

2011 SENATE APPROPRIATIONS

SB 2003

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003  
01-12-11  
Job # 12801

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

An appropriation for the Attorney General

### Minutes:

See attached testimony.

**Chairman Holmberg** called the committee to order on SB 2003. All committee members were present except Senator O'Connell. Tad H. Torgerson, OMB and Becky J. Keller, Legislative Council, also present.

**Wayne Stenehjem, Attorney General:** Testimony attached # 1. There are 13 divisions. He introduces his staff. First they are not asking for anything in addition to what was purposed in the executive budget. Second, this is basically a hold even budget from their budget from the last biennium. He said the few items that are in addition to that, which is in the current budget, are about nine hundred thousand dollars, a third of that is for; The Bureau of Criminal Investigations. Part of it will be used for vehicle replacement and a replacement of one of their four surveillance vehicles. They have some issues with the identification technology folks up at the Bureau of Criminal Investigation; those are the people who process the criminal background checks, finger print identification system. They submitted information to HRMS about their salaries and it was determined that there needed to be increased by grades. The final item is equity adjustments. The only area where they are asking for adjustments is the multi- biennium process, to continue that process for the crime lab scientists. Attracting and keeping has been a challenge. He continued to go over his testimony and the moneys needed for their divisions.

**Senator Robinson** – Asked about the 24/7 program and how many clients they had.

**Attorney General** – He could get the statistics and what is involved.

**Senator Warner** – Have you expanded this into cannabis and hard drugs?

**Attorney General** – They are working on that, some Judges are using that because there are now patches that can detect the typically abused illegal and prescription drugs. They are looking to expand it. He talked about the danger and abuse of prescription drugs in North Dakota. He continues going over his testimony and charts.

**Chairman Holmberg** – Asked if there was a breakdown on the prescription deaths as to those that were thought to be suicide.

**Attorney General** – We don't have that because these are based on information provided by the state medical examiner.

**Senator Robinson** – Would you share more information on the forensic scientists at the crime lab? Are we still experiencing turnover, and with the effort to adjust salaries, are we gaining ground?

**Attorney General** - We are gaining ground, things are getting better. The folks at the crime lab are very happy with the surroundings and the new facility. As far as the numbers, I would have to ask. I think that new lab has helped and the equity adjustments that have been given already have helped. If we continue to address the critical issues that will help enormously.

**Senator Warner** - You recently had a retirement at BCI; do you have any places in your agency where you are looking at a block of highly experienced people that are approaching retirement?

**Attorney General** - That is the case at BCI, there are a number of senior agents who are looking at retirement and we are training and planning to move people up. We want long time and experienced folks there.

**Senator Warner** - Last session, did we allow BCI agents to adopt retirement ages similar to the military?

**Attorney General** – It is similar to the Highway Patrol and it might make it that somebody will retire but it also makes it more likely that we will attract and keep people working for us.

**V. Chair Grindberg** - Would you comment more on the concealed weapons increase and what rights one has when they have a permit?

**Attorney General** - You have the rights that are provided by the Legislature to obtain after you go through the necessary application and processing. We have almost 14,000 of them in North Dakota. A couple of reasons; people are more aware that they are available and we have increased the ability for reciprocity with other states.

**Senator Christmann** – Asked with the prescription drug issues, how are they acquiring the prescription drugs?

**Attorney General** – I would say it might run the range, for the younger people, they are buying them and trading among themselves. Another would be someone who had chronic pain becomes addicted and would do about anything to get their drugs, including the Doctor shopping.

**Senator Christmann** - Regarding the DNA test, does the sheriff or police department pay you for each test? How small level of a crime would it be justifiable for them to send in evidence and get DNA tests to track it down?

**Attorney General** – Law enforcement does not pay. That is money given by Legislature to assist local law enforcement in solving crimes. The cases that are submitted by local enforcement by what they think are important. Those cases are being solved all the time, using DNA that years ago would not have been solved.

**Senator Christmann** - If we sent this bottle in, how much would it cost to check whose DNA is on there?

**Attorney General** - \$500.00 per sample. The problem we have is with juries, we have to educate juries as to what you see on TV is not always how things operate. We are working them to establish protocol in the amount of evidence that would be necessary. Homicides are an exception because you need to analyze everything.

**Kathy Roll, Financial Administrator:** Addresses the 24/7 sobriety program, page 19 and 20, shows the information as of January 6<sup>th</sup> of this year, 1289 have participated in the program, and 801 have completed it successfully. And to date only 92 have reoffended. Second the question regarding the forensic scientists at the crime lab, there is about 18.

**Senator Wanzek** – As far as the missing children repository, there is no money appropriated yet?

**Kathy** - That is correct.

**Senator Wanzek** - How does it work then if it's statutorily been passed and the program is there, is it being funded by dollars internally or not being done?

**Kathy** - We working with what we have available, we haven't been able to develop the data base that the bill required. We do have information, we do have systems we go to, and we just don't have it at the same data base that the bill passed last session required.

**Chairman Holmberg** – Closed the hearing.



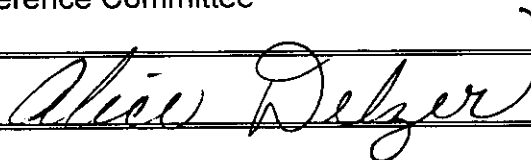
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003  
01-20-2011  
Job # 13177

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

### SUBCOMMITTEE HEARING ON ATTORNEY GENERAL'S BUDGET BILL

#### Minutes:

You may make reference to "attached testimony."

Minutes:

**Chairman Kilzer** – Opened the Subcommittee hearing.

Attendance: Senators Kilzer, Erbele, Warner; Tad H. Torgerson OMB, Becky J. Keller, Legislative Council; Kathy Roll, Wayne Stenehjem & Tom Trenbeath, Attorney General's Office.

**Chairman Kilzer** - I just wanted to allow the folks to speak up on anything that was not covered at the committee meeting and to allow time to research anything that needs to be researched.

**Tom Trenbeath, Chief Deputy Attorney General** Said that because the budget is pretty close to a zero increase, they feel they adequately covered everything from an overview perspective.

**Senator Warner** - We could have a review of the stimulus dollars and how they affected the FTE's in the department.

**Chairman Kilzer** - Asked about the KOP funds.

**Kathy Roll, Finance & Administration, Attorney General's Office** - said in terms of KOP's money, that they hoped to receive it and that it was included in House bill 1003, they did not receive any of that money. They did receive the Burn Justice Assistance Grants, the Internet Crimes against Children and the Rural Law Enforcement Act funds. They have in the budget seven positions that they have requested be continued with the Federal Stimulus money. One of the positions is being converted to be charged to their high intensity drug trafficking area grant that they have. They will provide an update as to how those dollars are being spent.

**Wayne Stenehjem, Attorney General** – Said that they had applied for the KOP's grant funding and did not get it and did not add any people as a result of not getting that. He said that those seven positions do not include the KOP's grant people they had hoped to get.

**Chairman Kilzer** – Asked if they were bypassed and that the KOP grants were given directly to the Sheriff and Police Departments. The answer was yes it was.

**Senator Erbele** - Asked if the missing children's repository was under the subcommittee and if they need to be aware that the Legislature failed to draft a fiscal impact of this system.

**Kathy Roll**– Said that there should be some amendments that required that data base.

**Attorney General** – Said that it needed to be addressed and that last session a bill was passed, that required the establishment of that data base. Their understanding was that the section was going to be eliminated or the bill would be killed. As a result the fiscal note was also eliminated and then the Legislature passed the bill without a fiscal note attached. He said he thought passing the bill was an oversight and now it is on the books and needs to be dealt with.

**Chairman Kilzer** – Asked if it was a mandate to them that is not being funded and how much money would they need.

**Attorney General** – Said that was right and the fiscal note was 500,000 dollars and was not in the bill. It is not in the Governor's recommendation neither was it in theirs to the Governor. He felt it was important to bring it to them so they could decide what to do with that provision. He said they could discuss further some potential language that would help implement some of what is in there without doing the whole thing and without addressing the 500,000 dollars.

**Senator Erbele** – Asked if it was a necessary data system to have.

**Attorney General** – Said that they needed to address it. How important it is was a decision the Legislature made and they are letting them know that there is a requirement without a fiscal note.

**Chairman Kilzer** - We need to come to a conclusion regarding this matter. Something needs to be done.

**Kathy Roll** – On page 16 we do propose an amendment regarding the Native American fuel tax refund. The reason for the amendment is when the bill was passed it required the Attorney General to indicate what the amount might be and to work with the Tax Commissioner. The Tax Commissioner has been handling that without any input from the Attorney General's office. There is really no part we play in that so it makes sense to change that language to the tax department.

**Attorney General** – Expanding on what Kathy had said, going back when we were trying to spur oil development on the Indian reservations it was necessary to enter into an agreement with them and negotiate proper sharing of the tax resources and that is the reason for a role from his office because they were involved in trying to help negotiate the arrangement. That

has been done and there is no reason to have further involvement or a requirement and code because everything has been done.

**Becky Keller, Legislative Council** – Asked if they wanted her to draw each amendment separate or if they wanted it all in one amendment.

**Chairman Kilzer**- Said he wanted each one because they may end up with several.

**Becky Keller** – Said the amendment is in the blue book already.

**Chairman Kilzer** closed the hearing.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003

01-25-11

Job # 13373 (Meter 6.11-7.17)

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A DISCUSSION ON THE ATTORNEY GENERAL BUDGET. (Several bills were discussed on this job: 2001, 2002, **2003**, 2004, 2005, 2009, 2012, 2018, 2020)

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee to order on 1-25-11 at 1:30 pm for general discussion with full committee. Joe Morrisette, OMB and Becky J. Keller, Legislative Council were also present.

**Chairman Holmberg:** We will talk about the Attorney General's budget. Senator Kilzer is the chair of that particular subcommittee. There wasn't a lot of change in that budget. Was there anything that the full committee wants them to delve into over and above what was discussed at the committee hearing?

**Senator Kilzer:** The Attorney General did point out one glitch and that is the Reservation Fuel Tax Withholding that we are going to have to work with the tax department and get it probably taken off of the duties involvement with the Attorney General.

**Chairman Holmberg:** And you have been delving into that and will continue. Anything else for the Attorney General? The subcommittee is Senators Kilzer, Erbele and Warner.

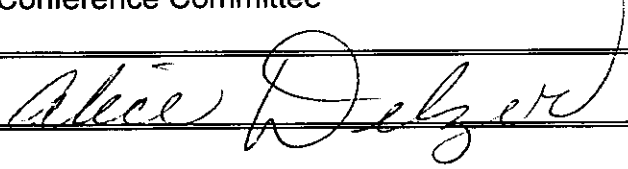
**The discussion was closed on SB 2003.**

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003  
01-25-11  
Job # 13382

☐ Conference Committee

Committee Clerk Signature	
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### Explanation or reason for introduction of bill/resolution:

Subcommittee hearing on the Appropriation for the Attorney General's Office.

### Minutes:

Memorandum and Proposed Amendment
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**Chairman Kilzer** - Opened the subcommittee hearing on SB 2003 at 2:35 pm.

Attendance: Senator Erbele, Senator Warner, Joe Morrisette, OMB and Becky J. Keller, Legislative Council, Wayne Stenehjem, Atty. General and Kathy Roll from Atty. General's Office.

**Chairman Kilzer** – In the blue book on page 16, regarding the withholding of the tax for fuel purchase for Native American's, there is no controversy with the tax department and they will have an amendment to leave out the Attorney General in that process.

**Kathy Roll, Office of Attorney General:** Memorandum, attachment # 1. She provided the federal stimulus expenditures from the Attorney General's office and the associated FTE positions, attachment #2. Also an amendment proposed by the Attorney General, attachment #3.

**Chairman Kilzer** – Asked if there were other funds, like the KOP funds, that bypassed the Attorney General but were made available to political subdivision law enforcement and if she had any idea of the numbers of those.

**Kathy Roll** - They don't need to report to us, so it is unlikely that we would have that information.

**Chairman Kilzer** - Asked if these were for a period of 3 or 4 years.

**Kathy Roll** - The first two grants are for 4 years. The Rural Law Enforcement Assistance Grant will only be for two years. We requested High Intensity Drug Trafficking Act money and that was included in the executive recommendation. On the next page is a proposed amendment to eliminate the cost for creating and maintaining a separate state wide file system and data base for missing children. They believe they already track a lot of that information and also all that information can be made available to the national crime

information center. That is the way the bill has been amended, to put the information into the national crime information center.

**Wayne Stenehjem, Attorney General:** If you decide you want to adopt amendments like this than that would make it so the whole statute doesn't have to be repealed.

**Senator Warner** – Asked what does the phrase; the force of an agency is responsible for maintaining the disposition of the case, meant.

**Attorney General** – It is the local law enforcement, we are an assisting agency, all of that would be kept by them.

**Chairman Kilzer** - Is this an unfunded mandate?

**Attorney General** - Last session a bill was passed that required a missing children's data base be established and we had a related fiscal note. He explained that they didn't think the bill would be passed and therefore they eliminated the fiscal note from the budget. It sits in the statute to get this data base established but no way to fund it.

**Chairman Kilzer** – Said they could remove the mandate or not fund it?

**Attorney General** – Said they could adopt this middle ground and adopt the amendment. Then you don't have to repeal that whole law. He talked about the lawyers getting hired away because of money they are offered and the concerns he has with that.

**Chairman Kilzer** – Closed the hearing.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003  
01-31-2011  
Job # 13717

☐ Conference Committee

Committee Clerk Signature	
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### Explanation or reason for introduction of bill/resolution:

Subcommittee Hearing for the budget for the Attorney General

### Minutes:

See attachments
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**Chairman Kilzer** called the subcommittee meeting to order.

Attendance: Senator Erbele and Senator Warner. Joe Morrisette, OMB, and Becky J. Keller, Legislative Council. Kathy Roll and Wayne Stenehjem, Attorney General.

