

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2151

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Operator's Signature

Yherosa J. Lee

Date

10-16-03

2003 SENATE JUDICIARY

SB 2151

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Yvonne A. Lee
Operator's Signature

10-16-03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2151

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 01/22/03

Tape Number	Side A	Side B	Meter #
1		X	18.5 - 36.2
Committee Clerk Signature			

Minutes: **Senator John T. Traynor, Chairman**, called the meeting to order. This was a joint Session with Senate and House Representatives Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill.

Testimony in support of SB 2151

Wayne Stenehjem Introduced the Bill (Tape 1, Side 1, meter 17.8 to 40.1)

Edward Erickson Introduced the Bill (Tape 1, Side 2, meter 18.5) Assistant Attorney General

Attachment #1. Read

Rep Delmore asked for clarification as to why transfer the locations? This is a policy decision.

Please Notice Fiscal Note Sen. Traynor noted.

Senator Carolyn Nelson asked in regard of Administrative Process. The process is separate now and this would moving locations would not change this

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Senate Judiciary Committee

Bill/Resolution Number 2151

Hearing Date 01/22/03

Sandi Tabre stated the Health Department would like the Crime Lab in a different location due to many reasons. Including Space, no undue influences ect. In most other states it is under the Attorney Generals department.

Hope Olson -Sr. Chemist with the Crime Lab Division Director (Attachment #2) meter 29.0

Read her testimony in support of.

Scott Bushman - Sheriff and President of ND Sheriffs Deputy Assoc. and we are in support of this bill. (meter 31.2)

Testimony in opposition of SB 2151:

none

Testimony Neutral to SB 2151:

.none

Senator John T. Traynor, Chairman closed the hearing

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10-16-03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2151

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 01/27/03

Tape Number	Side A	Side B	Meter #
1		X	28.5 - 35.0
Committee Clerk Signature			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with committee work on the bill.

Testimony in support of SB 2151

Sandi Tabre was available to answer questions. This bill is only language changes to physically move the office to a new location. Senator Carolyn Nelson wanted another run down of the actual reporting levels (meter 30).

Fiscal Note to Appropriation.

Discussion of the actual physical location of present facility. The facility presently is overcrowded and people have to share work spaces that can. Discussion of computer systems in the current location. Discussion Emergency Clause and July 1st dead line.

Testimony in opposition of SB 2151:

none

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Senate Judiciary Committee

Bill/Resolution Number 2151

Hearing Date 01/27/03

Testimony Neutral to SB 2151:

none

Senator Carolyn Nelson motioned a DO PASS. Senator Thomas L. Trenbeath second the motion.

Roll Call Vote: 6Yes. 0 No. 0 Absent

Motion carried,

Carrier: Senator Dick Dever

Senator John T. Traynor, Chairman closed the hearing

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Y. Teresa J. Lee
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10-16-03
Date

FISCAL NOTE
Requested by Legislative Council
01/03/2003

Bill/Resolution No.: SB 2151

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$1,588,361	\$1,516,813	\$1,588,361	\$1,516,813
Appropriations	\$0	\$0	\$1,588,361	\$1,516,813	\$1,588,361	\$1,516,813

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

☐ This bill transfers the Crime Laboratory from the Health Department to the Office of Attorney General. The fiscal impact shown reflects the transfer to be made from the Health Department. This transfer is included in the Executive Recommendation.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Not applicable

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The expenditures reflect amounts transferred from the Health Department.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The appropriations reflect amounts transferred from the Health Department.

Name:	Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-3622	Date Prepared:	01/15/2003

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10-16-03
Date

Date: January 27, 2003
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2151

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS to appropriations

Motion Made By Senator Carolyn Nelson Seconded By Senator Thomas L. Trenbeath

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	X	
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) SIX (6) No ZERO (0)

Absent Zero (0)

Floor Assignment Sen. Dever

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

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Yubereca d. Lee
Operator's Signature

10-16-03
Date

REPORT OF STANDING COMMITTEE (410)
January 27, 2003 2:11 p.m.

Module No: SR-15-1146
Carrier: Dever
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2151: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2151 was rereferred to the Appropriations Committee.

(2) DESK, (3) COMM

Page No. 1

SR-15-1146

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10-16-03
Date

2003 SENATE APPROPRIATIONS

SB 2151

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10-16-03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2151

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 3, 2003

Tape Number	Side A	Side B	Meter #
#1	x		12- 1250
Committee Clerk Signature <i>Jan Hendrickson</i>			

Minutes:

Senator Holmberg, chair started the meeting with roll call. All members present.

Senator Holmberg introduced a young man from Ekaterinberg, Russia, which is on the Asian side of the Ural mountains, Denis Sorkin is a student (junior) at UND in accounting. He was here to look at the legislative process.

