

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1003

2005 HOUSE APPROPRIATIONS

HB 1003

Mr. Merl Paaverud and Robert Schlobohm spoke for the State Historical Society. (handout #3-14, attached) (meter Tape #3, Side A, #46.8). Mr. Schlobohm discussed variances described in handout and noted that their only carry over authority was in capital assets within Lewis and Clark. The decrease is due to the fact that the project is complete. Mr.. Paaverud noted that services were needed throughout the state and that funding is being sought for FTE positions.

Mr. Wayne Stenehjem Attorney General, distributed handout # 3-15 and discussed the 7 variances listed on page 2. (meter Tape #3, side B, #3.8) While discussing these, it was determined that the figures in the handout were in the wrong columns and would be corrected for the committee. (corrected version of handout is attached). Discussion ensued regarding "off Budget" positions in budgets and information was requested from Legislative Council concerning all agencies with off budget employees and whether or not these funds were included in the budgets and where.

Ms Teresa Larson spoke for Protection and Advocacy. (handout #3-16, attached) (meter Tape #3, side B, #15.5) Ms Larson read her written testimony and explained that this is the first time they have ever seen a decrease in federal dollars (mental Health Grant) which means an increase in operating expenses. Ms Larson continued by explaining their performance measurements listed on page 4 of handout.

Mr. Paul Shadwall from the Game and Fish Department reviewed the 8 variances listed on distributed handout #3-17 (attached). (meter Tape #3, side B, #33.2)

Mr. Sparb Collins from Public Employee Retirement System Distributed and reviewed handout #3-18 (attached). (meter Tape #3, side B, #44.7) Mr. Collins explained that the increase in Health Insurance is found in each agency's salary line and that the \$3000,000 increase is all

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2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Monday, January 17, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
| 1 | X | | 00-5934 |
| | | X | 00-6 |

Committee Clerk Signature



Minutes:

Chairman Carlisle called to order Hearing HB 1003 regarding the Attorney General.

Mr. Wayne Stenehjem, Attorney General, State of North Dakota, submitted written testimony for the record (See Handout #1). He introduced the following division directors:

Charles Carvell, Natural Resources and Indian Affairs; Kathy Roll, Finance and Administration; Parrell Grossman, Consumer Protection and Antitrust; Dean Meyer, Racing Commission; Jerald Kemmet, Bureau of Criminal Investigation; Hope Olson, Crime Lab; Cher Thomas, Information Technology; Renae Gall, Human Resources; Chuck Keller, Lottery; and Doug Bahr, Civil Litigation.

A.G. Stenehjem reviewed main points in his testimony. In reference to the school finance lawsuit, **A.G. Stenehjem** informed the Committee that last session \$240,000 was appropriated for these litigation expenses, such as expert witnesses, and out of pocket expenses. This money

will be depleted by the end of this biennium, so the Dept. is asking for like amount for this biennium **Rep. Timm** asked the A.G. who finances the legal fees for the schools and the A.G. said the plaintiff school districts are paying for the fees. He is not aware of what that costs; the information is available through open records. He referred the question to **Mr. Doug Bahr**. Mr. Bahr said the information was requested orally, but there was no response. That was followed up in writing, but the information is still unknown. According to the paper last session, they estimated hundreds of thousands. (Meter #355) The A.G. said he would continue to follow up on this information.

In reference to the meth labs, **A.G. Stenehjem** stated this is the most serious law enforcement issue facing N.D. One encouraging statistic is that last year the number of meth labs seized in N.D. was reduced to 42. There are several reasons, one is due to laws the legislature passed restricting precursor chemicals that could be purchased. The legislature also provided additional BCI agents who've helped with enforcement. On the negative side crystal meth, a purer form of meth, is more readily available. This comes in from super labs in California, Arizona, and Mexico.

Rep. Timm asked about the pilot tank lock program in Williams and McKenzie counties where most of the meth labs are and whether or not the Dept. plans to expand the program. **A.G. Stenehjem** said that these counties represent about a third of the activity in the state, but that there were no thefts reported since the program began. No legislation will be introduced this session to expand the program. The Dept. may ask surrounding counties to volunteer to use locks provided. He mentioned the studies in Iowa which may render meth unfit for drug use. The other possibility is the ephedrine free Sudafed.

Rep. Kroeber asked if the reason drug busts are up in Fargo is because of crystal meth and **Rep.**

Kempnich asked whether or not there are any super labs in N.D. **A.G. Stenehjem** confirmed the comment about drug busts. Crystal meth is relatively new, but very powerful and it comes in through the I-29 & I-94 corridors. He doubts that a super lab exists in N.D.

A.G. Stenehjem said the good news is that many of the big operators are in jail and there's no parol in the federal system.(Meter #1073)

In reference to the sex offender web site, **A.G. Stenehjem** informed the Committee that there have been 300,000 hits in the past two years; the numbers have increased significantly since the Dru Sjodin incident.

In reference to a question about whether or not the lottery is part of a multi-state system, **A.G. Stenehjem** stated that N.D. is required to participate. The State can not run a game on its own.

In reference to HB 12 35 (See p. 5, Handout #1) and the issue of DNA testing. **Chairman Carlisle** asked who tests for DNA now and why the testing would be outsourced. **A.G.**

Stenehjem deferred the question to **Hope Olson, Director of the Crime Lab.** and she stated that currently the lab does DNA testing for convicted offenders and case work. Outsourcing is cheaper than and adding an additional employee and building additional space for the lab. In answer to questions she explained that if the lab were to process all felons it would be about 2,500 for the biennium. Currently, the lab collects and analyzes about 300, so it would be a significant increase in work.

In reference to the section on Requested Enhancements (See p. 7, Handout #1) **Rep. Timm** asked if these requests were over and above those recommended in the budget and **A.G. Stenehjem** confirmed.

In reference to the Lottery FTE (See p. 8, Handout #1) **A.G. Stenehjem** informed the Committee that this past year, the overtime put in equaled one year.

In reference to the Byrne Memorial Grant Funding (See p. 8, Handout #1), **Rep. Timm** asked whether or not all states are getting funding cuts. **A.G. Stenehjem** said that the states that suffer the most are the small states that are relatively crime free. N.D. lost 44%. California will lose 2%. **A.G. Stenehjem** deferred to **Jerry Kemmet, Director of BCI**, (Meter #2587), to explain how the funds are allocated. **Dir. Kemmet** said there are 9 narcotics task forces that are funded throughout the State. Under Byrne, 58% of the \$3.2 million is awarded to local entities and 42% is awarded to State entities. The cut reduces \$2.3 million to \$1.34 million. Some would be awarded directly to the cities which would leave us about \$800,000 to award and this would cut into the task forces drastically.

Rep. Williams asked for the rationale for the cuts in federal funding. **Dir. Kemmet** said he did not know what the rationale is. The formula seems to discriminate against states with low populations and low crime rates. South Dakota and Wyoming are in the same position. **Dir.** said, "we have a low crime rate in N.D. *because* of these task forces." If the Dept. takes those 25 local officers off the street, that will leave just 32 BCI agents, with 4 officers in each one of the major cities and that will be the extent of narcotics enforcement in N.D.

Rep. Williams asked where that money is going and **Dir. Kemmet** speculated that it may be going to Homeland Security.

A.G. Stenehjem said that the Congressional delegation has been helpful in retaining funds in the past. The funding from the Byrne Grant will continue through January 1, 2006.

After reviewing the Staff Equity Adjustments (pp. 9-10, Handout #1), **A.G. Stenehjem** deferred to **Ms. Kathy Roll, Director of Finance and Administration Division. Chairman Carlisle** asked Dir. Roll to provide a memo justifying any equity adjustments the Dept. is requesting and Dir. Roll confirmed that the Dept. would do so.

Rep. Timm asked if the Dept. is asking for replacement funds for the Bryne Grant and whether or not that was included in the budget. **Dir. Roll** said they are requesting funding through the Proposed Amendment to 2005 House Bill No. 1003 (see p. 11, Handout #1), and that the Dept. was not aware of the cuts until after the Governor's Budget was finished. With respect to this request, **A.G. Stenehjem** restated that the Dept. will vigorously work with the Congressional delegation to protect grant monies. **Chairman Carlisle** asked what would happen if the Dept. didn't get the money, would the Dept. be able to run the programs and **A.G. Stenehjem** stated the Dept. would be seriously hampered.

Rep. Williams wanted to confirm that the requests on pp. 7-9 and part of 10 were submitted to the Governor's Budgets and were probably cut because of budgetary constraints. **Dir. Roll** referred to p. 7 and the federal alcohol analysis supplies funding (See Handout #1). The D.O.T. just informed the Dept. of this need, so it was not included for that reason. On p. 8 with regard to the lottery FTE's, those positions are funded by continuing appropriations. This was noted in the budget request submitted to the Governor, but the Dept. was told to include that in the budget presentation. The Bryne Memorial Grant, too, is a recent issue.

Rep. Aarsvold, District 20, testified in regard to the funding appropriations for the Racing Commission. He explained that the industry is fairly new to N.D. So far the participation at

racetrack events has been very strong. He is opposed to taking some of the prize and horse-breeder funds away from the industry.(Meter #4124)

Mr. Chris Moen, President of Thoroughbred Association, stated that the original law was intended to return a fraction of the dedicated funds back to the industry. In the last session during a time of high betting, the industry allowed a reduction in dedicated funds of \$50,000 to help offset the cost of the operation of the office. It wasn't intended to be a biennial reduction. The funds are needed to promote the breeds and industry as a whole. The group thinks that the money that goes to the general fund should go through the Commission Office so that it is funded through general fund monies and then whatever is left over beyond the cost of the operation of the office would continue to go to the general fund.

Chairman Carlisle called the Committee's attention to an OMB letter which arrived just before the hearing regarding off budget or continuing appropriations for the 8 lottery FTE's (See Handout #2). He asked representatives from OMB and Legislative Council if they could advise as to how this is supposed to work. **Ms. Paulson, OMB**, said these should just continue; OMB just wanted the Committee to be aware of the positions. **Mr. Knudsen, Legislative Council**, said that the legislature needs to determine how to handle continuing appropriations to cover administrative costs of programs like the lottery and Do Not Call. Then the agency doesn't need the FTE authorization because through that statute they have that authority.

Chairman Carlisle asked about the mechanics of making the change. **Mr. Knudsen** suggested changing the statute for the lottery "pursuant to the continuing appropriation..." **Chairman Carlisle** will refer the memo to Chairman Svedjan.

Rep. Timm offered that since this is a matter of concern to legislators, perhaps it might be a problem for the Government Performance Division.

(Meter #5284)

In reference to the Governor's hearing on salary requests, **Dir. Roll** mentioned talk about the \$5 million equity fund. She pointed out that the Dept.'s attorneys aren't able to access that pool; they are unclassified and as such, are not considered with the other employees. **Chairman Carlisle** stated that the legislature did some equity adjustments for attorneys last session. **Rep. Kroeber** added that those adjustments came from special funds. **Dir. Roll** said those funds are not available this year.

Rep. Timm mentioned the bump in special funds for the next biennium. **Dir. Roll** said that represents bonding funding for the addition to the crime lab included in SB 1023.

Rep. Timm referred to the \$17 million in special funds. **Dir. Roll** said the bulk of that fund is federal funding. The Dept. also bills for legal services, Fire Marshall inspections and investigation services.

Rep. Timm asked what the federal funds were used for and **Dir. Roll** referred to the Bryne money, the High Intensity Drug Trafficking, a few BCI agents and forensic scientists. The Dept. receives money for residential substance abuse treatment centers and passes that on to the Dept. of Corrections. The Dept. hopes to receive DNA monies for the crime lab. The federal funds which the Dept. receives are for designated purposes and cannot be used for anything else. That's why the Dept. has approached the Committee with the Bryne funding. **Rep. Timm** wanted to know if the Byrne funding was the only federal grant that's being cut. **Dir. Roll** said in addition to the Byrne funding, the local law enforcement block grant will be cut. Both these cuts are part

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of the move toward Homeland Security. The Dept. is not getting any money from Homeland Security.

Chairman Carlisle asked if these were proposed cuts at this point. **A.G. Stenehjem** said the cuts have been authorized by Congress and the only way to alleviate it is through a supplemental budget or an ear mark or something to that effect.

Rep. Thoreson introduced his wife, Jennifer, as a special guest.

Chairman Carlisle requested a memo for any raises.

(Tape 1, Side B)

Meeting adjourned.

General Discussion

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General Discussion

Thursday January 20, 2005

Govt Operations

Re: HB 1002, Secretary of State

How to protect & secure the HAVA grant funds. OMB, Legislative Council and Secretary of State are working on a proposal and that should be available Monday.

Re: HB 1003, Attorney General

Losing the Bryne Grant funds is the major concern. Ms. Paulson, OMB, brought up an idea for a temporary fix which the Committee will investigate and that would be to put refund monies into the general fund to cover part of the loss for the Bryne Grant. The estimated amount would be \$5-600,000. Ms. Paulson agreed to speak with Ms. Roll.

Also of concern is a new FTE, extra supply costs to support increased demands for forensics, and how to retain agents in a competitive salary market.

(Meter #2039)

Re: HB 1005, State Treasurer

The \$30,000 appropriation for an IT study seems sufficient with the existing turn back of approximately \$25,000 to implement temporary fixes and to start long-term plan. In reference to working out problems with the State Treasurer, **Rep. Williams** stated, "It's refreshing to see such a good attitude."

Re: HB 1008, Public Service Commission

Two major issues: The dispute between PSC and ID regarding the IT exemption and whether or not to fund the rail rate case.

The Committee will schedule a meeting with Comm. Clark Friday at 10:00 a.m. to get more information on the ITD dispute.

Re: HB 1010

Chairman Carlisle told Committee members that the amendments for the firefighters have been placed in their books.

Re: 1003

The biggest issue is the Bryne grant and the possibility of using refund money will certainly help.

Rep. Kroeber pointed out that the Dept. has funding for the first six months of the new

biennium, but something that hasn't been considered is that the match is going up from 28% to

31%. **Ms. Paulson** thinks the Dept. accounted for that.

Chairman Carlisle mentioned that Attorney General Stenehjem just got back for speaking with the federal delegation. Any relief will have to come from some type of add-on.

Meeting Adjourned.

(Meter #4.5)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

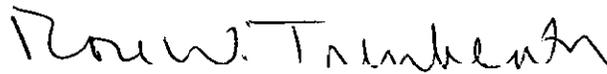
House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Friday, January 28, 2005

| Tape Number | Side A | Side B | Meter # |
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| 1 | A | | 26-53 |

Committee Clerk Signature



Minutes:

Chairman Carlisle opened discussion on HB 1003 regarding the Attorney General's budget and the Proposed Amendments to House Bill No. 1003.0101. He requested that **Mr. Knudson** explain the Amendment. He referred the Committee to the back page which corresponds to the chart the A.G. gave the Committee earlier requesting another \$798,000 to make up for their proposed reduction. **Rep. Kroeber** interjected that he thought the cost was over \$800,000. **Mr. Knudson** said there was a \$40,000 item in the budget already. He confirmed that number with the Agency. Also, on the front page, Section 9, which was requested in the event that the Agency receives federal money, the Agency may not spend the general fund money that is being added with this Amendment.

Chairman Carlisle noted that the Emergency clause, Section 12, was included because of the time frame. **Mr. Knudson** stated this is in reference to the refund fund and that this would allow the Agency to keep the money rather than return it to the general fund.

Chairman Carlisle pointed out that the reason for this section no longer exists. **Mr. Knudson**, later on in the testimony, explained that in January the fund had \$893,000. They were considering that number and projecting what the sum would be. That's a continual appropriation. When they actually projected that out, they found out there wasn't going to be as much.

Chairman Carlisle summed it up: a bird in hand that went away.

Rep. Kroeber asked why there's a Section 12, but no section 11. **Mr. Knudson** explained that the inserted Amendments change the numbering of the original bill. The current section 9 becomes section 11. The Emergency clause has to be at the end.

Rep. Kempenich voiced reservations about taking \$798,000 from the General Budget.

Rep. Kroeber asked what BCI's position is with regard to this request. **Mr. Knudson** added that this appropriation doesn't cover anything that goes back to the counties. **Chairman Carlisle** mentioned the letter that went out to the task forces which he had requested from the Agency. He called Ms. Roll to see if she would visit the Committee to answer questions.

(Tape stopped until Ms. Roll arrives.)

(**Ms. Kathy Roll, Director of Finance & Administration, and Ms. Sandi Tabor, Attorney**)

General Administration & Chief Deputy Attorney General, arrived.

(Tape restarted, Meter #33.1)

Chairman Carlisle began questions with regard to the refund. **Dir. Roll** referred the Committee to page 5 of the Memo sent to the Committee, dated 1/25/05 (See Handout #1). The AG Refund

Fund Analysis for the 2003-05 and 2005-07 Bienniums shows a bottom line of \$244,706. She explained that if the 213 went back to the General fund, the Agency would be short about \$245,000. **Rep. Kroeber** stated that Section 10 in the Amendment just keeps the A.G.'s Office whole. On the other hand, there could be a judgment and the fund would go up. **Deputy Tabor** responded that all that depends on what multi-state lawsuits come in. In the 2001 session there was \$700,000 and the Agency worked with the Senate to fund some one-time programs. It really varies from biennium to biennium.

Chairman Carlisle asked about the letter that was sent to the counties and **Dir. Roll** is still compiling the information on the Byrne grant and that is forthcoming.

Rep. Kempenich asked about the No Call funding. **Dir. Roll** said there is another \$80,000 that was appropriated that the Agency plans to spend on No Call. These are one-time costs, which are to be funded out of the refund fund.

Rep. Kroeber asked if there were a large settlement, whether or not the Agency could use that money to replace funds lost because of the Bryne grant. **Deputy Tabor** said that the refund money can be used only for certain things. Refund money can't be applied to drug enforcement. It would have to be returned to the General Fund before that could be done.

Rep. Kroeber also wanted to know if BCI is with the Agency with regard to this request.

Deputy Tabor stated that these decisions are made by the Attorney General, who controls the Crime Lab and the BCI. Certainly, it will not help BCI if this funding is lost; out of nine forensic scientists, a third will be lost.

Rep. Kroeber asked if there is any other funding that would help out the counties and **Deputy Tabor** replied in the negative.

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Deputy Tabor also informed the Committee that the A.G. met with both Senators Dorgan and Conrad when he was in Washington last week. There is a supplemental defense bill that's under consideration; many of the states, that were impacted negatively by this formula change, have requested that money be put into this bill to help. This supplemental would be effective in Oct., 2005, so that would take care of the Agency.

Chairman Carlisle suggested that the Committee hold any decisions on the Amendment until Monday. **Rep. Kempenich** asked why the Amendment couldn't be worded so that the Emergency Commission would handle the issue if funds don't come through. **Dir. Roll** pointed out that funds would have to be appropriated to the Emergency Commission to cover that amount. **Chairman Carlisle** stated the Commission is only allowed \$500,000.

Chairman Carlisle and the Committee concluded discussion on HB 1003.

(end of tape)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Monday, January 31, 2005

| Tape Number | Side A | Side B | Meter # |
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Committee Clerk Signature



Minutes:

Chairman Carlisle began committee work on HB 1003 and referred to the letter from **Ms.**

Kathy Roll, Director of Finance & Administration Division, dated January 28, 2005 (See Handout #1), regarding the lottery estimated budget, the boiler plate letter (dated January 18, 2005) sent out to the counties regarding the Byrne grant and the Byrne reduction impact.

Rep. Kempenich referred to paragraph 2 of the letter dated January 18 (See Handout #1) and asked the following language: "Only 60% of that--approximately \$800,000--will be available for subawards." He asked if this money is funding people or programs or local communities. **Ms.**

Paulson, OMB, stated that most of that money is spent on the drug task forces. **Rep. Kroeber** added that 58% went to local and 42% went to State. The match was 28%, but is now 31%. **Rep.**

Timm asked if the State is hiring or the counties. **Ms. Paulson** said they would not be considered State employees. **Rep. Timm** reasoned that the counties and cities do the hiring. **Rep. Kroeber**

asked if BCI does the hiring. **Ms. Paulson** stated not for the task force because they're not State employees, although they may be involved in the process.

Chairman Carlisle decided to call **Dir. Roll** to answer questions.

(Meter #22)

Chairman Carlisle referred the Committee to p. 8 of the Red Book (See Handout #1, Hearing 1/17/05). **Ms. Paulson** referred to the middle of the list where it states: "one part-time Crime Lab evidence technician." She stated that anything from that point above is related to State employees. Anything below that line refers to the counties. **Rep. Williams** stated that the 25 full-time narcotics task force agents across the State are hired at the local level. **Chairman Carlisle** added using Byrne grant money. They continued to discuss how the split works and decided to wait until **Dir. Roll** arrived.

Rep. Kempenich noted that this is a Catch 22 situation. In order to get more federal money the State needs a higher crime rate...That puts the State in a situation to determine if resources are best spent in this way. He wondered if the Legislature doesn't fund, will crime rates go up.

Chairman Carlisle pointed out that from the beginning in the 1980's there has been an understanding that if the federal funding is reduced, then the positions are gone. They requested general fund money in the past, but it hasn't been granted.

Rep. Timm asked to change the subject and directed a question to **Ms. Paulson**. He read from the Red Book (See Handout #1, Hearing 1/17/05): The racing commission executive director's salary and benefits is increased by \$37,000. He wanted to know if that salary increase was for the present racing commissioner or the one who resigned. **Ms. Paulson** said she was uncertain, but she thought the new commissioner was hired for less. What's in the budget right now is the

salary for the former commissioner. She confirmed that everything is consistent with the Governor's budget. **Rep. Timm** asked if Kathy Roll should be questioned and **Chairman Carlisle** said he's expecting a memo. He also summed up the question as to whether or not the new racing commissioner gets enhanced money. **Rep. Kroeber** said he had information as well. **Ms. Paulson** pointed out that \$150,000 in general funds that is split among three special funds, so it amounts to extra appropriation authority. The three funds are the purse, breeders, and promotion.

Chairman Carlisle directed discussion to Amendment .0101. **Ms. Paulson** called attention to Section 10 and explained that the funds remaining at the end of the biennium are to be returned to the general fund. If Section 10 is left in law and the Dept. received \$800,000 next biennium this clause is saying none of that needs to be returned to the general fund. **Rep. Kempenich** suggested adding some limiting language.

(Meter #32.4)

Dir. Roll arrives to assist Committee and handed out a Memo regarding the Racing Commission Executive Director's salary, dated 1/3/05 (See Handout #2) **Rep. Timm** repeated his question about whether or not the salary increase applied to the new or old Commissioner. **Dir. Roll** confirmed it was for the Commissioner who left. During the course of discussion **Dir. Roll** pointed out that the A.G.'s office can't tell the Racing Commission how to run their office. She confirmed what **Ms. Paulson** stated about spending authority. The Memo (See Handout #2) also clarified the difference between the current salary and the budgeted salary which amounts to \$18,634.

(Meter #48)

Rep. Kempenich moved to recommend to the Full Committee that HB 1003 should be amended to reduce the special funds spending authority by \$18,634. **Rep. Timm** seconded the motion.

Following discussion, a roll call vote was taken. Motion passed 5 for and 1 against.

Chairman Carlisle returned discussion to Amendment .0101 regarding to Byrne grant reduction.

Rep. Kempenich asked **Dir. Roll** if the \$800,000 were not funded, whether or not State employees would lose their jobs. There was a discussion as to which employees the Dept. would retain.

(End of Side A, Tape #1)

(Tape 1, Side B)(There's a 3-minute gap at the beginning of the tape)

Rep. Kempenich expressed frustration with the fact that none of this shows up in the bill and **Ms. Paulson** explained that at the time the budget was prepared, the Dept. didn't know it was losing the funding. **Rep. Timm** stated that the Governor's budget has the Byrne grant money in it and **Ms. Paulson** confirmed. The Committee tried to sort out what employees would be retained with the Amendment and which would be gone. **Dir. Roll** referred to the list on p. 8 of the Red Book (See Handout #1, Hearing 1/17/05) and confirmed what the Committee determined earlier that the first eight lines of the list represent State employees and those positions will be retained by the Amendment language. **Chairman Carlisle** also noted that those positions listed in lines 9-13 are all county positions which will be lost. **Rep. Timm** noted that if this Amendment is passed, the only ones who will be hurt are the counties. If they want to keep their programs, they'll have to fund them. **Dir. Roll** said there will be money available of the decreased amount,

but it won't give them the level of funding previously. **Deputy Tabor** also added that the money that goes out will be used for operations, not FTE's. She confirmed they will lose manpower.

Rep. Kempenich asked about adding 3 new FTE's into this mix that aren't in the agency today.

Deputy Tabor explained that in the Dept.'s request to the Governor included one new forensic scientist and BCI agent. What the Dept. is losing in the federal money is three of each. The Governor's recommendation would take care of one each, so the Dept. would be losing four rather than six. If you use the Governor's recommendation and add in the Amendment, then the Dept. would be whole. **Rep. Kempenich** repeated his question and **Deputy Tabor** said the Dept. has six people right now that will be gone if the Dept. doesn't find money.

Rep. Williams asked what the counties will do. **Deputy Tabor** said she could not speak for every county. Because she's on the City Commission, she could speak for Bismarck. Bismarck is part of a joint task force with Mandan and Morton County. There is a DEA and BCI agent assigned to the task force. The Commission will require the police chief to figure out where the money will come from to retain the position. It will be a struggle to find the funds.

Rep. Williams asked if the counties lose the agents, will the Dept. need all the positions which do the analysis at the state level. (Meter #9.5) He used an analogy with a school system. Without the teachers, no sense to have administration. **Deputy Tabor** stated the process is different. State employees are out on the street doing investigations. Crime doesn't go away, the work will still be there, but it will have to be done by fewer people.

Rep. Kempenich returned to the issue of FTE's and the way the budget is set up right now and should the amendment pass and should the Byrne grant money get restored, then essentially new FTE's would be hired. **Deputy Tabor** said if everything happened, the Dept. would have four

agents and four scientists, and wouldn't lose anybody. But, the Dept. already knows the Byrne grant money is gone. **Rep. Kempenich** said the Dept. is not adding an FTE. **Deputy Tabor** said the Dept. is adding the one information processing person that's in the budget.

(Meter #14.3)

Ms. Paulson asked about the \$798,000 to salaries, operating & capital assets; it's built into the Governor's budget. It's just the funding source that needs to be changed. Adding this amount would be give the Dept. additional authority.

Chairman Carlisle asked if legislative counsel, OMB, and the Attorney General's Office would work together to reword the Amendment so that it reflects a change in the funding source only from Byrne to general funds. **Rep. Williams** confirmed, though, that the Dept. is still asking for \$798,132 from the general fund.

Chairman Carlisle referred the Committee to the Section 10 of the Amendment which is to fund the Do Not Call. **Rep. Kempenich** asked about news reports regarding a loop hole. **Deputy Tabor** did not know about this; she pointed out that our state law is more restrictive than the federal law. Perhaps the loophole comes from the federal law.

There was further discussion regarding Section 12 and why the emergency clause was added.

Chairman Carlisle asked if legislative counsel would check on that when in discussion regarding the Byrne grant funding source.

The Committee voiced frustration with regard to the formula change and changing priorities from drug enforcement to Homeland Security. **Rep. Kempenich** suggested that a resolution might be in order as to how illogical the formula change is: if you do a good job, your funding is cut off.

Chairman Carlisle added in jest, that with fewer agents, they could hang a neon sign that says it

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easier to do business here. He suggested that **Rep. Kempenich** talk with leadership and include this with delayed bills and that he should work with the Attorney General for the language.

The Committee briefly a related bill, HB 1235, that will come to the committee in the future.

Chairman Carlisle ended the discussion on HB 1003.

(Meter #37.2)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

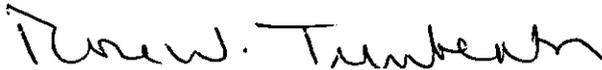
House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Wednesday, February 2, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|-----------|
| 1 | X | | 30.5-41.4 |
| 1 | X | | 52.8-End |
| 1 | | X | 00-1.6 |

Committee Clerk Signature



Minutes:

Chairman Carlisle opened discussion on HB 1003 regarding the Attorney General's budget. **Ms. Kathy Roll, Director of Finance & Administration Division, and Ms. Sandi Tabor, Attorney General Administration and Chief Deputy Attorney General,** were present to assist the Committee if there were any questions. **Chairman Carlisle** said that the Committee did not act on .0101 and everything is rolled into .0102.

The Amendment .0102 makes the following changes:

- Section 12 contains the emergency clause discussed
- Footnote 3 on the back that reduces spending authority on the Racing Commissioner's salary
- Footnote 1 is the additional general fund support added to replace the anticipated reduction
- Footnote 2 is a reallocation for funds for the forensic scientist and BCI agent

Rep. Kroeber asked **Mr. Allen Knudson, Legislative Council**, and **Ms. Sandi Paulson, OMB**, if the two new FTE's added to the Governor's budget were removed. **Ms. Paulson** the money the Governor put in remains in the general fund, but that will be used to protect the Byrnie funds not to employ the two additional FTE's. **Rep. Kempenich** said the amendment replaces the \$1 million in general fund money to replace what's lost with the Byrnie grant. **Rep. Kroeber** asked where the A.G.'s office is with regard to total FTE's. **Rep. Kempenich** responded 175.

Chairman Carlisle asked **Dir. Roll** if she could provide a single page which explains what this amendment is doing. He stated that all the enhancements are out. It's just difficult to explain because of the Byrnie grant. He also noted that 52% is local and 48% is State. He asked if either **Dir. Roll** or **Deputy Tabor** asked if one or both could be present when this comes before the Full Appropriations Committee.

Rep. Kroeber noted that \$213,697 from the refund fund is not a reduction of the Governor's budget. **Ms. Roll** confirmed that money is not included anywhere because it is off-budget.

Ms. Paulson noted that there is no growth in this budget at all. This appropriation just keeps them at current levels. **Chairman Carlisle** stated there is no enhancement and no turn back. **Ms.**

Paulson said the Dept. is not even getting any enhancements that the Governor recommended.

Deputy Tabor said the exception is the extra FTE for the administrative assistant for the BCI.

Rep. Williams said that basically the Committee is using state funds to compensate for the lost federal funds. **Chairman Carlisle** confirmed and that's 44%, which is lots. He went on to point out this will be an important decision for the Full Committee, as to how to handle the loss of federal funds.

Chairman Carlisle requested a motion on Amendment .0102. **Rep. Kempenich** so moved; **Rep.**

Kroeber seconded. Under discussion, **Mr. Knudson** noted something that was forgotten. He referred the Committee to page 3 which discusses the estimated income for the Racing Commission and how much money comes out of each of those funds. That should have been adjusted. He suggested they go ahead and pass the motion and those changes can be rolled into .0103. Hearing no further discussion, **Chairman Carlisle** called Roll Call Vote #6 on Do Pass on Amendment .0102. Motion passed, 6-0.

Rep. Kempenich recommended that the Dept. make copies of the history for each of the Full Committee members.

Chairman Carlisle ended discussion on HB 1003.

(Meter #41.4)

(#00, Side B)

Chairman Carlisle reopened discussion on HB 1003 to further amend HB 1003 to provide for the necessary appropriation for HB 1061, which amounts to \$25,320. **Rep. Thoreson** so moved;

Rep. Kroeber seconded. With no further discussion, **Chairman Carlisle** called for Roll Call Vote #8. Motion passed, 6-0.

Chairman Carlisle closed discussion on HB 1003.

(Meter #1.6)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Friday, February 4, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|----------|
| 1 | A | | 5.4-20.1 |

Committee Clerk Signature

Row W. Trumbert

Minutes:

Chairman Carlisle opened discussion on HB 1003 regarding the Attorney General's budget and Amendment .0103 and asked if there were a motion to pass.

Rep. Kempenich said he still has reservations as to why an agency with a \$20 million budget can't find \$400,000. He brought up priorities and who determines these things. **Rep. Timm** said its a priority that the Agency should be wrestling with and how funds should be shifted in order to meet these priorities.

Rep. Williams suggested that these issues aren't going to be resolved until the Full Committee meets. He moved a DO PASS on the Amendment .0103; **Rep. Thoreson** seconded.

(Meter #9.2)

During discussion **Rep. Thoreson** commented that he is also concerned and understands that it will be hashed out in Full Committee. **Rep. Timm** noted that maybe these issues should be

hashed out here in subcommittee. **Rep. Kempenich** stated that he has problems with prioritizing for the agency and taking \$800,000 of new general fund money for agents. Are there other things in the budget that are more important? Is this priority #19? If the Committee is going to start doing this, then maybe there should be a list of what they can and cannot do on a lot of things in the budget. He reminded the Committee that it has been said over and over again that if federal funds disappear, then the position disappears. He said he would move to take \$500,000 out of this \$800,000 and leave it up to the Agency to fund the rest. That would give them \$300,000 of general fund money.

Chairman Carlisle reminded the Committee that we need to take care of the current motion on the floor. He asked **Ms. Sandy Paulson, OMB**, if she had anything to add to the discussion. **Ms. Paulson** said that the Agency has prioritized and that accounts for the number of optional requests that were not funded by the Governor's Office. They've taken out several of the requests that the Governor did put in to replace this fund. She felt they are actually prioritizing for public safety. **Rep. Kempenich** tried to explain that things are changing; it isn't just his biennium but future bienniums that must be considered. **Rep. Williams** restated that something this controversial is not going to be resolved in subcommittee. **Chairman Carlisle** stated that if **Rep. Kempenich** amends, he will resist, while at the same time acknowledging it's part of the process. He stated also stated that the Agency has requested general funding to supplement this Byrne grant funding which has been in effect since the late 1980's. The Legislature has resisted doing this. Now, 40% of the funding is gone. He pointed out that the counties are not sure what to do. **Ms. Paulson** added that what makes this difficult is that it's public safety issue. **Rep.**

Page 3
Government Operations Division
Bill/Resolution HB 1003
Hearing Date Friday, February 4, 2005

Kempenich noted that because the State has been relying on federal funding, other things got started in the Agency that were supported by general funding. It might be time to go back.

Chairman Carlisle called for a roll call vote (#1). Motion passed 5-0-1.

Rep. Kempenich moved to amend HB 1003 to take \$400,000 out of the \$823,452; **Rep.**

Thoreson seconded. **Chairman Carlisle** called for discussion. **Rep. Kempenich** he wants to leave the language in to keep the positions. He wants the Agency to prioritize to this issue.

Hearing no further discussion, **Chairman Carlisle** called for a roll call vote (#2) and the motion passed 3-2-1.

Chairman Carlisle directed Counsel to draw up the new amendments and closed the hearing until Monday morning.

(Meter #20.1)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

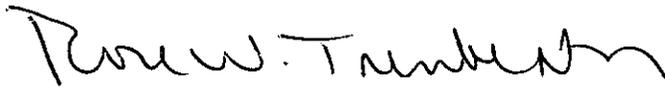
House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Monday, February 7, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|------------------|
| 1 | X | | Starts/cuts off* |
| 1 | | X | 0.3-8.5 |

Committee Clerk Signature



Minutes:

(Clerk lost about 35 minutes of tape by inadvertently recording over what had been done. The following testimony, page 1 & part of page 2 came from the Clerk's notes)

Chairman Carlisle opened discussion on HB 1003 regarding the Attorney General's budget.

Ms. Kathy Roll, Director of Finance & Administration Division, and Ms. Sandi Tabor,

Attorney General Administration and Chief Deputy Attorney General, were present to assist

the Committee. **Chairman Carlisle** began the discussion by mentioning "sustainability."

Rep. Kempenich brought up the possibility of funding agents, formerly funded by the Brynne

grant, with NoCall money. **Ms. Sandy Paulson, OMB,** pointed out that NoCall is an off-budget

and that it is funded by the refund fund. **Rep. Kempenich** suggested that maybe by reprioritizing

so the agents would get funded first and NoCall would have to look for funding. **Ms. Paulson**

said that would be a short-term fix; the problem would resurface next biennium. Also, the refund money fluctates, can't depend on that funding source for salaries.

(Tape #2, Side A, Meter #0.3)

Rep. Timm asked about priorities and **Deputy Tabor** said the main priority is to keep the forensic lab in tact. If the Agency lost a third of the scientists, it would gut the lab. The Agents are important, but the Lab is priority No. 1.

Rep. Timm asked if the agents have been coordinating the county and city task forces. **Dir. Roll** said there are 9 task forces and the Agency staffs 8 of them. **Deputy Tabor** listed the task forces as follows: Belcourt, Dickinson, Beulah/Hazen, Valley City, Williston, Bismarck, Grand Forks, Minot and Fargo.

Rep. Kempenich asked about the Temp/Overtime line. **Dir. Roll** said this is line item is pretty set and it covers assistance to attorneys, background investigations, and the cleaning staff.

There was some discussion regarding the No Call lists and the fact that North Dakota was able to plug into the national list and that saved IT costs. The List is run by the feds. The enforcement falls to the State and that's the work intensive part.

Chairman Carlisle asked **Deputy Tabor** to get the numbers on No Call.

Discussion closed.

(Meter #8.5)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Friday, February 11, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|-----------|
| 1 | X | | 10.4-16.2 |

Committee Clerk Signature



Minutes:

Chairman Carlisle opened discussion on HB 1003 concerning the Attorney General's budget and Amendment .0105.

Ms. Roxanne Woeste, Legislative Council, reviewed the adjustments on page 2:

- compensation adjustments
- increase of general funds relating to the loss of the federal Byrnie grant
- removal of 2 FTE positions added in the executive budget
- reduces funding for the racing commission included in the executive budget for executive director's salary and fringe benefits to provide for the current estimate needed
- adds \$25,320 relating to DNA testing required by HB 1061.

- a new section allows the Attorney General to retain the June 30, 2005, balance in the refund fund which is estimated to be about \$213,697, rather than transferring that balance to the general fund
- p 1 includes a section that if the Attorney General's office received some federal Byrnnne, they can receive permission from the Emergency Fund to receive and extend those monies; therefore, they would not spend the general funds provided in this Amendment.

Rep. Timm moved to approve Amendment .0105; **Rep. Kempenich** seconded. Hearing no further discussion, **Chairman Carlisle** called for a roll call vote (#1). Motion passed 4-2-0.

Rep. Kempenich moved a DO PASS on HB 1003, as amended; **Rep. Thoreson** seconded.

Hearing no further discussion, **Chairman Carlisle** called for a roll call vote (#2).

Motion passed 6-0-0.

Chairman Carlisle closed discussion on HB 1003.

(Meter 16.2)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1003
Attorney General

House Appropriations Full Committee

Conference Committee

Hearing Date February 15, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------------|
| 2 | | X | #29.1 - # end |
| 3 | X | | #0 - #0.5 |

Committee Clerk Signature

Chris Alexander

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1003.

Rep. Ron Carlisle explained that there was an amendment #0105 to this bill and he distributed handout #30-2 (attached) for information. Since the budget was introduced by the Governor's office this budget has been reduced by 44%. The handout about the grants relates to this and the \$1 million disparity that will be explained in the budget. The new positions for the crime lab have been removed. The \$240,000 general fund line item from the school finance lawsuit cost is the same as in the 2003-05 biennium. The placement cost of \$116,000 from the general fund for undercover vehicles. There is a general fund match for \$38,400 that replaces an obsolete gas sexometer used for testing. The racing commission executive director had additional salary benefits for an increase of \$18,684. We removed that. The remaining salary line item \$19,000 in other funds was used to fully fund existing racing commission salaries and wages. And the salary package is in here. The Bryne Grant in the local law enforcement block grant reduction

was reduced by 44% for the fiscal year of 2005. We have funding for the first six months of this until January 1 2006. The loss is \$1,055,000 in federal funds. We did a funding source switch of \$400,000 from the federal funds to the general fund. Workload is up for the positions in the BCI and the crime lab and the Attorney General chose these as their priority for funding. The cost of this is about \$400,000 that will be covered through the funding source switch. We added a legislative intent section to prioritize the Attorney General's funding to continue to extend past the drug enforcement activities previously paid for by the Byrne Grant. Local governments are excluded in these grant moneys. This will be a huge problem for our counties. This is another example of what happens when the federal moneys for a program runs out and the positions paid for with those funds are done. Rep Carlisle listed all the positions effected by this. HB1061 effects this bill and we appropriated \$25,320 from the general fund. HB1235 was passed on the house floor but there is no funding in the budget for this so we'll have to see what happens in the Senate. The Refund Fund in the Attorney General's office is used primarily to fund the consumer protection program and has a balance of \$213,000. We are asking for this balance to be carried over into the 2005-07 biennium. We need to make some clerical adjustments to the budget to accomplish the requirements of HB1259. We increased the budget by \$932,538 for salaries and wages for the 8 FTEs, and operating costs \$1,001,769 to fund the items. We fund this out of their operating line of \$2.7 million.