**Senator Krebsbach** - Presented amendment and explained 11.8156.01002, Attachment 1. There was a bill that was introduced on the House side for two hundred thousand dollars for the Victim Assistance Academy. That program is being reduced with the Federal dollars. They are trying to find some funds for this program. She provided a handout with the breakdown of the Victim Assistance Academy of North Dakota and the participant breakdown, Attachment 2. She goes through the handout. She would like to get them a hundred thousand dollars to continue the program. She stated that she feels they are providing a good assistance to the entities that need this kind of training.

**Senator Warner** - Asked if this is a physical location and if it is offered as a course or as a module for continuing education for law enforcement. What is the nature of the formal structure?

**Senator Krebsbach** - Rod Hair, directs the program at Minot State, I won't attempt to answer whether it is for credit or not.

**Wayne Stenehjem, Attorney General:** Said he is a little familiar with the program because he was up to take a look at the program and spoke at their graduation one year. What they do is bring in people who are victim advocates and witness advocates from around the state and it is a weeklong training program. He said he doesn't know about the credit for college. He thought Senator Krebsbach saw it as a convenient place to put the funding that she purposes for the college in Minot and they would just be a pass through.

**Senator Krebsbach** - That was my intent in the first place, to run it through the AG office, but it was put under the higher education budget.

**Senator Warner** - There was a discussion in the BCI division of your budget, on formalizing the process for continuing education for law officers on all levels. He said he remembered the police department in Minot coming in and requesting some training money so they could offer training. The Legislature was resistant because they wanted to see a more formal structure with so many hours of different things that would be a balance to law enforcement.

**Attorney General** - I don't remember that. These people aren't necessarily law enforcement.

**Chairman Kilzer** - Asked Senator Krebsbach if she had said that this started out as a grant to the department of justice.

**Senator Krebsbach** - Answered that it was through the Department of Justice. It was awarded as a grant to the office of the victims of crime under the department of justice. There is a map, as to who took part in this program and it does show victim services for law enforcement, Attachment 3. She goes over the chart she handed out. The program continues to grow and she feels it is needed.

**Chairman Kilzer** - Asked for copies of the chart be run off.

**Senator Krebsbach** - The person that is in charge is Rod Hair, the Executive Director for VAAND. (Victim assistance Academy for ND).

**Attorney General** - Said that if this is something they are going to seriously look at that they may want to have Mr. Hair come down and talk about it.

**Senator Krebsbach** - I'll contact him.

**Senator Kilzer** - Asked for copies of Rod Hair's previous testimony. We will stand adjourned, Attachment 4.



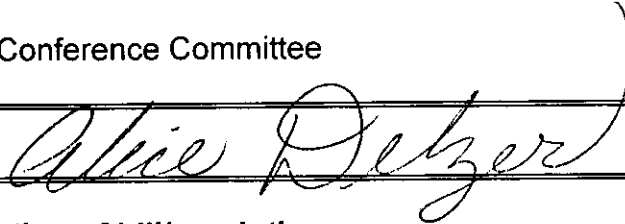
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003  
02-02-2011  
Job # 13891

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Subcommittee hearing for the Attorney General's budget

### Minutes:

See attached testimony, handouts and amendment

**Chairman Kilzer** - called the subcommittee to order.

Attendance: Senator Erbele and Senator Warner. Becky J. Keller, Legislative Council and Tad H. Torgerson, OMB, Kathy Roll and Wayne Stenehjem from Atty. General's office.

**Senator Krebsbach** - Introduces Rod Hair, Director of Victims Assistance Academy program from Minot State University.

**Rod Hair, Director of Victims Assistance Academy for ND (VAAND)** Said that he had some of the members from the original steering committee with him. He introduced them to the committee. Testimony attached, with handouts. (A)

**Senator Warner** - He asked if this was available as an undergraduate curriculum for criminal justice, also is there credit available and is there a cost based on the credit.

**Rod Hair** - There is credit available, in several different forms. Continuing education post credit for law enforcement and a continuing education credit for other profession. They did accredit this through the university system, there is 2 ½ credits assigned to this. They would have to be paid for. The CEU's that are provided are for social work, addiction counselors, licensed counselors, licensed attorneys and the national advocate credential program and the undergrad credit. Everything except the undergrad credit is free.

**Senator Warner** - Is the revenue absorbed into the university system or is that money that flows back to you?

**Rod Hair** - The money generated from credits goes into the University. In the two years we have done this we have had one student that applied for the undergrad credit.

**Chairman Kilzer** - This is 2 ½ semester hours?

**Rod Hair** – He said it was 2 ½ semester hours. Without the academy there is no basic training for people who deal with victims of crime. One of the things this academy brings is an interactive training. There is no other training like that in the state.

**Chairman Kilzer** - The law enforcement on BSC grounds, do they receive training on how to be an advocate for victims.

**Rod Hair** – This is unrelated to their training.

**Chief Witt** – The law enforcement training in terms of providing training for law enforcement officers to provide services to deal with victims, it is pretty limited. As far as any detail information about the whole cycle of victims, what services are available throughout the state most law enforcement officers don't have training for that. This training would come into play and provide that for them.

**Chairman Kilzer** – Said that the people who go through your training are able to sort out the ones who are victims of crimes and those who have mental disorders.

**Rod Hair** – Most of the people who attend our academy are already serving in the field and I would assume they could serve in that capacity. He presented some handouts. There funding has run out but they will still run the academy this year with private funding.

**Senator Warner** – Asked if he had access to any foundation grants.

**Rod Hair** – That is who they applied to for funding. We will receive written notification within a week. Couple more handouts, conducted a needs assessment of the state. They held focus groups throughout the state. They thought it would be a better method of collecting information. That is how we did our original needs assessments. Handout is for 2009-2010 demographics on the students. And also in 2010 we held training in stress management, this was done electronically. They sent out the notice of training and had 65 people apply. The handout is a breakdown of the region they were from and the professions they are currently in. As you notice they are not all law enforcement. They come from a variety of backgrounds.

**Senator Warner** – Asked if there was some overlap in the functions.

**Rod Hair** - The training we did in November we had the State Chaplain Dan Sweeney, come up and speak to the students about joining the crisis management team after they attended the training they were in. We normally have to bring someone in to get the crisis management training. This was a no cost to the student.

**Chairman Kilzer** – On the chart that was provided it says, which of the following describes the field in which you work, nineteen said victim services. Could you go into detail about who employs them, what their other background was and what they are they paid.

**Rod Hair** – Victim services are normally advocates working in a crisis center.

**Chairman Kilzer** - Any other questions about the handouts. Proceed.

**Rod Hair** – They are still going to pursue other sources of funding to run the academy. He talked about the training.

**Chairman Kilzer** - This request is for \$100,000, the original was \$200,000.

**Rod Hair** – The federal funding was over a three year period. The first year it was thirty five thousand to conduct a needs assessment of the state, put the curriculum together, and establish a steering committee. Year 2 was at \$100,000, which also included a \$20,000 match which the rural crime and justice center paid. The third year was \$65,000 with a \$15,000 dollar match. That was the funding breakdown. We had to apply each year and the reason why, they wanted to make sure you were capable with your needs assessment, with being to be able to put your curriculum together.

**Chairman Kilzer** - Did you know each year what your next year would be.

**Rod Hair**– Yes we knew each year. He shared about dealing with victims.

**Senator Erbele** – Asked for a breakdown of the funds.

**Rod Hair** - Stipends to presenters, room and board for students, and they have a training coordinator.

**Senator Krebsbach** –The bill that came in was for \$200,000, they felt because they were seeking other funding they thought \$100,000 would be good.

**Chairman Kilzer** – Adjourned.

**Kathy Roll, Attorney General's Office** - Presented proposed amendment, regarding Section XX, Attorney General Refund Fund Transfer to the General Fund, but no discussion was done regarding this.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee

Harvest Room, State Capitol

SB 2003

02-07-2011

Job # 14160 (31:85-73:11)

☐ Conference Committee

Committee Clerk Signature

*by MSW Alice Dilzer*

### Explanation or reason for introduction of bill/resolution:

Subcommittee hearing on Office of Attorney General

### Minutes:

You may make reference to "attached testimony."

**Senator Kilzer** opened the subcommittee hearing on SB 2003. Senator Erbele, Senator Warner were present. Record show that all three members of the Subcommittee are here along with Kathy Roll and Tom Trenbeath from the Attorney Generals' office. Joe Morrisette, OMB and Becky J. Keller, Legislative Council were also here.

**Senator Erbele:** Any amendments that we deal with or not deal with here, do they still come before the full committee again?

**Senator Kilzer:** No, only if somebody on the committee wants to bring them forth. If we do not recommend that they are added on here we don't bring them to the full committee.

**Senator Erbele:** So a recommendation that we do will stand and the committee doesn't need to vote on our recommendation as far as the amendment goes.

**Senator Kilzer:** If we in subcommittee want to add an amendment then it does have to be approved by the whole Appropriations Committee. If we chose not to add an amendment, then we don't need to bring it in front of the Appropriations Committee, but anybody on that committee can bring it forward. There are 3 items we want to discuss, as changes or additions from the executive budget. Our working document is the Executive Budget.

**Kathy Roll:** Provided a brief summary of amendments that have been discussed. Testimony attached # A.

**Senator Kilzer:** What I would like to do is discuss and finalize on these four items. But I do want to talk about 2247 last that is a separate bill. We will discuss the other three. Starting with the #1: Tax Commissioner and the fuels tax refund from the Native American fuel tax. I did call Glenda Anderson in the tax dept and she referred me to somebody else who was informed about it, and never did call me back. I assume that it's fine with the Tax Department to remove your name Attorney General from that. With this right here is the copy of the amendment #11.8156.01001 proposed amendments to SB 2003. I've reviewed

it and if it's proper I'll just propose the amendment. **So this amendment 11.8156.01001 is adopted by the Subcommittee. Senator Warner- 2<sup>nd</sup>. Senator Erbele agreed.**

Item # 2: Lost, missing or runaway children. To eliminate the required new state data base reverting back to the previous process and I think there was a change in that if I am not mistaken.

**Kathy Roll:** In a memo provided to you dated January 25, with some federal stimulus expenditure, information was also in the amendment to the missing children's data base which is contained with the Century code 12:16-25. In that amendment, it restores what was processed prior to last session which requires the information to be entered into the National Crime Information Center. **Senator Kilzer:** It seems like minor request of federal stimulus information. **Kathy Roll:** The memorandum should be dated January 25<sup>th</sup>, 2009 and it's the back page. **Senator Kilzer:** So this reverts back to a data system that is already in place, and there would be no additional appropriation needed to do that? **Kathy Roll:** That's correct. **Senator Kilzer:** Then, why was the law put into effect in 2009, do we know what they were trying to do there?

**Senator Warner:** Tom, there were 2 companion bills, one with adults, one with children. When they went through there was the fiscal note question, and it was kind of agreed amongst the agencies that were putting forth these, that the fiscal notes would be agreed if we could build in the requirement that a new data base would be done. That actually happened on a companion bill. We were all under the assumption that it happened under this bill, it was not true. So were trying to make a deal that was made two years ago. We really wanted the ability of the system to not suffer because of this change. Because as a matter of fact it has been on the books for two years and there's been very little demand for this sort of info and no submission of information, for the data base. We can go out and beat the bush. There's law on the books but this will enable us to go out and promote it a little bit.

**Senator Warner:** Will the data base also offer interstate searches or children that are transported, does this also include parental kidnapping?

**Tom Trenbeath** I don't know why it wouldn't; it wouldn't delete it or anything. In a legal situation it is still kidnapping. **Kathy Roll:** Does it also refer to runaway children? **Senator Kilzer:** Do I have a motion for that? **Senator Warner makes the motion to adopt this amendment. for this committee and Senator Erbele , 2<sup>nd</sup>. Call for voice vote: in favor aye, it carried.**

**Senator Kilzer :** To add \$100,000 from the General Fund to the Grants line to provide a grant to the Victim Assistance Academy. First of all I would ask the Attorney General's representative if they have a stand on this one at all.

**Tom Trenbeath,** Attorney Generals' office. I suppose we wouldn't question the value of it. It is always helpful to have trained people out there and it sounds like it has been a fairly successful program. It certainly is not something that we would push but it is something we would seriously evaluate.

**Senator Warner:** If it's not exclusively a law enforcement issue. **Tom Trenbeath** Exactly. **Senator Warner:** It's probably more not law enforcement than, but it is in a good place to house it.

**Senator Kilzer:** I heard the testimony and people giving it, and **Senator Kresbach** involvement, I think it's a wonderful program. I really don't think it's one of my highest priorities and therefore I am going to vote against it.

**Senator Erbele:** The program is funded through this year yet? **Senator Warner:** They will find out last Wednesday if they had gotten a grant from the Bremer Foundation. They are relying heavily on that grant to help with the June Academy. They have a semi-annual conference. There is one in November and again in June.

**Senator Kilzer:** They were going to go ahead with their June Basic Academy no matter what, and then they would have their advanced academy in November. Each one is a week- long thing as I understood.

**Senator Erbele:** I feel there would be other means or other agencies or methods of funding that. It is probably something the state doesn't need to be sharing out this time either. I am inclined to agree with you. For the time being we will not accept Senator Kresbach's proposal and Senator Kilzer will tell her about it. **Senator Kilzer:** Do you plan on bringing that to the full committee then? **Senator Warner:** Yes.

**Senator Kilzer:** The fourth one which is SB2247, the Domestic Violence Fatality Review Commission.

**Senator Warner:** This isn't an assembly of professionals, okay this is just transportation expenses and meetings.

**Tom Trenbeath:** Given the broad range of categories that aren't even in the bill, most of will seem to indicate that their full time employees at some other private agency that's has that as their mission. Not to say that wouldn't be the odd one because there is a broad category for other interested parties also. I would expect that would be buried in this, part of operating expenses. It would basically be expenses.

**Senator Warner:** Would you anticipate this to be like a quarterly meeting. **Tom Trenbeath:** Actually bi-annual. **Senator Warner:** Semi-annual, 2 every year.

**Senator Kilzer:** Is this parallel to other death reviews at all? Like the forensic pathologist, who is under the Health Department and does 200 autopsies a year, at the morgue and he composes a summary for each case and, some end up in court. Would this in any way parallel that?