Senator Holmberg, chair, opened the hearing on SB 2151 (#122).

Attorney General, Wayne Stenehjem testified in support of SB 2151. This bill is to create and enact a new section to chapter 54-12 of the NDCC which would transfer the state crime laboratory division including the state toxicologist to the office of the attorney general and to provide for transfer of related administrative rules. (No written testimony). This bill came about because local law enforcement agencies came to him and asked him if he would consider moving the Crime Lab from the Health department into the Attorney General's office. Part of the reason for that is that just about in every state where the Attorney General has law enforcement

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Yvonne J. Lee
Operator's Signature

10-16-03
Date

Page 2

Senate Appropriations Committee

Bill/Resolution Number SB 2151

Hearing Date February 3, 2003

authority, the Crime Lab is a part of the Attorney General office. The appropriation is already in the Attorney General's budget. This bill is the implementing legislation that will transfer into the Attorney General's office. A bit of history regarding this is found in Section 12-60.21 of NDCC a law that passed in 1973, that states that the Attorney General shall have authority to establish a scientific laboratory to be part of the Bureau of Criminal Investigation. The Attorney General shall specify the functions and duties of the laboratory. That has been on the books since 1973 and for some reason that has never occurred. It might have been an economic or appropriations reason, but for some reason it was felt it should stay at the Health Department. This SB 2151 simply accomplishes the changes that were in those provisions. All monies are already in the Executive budget. There is no future financial consideration of this bill.

Questions: (#335)

Senator Krauter: Wanted to know what other offices are in the Health Department.

Mr. Stenehjem replied that there were others here that could answer that more, but some of the other functions that they have, have to do with municipal water supplies, testing and those kinds of things, environmental things that will stay with the Health Department. Senator Krauter continued: He wanted to know if they would be taking over all of the labs, etc? Mr. Stenehjem replied that it would only be that part that dealt with criminal analysis. There is a 3 stage program going on that will expand the Health department because it is so crowded. Senator Mathern: (#510) What is the long term consequences when the toxicologist moves from a department of Health to Attorney General office, from a general health to a law enforcement.

Are there some things we are losing, or gaining? Attorney General: The state toxicologist does not have any public health duties, he simply receives and analysis and testifies in criminal cases

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Yubereca d. Lee
Operator's Signature

10-16-03
Date

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Senate Appropriations Committee

Bill/Resolution Number SB 2151

Hearing Date February 3, 2003

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10-16-03
Date

Page 3

Senate Appropriations Committee

Bill/Resolution Number SB 2151

Hearing Date February 3, 2003

involving cases of driving under the influence. Senator Lindaas (#649) Are you doing a physical move? Attorney General: There is a long term plans, but for now our intentions simply for them

to stay where they are now. Senator Lindaas : Any overlapping? Attorney General: Not they

knew of, they would continue to share equipment if necessary. Senator Thane (#827) Is there

anything new in Section 12 of the bill that would offend those that are concerned about sunshine

laws? Or is this already covered under existing law that they cannot disclose any information?

Attorney General: As far as closed records, records of law enforcement agencies are closed while

an investigation is going on but once the investigation is complete, as a general rule those records

become open records. Senator Andrist: (#916) Will your operation stay in the East building?

Attorney General: for now, there is the phased plan to increase the space of the State Lab, we

would be a part of that.

With no other questions or testimony, the hearing on SB 2151 was closed by Senator Holmberg,

chair. (#1132).

Senator Holmberg continued. This is a bill that came from Judiciary Committee. All of the

financial aspects are in the budget. Motion by Senator Tallackson for a DO PASS, seconded by

Senator Kringstad. No discussion. Roll call vote (attached) 14 yes, 0 no, 0 absent and not

voting.

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Theresa J. Lee
Operator's Signature

10-16-03
Date

Date: 2-3-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2151

Senate Appropriations

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do Pass

Motion Made By Senator Tallackson Seconded By Senator Kringstad

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann	✓				
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Judiciary Dever

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

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Operator's Signature

10-16-03
Date

REPORT OF STANDING COMMITTEE (410)
February 3, 2003 9:13 a.m.

Module No: SR-20-1493
Carrier: Dever
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2151: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS**
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2151 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-20-1493

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10-16-03
Date

2003 HOUSE JUDICIARY

SB 2151

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Yuberec J. Lee
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10-16-03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2151

House Judiciary Committee

☐ Conference Committee

Hearing Date 3-5-03

Tape Number	Side A	Side B	Meter #
2	XX		13-13.6 / 39.4-40.9
Committee Clerk Signature <i>d Penrose</i>			

Minutes: 12 members present, 1 member absent (Rep. Wrangham)

The original hearing was held on January 22, 2003 in the Pioneer Room as a Joint Session with the Senate. The minutes are attached. Attachments can be found with the Senate minutes in the library.