Rep. Jeff Delzer commented that HB1259 has not been passed on the house floor yet and we don't want to make adjustments here before it passes. These adjustments could be made on the Senate side afterwards.

Ms Kathy Roll from the Attorney General's office explained that the money to fund HB1259 comes from the lottery operating fund, so it is covered by special funds. (meter Tape #2, side B, #39.4)

Rep. Ken Svedjan, Chairman clarified that the adjustments can be made in the Senate.

Rep. Ron Carlisle continued to explain that there were optional adjustments that the committee did not accept.

Rep. Ron Carlisle moved to adopt amendment #0105 to HB1003.

Rep. Blair Thoreson seconded.

Rep. Al Carlson asked if the the FTEs in the lottery commission were still considered off budget in this budget.

Rep. Ron Carlisle answered that they are off budget unless we add them to the budget.

Rep. Ole Aarsvold asked if all administration money for the racing commission comes through the racing commission special funds

Ms Kathy Roll from the Attorney General's office answered that the racing commission receives about \$145,000 in general fund moneys in addition to the rest of their budget being split between the 3 funds.

Rep. Ken Svedjan, Chairman called for a voice vote on the motion to adopt amendment #0105 to HB1003. Motion carried

Rep. Jeff Delzer introduced amendment #0106 and explained that this amendment is to ask the Attorney General's office to participate in the Medicare Fraud Collections. It comes from the Muse and Associates report to the Human Services. There is apparently a lot of money that the federal government has recovered for medicare fraud and if our state doesn't participate we will

not receive any of these recoveries. We are unsure of the costs but Muse and Associates thought that there would be no cost but simply a language change.

Rep. David Monson commented that if the intent of this amendment is to direct the Attorney General to be part of a lawsuit in case we get money back, the amendment doesn't seem written to do this, because it only says the the Attorney General needs to check into this. (meter Tape #2, side B, #45.8)

Mr Allen Knudson from legislative council explained that the Attorney General may already have the authority to enter into these kinds of lawsuits, but this would just direct the Attorney General to work with the US Attorney to decide if North Dakota should be a plaintiff in this.

Rep. Jeff Delzer commented that the reason this is before us because it is a way to save money on the medicaid side. Whether it is the proper procedure or not can be decided by this committee.

Rep. Ken Svedjan, Chairman asked if there was any harm or usefulness in this amendment.

Ms Sandy Tabor Deputy Attorney General, explained that she would speak with Mr Muse to see what could be done on this issue. Our staff looked at setting up a medicaid fraud unit but decided the cost would be too high. But maybe there is something more to this than we are aware of and we will look into it. Our staff that works with Human Services had some concerns that if you ask to become a plaintiff in a federal suit that they then assess costs to you. Most of the time you get these costs back but we are unsure of any of this. It could happen that we participate in this even without the amendment.

Rep. Jeff Delzer moved to adopt amendment #0106 to HB1003 with the idea that it is not proper by the end of this session then it would come out.

Page 5
House Appropriations Committee
Bill/Resolution Number HB1003
Hearing Date February 15, 2005

Rep. Francis J. Wald seconded

Rep. Ken Svedjan, Chairman called for a voice vote for the motion to adopt amendment #0106 to HB1003. Motion carried.

Rep. Ron Carlisle moved a Do Pass As Amended motion to HB1003

Rep. Tom Brusegaard seconded.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion for HB1003. Motion carried with a vote of 23 yeas, 0 neas, and 0 absences. Rep Carlisle will carry the bill to the house floor.(meter Tape #3, side A, #0.3)

Rep. Ken Svedjan, Chairman closed the discussion on HB1003.

Date: Mon. Jan 31, 2005
Roll Call Vote #: ~~24~~

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1003

House House Appropriations Government Operations Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *recommen HB 1003 be amended to reduce special funds spending authority of the voting (see *)*
Motion Made By *Seconded By*

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------|-----|----|-----------------|-----|----|
| Chairman Carlisle | ✓ | | Rep. Kroeber | | ✓ |
| Rep. Timm | ✓ | | Rep. Williams | ✓ | |
| Rep. Kempenich | ✓ | | | | |
| Rep. Thoreson | ✓ | | | | |

Total (Yes) 5 No 1

Absent

Floor Assignment *Ch. Ron Carlisle*

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

* Commission by B18,634.

February 1, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1003

Page 1, line 2, replace "for a contingent appropriation" with "an exemption" and remove "and"

Page 1, line 4, after "general" insert "; and to declare an emergency"

Page 2, line 5, replace "387,007" with "368,373"

Page 2, line 7, replace "1,574,486" with "1,555,852"

Page 2, line 8, replace "359,067" with "(457,699)"

Page 2, line 9, replace "1,215,419" with "2,013,551"

Page 2, line 21, replace "387,007" with "368,373"

Page 2, line 24, replace "36,058,177" with "36,039,543"

Page 2, line 25, replace "17,788.541" with "16,971.775"

Page 2, line 26, replace "18,269,636" with "19,067,768"

Page 3, after line 21, insert:

"SECTION 9. FEDERAL FUNDS - REDUCTION IN GENERAL FUND EXPENDITURES. If the attorney general receives federal funds that may be used to replace the reduction in federal Byrne grant funds for drug enforcement activities during the 2005-07 biennium, the attorney general may seek emergency commission approval to receive and spend the federal funds but may not spend moneys from the general fund added by the legislative assembly to the extent of the federal funds received for this purpose for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. ATTORNEY GENERAL REFUND FUND TRANSFER TO THE GENERAL FUND - EXCEPTION. Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund that would otherwise be transferred to the general fund on June 30, 2005."

Page 3, after line 28, insert:

"SECTION 12. EMERGENCY. Section 10 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1003 - Attorney General - House Action

| | EXECUTIVE BUDGET | HOUSE CHANGES | HOUSE VERSION |
|--------------------------------|---------------------|-------------------|---------------------|
| Salaries and wages | \$19,400,721 | | \$19,400,721 |
| Operating expenses | 8,254,104 | | 8,254,104 |
| Capital assets | 1,767,250 | | 1,767,250 |
| Grants | 5,944,056 | | 5,944,056 |
| Litigation fees | 50,000 | | 50,000 |
| State school finance lawsuit | 240,000 | | 240,000 |
| Racing Commission | 387,007 | (\$18,634) | 368,373 |
| Arrest and return of fugitives | 10,000 | | 10,000 |
| Gaming Commission | 5,039 | | 5,039 |
| Total all funds | \$36,058,177 | (\$18,634) | \$36,039,543 |
| Less estimated income | <u>17,788,541</u> | <u>(816,766)</u> | <u>16,971,775</u> |
| General fund | \$18,269,636 | \$798,132 | \$19,067,768 |
| FTE | 177.00 | (2.00) | 175.00 |

Dept. 125 - Attorney General - Detail of House Changes

| | REPLACES FEDERAL FUNDS REDUCTION ¹ | REALLOCATES GENERAL FUND INCREASE ² | REDUCES FUNDING FOR RACING COMMISSION ³ | TOTAL HOUSE CHANGES |
|--------------------------------|---|--|--|---------------------|
| Salaries and wages | | | | |
| Operating expenses | | | | |
| Capital assets | | | | |
| Grants | | | | |
| Litigation fees | | | | |
| State school finance lawsuit | | | | |
| Racing Commission | | | (\$18,634) | (\$18,634) |
| Arrest and return of fugitives | | | | |
| Gaming Commission | | | | |
| Total all funds | \$0 | \$0 | (\$18,634) | (\$18,634) |
| Less estimated income | <u>(798,132)</u> | | <u>(18,634)</u> | <u>(816,766)</u> |
| General fund | \$798,132 | \$0 | \$0 | \$798,132 |
| FTE | 0.00 | (2.00) | 0.00 | (2.00) |

¹ Additional general fund support is added to replace an anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab. A section is added to the bill providing that if federal funds are received for these purposes, the Attorney General may seek Emergency Commission approval to receive and spend the federal funds but may not spend this funding from the general fund.

² Funding added in the executive budget of \$157,957 from the general fund for an additional Bureau of Criminal Investigation agent and \$106,467 for an additional lab forensic scientist is reallocated to provide for the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab. The 2 FTE positions added in the executive budget for these new positions are removed.

³ Funding from Racing Commission special funds included in the executive budget for the Racing Commission executive director's salary and fringe benefits is reduced to provide for the current estimate of the amount needed for the director's salary and fringe benefits for the 2005-07 biennium.

A new section is added to the bill allowing the Attorney General to retain the June 30, 2005, balance in the Attorney General refund fund estimated to be \$213,697, rather than transferring the balance to the general fund as required by North Dakota Century Code Section 54-12-18.

Date: 2/2/05
Roll Call Vote #: ~~44~~

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1003

House House Appropriations Government Operations Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do pass Amendment .0102

Motion Made By Rep. Kempenich Seconded By Rep. Kroeber

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------|-----|----|-----------------|-----|----|
| Chairman Carlisle | ✓ | | Rep. Kroeber | ✓ | |
| Rep. Timm | ✓ | | Rep. Williams | ✓ | |
| Rep. Kempenich | ✓ | | | | |
| Rep. Thoreson | ✓ | | | | |

Total (Yes) 6 No 0

Absent

Floor Assignment

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

February 2, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1003

Page 1, line 2, replace "for a contingent appropriation" with "an exemption" and remove "and"

Page 1, line 4, after "general" insert "; and to declare an emergency"

Page 2, line 2, replace "258,633" with "283,953"

Page 2, line 5, replace "387,007" with "368,373"

Page 2, line 7, replace "1,574,486" with "1,581,172"

Page 2, line 8, replace "359,067" with "(457,699)"

Page 2, line 9, replace "1,215,419" with "2,038,871"

Page 2, line 16, replace "8,254,104" with "8,279,424"

Page 2, line 21, replace "387,007" with "368,373"

Page 2, line 24, replace "36,058,177" with "36,064,863"

Page 2, line 25, replace "17,788,541" with "16,971,775"

Page 2, line 26, replace "18,269,636" with "19,093,088"

Page 3, line 18, replace the first "\$129,002" with "\$122,791" and replace the second "\$129,002" with "\$122,791"

Page 3, line 19, replace "\$129,003" with "\$122,791"

Page 3, after line 21, insert:

"SECTION 9. FEDERAL FUNDS - REDUCTION IN GENERAL FUND EXPENDITURES. If the attorney general receives federal funds that may be used to replace the reduction in federal Byrne grant funds for drug enforcement activities during the 2005-07 biennium, the attorney general may seek emergency commission approval to receive and spend the federal funds but may not spend moneys from the general fund added by the legislative assembly to the extent of the federal funds received for this purpose for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. ATTORNEY GENERAL REFUND FUND TRANSFER TO THE GENERAL FUND - EXCEPTION. Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund that would otherwise be transferred to the general fund on June 30, 2005."

Page 3, after line 28, insert:

"SECTION 12. EMERGENCY. Section 10 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1003 - Attorney General - House Action

| | EXECUTIVE BUDGET | HOUSE CHANGES | HOUSE VERSION |
|--------------------------------|---------------------|------------------|---------------------|
| Salaries and wages | \$19,400,721 | | \$19,400,721 |
| Operating expenses | 8,254,104 | \$25,320 | 8,279,424 |
| Capital assets | 1,767,250 | | 1,767,250 |
| Grants | 5,944,056 | | 5,944,056 |
| Litigation fees | 50,000 | | 50,000 |
| State school finance lawsuit | 240,000 | | 240,000 |
| Racing Commission | 387,007 | (18,634) | 368,373 |
| Arrest and return of fugitives | 10,000 | | 10,000 |
| Gaming Commission | 5,039 | | 5,039 |
| Total all funds | \$36,058,177 | \$6,686 | \$36,064,863 |
| Less estimated income | 17,788,541 | (816,766) | 16,971,775 |
| General fund | \$18,269,636 | \$823,452 | \$19,093,088 |
| FTE | 177.00 | (2.00) | 175.00 |

Dept. 125 - Attorney General - Detail of House Changes

| | REPLACES FEDERAL FUNDS REDUCTION ¹ | REALLOCATES GENERAL FUND INCREASE ² | REDUCES FUNDING FOR RACING COMMISSION ³ | ADDS FUNDING FOR DNA TESTING ⁴ | TOTAL HOUSE CHANGES |
|--------------------------------|---|--|--|---|---------------------|
| Salaries and wages | | | | \$25,320 | \$25,320 |
| Operating expenses | | | | | |
| Capital assets | | | | | |
| Grants | | | | | |
| Litigation fees | | | | | |
| State school finance lawsuit | | | | | |
| Racing Commission | | | (18,634) | | (18,634) |
| Arrest and return of fugitives | | | | | |
| Gaming Commission | | | | | |
| Total all funds | \$0 | \$0 | (18,634) | \$25,320 | \$6,686 |
| Less estimated income | (798,132) | | (18,634) | | (816,766) |
| General fund | \$798,132 | \$0 | \$0 | \$25,320 | \$823,452 |
| FTE | 0.00 | (2.00) | 0.00 | 0.00 | (2.00) |

¹ Additional general fund support is added to replace an anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab. A section is added to the bill providing that if federal funds are received for these purposes the Attorney General may seek Emergency Commission approval to receive and spend the federal funds but may not spend this funding from the general fund.

² Funding added in the executive budget of \$157,957 from the general fund for an additional Bureau of Criminal Investigation agent and \$106,467 for an additional lab forensic scientist is reallocated to provide for the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab. The 2 FTE positions added in the executive budget for these new positions are removed.

³ Funding from Racing Commission special funds included in the executive budget for the Racing Commission executive director's salary and fringe benefits is reduced to provide for the current estimate of the amount needed for the director's salary and fringe benefits for the 2005-07 biennium.

⁴ The operating expenses line item is increased by \$25,320 from the general fund for costs of processing DNA samples of sexual offenders required by House Bill No. 1061.

A new section is added to the bill allowing the Attorney General to retain the June 30, 2005, balance in the Attorney General refund fund estimated to be \$213,697 rather than transferring the balance to the general fund as required by North Dakota Century Code Section 54-12-18.

Date: 2/4/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1003

House House Appropriations Government Operations

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken 00 PASS Amendment 0103

Motion Made By

Seconded By

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------|-----|----|-----------------|-----|----|
| Chairman Carlisle | ✓ | | Rep. Kroeber | | |
| Rep. Timm | ✓ | | Rep. Williams | ✓ | |
| Rep. Kempenich | ✓ | | | | |
| Rep. Thoreson | ✓ | | | | |

Total (Yes) 5 No 0

Absent 1

Floor Assignment

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

Date:
 Roll Call Vote #: *AA*

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *HB 1003*

House *House Appropriations Government Operations* Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Amend HB 1003 to Fund HB 1001, \$25,320.*

Motion Made By *Rep. Thoreson* Seconded By *Rep. Kroeber*

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------|-----|----|-----------------|-----|----|
| Chairman Carlisle | ✓ | | Rep. Kroeber | ✓ | |
| Rep. Timm | ✓ | | Rep. Williams | ✓ | |
| Rep. Kempenich | ✓ | | | | |
| Rep. Thoreson | ✓ | | | | |

Total (Yes) *6* No *0*

Absent

Floor Assignment

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

Date:
Roll Call Vote #: ~~144~~

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1003

House House Appropriations Government Operations Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amend HB1003 to take out \$400,000
of the \$ 823,452 enhancement,
Motion Made By Seconded By

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------|-----|----|-----------------|-----|----|
| Chairman Carlisle | | ✓ | Rep. Kroeber | | |
| Rep. Timm | ✓ | | Rep. Williams | | ✓ |
| Rep. Kempenich | ✓ | | | | |
| Rep. Thoreson | ✓ | | | | |

Total (Yes) 3 No 2
Absent 1

Floor Assignment

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

February 10, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1003

Page 1, line 2, replace "for a contingent appropriation" with "an exemption" and replace "and" with "to provide a statement of legislative intent;"

Page 1, line 4, after "general" insert "; and to declare an emergency"

Page 2, line 1, replace "939,420" with "860,869"

Page 2, line 2, replace "258,633" with "283,953"

Page 2, line 5, replace "387,007" with "367,395"

Page 2, line 7, replace "1,574,486" with "1,501,643"

Page 2, line 8, replace "359,067" with "(78,717)"

Page 2, line 9, replace "1,215,419" with "1,580,360"

Page 2, line 15, replace "19,400,721" with "19,322,170"

Page 2, line 16, replace "8,254,104" with "8,279,424"

Page 2, line 21, replace "387,007" with "367,395"

Page 2, line 24, replace "36,058,177" with "35,985,334"

Page 2, line 25, replace "17,788,541" with "17,350,757"

Page 2, line 26, replace "18,269,636" with "18,634,577"

Page 3, line 18, replace the first "\$129,002" with "\$73,945" and replace the second "\$129,002" with "\$73,945"

Page 3, line 19, replace "\$129,003" with "\$73,946"

Page 3, after line 21, insert:

"SECTION 9. FEDERAL FUNDS - REDUCTION IN GENERAL FUND EXPENDITURES. If the attorney general receives federal funds that may be used to replace the reduction in federal Byrne grant funds for drug enforcement activities during the 2005-07 biennium, the attorney general may seek emergency commission approval to receive and spend the federal funds but may not spend moneys from the general fund added by the legislative assembly to the extent of the federal funds received for this purpose for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. ATTORNEY GENERAL REFUND FUND TRANSFER TO THE GENERAL FUND - EXCEPTION. Notwithstanding section 54-12-18, the attorney

general may retain the balance in the attorney general refund fund that would otherwise be transferred to the general fund on June 30, 2005.

SECTION 11. LEGISLATIVE INTENT - FUNDING PRIORITY. It is the intent of the fifty-ninth legislative assembly that the attorney general prioritize the attorney general's funding appropriated by the legislative assembly for the biennium beginning July 1, 2005, and ending June 30, 2005, to continue, to the extent possible, the drug enforcement activities which were previously paid for from federal Byrne grant funds."

Page 3, line 26, replace "seventy-seven" with "seventy-six", replace "six" with "nine", and replace "fifty-five" with "eight"

Page 3, line 27, replace "may not exceed eighty" with "seventy-nine", replace "seven" with "nine"; and replace "sixty-one" with "eighty-four"

Page 3, after line 28, insert:

"SECTION 13. EMERGENCY. Section 10 of this Act is declared to be an emergency measure."

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1003 - Attorney General - House Action

| | EXECUTIVE BUDGET | HOUSE CHANGES | HOUSE VERSION |
|--------------------------------|---------------------|-------------------|---------------------|
| Salaries and wages | \$19,400,721 | (\$78,551) | \$19,322,170 |
| Operating expenses | 8,254,104 | 25,320 | 8,279,424 |
| Capital assets | 1,767,250 | | 1,767,250 |
| Grants | 5,944,056 | | 5,944,056 |
| Litigation fees | 50,000 | | 50,000 |
| State school finance lawsuit | 240,000 | | 240,000 |
| Racing Commission | 387,007 | (19,612) | 367,395 |
| Arrest and return of fugitives | 10,000 | | 10,000 |
| Gaming Commission | 5,039 | | 5,039 |
| Total all funds | \$36,058,177 | (\$72,843) | \$35,985,334 |
| Less estimated income | <u>17,788,541</u> | <u>(437,784)</u> | <u>17,350,757</u> |
| General fund | \$18,269,636 | \$364,941 | \$18,634,577 |
| FTE | 177.00 | (2.00) | 175.00 |

Dept. 125 - Attorney General - Detail of House Changes

| | REDUCES COMPENSATION PACKAGE TO 3/4 | REPLACES FEDERAL FUNDS REDUCTION 1 | REALLOCATES GENERAL FUND INCREASE 2 | REDUCES FUNDING FOR RACING COMMISSION 3 | ADDS FUNDING FOR DNA TESTING 4 | TOTAL HOUSE CHANGES |
|--------------------------------|-------------------------------------|------------------------------------|-------------------------------------|---|--------------------------------|---------------------|
| Salaries and wages | (\$78,551) | | | | | (\$78,551) |
| Operating expenses | | | | | \$25,320 | 25,320 |
| Capital assets | | | | | | |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| State school finance lawsuit | | | | | | |
| Racing Commission | (978) | | | (\$18,634) | | (19,612) |
| Arrest and return of fugitives | | | | | | |
| Gaming Commission | | | | | | |
| Total all funds | (\$79,529) | \$0 | \$0 | (\$18,634) | \$25,320 | (\$72,843) |
| Less estimated income | <u>(21,018)</u> | <u>(398,132)</u> | | <u>(18,634)</u> | | <u>(437,784)</u> |
| General fund | (\$58,511) | \$398,132 | \$0 | \$0 | \$25,320 | \$364,941 |
| FTE | 0.00 | 0.00 | (2.00) | 0.00 | 0.00 | (2.00) |

1 Additional general fund support is added to replace a portion of the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab. Sections are added to the bill providing:

- If federal funds are received for these drug enforcement purposes, the Attorney General may seek Emergency Commission approval to receive and spend the federal funds but may not spend this funding from the general fund.

- Legislative intent that the Attorney General prioritize its 2005-07 biennium funding to continue, to the extent possible, the drug enforcement activities which were previously paid for from federal Byrne grant funds.
- ² Funding added in the executive budget of \$157,957 from the general fund for an additional Bureau of Criminal Investigation agent and \$106,467 for an additional lab forensic scientist is reallocated to provide for the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab. The 2 FTE positions added in the executive budget for these new positions are removed.
- ³ Funding from Racing Commission special funds included in the executive budget for the Racing Commission executive director's salary and fringe benefits is reduced to provide for the current estimate of the amount needed for the director's salary and fringe benefits for the 2005-07 biennium.
- ⁴ The operating expenses line item is increased by \$25,320 from the general fund for costs of processing DNA samples of sexual offenders required by House Bill No. 1061.

A new section is added to the bill allowing the Attorney General to retain the June 30, 2005, balance in the Attorney General refund fund estimated to be \$213,697, rather than transferring the balance to the general fund as required by North Dakota Century Code Section 54-12-18. As this amount was not reflected in the 2005-07 executive revenue forecast, there will be no general fund budget status impact.

Date: 2/11/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1003

House House Appropriations Government Operations

Committee

Check here for Conference Committee

Legislative Council Amendment Number 58026.0105

Action Taken Approve Amendment

Motion Made By Rep. Timm Seconded By Rep. Kempenich

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------|-----|----|-----------------|-----|----|
| Chairman Carlisle | ✓ | | Rep. Kroeber | | ✓ |
| Rep. Timm | ✓ | | Rep. Williams | | ✓ |
| Rep. Kempenich | ✓ | | | | |
| Rep. Thoreson | ✓ | | | | |

Total (Yes) 4 No 2

Absent 0

Floor Assignment

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

Date: 2/11/05
Roll Call Vote #: ~~00~~

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1003

House House Appropriations Government Operations Committee

Check here for Conference Committee

Legislative Council Amendment Number 58026.0105

Action Taken NO PASS HB 1003 AS Amended

Motion Made By Rep. Kempenich Seconded By Rep. Thoreson

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------|-----|----|-----------------|-----|----|
| Chairman Carlisle | ✓ | | Rep. Kroeber | ✓ | |
| Rep. Timm | ✓ | | Rep. Williams | ✓ | |
| Rep. Kempenich | ✓ | | | | |
| Rep. Thoreson | ✓ | | | | |

Total (Yes) 6 No 0

Absent 0

Floor Assignment Chairman Carlisle.

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

Date: **February 15, 2005**
Roll Call Vote #: **1**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1003

House Appropriations - Full Committee

Check here for Conference Committee

Legislative Council Amendment Number **58026.0107**

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Thoreson** Seconded By **Rep Carlisle**

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

Total Yes **23** No **0**

Absent **0**

Floor Assignment **Rep Carlisle**

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

REPORT OF STANDING COMMITTEE

HB 1003: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (23 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1003 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "for a contingent appropriation" with "an exemption" and replace "and" with "to provide a statement of legislative intent; to provide for duties of the attorney general;"

Page 1, line 4, after "general" insert "; and to declare an emergency"

Page 2, line 1, replace "939,420" with "860,869"

Page 2, line 2, replace "258,633" with "283,953"

Page 2, line 5, replace "387,007" with "367,395"

Page 2, line 7, replace "1,574,486" with "1,501,643"

Page 2, line 8, replace "359,067" with "(78,717)"

Page 2, line 9, replace "1,215,419" with "1,580,360"

Page 2, line 15, replace "19,400,721" with "19,322,170"

Page 2, line 16, replace "8,254,104" with "8,279,424"

Page 2, line 21, replace "387,007" with "367,395"

Page 2, line 24, replace "36,058,177" with "35,985,334"

Page 2, line 25, replace "17,788,541" with "17,350,757"

Page 2, line 26, replace "18,269,636" with "18,634,577"

Page 2, line 28, replace "sections 1 and" with "section"

Page 3, line 18, replace the first "\$129,002" with "\$73,945" and replace the second "\$129,002" with "\$73,945"

Page 3, line 19, replace "\$129,003" with "\$73,946"

Page 3, after line 21, insert:

"SECTION 9. FEDERAL FUNDS - REDUCTION IN GENERAL FUND EXPENDITURES. If the attorney general receives federal funds that may be used to replace the reduction in federal Byrne grant funds for drug enforcement activities during the 2005-07 biennium, the attorney general may seek emergency commission approval to receive and spend the federal funds but may not spend moneys from the general fund added by the legislative assembly to the extent of the federal funds received for this purpose for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. ATTORNEY GENERAL REFUND FUND TRANSFER TO THE GENERAL FUND - EXCEPTION. Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund that would otherwise be transferred to the general fund on June 30, 2005.

SECTION 11. LEGISLATIVE INTENT - FUNDING PRIORITY. It is the intent of the fifty-ninth legislative assembly that the attorney general prioritize the attorney general's funding appropriated by the legislative assembly for the biennium beginning July 1, 2005, and ending June 30, 2005, to continue, to the extent possible, the drug enforcement activities that were previously paid for from federal Byrne grant funds.

SECTION 12. MEDICARE AND MEDICAID FRAUD ABUSE - COLLABORATION WITH UNITED STATES DEPARTMENT OF JUSTICE. The attorney general shall collaborate with the United States department of justice to determine whether the state of North Dakota should be named as a plaintiff in medicare and medicaid fraud abuse cases being considered by the United States department of justice for the biennium beginning July 1, 2005, and ending June 30, 2007."

Page 3, line 26, replace "seventy-seven" with "seventy-six", replace "six" with "nine", and replace "fifty-five" with "eight"

Page 3, line 27, replace "may not exceed eighty" with "seventy-nine", replace "seven" with "nine", and replace "sixty-one" with "eighty-four"

Page 3, after line 28, insert:

"SECTION 14. EMERGENCY. Section 10 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1003 - Attorney General - House Action

| | EXECUTIVE BUDGET | HOUSE CHANGES | HOUSE VERSION |
|--------------------------------|-------------------|------------------|-------------------|
| Salaries and wages | \$19,400,721 | (\$78,551) | \$19,322,170 |
| Operating expenses | 8,254,104 | 25,320 | 8,279,424 |
| Capital assets | 1,767,250 | | 1,767,250 |
| Grants | 5,944,056 | | 5,944,056 |
| Litigation fees | 50,000 | | 50,000 |
| State school finance lawsuit | 240,000 | | 240,000 |
| Racing Commission | 387,007 | (19,612) | 367,395 |
| Arrest and return of fugitives | 10,000 | | 10,000 |
| Gaming Commission | <u>5,039</u> | | <u>5,039</u> |
| Total all funds | \$36,058,177 | (\$72,843) | \$35,985,334 |
| Less estimated income | <u>17,788,541</u> | <u>(437,784)</u> | <u>17,350,757</u> |
| General fund | \$18,269,636 | \$364,941 | \$18,634,577 |
| FTE | 177.00 | (2.00) | 175.00 |

Dept. 125 - Attorney General - Detail of House Changes

| | REDUCES COMPENSATION PACKAGE TO 3/4 | REPLACES FEDERAL FUNDS REDUCTION 1 | REALLOCATES GENERAL FUND INCREASE 2 | REDUCES FUNDING FOR RACING COMMISSION 3 | ADDS FUNDING FOR DNA TESTING 4 | TOTAL HOUSE CHANGES |
|--------------------|-------------------------------------|------------------------------------|-------------------------------------|---|--------------------------------|---------------------|
| Salaries and wages | (\$78,551) | | | | | (\$78,551) |
| Operating expenses | | | | | \$25,320 | 25,320 |
| Capital assets | | | | | | |
| Grants | | | | | | |

REPORT OF STANDING COMMITTEE (410)
February 16, 2005 3:22 p.m.

Module No: HR-31-3201
Carrier: Carlisle
Insert LC: 58026.0108 Title: .0200

| | | | | | | |
|--------------------------------|------------|-----------|--------|------------|----------|------------|
| Litigation fees | | | | | | |
| State school finance lawsuit | | | | | | |
| Racing Commission | (978) | | | (\$18,634) | | (19,612) |
| Arrest and return of fugitives | | | | | | |
| Gaming Commission | | | | | | |
| Total all funds | (\$79,529) | \$0 | \$0 | (\$18,634) | \$25,320 | (\$72,843) |
| Less estimated income | (21,018) | (398,132) | | (18,634) | | (437,784) |
| General fund | (\$58,511) | \$398,132 | \$0 | \$0 | \$25,320 | \$364,941 |
| FTE | 0.00 | 0.00 | (2.00) | 0.00 | 0.00 | (2.00) |

¹ Additional general fund support is added to replace a portion of the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab. Sections are added to the bill providing:

- If federal funds are received for these drug enforcement purposes, the Attorney General may seek Emergency Commission approval to receive and spend the federal funds but may not spend this funding from the general fund.
- Legislative intent that the Attorney General prioritize its 2005-07 biennium funding to continue, to the extent possible, the drug enforcement activities which were previously paid for from federal Byrne grant funds.

² Funding added in the executive budget of \$157,957 from the general fund for an additional Bureau of Criminal Investigation agent and \$106,467 for an additional lab forensic scientist is reallocated to provide for the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab. The 2 FTE positions added in the executive budget for these new positions are removed.

³ Funding from Racing Commission special funds included in the executive budget for the Racing Commission executive director's salary and fringe benefits is reduced to provide for the current estimate of the amount needed for the director's salary and fringe benefits for the 2005-07 biennium.

⁴ The operating expenses line item is increased by \$25,320 from the general fund for costs of processing DNA samples of sexual offenders required by House Bill No. 1061.

A new section is added to the bill allowing the Attorney General to retain the June 30, 2005, balance in the Attorney General refund fund estimated to be \$213,697, rather than transferring the balance to the general fund as required by North Dakota Century Code Section 54-12-18. As this amount was not reflected in the 2005-07 executive revenue forecast, there will be no general fund budget status impact.

A new section is added directing the Attorney General to work with federal prosecutors to determine whether the state of North Dakota should be included as a plaintiff in federal Medicare and Medicaid fraud cases.

2005 SENATE APPROPRIATIONS

HB 1003

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1003

Senate Appropriations Committee

Conference Committee

Hearing Date March 4, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
| 1 | | | 45 |

Committee Clerk Signature

Garret Pank for Perry

Minutes:

Chairman Holmberg opened the hearing on HB 1003 with roll call. He announced the subcommittee for this bill will be Senator Kringstad, Senator Holmberg and Senator Mathern. **Wayne Stenehjem, Attorney General**, provided a written budget presentation in **support of HB 1003**. He indicated he will be discussing challenges and issues the committee needs to be aware of. The booklet he distributed highlights the litigation the Attorney General's Office has been involved in. He then discussed the Governor's proposed budget, the additional staff needed, requested enhancements, explained the legislative initiatives impacting the AG office and division summaries.

Senator Mathern asked about the railway lawsuit.

Wayne Stenehjem indicated the PSC wanted to pursue this, but he had no opinion. He then introduced other members of his department.

Page 2
Senate Appropriations Committee
Bill/Resolution Number 1003
Hearing Date March 4, 2005

Cheryl Bergian, Director of Human Rights Coalition testified in support of **HB 1003**. She raised concerns about positions not being filled.

Chairman Holmberg closed the hearing on HB 1003.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1003

Senate Appropriations Committee

Conference Committee

Hearing Date March 11, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
| 1 | | x | 2,250 |

Committee Clerk Signature



Minutes:

Chairman Holmberg called the subcommittee pre discussion to order on HB 1003, the Attorney General's Budget.

Senator Kringstad indicated that one of the big issues is the \$241,000 to make the equity payment.

Senator Fischer indicated that Senator Andrist would like to look at fees for the last bill and perhaps contact with the court administrator.

Senator Andrist indicated he would like the committee to find out if District Judges have operating funds that perhaps the Attorney General would simply bill them for the cost of the DNA and it would come from that courts operating fund.

Senator Holmberg indicated that could be looked at, but the answer coming back from the courts may be that they can't be non-partial because there is a financial interest that comes from them.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

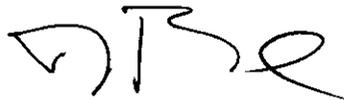
Senate Appropriations Committee

Conference Committee

Hearing Date 03/30/05

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|----------|
| 1 | x | | 460-1627 |

Committee Clerk Signature



Minutes: **Chairman Holmberg** called meeting to order on HB 1003.

Sen. Kringstad, motioned amendment, seconded by **Sen. Andrist**. **Sen. Kringstad** explained the amendment.

Sen. Mathern: Can you explain why the salaries we put in last section were not funded.

Sen. Kringstad: It was special funds last time and now it was not in the salary line item.

Sen. Tallackson: Where does the racing fund get its income from?

Sen. Kringstad: I think the General Fund, but I am not sure.

Sen. Mathern: Could you explain why the salaries we put in last session were not funded?

Sen. Kringstad: It was from special funds last session and now it was not in the salary line item and there fore did not get covered by the Governors budget. That is why it has to go back in so they don't take the cut.

Sandy Paulson, OMB: The \$240,000 comes form the General Fund, not the Special fund. The legislature approved those funds last time.

Page 2
Senate Appropriations Committee
Bill/Resolution Number HB 1003
Hearing Date 03/30/05

Sen. Andrist: \$117,000 from the General Fund, isn't this self supporting?

Sen. Kringstad: The General Fund money was in there last time.

Sen. Andrist: That is a lot of money for North Dakotans to pay who don't care about horse racing.

Sen. Mathern: Racing comes with income.

Sen. Andrist: We've got better things to subsidize.

Sen. Kringstad: We have recovered our funding, we are still in the plus.

A voice vote for the amendment was taken. A **DO PASS as AMENDED** motion was made by

Sen. Kringstad, seconded by **Sen. Bowman**. A roll call vote was taken, 14 yeas, 1 nay vote was recorded. The bill will be carried by Sen. Kringstad.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1003

Page 1, line 2, after the first semicolon insert "to provide an appropriation for defraying the expenses of the racing commission;"

Page 1, line 3, after the second semicolon insert "to provide for a salary equity review and recommendation;"

Page 2, line 1, replace "860,869" with "926,395"

Page 2, line 2, replace "283,953" with "488,324"

Page 2, line 3, replace "(63,000)" with "(44,200)"

Page 2, remove line 5

Page 2, line 7, replace "1,501,643" with "1,422,945"

Page 2, line 8, replace "(78,717)" with "(645,621)"

Page 2, line 9, replace "1,580,360" with "2,068,566"

Page 2, line 15, replace "19,322,170" with "19,387,696"

Page 2, line 16, replace "8,279,424" with "8,483,795"

Page 2, line 17, replace "1,767,250" with "1,786,050"

Page 2, remove line 21

Page 2, line 24, replace "35,985,334" with "35,906,636"

Page 2, line 25, replace "17,350,757" with "16,783,853"

Page 2, line 26, replace "18,634,577" with "19,122,783"

Page 2, after line 26, insert:

"SECTION 4. APPROPRIATION - RACING COMMISSION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the racing commission for the purpose of defraying the expenses of the racing commission, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

| | |
|----------------------------------|------------|
| Racing commission | \$367,145 |
| Total all funds | \$367,145 |
| Less estimated income | 249,666 |
| Total general fund appropriation | \$117,479" |

Page 3, line 18, replace "3" with "4", replace the first "\$73,945" with "\$73,889", and replace the second "\$73,945" with "\$73,889"

Page 3, line 19, replace "\$73,946" with "\$73,888"

Page 4, line 8, remove "- COLLABORATION"

Page 4, line 9, remove "WITH UNITED STATES DEPARTMENT OF JUSTICE" and replace "collaborate" with "consider, in consultation"

Page 4, line 10, replace "to determine whether" with ", the feasibility of naming"

Page 4, line 11, remove "should be named"

Page 4, after line 13, insert:

"SECTION 14. SALARY REVIEW AND RECOMMENDATION. During the 2005-06 interim, the director of the office of management and budget shall conduct an equity review of the salaries of all attorneys and paralegals employed as full-time employees with all branches of government within the state of North Dakota, including attorneys and paralegals employed by the state board of higher education and workforce safety and insurance. The director shall provide to the governor for inclusion in the 2007-09 biennial executive budget recommendation the funding necessary to adjust the salaries of attorneys and paralegals in a manner that makes attorney and paralegal salaries comparable and equitable throughout state government. In determining comparable positions based upon years of experience and importance of position, the director shall consult with the attorney general."