**Tom Trenbeath:** This is intended to be a continuation of that. Once the autopsies has been done, conclusions or recommendations made, the court hands over that information and would be available to this commission, as a matter of fact the State Health Officer would probably be a member of the commission to review as part of that his work. He has a

part of the entire handling of the matter. **Senator Erbele:** You mean the State Health officer or the Forensic Pathologist. **Tom Trenbeath:** So when everything is over and the dust is settled, this commission would take a look at the confidential information that is available to them and it remains confidential with them and they would meet in closed meeting to determine whether there might be some policy decisions that could be put forward in the legislature.

**Senator Erbele:** If the information is gathered, and you're indicating that it is, this would just be another agency that could deal with it. Where does it go otherwise? You alluded to earlier that there is all kinds of domestic violence groups and such that address the problem and if our goal is prevention it is still better to deal with it on the front side than after the fact. **Tom Trenbeath:** It is easier to deal with it on the front side, having had the information to evaluate on the facts. **Senator Erbele:** My question, of the information that is gathered can't anybody else working in domestic violence access that information to make those details? **Tom Trenbeath:** The easy answer is no because of the confidentiality of a lot of the information. Law enforcement is going to have things, the domestic violence people are going to have things, the court system is going to have things, perhaps the state hospital is going to have things, and as you seek more often in the federal level than on the state level these agencies know each other exist but they don't know any information and there is no central office that can review all of it, but maintaining knowledge of a particular case

**Tom Trenbeath:** I think it is significant on average that 54% of the homicides or domestic violence is related, I understand that you feel there are a lot of different ways of going at this and so a lot of them are not going. This would seem to be when the dust is cleared, you got one outfit that can say, we need to see that file when it's confidential. That's okay. The law allows us to see it as long as we don't disclose it further. It's for one purpose and that's for the partnership of the general well being of the population.

**Senator Erbele:** But typically, the homicide is not the first act in domestic violence. There is some on-going reporting, before it becomes a homicide. and maybe some record of some history of this particular case before it gets to be a homicide? **Tom Trenbeath:** I think that is a popular conclusion, whether it can be associated again is another question. I myself feel that way. But I don't know if that's the case. **Senator Erbele:** If some group has already dealt with some of the history of it, they would have to say well maybe, if we would've done this we could have helped. **Tom Trenbeath:** That is basically this situation that this commission would work. That with the benefit of hindsight, what can we do to clean the system that is already in place to help avoid these types of results. I want to be careful to reiterate, that this is not our bill, it is certainly one the Attorney General liked plus we put together. I did assist Janelle in putting it together. 46 states has something of this nature in effect.

**Senator Warner:** When I first heard of this, I thought you were assembling a data base of collection of statistical data. Then I was worried about critical mass, how could you possibly list four, five or six domestic fatalities a year, to accumulate enough data to show trends and that isn't what this is. Now what I am hearing you say is that this is to a specific incident and they just review how everybody reacted and to try and pin down specific things within a

specific incident, no global view of it, very focused, is that correct?

**Tom Trenbeath:** Both scenarios are true. There is certainly within the facts associating with a specific instance, we might point out something may they've seen in other instances that would lead to a system review. There also might be specific too an instance. A single incident, a single failure, that may cause it for which perhaps there is no governmental cure.

**Senator Warner:** I read a story specifically about hostage negotiations techniques. It was against protocol within this organization to allow the perpetrator to leave the building. Don't let him leave the building. He was executed by the swat-team, they saved the wife and kid, but lost the man who was mentally ill and who would've normally tried to save him as well. They were in the process of second guessing, going on within the agencies as to whether that would be an appropriate thing or not be appropriate thing to do. Is that the kind of review, the kind of analysis that we would be looking at?

**Tom Trenbeath:** It is a little open ended. But that wouldn't be beyond the realm of possibility.

**Senator Warner:** This deals with fatalities. Is there some level of escalation, where we should be looking at things not resulting in fatalities? But which are well beyond that of what we might think of this as baseline domestic violence, where there was an incident more accelerated, but didn't reach the level of fatalities then.

**Tom Trenbeath:** I agree that it ought to be looked at as early as possible. This commission that wouldn't be in within their mandate. My suggestion is that were within their mandate, they probably meet in a monthly session.

**Senator Erbele:** Is there any communication at all between the various groups out there that deal with domestic violence? Do they share information among themselves?

**Tom Trenbreth:** I am only guessing. When it comes to domestic abuse, it is pretty centralized and there's only a few people or few groups that are dealing with it as a social problem if you will.

**Senator Warner:** Is there a change in the degree of privacy which is necessary once the fatality has occurred? Do the actions of either a victim or perpetrator come up both in record upon their deaths whereas if they were still alive they would have expectation of privacy?

**Tom Trenbeath:** The circulation of material as privileged is not predicated on the right to privacy. It's a reflection of our society, if you will, to everyone that is confidential and what is not or at least in my opinion if this Legislature wanted to take all of the information as confidential under state law and not federal law, then declare it as an open record. And I believe we could without risk of constitutional challenge. Successful constitutional challenge. That is a pretty broad statement.

**Senator Kilzer:** Any questions or discussion.



**Senator Erbele:** This has come to us as a stand-alone bill, we could have this all numbered, I guess I am inclined not to support it and I would be interested in hearing the greater committee discuss this.

**Senator Kilzer:** And I too do not support it as a stand -alone bill or as an amendment to this bill. But would you like to bring this one to the whole committee?

**Senator Warner:** I could do that as well. As an alternate and I know you won't like this but we could pass it as a policy issue but not fund it. That is an option.

**Tom Trenbeath:** I noticed most of this discussion on this bill in Appropriations has been a policy slant. The Policy Committee for Judiciary came out 6-0-2 pass. So it would be predictable I guess, that if it were not funded, we would not be in favor of this passage.

**Senator Warner:** We could give you some power. Would it empower you in any way to get less formal conversations with entities? Would it mandate that those conversations remain confidential? You could ask for information which you then assume the obligation is to remain confidential.?

**Tom Trenbeath:** Confidential information needs to be more available to the Attorney General's office than to anybody else in most instances.

**Senator Warner:** Would this give you authorization to ask those questions? **Tom Trenbeath:** That would be subject to greater debate here than whether or not to go fishing.

**Senator Erbele:** I am assuming talking the budget, that salaries are part of the budget. So leaving the salary part out of it. The 3 and 3 then will address it as a total package and all FTEs and that per agent three because we may go to a single pay and one year, the first year of the biennium and not the other?

**Senator Kilzer:** As it stands, now the 3 and 3 is in the Executive Budget. Our action today leaves it in there or recommends it to be left in there like that. Down the line, they can change the OMB bill to read something else. **Senator Erbele.** And that flows backwards through all the bills in all agencies affected.

**Senator Warner:** The levels of compensation which should be available for oil and gas attorneys in your office, if they want to go to private industry. I suppose you would make that argument in just about any type of specialty? Would there be any interest in perhaps a study resolution on the issue of supplemental compensation or specific topics.

**Tom Trenbeath:** There is one misconception, is there are certain specialties that are hot. There's no one in this state that knows open records or meetings laws like that attorney. There won't be anybody but us. That is just an unfortunate truth. We certainly want to compensate her for her abilities, but there is no way we can triple her salary.

**Senator Warner:** We have had an issue in the department of banking regulation, auditors

have basically been using as a graduate course as a way of getting a certificate in bank compliance.

**Tom Trenbeath:** It is a practical way also. It is unfortunate but beneficial to us that the country is in bullet because for most of the specialties that we want to recruit for are pooled deeper and wider. So we have applications from all over. Some of whom are experienced attorneys who want to come back to the Bank of North Dakota; some of whom are experienced attorneys that have never seen the place, and that's been beneficial to us for a couple of hirings. But in other cases because there aren't any unemployed oil and gas attorney's that pool is very shallow.

**Senator Kilzer:** Prepare the amendments that the majority has asked for. Senator Warner you will be asking for your amendments. Senator Warner has his, we will present this to the full committee. Becky Keller will make the amendments from Legislative Council. The subcommittee hearing was closed on SB 2003.

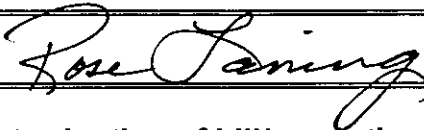
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003  
February 10, 2011  
Job # 14311

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

This was a committee vote on the Attorney General's bill.

### Minutes:

See attached vote sheets

SB2003 - Attorney General

**Senator Kilzer** – Mentions the 3 sets of amendments. He explains the first amendment, 2011 SB2003 – Office of the Attorney General, it would allow the Attorney General to keep remaining funds at the end of the biennium and carry them over into the next biennium together with the emergency clause. He says several of the stimulus fund programs that the Attorney General administers are on a four year plan. He goes on to say there are no increases in FTEs in the AG's budget; the whole budget total increase is 8% because of the increases in salaries.

### Vote #1

### Amendment #1 - 2011 Senate Bill No. 2003 – Office of Attorney General

**Senator Kilzer** moved Do Pass on the "short amendment".

**Senator Warner** seconded.

A Roll Call vote #1 was taken. Yea: 13 Nay: 0 Absent: 0

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**Senator Kilzer** – Explains the second amendment is labeled 11.8156.01001, this is the refund of tax for fuel. The Attorney General asked this be adopted because at the present time in code relating to the withholding of motor vehicle fuel tax is on reservations by Native Americans. The Tax Dept. does all the work and the Attorney General is mentioned and he doesn't do any work, historically it appears his role was to be a prosecutor if needed but it has never been needed. The AG would like the reference to Attorney General in the collection, withholding and refunding of that particular withheld motor vehicle tax.

**Vote #2**

**Amendment 11.8156.01001**

**Senator Kilzer moved do Pass on amendment**

**Senator Fischer seconded.**

**A Roll Call vote #2 was taken. Yea: 13 Nay: 0 Absent: 0**

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**Senator Kilzer** – Explains amendment 11.8156.01005, in previous sessions of the Legislature the Attorney General was mandated to put together a new data base on missing children and the fiscal note was \$500,000. This was never done because it was not funded but now the Attorney General can accomplish the same thing without creating a new data base by putting the missing children into an existing data base at no additional cost.

**Vote #3**

**Amendment 11.8156.01005**

**Senator Kilzer moved do Pass on amendment 11.8156.01005.**

**Senator Warner seconded.**

**A Roll Call vote #3 was taken. Yea: 13 Nay: 0 Absent: 0**

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**Senator Warner** – Explains amendment 11.8156.01006 refers to the Domestic Violence Fatality Review Commission. This was a policy bill (2247) which has the support of the Attorney General's office. The Attorney General has recommended a lesser amount than in the initial fiscal note. The initial fiscal note required about eighteen thousand dollars and this amendment is for ten thousand dollars. This is a post trial commission because it deals with confidential matters with the nature of the integrity of evidence this is a process that cannot take place before or during the trial but it does allow for different agencies to come together, many that have silos and firewalls to prevent the exchange of information, to come together after things have been resolved legally and have some candid discussions on what went right and what went wrong in cases that escalated to cause a death. He said we already have in current law a similar commission that deals with deaths of children. This allows the privacy and confidentiality to be expanded for this one purpose where people who normally are required by law to maintain the integrity of confidentiality to share information after things have been adjudicated. Meetings are not public. They cannot use the basis of the commission to come up with another charge or develop another criminal. This is strictly to provide another level of examination for process and procedures used by law enforcement and social workers. Senator Kilzer brings up that the subcommittee to not accept this amendment. He asks that this amendment not be accepted.

**Vote #4**

**Amendment 11.8156.01006**

**Senator Warner moved Do Pass on amendment 11.8156.01006**

**Senator Robinson seconded.**

**A Roll Call vote #4 was taken. Yea: 4 Nay: 9 Absent: 0**

**Amendment fails.**

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**Vote #5**

**Senator Warner** – Explains amendment 11.8156.01003, he says this deals with an issue they heard in subcommittee. He explains on the House side there was an initiative in a Higher Education Bill which would have funded a victim assistance academy, an existing program that relied on Federal funding which is no longer available. The initial request on the House side was \$200,000 from the General Fund for a grant to the Victims Assistance Academy. This is a program at Minot State University, they bring in people to train community providers who in a normal course of business deal with victims of crime and victims of crisis.

**Senator Holmberg** asks if this would be appropriate when they have the Higher Education Budget. Senator Warner says the Attorney General says it's a program worthy of support. It needs to be housed in some budget.

**Senator Krebsbach** says the bill that was introduced as a standalone bill in the House was run through Higher Ed. She says there was a lot of concern adding more to the Higher Ed budget. She said she knows they don't like picking up programs that the Federal is cutting out but this is something that is spread throughout the state. She continues on that there is an advisory board with this group and the attendees are a state wide group that come for this assistance. She said it is an awareness training for people receiving this training, many of who do not know how to deal with victims. She says when she brought the proposal forward to the subcommittee they were looking for only \$100,000 because they were seeking a grant and the grant they made application for was \$80,000, they have now be awarded \$50,000 on that grant. She said they needed a vehicle to attach this to and the AG's budget seemed likely since they deal with victims. She said this is a very good program and as a State we should continue these services to the public.

Senator Kilzer mentions this program is very good; the program is a week long program in June and second week for advanced training in November. He says there is no money that goes to the victims; the money is for the training.