Chairman DeKrey: We heard this bill so I would like to do committee work.

Sandi Tabor, Deputy AG: (See attached updated overview). This bill deals with the transfer of the crime lab and that bill received no amendments in the Senate. So it is as it was when you heard it.

Chairman DeKrey: Thank you.

(Reopened later in the afternoon)

Chairman DeKrey: What are the committee's wishes in regard to SB 2151.

Rep. Eckre: I move a Do Pass and rerefer to Appropriations.

Rep. Boehning: Seconded.

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Y. Herrera d. Lee
Operator's Signature

10-16-03
Date

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House Judiciary Committee

Bill/Resolution Number SB 2151

Hearing Date 3-5-03

11 YES 0 NO 2 ABSENT DO PASS/REREFER TO APPROPS. CARRIER: Rep. Eckre

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Yheresa J. Lee
Operator's Signature

10-16-03
Date

Date: 3/5/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2151

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass + Rerefer to Approps.

Motion Made By Rep. Eckre Seconded By Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein	AB		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemm	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	AB				

Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep. Eckre

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

Referred to Approps.

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Yvonne A. Lee
Operator's Signature

10-16-03
Date

REPORT OF STANDING COMMITTEE (410)
March 17, 2003 11:24 a.m.

Module No: HR-47-4892
Carrier: Eckre
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2151: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2151 was rereferred to the Appropriations Committee.

(2) DESK, (3) COMM

Page No. 1

HR-47-4892

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10-16-03
Date

2003 HOUSE APPROPRIATIONS

SD 2151

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Yvonnea J. Lee
Operator's Signature

10-16-03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2151

House Appropriations Committee

☐ Conference Committee

Hearing Date 03-25-03

Tape Number	Side A	Side B	Meter #
2	X		5.0 - 8.0
Committee Clerk Signature <i>Chris S. Svedjan</i>			

Minutes:

Chairman Svedjan Opened SB 2151 for discussion. A quorum was present.

Rep. Carlisle This moves the crime lab into the Attorney General's Office. The funding for that is in the executive recommendation for the AG's office.

Rep. Warnke The question is we deleted 14 FTE's to the Health Department, but we are adding more than 14 to the AG's budget. They added more for operating to the AG's budget than we deleted from the Health Department's budget.

Allen Knudson, LC The first two items on the green sheet for the Attorney General talk about the transfer of the 14.5 positions from the Health Department, and in addition to that there was an increase in funding to the Attorney General's budget of about \$300,000 for additional operating costs and for the new FTE that is added in.

Rep. Delzer We have to ask questions on this.

Chairman Svedjan Closed discussion on SB 2151.

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Y. Herrera
Operator's Signature

10-16-03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2151

House Appropriations Committee

☐ Conference Committee

Hearing Date March 26, 2003

Tape Number	Side A	Side B	Meter #
1		x	21
Committee Clerk Signature <i>Chris S. Nelson</i>			

Minutes:

REP. SVEDJAN Called the committee to order.

SANDY PAULSON, OFFICE MANAGEMENT & BUDGET Appeared before the committee to explain some discrepancies in their budget.

REP. GLASSHEIM Stated when he added up the two lines for the governor, and then the fiscal note, had a one hundred thousand dollar discrepancy, the first few items on the green sheet, regarding the health department, stating about 3.1, and then the fiscal note adds up to about 3.0

SANDY PAULSON Stated the fiscal note was done by the Attorney General's office.

REP. GLASSHEIM Stated he thought the general fund column had a \$50,000 discrepancy.

REP. SVEDJAN Stated there was a difference between the green sheet and the spread sheet.

REP. WARNKE Stated the differences amount to the benefits package.

REP. WARNER What we are doing here is transferring the statistical analysis of evidence from an independant agency to a prosecutorial agency. He stated he used to work in that sort of

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10-16-03
Date

Page 2

House Appropriations Committee

Bill/Resolution Number SB 2151

Hearing Date March 26, 2003

situation before. This has caused problems in other parts of the country. There are implications, but stated he would support it.

REP. WALD Made a motion for a **DO PASS**

REP. TIMM Second the motion. Motion carried 21 Yes 0 No

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Date

2003 TESTIMONY

SB 2151

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Attachment #1

Senate Bill 2151
Before the Senate and House Judiciary Committees
Edward Erickson, Assistant Attorney General
January 22, 2003

same
testing
to
house

Chairman Traynor and members of the Senate Judiciary Committee and Chairman DeKrey and members of the House Judiciary Committee, good morning. I am Edward Erickson and I am an Assistant Attorney General. Senate Bill 2151 transfers the Forensic Science Division and the State Toxicologist from the Department of Health to the Attorney General's Office in order to form the State Crime Laboratory. This bill requires the State Crime Laboratory to be kept administratively separated from the Bureau of Criminal Investigation. No other substantive changes are being made and the State Forensic Examiner will remain with the Department of Health under this bill.