Page 4, line 20, replace "10" with "11"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1003 - Summary of Senate Action

| | EXECUTIVE BUDGET | HOUSE VERSION | SENATE CHANGES | SENATE VERSION |
|-----------------------|---------------------|------------------|-------------------|-------------------|
| Attorney General | | | | |
| Total all funds | \$36,058,177 | \$35,985,334 | (\$78,698) | \$35,906,636 |
| Less estimated income | 17,788,541 | 17,350,757 | (566,904) | 16,783,853 |
| General fund | \$18,269,636 | \$18,634,577 | \$488,206 | \$19,122,783 |
| Racing Commission | | | | |
| Total all funds | \$0 | \$0 | \$367,145 | \$367,145 |
| Less estimated income | | | 249,666 | 249,666 |
| General fund | \$0 | \$0 | \$117,479 | \$117,479 |
| Bill Total | | | | |
| Total all funds | \$36,058,177 | \$35,985,334 | \$288,447 | \$36,273,781 |
| Less estimated income | 17,788,541 | 17,350,757 | (317,238) | 17,033,519 |
| General fund | \$18,269,636 | \$18,634,577 | \$605,685 | \$19,240,262 |

House Bill No. 1003 - Attorney General - Senate Action

| | EXECUTIVE BUDGET | HOUSE VERSION | SENATE CHANGES | SENATE VERSION |
|--------------------------------|---------------------|------------------|-------------------|-------------------|
| Salaries and wages | \$19,400,721 | \$19,322,170 | \$65,526 | \$19,387,696 |
| Operating expenses | 8,254,104 | 8,279,424 | 204,371 | 8,483,795 |
| Capital assets | 1,767,250 | 1,767,250 | 18,800 | 1,786,050 |
| Grants | 5,944,056 | 5,944,056 | | 5,944,056 |
| Litigation fees | 50,000 | 50,000 | | 50,000 |
| State school finance lawsuit | 240,000 | 240,000 | | 240,000 |
| Racing Commission | 387,007 | 367,395 | (367,395) | |
| Arrest and return of fugitives | 10,000 | 10,000 | | 10,000 |
| Gaming Commission | 5,039 | 5,039 | | 5,039 |

| | | | | |
|-----------------------|-------------------|-------------------|------------------|-------------------|
| Total all funds | \$36,058,177 | \$35,985,334 | (\$78,698) | \$35,906,636 |
| Less estimated income | <u>17,788,541</u> | <u>17,350,757</u> | <u>(566,904)</u> | <u>16,783,853</u> |
| General fund | \$18,269,636 | \$18,634,577 | \$488,206 | \$19,122,783 |
| FTE | 177.00 | 175.00 | (0.70) | 174.30 |

Dept. 125 - Attorney General - Detail of Senate Changes

| | REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE | CHANGES FUNDING FOR ATTORNEY SALARY EQUITY 1 | CHANGES FUNDING FOR CRIME LAB TESTING SUPPLIES 2 | ADDS FUNDING FOR CRIME LAB FORENSIC SUPPLIES 3 | FUNDING FOR CRIME LAB SERVICE AGREEMENTS 4 | ADDS FUNDING FOR CONNECTND FEES 5 |
|--------------------------------|--|--|--|--|---|--|
| Salaries and wages | (\$21,465) | | | | | |
| Operating expenses | | | | \$70,853 | \$74,552 | \$31,078 |
| Capital assets | | | | | | |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| State school finance lawsuit | | | | | | |
| Racing Commission | (250) | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming Commission | | | | | | |
| Total all funds | (\$21,715) | \$0 | \$0 | \$70,853 | \$74,552 | \$31,078 |
| Less estimated income | <u>(5,400)</u> | <u>(241,024)</u> | <u>(100,000)</u> | | | <u>31,078</u> |
| General fund | (\$16,315) | \$241,024 | \$100,000 | \$70,853 | \$74,552 | \$0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

| | REPLACES FEDERAL FUNDS REDUCTION 6 | ADDS FUNDING FOR DNA TESTING FOR FELONS 7 | REMOVES RACING COMMISSION FUNDING 8 | TOTAL SENATE CHANGES |
|--------------------------------|---|---|--|----------------------------|
| Salaries and wages | | \$86,991 | | \$65,526 |
| Operating expenses | | 27,888 | | 204,371 |
| Capital assets | | 18,800 | | 18,800 |
| Grants | | | | |
| Litigation fees | | | | |
| State school finance lawsuit | | | | |
| Racing Commission | | | (\$367,145) | (367,395) |
| Arrest and return of fugitives | | | | |
| Gaming Commission | | | | |
| Total all funds | \$0 | \$133,679 | (\$367,145) | (\$78,698) |
| Less estimated income | <u>(29,892)</u> | | <u>(221,666)</u> | <u>(566,904)</u> |
| General fund | \$29,892 | \$133,679 | (\$145,479) | \$488,206 |
| FTE | 0.00 | 1.30 | (2.00) | (0.70) |

1 The funding source for continuing the cost of salary equity increases for attorneys authorized by the 2003 Legislative Assembly from special funds for the 2003-05 biennium is changed to the general fund for the 2005-07 biennium.

2 The anticipated loss of federal funds for crime lab alcohol testing supplies is replaced with funding from the general fund.

3 Funding is added for additional forensic supplies for the crime lab.

4 Funding is added for service agreements on crime lab equipment.

5 Funding is added from special funds for 2005-07 ConnectND fees.

6 Additional general fund support is added to replace a portion of the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab.

7 Funding of \$133,679 from the general fund, including 1 FTE administrative assistant and a .3 FTE forensic scientist, is added for costs associated with collecting and processing DNA samples from all convicted felons in accordance with provisions of House Bill No. 1235.

8 Funding for the Racing Commission is removed and provided in a separate appropriation section in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office.

The section added by the House requiring the Attorney General to collaborate with the federal prosecutors to determine whether North Dakota should be named as a plaintiff in Medicare and Medicaid fraud cases being considered by the federal government is changed to require the Attorney General to consider, in consultation with federal prosecutors, the feasibility of naming North Dakota as a plaintiff in these cases.

A section is added requiring the Office of Management and Budget to conduct a salary equity review of attorneys and paralegals employed by state government and include a recommendation in the 2007-09 executive budget to provide for comparable and equitable salaries for these employees.

House Bill No. 1003 - Racing Commission - Senate Action

| | EXECUTIVE BUDGET | HOUSE VERSION | SENATE CHANGES | SENATE VERSION |
|-----------------------|---------------------|------------------|-------------------|-------------------|
| Racing Commission | | | <u>\$367,145</u> | <u>\$367,145</u> |
| Total all funds | \$0 | \$0 | \$367,145 | \$367,145 |
| Less estimated income | | | <u>249,666</u> | <u>249,666</u> |
| General fund | \$0 | \$0 | \$117,479 | \$117,479 |
| FTE | 0.00 | 0.00 | 2.00 | 2.00 |

Dept. 130 - Racing Commission - Detail of Senate Changes

| | ADDS SEPARATE APPROPRIATION FOR RACING ¹ | CHANGES FUNDING SOURCE ² | TOTAL SENATE CHANGES |
|-----------------------|--|---|----------------------------|
| Racing Commission | <u>\$367,145</u> | | <u>\$367,145</u> |
| Total all funds | \$367,145 | \$0 | \$367,145 |
| Less estimated income | <u>221,666</u> | <u>28,000</u> | <u>249,666</u> |
| General fund | \$145,479 | (\$28,000) | \$117,479 |
| FTE | 2.00 | 0.00 | 2.00 |

¹ A section is added providing an appropriation for the Racing Commission in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office.

² A funding source change from the general fund to special funds is made to allow expenditure of license fee collections that will be deposited in the Racing Commission operating fund rather than the general fund in accordance with provisions of Senate Bill No. 2344.

Date 3/30/05
Roll Call Vote #: 7

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~SB~~ HB 1003

Senate SENATE APPROPRIATIONS

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass as (A)

Motion Made By

K

Seconded By

B

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

Total (Yes)

14

No

1

Absent

0

Floor Assignment

Kringstad

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

REPORT OF STANDING COMMITTEE

HB 1003, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1003 was placed on the Sixth order on the calendar.

Page 1, line 2, after the first semicolon insert "to provide an appropriation for defraying the expenses of the racing commission;"

Page 1, line 3, after the second semicolon insert "to provide for a salary equity review and recommendation;"

Page 2, line 1, replace "860,869" with "926,395"

Page 2, line 2, replace "283,953" with "488,324"

Page 2, line 3, replace "(63,000)" with "(44,200)"

Page 2, remove line 5

Page 2, line 7, replace "1,501,643" with "1,422,945"

Page 2, line 8, replace "~~(78,717)~~" with "~~(645,621)~~"

Page 2, line 9, replace "1,580,360" with "2,068,566"

Page 2, line 15, replace "19,322,170" with "19,387,696"

Page 2, line 16, replace "8,279,424" with "8,483,795"

Page 2, line 17, replace "1,767,250" with "1,786,050"

Page 2, remove line 21

Page 2, line 24, replace "35,985,334" with "35,906,636"

Page 2, line 25, replace "17,350,757" with "16,783,853"

Page 2, line 26, replace "18,634,577" with "19,122,783"

Page 2, after line 26, insert:

"SECTION 4. APPROPRIATION - RACING COMMISSION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the racing commission for the purpose of defraying the expenses of the racing commission, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

| | |
|----------------------------------|------------|
| Racing commission | \$367,145 |
| Total all funds | \$367,145 |
| Less estimated income | 249,666 |
| Total general fund appropriation | \$117,479" |

Page 3, line 18, replace "3" with "4", replace the first "\$73,945" with "\$73,889", and replace the second "\$73,945" with "\$73,889"

Page 3, line 19, replace "\$73,946" with "\$73,888"

Page 4, line 8, remove "- COLLABORATION"

Page 4, line 9, remove "WITH UNITED STATES DEPARTMENT OF JUSTICE" and replace "collaborate" with "consider, in consultation"

Page 4, line 10, replace "to determine whether" with ", the feasibility of naming"

Page 4, line 11, remove "should be named"

Page 4, after line 13, insert:

"SECTION 14. SALARY REVIEW AND RECOMMENDATION. During the 2005-06 interim, the director of the office of management and budget shall conduct an equity review of the salaries of all attorneys and paralegals employed as full-time employees with all branches of government within the state of North Dakota, including attorneys and paralegals employed by the state board of higher education and workforce safety and insurance. The director shall provide to the governor for inclusion in the 2007-09 biennial executive budget recommendation the funding necessary to adjust the salaries of attorneys and paralegals in a manner that makes attorney and paralegal salaries comparable and equitable throughout state government. In determining comparable positions based upon years of experience and importance of position, the director shall consult with the attorney general."

Page 4, line 20, replace "10" with "11"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1003 - Summary of Senate Action

| | EXECUTIVE BUDGET | HOUSE VERSION | SENATE CHANGES | SENATE VERSION |
|-----------------------|------------------|---------------|----------------|----------------|
| Attorney General | | | | |
| Total all funds | \$36,058,177 | \$35,985,334 | (\$78,698) | \$35,906,636 |
| Less estimated income | 17,788,541 | 17,350,757 | (566,904) | 16,783,853 |
| General fund | \$18,269,636 | \$18,634,577 | \$488,206 | \$19,122,783 |
| Racing Commission | | | | |
| Total all funds | \$0 | \$0 | \$367,145 | \$367,145 |
| Less estimated income | | | 249,666 | 249,666 |
| General fund | \$0 | \$0 | \$117,479 | \$117,479 |
| Bill Total | | | | |
| Total all funds | \$36,058,177 | \$35,985,334 | \$288,447 | \$36,273,781 |
| Less estimated income | 17,788,541 | 17,350,757 | (317,238) | 17,033,519 |
| General fund | \$18,269,636 | \$18,634,577 | \$605,685 | \$19,240,262 |

House Bill No. 1003 - Attorney General - Senate Action

| | EXECUTIVE BUDGET | HOUSE VERSION | SENATE CHANGES | SENATE VERSION |
|--------------------------------|------------------|---------------|----------------|----------------|
| Salaries and wages | \$19,400,721 | \$19,322,170 | \$65,526 | \$19,387,696 |
| Operating expenses | 8,254,104 | 8,279,424 | 204,371 | 8,483,795 |
| Capital assets | 1,767,250 | 1,767,250 | 18,800 | 1,786,050 |
| Grants | 5,944,056 | 5,944,056 | | 5,944,056 |
| Litigation fees | 50,000 | 50,000 | | 50,000 |
| State school finance lawsuit | 240,000 | 240,000 | | 240,000 |
| Racing Commission | 387,007 | 367,395 | (367,395) | |
| Arrest and return of fugitives | 10,000 | 10,000 | | 10,000 |
| Gaming Commission | 5,039 | 5,039 | | 5,039 |

| | | | | |
|-----------------------|-------------------|-------------------|------------------|-------------------|
| Total all funds | \$36,058,177 | \$35,985,334 | (\$78,698) | \$35,906,636 |
| Less estimated income | <u>17,788,541</u> | <u>17,350,757</u> | <u>(566,904)</u> | <u>16,783,853</u> |
| General fund | \$18,269,636 | \$18,634,577 | \$488,206 | \$19,122,783 |
| FTE | 177.00 | 175.00 | (0.70) | 174.30 |

Dept. 125 - Attorney General - Detail of Senate Changes

| | REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE | CHANGES FUNDING FOR ATTORNEY SALARY EQUITY ¹ | CHANGES FUNDING FOR CRIME LAB TESTING SUPPLIES ² | ADDS FUNDING FOR CRIME LAB FORENSIC SUPPLIES ³ | FUNDING FOR CRIME LAB SERVICE AGREEMENTS ⁴ | ADDS FUNDING FOR CONNECTND FEES ⁵ |
|--------------------------------|--|---|---|---|--|---|
| Salaries and wages | (\$21,465) | | | | | |
| Operating expenses | | | | \$70,853 | \$74,552 | \$31,078 |
| Capital assets | | | | | | |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| State school finance lawsuit | | | | | | |
| Racing Commission | (250) | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming Commission | | | | | | |
| Total all funds | (\$21,715) | \$0 | \$0 | \$70,853 | \$74,552 | \$31,078 |
| Less estimated income | <u>(5,400)</u> | <u>(241,024)</u> | <u>(100,000)</u> | | | <u>31,078</u> |
| General fund | (\$16,315) | \$241,024 | \$100,000 | \$70,853 | \$74,552 | \$0 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

| | REPLACES FEDERAL FUNDS REDUCTION ⁶ | ADDS FUNDING FOR DNA TESTING FOR FELONS ⁷ | REMOVES RACING COMMISSION FUNDING ⁸ | TOTAL SENATE CHANGES |
|--------------------------------|--|--|---|----------------------------|
| Salaries and wages | | \$86,991 | | \$65,526 |
| Operating expenses | | 27,888 | | 204,371 |
| Capital assets | | 18,800 | | 18,800 |
| Grants | | | | |
| Litigation fees | | | | |
| State school finance lawsuit | | | | |
| Racing Commission | | | (\$367,145) | (367,395) |
| Arrest and return of fugitives | | | | |
| Gaming Commission | | | | |
| Total all funds | \$0 | \$133,679 | (\$367,145) | (\$78,698) |
| Less estimated income | <u>(29,892)</u> | | <u>(221,666)</u> | <u>(566,904)</u> |
| General fund | \$29,892 | \$133,679 | (\$145,479) | \$488,206 |
| FTE | 0.00 | 1.30 | (2.00) | (0.70) |

- ¹ The funding source for continuing the cost of salary equity increases for attorneys authorized by the 2003 Legislative Assembly from special funds for the 2003-05 biennium is changed to the general fund for the 2005-07 biennium.
- ² The anticipated loss of federal funds for crime lab alcohol testing supplies is replaced with funding from the general fund.
- ³ Funding is added for additional forensic supplies for the crime lab.
- ⁴ Funding is added for service agreements on crime lab equipment.
- ⁵ Funding is added from special funds for 2005-07 ConnectND fees.
- ⁶ Additional general fund support is added to replace a portion of the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab.
- ⁷ Funding of \$133,679 from the general fund, including 1 FTE administrative assistant and a .3 FTE forensic scientist, is added for costs associated with collecting and processing DNA samples from all convicted felons in accordance with provisions of House Bill No. 1235.
- ⁸ Funding for the Racing Commission is removed and provided in a separate appropriation section in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office.

The section added by the House requiring the Attorney General to collaborate with the federal prosecutors to determine whether North Dakota should be named as a plaintiff in Medicare and Medicaid fraud cases being considered by the federal government is changed to require the Attorney General to consider, in consultation with federal prosecutors, the feasibility of naming North Dakota as a plaintiff in these cases.

A section is added requiring the Office of Management and Budget to conduct a salary equity review of attorneys and paralegals employed by state government and include a recommendation in the 2007-09 executive budget to provide for comparable and equitable salaries for these employees.

House Bill No. 1003 - Racing Commission - Senate Action

| | EXECUTIVE BUDGET | HOUSE VERSION | SENATE CHANGES | SENATE VERSION |
|-----------------------|---------------------|------------------|-------------------|-------------------|
| Racing Commission | | | <u>\$367,145</u> | <u>\$367,145</u> |
| Total all funds | \$0 | \$0 | \$367,145 | \$367,145 |
| Less estimated income | | | <u>249,666</u> | <u>249,666</u> |
| General fund | \$0 | \$0 | \$117,479 | \$117,479 |
| FTE | 0.00 | 0.00 | 2.00 | 2.00 |

Dept. 130 - Racing Commission - Detail of Senate Changes

| | ADDS SEPARATE APPROPRIATION FOR RACING ¹ | CHANGES FUNDING SOURCE ² | TOTAL SENATE CHANGES |
|-----------------------|--|---|----------------------------|
| Racing Commission | <u>\$367,145</u> | | <u>\$367,145</u> |
| Total all funds | \$367,145 | \$0 | \$367,145 |
| Less estimated income | <u>221,666</u> | <u>28,000</u> | <u>249,666</u> |
| General fund | \$145,479 | (\$28,000) | \$117,479 |
| FTE | 2.00 | 0.00 | 2.00 |

¹ A section is added providing an appropriation for the Racing Commission in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office.

² A funding source change from the general fund to special funds is made to allow expenditure of license fee collections that will be deposited in the Racing Commission operating fund rather than the general fund in accordance with provisions of Senate Bill No. 2344.

2005 HOUSE APPROPRIATIONS

CONFERENCE COMMITTEE

HB 1003

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

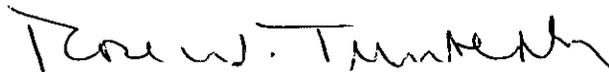
House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Thursday, April 7, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
| 1 | X | | 00-16.7 |

Committee Clerk Signature



Minutes:

Chairman Carlise opened the Conference Committee Hearing on HB 1003 concerning the Attorney General's budget. He deferred to **Senator Kringstad** to review changes made by the

Senate:

- Reduced the compensation package
- Replaced funds in anticipation of the federal Byrne Grant reductions
- Stipulated that if the federal funds are received, the Attorney General may seek emergency commission approval to receive and spend those funds, but not spend the general funds
- Stated intent to prioritize to the extent possible the drug enforcement activities which were previously paid for by the federal Byrne Grant
- Added to the executive budget \$157,957 from the general fund for a additional BCI agent

Sen. Holmberg interjected that perhaps he were reviewing the House amendment. The Committee was referred to .0202. **Sen. Kringstad** continued on page 3:

- Footnote 1: Equity pay for \$241,024, which came out of special funds last biennium. This time it's coming out of general funds and no further action will be required.
- Footnote 2: \$100,000 for the crime lab due to the loss of federal funds that came into DOT
- Footnote 3: \$70,853 for crime lab supplies
- Footnote 4: \$74,552 for service agreements on crime lab equipment
- Footnote 5: \$31,078 for Connect ND fees
- Footnote 6: \$29,892 for general fund support for BCI and crime lab due to grant reduction
- Footnote 7: \$133,679 for 1 FTE for an administrative assistant and .3 FTE for forensic scientist, which relate to HB 1235 and the DNA project
- Footnote 8: Removed funding for the racing commission according to SB 2340.
- OMB section requiring equity review of attorneys and paralegals employed by state government...This refers to section 14.

Sen. Kringstad also reviewed the two footnotes on page 4 regarding the racing commission.

Chairman Carlisle asked Ms. Paulson, OMB, or Mr. Allen Knudson, Legislative Council, to state the net result of the Senate changes. **Mr. Knudson** said the over all effect is \$606,000, which includes the racing commission. **Chairman Carlisle** asked about the net and **Mr. Knudson** said \$606,000 because part of the \$488,000 is taking the racing commission out.

Chairman Carlisle asked about Senate changes to the language regarding fraud cases and naming the plaintiff (See p. 3 amendment .0202). **Deputy Tabor, Attorney General's Office,** said the language was changed to preserve Rep. Delzer's intent, but to generalize the language

somewhat. This states that the A.G.'s Office will try to determine how N.D. could be named as a plaintiff on the federal Medicaid fraud cases. Despite numerous conversations, this still isn't clear. **Chairman Carlisle** asked if she had spoken with Rep. Delzer and she said she had told him they would remove or modify the language so they wouldn't get in trouble if they didn't figure out how to do it.

Chairman Carlisle asked about the equity study and who that involves. **Sen. Holmberg** responded that basically it's the attorneys hired by the State. **Chairman Carlisle** said this includes the Supreme Court. Someone added Legislative Council.

Chairman Carlisle stated that money has been added to Highway Patrol and DOCR for equity adjustments. He asked if the equity adjustments in this amendment run parity with the others.

Sen. Kringstad said this equity funding comes from special funds last biennium. It was \$241,024. To avoid reducing salaries, it has to be changed into general fund. **Chairman Carlisle** said the counties don't benefit from this...it's strictly this budget. **Sen. Holmberg** said they were reminded that last session when those raises were given by special funds that those special funds would only be there that biennium and that they would have to come to the legislature the next session to resolve the issue. **Rep. Thoreson** asked what the source for those special funds were and learned it was the refund fund.

Chairman Carlisle sighed and said, "the whole thing is the 40% reduction in the Byrne Grant funds." **Deputy Tabor** asked if the Committee wanted an update and was asked to continue. She said there is a significant movement in Congress to replenish the Byrne Grant, but it won't occur in time to help the A.G.'s Office. They've requested an earmark from the congressional delegation, but those won't apply until the next fiscal year. They expect a gap in funding.

Chairman Carlisle said that the House passed HB 1235 without any money. **Rep. Thoreson** asked Deputy Tabor that if they replenish the funds, for how long. **Deputy Tabor** said they go year by year. **Rep. Thoreson** said he brought this up because this will come again, so maybe some long-term solutions are in order.

Chairman Carlisle said they should schedule another meeting, so they have time to consult.

Sen. Holmberg said, "I will consult with myself." He requested consideration of amendment .0203 and said there was a paradox within the appointed and re-appointing process. A person could serve a term and be re-appointed, but if a person was appointed to fill a vacancy, he/she could not be re-appointed, which doesn't make much sense. Mr. Knudson drafted this amendment to allow a person appointed to fill a vacancy to have the same re-appointment rights as someone who was appointed initially. **Chairman Carlisle** said the only new language is "and may be re-appointed." **Rep. Thoreson** noted strikes "only."

Sen. Mathern asked about the other bill and whether further wording was needed. **Mr. Knudson** said the other bill would amend these same sections, but because they're not in conflict, the other bill is changed in different language. The Code Revisor will bring it all together, as long as they are not in conflict. If there were a conflict, then the last one passed prevails.

Chairman Carlisle said the Committee would consider the amendments further and adjourned the Conference Committee on HB 1003.

(Meter #16.6)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

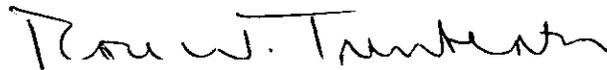
House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Monday, April 11, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
| 1 | X | | 00-18.0 |

Committee Clerk Signature



Minutes:

Chairman Carlisle opened the Conference Committee on HB 1003 concerning the budget for the Attorney General. He began by noting that the difference between the House and what the Senate added was about \$606,000 in general funds. He asked Deputy Tabor from the Attorney General's Office to prioritize so they might reach a figure somewhere in between. **Deputy Tabor** said she has consulted with the DOT regarding \$100,000 for the Crime Lab testing equipment. The DOT told the Crime Lab these federal funds would not be available in the next biennium. She pleaded with the Dir. Spryncznatyk for reconsideration and he said he thought he might be able to help. **Chairman Carlisle** asked where to find that amount on the amendment .0202 and he was told footnote #2. He said that would come from 2012. **Deputy Tabor** said the other one is footnote #6 which is a reduction of federal funds of \$29, 892. That was extra money for the Byrne Grant fund reduction. She followed up on an earlier conversation about getting rid of

Connect ND. Ms. Kathy Roll pointed out that's special funding, so that won't help this process.

Chairman Carlisle asked if there were any further comments or problems with items 1 & 2.

Sen. Kringstad said they would be satisfied with that.

Chairman Carlisle gave a memo, which he had just received from OMB, to Sandy Tabor to review and explain. **Deputy Tabor** said that OMB wants words changed in section 14, p. 2, where the sentence starts: "the director shall provide to the Governor for inclusion in 2007-09 biennial executive budget..." OMB and the Governor's Office would like "for consideration." The A.G. has spoken with OMB and Duane Hodek about leaving it "for inclusion" rather than "consideration" simply because they want to make sure that the OMB Director provides it to the Governor. The A.G.'s Office doesn't believe the amendment is mandating the Governor to put it in his budget. This opinion has been provided to Dir. Sharp in writing. It's up to the Committee whether or not if they wish to change it. **Chairman Carlisle** asked if there were any comments and none were made. **Ms. Paulson** said they prefer "consideration." **Sen. Mathern** said that either scenario there has been written communication, so both departments understand the rationale. **Deputy Tabor** added that the memo states the fact that the A.G.'s Office recognizes that the legislature has no ability to require the Governor to put anything in his budget because of the constitutional separation of powers and this language does not do that. **Chairman Carlisle** asked **Mr. Allen Knudson, Legislative Council**, if they put the word "consideration," will everybody know what was intended. **Mr. Knudson** said the intent is still there and the Governor should consider that report when putting the budget together. **Deputy Tabor** said the impetus of this language is to get the review done and make sure that Dir. Sharp presents it to the Governor. Whether the Governor chooses to put it in his budget or not, is his decision. **Sen. Mathern** said

they could settle this conference committee by making those three changes with regard to the breathalyzer equipment, the \$30,000 grant, and using this word "consideration." **Rep. Thoreson** asked Deputy Tabor about p. 3, item #4 and the funding for the crime lab service agreement and what that is and why it was added back in. **Deputy Tabor** said back in House Appropriations, the discussion never got this far. After the overview, most of the meetings focused on the Byrne Grant funding. At the Senate, they felt they had to bring it up. There are several expensive pieces of equipment at the Crime Lab. This money pays for the service agreement. In testimony before both groups, the Attorney General said he didn't normally recommend extended warranties or service agreements, but in this instance because there's no one in Bismarck who can maintain this equipment, it seemed prudent. **Rep. Thoreson** asked how these were being serviced in the past. **Deputy Tabor** deferred to Ms. Kathy Roll, Financial Administrator for the Attorney General. **Ms. Roll** said this applies to new equipment which replaced that which was no longer serviceable. The equipment is very technical and highly specialized. **Rep. Thoreson** questioned whether or not replacing equipment would actually reach \$75,000. **Ms. Roll** said they are prudent and if they didn't feel this would pay for itself, they wouldn't have asked for it.

Chairman Carlisle asked if the Committee agrees on the \$100,000 from the DOT and the \$30,000 reduction, and that was affirmative. He asked if they should just leave section 14 alone and there was agreement. He invited Sen. Holmberg to introduce his amendment.

Sen. Holmberg said it's the amendment .0203 handed out previously and it seemed to make sense to the rest of the Committee. He pointed out that Mr. Knudson wrote it, "so we know it makes sense." He asked to include that in the package. **Rep. Williams** asked him to review the purpose. **Sen. Holmberg** said that if a person were appointed to the racing commission, he/she

could be reappointed, but if that person were appointed to fill a vacancy, he/she couldn't be reappointed under current law. This just gives that person the same rights as everyone else. There was general agreement.

Chairman Carlisle said that when all the budgets are reviewed this one pops up because there's a +\$606,000. He asked **Deputy Tabor** if the main thrust of any increases the Byrne Grant.

Deputy Tabor said the main money is for Byrne Grant, \$398,000. The second thrust of the increase is \$241,000 to take the equity increases from last session and move them from special fund to general fund, which is what was agreed to last session. The last is to adequately fund the Crime Lab. After the changeover, there were things that the Health Department did at the end of the biennium that they forgot to disclose and the agency ended up short of supplies. There is also the money for DNA of all felons testing. **Chairman Carlisle** said that is HB 1235 which both houses passed. **Rep. Williams** asked about last session and the \$241,000 change from special to general funds. **Chairman Carlisle** asked her to explain again. **Deputy Tabor** said that last session they studied attorneys' salaries and tried to remedy the problem using turn-back funds of \$241,000 with the thought that this session it would be changed to general fund. There's no more refund money available. **Rep. Williams** said this obligates the legislature to pay the difference.

Sen. Kringstad said, "If you had the opportunity to see the difference between the pay scales, you'd have jumped at it also." **Chairman Carlisle** said the BCI agents aren't part of this equation at all. **Deputy Tabor** confirmed. She pointed out that the Highway Patrol is getting what amounts to a \$400,000 equity pool (\$200,000 from general fund and \$219,000 from special). Parole and Probation are getting some equity. **Chairman Carlisle** said \$150,000.

Deputy Tabor said they are concerned, but understand there's only so much at the trough.

Chairman Carlisle asked if they should go with this. **Sen. Holmberg** said he was not ready to vote on it now; maybe later in the afternoon. **Chairman Carlisle** said he would talk with leadership. **Sen. Mathern** asked if they might prepare the motion and then at the next meeting it would be ready. **Chairman Carlisle** said they could put it on the table, but not vote on it. He summarized:

- \$100,000 from DOT
- \$30,000 out of hide
- Word changes relative to amendment .0203

Sen. Mathern moved that the Senate recede from its amendments and re-amend the bill to reflect the three amendments that were just discussed; second by **Rep. Thoreson**.

Chairman Carlisle asked Sandy Paulson to provide him with a memo which summarizes where the budget is at right now and she agreed.

Chairman Carlisle closed discussion.

(Meter #18.0)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1003

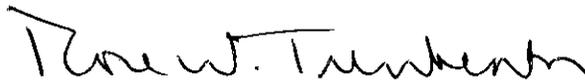
House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date Tuesday, April 12, 2005

| Tape Number | Side A | Side B | Meter # |
|-------------|--------|--------|---------|
| 1 | X | | 00-9.9 |

Committee Clerk Signature



Minutes:

Chairman Carlisle opened the Conference Committee on HB 1003 concerning the budget of the Attorney General. He said they had amendment .0204 to consider, as well as a handout from Deputy Sandy Tabor, Office of the Attorney General, which outlines the funding actions relative to HB 1003 (Handout #2) and a memo from Ms. Sandy Paulson, OMB, dated 4/11/05, regarding service agreements (Handout #1). He asked Ms. Paulson to comment on the service agreement.

Ms. Paulson said that her informal survey revealed that each agreement is specific to the agency, so it's difficult to compare. Each agency does a cost benefit analysis. The Crime Lab is still collaborating with the Health Department. They've identified the equipment by the same vendor and pooled those accounts, so they can receive a discount for the service agreement. When considering the costs of this very technical equipment, it seems prudent to have the service agreements.

Referring to Handout #2, **Chairman Carlisle** asked Deputy Tabor to explain once again about the equity adjustments of \$241,000 and what happens to it. **Deputy Tabor** said the money is moved from the refund fund or a special fund to the general fund. **Chairman Carlisle** asked if that money gets used again for attorneys and she said no. **Ms. Paulson** said this carries forward the salary increases that were given last time. **Sen. Holmberg** said the use of the term "equity" in the footnote makes this jump out. He asked if Legislative Council could more accurately describe this by using the words, "funding source change for salaries." (See heading, footnote #1, p. 3, amendment .0204) **Mr. Knudson** referred to the language of the footnote on p. 4 which explained that it's a continuing appropriation. **Sen. Holmberg** said he didn't like the wording of the heading because it focuses on the word that isn't really the purpose here. **Chairman Carlisle** asked how to make this work better and **Mr. Knudson** said it might be stated: "Changes funding source for attorneys' salaries."

Chairman Carlisle observed that they haven't acted on the amendment before them. The Committee has moved and seconded the amendment, but hasn't voted. **Sen. Holmberg** moved an editorial amendment to reword the heading: changes funding source for attorneys' salaries; **Rep. Thoreson** seconded. **Chairman Carlisle** called for a voice vote and motion passed.

Chairman Carlisle asked if there were any more issues to consider. **Sen. Holmberg** asked if Deputy Tabor had any further concerns. **Deputy Tabor** asked whether this was in reference to what they discussed before the hearing opened, and Sen. Holmberg suggested she speak up now. She said that the agency is fine with this budget, given what's going on. Equity issues will impact them, especially with regard to the Highway Patrol and Corrections. They are concerned about an amendment in 2037 because the bill is in jeopardy. This is the omnibus bill for IT. The language

regarding the criminal justice information sharing program and access to it. It's not a controversial amendment. **Chairman Carlisle** suggested that she might speak to that committee. **Sen. Holmberg** said the other route is 1015, the OMB budget which is still sitting in the Senate Appropriations getting ready to load up with saddlebags. This would be a last resort. If it should come to that, she should definitely remind him.

Chairman Carlisle reminded Deputy Tabor that their budget increase from 2003 is a couple of million bucks. She acknowledged that.

Sen. Kringstad asked about section 15 and the racing commission and whether or not that is still ongoing. **Deputy Tabor** said the Governor has signed the racing commission bill. She reminded them that Mr. Knudson had pointed out that the language is not in conflict with the change over. She said they have to amend the existing statute. **Chairman Carlisle** said the Code revisor...last one pre-empts everything. **Mr. Knudson** said since this is not in conflict and they are not changing the same provisions that the other bill changed, they are changing something further down in the section.

Chairman Carlisle called for a roll call vote on the motion which was moved and seconded at the previous hearing, which stated that the Senate recede from the Senate amendments and amend further. This was moved by **Sen. T. Mathern** and seconded by **Rep. B. Thoreson**. Motion passed 6-0-0.

Chairman Carlisle thanked the Committee and adjourned.

(Meter 9.9)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1003

That the Senate recede from its amendments as printed on pages 1499-1502 of the House Journal and pages 1186-1189 of the Senate Journal and that Engrossed House Bill No. 1003 be amended as follows:

Page 1, line 2, after the first semicolon insert "to provide an appropriation for defraying the expenses of the racing commission;"

Page 1, line 3, after the second semicolon insert "to provide for a salary equity review and recommendation;" and after "amend" insert "and reenact subsection 1 of section 53-06.2-02 and"

Page 1, line 4, after the second "the" insert "membership of the racing commission and the"

Page 2, line 1, replace "860,869" with "926,395"

Page 2, line 2, replace "283,953" with "488,324"

Page 2, line 3, replace "(63,000)" with "(44,200)"

Page 2, remove line 5

Page 2, line 7, replace "1,501,643" with "1,422,945"

Page 2, line 8, replace "(78,717)" with "(515,729)"

Page 2, line 9, replace "1,580,360" with "1,938,674"

Page 2, line 15, replace "19,322,170" with "19,387,696"

Page 2, line 16, replace "8,279,424" with "8,483,795"

Page 2, line 17, replace "1,767,250" with "1,786,050"

Page 2, remove line 21

Page 2, line 24, replace "35,985,334" with "35,906,636"

Page 2, line 25, replace "17,350,757" with "16,913,745"

Page 2, line 26, replace "18,634,577" with "18,992,891"

Page 2, after line 26, insert:

"SECTION 4. APPROPRIATION - RACING COMMISSION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the racing commission for the purpose of defraying the expenses of the racing commission, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

| | |
|----------------------------------|------------------|
| Racing commission | <u>\$367,145</u> |
| Total all funds | \$367,145 |
| Less estimated income | <u>249,666</u> |
| Total general fund appropriation | \$117,479" |

Page 3, line 18, replace "3" with "4", replace the first "\$73,945" with "\$73,889", and replace the second "\$73,945" with "\$73,889"

Page 3, line 19, replace "\$73,946" with "\$73,888"

Page 4, line 6, replace "2005" with "2007"

Page 4, line 8, remove "- **COLLABORATION**"

Page 4, line 9, remove "**WITH UNITED STATES DEPARTMENT OF JUSTICE**" and replace "collaborate" with "consider, in consultation"

Page 4, line 10, replace "to determine whether" with ", the feasibility of naming"

Page 4, line 11, remove "should be named"

Page 4, after line 13, insert:

"SECTION 14. SALARY REVIEW AND RECOMMENDATION. During the 2005-06 interim, the director of the office of management and budget shall conduct an equity review of the salaries of all attorneys and paralegals employed as full-time employees with all branches of government within the state of North Dakota, including attorneys and paralegals employed by the state board of higher education and workforce safety and insurance. The director shall provide to the governor for inclusion in the 2007-09 biennial executive budget recommendation the funding necessary to adjust the salaries of attorneys and paralegals in a manner that makes attorney and paralegal salaries comparable and equitable throughout state government. In determining comparable positions based upon years of experience and importance of position, the director shall consult with the attorney general.

SECTION 15. AMENDMENT. Subsection 1 of section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. A North Dakota racing commission is established in the office of the attorney general. The commission is subject to the supervision and direction of the attorney general, except with regard to the commission's authority to spend the funds described in subsection 6 of section 53-06.2-11. The attorney general may require payment for any services rendered to the racing commission. Payment for such services must be deposited into the attorney general's operating fund. The commission consists of the chairman and four other members appointed by the governor. Of the members appointed by the governor, one must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves ~~only~~ for the

unexpired portion of the term and may be reappointed. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission."

Page 4, line 20, replace "10" with "11"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1003 - Summary of Conference Committee Action

| | EXECUTIVE BUDGET | HOUSE VERSION | CONFERENCE COMMITTEE CHANGES | CONFERENCE COMMITTEE VERSION | SENATE VERSION | COMPARISON TO SENATE |
|--------------------------|------------------|---------------|------------------------------|------------------------------|----------------|----------------------|
| Attorney General | | | | | | |
| Total all funds | \$36,058,177 | \$35,985,334 | (\$78,698) | \$35,906,636 | \$35,906,636 | \$0 |
| Less estimated income | 17,788,541 | 17,350,757 | (437,012) | 16,913,745 | 16,783,853 | 129,892 |
| General fund | \$18,269,636 | \$18,634,577 | \$358,314 | \$18,992,891 | \$19,122,783 | (\$129,892) |
| Racing Commission | | | | | | |
| Total all funds | \$0 | \$0 | \$367,145 | \$367,145 | \$367,145 | \$0 |
| Less estimated income | | | 249,666 | 249,666 | 249,666 | |
| General fund | \$0 | \$0 | \$117,479 | \$117,479 | \$117,479 | \$0 |
| Bill Total | | | | | | |
| Total all funds | \$36,058,177 | \$35,985,334 | \$288,447 | \$36,273,781 | \$36,273,781 | \$0 |
| Less estimated income | 17,788,541 | 17,350,757 | (187,346) | 17,163,411 | 17,033,519 | 129,892 |
| General fund | \$18,269,636 | \$18,634,577 | \$475,793 | \$19,110,370 | \$19,240,262 | (\$129,892) |

House Bill No. 1003 - Attorney General - Conference Committee Action

| | EXECUTIVE BUDGET | HOUSE VERSION | CONFERENCE COMMITTEE CHANGES | CONFERENCE COMMITTEE VERSION | SENATE VERSION | COMPARISON TO SENATE |
|--------------------------------|------------------|---------------|------------------------------|------------------------------|----------------|----------------------|
| Salaries and wages | \$19,400,721 | \$19,322,170 | \$65,526 | \$19,387,696 | \$19,387,696 | |
| Operating expenses | 8,254,104 | 8,279,424 | 204,371 | 8,483,795 | 8,483,795 | |
| Capital assets | 1,767,250 | 1,767,250 | 18,800 | 1,786,050 | 1,786,050 | |
| Grants | 5,944,056 | 5,944,056 | | 5,944,056 | 5,944,056 | |
| Litigation fees | 50,000 | 50,000 | | 50,000 | 50,000 | |
| State school finance lawsuit | 240,000 | 240,000 | | 240,000 | 240,000 | |
| Racing Commission | 387,007 | 367,395 | (367,395) | | | |
| Arrest and return of fugitives | 10,000 | 10,000 | | 10,000 | 10,000 | |
| Gaming Commission | 5,039 | 5,039 | | 5,039 | 5,039 | |
| Total all funds | \$36,058,177 | \$35,985,334 | (\$78,698) | \$35,906,636 | \$35,906,636 | \$0 |
| Less estimated income | 17,788,541 | 17,350,757 | (437,012) | 16,913,745 | 16,783,853 | 129,892 |
| General fund | \$18,269,636 | \$18,634,577 | \$358,314 | \$18,992,891 | \$19,122,783 | (\$129,892) |
| FTE | 177.00 | 175.00 | (0.70) | 174.30 | 174.30 | 0.00 |

Dept. 125 - Attorney General - Detail of Conference Committee Changes

| | REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE | CHANGES FUNDING FOR ATTORNEY SALARY EQUITY 1 | ADDS FUNDING FOR CRIME LAB FORENSIC SUPPLIES 2 | ADDS FUNDING FOR CRIME LAB SERVICE AGREEMENTS 3 | ADDS FUNDING FOR CONNECTND FEES 4 | ADDS FUNDING FOR DNA TESTING FOR FELONS 5 |
|--------------------------------|--|--|--|---|-----------------------------------|---|
| Salaries and wages | (\$21,465) | | | | | \$86,991 |
| Operating expenses | | | \$70,853 | \$74,552 | \$31,078 | 27,888 |
| Capital assets | | | | | | 18,800 |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| State school finance lawsuit | | | | | | |
| Racing Commission | (250) | | | | | |
| Arrest and return of fugitives | | | | | | |
| Gaming Commission | | | | | | |
| Total all funds | (\$21,715) | \$0 | \$70,853 | \$74,552 | \$31,078 | \$133,679 |
| Less estimated income | (5,400) | (241,024) | | | 31,078 | |
| General fund | (\$16,315) | \$241,024 | \$70,853 | \$74,552 | \$0 | \$133,679 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1.30 |

| | REMOVES RACING COMMISSION FUNDING ⁶ | TOTAL CONFERENCE COMMITTEE CHANGES |
|--------------------------------|--|---|
| Salaries and wages | | \$65,526 |
| Operating expenses | | 204,371 |
| Capital assets | | 18,800 |
| Grants | | |
| Litigation fees | | |
| State school finance lawsuit | | |
| Racing Commission | (\$367,145) | (367,395) |
| Arrest and return of fugitives | | |
| Gaming Commission | | |
| Total all funds | (\$367,145) | (\$78,698) |
| Less estimated income | <u>(221,666)</u> | <u>(437,012)</u> |
| General fund | (\$145,479) | \$358,314 |
| FTE | (2.00) | (0.70) |

- 1 The funding source for continuing the cost of salary equity increases for attorneys authorized by the 2003 Legislative Assembly from special funds for the 2003-05 biennium is changed to the general fund for the 2005-07 biennium, the same as the Senate version.
- 2 Funding is added for additional forensic supplies for the crime lab, the same as the Senate version.
- 3 Funding is added for service agreements on crime lab equipment, the same as the Senate version.
- 4 Funding is added from special funds for 2005-07 ConnectND fees, the same as the Senate version.
- 5 Funding of \$133,679 from the general fund, including 1 FTE administrative assistant and a .3 FTE forensic scientist, is added for costs associated with collecting and processing DNA samples from all convicted felons in accordance with provisions of House Bill No. 1235. The Senate also added this funding.
- 6 Funding for the Racing Commission is removed and provided in a separate appropriation section in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office. The Senate also made this change.