**11.8156.01003**

**Senator Warner moved Do Pass on amendment 11.8156.01003.**

**Senator Krebsbach seconded.**

**A Roll Call vote #5 was taken. Yea: 4 Nay: 9 Absent: 0**

**Amendment fails.**

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**Vote #6**

**Senator Kilzer moved Do Pass as Amended on SB 2003.**

**Senator Warner seconded.**

**A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0**

**Senator Kilzer will carry the bill.**

**2011 Senate Bill No. 2003 – Office of Attorney General**

**SECTION \_\_. 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, 2011.

**SECTION \_\_. EMERGENCY.** Section \_\_ of this Act is declared to be an emergency measure.

Date: 2-10-1  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

Senate \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number amend. no. # "Short" amendment

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen Kilzer Seconded By Sen Warner

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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



January 20, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2003

Page 1, line 4, replace "section" with "sections"

Page 1, line 4, after "54-12-11" insert "and 57-43.1-03.2"

Page 1, line 5, after "general" insert "and refunds of tax for fuel purchased by native Americans"

Page 3, after line 10, insert:

**"SECTION 7. AMENDMENT.** Section 57-43.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax refund reserve fund - Continuing appropriation.**

1. A native American may file a claim with the tax commissioner for a refund of motor vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from a retail fuel dealer located on the Indian reservation where the native American is an enrolled member and the fuel was delivered to the native American on that reservation. The refund provisions of this chapter apply to refund claims made under this section.
2. A fuels tax refund reserve fund is created as a special fund in the state treasury. The tax commissioner shall deposit in that fund such amounts from motor vehicle fuel tax and special fuel tax collections ~~as the attorney general determines~~ necessary to be expended for refunds to which native American government entities may be entitled under qualifying circumstances and conditions determined by the attorney general. There is appropriated as a continuing appropriation out of funds set aside under this subsection so much of the funds as ~~the attorney general determines~~ is necessary to meet the expenditures authorized under this subsection and such funds may be expended for that purpose."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment allows the Tax Commissioner, rather than the Attorney General, to determine the amount of motor vehicle fuel excise tax and special fuel tax collections to deposit in the fuels tax refund reserve fund and the amount of funds necessary to meet expenditure requirements under Section 57-43.1-03.2.

Date: 2-10-11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

Senate \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8156-01001

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Kilzer Seconded By Sen. Fischer

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

February 8, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2003

Page 1, line 4, replace "section" with "sections 12-60-25,"

Page 1, line 4, after "54-12-11" insert ", and 57-43.1-03.2"

Page 1, line 4, after "to" insert "missing children,"

Page 1, line 5, after "general" insert ", and refunds of tax for fuel purchased by native Americans"

Page 2, after line 20, insert:

**"SECTION 4. AMENDMENT.** Section 12-60-25 of the North Dakota Century Code is amended and reenacted as follows:

**12-60-25. Lost, missing, or runaway children.**

The bureau shall:

1. ~~Establish and maintain a statewide file system for the purpose of effecting an immediate law enforcement response to reports of lost, missing, or runaway children.~~
2. Implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information that can assist appropriate agencies in recovering lost, missing, or runaway children through the national crime information center.
- ~~3.2.~~ Establish contacts and exchange information regarding lost, missing, or runaway children with the national crime information center.
- ~~4.3.~~ Notify all enforcement agencies that reports of lost, missing, or runaway children must be entered as soon as the minimum level of data specified by the bureau is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the bureau immediately upon notification shall enter the information into the national crime information center file.
- ~~5.4.~~ Compile and retain information regarding lost, missing, or runaway children ~~in a separate file,~~ in a manner that allows the information to be used by law enforcement and other agencies, considered appropriate by the bureau, for investigative purposes. The reporting law enforcement agency is responsible for maintaining the disposition of the case and periodically shall review the case with the reporting party and the bureau to ensure all available information is included and to determine the current status of the case.
- ~~6.5.~~ Provide prompt confirmation of the receipt and entry of lost, missing, or runaway children reports ~~into the file system~~ to the enforcement agency

providing the report or to the parent, guardian, or identified family member as provided in subsection 7.

- ~~7.6.~~ Allow any parent, guardian, or identified family member to submit a lost, missing, or runaway child report to the bureau which will be included in the ~~bureau file system~~ and transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.
- ~~8.7.~~ Compile and maintain a historical data repository information relating to lost, missing, or runaway children for all of the following purposes:
- a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of lost, missing, or runaway children.
  - b. To provide a factual and statistical base for research which would address the problem of lost, missing, or runaway children."

Page 3, after line 10, insert:

**"SECTION 8. AMENDMENT.** Section 57-43.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax refund reserve fund - Continuing appropriation.**

1. A native American may file a claim with the tax commissioner for a refund of motor vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from a retail fuel dealer located on the Indian reservation where the native American is an enrolled member and the fuel was delivered to the native American on that reservation. The refund provisions of this chapter apply to refund claims made under this section.
2. A fuels tax refund reserve fund is created as a special fund in the state treasury. The tax commissioner shall deposit in that fund such amounts from motor vehicle fuel tax and special fuel tax collections as ~~the attorney general determines~~ necessary to be expended for refunds to which native American government entities may be entitled under qualifying circumstances and conditions determined by the attorney general. There is appropriated as a continuing appropriation out of funds set aside under this subsection so much of the funds as ~~the attorney general determines~~ is necessary to meet the expenditures authorized under this subsection and such funds may be expended for that purpose."

Renumber accordingly

Date: 2-10-11  
Roll Call Vote # 3

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

Senate \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number Amend 11.8156.01005

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen Kilzer Seconded By Sen Warner

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2003

Page 1, line 2, after "enact" insert "a new section to chapter 14-07.1 and"

Page 1, line 3, after the first "to" insert "a domestic violence fatality review commission,"

Page 1, line 3, after "fees" insert a comma

Page 1, replace line 15 with:

"Operating expenses 14,750,431 1,677,585 16,428,016"

Page 1, replace line 24 with:

"Total all funds \$50,862,653 \$7,598,203 \$58,460,856"

Page 2, replace line 2 with:

"Total general fund \$28,060,432 \$3,559,106 \$31,619,538"

Page 2, after line 20, insert:

"SECTION 4. A new section to chapter 14-07.1 of the North Dakota Century Code is created and enacted as follows:

**Domestic violence fatality review commission.**

1. The attorney general's office may establish a domestic violence fatality review commission to review domestic violence deaths that have occurred in the state. The domestic violence fatality review commission may review incidents in which the investigation of fatal incidents of domestic violence has been completed or adjudicated by law enforcement for the purpose of:
  - a. Recommending policies and protocols to prevent the incidence of domestic violence and resulting fatalities; and
  - b. Providing consultation and coordination for agencies involved in the prevention and investigation of domestic violence.
2. The attorney general shall appoint the membership of the domestic violence fatality review commission, as appropriate, and may include representatives from:
  - a. Law enforcement agencies within the state;
  - b. County or city attorneys and public defenders and the judiciary;
  - c. The medical examiner;
  - d. The department of corrections and rehabilitation;
  - e. Physicians and mental health professionals;
  - f. Employees of the state department of health and county social services;

- g. Local civic agencies and organizations involved with crime victims and domestic violence protection, reporting, counseling, and assistance;
  - h. Other organizations, departments, and agencies determined to be appropriate; and
  - i. Other individuals serving on an ad hoc basis in association with a particular review.
3. The commission may investigate and review the facts and circumstances of all deaths that occur in the state as a result of domestic violence.
- a. The review may include necessary and appropriate information, including current laws and policies, actions taken by agencies and persons related to or involved with the incident, criminal justice data collection and analysis, and other information the commission determines to be relevant to the review.
  - b. The confidential and other appropriate records of a department or agency of the state or municipality relating to the domestic violence incident may be examined by the commission. The domestic violence fatality review commission and each member of the commission shall preserve the confidentiality of any records examined.
4. The domestic violence fatality review commission shall report its findings and recommendations to the attorney general before December thirty-first of each year.
5. Meetings of the domestic violence fatality review commission are closed to the public and are not subject to section 44-04-19.
6. The determinations, conclusions, and recommendations of the domestic violence fatality review commission are not admissible in a civil or criminal proceeding.
7. Except for a public report issued by the attorney general's office, any information, records, or data collected by the commission are an otherwise exempt record. The commission may not use the information, records, or data for purposes other than those designated by this section."

Renumber accordingly

# **STATEMENT OF PURPOSE OF AMENDMENT:**

## **Senate Bill No. 2003 - Attorney General - Senate Action**

	Executive Budget	Senate Changes	Senate Version
Salaries and wages	\$29,573,339		\$29,573,339
Operating expenses	16,418,016	10,000	16,428,016
Capital assets	2,256,183		2,256,183
Grants	3,420,000		3,420,000
Litigation fees	50,000		50,000
Medical examinations	660,000		660,000
North Dakota Lottery	3,700,242		3,700,242
Arrest and return of fugitives	10,000		10,000
Gaming Commission	7,368		7,368
Federal stimulus funds	2,355,708		2,355,708
Total all funds	\$58,450,856	\$10,000	\$58,460,856

Less estimated income	26,841,318	0	26,841,318
General fund	\$31,609,538	\$10,000	\$31,619,538
FTE	202.50	0.00	202.50

**Department No. 125 - Attorney General - Detail of Senate Changes**

	Adds Funding for Operating Expenses <sup>1</sup>	Total Senate Changes
Salaries and wages		
Operating expenses	10,000	10,000
Capital assets		
Grants		
Litigation fees		
Medical examinations		
North Dakota Lottery		
Arrest and return of fugitives		
Gaming Commission		
Federal stimulus funds		
Total all funds	\$10,000	\$10,000
Less estimated income	0	0
General fund	\$10,000	\$10,000
FTE	0.00	0.00

<sup>1</sup> This amendment adds funding for operating expenses relating to the Domestic Violence Fatality Review Commission.

This amendment also adds a section to create a new section to North Dakota Century Code Chapter 14-07.1 to create a Domestic Violence Fatality Review Commission.



Date: 2-10-11  
Roll Call Vote # 4

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

Senate \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number 11-8156-01006

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Warner Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg		✓	Senator Warner	✓	
Senator Bowman		✓	Senator O'Connell	✓	
Senator Grindberg		✓	Senator Robinson	✓	
Senator Christmann		✓			
Senator Wardner		✓			
Senator Kilzer		✓			
Senator Fischer		✓			
Senator Krebsbach	✓	✓			
Senator Erbele		✓			
Senator Wanzek		✓			

Total (Yes) 4 No 9

Absent 0

Floor Assignment Sen. Kilzer

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2003

Page 1, replace line 17 with:

"Grants 3,452,225 67,775 3,520,000"

Page 1, replace line 24 with:

"Total all funds \$50,862,653 \$7,688,203 \$58,550,856"

Page 2, replace line 2 with:

"Total general fund \$28,060,432 \$3,649,106 \$31,709,538"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2003 - Attorney General - Senate Action

	Executive Budget	Senate Changes	Senate Version
Salaries and wages	\$29,573,339		\$29,573,339
Operating expenses	16,418,016		16,418,016
Capital assets	2,256,183		2,256,183
Grants	3,420,000	100,000	3,520,000
Litigation fees	50,000		50,000
Medical examinations	660,000		660,000
North Dakota Lottery	3,700,242		3,700,242
Arrest and return of fugitives	10,000		10,000
Gaming Commission	7,368		7,368
Federal stimulus funds	2,355,708		2,355,708
Total all funds	\$58,450,856	\$100,000	\$58,550,856
Less estimated income	26,841,318	0	26,841,318
General fund	\$31,609,538	\$100,000	\$31,709,538
FTE	202.50	0.00	202.50

Department No. 125 - Attorney General - Detail of Senate Changes

	Adds Funding for a Grant to Victim Assistance Academy <sup>1</sup>	Total Senate Changes
Salaries and wages		
Operating expenses		
Capital assets		
Grants	100,000	100,000
Litigation fees		
Medical examinations		
North Dakota Lottery		
Arrest and return of fugitives		
Gaming Commission		
Federal stimulus funds		
Total all funds	\$100,000	\$100,000
Less estimated income	0	0
General fund	\$100,000	\$100,000

FTE

0.00

0.00

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<sup>1</sup> This amendment adds funding of \$100,000 from the general fund for a grant to the Victim Assistance Academy.

Date: 2-10-11  
Roll Call Vote # 5

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

Senate Approp Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8156.1003

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Warner Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg		✓	Senator Warner	✓	
Senator Bowman		✓	Senator O'Connell	✓	
Senator Grindberg		✓	Senator Robinson	✓	
Senator Christmann		✓			
Senator Wardner		✓			
Senator Kilzer		✓			
Senator Fischer		✓			
Senator Krebsbach	✓				
Senator Erbele		✓			
Senator Wanzek		✓			

Total (Yes) 4 No 9

Absent 0

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2003

Page 1, line 4, replace "section" with "sections 12-60-25,"

Page 1, line 4, after "54-12-11" insert ", and 57-43.1-03.2"

Page 1, line 4, after "to" insert "missing children,"

Page 1, line 5, after "general" insert ", and refunds of tax for fuel purchased by native Americans; to provide an exemption; and to declare an emergency"

Page 2, after line 20, insert:

**"SECTION 4. AMENDMENT.** Section 12-60-25 of the North Dakota Century Code is amended and reenacted as follows:

**12-60-25. Lost, missing, or runaway children.**

The bureau shall:

1. ~~Establish and maintain a statewide file system for the purpose of effecting an immediate law enforcement response to reports of lost, missing, or runaway children.~~
2. Implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information that can assist appropriate agencies in recovering lost, missing, or runaway children through the national crime information center.
- ~~3.2.~~ Establish contacts and exchange information regarding lost, missing, or runaway children with the national crime information center.
- ~~4.3.~~ Notify all enforcement agencies that reports of lost, missing, or runaway children must be entered as soon as the minimum level of data specified by the bureau is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the bureau immediately upon notification shall enter the information into the national crime information center file.
- ~~5.4.~~ Compile and retain information regarding lost, missing, or runaway children ~~in a separate file,~~ in a manner that allows the information to be used by law enforcement and other agencies, considered appropriate by the bureau, for investigative purposes. The reporting law enforcement agency is responsible for maintaining the disposition of the case and ~~periodically shall review the case with the reporting party and the bureau to ensure all available information is included and to determine the current status of the case.~~
- ~~6.5.~~ Provide prompt confirmation of the receipt and entry of lost, missing, or runaway children reports ~~into the file system~~ to the enforcement agency

providing the report or to the parent, guardian, or identified family member as provided in subsection 7.

~~7.6.~~ Allow any parent, guardian, or identified family member to submit a lost, missing, or runaway child report to the bureau which will be included in the ~~bureau file system and~~ transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.

~~8.7.~~ Compile and maintain a historical ~~data repository~~ information relating to lost, missing, or runaway children for all of the following purposes:

- a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of lost, missing, or runaway children.
- b. To provide a factual and statistical base for research which would address the problem of lost, missing, or runaway children."

