Successful qualifications for firearms are required for each agent to maintain ND Peace Officer Standards and Training (POST) licensure. NDBCI is moving to a mandatory quarterly range requirement for agents to shoot in every quarter throughout the year. This will help keep the agents proficient in firearms handling and shooting, diagnose any shooting issues, and verify there are no equipment malfunctions.

NDBCI is responsible for supplying undercover buy funds for NDBCI narcotics investigations and multi-jurisdictional drug task force operations. The State of North Dakota currently supports ten narcotic task forces related to buy funds. This responsibility, coupled with a decrease in Byrne/JAG funding, has led NDBCI to closely monitor narcotics buy fund transaction across the State.

Office lease costs have increased for Civil Litigation and BCI's locations in other cities. Crime lab equipment and supply costs continue to increase for supplies and materials required for testing.

14 Discovery Software

The Attorney General's office has tested the Discovery software with a license allowing attorneys to use it for a very limited number of cases. The software has proven to be extremely helpful in managing cases. It searches, sorts, and classifies legal documents in a more reliable and efficient manner than doing so manually. This request will increase the number of cases that can be managed by the software.

15 Gaming and CPAT Investigator Vehicles and Radios

Vehicles and radios are needed for NDBCI investigators located in the Gaming and Consumer Protection and Antitrust divisions.

16 Gaming, Licensing, and Deposit Projects

The Attorney General's office requests these funds for completion of the Gaming Distributor Solution, which includes enhancements for manufacturers, gaming machine management (keeping track of the e-tab devices), the ability to respond to open record requests (requests of tax return copies), and management for bingo paper for distributors. The technology enhancements also will include adding the licensing and deposit functions to connect with the gaming system instead of requiring users to go into the Progress system for licensing and deposit information. These projects will help our staff and gaming industry employees communicate and share data more efficiently and quickly. This will benefit both our regulators and the regulated charitable organizations, manufacturers, and distributors.

17 IT Servers

IT/CJIS currently support and maintain 8 servers, which are critical to the operation of the entire agency. The servers must be replaced every four years, on a rotational basis. The cost to replace these servers has never been funded in this office's base budget. It is important to build the cost into the base budget, so this office has reliable funding each biennium for this necessary equipment. The estimated total cost is \$54,000 per biennium. That amount would allow IT/CJIS to replace two servers each year for a total rotational period of four years.

18 Staff Reclassifications

Pursuant to applicable HRMS guidance, the Consumer Protection and Antitrust Division needs to reclassify 2 consumer fraud investigators from a I to a II in the 2023-25 biennium. The cost for the two reclassifications is \$14,430.

Similarly, NDBCI needs to reclassify 18 agents and analysts throughout the 2023-25 biennium as they meet the requirements for the next step in their careers. The cost for the reclassifications is \$57,327.

Under the very same guidance, the Finance Division will reclassify an account budget specialist II to a III and an administrative assistant from a I to a II. The cost for the two reclassifications is \$21,181.

19 BCI Agent Multiplier

The Attorney General's office is requesting an increase in the multiplier for NDBCI agents' retirement formula. The requested increase is from 2.0 (if the agent is in PERS already) or 1.75 (if the agent is a new employee with no PERS history) to 3.0. Under our new plan, the multiplier would fall to 1.75 after 20 years of service, in order to promote retirement and enhance safety for all agents involved in field operations.

NDBCI requires new applicant Special Agents to have a four-year degree and five years of investigative experience. This is because NDBCI acts as North Dakota's "Detective Division" similarly to the way detectives operate within police departments and sheriffs' offices. The primary duties of an NDBCI agent include supporting political subdivisions on felony level crimes such as homicides, sexual assaults, robberies, theft, suicide, etc., as well as the detection, disruption, and dismantling of illegal narcotics trafficking (manufacturing and sale) across the state. As a result, the average age of an NDBCI agent at the time of hire is 33 to 35 years of age, as opposed to the significantly lower age of a new officer in a different law enforcement agency. Changing the BCI agent multiplier to 3 would provide target retirement age in-line with parallel law enforcement organizations and would enhance operations and safety.