The section added by the House requiring the Attorney General to collaborate with the federal prosecutors to determine whether North Dakota should be named as a plaintiff in Medicare and Medicaid fraud cases being considered by the federal government is changed to require the Attorney General to consider, in consultation with federal prosecutors, the feasibility of naming North Dakota as a plaintiff in these cases. The Senate also made this change.

A section is added requiring the Office of Management and Budget to conduct a salary equity review of attorneys and paralegals employed by state government and to include a recommendation in the 2007-09 executive budget to provide for comparable and equitable salaries for these employees, the same as the Senate version.

The conference committee added a section allowing a Racing Commission member, appointed to fill a vacancy on the commission, to be reappointed to the commission.

The conference committee removed the following items which were included in the Senate version:

- The Senate added \$100,000 from the general fund and reduced special funds by \$100,000 for crime lab testing supplies.
- The Senate added \$29,892 from the general fund and reduced other funds by \$29,892 to replace a portion of the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab.

House Bill No. 1003 - Racing Commission - Conference Committee Action

| | EXECUTIVE BUDGET | HOUSE VERSION | CONFERENCE COMMITTEE CHANGES | CONFERENCE COMMITTEE VERSION | SENATE VERSION | COMPARISON TO SENATE |
|-----------------------|---------------------|------------------|------------------------------------|------------------------------------|-------------------|-------------------------|
| Racing Commission | | | <u>\$367,145</u> | <u>\$367,145</u> | <u>\$367,145</u> | |
| Total all funds | \$0 | \$0 | \$367,145 | \$367,145 | \$367,145 | \$0 |
| Less estimated income | | | <u>249,666</u> | <u>249,666</u> | <u>249,666</u> | |
| General fund | \$0 | \$0 | \$117,479 | \$117,479 | \$117,479 | \$0 |
| FTE | 0.00 | 0.00 | 2.00 | 2.00 | 2.00 | 0.00 |

Dept. 130 - Racing Commission - Detail of Conference Committee Changes

| | ADDS SEPARATE APPROPRIATION FOR RACING ¹ | CHANGES FUNDING SOURCE ² | TOTAL CONFERENCE COMMITTEE CHANGES |
|-----------------------|---|--|---|
| Racing Commission | <u>\$367,145</u> | <u> </u> | <u>\$367,145</u> |
| Total all funds | \$367,145 | \$0 | \$367,145 |
| Less estimated income | <u>221,666</u> | <u>28,000</u> | <u>249,666</u> |
| General fund | \$145,479 | (\$28,000) | \$117,479 |
| FTE | 2.00 | 0.00 | 2.00 |

¹ A section is added providing an appropriation for the Racing Commission in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office. The Senate also made this change.

² A funding source change from the general fund to special funds is made to allow expenditure of license fee collections that will be deposited in the Racing Commission operating fund rather than the general fund in accordance with provisions of Senate Bill No. 2344. The Senate also made this change.

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number 1003 (, as (re)engrossed):

Date: 4/12/05

Your Conference Committee H. App. (Gov. Ops)

For the Senate:

For the House:

YES / NO

YES / NO

Sen. E. Kringsstad ✓

Rep. R. Carlisle ✓

Sen. R. Holmberg ✓

Rep. B. Thoreson ✓

Sen. T. Mathern ✓

Rep. C. Williams ✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1499 -- 1502

___, and place on the Seventh order.

✓, adopt further amendments as follows, and place 1003 on the Seventh order:

___, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) was placed on the Seventh order of business on the calendar.

DATE: 4/14/05
CARRIER: Rep. R. Carlisle.

LC NO. 58026.0205 of amendment

LC NO. of engrossment

Emergency clause added or deleted
Statement of purpose of amendment

MOTION MADE BY: Sen. R. Holmberg T. Mathern (RWT)

SECONDED BY: Rep. B. Thoreson

VOTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1003, as engrossed: Your conference committee (Sens. Kringstad, Holmberg, Mathern and Reps. Carlisle, Thoreson, Williams) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1499-1502, adopt amendments as follows, and place HB 1003 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1499-1502 of the House Journal and pages 1186-1189 of the Senate Journal and that Engrossed House Bill No. 1003 be amended as follows:

Page 1, line 2, after the first semicolon insert "to provide an appropriation for defraying the expenses of the racing commission;"

Page 1, line 3, after the second semicolon insert "to provide for a salary equity review and recommendation;" and after "amend" insert "and reenact subsection 1 of section 53-06.2-02 and"

Page 1, line 4, after the second "the" insert "membership of the racing commission and the"

Page 2, line 1, replace "860,869" with "926,395"

Page 2, line 2, replace "283,953" with "488,324"

Page 2, line 3, replace "(63,000)" with "(44,200)"

Page 2, remove line 5

Page 2, line 7, replace "1,501,643" with "1,422,945"

Page 2, line 8, replace "(78,717)" with "(515,729)"

Page 2, line 9, replace "1,580,360" with "1,938,674"

Page 2, line 15, replace "19,322,170" with "19,387,696"

Page 2, line 16, replace "8,279,424" with "8,483,795"

Page 2, line 17, replace "1,767,250" with "1,786,050"

Page 2, remove line 21

Page 2, line 24, replace "35,985,334" with "35,906,636"

Page 2, line 25, replace "17,350,757" with "16,913,745"

Page 2, line 26, replace "18,634,577" with "18,992,891"

Page 2, after line 26, insert:

"SECTION 4. APPROPRIATION - RACING COMMISSION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the racing commission for the purpose of defraying the expenses of the racing commission, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

| | |
|----------------------------------|------------------|
| Racing commission | <u>\$367,145</u> |
| Total all funds | <u>\$367,145</u> |
| Less estimated income | <u>249,666</u> |
| Total general fund appropriation | \$117,479" |

Page 3, line 18, replace "3" with "4", replace the first "\$73,945" with "\$73,889", and replace the second "\$73,945" with "\$73,889"

Page 3, line 19, replace "\$73,946" with "\$73,888"

Page 4, line 6, replace "2005" with "2007"

Page 4, line 8, remove "- **COLLABORATION**"

Page 4, line 9, remove "**WITH UNITED STATES DEPARTMENT OF JUSTICE**" and replace "collaborate" with "consider, in consultation"

Page 4, line 10, replace "to determine whether" with ", the feasibility of naming"

Page 4, line 11, remove "should be named"

Page 4, after line 13, insert:

"SECTION 14. SALARY REVIEW AND RECOMMENDATION. During the 2005-06 interim, the director of the office of management and budget shall conduct an equity review of the salaries of all attorneys and paralegals employed as full-time employees with all branches of government within the state of North Dakota, including attorneys and paralegals employed by the state board of higher education and workforce safety and insurance. The director shall provide to the governor for inclusion in the 2007-09 biennial executive budget recommendation the funding necessary to adjust the salaries of attorneys and paralegals in a manner that makes attorney and paralegal salaries comparable and equitable throughout state government. In determining comparable positions based upon years of experience and importance of position, the director shall consult with the attorney general.

SECTION 15. AMENDMENT. Subsection 1 of section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. A North Dakota racing commission is established in the office of the attorney general. The commission is subject to the supervision and direction of the attorney general, except with regard to the commission's authority to spend the funds described in subsection 6 of section 53-06.2-11. The attorney general may require payment for any services rendered to the racing commission. Payment for such services must be deposited into the attorney general's operating fund. The commission consists of the chairman and four other members appointed by the governor. Of the members appointed by the governor, one must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves ~~only~~ for the unexpired portion of the term and may be reappointed. The

terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission."

Page 4, line 20, replace "10" with "11"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1003 - Summary of Conference Committee Action

| | EXECUTIVE BUDGET | HOUSE VERSION | CONFERENCE COMMITTEE CHANGES | CONFERENCE COMMITTEE VERSION | SENATE VERSION | COMPARISON TO SENATE |
|-----------------------|------------------|---------------|------------------------------|------------------------------|----------------|----------------------|
| Attorney General | | | | | | |
| Total all funds | \$36,058,177 | \$35,985,334 | (\$78,698) | \$35,906,636 | \$35,906,636 | \$0 |
| Less estimated income | 17,788,541 | 17,350,757 | (437,012) | 16,913,745 | 16,783,853 | 129,892 |
| General fund | \$18,269,636 | \$18,634,577 | \$358,314 | \$18,992,891 | \$19,122,783 | (\$129,892) |
| Racing Commission | | | | | | |
| Total all funds | \$0 | \$0 | \$367,145 | \$367,145 | \$367,145 | \$0 |
| Less estimated income | | | 249,666 | 249,666 | 249,666 | |
| General fund | \$0 | \$0 | \$117,479 | \$117,479 | \$117,479 | \$0 |
| Bill Total | | | | | | |
| Total all funds | \$36,058,177 | \$35,985,334 | \$288,447 | \$36,273,781 | \$36,273,781 | \$0 |
| Less estimated income | 17,788,541 | 17,350,757 | (187,346) | 17,163,411 | 17,033,519 | 129,892 |
| General fund | \$18,269,636 | \$18,634,577 | \$475,793 | \$19,110,370 | \$19,240,262 | (\$129,892) |

House Bill No. 1003 - Attorney General - Conference Committee Action

| | EXECUTIVE BUDGET | HOUSE VERSION | CONFERENCE COMMITTEE CHANGES | CONFERENCE COMMITTEE VERSION | SENATE VERSION | COMPARISON TO SENATE |
|--------------------------------|------------------|---------------|------------------------------|------------------------------|----------------|----------------------|
| Salaries and wages | \$19,400,721 | \$19,322,170 | \$65,526 | \$19,387,696 | \$19,387,696 | |
| Operating expenses | 8,254,104 | 8,279,424 | 204,371 | 8,483,795 | 8,483,795 | |
| Capital assets | 1,767,250 | 1,767,250 | 18,800 | 1,786,050 | 1,786,050 | |
| Grants | 5,944,056 | 5,944,056 | | 5,944,056 | 5,944,056 | |
| Litigation fees | 50,000 | 50,000 | | 50,000 | 50,000 | |
| State school finance lawsuit | 240,000 | 240,000 | | 240,000 | 240,000 | |
| Racing Commission | 367,007 | 367,395 | (367,395) | | | |
| Arrest and return of fugitives | 10,000 | 10,000 | | 10,000 | 10,000 | |
| Gaming Commission | 5,039 | 5,039 | | 5,039 | 5,039 | |
| Total all funds | \$36,058,177 | \$35,985,334 | (\$78,698) | \$35,906,636 | \$35,906,636 | \$0 |
| Less estimated income | 17,788,541 | 17,350,757 | (437,012) | 16,913,745 | 16,783,853 | 129,892 |
| General fund | \$18,269,636 | \$18,634,577 | \$358,314 | \$18,992,891 | \$19,122,783 | (\$129,892) |
| FTE | 177.00 | 175.00 | (0.70) | 174.30 | 174.30 | 0.00 |

Dept. 125 - Attorney General - Detail of Conference Committee Changes

| | REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE | CHANGES FUNDING SOURCE FOR ATTORNEY SALARIES 1 | ADDS FUNDING FOR CRIME LAB FORENSIC SUPPLIES 2 | ADDS FUNDING FOR CRIME LAB SERVICE AGREEMENTS 3 | ADDS FUNDING FOR CONNECTND FEES 4 | ADDS FUNDING FOR DNA TESTING FOR FELONS 5 |
|------------------------------|--|--|--|---|-----------------------------------|---|
| Salaries and wages | (\$21,465) | | | | | \$86,991 |
| Operating expenses | | | \$70,853 | \$74,552 | \$31,078 | 27,888 |
| Capital assets | | | | | | 18,800 |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| State school finance lawsuit | | | | | | |
| Racing Commission | (250) | | | | | |

| | | | | | | |
|---|-------------|--|---|----------|----------|-----------|
| Arrest and return of fugitives Gaming Commission | | | | | | |
| Total all funds | (\$21,715) | \$0 | \$70,853 | \$74,552 | \$31,078 | \$133,679 |
| Less estimated income | (5,400) | (241,024) | | | 31,078 | |
| General fund | (\$16,315) | \$241,024 | \$70,853 | \$74,552 | \$0 | \$133,679 |
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1.30 |
| | | REMOVES RACING COMMISSION FUNDING ⁶ | TOTAL CONFERENCE COMMITTEE CHANGES | | | |
| Salaries and wages | | | \$65,526 | | | |
| Operating expenses | | | 204,371 | | | |
| Capital assets | | | 18,800 | | | |
| Grants | | | | | | |
| Litigation fees | | | | | | |
| State school finance lawsuit | | | | | | |
| Racing Commission | (\$367,145) | | (367,395) | | | |
| Arrest and return of fugitives Gaming Commission | | | | | | |
| Total all funds | (\$367,145) | | (\$78,698) | | | |
| Less estimated income | (221,666) | | (437,012) | | | |
| General fund | (\$145,479) | | \$358,314 | | | |
| FTE | (2.00) | | (0.70) | | | |

¹ The funding source for continuing the cost of salary equity increases for attorneys authorized by the 2003 Legislative Assembly from special funds for the 2003-05 biennium is changed to the general fund for the 2005-07 biennium, the same as the Senate version.

² Funding is added for additional forensic supplies for the crime lab, the same as the Senate version.

³ Funding is added for service agreements on crime lab equipment, the same as the Senate version.

⁴ Funding is added from special funds for 2005-07 ConnectND fees, the same as the Senate version.

⁵ Funding of \$133,679 from the general fund, including 1 FTE administrative assistant and a .3 FTE forensic scientist, is added for costs associated with collecting and processing DNA samples from all convicted felons in accordance with provisions of House Bill No. 1235. The Senate also added this funding.

⁶ Funding for the Racing Commission is removed and provided in a separate appropriation section in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office. The Senate also made this change.

The section added by the House requiring the Attorney General to collaborate with the federal prosecutors to determine whether North Dakota should be named as a plaintiff in Medicare and Medicaid fraud cases being considered by the federal government is changed to require the Attorney General to consider, in consultation with federal prosecutors, the feasibility of naming North Dakota as a plaintiff in these cases. The Senate also made this change.

A section is added requiring the Office of Management and Budget to conduct a salary equity review of attorneys and paralegals employed by state government and to include a recommendation in the 2007-09 executive budget to provide for comparable and equitable salaries for these employees, the same as the Senate version.

The conference committee added a section allowing a Racing Commission member, appointed to fill a vacancy on the commission, to be reappointed to the commission.

The conference committee removed the following items which were included in the Senate version:

- The Senate added \$100,000 from the general fund and reduced special funds by \$100,000 for crime lab testing supplies.

- The Senate added \$29,892 from the general fund and reduced other funds by \$29,892 to replace a portion of the anticipated reduction in federal funds available for drug enforcement activities of the Bureau of Criminal Investigation and the crime lab.

House Bill No. 1003 - Racing Commission - Conference Committee Action

| | EXECUTIVE BUDGET | HOUSE VERSION | CONFERENCE COMMITTEE CHANGES | CONFERENCE COMMITTEE VERSION | SENATE VERSION | COMPARISON TO SENATE |
|-----------------------|---------------------|------------------|------------------------------------|------------------------------------|-------------------|-------------------------|
| Racing Commission | | | <u>\$367,145</u> | <u>\$367,145</u> | <u>\$367,145</u> | |
| Total all funds | \$0 | \$0 | \$367,145 | \$367,145 | \$367,145 | \$0 |
| Less estimated income | | | <u>249,666</u> | <u>249,666</u> | <u>249,666</u> | |
| General fund | \$0 | \$0 | \$117,479 | \$117,479 | \$117,479 | \$0 |
| FTE | 0.00 | 0.00 | 2.00 | 2.00 | 2.00 | 0.00 |

Dept. 130 - Racing Commission - Detail of Conference Committee Changes

| | ADDS SEPARATE APPROPRIATION FOR RACING ¹ | CHANGES FUNDING SOURCE ² | TOTAL CONFERENCE COMMITTEE CHANGES |
|-----------------------|---|--|---|
| Racing Commission | <u>\$367,145</u> | | <u>\$367,145</u> |
| Total all funds | \$367,145 | \$0 | \$367,145 |
| Less estimated income | <u>221,666</u> | <u>28,000</u> | <u>249,666</u> |
| General fund | \$145,479 | (\$28,000) | \$117,479 |
| FTE | 2.00 | 0.00 | 2.00 |

¹ A section is added providing an appropriation for the Racing Commission in accordance with provisions of Senate Bill No. 2340 which removes the Racing Commission from the Attorney General's office. The Senate also made this change.

² A funding source change from the general fund to special funds is made to allow expenditure of license fee collections that will be deposited in the Racing Commission operating fund rather than the general fund in accordance with provisions of Senate Bill No. 2344. The Senate also made this change.

Engrossed HB 1003 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HB 1003

Handover 2-12

1-6-05

Wayne Steven Jensen

OFFICE OF ATTORNEY GENERAL

Overview Presentation to the House Appropriations Committee
January 6, 2005

| Funding | 2003-05 Legislative Appropriation | 2003-05 Estimated Expenditures or Currently Filled FTE Positions | (1) Variance | 2005-07 Executive Recommendation | Recommendation Change (Variance) to 2003-05 Legislative Appropriations |
|------------------------------|---|--|------------------|--|--|
| Salaries and wages | 18,527,301 | 18,527,301 | 0 | 19,400,721 | 873,420 |
| Operating expenses | 7,995,471 | 8,300,471 | 305,000 | 8,254,104 | 258,633 |
| Equipment | | | 0 | | 0 |
| Capital assets | 1,830,250 | 1,830,250 | 0 | 1,767,266 | -62,984 |
| Grants | 5,891,560 | 5,891,560 | 0 | 5,944,056 | 52,496 |
| Litigation Fees | 50,000 | 50,000 | 0 | 50,000 | 0 |
| Arrest & Return of Fugitives | 10,000 | 20,000 | 10,000 | 10,000 | 0 |
| Gaming Commission | 5,109 | 5,109 | 0 | 5,039 | -70 |
| Racing Commission | 0 | 0 | 0 | 387,007 | 387,007 |
| School Finance Litigation | 240,000 | 240,000 | 0 | 240,000 | 0 |
| Total | \$34,549,691 | \$34,864,691 | \$315,000 | \$36,058,193 | \$1,508,502 |
| General fund | \$17,120,217 | 17,235,217 | \$115,000 | \$18,269,636 | \$1,149,419 |
| Federal funds | 12,984,913 | 12,984,913 | | 12,694,475 | -\$290,438 |
| Special funds | 4,444,561 | 4,644,561 | 200,000 | 5,094,082 | \$649,521 |
| Total | \$34,549,691 | \$34,864,691 | \$315,000 | \$36,058,193 | \$1,508,502 |
| FTE | 174.00 | 161.50 | 12.50 | 177.00 | 3.00 |

(1) Explanation of Major Funding and FTE Variances for the 2003-05 Legislative Appropriation to 2003-05 Current Estimates

1. Additional prosecution witness fees will be needed to reimburse cities and counties based on current spending. The \$100,000 appropriation for this purpose was depleted in December 2004.
2. Additional Arrest & Return of Fugitives funding will be needed to reimburse cities and counties for extradition of felons. This funding was depleted in October 2004. The Emergency Commission provided \$5,000 for this purpose to reach the legislative session.
3. Crime Lab laboratory supplies will exceed the budget provided due to a 19% increase in total cases and increased supply costs.
4. This office took the lead on the Oracle/PeopleSoft merger litigation. Other states provided funding for this litigation.

| | General Fund | Federal/Special Funds | Total |
|--------------|----------------|-----------------------|----------------|
| | 45,000 | | 45,000 |
| | 5,000 | | 5,000 |
| | 60,000 | | 60,000 |
| | 200,000 | | 200,000 |
| Total | 110,000 | 200,000 | 310,000 |

(This is the corrected version)

Handwritten initials/signature

(2) Explanation of Funding and FTE Changes (Variances) for the 2005-07 Recommendation to 2005 Legislative Appropriations

| | FTE | General Fund | Federal/Special Funds | Total |
|---|-----|--------------|-----------------------|---------------------------|
| 1. BCI Narcotics Agent Reducing the importation of multiple pounds of methamphetamine and minimizing the profit of this money-generating industry must remain a high priority of the BCI. While the issues surrounding clandestine labs are a huge concern for law enforcement and the public, the vast majority of methamphetamine found is imported from various source states into North Dakota. The Executive Recommendation included 1 narcotics agent. | 1 | 153,094 | | 153,094 |
| 2. Crime Lab Forensic Scientist The Executive Recommendation included 1.0 forensic scientist FTE in the Crime Laboratory to assist with increased drug cases and the DNA testing required on more cases. This causes delays for law enforcement in developing their cases and in turn delays prosecution of criminals. Currently, case processing for DNA is driven by court dates or the urgency of the case. | 1 | 101,218 | | 101,218 |
| 3. BCI Information Processing Administrative Assistant Criminal cases have nearly doubled since 1998 without an increase in administrative support staff to prepare investigative reports, transcribe interviews and undercover conversations. | 1 | 75,000 | | 75,000 |
| 4. School Finance Litigation This case is scheduled for trial October 2005. A significant portion of the expenses are anticipated to occur during the 2005-07 biennium. | | 240,000 | | 240,000 |
| 5. Crime Lab Building and Remodel This is the last phase of the Master Plan for the state laboratory complex. It is critical to provide adequate space for the Crime Lab staff. Currently 9 scientists are working in lab space designed for 3. | | | | Bonding bill 3,632,691 |
| 6. Lottery FTE Needed The Lottery Division needs a 7th FTE to enable it to adequately support licensed lottery retailers on marketing, sales strategies and incentives. The original 6 FTE's were based on implementing only Powerball with 275 retailers. During this biennium, 4-5 games will be implemented with 398 retailers located in 120 towns and cities. | | | | |
| 7. Federal Byrne Memorial and Law Enforcement Block Grant Funding Decrease We just became aware the federal Byrne Memorial funding and the Local Law Enforcement block grant funding will be reduced by about 44% for federal fiscal year 2005. We will no longer be able to fund 3 full-time BCI agents, 3 full-time forensic scientists, and 25 full-time narcotics task force agents across the state, as well as local domestic violence, community and corrections programs. Our congressional delegation is working with the federal Bureau of Justice Assistance (BJA) to attempt to minimize the fiscal impact to our state and we will be working with BJA to try to revise the distribution formula for future federal budgets. The amount of the estimated reduction for one year is \$1,055,554. In addition, of the estimated fy 2005 amount to be awarded, 40% will be directly awarded to local law enforcement. This leaves only \$800,000 to be awarded statewide. | | | | |

Summary of Major Goals and Objectives and Related Performance Measurement Data for the 2005-07 Biennium (to the extent available)

- Legal Services' goals are to efficiently and impartially provide quality legal and informational services to North Dakota state government.**
The Legal Services program objectives include: 1). Provision of quality legal advice and representation to state officials, agencies, boards, commissions, councils, state's attorneys and city attorneys. 2). Provision of quality legal defense for state employees as required by law; and 3). Vigorously defend the state in the School Finance lawsuit.
- The Bureau of Criminal Investigation's goal is to provide quality investigative, informational, training and reporting services to state, local, and federal law enforcement agencies.**
The Division's objectives include to: 1). Significantly impact the methamphetamine activity in-state and the importation of methamphetamine and pursue an additional narcotics agent to assist in this effort; 2). Assist local law enforcement agencies in cybercrime, homicide, sexual assault, child abuse, arson, terrorism and other investigations and provide polygraph and photography assistance; 3). Participate in a fusion center where intelligence regarding homeland security issues is gathered, analyzed, and disseminated to law enforcement; 4). Maintain a statewide sex offenders and offenders against children registration system and maintain a registered sex offenders website for lifetime registrants and high-risk offenders.
- The Crime Laboratory Division's goal is to efficiently and impartially provide quality scientific support to the state's criminal justice system.**
The Crime Laboratory's objectives include to: 1). Pursue an addition to and remodeling of the state Crime Lab to provide enough space for the Crime Lab staff members; 2). Pursue an additional forensic scientist to help address the significant increase in the Crime Lab's workload; and 3). Provide scientific support to the state's 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 as quickly as possible.
- The Consumer Protection Division's goal is to protect North Dakota citizens from misleading, deceptive, fraudulent and unfair trade practices in connection with the sale of goods or services.**
The Division's objectives include to: 1). Enforce the state's antitrust, consumer fraud (including false advertising, unfair trade practices, home solicitation sales, pyramid schemes, contest prize notices), do not call, consumer credit counseling services, transient merchant, charitable solicitations, and non-profit corporation laws; 2). Initiate investigations and prosecute violations of laws enforced by the division; and 3). Educate consumers and law enforcement personnel on consumer fraud prevention and enforcement.
- The Gaming Commission's goal is to efficiently and impartially administer, regulate and provide enforcement to the charitable gaming industry.**

The Division's objectives include to: 1). Perform quality financial and compliance audits of organizations, processors, and manufacturers and accurately and effectively process tax returns and 2). Perform investigations of illegal gaming activity and work with local law enforcement officials; 3). Provide training to peace officers, board members and gaming employees; and 4). Ensure Indian tribes comply with Tribal - State gaming compacts.

6. The Fire Marshal Division's goal is to provide quality fire prevention, investigative and inspection services, and mitigation of the effects of hazardous materials spills for state and local law enforcement and fire departments. The objectives of the Fire Marshal Division include to: 1). Enforce all state laws dealing with fire prevention, the sale and use of combustibles and explosives; fire protection equipment; and the means and adequacy of public assembly exits; 2). Provide public education regarding the hazards of fire; 3). Conduct fire inspections in educational facilities, state buildings, child-care facilities, flammable material storage sites, and assembly occupancies; 5). Conduct on-scene fire investigations; and 6). Mitigate the effects of hazardous materials incidents.

7. The Lottery Division's goal is to efficiently and impartially administer, regulate and promote the North Dakota Lottery. The Lottery Division's objectives include to: 1). Maximize net proceeds for the benefit of the state by promoting entertaining games; 2). Provide quality customer services to retailers and players; 3). To achieve the highest standards of integrity, security and accountability for the Lottery; and 4). Maintain public trust.

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*2005-07
Budget Presentation
to Government Operations
Section of House Appropriations
Attorney General Wayne Stenehjem
1-17-05*

TESTIMONY OF WAYNE STENEHJEM

ATTORNEY GENERAL

For the record, my name is Wayne Stenehjem, Attorney General for the state of North Dakota. Along with me today are the division directors from my office.

During the last two years, we have continued to provide quality legal, regulatory, and law enforcement services to state agencies and protection to North Dakota's citizens. We have met with considerable success.

Our office consists of 13 divisions, including Bureau of Criminal Investigation, Civil Litigation, Consumer Protection, Crime Lab, Criminal and Regulatory, Finance, Fire Marshal, Gaming, Information Technology, Lottery, Natural Resources, and State and Local Government. The following are the highlights from this biennium.

Legal Services Divisions

- **Burlington Northern Santa Fe Railroad Lawsuit** -- Late last fall we settled a lawsuit against Burlington Northern Santa Fe Railroad (BNSF) over the fuel spill under downtown Mandan. BNSF paid the state a penalty totaling \$29 million and conveyed land and buildings to Mandan worth another \$1.25 million, for a total of \$30.25 million in penalties. Of the \$29 million payment, \$24 million was allocated to remediation efforts, \$2.5 million to the City of Mandan to assist with cleanup and an additional \$1 million to Mandan, \$500,000 to reimburse the state's "Leaking Underground Storage Tank Trust Fund" and \$1 million to the state's general fund.
- **Canadian Pacific Railway Anhydrous Ammonia Spill** -- The office negotiated a settlement with the Canadian Pacific Railway over the railroad's anhydrous ammonia spill in Minot. Canadian Pacific paid a \$925,000 penalty, \$425,000 of which went to the state's general fund and the remainder to be used to install a water project to benefit the area affected by the spill.
- **School Finance Lawsuit** -- Staff expended substantial time defending a lawsuit challenging the constitutionality of North Dakota's school finance statutory scheme. A three week trial is currently scheduled for October 2005.
- **Do Not Call** -- Staff are defending a constitutional challenge to the Telephone Solicitations Act (also known as the "Do Not Call" law) brought by two non profit organizations. The very popular law prohibits many solicitation calls to people whose numbers are on the Do Not Call list, including calls by professional fundraisers on behalf of non-profit organizations. So far, 235 formal complaints have been filed with this office and 56 investigations have been conducted, culminating in 27 legal settlements totaling \$26,000 in civil penalties. In a disappointing decision, the district court held the law constitutional as applied to commercial entities, but

unconstitutional as applied to charities. The state appealed the district court's Judgment to the Eighth Circuit Court of Appeals. Oral argument was held November 19, 2004. We are currently awaiting a decision from the court.

- **Women's Prison Lawsuit** -- A suit commenced on behalf of two female inmates against the Department of Corrections and Rehabilitation has consumed significant staff time and resources. The lawsuit claims the inmates and a class composed of all female inmates have been subject to gender discrimination. Their claims span the spectrum of conditions of confinement and services provided to the inmates, such as orientation, housing, prison and industry employment, psychiatric and drug and alcohol treatment, educational and vocational programs, and medical services. The inmates have moved the court to certify a class, which the state has opposed. The state is awaiting the court's decision on class certification.
- **Tobacco Master Settlement Agreement** -- Another responsibility is ensuring compliance with the terms of the Tobacco Master Settlement. To date our activity has realized approximately \$ 129,775,775 in payments to the state.
- **Roadless Rule Lawsuit** -- Staff members are negotiating settlement of the suit brought in 2002 against the U.S. Forest Service challenging the legality of the Forest Service's Roadless Rule, which limits access to, and uses of, the National Grasslands. The suit also seeks a declaration that the state's section line access law applies to federal land.
- **Missouri River Lawsuits** -- We continue our efforts to require the U.S. Corps of Engineers to properly manage the Missouri River by pursuing legal relief in federal court.
- **Attorney General Opinions** -- We issued 129 Attorney General opinions, including 26 opinions in response to allegations of open records or open meetings violations.
- **Northwest Area Water Supply Lawsuit** -- The staff continue to defend the state in an ongoing suit brought by Manitoba to stop the project.
- **Sex Offender Risk Assessments** -- Since the passage of the law in 2001, we have conducted risk level assessments on 829 North Dakota sex offenders.

The Legal Services Divisions provided almost 106,000 hours of legal services to state entities for the period from July 1, 2003, through December 31, 2004.

Bureau of Criminal Investigation Division

- **Meth Labs** -- Staff members dismantled 255 meth labs in 2004, 297 labs in 2003, 275 labs in 2002, and 89 labs in 2001. This is an increase from 19 labs in 1999 and 46 labs in 2000. But we saw a decrease of 42 in 2004 compared to 2003, which was the first decrease since the problem arose in the late 1990s.

- **Sex Offenders** -- Staff monitored the whereabouts of identified sex offenders and offenders against children, who numbered 994 in July 1998, 1,345 in December 2002; and 1,429 in December 2004.
- **Sex Offender Website** -- This office created and maintained an Internet web page that provides information on registered sex offenders. As of December 2004, there were 200 offenders listed on that site because they are either high-risk offenders or lifetime registrants.
- **Criminal History Background Checks** -- During 2003, staff processed 14,554 requests from the general public for criminal history record information (an average of 1,200 per month), and 12,000 requests through September 2004 of this year (an average of 1,320 per month).
- **Shared Automated Fingerprint Identification System (AFIS)** -- This system shares information with Minnesota and South Dakota through a regional program. The system presently contains fingerprint images on approximately 1.4 million persons, of which 87,000 are from North Dakota.
- **Community Drug Awareness** -- Staff members provided community drug awareness training to 9,124 adults and children as of December 15, 2004; 15,988 in 2003, 14,199 in 2002; and 6,944 in 2001.

Crime Laboratory

- **Case Load** -- In 2003, the laboratory received 9,165 total cases: 5,646 blood/breath alcohol (driving under the influence), 2,636 narcotics, 577 urine/blood drug screens, 89 fatality screens, 21 arson, 32 latent fingerprint cases, 130 serology/DNA, 17 firearm/toolmark, and 17 miscellaneous cases. This is a 19% increase over the previous year's submissions.
- **Law Enforcement Training** -- During 2004, Toxicology held 20 classes and trained 159 law enforcement officers in the use of breath alcohol instruments. An additional 885 officers received certification for breath equipment remotely via the use of video training tapes. This represents a 17% increase in the number of officers in 2002.

Consumer Protection and Antitrust Division

- **Do Not Call** -- So far, 235 formal complaints have been filed with this office and 56 investigations have been conducted, culminating in 27 legal settlements totaling \$26,000 in civil penalties.
- **Consumer Restitution** -- This office recovered approximately \$1.051 million in restitution on behalf of consumers since the beginning of the biennium.

- **Civil Penalties** -- Staff collected approximately \$1.253 million in civil penalties (or payments in lieu of civil penalties), investigative costs, attorney's fees and legal recoveries since the beginning of the biennium. Staff members opened 2,186 and closed 2,061 consumer complaint and investigation files.

Gaming Division

- **Charitable Gaming Enforcement** -- In the 2003-05 biennium, there will be nearly 1,000 gaming sites, \$545 million wagered, \$32 million earned for charitable uses, \$20 million paid in gaming and excise taxes, \$5 million paid in bingo sales tax, and \$500,000 collected for license fees, interest, penalties, gaming stamps, fines, and record checks. From 1977 through June 30, 2005, about \$416 million will have been raised for charitable uses and \$188 million paid in gaming tax, excise tax, and sales tax on bingo.

Lottery Division

- **General Fund Transfer** -- As of July 2004, \$1.43 million was transferred to state's general fund, after only 3 months of lottery ticket sales.
- **General Fund Estimates** -- The Governor's budget estimates that \$10 million will be realized for the state in the coming biennium.
- **Games** -- The following three online lottery games have been launched: Powerball, Hot Lotto and Wild Card 2.
- **Statewide Retailer Base** -- Currently 398 retailers located across the state are licensed for lottery sales.
- **Compulsive Gambling Prevention** -- As of October 2004, \$259,000 was transferred to the Compulsive Gambling Prevention and Treatment Fund.

Legislative Initiatives

Before I discuss budget enhancements, I want to let you know about several bills that will impact our office's appropriation.

- **HB 1061** requires a DNA sample to be obtained and maintained for each sex offender. The general fund impact of this bill is anticipated to be \$17,600.
- **SB 2023** provides \$3.6 million in bond funding for the remodel and addition to the existing Crime Lab. This is the last of three phases begun for the Health Department in the late 1990's to upgrade and update its laboratory facilities. The funding request comes through this office as a result of the transfer of the Crime

Laboratory from the Health Department to this office as provided by the 2003 Legislative Assembly.

- **HB 1024** provides deficiency appropriations to fund the following:
 - An additional \$45,000 in general fund monies to reimburse counties and cities for prosecution witness fees for the remainder of the 2003-05 biennium. Historically the office's appropriation for prosecution witness fees has been insufficient to reimburse counties and cities for these expenses.
 - The Arrest and Return of Fugitives appropriation of \$10,000 was depleted in October 2004. The Emergency Commission approved \$5,000 from its contingency fund for these expenses. An additional \$5,000 in general fund expenses, incurred by cities and counties to extradite suspected felons upon approval by the Governor, (in addition to the amount provided by the Emergency Commission) is anticipated to be spent this biennium, for a total of \$20,000 in expenditures.
 - The total expenses for Crime Laboratory supplies are anticipated to exceed the amount provided by \$60,000 in general fund expenses this biennium. In addition to the 19% increase in the total cases handled by the Laboratory, the cost of the supplies has increased as well.
- **HB 1089** will increase the gaming license fee for each city and county license from \$150 to \$200. The additional \$50 is appropriated to the Attorney General's operating fund to offset cuts in operating expenses that have been paid from special funds during the current biennium. These special funds will be exhausted by the end of the 2003-05 biennium and would require substantial cuts in organization training and other essential services. The license fee has not been increased since August 1989.
- **HB 1235** requires DNA samples for all felons. The estimated cost of outsourcing this testing is \$225,639.
- **SB 2248** decreases the fee for state criminal history record checks from \$30 to \$15 per request. It increases from \$3 to \$5 the criminal history record check fee for nonprofit organizations. The estimated impact of this bill is a decrease of \$335,760 in general fund revenues.
- **Mandatory Treatment legislation** will require courts to sentence first-time felony drug offenders to enter a mandatory treatment program. We are coordinating our efforts with the Department of Corrections and the Department of Human Services. The bill incorporates a pilot project in Walsh, Pembina and Grand Forks counties and will be tied to a federal grant the Department of Human Services hopes to receive.

Governor's Executive Budget

To address the ongoing problem of methamphetamine use and, in particular, the manufacturing of meth in rural North Dakota, I am requesting your support of the Governor's Budget Recommendation which provides funding for one additional special agent as well as an information processing position.

The Governor's Budget Recommendation also included the following Crime Laboratory enhancements:

- a. One forensic scientist FTE to assist with the significantly expanded workload due to the increase in DNA and other casework. The current trends indicate drug cases will continue to increase and DNA testing will be required on more cases. This increase in case load causes delays for law enforcement in developing their cases and in turn delays the prosecution of criminals. Currently, case processing for DNA is determined on a priority basis; workload is driven by court dates or the urgency of a case. With proper staffing, turnaround time for DNA casework could be as short as two to four weeks.
- b. As I mentioned earlier, additional space to accommodate the work of the 18 lab employees is critical. Presently, the Forensic Section has nine scientists working in lab space originally designed for three. Overcrowding is prevalent throughout the facility. This lack of adequate space, compounded by a dramatic growth in casework, has placed a severe strain on resources and turn-around time. The estimate cost of the expansion project is \$3,551,491, which was included in the bonding bill by the Governor. In addition, \$81,200 was included for the new forensic scientist's space.
- c. General fund match totaling \$38,400 was included for purchase of a \$120,000 gas chromatograph/mass spectrometer to replace an older model which is no longer serviced or supported by the manufacturer.

The Governor's Recommendation included the following Racing Commission enhancements from special funds:

- a. The Racing Commission appropriation has again become a separate line item. It was changed from a special line item to salaries and wages and operating expenses this biennium. The Racing Commission needs the flexibility a special line item affords to be able to change with the current needs.
- b. A total of \$42,500 from special funds was added:

1. \$37,500 for contract employees to inspect the breeding industry in North Dakota and increased investigator availability for the live race meets and simulcast auditing, and
 2. \$5,000 for promulgation of rules.
- c. The Racing Commission Executive Director's salary and benefits was increased by \$37,753 from special funds.

Requested Enhancements

State Employee Increases

I want to strongly encourage your support of the 4% and 4% salary increases for our state employees for both years of the 2005-07 biennium as envisioned in HB 1050. Our state employees work very hard and we want to retain them. We have experienced the loss of several employees during this biennium due to the lack of salary increases and the inadequate salaries offered in this office.