Page 3, after line 10, insert:

**"SECTION 8. AMENDMENT.** Section 57-43.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax refund reserve fund - Continuing appropriation.**

1. A native American may file a claim with the tax commissioner for a refund of motor vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from a retail fuel dealer located on the Indian reservation where the native American is an enrolled member and the fuel was delivered to the native American on that reservation. The refund provisions of this chapter apply to refund claims made under this section.
2. A fuels tax refund reserve fund is created as a special fund in the state treasury. The tax commissioner shall deposit in that fund such amounts from motor vehicle fuel tax and special fuel tax collections as ~~the attorney general determines~~ necessary to be expended for refunds to which native American government entities may be entitled under qualifying circumstances and conditions determined by the attorney general. There is appropriated as a continuing appropriation out of funds set aside under this subsection so much of the funds as ~~the attorney general determines~~ is necessary to meet the expenditures authorized under this subsection and such funds may be expended for that purpose.

**SECTION 9. ATTORNEY GENERAL REFUND FUND TRANSFER TO THE GENERAL FUND - EXEMPTION.** 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, 2011.

**SECTION 10. EMERGENCY.** Section 9 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2003 - Attorney General - Senate Action**

This amendment:

- Amends North Dakota Century Code Section 12-60-25 to remove the requirement that the Attorney General create and maintain a statewide file system for lost, missing, or runaway children and provides for an exchange of information relating to lost, missing, or runaway children through the National Crime Information Center.
- Amends Section 57-43.1-03.2 to allow the Tax Commissioner, rather than the Attorney General, to determine the amount of motor vehicle fuel excise tax and special fuel tax collections to deposit in the fuels tax refund reserve fund and the amount of funds necessary to meet expenditure requirements under Section 57-43.1-03.2.
- Adds a section as an emergency to allow the Attorney General to retain the balance in the refund fund that would otherwise be transferred to the general fund at the end of the biennium.

Date: 2-10-11  
Roll Call Vote # 6

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen Kilger Seconded By Sen Warner

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilger	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Sen Kilger

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



**REPORT OF STANDING COMMITTEE**

**SB 2003: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2003 was placed on the Sixth order on the calendar.

Page 1, line 3, remove the third "and"

Page 1, line 4, replace "section" with "sections 12-60-25,"

Page 1, line 4, after "54-12-11" insert ", and 57-43.1-03.2"

Page 1, line 4, after "to" insert "missing children,"

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- ~~5-4.~~ Compile and retain information regarding lost, missing, or runaway children ~~in a separate file,~~ in a manner that allows the information to be used by law enforcement and other agencies, considered appropriate by the bureau, for investigative purposes. The reporting law enforcement agency is responsible for maintaining the disposition of the case and ~~periodically shall review the case with the reporting party and the bureau to ensure all available information is included and to determine the current status of the case.~~
- ~~6-5.~~ Provide prompt confirmation of the receipt and entry of lost, missing, or runaway children reports ~~into the file system~~ to the enforcement agency providing the report or to the parent, guardian, or identified family member as provided in subsection ~~76.~~

- ~~7-6.~~ Allow any parent, guardian, or identified family member to submit a lost, missing, or runaway child report to the bureau which will be included in the ~~bureau file system~~ and transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.
- ~~8-7.~~ Compile and maintain a historical ~~data repository~~ information relating to lost, missing, or runaway children for all of the following purposes:
- a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of lost, missing, or runaway children.
  - b. To provide a factual and statistical base for research which would address the problem of lost, missing, or runaway children."

Page 3, after line 10, insert:

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**57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax refund reserve fund - Continuing appropriation.**

1. A native American may file a claim with the tax commissioner for a refund of motor vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from a retail fuel dealer located on the Indian reservation where the native American is an enrolled member and the fuel was delivered to the native American on that reservation. The refund provisions of this chapter apply to refund claims made under this section.
2. A fuels tax refund reserve fund is created as a special fund in the state treasury. The tax commissioner shall deposit in that fund such amounts from motor vehicle fuel tax and special fuel tax collections as ~~the attorney general determines~~ necessary to be expended for refunds to which native American government entities may be entitled under qualifying circumstances and conditions determined by the attorney general. There is appropriated as a continuing appropriation out of funds set aside under this subsection so much of the funds as ~~the attorney general determines~~ is necessary to meet the expenditures authorized under this subsection and such funds may be expended for that purpose.

**SECTION 9. ATTORNEY GENERAL REFUND FUND TRANSFER TO THE GENERAL FUND - EXEMPTION.** 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, 2011.

**SECTION 10. EMERGENCY.** Section 9 of this Act is declared to be an emergency measure."

Renumber accordingly

**2011 HOUSE APPROPRIATIONS**

**SB 2003**

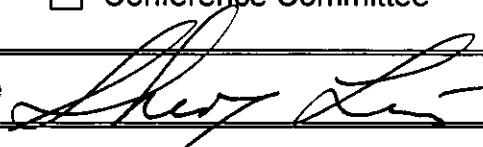
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

SB2003  
March 8, 2011  
Recorder Job# 15065

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the attorney general; to create and enact two new sections to chapter 18-01 of the North Dakota Century Code, relating to fire and tornado fund fees and petroleum release compensation fund fees; to amend and reenact sections 12-60-25, 54-12-11, and 57-43.1-03.2 of the North Dakota Century Code, relating to missing children, the salary of the attorney general, and refunds of tax for fuel purchased by native Americans; to provide an exemption; and to declare an emergency.

## Minutes:

**Chairman Thoreson:** Opened the hearing on SB2003.

**Becky Keller, North Dakota Legislative Council:** This is a booklet of a compilation of most of the state trust funds and these have been updated from the ones that you received in January and they reflect the legislative action through March 7, 2011. Basically it's just the updated versions of all the trust funds that you can tell where we're sitting balance wise with those.

**Chairman Thoreson:** Does this show the number we had at the beginning of the session and the changes up to this point?

**Becky Keller:** It will show the new numbers.

**Tom Trenbeath, Deputy General, North Dakota Attorney General:** See attached testimony 2003.3.8.11A. Mr. Trenbeath also made introductions of the members of the Attorney General's office that were present.

**Chairman Thoreson:** What page are you on?

**Tom Trenbeath:** Page 19.

Testimony continued.

**Representative Klein:** These containers are placed in the police stations throughout the state or is there any particular area that you put them into?

**Tom Trenbeath:** They were begun by putting them in the foyers or in the entry ways or as close as they could to the front door of the police stations in those 4 cities. Since then, it's been such a success that 11 more smaller towns have been added to that effort.

**Representative Klein:** So there's basically 15 of them?

**Tom Trenbeath:** Yes, that's my understanding. To date there has been collected ½ ton of drugs.

**Chairman Thoreson:** You destroy the product itself what about the container that has the name of the person on there? That could be considered to be confidential medical information. Is that also destroyed?

**Tom Dahl, North Dakota Bureau of Criminal Investigation:** The top of the container allows for large pill bottles to go through; so a lot of people will either just dump the pill bottles themselves in there. What happens is a lot of times people will take a Sharpie and take their name off of them. When our agents collect them, they're just dumped in a larger container and then taken out to be incinerated; nobody looks through them or anything like that.

**Chairman Thoreson:** The containers themselves are disposed of?

**Tom Dahl:** Yes

**Representative Klein:** So what do you do with all of these cities, do you destroy them in some method; burn them or how do you take care of them?

**Tom Dahl:** They are taken to an incinerator. Each jurisdiction that is responsible for the drug collection boxes has a facility that will take these prescription drugs and incinerate them.

Tom Trenbeath continued with his testimony.

**Representative Dahl:** With regards to fines collected in those do not call cases, where do those funds go?

**Tom Trenbeath:** To the extent that the injured party is identifiable, and this doesn't have to do with do not call necessarily, the money goes to the people that are out the money. With respect to do not call and our participation in other possibly nationwide efforts on behalf of the consumers that goes into our refund fund; which is managed by the department and pays for consumer protection.

Testimony continued.

**Chairman Thoreson:** Would you give us a quick review of what it does?

**Tom Trenbeath:** It was begun in South Dakota some years ago and found to be successful; and due to the relationship between our Attorney General and their Attorney

General, it has since translated to North Dakota with the assistance and enabling of the legislature. What it does is its mantra is with respect to alcohol related driving offenses. For years we've told you that you can't drive; and that's not working. Now we're going to tell you that you can't drink. What it does is if you're arrested for a second or subsequent alcohol related driving offense, the judge may; not mandated, as part of a release bond, say that they're putting you on the 24/7 program. What that means is that 7 days a week 24 hours a day you will abstain from consumption of alcohol. Twice a day every day you'll appear at the sheriff's office or wherever the place happens to be; and at that place at 7:00 in the morning and 7:00 at night, or whatever the times might be, you'll blow into the tube. If you have consumed alcoholic beverages, you will be arrested until the judge authorizes your release again. If a person comes in and fails that test, it's sit on the bench for 20 minutes and come back and do it again. In the meantime, you've probably done another 10 or so people; and the machine is functioning fine. The person comes back and blows bad again, the jigs up. It has been marvelously successful. There are people that hate to go on that program; and when they're done, hate to get off it.

**Representative Dahl:** In terms of judges applying this program to a criminal defendant, have you noted that some communities are using this program more than other parts of the state; or is it being evenly applied?

**Tom Trenbeath:** It's more dependent on the judge than the locale. There are judges that have pushed against this and there are also judges that have gone far in excess of what it was originally intended. To use it on bail conditions on such things as domestic violence charges and other things that might be alcohol related; but not driving charges.

Testimony continued.

**Representative Klein:** This refund program; explain a little of what it does?

**Tom Trenbeath:** The refund fund comes the consumer protection division which pursues entities and persons; but, mostly entities for their actions which are unlawful with respect to misrepresentations, etc to consumers. There's a series of fines that are leviable; usually there are consent agreements between our office and the offending entity. Almost exclusively they are out of state entities and they pay these fines. Plus we participate through our consumer protection division in nationwide claims against large organizations. The refund fund dollars are used for various projects which includes funding the consumer protection division.

**Kathy Roll, Financial Administrator, North Dakota Attorney General:** The refund fund is also used to pay for Indian gaming services. Our gaming division goes out and makes sure the tribes are complying with the law; we bill them for what we incur and they replace that money.

**Representative Kempenich:** What have you done with that money in the past? Did it go to the general fund or has that stayed in your refund fund?

**Kathy Roll:** The statute provides for the balance in the refund fund to go to the general fund at the end of the biennium. For the 2011-2013 biennium, the budget already includes

projects that will use up almost all that balance. That's the reason for the emergency clause; so the fund doesn't revert back to the general fund but is available to use in the next biennium.

**Representative Kempenich:** I guess it's all semantics; it's \$500,000.00 is what they're estimating for this program to set up.

**Kathy Roll:** There has been no provision for the \$500,000.00 that would be needed if a new database was created.

**Representative Kempenich:** Do you need a new data base?

**Kathy Roll:** We do not. This was a part of the division of mercy services; and when it was transferred to us, they were already using the national crime information center as the clearing house and to track those kinds of cases. There is not a need to have a separate database; this one works fine and is what we're proposing would continue to be used.

**Representative Kempenich:** How much would this cost?

**Kathy Roll:** There is no cost.

**Representative Kempenich:** There must be some cost if you want to keep some of the refund money.

**Kathy Roll:** Those are 2 different issues.

**Representative Klein:** If memory serves me correctly, about 7 sessions ago we funded some projects using some of that money out of that fund.

**Kathy Roll:** That's correct. The Ag Department benefited by that; there were a number of different ways that used during that session. Those monies that were collected related to those areas.

**Representative Kempenich:** They had to be used in related areas on some of that?

**Kathy Roll:** That was true for some of them; but, not for all of them.

Testimony continued.

**Chairman Thoreson:** Any idea what the history of that is; how the Attorney General's office became involved?

**Tom Trenbeath:** I don't recall that.

**Chairman Thoreson:** Not yourself or anyone else really new why it was done?

**Tom Trenbeath:** Yes.

**Representative Klein:** Was that part of the fuel tax refund operation; was that involved in this same thing?

**Tom Trenbeath:** That's correct.

Testimony continued.

**Representative Klein:** I'm looking at the top of page 8, there's \$178,000.00 in special funds and \$30,000.00 from the general fund for a crime lab. Where did that special fund come from?

**Tom Trenbeath:** That's one of those situations where the refund fund comes in.

Testimony continued.

**Representative Kempenich:** Is that part of the \$312,000.00 you're requesting?

**Tom Trenbeath:** I don't see the \$312,000.00 but it is in the operating changes, private act service maintenance agreements.

**Duane Stanley, Special Investigator, North Dakota Bureau of Criminal Investigation:** See attached testimony 2003.3.8.11C.

**Chairman Thoreson:** So these people are assigned full time to SLIC is that correct?]

**Duane Stanley:** They are.

**Chairman Thoreson:** So for example, the highway patrol sergeant isn't somebody who's a trooper who also does this. This is his full time duty?

**Duane Stanley:** This is his job.

**Chairman Thoreson:** What is it that each of these people are designated to do within this organization; you have people from very different backgrounds? Are each assigned specific duties to look at things?

**Duane Stanley:** They are all assigned different rolls. Referenced testimony and explained different rolls.

**Chairman Thoreson:** The people in this office are funded through different departments?

**Duane Stanley:** Yes.

**Chairman Thoreson:** Where are you located?

**Duane Stanley:** Underground at the Fraine Barracks building 400.

Testimony continued.



**Representative Kempenich:** Is this email type stuff?

**Duane Stanley:** Yes, they are.

**Representative Kempenich:** In the first you do teletype or do you email that?

**Duane Stanley:** That is also pushed out email.

Testimony continued.

**Chairman Thoreson:** Are those something we have to subscribe to or how do you get access to those databases?

**Duane Stanley:** Some of those are online, some BCI pays for and other ones are federal.

**Representative Kempenich:** How long do you store this information?

**Duane Stanley:** We keep it 5 years then it's purged.

Testimony continued

**Chairman Thoreson:** What's TLO?

**Duane Stanley:** Is a database The Last One.

**Chairman Thoreson:** Including purchases at stores?

**Duane Stanley:** No, not purchases at stores.

**Representative Brandenburg:** What's her name?

**Duane Stanley:** Tammy Jean Williams.

Testimony continued.