Sections 1 and 2 of the bill make amendments to Title 19 of the North Dakota Century Code, which addresses foods, drugs, oils, and compounds. The State Department of Health will continue to perform laboratory testing of foods and beverages but laboratory testing concerning criminal investigations, including illegal drugs, will be transferred to the State Crime Laboratory under the Attorney General.

Section 3 of the bill changes a reference to the State Toxicologist from being part of the Department of Health to being under the authority of the Attorney General. The specific law being changed exempts the State Toxicologist from the Administrative Agencies Practice Act. This amendment does not change that present law.

Sections 4 through 10 of the bill change references to the Forensic Science Division of the Department of Health to the State Crime Laboratory throughout

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10-16-03

chapter 31-13, which governs DNA testing for law enforcement purposes. Another bill, House Bill No. 1235, makes substantive changes to several of these statutes, and those changes are compatible with this bill.

Section 11 of the bill makes a change from the Forensic Sciences Division to the State Crime Laboratory concerning alcohol or drug testing in Title 39 of the Century Code, which concerns motor vehicles. Other references to alcohol or blood testing in Title 39 did not require changes because they referred to the State Toxicologist but did not refer to the Department of Health or the Forensic Sciences Division.

Section 12 of the bill creates the State Crime Laboratory Division in the Office of Attorney General. This section was modeled after existing legislation creating the Consumer Protection and Antitrust Division of the Attorney General's Office, and also includes provisions taken from existing law at section 23-01-09.1, which created the State Toxicologist and defined the State Toxicologist's duties. The Division Director serves at the pleasure of the Attorney General, but the State Merit System covers all other employees, including the State Toxicologist.

Section 13 of the Bill repeals three sections. Sections 12-60-21 and 12-60-22 relate to laboratory functions being performed by the Bureau of Criminal Investigation. Section 23-01-09.1 created the Office of State Toxicologist in the State Department of Health. As stated previously, this language was transferred to the Attorney General in section 12 of the Bill.

Section 14 of the Bill operates to transfer existing administrative rules regarding the State Crime Laboratory to the Office of Attorney General and allows references within those rules to be changed to conform to this Act. This section also provides that

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any certifications, designations or approvals made by the State Toxicologist before the effective date of the act continue to be valid after the effective date. This continued validity is necessary so that the legal authority for officers who have been trained and certified to perform blood alcohol testing will continue uninterrupted.

Section 15 provides an effective date to coincide with the fiscal year and section 16 declares the act to be an emergency measure. The fiscal note on the bill shows the transfer of the Forensic Sciences Division budget from the Health Department to the Attorney General's Office for the State Crime Laboratory.

Thank you for your time. I would be pleased to answer any questions you might have.

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Attachment #2

Testimony

Senate Bill 2151

Senate and House Judiciary Committees

January 22, 2003

11:00 a.m.

North Dakota Department of Health

Mr. Chairmen and members of the Senate and House Judiciary Committees, I am Hope Olson, Senior Chemist with the Crime Laboratory Division of the North Dakota Department of Health. I am here to testify in support of Senate Bill 2151.

The primary mission of the Crime Laboratory Division is to provide scientific support to the state's criminal justice system through the analysis, identification, and comparison of physical evidence used in the investigation and prosecution of criminal offenses.

The mission of the Department of Health is to ensure that North Dakota is a healthy place to live through the promotion of healthy lifestyles, protection and enhancement of health and the environment, and provision of quality health care services for the people of North Dakota.

The Department of Health supports the transfer of the Crime Laboratory to the Attorney General's office for two reasons. First, as indicated above, the mission of the Crime Laboratory is inconsistent with the mission of the Department of Health. Second, the Department is aware of stakeholder support of the transfer, as evidenced in a Nov. 24, 2001, letter from the North Dakota Peace Officer's Association to the Governor's Office.

The Department of Health would appreciate your favorable response to Senate Bill 2151. I am happy to answer any questions committee members may have in relation to this bill.

Thank you.

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ENGROSSED SB 2151

Transfers the Crime Lab to the Attorney General's Office

The bill amends various sections of the Century Code relating to the crime lab. In particular, section 12 provides that the state crime lab will become a division of the Attorney General office and transfers existing statutory language regarding the operations of the lab to the chapter of the Century Code pertaining to the Attorney General. Funding for the transfer is included in the Attorney General's budget. The bill includes an emergency clause, and an effective date of July 1, 2003.

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Testimony

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Senate and House Judiciary Committees

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