Operation Expenses

- **Computer replacements** -- \$36,502 in general fund monies is needed to meet the required four-year state computer (desktop and laptop computers) replacement cycle.
- **Additional Crime Lab supplies** -- \$70,853 in general fund monies is needed to cover Crime Lab supply costs due to increased case load and cost increases for the 2005-07 biennium.
- **Federal alcohol analysis supplies funding** -- \$100,000 in general fund monies is needed to pay for blood/alcohol, breath/alcohol, and fatality analysis supplies. We were just made aware, by the state Department of Transportation, that the Crime Lab will be realize a significant reduction in the funding provided for these supplies.
- **Maintenance service agreements** -- \$74,552 in general fund monies is needed to cover the cost of the agreements to ensure the proper function of over \$314,000 in sophisticated analytical instruments located at the Crime Lab. Due to the complex and critical nature of the bulk of these analytical instruments, maintenance service agreements are essential because purchasing parts and the needed technical assistance for repairing the instruments is cost prohibitive.
- **ConnectND user fees** -- \$31,078 from other funds, required to pay ConnectND user fees, was overlooked in the Governor's recommendation.

- **Lottery FTE** -- The Lottery Division needs a seventh FTE to enable it to adequately assist licensed lottery retailers on sales strategy and promotional activities, including effective use of advertising, point-of-sale items, and premium incentives for retailer on-site and chain store special events. The position is funded from special funds. The authorization of six FTEs for the Lottery for the 2003-05 biennium was based on projections that one game (Powerball) would be conducted and 275 retailers would be licensed. During the 2003-05 biennium, the Lottery will implement four to five games through its present network of 398 licensed retailers that are located in 120 towns and cities. Also, in the 2005-07 biennium, the Lottery plans to launch a sixth game to complete its product mix.

Byrne Memorial Grant Funding

We recently became aware that the federal Byrne Memorial funding and the Local Law Enforcement block grant funding will be reduced by about 44% for federal fiscal year (FFY) 2005, the impact of which would be realized for state and local entities as of January 1, 2006. This translates into a loss of \$1.055 million in federal funds. We will no longer be able to fund:

- three full-time BCI narcotics agents,
- two full-time grants and contracts officers,
- one full-time administrative assistant,
- one partially-funded BCI director,
- one partially-funded BCI administrative assistant,
- BCI narcotics agent overtime,
- three full-time Crime Lab forensic scientists,
- one part-time Crime Lab evidence technician,
- twenty-five full-time narcotics task force agents across the state,
- one full-time narcotics prosecutor,
- thirty-six partially-funded domestic violence program positions,
- one part-time community service program administrative assistant position, and
- two partially-funded crime prevention program positions.

For FFY 2005, the federal government will directly award approximately 40% of the already reduced FFY 2005 monies to local law enforcement. This means only \$800,000 will be available to award throughout the entire state.

Our congressional delegation is working with the federal Bureau of Justice Assistance (BJA) to attempt to minimize the fiscal impact to our state. We will be working with BJA to try to revise the distribution formula for future federal budgets.

Staff Equity Adjustments

Information Technology Staff

\$88,230 (of which \$65,066 is from the general fund and \$23,164 is from other funds) is needed to increase the salaries to help ensure Information Technology (IT) staff member retention. To retain skilled and experienced staff, it is critical the compensation for their positions be at the very least the same level as others in state government staff that do comparable work. Because of budget constraints within the office and the hiring of personnel at higher wages in other agencies, IT staff salaries are significantly lower in comparison to other state agencies.

The business knowledge of the office's operations as well as the technical knowledge obtained by this staff is very valuable, and extremely difficult and time-consuming to replace. Over the last few years, this office has gone from having the majority of their computer applications as stand-alone divisional databases to full integration and information sharing with local entities as well as federal agencies. The office has migrated from a single desktop view of applications to an integrated enterprise view. The office has participated heavily in the Criminal Justice Integrated System (CJIS) and the Enterprise Architecture (EA) process.

Crime Lab Equity Adjustments

\$47,838 in general fund monies is needed to provide funding for classification and equity adjustments for the forensic scientists and the State Toxicologist. The forensic scientist series and the State Toxicologist positions were reviewed by Human Resources Management Services (HRMS) during the 2003-05 biennium. The forensic scientist classifications had not been reviewed since 1988. The State Toxicologist classification was reviewed in 2000.

HRMS determined the current classifications for the forensic scientist I and State Toxicologist classification series were inadequate. HRMS approved new grade levels in June 2004. The current budget is insufficient to adequately compensate employees for these reclassifications. The forensic scientists are at only the 80+% comp-ratio - the salary range midpoint.

Legal Services -- 2003-05 General Fund Equity

During the 2003 legislative session, \$241,024 in special fund equity adjustments were provided to attorneys due to serious salary equity issues when compared to other state agencies' attorney salaries. The Legislature used special fund monies for the equity adjustments because general fund amounts were strained. At the time this was approved by the Legislature, this office indicated a funding source change would be requested in the 2005 legislative session to replace the special fund monies, which had one-time availability for this purpose.

While we appreciate your efforts during the 2003 session to provide equity increases to our attorneys, salary issues for our legal staff persist. We compete not just with the private sector, but also with other government agencies. We have lost attorneys to the private sector and to other agencies largely due to our low wages. In turn, filling vacant positions has become a challenge.

BCI Agent Equity Adjustment

We are requesting BCI agent equity adjustments of \$209,728 from the general fund. Recruitment and retention of special agents continues to be a challenge for the BCI. The office's goal is to hire seasoned officers with several years experience and expertise, which allows them to be an immediate resource to law enforcement across the state. However, given the salary level currently offered, the office finds it very difficult to find those qualified applicants. The office can not compete with local law enforcement agencies that are able to start rookie officers, with less experience, at a higher wage. Or some agents, after gaining valuable training and experience with this office, choose to go to other similar agencies including federal law enforcement that are able to offer much higher wages, an earlier retirement, and a higher retirement multiplier. North Dakota salaries for the same positions are also well below its Midwest counterparts. These agencies all have starting salaries for new agents at more than \$3,000 per month, compared to the office's starting salary of only \$2,600 per month.

In the Division Summaries section of our budget presentation, we provide a brief description of the various functions the Office of Attorney General performs and highlight other significant accomplishments over the past two years.

January 15, 2005

PROPOSED AMENDMENTS TO 2005 HOUSE BILL NO. 1003

Page 2, line 1, replace "\$939,420" with "\$1,285,216"

Page 2, line 2, replace "258,633" with "471,618"

Page 2, line 7, replace "\$1,574,486" with "\$2,133,267"

Page 2, line 8, replace "359,067" with "(861,619)"

Page 2, line 9, replace "\$1,215,419" with "\$2,994,886"

Page 2, line 15, replace "\$19,400,721" with "\$19,746,517"

Page 2, line 16, replace "8,254,104" with "8,467,089"

Page 2, line 24, replace "\$36,058,177" with "\$36,616,958"

Page 2, line 25, replace "17,788,541" with "16,567,855"

Page 2, line 26, replace "\$18,269,636" with "\$20,049,103"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPT. 125 -- OFFICE OF ATTORNEY GENERAL

Salaries and wages are increased by a total of \$345,796, of which \$322,632 is from the general fund and \$23,164 is from special funds, to provide equity adjustments for the following:

| | |
|------------------------|-----------|
| Information Technology | \$ 88,230 |
| Crime Lab scientists | 47,838 |
| BCI narcotics agents | \$209,728 |

Operating expenses are increased by \$212,985 from the general fund for the following:

| | |
|--------------------------------------|----------|
| Computer replacement -- 4 year cycle | \$36,502 |
| Crime Lab forensic supplies | 70,853 |
| Crime Lab service agreements | 74,552 |
| ConnectND costs | 31,078 |

Due to a significant reduction in Byrne Memorial grants, a funding source change from federal funds to general fund monies of \$933,904 is required to continue to fund the following:

| | Salaries | Operating | Total |
|--|-----------|-----------|-----------|
| 3 BCI agents | \$186,814 | \$341,990 | \$528,804 |
| BCI narcotics agent overtime | 59,034 | | 59,034 |
| Tactical Team reimbursement | 64,800 | 10,800 | 75,600 |
| 3 Crime Lab forensic scientists and 1 part-time evidence technician | 169,885 | 18,981 | 188,866 |
| Gas chromatograph/Mass spectrometer | | | 81,600 |
| Total | \$480,533 | \$371,771 | \$933,904 |

Due to a significant reduction in a federal Department of Transportation grant which was paying for blood/alcohol, breath/alcohol, and fatality analysis testing supplies, a \$100,000 funding source change is required, from federal funds to the general fund, to continue to provide this testing to local law enforcement.

OFFICE OF ATTORNEY GENERAL 2005-07 BIENNIUM - REQUESTED CHANGES - HOUSE BILL NO. 1003

| | 2005-2007 EXECUTIVE RECOMMENDATION | STAFF EQUITY INCREASES | CRIME LAB OPERATING | COMPUTER REPLACEMENTS | CONNECTND FEES | BYRNE FUNDING CHANGE | DOT FUNDING CHANGE | TOTAL REQUESTED CHANGES | 2005-07 BIENNIUM APPROPRIATION | REVISED |
|------------------------------|--|------------------------------|---------------------------|--------------------------|-------------------|----------------------------|--------------------------|-------------------------------|-----------------------------------|---------|
| SALARIES AND WAGES | 19,400,721 | 345,796 | | | | | | 345,796 | 19,746,517 | |
| OPERATING EXPENSES | 8,254,104 | | 145,405 | 36,502 | 31,078 | | | 212,985 | 8,467,089 | |
| CAPITAL ASSETS | 1,767,250 | | | | | | | 0 | 1,767,250 | |
| GRANTS | 5,944,056 | | | | | | | 0 | 5,944,056 | |
| LITIGATION FEES | 50,000 | | | | | | | 0 | 50,000 | |
| ARREST & RETURN OF FUGITIVES | 10,000 | | | | | | | 0 | 10,000 | |
| STATE SCHOOL FINANCE LAWSUIT | 240,000 | | | | | | | 0 | 240,000 | |
| RACING COMMISSION | 387,007 | | | | | | | 0 | 387,007 | |
| GAMING COMMISSION | 5,039 | | | | | | | 0 | 5,039 | |
| TOTAL | 36,058,177 | 345,796 | 145,405 | 36,502 | 31,078 | | | 558,781 | 36,616,958 | |
| FTE | 177.0 | | | | | | | | | 177.0 |
| GENERAL FUND | 18,269,636 | 563,656 | 145,405 | 36,502 | | 933,904 | 100,000 | 1,779,467 | 20,049,103 | |
| FEDERAL FUNDS | 12,694,475 | 23,164 | | | | (933,904) | (100,000) | (1,010,740) | 11,683,735 | |
| SPECIAL FUNDS | 5,094,066 | (241,024) | | | 31,078 | | | (209,946) | 4,884,120 | |
| TOTAL ALL FUNDS | 36,058,177 | 345,796 | 145,405 | 36,502 | 31,078 | | | 558,781 | 36,616,958 | |

REQUESTED ENHANCEMENTS FOR THE 2005-07 BIENNIIUM BUDGET
OFFICE OF ATTORNEY GENERAL

| DESCRIPTION | ENHANCEMENTS INCLUDED IN EXECUTIVE RECOMMENDATION | | | | | ENHANCEMENTS EXCLUDED FROM THE EXECUTIVE RECOMMENDATION | | | | | EXECUTIVE RECOMMENDATION INCLUDED |
|---|---|-----------|----------------|----------------|---------|---|---------------|---------------|-------------|--------------------|-----------------------------------|
| | SALARY | OPERATING | CAPITAL ASSETS | SCHOOL FINANCE | TOTAL | GENERAL FUND | FEDERAL FUNDS | SPECIAL FUNDS | TOTAL FUNDS | RECENT INFORMATION | |
| METHAMPHETAMINE EFFORTS - 1.0 AGENT | 100,504 | 30,896 | 20,000 | | 151,400 | 151,400 | | | 151,400 | INCLUDED | |
| CRIME LABORATORY EFFORTS - 1.0 FORENSIC SCIENTIST | 78,144 | 25,074 | | | 101,218 | 101,218 | | | 101,218 | INCLUDED | |
| BCI INFORMATION PROCESSING - 1.0 ADMINISTRATIVE ASSISTANT | 62,948 | 12,052 | | 240,000 | 75,000 | 75,000 | | | 75,000 | INCLUDED | |
| SCHOOL FINANCE LAWSUIT | | | 120,000 | | 240,000 | 240,000 | | | 240,000 | INCLUDED | |
| GAS CHROMATOGRAPH/MASS SPECTROMETER 1/ | | | | | 120,000 | 38,400 | 81,600 | | 120,000 | INCLUDED | |
| TOTAL OPTIONAL ADJUSTMENTS - EXECUTIVE RECOMMENDATION | 239,596 | 68,022 | 140,000 | 240,000 | 687,618 | 606,018 | 81,600 | | 687,618 | | |
| COMPUTER REPLACEMENT | 36,502 | | | | 36,502 | 36,502 | | | 36,502 | EXCLUDED | |
| CRIME LAB FORENSIC SUPPLIES | 70,853 | | | | 70,853 | 70,853 | | | 70,853 | EXCLUDED | |
| CRIME LAB SERVICE AGREEMENTS | 74,552 | | | | 74,552 | 74,552 | | | 74,552 | EXCLUDED | |
| CONNECTND COSTS | 31,078 | | | | 31,078 | | 31,078 | | 31,078 | EXCLUDED | |
| CRIME LABORATORY SALARY EQUITY | 47,838 | | | | 47,838 | 47,838 | | | 47,838 | EXCLUDED | |
| INFORMATION TECHNOLOGY SALARY EQUITY | 88,230 | | | | 88,230 | 65,066 | 23,164 | | 88,230 | EXCLUDED | |
| BCI AGENT SALARY EQUITY | 208,728 | | | | 208,728 | 208,728 | | | 208,728 | EXCLUDED | |
| ATTORNEY SALARY EQUITY | 345,796 | 212,985 | | | 558,781 | 241,024 | (241,024) | | 209,728 | EXCLUDED | |
| TOTAL REQUESTED OPTIONAL ADJUSTMENTS | | | | | | 745,563 | 23,164 | (209,940) | 558,781 | EXCLUDED | |

CHANGES IN FEDERAL FUNDING LEVELS

| DESCRIPTION | RECENT INFORMATION | RECENT INFORMATION |
|---------------------------------------|--------------------|--------------------|
| BYRNE MEMORIAL GRANTS 2/ 3/ | 933,904 | (933,904) |
| CRIME LAB ALCOHOL TESTING SUPPLIES 4/ | 100,000 | (100,000) |
| TOTAL FEDERAL FUNDING LEVELS CHANGES | 1,033,904 | (1,033,904) |

1/ The federal funds for this equipment are no longer available - see changes in federal funding levels below.

2/ This reflects the cost for 18 months of the 2005-07 biennium. Six months of the 2005-07 biennium will be covered by the current grant funding.

3/ This includes \$81,600, the amount provided in the Executive Recommendation for the gas chromatograph/mass spectrometer that was to be funded from the Byrne Memorial grant.

4/ Federal funds for the Crime Lab alcohol testing supplies have been reduced by \$100,000 from the Department of Transportation.

REQUESTED CHANGES IN HOUSE BILL NO. 1003
OFFICE OF ATTORNEY GENERAL

1. COMPUTER REPLACEMENTS - TO MEET REQUIRED 4 YEAR CYCLE

| | | |
|--------------|----|--------|
| GENERAL FUND | \$ | 36,502 |
| TOTAL | \$ | 36,502 |

2. CRIME LAB LAB SUPPLIES

| | | |
|--------------|----|--------|
| GENERAL FUND | \$ | 70,853 |
| TOTAL | \$ | 70,853 |

3. CRIME LAB SERVICE AGREEMENTS

| | | |
|--------------|----|--------|
| GENERAL FUND | \$ | 74,552 |
| TOTAL | \$ | 74,552 |

4. STAFF EQUITY ADJUSTMENTS - BCI, IT, CRIME LAB

| | | |
|---------------|----|-----------|
| GENERAL FUND | \$ | 563,656 |
| FEDERAL FUNDS | \$ | 23,164 |
| OTHER FUNDS | \$ | (241,024) |
| TOTAL | \$ | 345,796 |

5. BYRNE MEMORIAL GRANT FUNDING CHANGE

| | | |
|---------------|----|-----------|
| GENERAL FUND | \$ | 933,904 |
| FEDERAL FUNDS | \$ | (933,904) |
| TOTAL | \$ | - |

6. DOT GRANT FUNDING CHANGE - CRIME LAB SUPPLIES

| | | |
|---------------|----|-----------|
| GENERAL FUND | \$ | 100,000 |
| FEDERAL FUNDS | \$ | (100,000) |
| TOTAL | \$ | - |

7. CONNECTND FEES

| | | |
|-------------|----|--------|
| OTHER FUNDS | \$ | 31,078 |
| TOTAL | \$ | 31,078 |

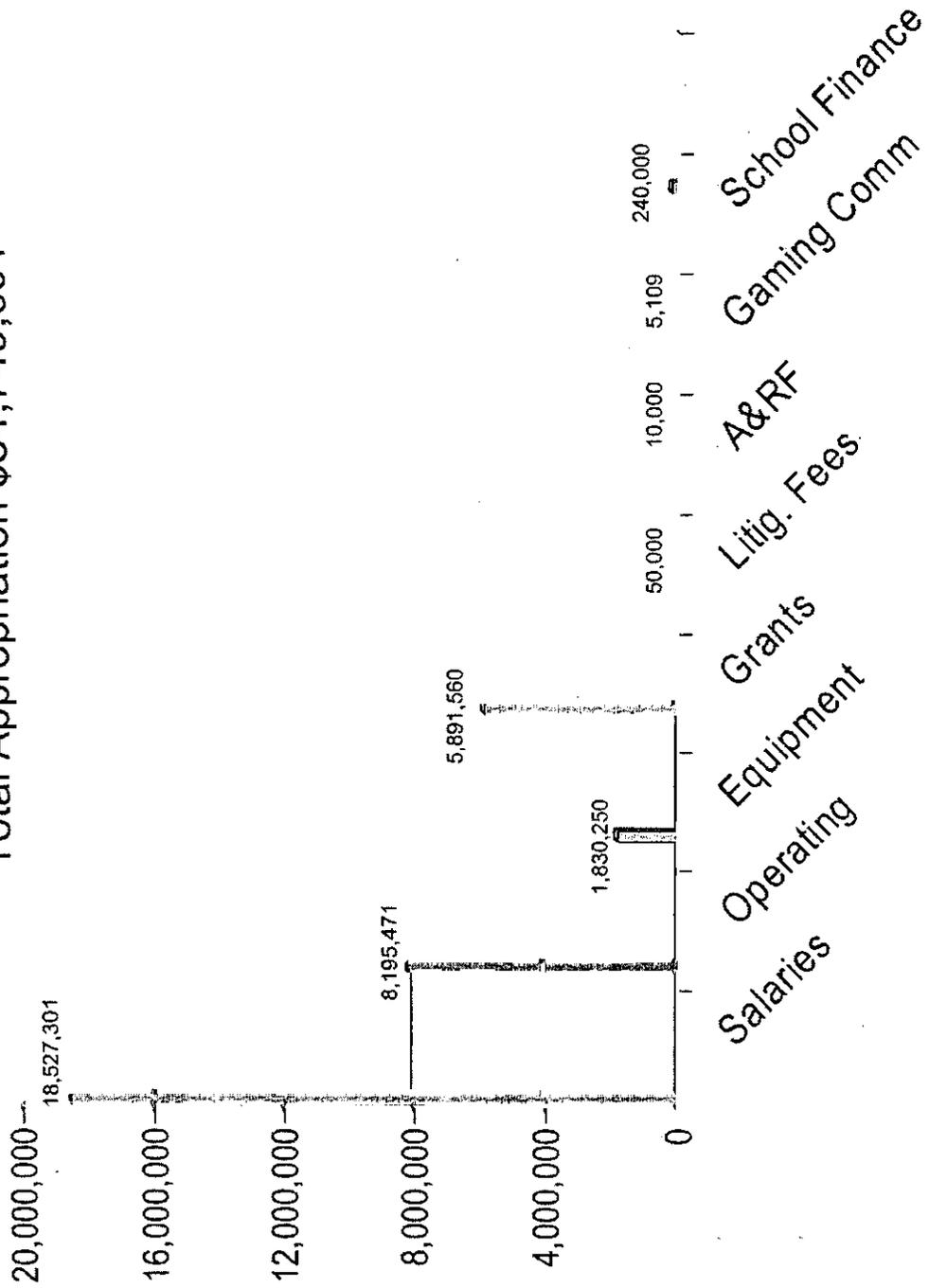
SUMMARY OF LEGISLATIVE CHANGES

| | | |
|-------------------------|----|-------------|
| GENERAL FUND CHANGES | \$ | 1,779,467 |
| FEDERAL FUNDS CHANGES | \$ | (1,010,740) |
| OTHER FUNDS CHANGES | \$ | (209,946) |
| TOTAL REQUESTED CHANGES | \$ | 558,781 |

| | |
|-----------------|---|
| CHANGE IN FTE'S | 0 |
|-----------------|---|

Office of Attorney General
 2003-2005 Biennium Appropriation

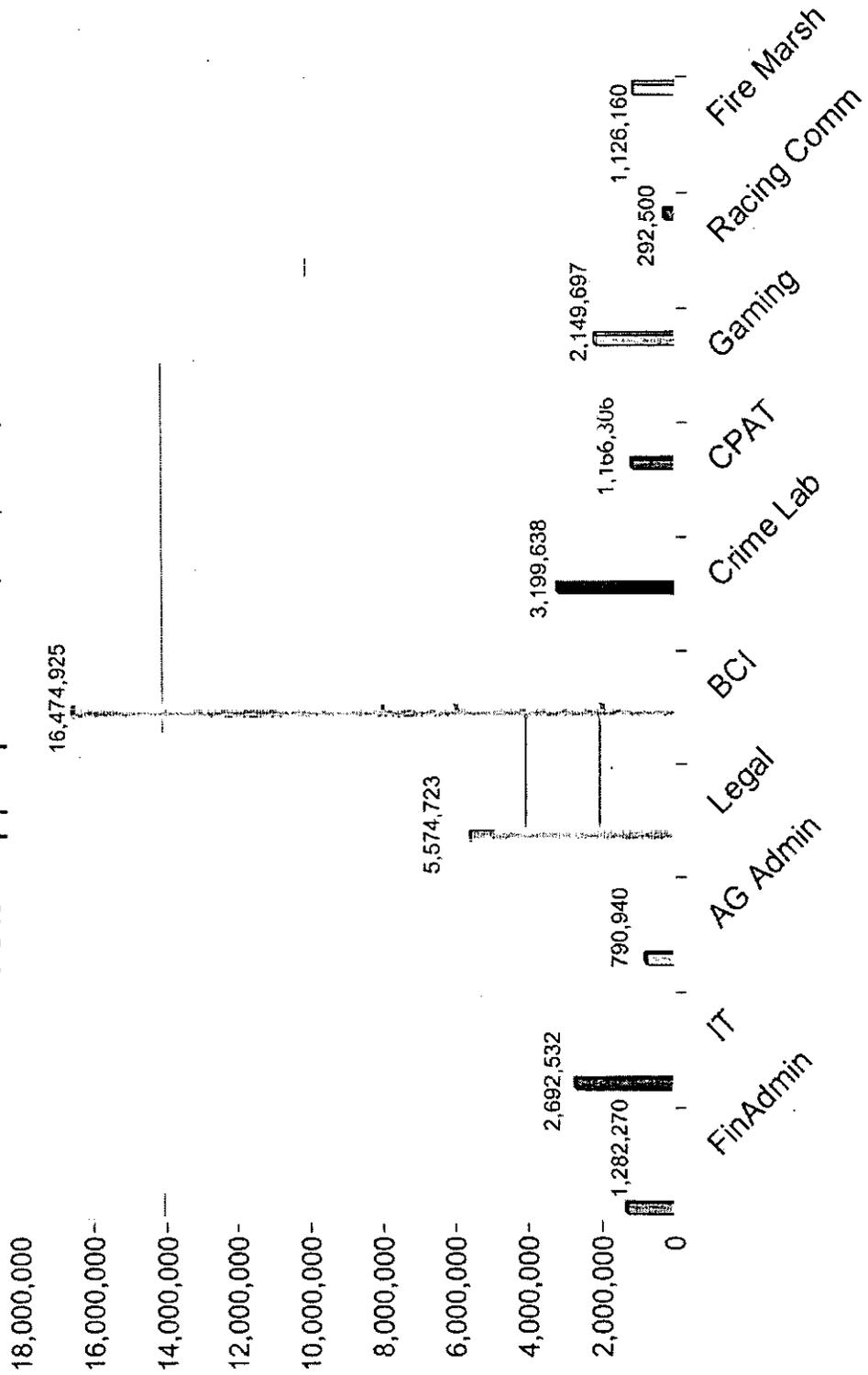
By Line Item
 Total Appropriation \$34,749,691



Office of Attorney General
 2003-2005 Biennium Appropriation

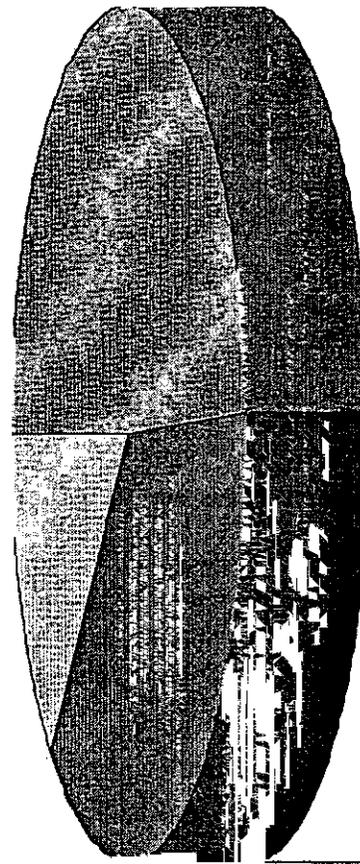
By Division

Total Appropriation \$34,749,691



Office of Attorney General
2003-2005 Biennium Appropriation
By Funding Source
Total Appropriation \$34,749,691

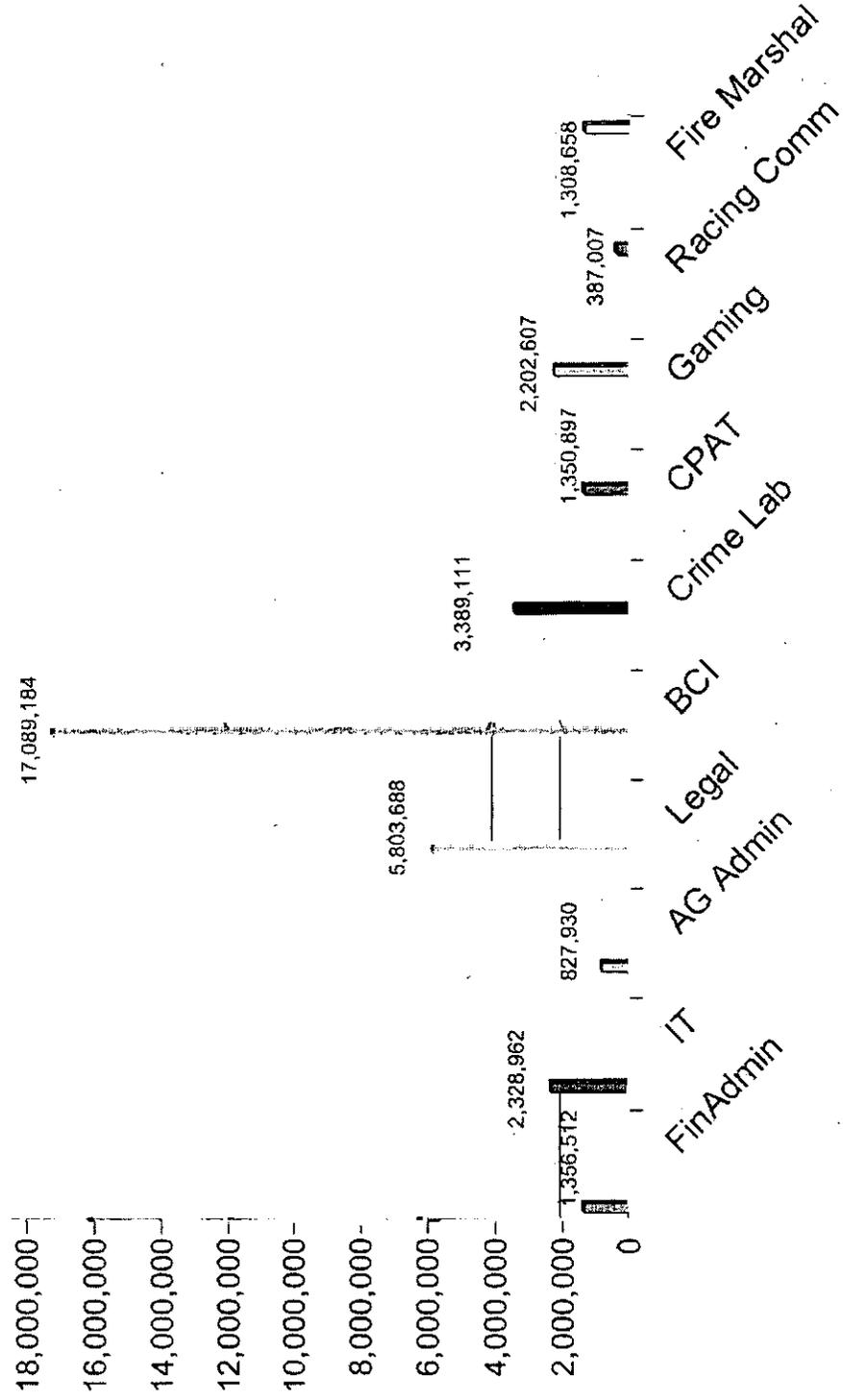
Other Funds
13%



General Fund
49%

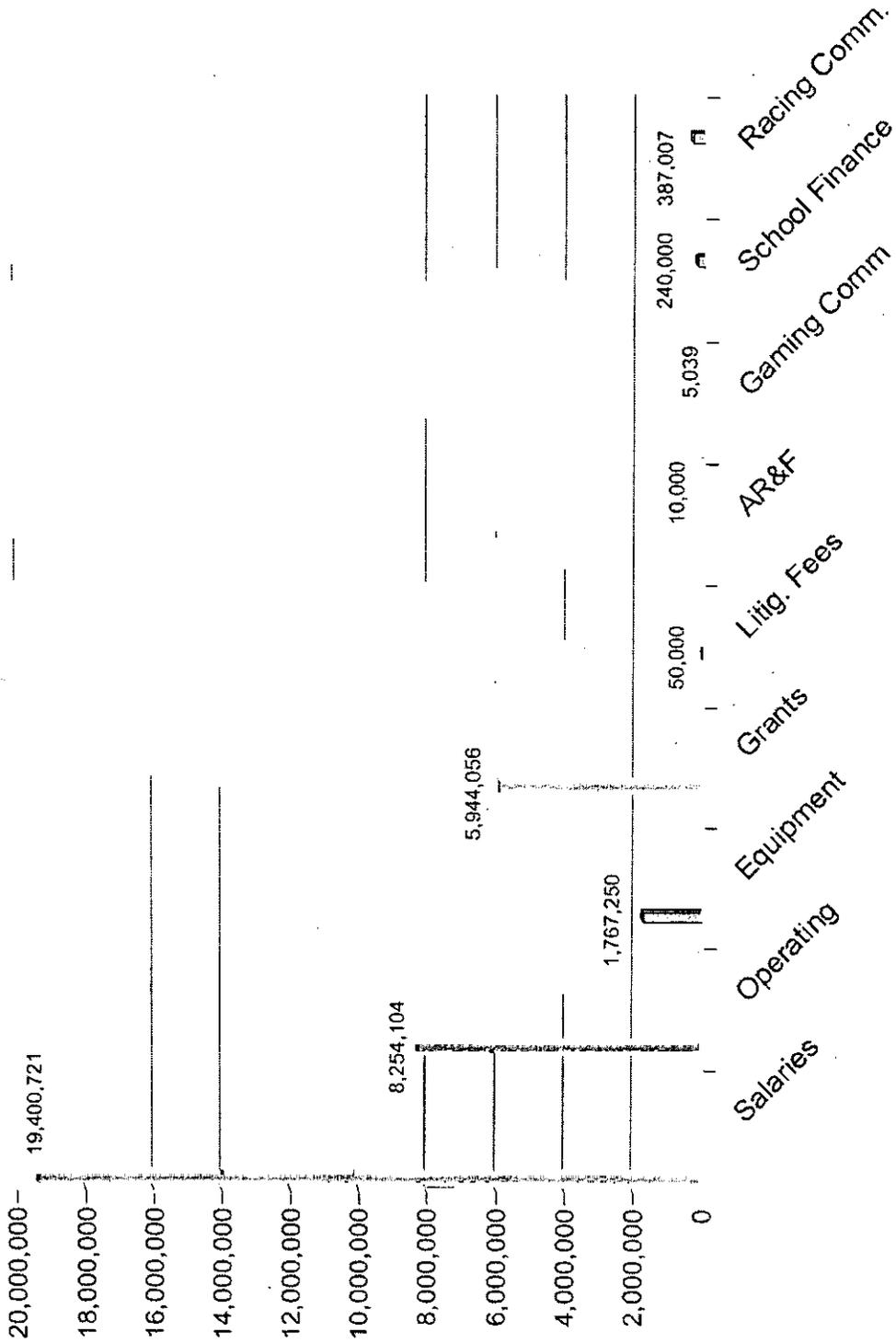
Federal Funds
37%

Office of Attorney General
 Executive Recommendation for the
 2005-2007 Biennium By Division
 Total Recommendation \$36,058,177

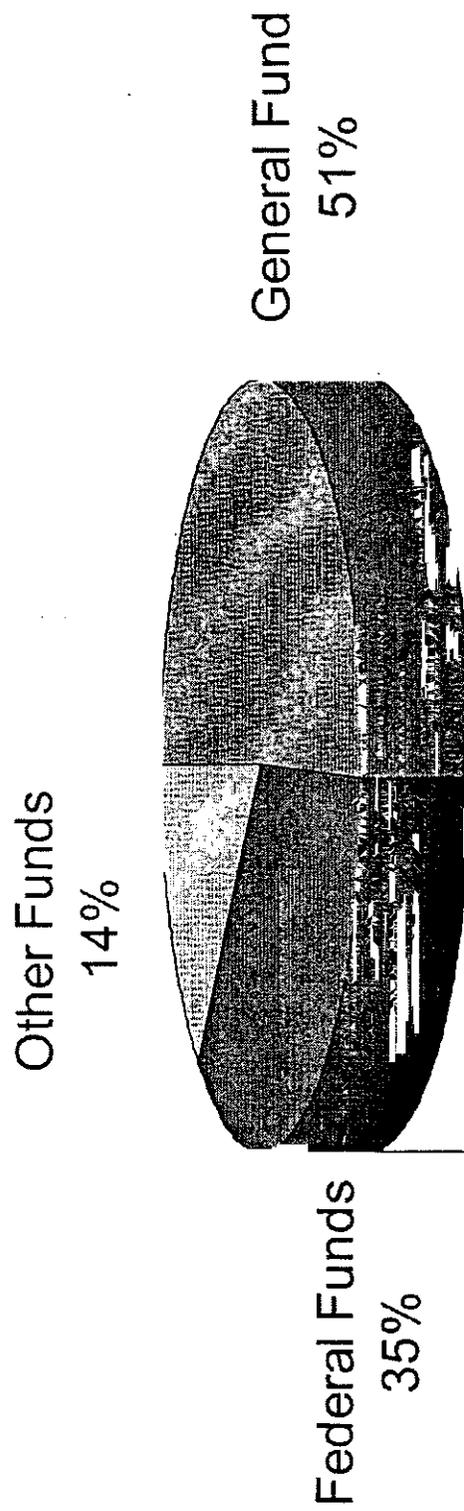


Office of Attorney General 2005-2007
 Biennium Executive Recommendation By Line Item

Total Recommendation \$36,058,177



Office of Attorney General Executive Recommendation for the
2005-2007 Biennium By Funding Source
Total Recommendation \$36,058,177

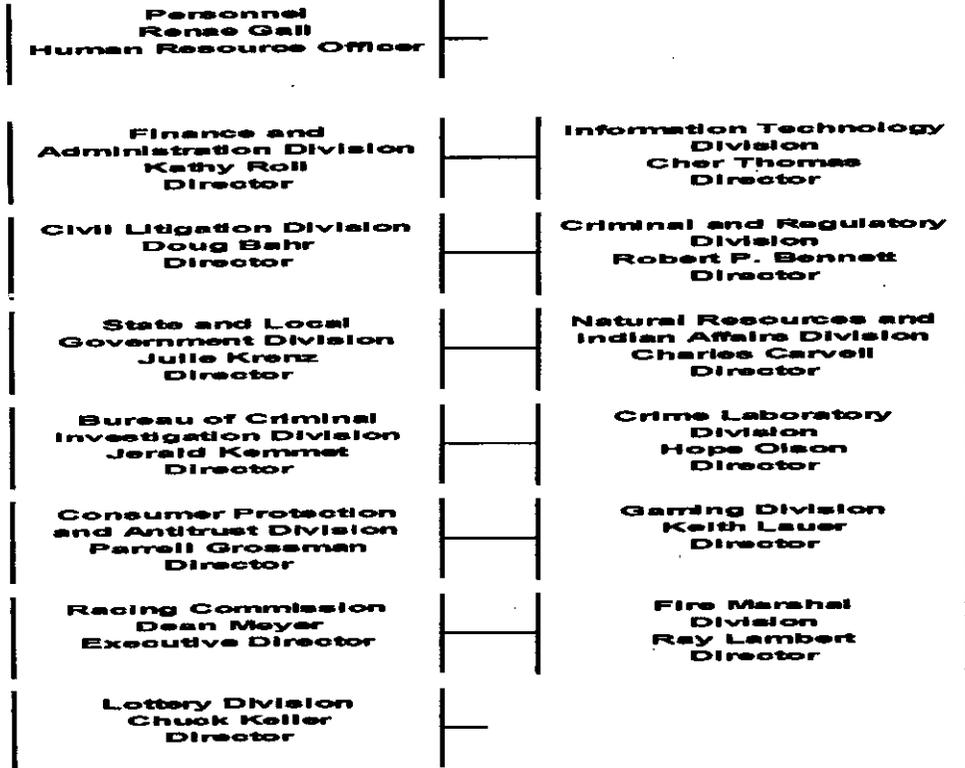


**NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL
January 17, 2005**

**ATTORNEY GENERAL
Wayne Stenehjem**

**Liz Brocker
Executive Assistant**

**Attorney General Administration
Sandi Tabor
Chief Deputy Attorney General**



DUTIES AND RESPONSIBILITIES OF THE OFFICE OF ATTORNEY GENERAL

The Attorney General is the chief legal officer of the state of North Dakota with duties outlined by state statutory and common law. The Attorney General represents the state and thereby the interests of North Dakotans in civil and criminal legal actions, takes legal action necessary to protect the rights of North Dakotans, defends the actions of state officials, and ensures public order.

MAJOR FUNCTIONS:

- Serve as the state's legal adviser in matters concerning the state's law and constitution.
- Issue opinions to county state's attorneys, city attorneys, and governing boards to interpret state laws that affect cities and counties.
- Represent the state in civil and criminal lawsuits in which the state is an interested party.
- Defend state employees acting within the scope of their employment.
- Assist local government in criminal investigations and drug enforcement.
- Provide scientific support to the state's criminal justice system by use of accepted techniques in the analysis, identification, and comparison of physical evidence involved in the investigation and prosecution of criminal offenses.
- Protect the rights of consumers.
- Regulate charitable gambling.
- Administer, promote, and regulate the North Dakota Lottery.
- Prevent and control fires and hazardous materials incidents, and inspect certain buildings for fire safety.
- Train police, sheriffs, firefighters, emergency responders, game wardens, highway patrol troopers, gaming personnel, and county state's attorneys.
- License alcoholic beverage retailers; wholesale and retail tobacco product dealers; transient merchants; coin-operated amusement devices operators, lessors, and distributors; fair boards; polygraph operators; charitable gaming operators; gaming manufacturers and distributors; and wholesale fireworks distributors.