**Representative Klein:** Is this system fast enough so when an officer tries to respond to an area; can he get that information fast enough as he's responding to that call?

**Duane Stanley:** We would like to think so. We like to prioritize; it is fast, but, it takes some time depending how in depth you want to go.

**Representative Klein:** I can see if an officer is responding, he would like to know what he's getting into.

**Duane Stanley:** Sometimes you're not capable.

**Representative Kempenich:** How vulnerable were you when the electricity went off a month ago. Did you get affected by it as well?

**Duane Stanley:** No, we did not.

Testimony continued.

**Chairman Thoreson:** Recessed the hearing.

**Chairman Thoreson:** Reopened the hearing.

**Hope Olson, Director, North Dakota Crime Laboratory:** See attached testimony 2003.3.8.11D.

**Representative Klein:** The agreements are usually with the manufacturer and it's very limited as to who can do that?

**Hope Olson:** You're correct. They are very specific to the manufacturer. We use the recommendations by the manufacturer because that's part of our accreditation standards that we have to have preventative schedules to keep to keep the instruments calibrated and running efficiently. We try not to carry agreements on instruments we can fix ourselves.

**Representative Klein:** When I look at the figure it's pretty costly but I imagine that there aren't that many people that do that.

**Hope Olson:** You're correct. If the laboratory is unable to have these agreements, we wouldn't be able to perform the legislative mandates and provide timely analysis for the law enforcement community.

**Representative Klein:** I'm looking at this vendor samples workload. It amazes me that you go from 200 samples to over 3,000.00. We haven't changed the population that much, crime rate; how do you explain that?

**Hope Olson:** That's the offender sample data base. The change represents the change in the law successively. When the law was first passed in 1995, it only included violent offenders and the most violent people were collected for their DNA sample. Gradually, it became sexual offenders. Then all convicted felons; and the law changed to all felony arrestees.

**Representative Klein:** This isn't the DNA; this is just the offender samples.

**Hope Olson:** That's just the offender database. So those are people that are either convicted of a felony offense, arrested of a felony offense, or court ordered or registered sex offender. Those are people we collect samples from, profile their DNA, and they go into a national DNA database.

Testimony continued.

**Representative Klein:** How many people do you have on staff and how many are certified?

**Hope Olson:** Right now we have 24 staff members total; of the 24 we have 19 forensic scientists. Currently, there are no analysts certified in their discipline at the laboratory.

**Representative Klein:** There are no analysts certified?

**Hope Olson:** I'm talking about the national certification test; similar to what an accountant would take for CPA exams.

**Representative Klein:** If they're not certified don't you have problems with being able to use that as evidence and so on? Are you pushing for certification?

**Hope Olson:** We at the laboratory are an accredited laboratory. We have intensive training programs for our forensic analysts before they can start case work. A certification examination will add to their credibility in court; it's not mandatory right now for them to have that to testify as an expert.

**Representative Klein:** So when they do become certified, do you have a separate pay grade for that certification.

**Hope Olson:** We currently do not have any pay grades in place. We would like to begin a proactive approach and that's what this increase would provide. It's a modest increase between \$100.00 and \$200.00 a month in their pay if they would pass the certification exam.

**Representative Klein:** That some sort of incentive to get certified.

**Hope Olson:** That's correct.

**Representative Klein:** We do that for everything from teachers to auditors to what not.

**Representative Kempenich:** On your budget you're asking for about \$1 million to bring your lab up also. Does that need to be certified also?

**Hope Olson:** Currently the laboratory is accredited. We are working towards a higher standard which we hope to approach next year. The laboratory is accredited and we would like our analysts to work towards being certified as well.

**Representative Klein:** Have you been able to fund some of your equipment by federal grants?

**Hope Olson:** We do have a couple of federal grants available for purchasing equipment. We have the Paul Coverdale Grant and the DNA Forensic Reduction Program and we're able to purchase equipment. Most of our grant money for DNA goes for purchasing the profiling kits we use for DNA analysis. That's why we need in addition to the grant dollars we need a permanent funding mechanism in place to replace the equipment as needed.

**Representative Kempenich:** Do you have a schedule of what you're looking at?

**Hope Olson:** We do have a schedule; but, the vendor when we purchase an instrument we can only estimate that it will 6 to 8 years, depending on the use.

**Representative Kempenich:** We're probably going to need a copy.

**Hope Olson:** We do have an approximate schedule; it changes depending on the use of the instrument. We do have one in place and that's how we decided on a percentage of our capital assets to use as the replacement schedule.

**Tom Trenbeath:** See attached testimony 2003.3.8.11A.

**Chairman Thoreson:** Refresh on the offender samples. Is it if they're arrested or charged?

**Tom Trenbeath:** It graduated. I think that the last one that was passed was commonly referred to as all arrestees; which are felony arrests.

**Chairman Thoreson:** So if you're arrested but not charged with a crime, you would still provide a sample?

**Tom Trenbeath:** You would be providing a sample possibly before you even appeared in court.

**Representative Klein:** Wasn't there something last session if you're found not guilty, it wouldn't stay in the database?

**Tom Trenbeath:** There is. That can be expunged.

**Chairman Thoreson:** What's the bill number on that?

**Hope Olson:** SB2189.

**Tom Dahl, Special Agent, North Dakota Bureau of Criminal Investigation:** See attached testimony 2003.3.8.11A.

**Representative Klein:** Where's that information forwarded to? Does that piece of equipment forward that information or is it just recorded?

**Tom Dahl:** Alcohol Monitoring systems, the company that manufactures these bracelets is located in Littleton, CO; which is a suburb of Denver. We have individuals that receive these bracelets and only have cell phones; we give them a base station that records this information. That information is then transferred down to Littleton, CO; where they analyze the information. If the individual doesn't have a cell phone or landline, we have a direct connect device that hooks on the bracelet.

**Representative Klein:** So every sheriff's office has the equipment to download those things?

**Tom Dahl:** Yes, they do. We designated the sheriff's offices as the agencies to administer the program; because not every county has a police department, but, they do all have a sheriff's office. That's why sheriff's offices were designated.

Testimony continued.

**Representative Kempenich:** You lock those bracelets on?

**Tom Dahl:** Yes, I'll pass both those around to you.

**Representative Kempenich:** How many are being used on an average?

**Tom Dahl:** As of yesterday we had 73 people; the numbers fluctuate day to day. We have 233 people coming in twice a day to blow into the SD5 machine; as of yesterday.

**Representative Kempenich:** Those don't have a GPS on them do they?

**Tom Dahl:** Those particular units do not. That is something that's going to come in the future. Also written into the 24/7 law is a component allowing the department of corrections for people coming out of the North Dakota Penitentiary on parole to also go on those bracelets. North Dakota department of corrections has purchase 10 of their own bracelets and we have also given them some bracelets. They've put approximately 30 parolees on those bracelets.

**Representative Kroeber:** You said it costs \$1,500.00 to buy the bracelets. What is the cost for monitoring; reporting to Littleton and back?

**Tom Dahl:** The defendant pays the cost of this. It's \$5.00 per day for people to go on that bracelet. It's \$1.00 per test on the SD5; so that would be \$2.00 per day. Additionally, people that are going to utilize the bracelet, have to pay a \$50.00 fee up front. That's a \$25.00 fee to put the bracelet on and \$25.00 to disconnect it. Therefore, the cost associated with the 24/7 program is borne by the defendant. The sheriff's office keeps the \$50.00 to support the program. \$5.00 per day goes to alcohol monitoring systems to monitor the individual.

Recording glitch.

**Tom Dahl:** We rolled out this program by judicial district.

**Chairman Thoreson:** You made a comment earlier that people hate to get on the program and then hate to get off it. What's your experience with that? When people are getting off of it; does that mean they've completed the program? Why would they want to continue on; is it just that it's stopping them from drinking?

**Tom Dahl:** That's exactly right. For the first time they're being held accountable for their actions. They're showing up for work sober, they have their family relations back, they're just being held to a higher standard.

**Representative Kempenich:** What is the failure rate on violations of parole?

**Tom Dahl:** We're running approximately a 90% success rate.

Recording glitch.

**Chairman Thoreson:** Is there any other way this can be expanded in the future?

**Tom Dahl:** I think if the department of corrections would start putting more than just their parolees, that they would add more people to the program through the department of corrections; I think we would hold a lot more of these people accountable.

**Tom Trenbeath:** Referenced attached testimony 2003.3.8.11A.

**Representative Kroeber:** If I remember correctly, the big advantage of this to the person is they do get their license; is that not correct?

**Tom Trenbeath:** There is the ability to apply for a license for the purposes of driving to take the test.

**Tom Dahl:** They can apply through the DOT if the only reason they're under suspension is for an offense where they went into the program. If they have a hard suspension from some place else, they're not eligible. It's only for this offense; they can apply through driver's license division to get a permit to and from the testing site only.

**Representative Kroeber:** But to work.

**Tom Dahl:** No.

**Representative Kroeber:** Not for the entire period of time?

**Tom Dahl:** They can get a work permit.

**Tom Trenbeath:** So their ability to generally drive is separate and apart from the participation in the 24/7; 24/7 just allows a special permit to drive to and from the site.

**Representative Klein:** I'm looking at the green sheet where you amended the section to remove the requirement that you maintain the statewide file system for lost or missing children. Explain why you wanted to do that.

**Tom Trenbeath:** That database system was never set up. It was a requirement of SB2161 from last session. Through a series of events, having to do with it's companion bill for adult missing persons, they were supposed to come out alike and didn't. Ours came out with this requirement that we set up this data base, but, no funds to do it with.

**Representative Klein:** The second one where you allow the tax commissioner rather than the Attorney General this motor fuel vehicle tax; did some of that money go to the Attorney General? Explain that a little bit.

**Tom Trenbeath:** None of those funds came to the Attorney General's Office. We have not participated as the statute would allow us to participate.

**Representative Klein:** You were just cleaning up the paperwork?

**Tom Trenbeath:** That's correct.

**Tom Trenbeath:** Referenced Tom Dahl's testimony.

**Chairman Thoreson:** Have we done anything with Interlock here?

**Tom Trenbeath:** I think we still have the statute.

**Chairman Thoreson:** In a lot of parts of the country that's kind of the standard is it not?

**Tom Trenbeath:** It's an interesting technology and it should work well in the laboratory.

**Representative Klein:** Didn't South Dakota just pass legislation?

**Tom Trenbeath:** They did.

**Representative Klein:** I don't recall whether the governor signed it or not yet? I thought they were going to put it in place.

**Tom Trenbeath:** You're source of information is probably the same as mine, I read it in the paper this morning.

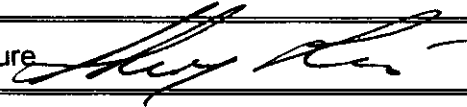
**Representative Kroeber:** On the FTE's it says you're staying the same at 202. Yet when I read the green sheets, I don't come up with that.

**Chairman Thoreson:** Closed the hearing.

2011 HOUSE STANDING COMMITTEE MINUTES  
House Appropriations Government Operations Division  
Medora Room, State Capitol  
SB2003  
March 15, 2011  
Recorder Job# 15477

☐ Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

A Bill for an Act to provide an appropriation for defraying the expenses of the attorney general; to create and enact two new sections to chapter 18-01 of the North Dakota Century Code, relating to fire and tornado fund fees and petroleum release compensation fund fees; to amend and reenact sections 12-60-25, 54-12-11, and 57-43.1-03.2 of the North Dakota Century Code, relating to missing children, the salary of the attorney general, and refunds of tax for fuel purchased by native Americans; to provide an exemption; and to declare an emergency.

**Minutes:**

**Chairman Thoreson:** Opened the discussion on SB2003.

**Wayne Stenehjem, Attorney General, North Dakota Office of the Attorney General:** Made introductions of staff.

**Representative Klein:** I'm looking at FTE's; apparently you've had a number of those funded by stimulus money. Am I correct in saying that 14 positions is what you're adding to the system?

**Wayne Stenehjem:** I think there were 8 that were added last session.

**Representative Klein:** Last time.

**Wayne Stenehjem:** Right.

**Representative Klein:** But, I'm looking down below on the green sheet.

**Chairman Thoreson:** Those positions were added in this current biennium.

**Wayne Stenehjem:** That's right.

**Chairman Thoreson:** But the funding was through the ARRA funds and maybe discuss what's happening with that and now it's under other funds and where those dollars would be coming from if we chose to keep these positions.

**Kathy Roll, Financial Administrator, North Dakota Office of the Attorney General:** In talking about the ARRA positions. There were 8 positions that were added. There were a



couple that were contingent upon receiving community oriented police federal funds but we did not receive those monies. The positions that we received were 2 forensic scientists, 3 intelligence analysts, 1 internet crimes against children, 1 24/7 sobriety agent, 1 grants person. In the 2011-2013 biennium all of those positions are funded with federal funds. The intelligence analysts are funded for about 52% of the biennium and then the rest of those monies are coming from other funds from the attorney general refund fund.

**Chairman Thoreson:** Those were from the refund fund that the dollars are coming from?

**Kathy Roll:** Yes.

**Representative Klein:** There were 8 that were funded before and I'm looking on the green sheet and I come up with more.

**Representative Kroeber:** What it amounts to is there's 8 listed and 8 taken away. There listed twice actually what's happening.

**Kathy Roll:** In the budget process we were required to completely remove all the ARRA funding and then request it again. That's why you see the same positions.

**Representative Klein:** Talk to us a little bit about the salary reclassification adjustment as to who that applies to and how many people are involved.

**Kathy Roll:** There are 14 identification technicians that work in our office. They're the people who work with finger prints, record checks, etc. They were at very low grade levels and the grade levels were reviewed by HRMS and they determined that grade levels needed to increase some as much as 3 grades; that happened this biennium. The \$190,000.00 that you will see on the green sheet is the cost of funding those increase for the 2011-2013 biennium.

**Representative Dahl:** Just to go back to the original discussion about the FTE's. We're using federal stimulus money to fund those positions. What happens to those positions once that money goes away?

