



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

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ATTORNEY GENERAL

HOUSE APPROPRIATIONS COMMITTEE
EDUCATION AND ENVIRONMENT DIVISION
JANUARY 29, 2025

Chairman Nathe and members of the Committee:

In your last work session on our appropriations bill, you asked our office for several pieces of information. We have gathered the information and included it here. The relevant Division Directors in our office will present the information in person on January 29 and will answer any questions you may have.

1. How much funding has the Medicaid Fraud Control Unit brought in?

Since its inception in August 2019 through October 2024, the Medicaid Fraud Control Unit has recovered approximately \$2.85 million and has collected \$886,487. These funds are returned to ND DHHS, which administers the Medicaid program. Using a formula that determines the amount of federal match dollars North Dakota received for the funds, ND DHHS then calculates the amount that must be paid back to the federal government. ND DHHS retains the rest.

2. What is the bond term for current crime lab, and what was the cost of the building?

The 2007 legislative assembly provided a total of \$4,923,562 for constructing a new crime lab. The funding consisted of \$3,280,722 in bond proceeds from the 2005-07 bond issue which were intended for an addition to the old crime lab building. However, the Office of Attorney General chose not to construct the addition. The remaining funds, which were used for the new lab, included \$1,442,840 from the general fund and \$200,000 from other funds. The building was completed in October 2008.

3. Which FTE have been vacant over 18 months?

- a. Forensic scientist
- b. Paralegal
- c. Criminal Law Division Attorney – This position has been difficult to fill due to competing salary pressures from State's Attorneys' offices and the U.S. Attorney's office.
- d. Consumer Protection and Antitrust Attorney – This position was recently reclassified from a paralegal to an attorney, and we are seeking authority from you to fill this FTE with an attorney
- e. HIDTA Attorney

4. What are the salaries of all state government attorneys?

See the attached spreadsheet.

5. Why does it take as much time as it does to get an Attorney General opinion?

This is an area where we have an opportunity to improve. We have filled new positions in our General Counsel Division, which is responsible for managing almost all opinions, and our Division Director, Mary Kae Kelsch has worked hard to ensure the new attorneys are trained on state government practice and their areas of specialization. Improving turnaround times for open records/open meetings opinions and legal opinions is high on our list of priorities.

See the attached testimony of Mary Kae Kelsch. She is available to discuss this issue and answer questions.

6. What are the results from hiring BCI agents for the tribal areas?

Our new BCI agents who are serving tribal areas have been incredibly productive. In addition to the various types of onboarding and training they have completed, they have been actively assisting the federal Bureau of Indian Affairs, tribal law enforcement, and other local law enforcement to combat narcotics trafficking in North Dakota and assist with other investigations. They have had many successful seizures of narcotics, including fentanyl, methamphetamine, and marijuana. They also are providing narcotics education to tribal casino employees and performing other outreach activities.

BCI Director Lonnie Grabowska has collected statistics and other information on the work these agents are performing and will provide more detail.

7. What are the increased IT costs for maintenance? Provide information about the jail management system and SAVIN.

Annette Klein and Joe Schell from our IT/CJIS Division have provided the attached documents about these issues and are available to provide information and answer questions.

Maintenance increases:

- a. NDIR increased the monthly fees they charge us for items such as circuits to each location, various licensing costs such as for Office 365 and Adobe, and their monthly Technology Fee.
- b. Software license increases fall into two categories. The first are perpetual licenses where we pay a yearly maintenance contract for ongoing support and important updates to the software. The second are subscription-based licenses where we pay a yearly fee to continue using the product. Costs are increasing for both.

- c. In particular, the maintenance increases for the E-Prosecutor System will increase. Our office uses a document management system called JustWare, which also provides an interface to law enforcement agencies and courts. We offer this free of charge to State's Attorneys' Offices, and 34 of them use the system. This year, the vendor will no longer support JustWare, and we are replacing it with the vendor's new system, E-Prosecutor. As with all software, the maintenance costs for E-Prosecutor will be higher than the maintenance costs for the older software.

Jail management system:

The jail management system is part of the interconnected information system we offer to courts and local government entities free of charge. This larger system as a whole is designed to let jails, prosecutors, courts, victims, and victim advocates create, store, and – as appropriate – exchange records and information easily and reliably. Making the component systems function successfully for users requires complex work on our end. Each component system and each interface between systems is complicated and requires maintenance. But the end result is a much more efficient means of managing information.