DIVISION SUMMARIES

Lottery

Chuck Keller, Director

MAJOR FUNCTIONS AND DUTIES:

- Administer, regulate, and promote the North Dakota Lottery.

SIGNIFICANT ACCOMPLISHMENTS DURING THE 2003-05 BIENNIUM:

- Consulted and worked with a five-member Lottery Advisory Commission on all substantive policies, plans, issues, contracts, timelines, and activities of the Lottery;
- Invited retail businesses to apply for licenses, determined the number of sites available, by city/town, and selected 398 retailers located in 122 towns and cities and in all 53 counties for licensure. These retailers include convenience stores, grocery stores, gas stations, truck stops, liquor stores, bars, and drug stores;
- Established a Lottery Advisory Board comprised of 13 lottery retailers;
- Adopted a telecommunications system that is 97.5% satellite based in connecting retailers' lottery terminals to the central data center located in Helena, Montana;
- Became a member of the Multi-State Lottery Association and complied with its minimum computer gaming system and minimum computer internal control system requirements, minimum game security standards, minimum system standards for new lottery implementations, and applicable game rules;
- Issued a "Lottery Links" retailer quarterly newsletter;
- Developed an educational and informative website;
- Developed a prize debt setoff program with other state agencies for prizes of \$600 or more;
- Conducted outreach training of retailers' employees and distributed play slips, ticket stock, and point-of-sale items to retailers;

- Assisted retailers in promoting the sale of tickets and developed sales and marketing strategies;
- When the Lottery launched its first game -- Powerball, the Lottery set a first day per capita sales record of 23.4 cents per capita which ranked it as the most successful Powerball launch in the nation;
- Will collect \$4.5 million in state general fund revenue compared to \$1.43 million that was originally projected.
- Will transfer \$400,000 to the compulsive gambling prevention and treatment fund;
- The amount of gross sales of \$16.2 million through December 31, 2004, compares favorably to the amount of projected gross sales of \$11 million for the 2003-05 biennium;

FUTURE DIRECTIONS:

- Work with the 2005 Legislative Assembly to simplify the lottery laws;
- Consult and work with the Lottery Advisory Commission to simplify the lottery rules, enhance marketing plans, improve signage at retail sites, and select additional lottery games;
- Launch 3 new lottery games to provide a broad range of minimum jackpot amounts and odds of winning;
- Conduct public and player surveys about the Lottery;
- Enable players to buy subscriptions to purchase tickets for draws for future periods of 13, 26, and 52 weeks; and
- Collect a projected \$7.1 million in state general fund revenue during the 2005-07 biennium.

Legal Services

Douglas Bahr, Director, Civil Litigation Division
Robert Bennett, Director, Criminal and Regulatory Division
Charles Carvell, Director, Natural Resources and Indian Affairs Division
Julie Krenz, Director, State and Local Government Division

MAJOR FUNCTIONS AND DUTIES:

- Provide a full range of legal services to over 100 state agencies, boards, and commissions, including assistance in drafting and negotiating contracts; drafting and reviewing rules; drafting and reviewing legislation; giving legal advice; providing formal written opinions on questions of law; representing agencies, boards and commissions in administrative hearings and appeals and in lawsuits in state and federal courts; and negotiating resolution of disputes.
- Provide legal opinions to legislators, county state's attorneys, and cities.
- Assist county state's attorneys and city attorneys in criminal prosecutions.
- Provide legal advice in hundreds of subject areas, including Indian law, gaming, water, municipal government, criminal law, habeas corpus, extradition, contract, torts, North Dakota and federal constitutional law, environmental law, agricultural law, energy law, real property law, oil and gas law, Temporary Assistance for Needy Families (TANF), child welfare, mental health, the Health Insurance Portability and Accountability Act (HIPAA), eminent domain, hunting, prisoner issues, contract bidding, education, health, game and fish, food stamps, nursing home rate regulation, professional licensure and discipline, bankruptcy, employment law, civil rights, wage claims, implied consent, personnel, open records and meetings, banking, child support, collections, unclaimed property, debtor/creditor, sexual harassment, the Americans with Disabilities Act, administrative law, alcoholic beverage law, consumer protection law, anti-trust law, public benefits law, public finance law, and pension law, including Employer Retirement Income Security Act (ERISA).
- Provide training on legal matters for state agencies, law enforcement, local government officials, and state's attorneys.
- Give presentations and provide written material to the public on legal matters of general interest including brochures on small claims courts, state employee defense and liability, open meetings and open records, concealed weapons permits, avoiding identity theft, methamphetamine, anhydrous ammonia theft, lemon law, and sex offenses.

Thirty attorneys and four legal assistants provide all of the services mentioned above.

SIGNIFICANT ACCOMPLISHMENTS DURING THE 2003-05 BIENNIUM:

- To ensure payments by the settling tobacco companies to the state of North Dakota and other settling states, staff enforced N.D.C.C. ch. 51-25 against tobacco product manufacturers that are not signatories to the Tobacco Master Settlement Agreement (MSA), and participated with other states in defending lawsuits challenging the MSA and the Model Statute. The state also participated with other states in monitoring and enforcing the MSA to ensure tobacco companies did not violate its measures designed to protect the public health and reduce youth smoking.
- Negotiating settlement of suit brought in 2002 against the U.S. Forest Service challenging the legality of the Forest Service's Roadless Rule, which limits access to, and uses of, the National Grasslands. The suit also seeks a declaration that the state's section line access law applies to federal land.
- Coordinated and monitored work of special assistant attorneys general providing services on behalf of state agencies.
- Assisted the Office of Management and Budget in administering the state's Risk Management Fund to handle claims and lawsuits against the state and its employees.
- Successfully represented the state and its employees in lawsuits stemming from state employees' job-related actions.
- For the period from July 1, 2003, through December 31, 2004, collected approximately \$722,307 for the Bank of North Dakota through farm foreclosures, \$2,265,887 through residential foreclosures and \$10,780 through student loan state court proceedings.
- Continued to reduce legal costs to the state by making greater use of legal assistants to provide legal services.
- Prosecuted, negotiated, and settled a wide variety of professional licensure actions on behalf of numerous state licensing boards.
- Issued 129 Attorney General Opinions, including 26 opinions in response to allegations of open records or open meetings violations.
- Responded to thousands of requests for the Attorney General's advice by state agencies and political subdivisions; reviewed 53 sets of administrative rules; addressed 467 written and over 1,500 e-mail citizen inquiries.

- Advised Job Service with over 1,400 claims for unemployment compensation benefits and employer unemployment tax rate and liability issues.
- Updated the Open Records and Meetings Manual on the Attorney General's website.
- Provided legal advice and counsel for the September 2001 rollout of North Dakota section 259 college savings program, College SAVE, which currently holds over more than \$88 million in investments for children nationwide.
- Negotiated investment manager contracts for the North Dakota State Investment Board investing in excess of \$550 million.
- Acted as issuer's counsel to state agencies involved in bond transactions including:
 - Advising the North Dakota Building Authority with regard to bonds issued to finance construction or renovation of buildings at Dickinson State University, Valley City State University, Mayville State University, the Health Department, Department of Corrections and Rehabilitation, and in issuing \$20 million in bonds for the Connect ND project;
 - Advising the Building Authority with regard to a refunding bond issue totaling \$15,145,000 in order to refinance existing bonds at lower interest rates, achieving savings for the state;
 - Advising the Housing Finance Agency on four bond issues totaling \$176.5 million primarily for continued funding for the First Time Homebuyers Program;
 - Continuing to advise the Housing Finance Agency on bond issues that involved the use of interest rate swap and variable rate bonds in order to lower the cost of borrowing funds;
 - Advising the Municipal Bond Bank on a \$20.4 million State Revolving Fund bond issue and a \$12 million refunding bond issue in order to achieve significant interest rate savings to the state, and assisting the Bond Bank in closing over 30 loans to political subdivisions to provide low cost financing for sewer and water;
 - Advising the Student Loan Trust with regard to a \$23 million subordinate bond transaction with the Bank of North Dakota to preserve favorable tax treatment and earnings for the state .
- Provided training to local and state officials in the application of sex offender registration, and open records and meetings law.

- Successfully obtained injunctive relief against the U.S. Corps of Engineers prohibiting the Corps from lowering Lake Sakakawea in the spring of 2003 and thereby protected the lake's forage fish spawn, which is crucial to the lake's sport fishery.
- Obtained dismissal of a suit brought by downstream barge interests seeking to end the state's walleye stocking in Lake Sakakawea.
- Obtained a federal court order requiring the U.S. Corps of Engineers to issue a new Master Manual under which it manages the Missouri River.
- Assisted the Health Department in negotiating a settlement with the Canadian Pacific Railway over the railroad's anhydrous ammonia spill in Minot. CP paid a \$925,000 penalty, of which \$425,000 went to the general fund and the remainder to install a water project to benefit the area affected by the spill.
- Assisted the Health Department in settling a lawsuit brought against the Burlington Northern Santa Fe Railroad (BN) over the fuel spill under downtown Mandan. BN paid the state a penalty of \$29 million and conveyed land and buildings to Mandan worth another \$1.25 million, for a total of a \$30.25 million penalty. Of the \$29 million payment, \$24 million is allocated to remediation efforts, \$2.5 million to the City of Mandan to assist with clean-up, another \$1.0 million to Mandan, \$500,000 to reimburse the state's "Leaking Underground Storage Tank Trust Fund," and \$1.0 million to the general fund.
- Received a \$150,000 penalty payment from Jerry Meide for environmental violations. The penalty was deposited into the general fund.
- Brought other administrative enforcement actions on behalf of the Health Department and other agencies.
- Assisted the Health Department to settle a dispute with Archer Daniels Midland (ADM) and the operation of its ethanol plant in Enderlin. ADM paid a \$214,000 penalty which was deposited in the general fund. ADM also installed pollution control equipment at its plant.
- Worked with the lignite industry, Governor's office, and U.S. Environmental Protection Agency to address air quality issues raised by existing and proposed power plants.
- Represented the Board of Animal Health in administrative enforcement actions concerning the import and licensing of domestic animals and nontraditional livestock.

- Represented the Department of Agriculture in administrative enforcement actions and court actions concerning livestock dealers, livestock auctions, and pesticide dealers and applicators.
- Issued title opinions and otherwise assisted the Game and Fish Department in implementing a conservation program known as Coverlocks, as well as programs to enhance wildlife habitat and hunting access on private land. Some of these programs include Private Forest Conservation Easements, Tree Planting Cost Share, Wetland Reserve Easements, and the Private Lands Initiative.
- Represented the Game and Fish Department in actions brought to enforce the guide and outfitters licensing law.
- Successfully defended a challenge to the state law allowing access to private land.
- Assisted the State Water Commission to ensure that the proposed outlet to Devils Lake is built in compliance with state and federal law.
- Obtained dismissal of an appeal from the Devils Lake outlet permit issued by the State Engineer. Defending the Health Department in an appeal from the permit it issued for the outlet.
- Filed or joined amicus briefs in 43 federal and state court actions for the period from July 1, 2003, through December 31, 2004.
- Presided over several hundred oil and gas hearings.
- Assisted the Conference of Western Attorneys General in writing annual supplements and the third edition to The American Indian Law Deskbook.
- Assisted the State Water Commission to further develop the Southwest Water Pipeline Project and in constructing the Northwest Area Water Supply project, including defending the Commission in an ongoing suit brought by Manitoba to stop the project.
- Assisted in the prosecution of civil forfeitures in drug offense cases:
- Prosecuted or assisted in the prosecution of a wide variety of criminal cases, including assault, theft, gaming, drug, and adult and child sex offenses.
- A full-time drug prosecutor supports the High Intensity Drug Trafficking Act (HIDTA) program.

- Assisted in the defense of the constitutionality of statutes relating to sex offender registration, DNA testing requirements, luring minors by computer, and other state statutes.
- Provided training to public officials in the application of sex offender registration, worked with state's attorneys and law enforcement in implementing the sex offender registration statute, and implemented a sex offender risk classification system to assist in community notification. Assigned risk levels to over 300 North Dakota sex offenders.

The Legal Services Divisions provided more than 106,000 hours of legal services to state entities for the period from July 1, 2003, through December 31, 2004.

FUTURE DIRECTIONS:

- Improve legal services to state agencies by retaining experienced attorneys and increasing attorney knowledge through training.
- Decrease costly litigation by providing more pro-active advice on issues and encouraging agency staff to recognize and address legal issues at an early point.
- Increase state's attorneys, city attorneys and the public's access to Attorney General Opinions by posting previously unposted opinions on the Attorney General's webpage.

Bureau of Criminal Investigation

Jerald Kemmet, Director

MAJOR FUNCTIONS AND DUTIES:

- Assist local law enforcement agencies in the investigation of major crimes by providing expertise and resources not otherwise immediately available to local agencies.
- Assist local, state, and federal agencies, at their request, in investigating serious crimes or criminal activity that crosses jurisdictional boundaries.
- Participate in nine narcotics task forces, providing supervision for eight of the nine, consisting of 44 member agencies in 24 counties. The Drug Enforcement Agency (DEA) task force we participate in provides services to all 53 counties.
- Implement a statewide strategy to curb increased usage and shut down the illicit manufacture of methamphetamine.
- Assist the Attorney General-appointed Peace Officer Standards and Training (POST) Board in licensing and training of state and local peace officers, and in maintaining licensing and training records of those peace officers.
- Administer federal grants for state and local criminal justice programs.
- Collect crime data from local agencies through the Uniform Crime Reporting (UCR) program for various state reports and for local, state, and national statistics.
- Maintain the criminal history records of offenders and an Automated Fingerprint Identification System (AFIS) for investigative purposes, prosecution, and sentencing, and as a means of protecting the public from criminal offenders.
- Maintain other criminal justice records such as offender registration, concealed weapon permits, Central Warrant Information System, protection orders, law enforcement intelligence network, and official records of criminal and narcotics investigations.
- Assist local and state agencies in designing, developing, and maintaining information systems for criminal justice purposes.
- Assemble data from information systems and other sources, and analyze and disseminate information regarding the state's criminal justice system.

SIGNIFICANT ACCOMPLISHMENTS DURING THE 2003-05 BIENNIUM:

- Assisted in numerous criminal, cybercrime, and drug investigations.
- Continued to promote coordination of multi-jurisdictional narcotics task forces throughout the state.
- Acquired over \$1.2 million during the biennium from the Midwest High Intensity Drug Trafficking Area (HIDTA) to further the fight against methamphetamine.
- Agents spent over 860 hours providing community drug awareness training to 25,112 adults and children in 2003 and 2004.
- Continued CounterACT, a drug and alcohol education/prevention program, which targets fourth through sixth graders statewide.
- Tracked sex offenders and offenders against children in numbers that increased from 1,345 in December 2002 to 1,429 as of December 2004.
- Maintained an Internet web page that provides information on registered sex offenders. In December 2002, there were 125 offenders listed on that site because they are either high-risk offenders or lifetime registrants. That number increased to 200 as of December 2004.
- Continued the risk assessment process to determine the risk level posed by sex offenders who are living in communities in North Dakota. As of December 2004, 829 offenders with registration requirements have been assessed a risk level by a committee established by the Attorney General.
- Shared Automated Fingerprint Identification System (AFIS) information within the Midwest Automated Fingerprint Identification Network (MAFIN), a regional program with Minnesota and South Dakota. The system presently contains fingerprint images on approximately 1.4 million persons, of which 87,000 are from North Dakota.
- Processed approximately 14,544 requests from the general public for criminal history record information in 2003 (an average of 1,200 per month), and 12,000 requests through September 2004 of this year (an average of 1,320 per month).
- Participated in a statewide integrated Criminal Justice Information System (CJIS) that is in the development stages and is focusing initially on assisting local agencies with their information systems and gathering and reporting crime statistics, as well as assisting state's attorneys with acquiring an integrated information sharing capability that will also facilitate disposition reporting on criminal history records.

- Established links between the Criminal History Record System and other systems within the BCI and in other agencies, including a link between criminal records and the concealed weapon permits system.
- Established connection with Rissnet, a regional criminal intelligence system, through Mid-states Organized Crime Information Center (MOCIC).

FUTURE DIRECTIONS:

- Continue to implement a statewide strategy to curb increased usage and shut down the illicit manufacture of methamphetamine by continuing our association with the Midwest High Intensity Drug Trafficking Area.
- Continue to improve coordination between multijurisdictional task forces throughout the state.
- Certify an additional cyber crime investigator as a forensic computer examiner.
- Continue to promote and refine the statewide Criminal Justice Information Sharing network.
- Provide specialized training on a regional basis to law enforcement agencies and others who work with the law enforcement community.
- Upgrade the AFIS system.
- Continue to automate fingerprint and record information transmitted to the Integrated Automated Fingerprint Identification System (IAFIS) in order to share information with the Federal Bureau of Investigation to further expand searching capabilities.
- Continue to establish the connection between the fusion cell to coordinate homeland security intelligence information with the state.

Crime Laboratory

Hope Olson, Director

MAJOR FUNCTIONS AND DUTIES:

The goal of the laboratory is to provide scientific support to the state's criminal justice system by use of accepted techniques in the analysis, identification, and comparison of physical evidence involved in the investigation and prosecution of criminal offenses.

Services Provided Include:

- Examination of physical and toxicological evidence for local, state, and federal law enforcement agencies, the military, prosecutors, and defense attorneys.
- Provide follow-up on referrals to local, state, and federal agencies involving death investigations.
- Equipment selection, inspection, repair, and training of law enforcement agents in breath alcohol analysis.
- Investigation and response to clandestine methamphetamine laboratories.
- Maintaining a DNA database of convicted offenders.
- Provide expert testimony in court.

SIGNIFICANT ACCOMPLISHMENTS DURING THE 2003-05 BIENNIUM:

- Received national certification for DNA testing and Convicted Offender Databasing from the National Forensic Science Technology Center.
- In 2003, the laboratory received 9,165 total cases: 5,646 blood/breath alcohol (driving under the influence), 2,636 narcotics, 577 urine/blood drug screens, 89 fatality screens, 21 arson, 32 latent fingerprint cases, 130 serology/DNA, 17 firearm/toolmark, and 17 miscellaneous cases. This is a 19% increase over the previous year's submissions.
- During 2004, Toxicology held 20 classes and trained 159 law enforcement officers in the use of breath alcohol instruments. An additional 885 officers received certification for breath equipment remotely via the use of video training tapes. This represents over a 17% increase in the number of officers trained in 2002.

- Lab staff members maintained, supported, and certified breath alcohol instruments for law enforcement agencies throughout the state.
- The lab purchased a new ballistic comparison microscope which will aid in firearms examinations.
- Lab staff members received 434 convicted offender samples (for the National DNA Database) for 2003 and 2004. In 2003 and 2004, staff trained 165 law enforcement officers how to properly obtain a DNA buccal swab sample.

FUTURE DIRECTIONS:

- Lab staff members strive to continue to reduce turnaround time for all types of laboratory analyses.
- The Lab will be working to fully implement a new laboratory information management system (LIMS) that will enhance the overall laboratory efficiency and productivity by the replacement of manual documentation and record keeping processes.
- The Lab needs to continue to support professional development of staff members to maintain analytical proficiency.
- The Lab will pursue national laboratory accreditation through the Association of Crime Laboratory Directors.
- Lab staff members intend to expand drug screening and confirmatory analysis in toxicology so fewer toxicology and medical examiner's samples will have to be sent out of state to private labs.
- It is very important to continue training for law enforcement agencies in proper evidence collection and packaging techniques.

Fire Marshal

Ray Lambert, Fire Marshal

MAJOR FUNCTIONS AND DUTIES

- Provide on-scene fire investigations to determine origin and cause of fires.
- Compile fire incident reports from across the state and generate statistics to enhance fire prevention efforts.
- Inspect public facilities for means and adequacy of exits in case of fire. The types of facilities inspected include childcare centers, schools, state-owned buildings, public assemblies and above-ground fuel sites.
- Enforce laws relating to the installation and maintenance of fire extinguishing equipment and the storage and handling of flammable liquids, explosives, and liquefied petroleum gas.
- Provide on-scene emergency assistance for safe mitigation of hazardous materials releases.
- Develop and deliver training programs for arson detection, hazardous materials incident response, fire prevention, and code enforcement.

SIGNIFICANT ACCOMPLISHMENTS DURING 2003-05 BIENNIUM

- Updated for delivery a new hazardous materials/weapons of mass destruction program for all local emergency responders, firefighters, emergency medical services (EMS), and law enforcement personnel.
- Worked to improve the delivery and quality of fire prevention training.
- Streamlined fire inspection programs for expansion into more public facilities.
- Updated and distributed the Fire Chief's Guide to nearly 400 fire chiefs.
- Oversaw more than 18,750 fire department incidents reported into the National Fire Incident Reporting System (NFIRS).
- Conducted over 188 school fire safety inspections; some required follow-up inspections to assure compliance.

- Developed and implemented a program for conducting fire safety inspections on occupied state-owned buildings. For the period from July 1, 2003, through December 31, 2004, 193 state-owned buildings have been inspected.
- Conducted 84 on-scene fire investigations to determine origin and cause.

FUTURE DIRECTIONS

- Deliver an operations level Hazardous Materials program for firefighters.
- Provide fire prevention awareness programs for the public through public service announcement presentations and support to local fire departments.
- Provide local fire departments with better current statistical data from fire incident reports brought into the NFIRS.
- Our inspection program continues to improve levels of safety in occupied state buildings, schools, and public buildings through ongoing fire safety inspection programs.
- Continue to support and encourage fire departments to report incidents in the NFIRS. With the system continuing to improve, the incidents reported have nearly doubled in number since calendar year 2001.

Information Technology

Cher Thomas, Director

MAJOR FUNCTIONS AND DUTIES:

- Track all hardware and software assets for the office.
- Track all software licenses and assure compliance.
- Maintain and audit security of agency data and applications.
- Coordinate with divisions and ITD for office remodeling and moves which include wiring for computers.
- Administer 15 servers for the office.
- Provide help desk assistance and troubleshooting of technical problems for all locations across the state.
- Approve, purchase and install IT related equipment and software for divisions.
- Manage routines for communications with CJIS, local law enforcement, courts, state radio, FBI, live scans located at jails and Minnesota AFIS.
- Manage user groups/user account setups.
- Plan and execute network and software upgrades.
- Design and implement changes to the Attorney General website.
- Design and implement new applications for the office.
- Design and implement changes to existing office applications.
- Participate in enterprise level initiatives, such as Enterprise Architecture and the Enterprise Project Management Advisory Group.
- Create an IT strategic plan.
- Plan and manage IT budget.
- Track and analyze IT time and monies spent supporting the divisions of the office.

SIGNIFICANT ACCOMPLISHMENTS DURING THE 2003-2005 BIENNIUM:

- Converted to a development environment more in line with industry standards.
- Implemented a new concealed weapon permits application.
- Implemented the Fingerprint Image Transmission System (FITS) to replace Capture for latent fingerprints.
- Worked with ITD to develop a small version of the Criminal Justice Integrated System (CJIS) web portal in order to prove that the technical assumptions would work (hub proof of concept project).
- Worked with ITD to develop the hub and web portal for the Criminal Justice Integrated System (CJIS) after the successful completion of the proof of concept project.
- Developed mechanism to share arrest information through the CJIS hub.
- Developed mechanism to share sex offender registration information through the CJIS hub.
- Developed mechanism to share concealed weapon permits information through the CJIS hub.
- Implemented a lottery licensing application system.
- Implemented a laboratory information management system (LIMS) for managing caseload and evidence tracking for the Crime Lab.
- Developed the North Dakota No Call list system for use until the National No Call system was in place.
- Made major enhancements and changes to the Attorney General Web page.
- Implemented the new Lottery website.
- Developed and implemented the processes to automatically update the Lottery website with current drawn numbers on drawing night for each game.
- Coordinated the wiring projects associated with the many division remodeling and moving projects.

FUTURE DIRECTIONS:

- Evaluate a solution for a BCI case management system with an investigative module, which would also work for other investigative areas of the office.
- Firewall the office for security purposes.
- Update Gaming's auditing abilities on its Gaming system.
- Evaluate wireless capabilities in the field for BCI agents and deputy fire marshals.
- Continue to develop equipment modules for the Crime Lab to enhance their ability to generate reports from the equipment.
- Develop a process for BCI to interact with the new Crime Lab system along with bar coding of evidence.
- Develop an email capability for the public to be notified when high-risk sex offenders move into their zip code area, city, or county.

Consumer Protection and Antitrust (CPAT)

Parrell Grossman, Director

MAJOR FUNCTIONS AND DUTIES:

- Protect North Dakota consumers from misleading, deceptive, fraudulent and unfair business practices by enforcing the state's consumer fraud, antitrust, nonprofit corporations, and Do Not Call laws through the initiation of civil investigations and legal actions, as well as the implementation of consumer education.
- Mediate consumer complaints between consumers and businesses.
- Educate North Dakota consumers on fraud prevention by conducting consumer fraud education and training, developing and distributing consumer education brochures and materials, and warning consumers of current consumer fraud scams and crimes, through the media, etc.
- Coordinate civil and criminal investigations with local, state, and national law enforcement.
- Research state and federal consumer fraud and consumer law issues, and assist legislators in the development and implementation of legislation.

SIGNIFICANT ACCOMPLISHMENTS DURING THE 2003-05 BIENNIUM:

- Opened 2,186 consumer complaint and investigation files. Closed 2,061 consumer complaint and investigation files.
- Recovered approximately \$1.051 million in restitution on behalf of North Dakota consumers.
- Conducted 39 civil consumer fraud, antitrust or other enforcement legal actions.
- Collected approximately \$1.252 million in civil penalties (or payment in lieu of civil penalties), investigative costs, attorney's fees and legal recoveries.
- Conducted 89 consumer fraud prevention training and educational presentations to law enforcement, senior, professional, community, student and consumer groups throughout the state.
- Implemented the Do Not Call laws effective August 1, 2003, with education, compliance and enforcement efforts. Conducted 53 Do No Call enforcement

investigations and reached 23 settlements resulting in \$21,000 in civil penalties, investigation costs, and attorney's fees.

- Created an identity theft clearinghouse to assist consumers that have been identity theft victims, by providing identity theft affidavits for use with the victims' creditors and the national credit reporting agencies, as well as providing resources for reporting identity theft, and resolving identity theft issues.
- Concluded our legal action against Banner Health Systems in regard to removal of charitable assets from North Dakota, and the Anne Carlson Center for Children in Jamestown. The state received a \$1,000,000 settlement that was distributed to the affected nursing home facilities (for projects otherwise not funded) in the communities of Fargo, Jamestown, Valley City, and Enderlin. Banner also transferred ownership of the Anne Carlson Center to a local North Dakota entity.
- Participated in a number of multi-state antitrust investigations and legal actions in regard to anticompetitive sales of drugs, resulting in hundreds of thousands of dollars in restitution to state agencies and consumers purchasing such drugs, as well as reimbursement of investigation costs and attorney's fees.
- Participated in numerous multi-state investigations and legal actions concerning deceptive or misleading advertising, sales, or acts and practices, prohibiting such sales practices, including awards of civil penalties, and reimbursement of investigation costs and attorney's fees.
- Initiated numerous legal actions against businesses conducting fraudulent activities in North Dakota, or engaging in deceptive sales practices, including travel companies, grant companies, charitable solicitations, debt elimination programs, consumer credit counseling violations, etc., including obtaining injunctions prohibiting these companies from any future sales in North Dakota, as well as civil penalties, and reimbursement of investigation costs and attorney's fees.
- Concluded legal action against the Association for Disabled Firefighters, the Coalition of Police & Sheriffs, Inc., the American Veterans Relief Foundation, Inc., and their professional fundraiser, Public Awareness, Inc., for alleged violations of charitable solicitation laws, including payment of \$25,000 to be distributed to law enforcement, fire protection, or public safety entities, and \$3,000 in lieu of civil penalties.
- The Attorney General personally approved and issued Cease and Desist Orders against 12 businesses engaged in illegal and/or fraudulent activities, in circumstances that required immediate action to protect North Dakota consumers and prohibit further sales in North Dakota.
- Sponsored and conducted the eighth annual LifeSmarts competition, a game show style team competition testing the knowledge of high school students on consumer

and life skills issues ranging from personal finances to health and technology. This competition emphasizes and encourages education in financial management and decision-making skills for North Dakota's youth.

FUTURE DIRECTIONS:

- Continue to educate and warn consumers of current consumer fraud scams and crimes.
- Continue to coordinate consumer education programs and training with private and public associations.
- Continue to target, prevent and prosecute costly telemarketing fraud upon North Dakota consumers, including the elderly.
- Take enforcement action against out-of-state companies engaged in sophisticated, complex or technological fraudulent and deceptive practices such as Internet fraud.
- Participate in joint and cooperative consumer protection and antitrust enforcement in multi-state and federal investigations, legal actions with other states, and with federal agencies such as the Federal Trade Commission, Department of Justice, etc.
- Continue to raise awareness of identity theft occurrence and prevention and pursue prosecution in order to protect North Dakota consumers from a crime with devastating financial and personal consequences.
- Continue to address new and recent consumer fraud and antitrust issues.
- Continue to enhance consumer fraud education and enforcement in areas such as sweepstakes scams, Nigerian scams, Internet auction fraud, and unauthorized bank charges.
- Continue to prioritize future consumer protection education and enforcement efforts in those areas as mandated and/or expressed by the Legislature.
- Continue to develop and implement consumer education curriculum, modules, or programs for high school students and youth.

Gaming

Keith Lauer, Director

MAJOR FUNCTIONS AND DUTIES:

- Administration, regulation, and enforcement of the charitable gaming industry.
- Perform financial and compliance office and field audits of organizations, distributors, and manufacturers, conduct criminal history background record checks, process tax returns, and collect gaming and excise taxes, interest, penalty, and monetary fines.
- Perform investigations of illegal gaming activity and thefts, and work with local law enforcement officials.
- Provide outreach training to peace officers, executive board members, and gaming employees.
- Assist the State Gaming Commission in adopting administrative rules and managing field tests of products and concepts.
- Ensure that Indian tribes comply with Tribal-State gaming compacts.

SIGNIFICANT ACCOMPLISHMENTS DURING THE 2003-05 BIENNIUM:

- Will collect over \$20 million in gaming and excise taxes and monetary fines.
- Issued a "Gaming Update" quarterly newsletter.
- Provide assistance in establishing the statewide lottery.
- Issued quarterly gaming enforcement grants to qualifying cities and counties.
- Developed a new gaming computer management information system for processing license applications, distributor sales invoices, and organization tax returns. The system promises to significantly increase the efficiency and effectiveness of the division's administration, and office and field audit programs. It also streamlined the data entry function.
- Reduced and simplified standard record-keeping system forms, tax returns, and instructions.

- Assisted the State Gaming Commission and Gaming Advisory Board in developing clear and concise administrative rules.
- Assisted local law enforcement officials on cases of civil and criminal violations of the gaming law and rules. Administrative complaints and orders were issued.
- Conducted a field test for the development and use of a video pull tab dispensing device.
- Conducted background record checks on employees of organizations, distributors, and Indian gaming casinos, and on officers and stockholders of manufacturers and Indian casino management companies.
- Worked with five Indian tribes to ensure compliance with Tribal-State gaming compacts.
- Performed financial and compliance office and field audits of gaming organizations. Organizations' systems of internal control were evaluated.
- Provided extensive outreach training to peace officers, executive board members, and gaming employees of charitable and tribal gaming casinos. The outreach training program was updated and simplified.

FUTURE DIRECTIONS:

- Work with organizations and distributors to increase electronic filing of tax returns and sales invoices to improve effectiveness and accuracy of reported information.
- Continue to revise the division's audit programs and procedures to be more receptive to the needs of the charitable gaming industry.
- Provide guidance to public accounting firms for conducting independent financial and compliance audits of gaming organizations.
- Work with the State Gaming Commission to simplify the gaming rules.
- Work with the 2005 Legislative Assembly to modify the gaming laws.

Background Information on Local Gaming Enforcement Grants

Starting July 1, 1983, a certain percent of the gaming taxes collected was paid back to cities and counties each quarter as local gaming enforcement grants. Each city and county received a share of the total grants based on the degree of gaming activity within that city or county compared to the statewide gaming activity.

For the 1983-85 through 1987-89 biennia, due to growing gaming activity, the amount of local gaming enforcement grants automatically increased each biennium from \$1,096,000, to \$1,384,000. For the 1989-91 through 1997-99 biennia, based on executive budget guidelines, the amount of the grants decreased each biennium from \$1,360,000 to \$1,014,155. From 1983 through 1999, there was no accountability for the use of these grants by cities and counties.

For the 1999-01 biennium, the amount of local gaming enforcement grants decreased from \$1,014,155 to \$221,877, a reduction of \$792,278. This reduction represented a major part of the budget reduction that the Office of Attorney General had to make based on executive budget guidelines. To assist the cities and counties, the 1999 Legislature directed the Emergency Commission to authorize the office to disburse up to \$310,086 in additional grants by making transfers between line items. The Legislature prescribed a grant application process to require cities and counties to apply and account for the use of the grants. Also, the Legislature appropriated \$197,714 in local law enforcement grants as an emergency measure.

For the 2001-03 biennium, the Legislature appropriated \$629,000 for local gaming enforcement grants. The Legislature amended the gaming law to pay 3% of the gaming and excise taxes to cities and counties as local gaming enforcement grants based on the tax collections in the cities and counties. During the 2003-05 biennium, the Legislature appropriated \$617,000 for local gaming enforcement grants due to the anticipated reduction in tax revenues.

Cities and counties use local gaming enforcement grants to employ law enforcement officers, purchase equipment and supplies, provide training, issue local permits and work permits, fund administration, inspect gaming sites, and conduct civil and criminal investigations (including illegal use of drugs, burglaries, thefts, and embezzlements that may indirectly relate to gaming). The involvement of local law enforcement officers on the front line is critical in achieving effective enforcement of the gaming law and rules.

Racing Commission

Dean Meyer, Director

MAJOR FUNCTIONS AND DUTIES:

- License and regulate pari-mutuel racing at live tracks and at simulcast racing sites.
- Investigate and license all race participants and employees of live and simulcast racing.
- Promote live and simulcast racing and the breeding of racehorses within the state.
- Collect pari-mutuel taxes for deposit in the general fund.
- Collect and administer monies from the industry in the Breeders' Fund, Purse Fund, and Promotion Fund.

SIGNIFICANT ACCOMPLISHMENTS DURING THE 2003-2005 BIENNIUM:

- Generated in excess of \$1.68 million to the general fund for the period from July 1, 2003, through December 31, 2004.
- Increased the number of North Dakota bred racehorses in the Breeders' Fund program to 2,759.
- Created and funded a system to construct and operate a new major racing facility in Fargo, North Dakota.
- Funded and assisted in the operation of the race meet with the largest purse structure to date at a racing facility in Belcourt, North Dakota, benefiting the owners of North Dakota quarter horses and thoroughbreds.
- Assisted with the operation and promotion of simulcast racing and opened a new site in Fargo, North Dakota.

FUTURE DIRECTIONS:

- Assist in the completion, operation and regulation of a major racing facility as proposed.
- Continue to support live and simulcast racing in North Dakota with an anticipated increase in live racing days and continued development of simulcast and account wagering.
- Continue an affiliation with the national regulating authority to assure the integrity of the sport.

Continuing Appropriations Narrative
00125 OFFICE OF THE ATTORNEY GENERAL
Version 2005B0100125
Project 1 Asset Forfeiture Fund

CONTINUING APPROPRIATION JUSTIFICATION

Asset Forfeiture Fund

Because it is impossible to predict the receipt and expenditure of asset forfeiture funds within a defined time period, it is essential that these funds remain a continuing appropriation. The use of asset forfeiture as a continuing appropriation is critical to our office's ability to provide an adequate law enforcement response to situations as they arise. The level of revenue is always uncertain, as it depends entirely on what cases the office becomes involved with. In addition, expenses are very uncertain because that also depends entirely on whatever major cases the office becomes involved in. A major case can often result in unanticipated equipment needs, collection of evidence costs, and a host of other unknown costs. As a result, the use of asset forfeiture as a continuing appropriation helps the office pay for these unanticipated costs and provide necessary law enforcement services across the state. The continuing appropriation is reflected in N.D.C.C. § 54-12-14.

Version 2005A0100125 Number 1
 Description Asset Forfeiture Fund
 Statutory authority NDCC 54-12-14
 Special fund number and name 204 Asset Forfeiture Fund

| | Actual 1999-2001 | Actual 2001-03 | 2003-05 As Of 3/31/04 | Estimated 2003-05 | Estimated 2005-07 |
|-------------------|---------------------|-------------------|--------------------------|----------------------|----------------------|
| Beginning balance | 133,839 | 189,729 | 139,942 | 139,942 | 79,534 |
| Revenues | 87,648 | 135,252 | 34,414 | 66,816 | 53,000 |
| Total available | 221,487 | 324,981 | 174,356 | 206,758 | 132,534 |
| Expenditures | 31,758 | 185,039 | 43,827 | 127,224 | 111,190 |
| Ending balance | 189,729 | 139,942 | 130,529 | 79,534 | 21,344 |

Continuing Appropriations Narrative
00125 OFFICE OF THE ATTORNEY GENERAL
Version 2005B0100125
Project 2 AG Refund Fund

CONTINUING APPROPRIATION JUSTIFICATION

AG Refund Fund

The Consumer Protection and Antitrust Division requires a continuing appropriation of the moneys or funds deposited pursuant to N.D.C.C. § 54-12-18. A portion of these funds are used to pay costs, expenses, and salaries incurred in the operation of the Consumer Protection and Antitrust Division. These funds are currently funding salaries and operational expenses for Do Not Call legislation enforcement. These funds also provide additional investigation and litigation resources for the division in pursuing injunctive or other relief in public interest cases involving either complex matters, or circumstances in which defendants lack resources to reimburse the state or pay investigation, litigation or public notice costs, etc. These funds also supplement the division's ability to provide critical consumer fraud education, training, or programs in areas such as numerous and costly scams targeted at the elderly, identity theft, etc. These funds provide critical resources, on an as needed basis, to carry out the division's mission of protecting the public and obtaining restitution, etc. for victims, and otherwise would have to be replaced by the general fund.

This fund is also used by the Gaming Division for background investigation charges and Indian gaming expenses and reimbursements.

Version 2005B0100125 Number 2
 Description AG Refund Fund
 Statutory authority 54-06-20
 Special fund number and name 250 AG Refund Fund

| | Actual 1999-2001 | Actual 2001-03 | 2003-05 As Of 3/31/04 | Estimated 2003-05 | Estimated 2005-07 |
|-------------------|---------------------|-------------------|--------------------------|----------------------|----------------------|
| Beginning balance | 64,904 | 211,956 | 795,966 | 795,966 | 334,094 |
| Revenues | 845,764 | 2,030,340 | 168,624 | 252,000 | 275,000 |
| Total available | 910,668 | 2,242,296 | 964,590 | 1,047,966 | 609,094 |
| Expenditures | 698,712 | 1,446,330 | 160,813 | 713,872 | 592,087 |
| Ending balance | 211,956 | 795,966 | 803,777 | 334,094 | 17,007 |

Continuing Appropriations Narrative
 00125 OFFICE OF THE ATTORNEY GENERAL
 Version 2005B0100125
 Project 3 Racing Breeders' Fund

CONTINUING APPROPRIATION JUSTIFICATION

Racing Breeders' Fund

The Breeders' Fund is established in N.D.C.C. § 53-06.2-11 to financially reward breeders or owners of North Dakota bred horses. The ND Racing Commission maintains a register of horses bred in North Dakota. Because of the success of this fund, that register has gone from zero to over twenty six hundred North Dakota bred horses. The monies awarded from this fund are the integral part in encouraging the agricultural community to increase the number of horses bred in North Dakota. This program has been so successful that on a per capita basis the state of North Dakota is most certainly in the top three states in the United States in the growth of its' horse industry.