**Kathy Roll:** That will certainly be before the legislature again. In the instance of the forensic scientists, those are included in the 2009-2011 executive recommendation. When the ARRA monies became available, then 2 of them were funded from the ARRA monies. We will pursue any federal or other funds that we know of and a decision will be made in the next session.

**Representative Glassheim:** Could you refresh about the refund fund is, where it comes from; there's \$1.5 million coming out of it, what you'll have going forward?

**Kathy Roll:** The attorney general refund fund comes from a few places. One of them is consumer protection settlements. If we are involved in a case and if we received monies as a result of us spending time and effort to bring them to trial, sometimes there are settlements that are made. Let's say we receive a \$250,000.00 settlement; if that money is

not specifically designated to go back to consumers, it will be assigned to us for our costs in participating in the law suit. Another place we get money is from the Indian gaming regulation that we do. We go out and look at all the casinos' audit to make sure that they're doing the kinds of things that meet state law. We have some money that comes in that is directly assigned to consumers. So that will come into our fund, then we'll pay it back out.

**Representative Glassheim:** This can be used for anything?

**Kathy Roll:** It's restricted to use for consumer protection issues for the Indian gaming. We also have record checks that come in and out for the tribes. There are also monies that the legislature has appropriated from that fund. For the 2011-2013 biennium, the estimated expenditures from that fund will be \$3.1 million.

**Representative Glassheim:** You'll be left with?

**Kathy Roll:** About \$500.00.

**Representative Glassheim:** Have you in the past carried over more than that or do you usually spend down what you get in?

**Kathy Roll:** We have carried forward that money and in carrying forward the money this time from the current biennium; that's how we're going to fund some of the other things that are going on. For instance, there's about \$1.1 million in bureau criminal investigation IT projects that are going to be funded there. You have said that those are appropriate ways to spend those monies; and so, we have carried that forward with your permission.

**Kathy Roll:** Explained the green sheet.

**Chairman Thoreson:** Is this one going to get rid of both of those or are you going to keep those operating also?

**Kathy Roll:** We'll probably just keep the other one operating.

**Chairman Thoreson:** So you'll have one new and then one of the old ones?

**Kathy Roll:** That's correct.

**Chairman Thoreson:** Is there any specialized equipment inside of those vehicles that needs to be updated along with the purchase of the vehicle?

**Kathy Roll:** Yes. It's full of highly sophisticated technology that is used on surveillance.

**Wayne Stenehjem:** Some of it is VHS type vintage.

**Chairman Thoreson:** What are these used for?

**Wayne Stenehjem:** Drug deals, surveillance, etc.

**Chairman Thoreson:** Is there anything useable out of the one that you're going to get rid of? What's left in there, is there any kind of equipment you don't want out in the general public?

**Wayne Stenehjem:** Some of it is.

**Representative Dahl:** Where are these vans now? Are they positioned in different places?

**Wayne Stenehjem:** I think there's one in town.

**Chairman Thoreson:** What kind of equipment will the new one have that you don't have currently?

**Wayne Stenehjem:** Digital equipment, receivers, etc.

**Wayne Stenehjem:** If I could talk a little about the refund fund was established when the consumer gets taken advantage and we get money back on their behalf. That's where we write a check from to reimburse them. Over the years we've engaged in some multi state litigation primary with pharmaceutical companies for fraudulent or illegal pricing or other issues; that's where the bulk of that money has come from.

**Chairman Thoreson:** Are there many pending cases?

**Wayne Stenehjem:** There's not any pending right now. We just settle one and I think the bulk of what we have in there now is about \$880,000.00 that we've settled.

**Representative Kempenich:** I was looking at your budget you used that \$190,000.00 of general fund; it's a transfer of money. It shows you have \$106,000.00 of federal funds following that for a total of \$296,000.00. What is that doing?

**Kathy Roll:** When I was talking about the 8 FTE's that have been funded with ARRA funds, one of the positions that we're not asking for ARRA funds is for one of our intelligence analysts. We've found that we're going to be able to fund that (inaudible) drug trafficking monies. So the \$106,000.00 that's shown there is for that position. The \$190,000.00 is for the identification technician.

**Representative Kempenich:** You've got operating adjustments of about \$421,000.00 then you have an operating expense of \$204,000.00. What's the operating adjustments for?

**Kathy Roll:** The \$11,000.00 that's in general fund is for IT software maintenance agreements that are needed. I think there were some adjustments between different types of federal funds and that's some of what you see there. The special fund adjustments we are increasing up to \$100,000.00 in fire prevention and public safety fund; that relates to the fire safer cigarette bill that was passed last session. Then we also anticipate an

additional \$100,000.00 in the reduced cigarette ignition propensity fund for that same purpose.

**Representative Kempenich:** Then the \$180,000.00 in the operating increases, that shows up in the general fund?

**Representative Dahl:** If you would walk us through a short description of each one of these new FTE's?

**Kathy Roll:** Referenced testimony of 2003.3.8.11A.

**Representative Brandenburg:** On the internet what do you do?

**Wayne Stenehjem:** The cybercrime agents that are in North Dakota work for our office; there are 4. They do a number of things. Chief among them is a program that I wanted initiated here in North Dakota. If you've seen MSNBC "To Catch a Predator" on TV, we're doing the very same thing. We're training local law enforcement to go on line and pose as 14 year old boys or girls; and see if someone gets on line and tries to lure them for a meeting and it's happening here in North Dakota all the time.

**Chairman Thoreson:** Who's the "they" that you're referring to?

**Wayne Stenehjem:** MSNBC hires people who go in and are retired police officers. Our people are trained to make sure they do it right.

**Representative Brandenburg:** When you catch them can you prosecute them? What can you do with them?

**Wayne Stenehjem:** We do prosecute them. One year in jail minimum and up to a felony conviction for the images that are transferred. There are federal guidelines that are very stringent and tough and we work with the US Attorney's Office to have them prosecute them federally because there are stronger minimum mandatory sentences.

**Representative Brandenburg:** Is the industry that puts out these games are they doing anything at all to try to work with law enforcement to help find these people?

**Wayne Stenehjem:** They are doing more than they were initially. FaceBook and MySpace initially were doing nothing to check through and scrub their lists of membership of registered sex offenders. We threatened to sue and finally they decided they need to work better. We found in North Dakota that there were 11 high risk sex offenders who had FaceBook pages; none of them telling their actual age, factual information, etc. Now we get regular reports and we scrub that against our list of registered sex offenders.

**Chairman Thoreson:** If I could just add to that, I serve on a telecom and information technology committee with one of the organizations legislatively. There's industry associations that have now regularly provided us updates with that; not only the FaceBook

and MySpace but there's an electronic gaming arts association and they even realize that people are using their technology now. It exposes them to a huge liability issue.

**Wayne Stenejem:** FaceBook and MySpace have become some of our best co-workers on trying to get a handle on all this.

**Chairman Thoreson:** In fact FaceBook, when a photo is posted to FaceBook, they look at it and flag it to see if it would be considered to be pornographic.

**Representative Brandenburg:** My wife's on FaceBook. If there's a sex offender on FaceBook are they banned from being on it?

**Wayne Stenejem:** They're banned from being members and we get that list and we cross check it through our IT people to make sure none of our sex offenders have FaceBook pages.

**Chairman Thoreson:** They may try to create an account under another name or in some fictitious way.

**Wayne Stenejem:** Right. One of the things that registered sex offenders are required to do in North Dakota is not only to give the Attorney General their name and address, etc., but also their FaceBook pages and their social networking pages, email addresses, etc.

**Chairman Thoreson:** What about their IT address. Are they required to give that?

**Wayne Stenejem:** We can get it; but, they're not required to give us their IT address. There's minimum mandatory jail sentences for someone who does not give that information.

**Representative Brandenburg:** I've never been a big support of these computers and it's a little bit scary.

**Wayne Stenejem:** There are a lot of scary things happening over the internet that we need to be aware of.

**Representative Kempenich:** How many people do you have in that division now?

**Wayne Stenejem:** We started with 1 and there are 4 now.

**Representative Kempenich:** Are you adding some then?

**Wayne Stenejem:** No.

**Representative Klein:** Let me ask a question to item 8 where you're asking for equity adjustments in salary increases for employees that receive certification. This is for the laboratory you're referring to?

**Kathy Roll:** That's correct.

**Representative Klein:** They have to reach a certain level that they have to attain to be able to do that? What's the requirement?

**Kathy Roll:** There are a number of different disciplines in the crime lab and the types of work that they do. It could be DNA, blood alcohol, breath alcohol, firearms, etc, that they can receive certification in. What would happen is in the event that a forensic scientist would take the testing that is available to pass their certification they would become even more credible in court.; and because they've made that extra effort that's where we want to be able to give them \$100.00 more a month. So that would recognize their effort in what they're doing.

Kathy Roll continued to reference testimony 2003.3.8.11A.

**Representative Dahl:** The way things are broken down on the green sheet is a little different than how it is in your testimony. When we're talking about the justice assistant grant program and the 4 FTE's that accompany that, what positions in you're testimony would those fit under?

Kathy Roll: Referenced testimony 2003.3.8.11A.

**Representative Dahl:** That one FTE position that's sort of separated from the other 7 that is what position specifically?

**Kathy Roll:** That is also an intelligence analyst that we have found other federal funding for.

**Representative Kempenich:** How stable is that federal money? That's what's making up most of those 7 employees isn't it?

**Kathy Roll:** That's correct. Those are all stimulus money; so, we have them through next biennium. At that point, they will be gone unless something else takes their place.

**Chairman Thoreson:** Item #4 the one time funding from the refund fund for rewrite planning on the criminal history system. Please give us a little information on that.

Kathy Roll: The criminal history system is old and added together, etc. The \$450,000.00 would provide for the rewrite planning that would need to take place next biennium.

**Chairman Thoreson:** This is just for the planning not for the rewrite itself?

**Kathy Roll:** That's correct and it will take all of that time. One of the people who has a vast amount of knowledge in that system will be retiring in the next 5 years and given that, we want to have that person's knowledge and their experience in the rewrite planning and in the actual rewrite of the system.

**Chairman Thoreson:** What does this criminal history system do?

**Shara Thomas, Information Technology Director, North Dakota Office of the Attorney General:** The criminal history system encompasses a repository of all the criminal activity of any of the offenders that come into our office including fingerprint cards and records of their arrests and dispositions. It also includes all the interaction with the automated fingerprint identification system which we share with Minnesota and South Dakota. When we're looking at planning that replacement, we're looking at how that interacts with all the states and how it works with the FBI; all that information is sent to the FBI as well. It's also accessed through the criminal justice information sharing and through state radio.

**Chairman Thoreson:** This is different than the CJIS program?

**Shara Thompson:** The criminal justice information sharing is a mechanism to bring information together from all the different entities in the state that have information. It's looking at local police department incident reports, probation through the department of corrections, warrants, sex offender, protection orders through, and driver's license through DOT; it's all pulled together to be viewed by law enforcement or criminal justice agencies and the courts.

**Chairman Thoreson:** The courts also do that?

**Shara Thompson:** Yes.

**Representative Dahl:** Who has access to this program is it just your office or how open of a system is it?

**Shara Thompson:** It is accessed through CJIS or state radio for any criminal justice entities who have access to that; other than that, it's a system when you're doing a background check for hiring of employees. That's the system that it's going against to get information.

**Chairman Thoreson:** So Highway Patrol would have access or the local sheriff's and police departments? What about Game and Fish, do they have access to this information?

**Shara Thompson:** Through CJIS they're publishing some of their licenses, etc. Their sworn officers do have access to CJIS.

**Representative Kempenich:** So the study is to make sure the system is talking to all the other entities that the current system is doing? To study it what are you going to do with it?

**Shara Thompson:** This system was put together back in the 1990's when being able to share across agencies was difficult. The feds have a new way of doing a rap sheet and they're looking at making it easier to do a rap sheet. In order to do that we have to look at the way we connect arrests, prosecution and disposition information. It's taking a look at everything that that system is doing today and then looking at what the changes are. It's

looking at all the changes in federal statute, all the things that have happened within the state that have changed, etc.

**Representative Klein:** Is this like a computer module put together? How does this thing function; is it a system of modules?

**Shara Thompson:** When we talk about the criminal history repository; it's basically a database. We're getting information about offenders, their fingerprints, arrests from local law enforcement when they're arrested. That information comes in via live scan units or in 40% of the cases, it still comes in as paper. Part of the study will be looking at how do we get the rest of those on there for local law enforcements that are smaller and can't afford a live scan. Then we have the prosecution coming from the state's attorneys and how do we bring that in electronically. That's still for the most part in paper form.

**Representative Klein:** When you get this paper you have to put it back into the system just like a computer entry?

**Shara Thompson:** That's correct.

**Representative Dahl:** With regard to this \$450,000.00 to plan for this rewrite, are you working with some kind of technology firm? Is that where the actual expense is in this project?

**Shara Thompson:** Yes the money associated with this project is for consulting dollars.

**Chairman Thoreson:** You look to hire an outside consultant on this?

**Shara Thompson:** Yes.

**Chairman Thoreson:** What's the timeline on that? Do you have any idea when you'd like to get those goals accomplished by?

**Shara Thompson:** We would hope to look at what we could realistically do in the next biennium and then present that as a part of our budget.

**Chairman Thoreson:** Any thought to what you're looking at dollar wise next biennium?

**Shara Thompson:** I would hope that after the study we could break it down into multiple projects. What we would look at is what we could realistically do in the next biennium and probably would be additional in the following biennium.

**Chairman Thoreson:** This could be over several bienniums?

**Shara Thompson:** Yes. Based on what I know it would be about \$1.25 million total that's included from planning.



**Chairman Thoreson:** What is the history of this system? When was it first implemented and is the software so old that you're having trouble finding people to work with it at this time?

**Shara Thompson:** This system went live January 28, 1999; the old system before that was on the mainframe and was not year 2000 compliant. We brought this system up and we've added on a lot of pieces over the last 5 to 6 years. It is written in technology that is not readily available and it's written in a language called Progress and a database called Progress. At the time, it was probably the best on the market. It's very difficult to find programmers and consultants to work with this language.

**Chairman Thoreson:** What do you do for support with it right now? Does that company provide technical support or do you have a service contract with them or do we do it in house with our own IT?