The vendor of the current jail management system (Premier One) will no longer support that system in 2027. We need to purchase and install a replacement system that will have maintenance and update support from the vendor.

SAVIN:

SAVIN is the Statewide Automated Victim Information Notification System. We provide this system pursuant to N.D.C.C. 12.1-34-06, and it helps criminal justice agencies such as jails comply with requirements under Marsy's Law and N.D.C.C. Ch. 12.1-34. If a victim chooses to register in the system, SAVIN will notify the victim when their offender is released from custody, escapes, has scheduled court proceedings or parole reviews, or has other status changes.

About 2 years ago, the VINE system, which powers SAVIN, was purchased by a credit reporting agency. The new owner does not sufficiently support the system to keep it operating at an appropriate level. Critical problems go unresolved for lengthy periods of time, and the system must be replaced to satisfy the needs of victims, our office, and the criminal justice system.

8. Crime Lab – how has investment in ballistics and fingerprint disciplines paid off?

Re-establishing units in an accredited forensic crime lab is an exhaustive and time-consuming process. Even so, our Crime Lab successfully established a new, authorized latent fingerprint testing unit and will very soon have a newly authorized firearms testing unit. A tremendous amount of work has gone into these accomplishments.

See the attached testimony of Crime Lab Director Jennifer Penner. She is available to address this issue and answer questions.

9. Would we rather have new or vacant FTE or equity funding?

10. How much money is MFCU "leaving on the table" by not being able to take on more cases?

It is challenging to estimate how much money MFCU "leaves on the table" by being unable to investigate more cases within its authority. Each case is unique, and most are very complex. So the potential recovery in a case is hard to predict without an investigation. A person who defrauds Medicaid not only has to pay back the fraudulently gained funds but also can be subject to fines and penalties for each fraudulent claim. Depending on the facts and the defendant's ability to pay, each case can result in a wide range of recovery amounts.

To try to answer this question, we can look at some cases MFCU is handling or has handled. In one case, a provider was charged with felonies related to fraudulently billing Medicaid approximately \$50,000. In another, MFCU settled a case for approximately \$500,000. Other cases can be much smaller. One recent referrals seems to have involved possible billing fraud in the amount of approximately \$5000.

There are other, non-financial benefits to the state from adding an attorney FTE to MFCU as well. Deterrence, halting ongoing fraud and patient abuse, and quicker resolutions of cases are some of those benefits.

See the attached testimony of MFCU Director, Marina Spahr, for more information. She is available to address this issue and answer questions.

11. Set up a time for a tour of the Crime Lab.

12. OAG staff are present to answer questions.

- a. Finance
- b. General Counsel Division
- c. BCI, including Witness Victim Advocates
- d. MFCU
- e. Crime Lab
- f. IT/CJIS

If there is anyone else from our office you'd like to talk with, we would be happy to arrange that.

13. As requested, the following individuals also are present for questions.

- a. Human Trafficking grantees
- b. Forensic Nurse Examiner grantees

Agency	Position Title	Comp Rate
10100 Governor's Office	General Counsel	\$12,500.00
16000 Legislative Council	Director	\$22,123.00
16000 Legislative Council	Legal Division Director	\$16,855.00
16000 Legislative Council	Assist Legal Division Director	\$11,250.00
16000 Legislative Council	Code Revisor	\$10,835.00
16000 Legislative Council	Counsel	\$9,425.00
16000 Legislative Council	Counsel	\$9,057.00
16000 Legislative Council	Counsel	\$8,792.00
16000 Legislative Council	Counsel	\$7,500.00
16000 Legislative Council	Counsel	\$7,333.00
48500 Workforce Safety & Insurance	General Counsel	\$14,933.88
48500 Workforce Safety & Insurance	Attorney	\$10,268.49
48500 Workforce Safety & Insurance	Attorney	\$6,982.93
53000 Corrections & Rehab	Attorney III	\$12,677.60
12500 Attorney General	Attorney General	\$15,540.38
12500 Attorney General	Chief Deputy Attorney General	\$14,295.00
12500 Attorney General	Assistant Attorney General	\$13,268.00
12500 Attorney General	Assistant Attorney General	\$11,748.00
12500 Attorney General	Assistant Attorney General	\$11,283.00
12500 Attorney General	Assistant Attorney General	\$11,269.00
12500 Attorney General	Assistant Attorney General	\$11,250.00
12500 Attorney General	Assistant Attorney General	\$10,879.00
12500 Attorney General	Assistant Attorney General	\$10,681.00
12500 Attorney General	Assistant Attorney General	\$10,227.00
12500 Attorney General	Assistant Attorney General	\$9,967.00
12500 Attorney General	Assistant Attorney General	\$9,944.00
12500 Attorney General	Assistant Attorney General	\$9,646.00
12500 Attorney General	Assistant Attorney General	\$9,625.00
12500 Attorney General	Assistant Attorney General	\$9,583.33
12500 Attorney General	Assistant Attorney General	\$9,166.66
12500 Attorney General	Assistant Attorney General	\$9,100.00
12500 Attorney General	Assistant Attorney General	\$8,939.00
12500 Attorney General	Assistant Attorney General	\$8,857.00