Version 2005A0100125 Number 3
 Description Racing Breeders' Fund
 Statutory authority §3-06.2-11
 Special fund number and name 278 Racing Breeders' Fund

| | Actual 1999-2001 | Actual 2001-03 | 2003-05 As Of 3/31/04 | Estimated 2003-05 | Estimated 2005-07 |
|-------------------|---------------------|-------------------|--------------------------|----------------------|----------------------|
| Beginning balance | 0 | 0 | 2,246,095 | 2,246,095 | 1,904,586 |
| Revenues | 0 | 2,815,848 | 247,185 | 272,185 | 52,000 |
| Total available | 0 | 2,815,848 | 2,493,280 | 2,518,280 | 1,956,586 |
| Expenditures | 0 | 569,753 | 422,831 | 613,694 | 550,000 |
| Ending balance | 0 | 2,246,095 | 2,070,449 | 1,904,586 | 1,406,586 |

Continuing Appropriations Narrative
00125 OFFICE OF THE ATTORNEY GENERAL
Version 2005B0100125
Project 4 Racing Purse Fund

CONTINUING APPROPRIATION JUSTIFICATION

Racing Purse Fund

The Purse Fund, authorized in N.D.C.C. § 53-06.2-11, is administered by the Racing Commission and grants money to race tracks in the state, which then allows this money to be directly presented to the horsemen who own horses that run at race tracks only in North Dakota. This fund is merely a pass-through fund where the money goes from the ND Racing Commission directly to the agricultural community of horsemen. This continuing appropriation has resulted in substantial economic development in the communities of Belcourt and Fargo in that horsemen from all over the Midwest have brought their horses to these local meets in order to have a chance at running for the purses awarded from this fund.

Version 2005A0100125 Number 4
 Description Racing Purse Fund
 Statutory authority 53-06.2-11
 Special fund number and name 290 Racing Purse Fund

| | Actual 1999-2001 | Actual 2001-03 | 2003-05 As Of 3/31/04 | Estimated 2003-05 | Estimated 2005-07 |
|-------------------|---------------------|-------------------|--------------------------|----------------------|----------------------|
| Beginning balance | 0 | 0 | 2,574,319 | 2,574,319 | 2,096,504 |
| Revenues | 0 | 2,805,450 | 247,615 | 272,185 | 52,000 |
| Total available | 0 | 2,805,450 | 2,821,934 | 2,846,504 | 2,148,504 |
| Expenditures | 0 | 231,131 | 408,853 | 750,000 | 500,000 |
| Ending balance | 0 | 2,574,319 | 2,413,081 | 2,096,504 | 1,648,504 |

Continuing Appropriations Narrative
00125 OFFICE OF THE ATTORNEY GENERAL
Version 2005B0100125
Project 5 Lottery Operating Fund

CONTINUING APPROPRIATION JUSTIFICATION

Lottery Operating Fund

The Lottery Operating Fund is established by North Dakota Century Code § 53-12-19. The Office of Attorney General administers the fund. This fund is established within the state treasury to account for all revenues from the sale of lottery tickets, interest income, and application, license, credit check, and other fees collected. The monies within this fund are used for administrative and operating expenses of the Lottery, and transferred to the compulsive gambling prevention and treatment fund, and to the general fund. Except for the initial startup funding of the Lottery, state general fund monies were not used or obligated to pay expenses or prizes of the Lottery and have been repaid.

On November 5, 2002, North Dakota citizens approved a constitutional amendment that enables the state to participate in multi-state lottery games. The 2003 Legislative Assembly passed House Bill No. 1243 that became law on April 4, 2003. This law, chapter 53-12 (Lottery) of the North Dakota Century Code, created the North Dakota Lottery as a division within the Office of Attorney General. This division manages, regulates, enforces, and promotes the state-owned business enterprise.

The North Dakota Lottery launched its first game on March 25, 2004, and promises to be one of the most successful lotteries in the industry.

It is critical to maintain the continuing appropriation of the Lottery Operating Fund to provide for payments to the Multi-State Lottery, the Lottery vendor, prizes, marketing and administrative expenses. The payments vary depending on the volume of Lottery activity. The continuing appropriation allows for quick response to changes in the lottery arena.

Version 2005A0100125 Number 5
 Description Lottery Operating Fund
 Statutory authority 53-12-19
 Special fund number and name 292 Lottery Operating Fund

| | Actual 1999-2001 | Actual 2001-03 | 2003-05 As Of 3/31/04 | Estimated 2003-05 | Estimated 2005-07 |
|-------------------|---------------------|-------------------|--------------------------|----------------------|----------------------|
| Beginning balance | 0 | 0 | 0 | 0 | 4,687,574 |
| Revenues | 0 | 0 | 273,257 | 8,873,198 | 13,714,244 |
| Total available | 0 | 0 | 273,257 | 8,873,198 | 18,401,818 |
| Expenditures | 0 | 0 | 208,814 | 4,185,624 | 6,072,436 |
| Ending balance | 0 | 0 | 64,443 | 4,687,574 | 12,329,382 |

Continuing Appropriations Narrative
00125 OFFICE OF THE ATTORNEY GENERAL
Version 2005B0100125
Project 6 Racing Promotion Fund

CONTINUING APPROPRIATION JUSTIFICATION

Racing Promotion Fund

The Promotion Fund's purpose is to assist in the building of a major racing facility, and to generally promote the sport of horse racing. The continuing appropriations from this fund, have resulted in the building of the first major racing facility in the state of North Dakota located in Fargo. This track opened in its' inaugural year in 2003 and drew over forty-two hundred spectators for its' opening day. Continuing appropriations from this fund, authorized in N.D.C.C. § 53-06.2-11, allow the operation of race meets in Belcourt, Pembina, and Fargo, and the continued appropriations assure the validity and growth of the horse industry in North Dakota.

Version 2005A0100125 Number 6
 Description Racing Promotion Fund
 Statutory authority 53-06.2-11
 Special fund number and name 339 Racing Promotion Fund

| | Actual 1999-2001 | Actual 2001-03 | 2003-05 As Of 3/31/04 | Estimated 2003-05 | Estimated 2005-07 |
|-------------------|---------------------|-------------------|--------------------------|----------------------|----------------------|
| Beginning balance | 400,936 | 5,527,782 | 2,047,330 | 2,047,330 | 1,682,330 |
| Revenues | 5,963,036 | 240,566 | 429,438 | 460,000 | 53,000 |
| Total available | 6,363,972 | 5,768,348 | 2,476,768 | 2,507,330 | 1,735,330 |
| Expenditures | 836,190 | 3,721,018 | 642,654 | 825,000 | 550,000 |
| Ending balance | 5,527,782 | 2,047,330 | 1,834,114 | 1,682,330 | 1,185,330 |

CONTINUING APPROPRIATION JUSTIFICATION

Tactical Team Reimbursement Fund

The vast majority of local law enforcement agencies do not have the personnel, operating, or equipment resources necessary to train and equip a local tactical team. Because of the expense involved in establishing and maintaining a team, there are only six certified teams in the state. These teams are called upon by local law enforcement agencies.

A special fund was created during the 2003 legislative session to provide support in crisis situations to local law enforcement outside of their jurisdiction for support. These teams must travel quite a distance to provide this support, resulting in large personnel, operating, and equipment costs. Limited resources make it difficult, if not impossible, for small local agencies to reimburse the tactical teams. Because of the increase seen in armed and violent offenders, which is primarily a result of methamphetamine use, local law enforcement agencies contribute money to this special fund used to reimburse tactical teams for their expenses when they provide support outside of their jurisdiction. These funds are also currently used to leverage federal dollars made available for the same purpose.

It is critical that this fund remain a continuing appropriation for several reasons. First, it is impossible to plan ahead for these situations. Law enforcement cannot possibly predict when the next hostage or crisis situation will arise. Second, the appropriation is 100% funded by local law enforcement and federal funds and is there to help ensure that the costs of a crisis response will be covered. As such, it should remain available to law enforcement as a continuing appropriation to ensure tactical teams can afford to provide services outside of their jurisdiction. The continuing appropriation is contained in N.D.C.C. § 54-12-23.

Version 2005A0100125 Number 7
 Description Tactical Team Reimbursement
 Statutory authority 54-12-23
 Special fund number and name 311 Tactical Team Reimbursement

| | Actual 1999-2001 | Actual 2001-03 | 2003-05 As Of 3/31/04 | Estimated 2003-05 | Estimated 2005-07 |
|-------------------|---------------------|-------------------|--------------------------|----------------------|----------------------|
| Beginning balance | 0 | 0 | 0 | 0 | 0 |
| Revenues | 0 | 0 | 17,000 | 50,000 | 50,000 |
| Total available | 0 | 0 | 17,000 | 50,000 | 50,000 |
| Expenditures | 0 | 0 | 17,000 | 50,000 | 50,000 |
| Ending balance | 0 | 0 | 0 | 0 | 0 |

OFFICE OF MANAGEMENT AND BUDGET

600 East Boulevard Ave, Dept 110 • Bismarck, North Dakota 58505-0400
FAX - (701) 328-3230

January 24, 2005

Representative Ron Carlisle, Chairman
House Government Operations Subcommittee
600 E. Boulevard Ave.
Bismarck, ND 58505

Dear Chairman Carlisle,

The following is my response to questions by either you, or another member of the subcommittee, during the past week ending January 21, 2005.

ATTORNEY GENERAL HB 1003

- 1) Does the 2005-07 Executive Recommendation utilize revenue from the estimated \$500,000 to \$600,000 that will remain in the Attorney General Refund Fund at the end of the 2003-05 biennium?

No. The availability of funds was not reported to OMB; therefore, the funds were not included as revenue for purposes of developing the executive recommendation.

PSC - HB 1008

- 1) Are there funds available in the State Rail fund?

Pursuant to a discussion with fiscal staff in Department of Transportation, with the exception of a small reserve for emergency repairs, the dollars in the fund have been allocated to rail projects for 2005-07.

- 2) Representative Skarpohl asked me to contact Mike Ressler to set up a meeting between ITD and PSC to discuss IT storage needs and rates for this service.

Mike Ressler was contacted on Friday, January 21, and he will set up a meeting with the Public Service Commissioners to discuss cost estimates.

Sincerely,



Sandy Paulson, OMB

J:sandy/budgetgeneral/Jan 21]infotogovt.ops

Director - Fourth Floor - (701) 328-4904
Fiscal Management - Fourth Floor - (701) 328-2680
State Radio - Fraine Barracks - (701) 328-8154

Central Services - Fourteenth Floor - (701) 328-2780
Human Resources Mgmt. Services - Fourteenth Floor - (701) 328-3290
Facility Management - Fourth Floor - (701) 328-2471

Risk Management - 1600 E. Century Ave, Suite 4 - (701) 328-7584

**OFFICE OF ATTORNEY GENERAL OPTIONAL ADJUSTMENTS
FOR THE 2005-07 BIENNIUM
REQUESTED**

| | | <u>GF</u> | <u>SF</u> | <u>EXEC. REC.</u> |
|------------------------|---|-----------|-----------|---|
| <u>PRIORITY</u> | <u>INFORMATION TECHNOLOGY</u> | | | |
| 5 | IT STAFF EQUITY ADJUSTMENTS | 65,066 | 23,164 | - Not allowed |
| 13 | TEMPORARY CLEANING SERVICES | 4,180 | | - Not allowed |
| 8 | PC REPLACEMENT | 64,340 | | - Not allowed |
| 8 | CONNECTND FED & SPEC. FUNDS | 31,078 | | - Not allowed |
| 11 | 1 SERVER | 6,000 | | - Not allowed |
| | <u>LEGAL SERVICES</u> | | | |
| 5 | AAG EQUITY INCREASE - FUNDING SOURCE CHG | 241,024 | (241,024) | - Not allowed |
| | <u>CIVIL LITIGATION</u> | | | |
| 6 | SCHOOL FINANCING LAWSUIT | 240,000 | | 240,000 Allowed |
| | <u>BCI</u> | | | |
| 10 | 8 VEHICLES | 128,000 | | 116,000 Allowed \$116,000 |
| 4 | INFORMATION SUPPORT STAFF | 80,748 | | 75,000 Allowed \$75,000 |
| 5 | AGENT EQUITY ADJUSTMENTS | 209,728 | | - Not allowed |
| 1 | 1 FTE AGENT | 165,904 | | 153,094 Allowed \$153,094 |
| 7 | BYRNE MATCH - GF INCREASE | 15,700 | | - Not allowed |
| | <u>CRIME LAB</u> | | | |
| 5 | FORENSIC SCIENTISTS EQUITY ADJUSTMENTS | 47,838 | | - Not allowed |
| 8 | FORENSIC SUPPLIES - GF | 70,853 | | - Not allowed |
| 9 | SERVICE AGREEMENTS | 74,552 | | - Not allowed |
| 3 | 1 FTE FORENSIC SCIENTIST | 182,418 | | 101,218 Allowed |
| 2 | ADDITION/REMODEL - UTILITIES, CLEAN, PH LNS | 70,821 | | - Not allowed |
| 2 | ADDITION & REMODEL | 3,551,491 | | 3,632,691 Allowed - bonding bill, incl. new FTE |
| 2 | UPS FOR BUILDING | 24,000 | | - Not allowed |
| 12 | 32% MATCH FOR GAS CHROMATOGRAPH | 38,400 | | 38,400 Allowed |
| 14 | SUPERGLUE CHAMBER | 14,800 | | - Not allowed |
| | | | | 3,772,309 |
| | <u>CPAT</u> | | | |
| | RENT DUE TO RELOCATION - LOTTERY | | 99,892 | 99,892 Allowed |
| | AG REFUND FUND | | | |
| | <u>RACING COMMISSION</u> | | | |
| | RACING COMMISSION DIRECTOR SALARY | | | |
| | INCREASE | 37,479 | | - Allowed |
| | PROFESSIONAL SERVICES/ RULES | 42,500 | | 42,500 Allowed |

TESTIMONY OF WAYNE STENEHJEM
ATTORNEY GENERAL

2005-07
Budget
Presentation
to Senate
Appropriation

For the record, my name is Wayne Stenehjem, Attorney General for the state of North Dakota. Along with me today are the division directors from my office.

During the last two years, we have continued to provide quality legal, regulatory, and law enforcement services to state agencies and protection to North Dakota's citizens. We have met with considerable success.

Our office consists of 13 divisions, including Bureau of Criminal Investigation, Civil Litigation, Consumer Protection, Crime Lab, Criminal and Regulatory, Finance, Fire Marshal, Gaming, Information Technology, Lottery, Natural Resources, and State and Local Government. The following are the highlights from this biennium.

Legal Services Divisions

- **Burlington Northern Santa Fe Railroad Lawsuit** -- Late last fall we settled a lawsuit against Burlington Northern Santa Fe Railroad (BNSF) over the fuel spill under downtown Mandan. BNSF paid the state a penalty totaling \$29 million and conveyed land and buildings to Mandan worth another \$1.25 million, for a total of \$30.25 million in penalties. Of the \$29 million payment, \$24 million was allocated to remediation efforts, \$2.5 million to the City of Mandan to assist with cleanup and an additional \$1 million to Mandan, \$500,000 to reimburse the state's "Leaking Underground Storage Tank Trust Fund" and \$1 million to the state's general fund.
- **Canadian Pacific Railway Anhydrous Ammonia Spill** -- The office negotiated a settlement with the Canadian Pacific Railway over the railroad's anhydrous ammonia spill in Minot. Canadian Pacific paid a \$925,000 penalty, \$425,000 of which went to the state's general fund and the remainder to be used to install a water project to benefit the area affected by the spill.
- **School Finance Lawsuit** -- Staff expended substantial time defending a lawsuit challenging the constitutionality of North Dakota's school finance statutory scheme. A three week trial is currently scheduled for October 2005.
- **Do Not Call** -- Staff are defending a constitutional challenge to the Telephone Solicitations Act (also known as the "Do Not Call" law) brought by two non profit organizations. The very popular law prohibits many solicitation calls to people whose numbers are on the Do Not Call list, including calls by professional fundraisers on behalf of non-profit organizations. So far, 235 formal complaints have been filed with this office and 56 investigations have been conducted, culminating in 27 legal settlements totaling \$26,000 in civil penalties. In a disappointing decision, the district court held the law constitutional as applied to commercial entities, but

See presentation in House for pages missing - they were same as presented to Senate with exceptions filed here.

unconstitutional as applied to charities. The state appealed the district court's Judgment to the Eighth Circuit Court of Appeals. Oral argument was held November 19, 2004. We are currently awaiting a decision from the court.

- **Women's Prison Lawsuit** -- A suit commenced on behalf of two female inmates against the Department of Corrections and Rehabilitation has consumed significant staff time and resources. The lawsuit claims the inmates and a class composed of all female inmates have been subject to gender discrimination. Their claims span the spectrum of conditions of confinement and services provided to the inmates, such as orientation, housing, prison and industry employment, psychiatric and drug and alcohol treatment, educational and vocational programs, and medical services. The inmates have moved the court to certify a class, which the state has opposed. The state is awaiting the court's decision on class certification.
- **Tobacco Master Settlement Agreement** -- Another responsibility is ensuring compliance with the terms of the Tobacco Master Settlement. To date our activity has realized approximately \$ 129,775,775 in payments to the state.
- **Roadless Rule Lawsuit** -- Staff members are negotiating settlement of the suit brought in 2002 against the U.S. Forest Service challenging the legality of the Forest Service's Roadless Rule, which limits access to, and uses of, the National Grasslands. The suit also seeks a declaration that the state's section line access law applies to federal land.
- **Missouri River Lawsuits** -- We continue our efforts to require the U.S. Corps of Engineers to properly manage the Missouri River by pursuing legal relief in federal court.
- **Attorney General Opinions** -- We issued 129 Attorney General opinions, including 26 opinions in response to allegations of open records or open meetings violations.
- **Northwest Area Water Supply Lawsuit** -- The staff continue to defend the state in an ongoing suit brought by Manitoba to stop the project.
- **Sex Offender Risk Assessments** -- Since the passage of the law in 2001, we have conducted risk level assessments on 829 North Dakota sex offenders.

The Legal Services Divisions provided almost 106,000 hours of legal services to state entities for the period from July 1, 2003, through December 31, 2004.

Bureau of Criminal Investigation Division

- **Meth Labs** -- Staff members dismantled 255 meth labs in 2004, 297 labs in 2003, 275 labs in 2002, and 89 labs in 2001. This is an increase from 19 labs in 1999 and 46 labs in 2000. But we saw a decrease of 42 in 2004 compared to 2003, which was the first decrease since the problem arose in the late 1990s.

- **Sex Offenders** -- Staff monitored the whereabouts of identified sex offenders and offenders against children, who numbered 994 in July 1998, 1,345 in December 2002; and 1,429 in December 2004.
- **Sex Offender Website** -- This office created and maintained an Internet web page that provides information on registered sex offenders. As of December 2004, there were 200 offenders listed on that site because they are either high-risk offenders or lifetime registrants.
- **Criminal History Background Checks** -- During 2003, staff processed 14,554 requests from the general public for criminal history record information (an average of 1,200 per month), and 15,004 requests in 2004 (an average of 1,254 per month).
- **Shared Automated Fingerprint Identification System (AFIS)** -- This system shares information with Minnesota and South Dakota through a regional program. The system presently contains fingerprint images on approximately 1.4 million persons, of which 87,000 are from North Dakota.
- **Community Drug Awareness** -- Staff members provided community drug awareness training to 10,244 adults and children as of December 2004; 15,988 in 2003, 14,199 in 2002; and 6,944 in 2001.

Crime Laboratory

- **Case Load** -- In 2003, the laboratory received 9,165 total cases: 5,646 blood/breath alcohol (driving under the influence), 2,636 narcotics, 577 urine/blood drug screens, 89 fatality screens, 21 arson, 32 latent fingerprint cases, 130 serology/DNA, 17 firearm/toolmark, and 17 miscellaneous cases. This is a 19% increase over the previous year's submissions.
- **Law Enforcement Training** -- During 2004, Toxicology held 20 classes and trained 159 law enforcement officers in the use of breath alcohol instruments. An additional 885 officers received certification for breath equipment remotely via the use of video training tapes. This represents a 17% increase in the number of officers in 2002.

Consumer Protection and Antitrust Division

- **Consumer Restitution** -- This office recovered approximately \$1.051 million in restitution on behalf of consumers since the beginning of the biennium.
- **Civil Penalties** -- Staff collected approximately \$1.253 million in civil penalties (or payments in lieu of civil penalties), investigative costs, attorney's fees and legal recoveries since the beginning of the biennium. Staff members opened 2,186 and closed 2,061 consumer complaint and investigation files.

Gaming Division

- **Charitable Gaming Enforcement** -- In the 2003-05 biennium, there will be nearly 1,000 gaming sites, \$545 million wagered, \$32 million earned for charitable uses, \$20 million paid in gaming and excise taxes, \$5 million paid in bingo sales tax, and \$500,000 collected for license fees, interest, penalties, gaming stamps, fines, and record checks. From 1977 through June 30, 2005, about \$416 million will have been raised for charitable uses and \$188 million paid in gaming tax, excise tax, and sales tax on bingo.

Lottery Division

- **General Fund Transfer** -- As of July 2004, \$1.43 million was transferred to state's general fund, after only 3 months of lottery ticket sales.
- **General Fund Estimates** -- The Governor's budget estimates that \$10 million will be realized for the state in the coming biennium.
- **Games** -- The following three online lottery games have been launched: Powerball, Hot Lotto and Wild Card 2.
- **Statewide Retailer Base** -- Currently 400 retailers located across the state are licensed for lottery sales.
- **Compulsive Gambling Prevention** -- As of January 2005, \$400,000 was transferred to the Compulsive Gambling Prevention and Treatment Fund.

Governor's Executive Budget

The Governor's Budget Recommendation provided funding for one additional special agent as well as an information processing position. **The House removed the special agent position.**

The Governor's Budget Recommendation also included the following Crime Laboratory enhancements:

- a. One forensic scientist FTE to assist with the significantly expanded workload due to the increase in DNA and other casework. The current trends indicate drug cases will continue to increase and DNA testing will be required on more cases. This increase in case load causes delays for law enforcement in developing their cases and in turn delays the prosecution of criminals. Currently, case processing for DNA is determined on a priority basis; workload is driven by court dates or the urgency of a case. With proper staffing, turnaround time for DNA casework could be as short as two to four weeks. **The House removed**

the forensic scientist position. We feel this position is critical and request the position and the \$101,218 in general fund funding be restored.

- b. Additional space to accommodate the work of the 18 lab employees is critical. Presently, the Forensic Section has nine scientists working in lab space originally designed for three. Overcrowding is prevalent throughout the facility. This lack of adequate space, compounded by a dramatic growth in casework, has placed a severe strain on resources and turn-around time. The estimate cost of the expansion project is \$3,551,491, which was included in the bonding bill by the Governor. In addition, \$81,200 was included for the new forensic scientist's space. **The Senate amended SB 2023, the bonding bill, to reduce the Crime Lab building and remodeling project to \$3.5 million. We are requesting that the \$132,691 reduced by the Senate be reinstated, which relates to the forensic scientist requested above.**
- c. General fund match totaling \$38,400 was included for purchase of a \$120,000 gas chromatograph/mass spectrometer to replace an older model which is no longer serviced or supported by the manufacturer.

The Governor's Recommendation included the following Racing Commission enhancements from special funds:

- a. The Racing Commission appropriation has again become a separate line item. It was changed from a special line item to salaries and wages and operating expenses this biennium. The Racing Commission needs the flexibility a special line item affords to be able to change with the current needs.
- b. A total of \$42,500 from special funds was added:
 - 1. \$37,500 for contract employees to inspect the breeding industry in North Dakota and increased investigator availability for the live race meets and simulcast auditing, and
 - 2. \$5,000 for promulgation of rules.
- c. The Racing Commission salaries and wages were increased by \$37,753 from special funds. **The House reduced this increase to \$19,119.**

Requested Enhancements

Operation Expenses

- **Additional Crime Lab supplies** -- \$70,853 in general fund monies is needed to cover Crime Lab supply costs due to increased case load and cost increases for the 2005-07 biennium.
- **Federal alcohol analysis supplies funding** -- \$100,000 in general fund monies is needed to pay for blood/alcohol, breath/alcohol, and fatality analysis supplies. We were just made aware, by the state Department of Transportation, that the Crime Lab will realize this significant funding reduction which formerly paid for these supplies.
- **Maintenance service agreements** -- \$74,552 in general fund monies is needed to cover the cost of the agreements to ensure the proper function of over \$314,000 in sophisticated analytical instruments located at the Crime Lab. Due to the complex and critical nature of the bulk of these analytical instruments, maintenance service agreements are essential because purchasing parts and the needed technical assistance for repairing the instruments is cost prohibitive.
- **Computer replacements** -- \$36,502 in general fund monies is needed to meet the required four-year state computer (desktop and laptop computers) replacement cycle.
- **ConnectND user fees** -- \$31,078 from other funds, required to pay ConnectND user fees, was overlooked in the Governor's recommendation.
- **Lottery FTE** -- The Lottery Division needs a total of eight FTE's to enable it to adequately assist licensed lottery retailers on sales strategy and promotional activities, including effective use of advertising, point-of-sale items, and premium incentives for retailer on-site and chain store special events. All positions are funded from special funds. The authorization of six FTE's for the Lottery for the 2003-05 biennium was based on projections that only one game (Powerball) would be conducted and 275 retailers would be licensed. During the 2003-05 biennium, the Lottery has implemented three games through its present network of 400 licensed retailers located in 122 towns and cities.

Staff Equity Adjustments

Information Technology Staff

\$88,230 (of which \$65,066 is from the general fund and \$23,164 is from other funds) is needed to increase the salaries to help ensure Information Technology (IT) staff member retention. To retain skilled and experienced staff, it is critical the compensation for their positions be at the very least the same level as others in state government staff

that do comparable work. Because of budget constraints within the office and the hiring of personnel at higher wages in other agencies, IT staff salaries are significantly lower in comparison to other state agencies.

The business knowledge of the office's operations as well as the technical knowledge obtained by this staff is very valuable, and extremely difficult and time-consuming to replace. Over the last few years, this office has gone from having the majority of their computer applications as stand-alone divisional databases to full integration and information sharing with local entities as well as federal agencies. The office has migrated from a single desktop view of applications to an integrated enterprise view. The IT staff has participated heavily in the Criminal Justice Integrated System (CJIS) and the Enterprise Architecture (EA) process.

Crime Lab Equity Adjustments

\$47,838 in general fund monies is needed to provide funding for classification and equity adjustments for the forensic scientists and the State Toxicologist. The forensic scientist series and the State Toxicologist positions were reviewed by Human Resources Management Services (HRMS) during the 2003-05 biennium. The forensic scientist classifications had not been reviewed since 1988. The State Toxicologist classification was reviewed in 2000.

HRMS determined the current classifications for the forensic scientist I and State Toxicologist classification series were inadequate. HRMS approved new grade levels in June 2004. The current budget is insufficient to adequately compensate employees for these reclassifications. The forensic scientists are at only 80+% (comp-ratio) of the salary range midpoint.

Legal Services -- 2003-05 General Fund Equity

During the 2003 legislative session, \$241,024 in special fund equity adjustments were provided to attorneys due to serious salary equity issues when compared to other state agencies' attorney salaries. The Legislature used special fund monies for the equity adjustments because general fund amounts were strained. At the time this was approved by the Legislature, this office indicated a funding source change would be requested in the 2005 legislative session to replace the special fund monies, which had one-time availability for this purpose.

While we appreciate your efforts during the 2003 session to provide equity increases to our attorneys, salary issues for our legal staff persist. We compete not just with the private sector, but also with other government agencies. We have lost attorneys to the private sector and to other agencies largely due to our low wages. In turn, filling vacant positions has become a challenge.

BCI Agent Equity Adjustment

We are requesting BCI agent equity adjustments of \$209,728 from the general fund. Recruitment and retention of special agents continues to be a challenge for the BCI. The office's goal is to hire seasoned officers with several years experience and expertise, which allows them to be an immediate resource to law enforcement across the state. However, given the salary level currently offered, the office finds it very difficult to find those qualified applicants. The office can not compete with local law enforcement agencies that are able to start rookie officers, with less experience, at a higher wage. Or some agents, after gaining valuable training and experience with this office, choose to go to other similar agencies including federal law enforcement that are able to offer much higher wages, an earlier retirement, and a higher retirement multiplier. North Dakota salaries for the same positions are also well below its Midwest counterparts. These agencies all have starting salaries for new agents at more than \$3,000 per month, compared to the office's starting salary of only \$2,600 per month.

Byrne Memorial Grant Funding

We recently became aware that the federal Byrne Memorial funding and the Local Law Enforcement block grant funding will be reduced by about 44% for federal fiscal year (FFY) 2005, the impact of which would be realized for state and local entities as of January 1, 2006. This translates into a loss of \$1.055 million in federal funds. We would no longer be able to fund:

- three full-time BCI narcotics agents,
- two full-time grants and contracts officers,
- one full-time administrative assistant,
- one partially-funded BCI director,
- one partially-funded BCI administrative assistant,
- BCI narcotics agent overtime,
- three full-time Crime Lab forensic scientists,
- one part-time Crime Lab evidence technician,
- twenty-five full-time narcotics task force agents across the state,
- one full-time narcotics prosecutor,
- thirty-six partially-funded domestic violence program positions,
- one part-time community service program administrative assistant position, and
- two partially-funded crime prevention program positions.

For FFY 2005, the federal government will directly award approximately 40% of the already reduced FFY 2005 monies to local law enforcement. This means only \$800,000 will be available to award throughout the entire state.

I have been working with our congressional delegation and the federal Bureau of Justice Assistance (BJA) to attempt to minimize the fiscal impact to our state. We will work with BJA to try to revise the distribution formula for future federal budgets.

The House provided \$398,132 in a federal to general fund funding source switch toward maintaining the BCI agent and forensic scientist positions currently funded by the Byrne grant. The \$256,618 from the general fund for a new special agent and forensic scientist was directed to assist in the loss of Byrne grant federal funds.

In order to fully fund the current BCI narcotics agents (3) and forensic scientists (3), \$143,382 is needed from the general fund.

Legislative Initiatives

I want to let you know about several bills that will impact our office's appropriation.

- **Engrossed SB 2023** provides bonding funding for the remodel and addition to the existing Crime Lab. This is the last of three phases begun for the Health Department in the late 1990's to upgrade and update its laboratory facilities. The funding request comes through this office as a result of the transfer of the Crime Laboratory from the Health Department to this office as provided by the 2003 Legislative Assembly. ***The Senate removed \$132,691 from this bill for this project and we will request restoration of this funding.***
- **Engrossed HB 1235** requires DNA samples for all felons. ***We are requesting that the funding be added to our budget to implement this legislation.*** The estimated general fund cost is \$133,679.
- **Engrossed HB 1024** provides deficiency appropriations to fund the following:
 - An additional \$45,000 in general fund monies to reimburse counties and cities for prosecution witness fees for the remainder of the 2003-05 biennium. Historically the office's appropriation for prosecution witness fees has been insufficient to reimburse counties and cities for these expenses.
 - The Arrest and Return of Fugitives appropriation of \$10,000 was depleted in October 2004. The Emergency Commission approved \$5,000 from its contingency fund for these expenses. An additional \$5,000 in general fund expenses, incurred by cities and counties to extradite suspected felons upon approval by the Governor, (in addition to the amount provided by the Emergency Commission) is anticipated to be spent this biennium, for a total of \$20,000 in expenditures.
 - The total expenses for Crime Laboratory supplies are anticipated to exceed the amount provided by \$60,000 in general fund expenses this

biennium. In addition to the 19% increase in the total cases handled by the Laboratory, the cost of the supplies has increased as well.

- **HB 1089** will increase the gaming license fee for each city and county license from \$150 to \$200. The additional \$50 is appropriated to the Attorney General's operating fund to offset cuts in Gaming operating expenses that have been paid from special funds during the current biennium. These special funds will be exhausted by the end of the 2003-05 biennium and would require substantial cuts in organization training and other essential services. The license fee has not been increased since August 1989.
- **Engrossed HB 1259** streamlines the current Lottery laws. **The House amended the bill to require all administrative and operating expenses, except for prize payments and online gaming system vendor fees to be appropriated, rather than funded through the current continuing appropriation. *Given the infancy of the Lottery operation, we request that the Lottery continuing appropriation be reinstated for the Lottery, at least for the 2005-07 biennium.***
- **Engrossed HB 1509**, authorizing internet live poker sites, is anticipated to cost \$723,488 in general fund monies (if the constitutional amendment is approved by the voters in June 2006). The cost includes 2 FTE's, Commission member fees and travel expenses, contractual services, vendor fees, computer equipment and software and one-time startup costs. **No adjustment has been made to the office's appropriation for this purpose.**
- **Engrossed SB 2248** decreases the fee for state criminal history record checks from \$30 to \$15 per request. It increases from \$3 to \$5 the criminal history record check fee for nonprofit organizations. The estimated impact of this bill is a decrease of \$350,856 in general fund revenues.
- **SB 2340** removes the Racing Commission from the Office of Attorney General's office and budget. **No adjustment has been made in the office's appropriation for this legislation.**
- **HB 1061** requires a DNA sample to be obtained and maintained for each sex offender. The general fund impact of this bill is anticipated to be \$25,320. **The House added this amount to the office's appropriation.**

In the Division Summaries section of our budget presentation, we provide a brief description of the various functions the Office of Attorney General performs and highlight other significant accomplishments over the past two years.

PROPOSED AMENDMENTS TO 2005 ENGROSSED HOUSE BILL NO. 1003

Page 2, line 1, replace "\$860,869" with "\$1,282,809"

Page 2, line 2, replace "283,953" with "522,012"

Page 2, line 7, replace "\$1,501,643" with "\$2,161,642"

Page 2, line 8, replace "(78,717)" with "(122,117)"

Page 2, line 9, replace "\$1,580,360" with "\$2,570,523"

Page 2, line 15, replace "\$19,322,170" with "\$19,744,110"

Page 2, line 16, replace "8,279,424" with "8,517,483"

Page 2, line 24, replace "\$35,985,334" with "\$36,544,115"

Page 2, line 25, replace "17,350,757" with "17,020,593"

Page 2, line 26, replace "\$18,634,577" with "\$19,624,740"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPT. 125 -- OFFICE OF ATTORNEY GENERAL

A 1.0 Crime Lab forensic scientist (\$76,144) and associated operating expenses (\$25,074) are added from the general fund.

Salaries and wages are increased by a total of \$345,796, of which \$563,656 is from the general fund, \$23,164 is from special funds, and a \$241,024 special to general fund funding source change (for the 2003-05 assistant attorneys general equity adjustments) is made to provide equity adjustments for the following:

| | |
|------------------------|-----------|
| Information Technology | \$ 88,230 |
| Crime Lab scientists | 47,838 |
| BCI narcotics agents | \$209,728 |

Operating expenses are increased by \$212,985, of which \$181,907 is from the general fund, and \$31,078 is from special funds, for the following:

| | |
|--------------------------------------|----------|
| Crime Lab forensic supplies | \$70,853 |
| Crime Lab service agreements | 74,552 |
| Computer replacement -- 4 year cycle | 36,502 |
| ConnectND costs | 31,078 |

Due to a significant reduction in Byrne Memorial grants, a funding source change from federal funds to general fund monies of \$143,382 is provided to fully fund the three current narcotics agents and three forensic scientists.

Due to a significant reduction in a federal Department of Transportation grant which was paying for blood/alcohol, breath/alcohol, and fatality analysis testing supplies, a \$100,000 federal funds to general fund funding source change is provided to continue this testing for local law enforcement.

OFFICE OF ATTORNEY GENERAL 2005-07 BIENNIUM - HOUSE ACTION AND REQUESTED CHANGES - ENGROSSED HOUSE BILL NO. 1003.

| | 2005-2007 EXECUTIVE RECOMMENDATION | HOUSE CHANGES | CRIME LAB OPERATING | CRIME LAB FORENSIC SCIENTIST | DOT FUNDING CHANGE | STAFF EQUITY INCREASES | COMPUTER REPLACEMENTS | CONNECTND FEES | BYRNE FUNDING CHANGE | TOTAL REQUESTED CHANGES | REVISED 2005-07 BIENNIUM APPROPRIATION |
|------------------------------|--|------------------|---------------------------|------------------------------------|--------------------------|------------------------------|--------------------------|-------------------|----------------------------|-------------------------------|--|
| SALARIES AND WAGES | 18,400,721 | (78,551) | | 76,144 | | 345,796 | | | | -421,940 | 19,744,110 |
| OPERATING EXPENSES | 8,284,104 | 25,320 | 145,405 | 25,074 | | | 36,502 | 31,078 | | 238,059 | 8,517,483 |
| CAPITAL ASSETS | 1,767,250 | | | | | | | | | 0 | 1,767,250 |
| GRANTS | 5,944,056 | | | | | | | | | 0 | 5,944,056 |
| LITIGATION FEES | 50,000 | | | | | | | | | 0 | 50,000 |
| ARREST & RETURN OF FUGITIVES | 10,000 | | | | | | | | | 0 | 10,000 |
| STATE SCHOOL FINANCE LAWSUIT | 240,000 | | | | | | | | | 0 | 240,000 |
| RACING COMMISSION | 387,607 | (19,612) | | | | | | | | 0 | 367,995 |
| GAMING COMMISSION | 5,039 | | | | | | | | | 0 | 5,039 |
| TOTAL | 38,058,177 | (72,843) | 145,405 | 101,218 | | 345,796 | 36,502 | 31,078 | | 659,999 | 38,645,333 |
| FTE | 177.0 | (2.0) | | 1.0 | | | | | | | 176.0 |
| GENERAL FUND | 18,289,636 | 364,941 | 145,405 | 101,218 | 100,000 | 583,656 | 36,502 | 143,382 | 143,382 | 1,090,163 | 19,724,740 |
| FEDERAL FUNDS | 12,694,475 | (437,784) | | | (100,000) | 23,184 | | (143,382) | (143,382) | (220,218) | 12,036,473 |
| SPECIAL FUNDS | 5,094,066 | | | | | (241,024) | | 31,078 | | (209,946) | 4,884,120 |
| TOTAL ALL FUNDS | 36,058,177 | (72,843) | 145,405 | 101,218 | | 345,796 | 36,502 | 31,078 | | 659,999 | 38,645,333 |

**REQUESTED CHANGES IN ENGROSSED HOUSE BILL NO. 1003
OFFICE OF ATTORNEY GENERAL**

| | | | |
|---------------------------------------|---|----|-----------|
| 1 | CRIME LAB FORENSIC SCIENTIST | | |
| | GENERAL FUND | \$ | 101,218 |
| | TOTAL | \$ | 101,218 |
| 2 | CRIME LAB SUPPLIES | | |
| | GENERAL FUND | \$ | 70,853 |
| | TOTAL | \$ | 70,853 |
| 3 | CRIME LAB SERVICE AGREEMENTS | | |
| | GENERAL FUND | \$ | 74,552 |
| | TOTAL | \$ | 74,552 |
| 4 | STAFF EQUITY ADJUSTMENTS - BCI, IT, CRIME LAB | | |
| | GENERAL FUND | \$ | 563,656 |
| | FEDERAL FUNDS | | |
| | OTHER FUNDS | \$ | (217,860) |
| | TOTAL | \$ | 345,796 |
| 5 | COMPUTER REPLACEMENTS - TO MEET REQUIRED 4 YEAR CYCLE | | |
| | GENERAL FUND | \$ | 36,502 |
| | TOTAL | \$ | 36,502 |
| 6 | BYRNE MEMORIAL GRANT FUNDING CHANGE | | |
| | GENERAL FUND | \$ | 143,382 |
| | FEDERAL FUNDS | \$ | (143,382) |
| | TOTAL | \$ | - |
| 7 | DOT GRANT FUNDING CHANGE - CRIME LAB SUPPLIES | | |
| | GENERAL FUND | \$ | 100,000 |
| | FEDERAL FUNDS | \$ | (100,000) |
| | TOTAL | \$ | - |
| 8 | CONNECTND FEES | | |
| | OTHER FUNDS | \$ | 31,078 |
| | TOTAL | \$ | 31,078 |
| | | | |
| SUMMARY OF LEGISLATIVE CHANGES | | | |
| | GENERAL FUND CHANGES | \$ | 1,090,163 |
| | FEDERAL FUNDS CHANGES | \$ | (243,382) |
| | OTHER FUNDS CHANGES | \$ | (186,782) |
| | TOTAL REQUESTED CHANGES | \$ | 659,999 |
| | | | |
| | CHANGE IN FTE'S | | 1 |

**REQUESTED ENHANCEMENTS FOR THE 2005-07 BIENNIIUM BUDGET
OFFICE OF ATTORNEY GENERAL**

ENHANCEMENTS INCLUDED IN EXECUTIVE RECOMMENDATION

| DESCRIPTION | GENERAL FUND | SPECIAL FUNDS | TOTAL FUNDS | EXECUTIVE RECOMMENDATION | HOUSE STATUS |
|--|-----------------|------------------|----------------|-----------------------------|-----------------|
| METHAMPHETAMINE EFFORTS - 1.0 AGENT | 151,400 | | 151,400 | INCLUDED | FTE REMOVED |
| CRIME LABORATORY EFFORTS - 1.0 FORENSIC SCIENTIST | 101,218 | | 101,218 | INCLUDED | FTE REMOVED |
| BCI INFORMATION PROCESSING - 1.0 ADMINISTRATIVE ASSISTANT | 75,000 | | 75,000 | INCLUDED | INCLUDED |
| SCHOOL FINANCE LAWSUIT | 240,000 | | 240,000 | INCLUDED | INCLUDED |
| GAS CHROMATOGRAPH/MASS SPECTROMETER 1/ | 38,400 | 81,600 | 120,000 | INCLUDED | INCLUDED |
| TOTAL OPTIONAL ADJUSTMENTS - EXECUTIVE RECOMMENDATION | 608,018 | 81,600 | 687,618 | | |

ENHANCEMENTS EXCLUDED FROM THE EXECUTIVE RECOMMENDATION

| | | | | | |
|--------------------------------------|---------|-----------|---------|----------|----------|
| CRIME LAB FORENSIC SUPPLIES | 70,853 | | 70,853 | EXCLUDED | EXCLUDED |
| CRIME LAB SERVICE AGREEMENTS | 74,552 | | 74,552 | EXCLUDED | EXCLUDED |
| COMPUTER REPLACEMENT | 36,502 | | 36,502 | EXCLUDED | EXCLUDED |
| CONNECTND COSTS | | 31,078 | 31,078 | EXCLUDED | EXCLUDED |
| CRIME LABORATORY SALARY EQUITY | 47,838 | | 47,838 | EXCLUDED | EXCLUDED |
| INFORMATION TECHNOLOGY SALARY EQUITY | 65,066 | 23,164 | 88,230 | EXCLUDED | EXCLUDED |
| BCI AGENT SALARY EQUITY | 209,728 | | 209,728 | EXCLUDED | EXCLUDED |
| ATTORNEY SALARY EQUITY | 241,024 | (241,024) | | EXCLUDED | EXCLUDED |
| TOTAL REQUESTED OPTIONAL ADJUSTMENTS | 745,563 | (209,946) | 558,781 | | |

CHANGES IN FEDERAL FUNDING LEVELS

| | | | | | |
|---------------------------------------|---------|-----------|--|--------------------|----------|
| BYRNE MEMORIAL GRANTS 2/, 3/ | 143,382 | (143,382) | | RECENT INFORMATION | PARTIAL |
| CRIME LAB ALCOHOL TESTING SUPPLIES 4/ | 100,000 | (100,000) | | RECENT INFORMATION | EXCLUDED |
| TOTAL FEDERAL FUNDING LEVELS CHANGES | 243,382 | (243,382) | | | |

1/ The federal funds for this equipment are no longer available - see changes in federal funding levels below.