20 BCI Agents' Attendance at the National Forensic Academy

The National Forensic Academy provides 400 hours of specialized training focused on crime scene processing, evidence collection, and crime scene photography. Currently, 25 agents have successfully completed this 10-week course in Tennessee. NDBCI sends two agents each year at a total cost of \$50,000 (\$25,000 each). The need for this type of training is becoming more evident each day, as North Dakota's population and crime rates increase. Violent crimes are on the rise, and the need to solve them expeditiously is paramount. NDBCI has investigated murders-for-hire, body dumps, aggravated assaults, officer involved shootings, and violent sexual assaults – all of which require the kind of skills and training the National Forensic Academy provides.

21 ICAC Lab Renovation

BCI has been working with the Fargo area law enforcement agencies to create a regional office for investigating crimes against children. This group is responsible for digital forensic analysis of devices seized during investigations. As officers are assigned to assist with the crimes against children unit, they require forensic lab space in the Fargo BCI office. Currently there is an area in the Fargo BCI building built into two separate digital forensic labs, and this office plans to remove walls and use modular work surfaces to allow the space to accommodate up to six forensic labs, all aimed at meeting the demands from the dramatically escalating number of child exploitation and drug trafficking investigations.

22 Sex Assault Kit Tracking System Software Support

The Attorney General's office has been working to implement a sexual assault kit tracking system mandated by the Legislature in 2021 and that will go live in 2023. A yearly maintenance fee of \$85,000 is required to host the software and provide backups, user support, and updates. A federal grant will cover the cost for the 2023-25 biennium.

23 BCI Undercover Vehicle Replacement

As of May 16, 2022, NDBCI has 56 agents who need undercover vehicles. Nine of the agents receive a vehicle from the unit or a federal program in which they work. The remaining 47 vehicles need to be funded through the general fund. NDBCI also would like to purchase warranties for 6 years or 85,000 miles on all vehicles to mitigate costly repairs. To maintain the 6-year replacement cycle on the 47 vehicles, NDBCI must replace 15 vehicles per biennium. The average cost of the 6-year warranty is \$2,000. The average cost of a new vehicle being purchased has been \$35,000. The average trade value of the vehicle being replaced has been \$17,000. This leaves the cost of a vehicle replacement at \$20,000 per vehicle for 15 vehicles, or a total of \$300,000.

24 Litigation Pool from SIIF

The litigation pool has covered a relatively small share of litigation costs for eligible state agencies during the 2023-25 biennium. As the number and complexity of cases for the state increase, the litigation costs likely will increase as well, especially if the state continues to rely on outside counsel rather than hiring additional Assistant Attorneys General for the Civil Litigation, and Natural Resources/Indian Affairs divisions of this office. (The hourly rate for Assistant Attorneys General is less than half the hourly rate of Bismarck private practice attorneys and an even smaller percentage of the hourly rate of attorneys in many out of state markets.) This request to provide litigation funding for state agencies for another biennium would require a transfer of \$4.65 million from the strategic investment and improvements fund to the AG operating fund.

25 Contingent IT Maintenance Increase

If the requested business analyst FTE for IT/CJIS is not authorized, this office will need additional funds to pay for third parties to help maintain equipment and systems.

26 Legislatively Requested Supplement

During meetings and conversations about the budget for the Attorney General's office, several legislators urged the office leadership to include additional FTEs for NDBCI in this appropriations request. In support of their request, legislators identified the importance of public safety, elevated crime rates, the need for additional agents to serve on task forces for reservations pursuant to agreements with tribal nations, the dramatically increased incidence of internet crimes against children, the need to process background checks and cold cases more promptly, and the NDBCI's mission to support local law enforcement agencies. The Attorney General's office thoroughly evaluated these areas of concern to identify targeted FTEs – above those requested in the office's budget submission to OMB – who could improve NDBCI's performance in the noted areas. As a result, this office is requesting an addition 4 NDBCI agents, 1 criminal intelligence analyst for the internet crimes against children unit, and 1 administrative assistant to support NDBCI agents and analysts.