12500 Attorney General	Assistant Attorney General	\$8,750.00
12500 Attorney General	Assistant Attorney General	\$8,750.00
12500 Attorney General	Assistant Attorney General	\$8,750.00
12500 Attorney General	Assistant Attorney General	\$8,493.00
12500 Attorney General	Assistant Attorney General	\$8,060.00
12500 Attorney General	Assistant Attorney General	\$7,973.00
12500 Attorney General	Assistant Attorney General	\$7,800.00
12500 Attorney General	Assistant Attorney General	\$7,800.00
12500 Attorney General	Assistant Attorney General	\$7,666.66
12500 Attorney General	Assistant Attorney General	\$7,666.66
12500 Attorney General	Assistant Attorney General	\$7,540.00
12500 Attorney General	Assistant Attorney General	\$7,367.00
12500 Attorney General	Assistant Attorney General	\$7,020.00
12500 Attorney General	Assistant Attorney General	\$6,916.00
12500 Attorney General	Assistant Attorney General	\$6,833.00
12500 Attorney General	Assistant Attorney General	\$6,750.00
12500 Attorney General	Assistant Attorney General	\$6,750.00
18000 State Judiciary	STAFF ATTORNEY-SUPREME COURT	\$12,580.00
18000 State Judiciary	DISCIPLINARY COUNSEL	\$12,086.00
18000 State Judiciary	STAFF ATTORNEY-STATE COURT ADM	\$11,149.00
18000 State Judiciary	STAFF ATTORNEY-STATE COURT ADM	\$10,283.00
18000 State Judiciary	STAFF ATTORNEY-SUPREME COURT	\$10,283.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,878.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,878.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,878.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,878.00
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18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,878.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,878.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,878.00
18000 State Judiciary	ASSISTANT DISCIPLINARY COUNSEL	\$9,857.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,484.00

18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,484.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,484.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,484.00
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18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,484.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,484.00
18000 State Judiciary	STAFF ATTORNEY-STATE COURT ADM	\$9,484.00
18000 State Judiciary	STAFF ATTORNEY-SUPREME COURT	\$9,484.00
18000 State Judiciary	STAFF ATTORNEY-SUPREME COURT	\$9,484.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,108.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,108.00
18000 State Judiciary	STAFF ATTORNEY-DISTRICT COURT	\$9,108.00
12700 State Tax Commissioner	Attorney III	\$10,972.00
12700 State Tax Commissioner	Attorney III	\$8,750.00
12700 State Tax Commissioner	Attorney I	\$7,780.00
18800 Legal Counsel for Indigents	Attorney III	\$11,012.67
18800 Legal Counsel for Indigents	Attorney III	\$10,535.38
18800 Legal Counsel for Indigents	Attorney III	\$10,435.98
18800 Legal Counsel for Indigents	Attorney III	\$9,895.45
18800 Legal Counsel for Indigents	Attorney III	\$9,103.50
18800 Legal Counsel for Indigents	Attorney III	\$9,066.69
18800 Legal Counsel for Indigents	Attorney II	\$8,907.96
18800 Legal Counsel for Indigents	Attorney II	\$8,423.28
18800 Legal Counsel for Indigents	Attorney II	\$8,404.40
18800 Legal Counsel for Indigents	Attorney II	\$8,205.29
18800 Legal Counsel for Indigents	Attorney II	\$8,205.29
18800 Legal Counsel for Indigents	Attorney II	\$8,047.49
18800 Legal Counsel for Indigents	Attorney II	\$7,214.16
18800 Legal Counsel for Indigents	Attorney II	\$7,068.60
18800 Legal Counsel for Indigents	Attorney I	\$6,519.08
19500 Ethics Commission	Attorney II	\$8,840.00
22600 ND Department of Trust Lands	Assistant Attorney General	\$9,660.00
32500 ND Health and Human Services	Lead Attorney	\$10,356.00