2/ The cost for 18 months of the 2005-07 biennium is \$798,132. Of this amount, the House provided \$398,132 from the general fund. The House removed the new BCI agent and Crime Lab forensic scientist, which funding (\$256,618) will be used toward the shortfall. Six months of the 2005-07 biennium cost will be covered by the current grant funding.

3/ This includes \$81,600, the amount provided in the Executive Recommendation for the gas chromatograph/mass spectrometer that was to be funded from the Byrne Memorial grant.

4/ Department of Transportation federal funds for Crime Lab alcohol testing supplies have been reduced by \$100,000.

Legal Services

Douglas Bahr, Director, Civil Litigation Division
Robert Bennett, Director, Criminal and Regulatory Division
Charles Carvell, Director, Natural Resources and Indian Affairs Division
Julie Krenz, Director, State and Local Government Division

MAJOR FUNCTIONS AND DUTIES:

- Provide a full range of legal services to over 100 state agencies, boards, and commissions, including assistance in drafting and negotiating contracts; drafting and reviewing rules; drafting and reviewing legislation; giving legal advice; providing formal written opinions on questions of law; representing agencies, boards and commissions in administrative hearings and appeals and in lawsuits in state and federal courts; and negotiating resolution of disputes.
- Provide legal opinions to legislators, county state's attorneys, and cities.
- Assist county state's attorneys and city attorneys in criminal prosecutions.
- Provide legal advice in hundreds of subject areas, including Indian law, gaming, water, municipal government, criminal law, habeas corpus, extradition, contract, torts, North Dakota and federal constitutional law, environmental law, agricultural law, energy law, real property law, oil and gas law, Temporary Assistance for Needy Families (TANF), child welfare, mental health, the Health Insurance Portability and Accountability Act (HIPAA), eminent domain, hunting, prisoner issues, contract bidding, education, health, game and fish, food stamps, nursing home rate regulation, professional licensure and discipline, bankruptcy, employment law, civil rights, wage claims, implied consent, personnel, open records and meetings, banking, child support, collections, unclaimed property, debtor/creditor, sexual harassment, the Americans with Disabilities Act, administrative law, alcoholic beverage law, consumer protection law, anti-trust law, public benefits law, public finance law, and pension law, including Employer Retirement Income Security Act (ERISA).
- Provide training on legal matters for state agencies, law enforcement, local government officials, and state's attorneys.
- Give presentations and provide written material to the public on legal matters of general interest including brochures on small claims courts, state employee defense and liability, open meetings and open records, concealed weapons permits, avoiding identity theft, methamphetamine, anhydrous ammonia theft, lemon law, and sex offenses.

Pages 27, 30, 31
Same as
those pages
given
to the House

- Advised Job Service with over 1,400 claims for unemployment compensation benefits and employer unemployment tax rate and liability issues.
- Updated the Open Records and Meetings Manual on the Attorney General's website.
- Negotiated investment manager contracts for the North Dakota State Investment Board investing in excess of \$550 million.
- Acted as issuer's counsel to state agencies involved in bond transactions including:
 - Advising the North Dakota Building Authority with regard to bonds issued to finance construction or renovation of buildings at Dickinson State University, Valley City State University, Mayville State University, the Health Department, Department of Corrections and Rehabilitation, and in issuing \$20 million in bonds for the Connect ND project;
 - Advising the Building Authority with regard to a refunding bond issue totaling \$15,145,000 in order to refinance existing bonds at lower interest rates, achieving savings for the state;
 - Advising the Housing Finance Agency on four bond issues totaling \$176.5 million primarily for continued funding for the First Time Homebuyers Program;
 - Continuing to advise the Housing Finance Agency on bond issues that involved the use of interest rate swap and variable rate bonds in order to lower the cost of borrowing funds;
 - Advising the Municipal Bond Bank on a \$20.4 million State Revolving Fund bond issue and a \$12 million refunding bond issue in order to achieve significant interest rate savings to the state, and assisting the Bond Bank in closing over 30 loans to political subdivisions to provide low cost financing for sewer and water;
 - Advising the Student Loan Trust with regard to a \$23 million subordinate bond transaction with the Bank of North Dakota to preserve favorable tax treatment and earnings for the state.
- Provided training to local and state officials in the application of sex offender registration, and open records and meetings law.
- Successfully obtained injunctive relief against the U.S. Corps of Engineers prohibiting the Corps from lowering Lake Sakakawea in the spring of 2003 and

thereby protected the lake's forage fish spawn, which is crucial to the lake's sport fishery.

- Obtained dismissal of a suit brought by downstream barge interests seeking to end the state's walleye stocking in Lake Sakakawea.
- Obtained a federal court order requiring the U.S. Corps of Engineers to issue a new Master Manual under which it manages the Missouri River.
- Assisted the Health Department in negotiating a settlement with the Canadian Pacific Railway over the railroad's anhydrous ammonia spill in Minot. CP paid a \$925,000 penalty, of which \$425,000 went to the general fund and the remainder to install a water project to benefit the area affected by the spill.
- Assisted the Health Department in settling a lawsuit brought against the Burlington Northern Santa Fe Railroad (BN) over the fuel spill under downtown Mandan. BN paid the state a penalty of \$29 million and conveyed land and buildings to Mandan worth another \$1.25 million, for a total of a \$30.25 million penalty. Of the \$29 million payment, \$24 million is allocated to remediation efforts, \$2.5 million to the City of Mandan to assist with clean-up, another \$1.0 million to Mandan, \$500,000 to reimburse the state's "Leaking Underground Storage Tank Trust Fund," and \$1.0 million to the general fund.
- Received a \$150,000 penalty payment from Jerry Meide for environmental violations. The penalty was deposited into the general fund.
- Brought other administrative enforcement actions on behalf of the Health Department and other agencies.
- Assisted the Health Department to settle a dispute with Archer Daniels Midland (ADM) and the operation of its ethanol plant in Enderlin. ADM paid a \$214,000 penalty which was deposited in the general fund. ADM also installed pollution control equipment at its plant.
- Worked with the lignite industry, Governor's office, and U.S. Environmental Protection Agency to address air quality issues raised by existing and proposed power plants.
- Represented the Board of Animal Health in administrative enforcement actions concerning the import and licensing of domestic animals and nontraditional livestock.
- Represented the Department of Agriculture in administrative enforcement actions and court actions concerning livestock dealers, livestock auctions, and pesticide dealers and applicators.

**SUMMARY OF ALL FUNDING ACTIONS TO HOUSE BILL NO. 1003
OFFICE OF ATTORNEY GENERAL**

#2
H. App. G. O.
Conf. Comm.
HB 1003
4/12/05
Deputy Taber

| | GENERAL FUND | SPECIAL <u>FUNDS</u> | TOTAL |
|--|-----------------|-------------------------|----------------|
| BRYNE GRANT FUNDING SOURCE | | | |
| BYRNE GRANT REDUCTIONS | 398,132 | (398,132) | - |
| CRIME LAB CHANGES | | | |
| CRIME LAB SUPPLIES | 70,853 | | 70,853 |
| CRIME LAB MAINTENANCE SERVICE AGREEMENTS | 74,552 | | 74,552 |
| HOUSE BILL NO. 1235 FUNDING FOR DNA SAMPLES FROM ALL FELONS | 133,679 | | 133,679 |
| HOUSE BILL NO. 1061 FUNDING FOR DNA SAMPLES FROM SEX OFFENDERS | 25,320 | | 25,320 |
| EQUITY ADJUSTMENT FUNDING SOURCE | | | |
| ATTORNEY EQUITY ADJUSTMENTS - FUNDING SOURCE CHANGE | 241,024 | (241,024) | - |
| CONNECTND FEES | | | |
| CONNECTND USER FEES | | 31,078 | 31,078 |
| RACING COMMISSION | | | |
| RACING COMMISSION FUNDING SOURCE CHANGE DUE TO SENATE BILL NO. 2344 | (28,000) | 28,000 | - |
| TOTAL | 915,560 | (580,078) | 335,482 |

Handout
 #30-2
 Carlisle
 HB 1003
 2-15-03

Bryne and Local Law Enforcement Block Grant Awards (LLEBG) 1/
Administered by the Office of Attorney General

| FFY | Bryne Grant Award Amounts | LLEBG Award Amounts | Total Award Amounts |
|-------|----------------------------|---------------------|---------------------|
| 1988 | \$577,000 | | \$577,000 |
| 1989 | \$750,000 | | \$750,000 |
| 1990 | \$1,899,000 | | \$1,899,000 |
| 1991 | \$2,014,000 | | \$2,014,000 |
| 1992 | \$1,980,000 | | \$1,980,000 |
| 1993 | \$1,962,000 | | \$1,962,000 |
| 1994 | \$1,756,809 | | \$1,756,809 |
| 1995 | \$2,097,767 | | \$2,097,767 |
| 1996 | \$2,203,324 | \$108,162 | \$2,311,486 |
| 1997 | \$2,306,865 | \$127,760 | \$2,434,625 |
| 1998 | \$2,329,434 | \$140,842 | \$2,470,276 |
| 1999 | \$2,290,000 | \$137,067 | \$2,427,067 |
| 2000 | \$2,235,361 | \$144,993 | \$2,380,354 |
| 2001 | \$2,240,368 | \$120,048 | \$2,360,416 |
| 2002 | \$2,181,472 | \$100,393 | \$2,281,865 |
| 2003 | \$2,157,951 | \$96,296 | \$2,254,247 |
| 2004 | \$2,109,922 | \$111,349 | \$2,221,271 |
| 2005 | JAG combines Bryne & LLEBG | | |
| 2006 | | | |
| Total | \$ 33,091,273 | \$ 1,086,910 | \$ 34,178,183 |

1/ Local units of government have received additional LLEBG awards directly.

Note: The JAG grant award for FFY 2005 is anticipated to be \$1.3 million, of which 40% will be directly awarded to local units of government.



**Impact of Significant Decrease in Byrne and Local Law Enforcement Grants
Office of Attorney General - For the 2005-07 Biennium**

Amounts Exclude Current Federal Funding for First 6 Months of 2005-07 Biennium

| | 2005-07 Executive Recommendation 18 months | Anticipated Byrne Reductions 18 months | Byrne Alternative Request 18 months |
|--------------------|---|---|--|
| Salaries and wages | 480,533 | (480,533) | 344,762 |
| Operating Expenses | 371,771 | (371,771) | 371,771 |
| Capital Assets | 81,600 | (81,600) | 81,600 |
| Grants | 3,488,650 | (1,798,650) | 1,690,000 |
| Total | 4,422,554 | (2,732,554) | 2,488,132 |
| General Fund | 0 | - | 798,132 |
| Federal Funds | 4,422,554 | (2,732,554) | 1,690,000 |
| Total Funding | 4,422,554 | (2,732,554) | 2,488,132 |

The Byrne alternative request for 18 months includes the following:

2 BCI narcotics agents, agent overtime, portion of director's salary, tactical team reimbursement, and related operating expenses

2 Crime Lab forensic scientists, part-time evidence technician, related operating, and capital asset

BUREAU OF CRIMINAL INVESTIGATION
4205 STATE STREET, PO BOX 1054
BISMARCK, ND 58502-1054
(701)328-5500 FAX(701)328-5510
1-800-472-2185 (Toll Free)

January 18, 2005

Dear _____

Federal legislation recently passed that combines the Edward Byrne Memorial Grant and the Local Law Enforcement Block Grant (LLEBG) into one program – the Edward Byrne Memorial Justice Assistance Grant, otherwise known as the JAG program. The overall funding available for JAG is somewhat lower than prior years' combined funding for Byrne and LLEBG; however, the real impact to small states like North Dakota appears to be in the distribution formula. Some states, including our own, will see a decrease of over 40 percent in overall funding when compared to Fiscal Year 2004, while the impact on other larger states will be significantly lower.

Last year, North Dakota received over \$2.3 million in Byrne and LLEBG combined. While some of these dollars were direct LLEBG awards to local agencies, the Drug and Violent Crime Policy Board was able to award approximately \$2.1 million to further important projects in your communities. The Department of Justice estimates that the Fiscal Year 2005 budget will result in a \$1 million cut for North Dakota, giving our state approximately \$1.3 million to work with. Only 60 percent of that – approximately \$800,000 – will be available for subawards. While the remaining 40 percent will be awarded directly to local agencies based on a formula which relies on crime statistics, the state's role – if any -- in administering those funds has not yet been determined.

We are working closely with our state's leaders and congressional delegation to restore funding for our state by restructuring future budgets and formulas, and to ensure that if future budget cuts occur in these programs, they are fair and equitable across the nation. In the meantime, please be aware that we will likely have difficult decisions to make for the calendar year 2006 awards. We encourage all of you to work closely with your boards, commissions, and other funding sources in order to secure adequate funding for the future.

We will continue to work diligently on this and keep you informed as this program unfolds. Please feel free to contact Julie Hruby, Greg Metz, or Ginny Peterson if you have any questions.

Sincerely,

Jerald C. Kemmet, Director
Bureau of Criminal Investigation

JCK/cv

Cc: _____

AMOUNT NEEDED DUE TO BYRNE REDUCTIONS REVISED TO REMOVE FUNDING FOR 1 AGENT & 1 CRIME LAB FORENSIC SCIENTIST (USE EXECUTIVE RECOMMENDATION FTE'S & FUNDING (FUNDED 6 MONTHS INTO 2005-07 BIENNIIUM))

| BCLSTAFF | FUNDING APPROVED FOR CY 2005 - 6 MOS. DIFFERENCE | | | | FF | TOTAL |
|----------------------|--|-----------|-------------|---------|-----------|-------|
| | FUNDING NEEDED FOR 2005-07 | Operating | Cap. Assets | Total | | |
| SALARIES | 345,977 | 86,494 | 259,483 | 259,483 | (259,483) | - |
| OPERATING EXPENSES | 470,386 | 117,597 | 352,790 | 352,790 | (352,790) | - |
| CAPITAL ASSETS | - | - | - | - | - | - |
| TOTAL | 816,363 | 204,091 | 612,272 | 612,272 | (612,272) | - |
| Salaries | | Operating | Total | | | |
| Agent overtime | 78,712 | 0 | 78,712 | | | |
| 18 months funding | 59,034 | 0 | 59,034 | | | |
| Tactical Team Reimb. | 86,400 | 14,400 | 100,800 | | | |
| 18 months funding | 64,800 | 10,800 | 75,600 | | | |
| 2 Agents & director | 180,865 | 455,866 | 636,851 | | | |
| 18 months funding | 135,649 | 341,990 | 477,638 | | | |
| Total | 259,483 | 352,790 | 612,272 | | | |

CRIME LAB SCIENTISTS

| | | | | | | |
|-------------------------|---------|--------|---------|---------|-----------|---|
| SALARIES - 2 scientists | 167,844 | 41,961 | 125,883 | 125,883 | (125,883) | - |
| OPERATING EXPENSES | 25,308 | 6,327 | 18,981 | 18,981 | (18,981) | - |
| CAPITAL ASSETS | 81,600 | - | 81,600 | 81,600 | (81,600) | - |
| TOTAL | 274,752 | 48,288 | 226,464 | 226,464 | (226,464) | - |

| BYRNE FUNDING REDUCTION - | FUNDING APPROVED FOR CY 2005 - 6 MOS. DIFFERENCE | | | | FF | TOTAL |
|----------------------------|--|-------------|----------|---------|-----------|-------|
| | Operating | Cap. Assets | GF | Total | | |
| 2 BCI AGENTS | 352,790 | - | 612,272 | 612,272 | (612,272) | - |
| BYRNE FUNDING REDUCTION - | 18,981 | 81,600 | 226,464 | 226,464 | (226,464) | - |
| 2 FORENSIC SCIENTISTS | 371,771 | 81,600 | 838,736 | 838,736 | (838,736) | - |
| TOTAL BYRNE NEEDS | | | (40,604) | 798,132 | | |
| Less: GF match for Byrne | | | | | | |
| Total for this alternative | | | | | | |

| Byrne Match | CY 2005 Available | | | Difference |
|--------------------------------|-------------------|-------------|---------|------------|
| | Operating | Cap. Assets | Total | |
| 1 BCI agent | 68,220 | 17,055 | 85,275 | 51,165 |
| 1 Crime Lab forensic scientist | 58,669 | 14,667 | 73,336 | 44,002 |
| Total | 126,889 | 31,722 | 158,611 | 95,167 |

| GF match | CY 2005 Available | | | Difference |
|--------------------------------|-------------------|-------------|--------|------------|
| | Operating | Cap. Assets | Total | |
| 1 BCI agent | 26,530 | 6,633 | 33,163 | 19,898 |
| 1 Crime Lab forensic scientist | 27,609 | 6,902 | 34,511 | 20,707 |
| Total | 54,139 | 13,535 | 67,674 | 40,604 |

Thoreson, Blair

From:
Sent:
To:
Subject:

* Paulson, Sandy K.
Monday, April 11, 2005 4:29 PM
Thoreson, Blair
RE: HB 1003 - Funding for Crime Lab Service Agreements

#1
H-App-6-0.
Lmf. Loman.
4/12/05
HB 1003

Hi Blair,
After a very informal survey I find that the decision for an agency to purchase a maintenance agreement or extended warranty is very specific to the each agency, to the replacement price of the equipment and cost of possible repairs, the dollars an agency has available in their budget, and the results of a cost-benefit analysis.

I will provide a few examples:

The State RFP for personal computers includes a standard 3-year warranty but an agency can decide to extend the warranty for an additional cost. According to the agencies I contacted, it would not be necessary to go beyond a 3-year warranty on personal computers, particularly with a 4-year replacement schedule.

The Facilities Management Division purchased an extended 2-year warranty on the fire alarm system because the cost of this arrangement was less than entering into a 2 year maintenance agreement. After the 2 years is up, they will continue with a maintenance agreement because of the importance of the system to the building and the exorbitant cost of repairs and servicing.

The Heath Department said they have maintenance agreements on most of their technical equipment. They work with the Crime Lab to identify equipment with the same vendors so they can negotiate and receive quantity discounts.

Please, if there is more information I can provide you, let me know. I can be reached at 328-2148.

anks.

Crime Lab Fund

LOTTERY CONTINUING APPROPRIATION

The Office of Attorney General requests to continue funding the ND Lottery, a business enterprise, as a continuing appropriation.

The Lottery's prizes and substantive operating expenses (retailer commissions, gaming system vendor fee, & Multi-State Lottery Association – MUSL - game group dues) are variable expenses and have a direct relationship to gross sales. Another substantive expense, marketing and advertising, must be flexible to accommodate the Lottery's aggressive marketing plan and ambitious rate of growth as the Lottery introduces new and exciting games and as it matures. This office is responsible for the financial success of the Lottery and must have the commensurate authority to control its expenditures. The Lottery's performance is extremely favorable compared to other similar lotteries and is a reflection on the efficient business model the office developed and implemented. The Lottery Advisory Commission also oversees the performance of the Lottery.

The Lottery is still fairly new and is implementing an aggressive marketing plan, including 3 new games, quarterly promotions, and subscription play that will start on Jan. 1, 2006. The MUSL recently authorized its members to use subscriptions in which players prepay and are automatically entered in draws for future periods of 13, 26, and 52 weeks. Subscription play should increase sales by 5-7%, will add more workload (especially during the initial subscription and subsequent renewal periods), and may require an additional FTE. In addition, as new games are introduced and implemented, the FTE needed to handle the workload can change.

An example of the need for budget and FTE flexibility has been experienced during the 2003-05 biennium. The authorization of six FTEs for the Lottery for the 2003-05 biennium was based on projections that one game (Powerball) would be conducted and 275 retailers would be licensed. During the 2003-05 biennium, the Lottery will implement four games through its present network of 400 licensed retailers that are located in 122 towns and cities. Also, in the 2005-07 biennium, the Lottery plans to launch a fifth game.

Lottery

North Dakota Lottery
 Updated Forecast of Revenues, Expenses; and Transfers
 for the 2003-05 and 2005-07 Bienniums
 January 28, 2005

| | <u>2003-05</u> | <u>2005-07</u> | 2005-07 Biennium % of Sales |
|----------------------------------|-------------------|-------------------|-----------------------------------|
| Revenues: | | | |
| Ticket Sales | 22,805,200 | 35,165,000 | |
| Other Revenue | 347,898 | 153,048 | |
| Total Revenues | <u>23,153,098</u> | <u>35,318,048</u> | |
| Expenses: | | | |
| Prize Expense | 10,576,385 | 16,263,813 | 46% |
| Retailer Commissions | 1,140,260 | 1,758,250 | 5% |
| Contractual Services Expense | 2,424,193 | 3,738,040 | 11% |
| Marketing | 684,644 | 700,000 | 2% |
| Salaries and Benefits | 605,469 | 974,889 | 3% |
| Other Operating Expenses | 476,002 | 779,756 | 2% |
| Total Expenses | <u>15,906,953</u> | <u>24,214,748</u> | |
| Income Before Transfers | 7,246,145 | 11,103,300 | 32% |
| Transfers to Other Funds: | | | |
| MUSL Prize Reserve Funds | 615,145 | 703,300 | 2% |
| Compulsive Gambling Fund | 400,000 | 400,000 | 1% |
| State General Fund | <u>6,231,000</u> | <u>10,000,000</u> | 28% |
| | 7,246,145 | 11,103,300 | 32% |

8 FTE's
 Lottery Administrative
 5% Costs - % of Sales

Do Not Call Funding and FTE's

The Office of Attorney General would like to include the Do Not Call funding and FTE's in its 2005-07 biennium budget.

The salaries and wages for the 2 FTE's are \$188,200 and the operating expenses are \$88,092, for a total of \$276,292 for the 2005-07 biennium from special funds.

Do Not Call

AG REFUND FUND ANALYSIS FOR THE 2003-05 AND 2005-07 BIENNIUMS

AG REFUND FUND ANALYSIS THROUGH JUNE 2005

| | | |
|---|---------|---------|
| FUND BALANCE 1/24/05 | 893,168 | |
| ESTIMATED CPAT REVENUES | 25,000 | |
| ESTIMATED REMAINING INDIAN GAMING REVENUES | 70,467 | |
| TOTAL AVAILABLE | 988,635 | |
| CPAT INVESTIGATOR - PARTIAL SALARY, EXPENSES/ NO CALL | | 179,366 |
| CONSUMER REFUNDS | | 394,310 |
| AAG EQUITY INCREASE | | 60,256 |
| INDIAN GAMING INVESTIGATIONS | | 117,576 |
| CPAT RENT | | 23,430 |
| ESTIMATED EXPENDITURES | | 774,938 |
| ESTIMATED JUNE 30, 2005 BALANCE | | 213,697 |

CPAT REFUND FUND ANALYSIS FOR 2005-07 BIENNIUM

| | | |
|---|---------|-----------|
| ESTIMATED BEGINNING BALANCE | 0 | |
| ESTIMATED REVENUES | 363,532 | |
| TOTAL AVAILABLE | 363,532 | |
| NO-CALL BUDGET ESTIMATE | | 276,292 |
| CPAT INVESTIGATOR - PARTIAL SALARY, EXPS. | | 68,522 |
| CPAT RENT | | 99,892 |
| INDIAN GAMING INVESTIGATIONS | | 163,532 |
| ESTIMATED EXPENDITURES | | 608,238 |
| ESTIMATED JUNE 30, 2007 BALANCE | | (244,706) |



STATE AGENCY 2003-05 BIENNIUM SALARY INCREASE SURVEY

Agency | **OFFICE OF ATTORNEY GENERAL** |

1. Number of authorized FTE for the 2003-05 biennium? | 182.0 |

2. Excluding probationary increases, were salary increases provided during the 2003-05 biennium?
If yes, please provide: | YES |

a. The date the salary increases were provided (i.e. July 2003 salary increase, paid August 2003)

| | | |
|--|--|--|
| Legislative Equity | | 7/1/2003 |
| Responsibility/Workload Change, reclassifications, equity & promotions | | 8/03 - 10/3, 1/04 - 3/04, 6/04 - 12/04 |

b. The number of employees who received salary increases | 78 |
Of the 78 employees receiving increases, 40 were legislative equity adjustments, 17 were reclassifications, 10 were for responsibility/workload adjustments, 9 were promotions and 2 were equity adjustments.

c. The average salary increase in terms of percentage | 7% |

d. The reason for the salary increases

Legislative equity adjustments, reclassifications, responsibility/workload change, promotions, and equity.

e. The cost of the salary increases for the 2003-05 biennium by funding source

| | | |
|--------------|--|-----------|
| General Fund | | \$113,930 |
| Other Funds | | \$295,824 |
| Total Funds | | \$409,754 |

f. The source of funding used to provide the salary increases (i.e. funded by legislature, turnover savings, etc.)

Funded by legislative appropriations, turnover, vacancies, and continuing appropriation.

g. The amount of funding included in the 2005-07 executive budget recommendation by funding source to continue these salary increases

| | | |
|--------------|--|-----------|
| General Fund | | \$180,889 |
| Other Funds | | \$337,461 |
| Total Funds | | \$518,350 |

K
Salary

HB 1003

AGENT/OFFICER SALARY COMPARISONS

| <u>AGENCY</u> | <u>STARTING</u> | <u>5 YEARS OR MIDRANGE</u> | <u>10 YEARS</u> |
|--|-----------------|--------------------------------|-----------------|
| South Dakota DCI | \$3,133 | \$4,622 | \$5,133 |
| Minnesota BCA | \$3,747 | \$4,229 | \$5,045 |
| Montana DCI | \$3,059 | \$3,334 | \$4,589 |
| -- Iowa DPS | \$2,937 | \$4,307 | \$5,037 |
| Wyoming DCI | \$3,100 | \$3,901 | \$4,364 |
| @ Fargo PD | \$3,192 | \$3,801 | \$4,346 |
| West Fargo PD | \$2,861 | \$3,466 | \$3,974 |
| Grand Forks PD | \$2,713 | \$3,667 | not available |
| + East Grand Forks PD | \$2,921 | \$3,480 | not available |
| Richland Co. Sheriff's Deputy | \$2,969 | \$3,149 | \$3,895 |
| Clay Co. Sheriff's Deputy | \$3,198 | not available | not available |
| * US Customs Agent (Criminal Investigator) | \$3,124 | \$6,007 | \$6,783 |
| * Border Patrol Agent (GS9) | \$3,142 | \$4,786 | \$5,851 |
| North Dakota BCI | 2600 | 2955 | 3267 |

- Longevity pay \$40 per month for each 5 years of service
- @ Longevity pay after 10 years
- + Longevity pay per month -- 3 years = \$95; 25 years = \$180
- * Plus automatic 25% overtime per year

Agent with 26 years
at BCI
4,143



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210 FAX (701) 328-2226
www.ag.state.nd.us

Wayne Stenehjem
ATTORNEY GENERAL

H. App. 6.0,
Re: HB 1003
Mem. 1/31/05

#2

MEMORANDUM

To: Representatives Carlisle, Timm, Kempenich, Kroeber, Thoreson, and Williams

From: Kathy Roll, ^BOffice of Attorney General

Subject: Requested Items

Date: January 31, 2005

Representative Carlisle discussed the Racing Commission Executive Director's salary with me and the salary enhancement included in the Executive Recommendation. The salaries and wages for this position included in the Executive Recommendation total \$155,601 (this includes the salary and benefit increase package). The current Executive Director was hired at \$48,000 per year. After a 5% probationary increase, including the Executive Recommendation salary and benefit package, this amount is \$136,967.

If you have any questions, please contact me at 328-3622.

OFFICE OF MANAGEMENT AND BUDGET

600 East Boulevard Ave, Dept 110 • Bismarck, North Dakota 58505-0400
FAX - (701) 328-3230

January 14, 2005

Rep. Ron Carlisle
INSIDE MAIL

Dear Rep. Carlisle,

I understand that you requested a letter from OMB explaining "off-budget" or "continuing appropriation" FTE. I understand that this issue surfaced during the overview of the Office of the Attorney General. The Office of the Attorney General has, for example, a continuing appropriation to fund their lottery employees.

There are two ways that the Legislature appropriates dollars and authorizes FTE. One way is through a statutorily established continuing appropriation; the second way is a direct appropriation made during each legislative session.

Continuing appropriation statutes are passed by the Legislature on a permanent basis (or until the statute is changed) and, therefore, do not run through the biennial budget process. Continuing appropriations are already appropriated. They do not need to be appropriated a second time. Because they are not dealt with in the regular legislative budget/appropriation process, we use the term "off budget".

In October 2004, Legislative Council prepared a report for the Budget Section. The introductory paragraphs explain this issue well. I have attached a copy of that report.

There have been several instances over the past 10 years or so where the Legislature enacted a continuing appropriation statute and subsequently OMB and Legislative Council moved the corresponding FTE off budget. One example was the commodity groups and the second example was the non-general fund revenues of Higher Ed. When these were changed to continuing appropriations, the FTE paid from these sources were also moved "off budget".

At the time the lottery statutes were established, OMB did not realize these FTE were funded through a continuing appropriation. In effect, the lottery FTE were double appropriated both "on budget" and "off budget" during the 2003-05 biennium. Had we realized this two years ago, we would have brought it to the attention of the Legislature that these employees were double

2
AB1003
Sheila
Petersen
Dir. Fiscal
Manager
11/17/05
H.A pp. 6

Director - Fourth Floor - (701) 328-4904
Management - Fourth Floor - (701) 328-2680
Radio - Fraire Barracks - (701) 328-8154

Central Services - Fourteenth Floor - (701) 328-2780
Human Resources Mgmt. Services - Fourteenth Floor - (701) 328-3290
Facility Management - Fourth Floor - (701) 328-2471

Risk Management - 1600 E. Century Ave, Suite 4 - (701) 328-7584

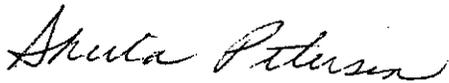
Rep. Carlisle
January 14, 2005

Page 2

appropriated. When we realized what had happened, we informed the Office of the Attorney General that they should not be double appropriated and, therefore, needed to be taken out of the regular budget process.

If you have any further questions, don't hesitate to ask.

Sincerely,



Sheila Peterson
Director of Fiscal Managemetn

Enclosure

cc: OMB Analysts

NORTH DAKOTA STATE AGENCY "OFF-BUDGET" POSITIONS FOR THE 2003-05 BIENNIUM

Each biennium, as part of agency budget requests, each agency requests a specific number of full-time equivalent (FTE) positions and funding for the positions. The Governor recommends the number of FTE positions and related funding for each agency to the Legislative Assembly. The Legislative Assembly appropriates funding for each agency's FTE positions in the agency's appropriations bill for each biennium. The legislatively authorized FTE positions associated with the funding appropriated are not referenced in the appropriations bill but are identified in supporting legislative budget documents. During each biennium the Office of Management and Budget (OMB) monitors the number of employees included in agency payroll reports to the legislatively authorized FTE positions for each agency.

Select state agencies are not included in the appropriations process; therefore, those agencies do not have legislative limits on the number of employees that may be hired. These agencies include the agriculture commodity groups and the State Fair Association. Higher education institutions receive a block grant appropriation of their general fund dollars and identify FTE positions related to the general fund appropriation. The institutions receive other funds such as tuition income, federal funds, and local funds, which are used to hire employees, but these funds are not specifically appropriated nor are the employees included as legislatively authorized FTE positions. These types of employees are considered "off-budget."

An "off-budget" position is defined for this memorandum as an employee that is either not filling a legislatively approved FTE position or one for which the funding for the position was not included in the agency's appropriations bill approved by the Legislative Assembly. Agencies hire these positions pursuant to other authority granted to the agency either in statute or the Session Laws. The schedule below lists, for agencies included in the appropriations process, employees considered "off-budget."

| Agency/"Off-Budget" Position | Explanation | Biennial Salary and Fringe Benefit Total |
|--|---|--|
| 125 - Attorney General Administrative assistant II "Do not call" assistant attorney general | These two positions are "off-budget" because funding for the positions was not included in the agency's 2003-05 biennium appropriation. The positions were included in the legislatively authorized FTEs for the 2003-05 biennium; however, OMB has informed the Attorney General not to include the positions as FTEs in the 2005-07 biennium budget request. The positions are involved in the administration of North Dakota Century Code (NDCC) Chapter 51-28, the "do not call" statutes. Funding for the positions is spent pursuant to a continuing appropriation from the Attorney General's refund fund. The positions receive the same benefits as other state employees. | \$83,403 89,926 |
| Lottery director Lottery security officer Lottery account/budget specialist III Lottery customer service representative Lottery administrative staff officer Lottery marketing specialist | These positions are "off-budget" because funding for the positions was not included in the agency's 2003-05 biennium appropriation. The positions were included in the legislatively authorized FTEs for the 2003-05 biennium; however, OMB has informed the Attorney General not to include the positions as FTEs in the 2005-07 biennium budget request. The positions are involved in the administration of NDCC Chapter 53-12, the North Dakota Lottery. Funding for the positions is spent pursuant to a continuing appropriation from the lottery operating fund. The positions receive the same benefits as other state employees. | 162,853 105,284 99,821 101,955 71,074 120,660 |

Agency "Off-Budget" Position
215 - North Dakota University System office
 Articulation and transfer coordinator

Benefit Total

109,486

Explanation

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's board initiative funds and is authorized pursuant to Section 10 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

Articulation and transfer secretary

30,459

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded 37.5 percent from the agency's operations line item and 62.5 percent from the agency's board initiative funds and is authorized pursuant to Section 10 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

244 - Forest Service
 Community forestry specialist (#3611)

88,176

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's consolidated forestry assistance federal block grant and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

Forest stewardship specialist (#3756)

60,801

This position is three-fourths "off-budget" and one-fourth "on-budget" because the position is funded 75 percent from the agency's consolidated forestry assistance federal block grant, 16.8 percent from the general fund, and 8.2 percent from special funds generated from nursery tree sales. The funding from the consolidated forestry assistance federal block grant is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

Riparian forester (#4745)

77,023

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded with funds received from the agency's agreement with the Red River Riparian Council and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

Community forestry specialist (#4905)

88,534

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's consolidated forestry assistance federal block grant and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

Community forestry assistant (#4899)

62,420

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's consolidated forestry assistance federal block grant and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

Agency "Off-Budget" Position
Community planning specialist (#5559)

Biennial
Salary and
Fringe
Benefit Total
78,951

Explanation

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's rural development forestry and community grant program and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

Administrative secretary (#5609)

59,667

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's consolidated forestry assistance federal block grant and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

321 - Department of Veterans Affairs
Account technician I

51,857

One-half of this position is "off-budget" because it is funded from the veterans' postwar trust fund and is not included in the agency's legislatively authorized FTE count. The investment earnings of the veterans' postwar trust fund is appropriated on a continuing basis to the Administrative Committee on Veterans Affairs, pursuant to NDCC Section 37-14-14. One-half of the position is funded from the veterans' aid fund. Half of the position relating to the veterans' aid fund is "on-budget" and the half relating to the veterans' postwar trust fund is "off-budget." This position receives full benefits.

Office assistant II

31,990

One-half of this position is "off-budget" because it is funded on a continuing basis from the veterans' postwar trust fund and is not included in the agency's legislatively authorized FTE count. Three-fourths of the funding for this position is from the veterans' postwar trust fund and one-fourth of the position is funded from the general fund. One-half of the position is "on-budget" and one-half is "off-budget." This position receives full benefits.

701 - State Historical Society
Store manager

73,200

This position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is authorized pursuant to a continuing appropriation contained in NDCC Section 55-02-04 which also authorizes the museum store funds to be used in the normal course of business to support the operation from which the funds are derived. Benefits are provided since this is a full-time position and the only full-time position for the store.

\$2,179,024

NOTE: This report does not include University System campuses since the University System receives a "block grant" general fund appropriation, the agriculture commodity groups, or the State Fair Association because the agencies are not included in the appropriations process.

Agency "Off-Budget" Position
Federal excess personal property technician (#3589)

Explanation:
The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's consolidated forestry assistance federal block grant and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

79,463

Forestry technician (#3591)

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's consolidated forestry assistance federal block grant and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

28,724

Fire management coordinator (#3585)

This position is 28 percent "off-budget" and 72 percent "on-budget" because the position is funded 48.4 percent from the general fund, 23.6 percent from special funds generated from nursery tree sales, and 28 percent from the agency's consolidated forestry assistance federal block grant. The funding from the consolidated forestry assistance block grant is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

83,800

Fire management specialist (#5175)

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's consolidated forestry assistance federal block grant and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

86,052

Forest stewardship specialist (#5176)

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's consolidated forestry assistance federal block grant and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

92,047

Forest health specialist (#5177)

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's consolidated forestry assistance federal block grant and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.

80,442

Fire planning and prevention specialist (#5578)

The position is "off-budget" because the position is not included in the agency's legislatively authorized FTE count. The position is funded from the agency's rural development forestry and community grant program and is authorized pursuant to a continuing appropriation contained in Sections 7 and 34 of House Bill No. 1003 (2003). The position receives health and retirement benefits.