32500 ND Health and Human Services	Attorney	\$10,200.00
32500 ND Health and Human Services	Attorney II	\$9,400.00
32500 ND Health and Human Services	Attorney II	\$9,400.00
32500 ND Health and Human Services	Lead Attorney	\$9,312.00
32500 ND Health and Human Services	SS - Attorney II	\$9,200.00
32500 ND Health and Human Services	Attorney	\$9,100.00
32500 ND Health and Human Services	Attorney	\$9,100.00
32500 ND Health and Human Services	Attorney II	\$9,100.00
32500 ND Health and Human Services	Lead Attorney	\$8,654.00
32500 ND Health and Human Services	Lead Attorney	\$8,424.00
32500 ND Health and Human Services	Lead Attorney	\$8,320.00
32500 ND Health and Human Services	Lead Attorney	\$8,076.00
32500 ND Health and Human Services	Lead Attorney	\$8,076.00
32500 ND Health and Human Services	Attorney	\$7,863.00
32500 ND Health and Human Services	Attorney	\$6,903.00
32500 ND Health and Human Services	Attorney	\$6,864.00
32500 ND Health and Human Services	Attorney	\$6,760.00
32500 ND Health and Human Services	Attorney	\$6,733.00
32500 ND Health and Human Services	Attorney	\$6,599.00
32500 ND Health and Human Services	Attorney	\$6,595.00
32500 ND Health and Human Services	Attorney	\$6,550.00
32500 ND Health and Human Services	Attorney	\$6,500.00
32500 ND Health and Human Services	Attorney	\$47.86
36000 Protection and Advocacy	Attorney III	\$8,587.30
36000 Protection and Advocacy	Attorney II	\$7,319.87
36000 Protection and Advocacy	Attorney II	\$7,200.00
40100 Insurance Department	Attorney Insurance Dept	\$8,358.18
40100 Insurance Department	Attorney Insurance Dept	\$8,208.93
40100 Insurance Department	Attorney Insurance Dept	\$8,066.23
40100 Insurance Department	Attorney Insurance Dept	\$7,971.60
40800 Public Service Commission	Attorney III	\$11,373.00
40800 Public Service Commission	Attorney II	\$8,261.00
41400 Securites Department	Attorney	\$9,783.00
60200 Department of Agriculture	Attorney II	\$11,186.00
80100 Department of Transportation	General Counsel	\$11,774.00
80100 Department of Transportation	Staff Attorney	\$9,769.00

HOUSE APPROPRIATIONS COMMITTEE
EDUCATION AND ENVIRONMENT DIVISION
JANUARY 29, 2025
TESTIMONY OF JENNIFER PENNER
OFFICE OF ATTORNEY GENERAL-CRIME LABORATORY

Mr. Chairman, members of the Committee,

I am Jennifer Penner, Director of the Crime Laboratory for the Office of Attorney General. I am here today to provide you with an update on the progress made with bringing the Latent Prints and Firearms units back to the crime laboratory.

The crime lab has hired three of the four total examiner positions in the Firearms and Latent Prints units and these examiners are currently working at the laboratory. Unfortunately, the lab has experienced a few setbacks with filling the final examiner position in the Firearms unit. The position was offered to two different individuals but ultimately was not filled. The position had to repost several times and is currently being advertised again and will hopefully be filled in the near future.

All of the required equipment has been purchased for both the Firearms and Latent Print units. The technical leaders for both of these units have spent the past year writing numerous policies and procedures for their sections as well as completing the validations of each procedure and piece of equipment prior to their use in casework as required by the laboratory's accreditation. The technical leader of the Latent Prints unit has been authorized for casework and the laboratory is now accepting submissions of Latent Print cases from agencies. The Firearms technical leader is still finalizing the last few procedures and will be authorized for casework soon. Submissions of Firearm evidence from law enforcement agencies will be allowed shortly after. Until the trainee positions within each of these units has completed their training program, the crime lab has established an MOU with the South Dakota forensic laboratory for peer review of the Latent Print unit technical leader's cases, and the lab is in the process of finalizing an MOU agreement with the Montana forensic laboratory for peer review of the Firearm unit technical leader's cases.