**Shara Thompson:** We do it all in house.

**Representative Klein:** Would someone address item 10 where you had some grants to the fire marshal for hazardous materials; what that involved and did that all go out to various fire departments? Did you retain some of that?

**Kathy Roll:** That money was money we received from the division of emergency services. That was used for hazardous material emergency preparedness training for the most part. We would put on trainings, hire the instructor and invite the fire departments to come and other emergency responders to come and receive that training. In some cases we also made grants to counties or localities to provide that same training.

**Representative Klein:** There was no equipment or material provided, suits or equipment of any kind was there?

**Kathy Roll:** To the best of my there was not.

**Chairman Thoreson:** Let's go to item #5. \$1.177 million; are these for more offender registration kiosks? Give me a little background as to what those kiosks are and where they're located and what the dollars are for.

**Kathy Roll:** Right now we don't have any kiosks and the purpose behind these is to make it easy for the sex offenders to be able to come in, make any changes they need to their employment, address, etc.

**Chairman Thoreson:** Did we have these before? Were they never implemented, is that correct?

**Kathy Roll:** They were never implemented. We had federal fund authority that we never received any federal funds for.

**Chairman Thoreson:** They gave the authority but not the money to go with the authority.

**Kathy Roll:** That's correct.

**Representative Klein:** You talk about equipment for the crime lab; particular items that you're thinking about or considering?

**Chairman Thoreson:** The \$999,901.00 are those dollars here, are they just authorized by the feds or have been appropriated?

**Kathy Roll:** We anticipate receiving that money.

**Chairman Thoreson:** Ok.

**Kathy Roll:** See attached testimony 2003.3.15.11A.

**Chairman Thoreson:** How many gas chromatograph mass spectrometer do you have total?

Kathy Roll continued with testimony.

**Chairman Thoreson:** What is PCR?

**Kathy Roll:** PCR's measure the amount of DNA present in an extracted sample.

**Representative Brandenburg:** I just have to ask because I thought combines were expensive; but, this one here for \$300,000.00 a liquid chromatograph what does it do?

**Kathy Roll:** This piece of equipment performs analysis in a toxicology lab in forensic science. It takes a biological sample and can analyze it for drugs or abuse; it separates different components, provides data collection analysis, confirmation quantifying what is in a sample. It's basically used for drug analysis.

**Representative Dahl:** I work with the Grand Forks city prosecutor's office in Grand Forks. When we arrest someone for a DUI and they fail the drug analysis, when we send in the blood or urine the lab can test what kinds of drugs are in there; but, my understand is they can't test for quantity. Has there been any discussions about what kind of technology that might take, whether it's available and what kind of expense that would be?

**Lamont Jacobson, Forensic Section Supervisor of the Crime Laboratory, North Dakota Department of the Attorney General:** The question you ask about quantitation of drugs; currently, we're working on validation of that. We just got the LCMSMS which is an instrument that will enable us to quantify some of those drugs.

**Representative Dahl:** Was that expensive or what kind of additional expenses were you looking for with that technology?

**Lamont Jacobson:** The LCMSMS is over \$300,000.00

**Chairman Thoreson:** Are there other places within state government that use those? Does the department of health have that type of equipment also or is this something specific to the Attorney General's office.

**Lamont Jacobson:** I don't think the health department has this; they have other instrumentation.

**Kathy Roll:** We were talking about the kiosks. We are working on that right now and we have about \$1 million in federal funds at this point.

**Chairman Thoreson:** Where's the plan to put those once they're up and running?

**Kathy Roll:** That will be in police departments.

**Chairman Thoreson:** Are you looking just in a couple of places in the state or how many locations is this going to give us?

**Kathy Roll:** I believe there are 8. I would make the assumption that it would be the 8 largest cities and one at the department of corrections.

**Representative Dahl:** So these kiosks are in place already?

**Kathy Roll:** No, they are not.

**Chairman Thoreson:** On the maintenance contract I see there's just a little x; is that the cost of the maintenance contract?

**Kathy Roll:** That's correct.

**Chairman Thoreson:** In 2012 it says \$3,850.00 it doesn't have a number for the second year.

**Kathy Roll:** Sometimes when we purchase equipment it does have some type of maintenance agreement.

**Chairman Thoreson:** On item #6 there's increased funding for operating expenses at a total of \$625,000.00; a mix of general and special funds. What is all going into that number?

**Kathy Roll:** \$35,000.00 is included for the equipment maintenance agreements for the crime lab. \$167,000.00 of about which \$156,000.00 is from the general fund are items affected by increased IT data processing costs and the new crime lab management system annual maintenance and Microsoft Office upgrade.

**Chairman Thoreson:** The increased IT processing costs, what dollar amount does that make up for you?

**Kathy Roll:** I'm not sure, I can get that for you.

**Chairman Thoreson:** Adds federal funding for salary increases for temporary positions at about \$350,000.00. How many people does that cover?

**Kathy Roll:** That is for temporary salaries that are funded from federal funds.

**Chairman Thoreson:** So it should say adds funding for temporary salary positions?

**Kathy Roll:** That's correct. Those monies come from the community oriented police grant to continue to fund some temporary intelligence analysts and also from the national criminal history information projects which will be used for quality assurance work for criminal record files.

**Chairman Thoreson:** What is the status of the COPS program? Is that something that's going to be funded have you heard?

**Kathy Roll:** I'm not sure.

**Chairman Thoreson:** I'm just wondering whether you've had any feelers on that or not?

**Kathy Roll:** I can't tell you that.

**Representative Klein:** Are we doing a complete change there? You're looking at \$900,000.00.

**Kathy Roll:** Referenced testimony 2003.3.8.11A.

**Chairman Thoreson:** What is this agent case time tracking system?

**Kathy Roll:** The agents track the time they spend on cases. It might be talking with witnesses, doing some investigative work, etc. It's a DOS based system so we need to replace it.

**Representative Kempenich:** Would that be under your IT contractual services?

**Kathy Roll:** I believe so.

Testimony continued.

**Representative Kempenich:** Is a lot of that money ongoing maintenance agreements?

**Kathy Roll:** The maintenance software agreements wouldn't show up there, they'd show up in the IT software line item. We're continually working on the systems that we have.

**Representative Kempenich:** It isn't new it's just keeping stuff going that you already have?

**Kathy Roll:** That's correct.

**Representative Klein:** These other salaries do they include the 3% and 3%?

**Kathy Roll:** If you're talking for the stimulus positions, yes it would. Our budget does include the compensation package that the governor recommended.

**Chairman Thoreson:** Has this been adjusted to reflect the senate changes?

**Kathy Roll:** No.

**Chairman Thoreson:** We also had asked to have some information on the spend down or where you were at through this part of the biennium.

**Kathy Roll:** I wasn't sure if we were going to go through the actual accounting reports or if you wanted me to talk a little about that. We tend to spend most of our money in the last 6 months of the biennium.

**Representative Kempenich:** A lot of the IT is what they changed on the way they're billing that out?

**Kathy Roll:** That's correct. Also the new systems that we're talking about.

**Kathy Roll:** See attached testimony 2003.3.15.11B.

**Representative Glassheim:** On the green sheets we show about \$26 million in other funds; but you show about \$12.7 million in federal funds. What happened to the other \$14 million.

**Kathy Roll:** Those monies come from AG operating fund which is where our monies go that we bill legal services and fire marshall services. There is also our concealed weapon permit monies; when we provide those permits there's a fee.

**Representative Klein:** I'm looking on this list and I see national history improvement project for over \$1 million. What is it?

**Kathy Roll:** It's an ongoing project and it provides money for us to improve our criminal history programs. We have some grants that come out of that and then we also have IT systems that are maintained by that.

**Representative Klein:** When they say history improvement project?

**Chairman Thoreson:** The acronym says NCHIP.

**Kathy Roll:** Criminal history is what maintains all the records for people who have committed crimes and disposition information.

**Representative Kempenich:** It looks like a lot of your funds are dropping aren't they?

**Kathy Roll:** When you look at bottom for the 2009-2011 biennium and look at the next one for 2011-2013 request, they're just about the same.

**Representative Klein:** I'm looking down the list and I see another one. Department of Transportation Highway Safety Plan \$939,000.00; what are we doing?

**Kathy Roll:** Those monies are used to help fund our toxicology. If someone is arrested for DUI and they submit a blood sample, we analyze that. We also buy the Intoxilyzers.

**Chairman Thoreson:** Does it go to DOT and then you receive it from them?

**Kathy Roll:** That's correct.

**Chairman Thoreson:** That doesn't include any of the equipment for the 24/7 program?

**Kathy Roll:** That does not.

**Chairman Thoreson:** That kind of pays for itself?

**Kathy Roll:** We did talk about the fact that there have been some grant funds that have been used for that. We do purchase those for the local law enforcement use and they are about \$1,500.00 a piece.

**Chairman Thoreson:** For the bracelet.

**Kathy Roll:** For the bracelet.

**Chairman Thoreson:** How about for the other; the breathalyzer?

**Kathy Roll:** Those have been purchased through our office and then passed out to local law enforcement.

**Chairman Thoreson:** How does that work, do they have a set number of those?

**Kathy Roll:** There is a tube that they blow through that's replaced every time.

**Representative Kroeber:** If I remember correctly the Bern Grant were dollars that went to local increasing numbers. Was that part of the Bern grant?

**Kathy Roll:** What's happened is that's been folded into the justice assistant grant which is just below the Bern grant. Those monies are used for a number of different purposes. It goes out to all of our task force.

**Representative Kroeber:** So it's kind of rolled into the next one.

**Kathy Roll:** That's correct.

**Chairman Thoreson:** The convicted offender DNA backlog that has another \$200,000.00 increase on that one. Those are people who have already gone through the system, received a conviction? Is that correct?

**Kathy Roll:** I believe that not all convicted offenders have given DNA. We're receiving this money to process the DNA samples that we're getting that were previously collected; because, it wasn't always required.

**Chairman Thoreson:** Are these people that are convicted and currently serving time?

**Kathy Roll:** I'm not certain on that. Probably some of both.

**Chairman Thoreson:** Do you have anything on the equity dollars that you have to provide to us at this time?

**Kathy Roll:** I can get that for you.

**Representative Brandenburg:** These offenders, what kind of cost are we looking at to keep them housed in the state hospital? Is there any tracking that they're getting cured?

**Kathy Roll:** I believe that's something that you want to talk to the department of human services about. I'm sure they have that information.

**Representative Kroeber:** I know that the sex offenders have been costing us about \$90,000.00 a year to them at Jamestown in that special unit. They have had some releases which was not the case 4 or 5 years ago. They are very spendy to take and keep.

**Chairman Thoreson:** Closed the discussion.

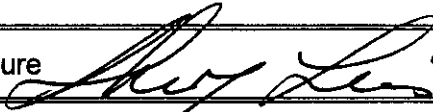
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

SB2003  
March 28, 2011  
Recorder Job# 16038

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the attorney general; to create and enact two new sections to chapter 18-01 of the North Dakota Century Code, relating to fire and tornado fund fees and petroleum release compensation fund fees; to amend and reenact sections 12-60-25, 54-12-11, and 57-43.1-03.2 of the North Dakota Century Code, relating to missing children, the salary of the attorney general, and refunds of tax for fuel purchased by native Americans; to provide an exemption; and to declare an emergency.

## Minutes:

**Chairman Thoreson:** Opened the discussion on SB2003. All were present except for Representative Kempenich.

**Kathy Roll, Financial Administrator, North Dakota Office of the Attorney General:** See attached testimony 2003.3.28.11A.

**Chairman Thoreson:** The total for 4 employees was \$26,457.00?

**Kathy Roll:** That's correct

**Chairman Thoreson:** Not per person?

**Kathy Roll:** That's correct. That's the total amount.

**Chairman Thoreson:** Did each one get an equal amount of that?

**Kathy Roll:** There were variances; it just depended on where they were at.

**Chairman Thoreson:** So on the legal staff the \$292,849.00, you can't just divide by 20. There might have been one that received x amount plus y?



**Kathy Roll:** That's correct.

Explanation continued.

**Chairman Thoreson:** That \$450,000.00 is just for the planning purposes and you're planning on contracting with an outside vendor to do the planning; is that correct?

**Kathy Roll:** That's correct. It will also include a lot of work with our staff.

**Chairman Thoreson:** Is ITD part of that also?

**Kathy Roll:** They are not.

**Representative Dahl:** On the rewrite planning why is ITD not involved with that process?

**Shara Thomas, IT Director, North Dakota Office of the Attorney General:** ITD will be involved with this project from the large project oversight standpoint. The project meets the qualifications for a large project. So they would be providing project management and large project oversight on the project.

**Chairman Thoreson:** So they will be involved.

**Shara Thomas:** Yes, from that aspect they will be.

**Chairman Thoreson:** Will they be involved in finding the vendor or reviewing the specs for when you put out an RFP or however you chose to do it to find someone?

**Shara Thomas:** Our hope is that we would be able to find a vendor off the vendor pool list that ITD and agencies work on a 5 year basis. If not, then yes we put out an RFP. They review all of our IT contracts.

Kathy Roll continued with testimony.

**Chairman Thoreson:** That's NCHIP?

**Kathy Roll:** Right.

**Chairman Thoreson:** What is NCHIP used for-National Criminal History Improvement Project?

**Kathy Roll:** We have received monies for criminal history improvement projects. We use those money to do things like rewrite systems. I believe in terms of this budget, there's about \$110,000.00 in salaries.

**Chairman Thoreson:** Would it be possible to get a break down of what that is?

**Kathy Roll:** Certainly.

**Representative Kroeber:** When you talked about the equity increases, that's in this biennium?

**Kathy Roll:** That's correct. We were asked to provide that information to the committee.

**Representative Kroeber:** It says FYI2010, so it was for only half of the biennium?

**Kathy Roll:** We awarded all the increases in FY2010; but it shows the amount for the entire biennium.

**Chairman Thoreson:** It was given in the first fiscal year?

**Representative Kroeber:** It's not additional dollars for next time other than the cost to continue?

**Kathy Roll:** That's correct.

**Chairman Thoreson:** What is the amount for equity this time?

**Kathy Roll:** I believe we requested \$105,000.00 for the crime lab forensic scientists.

**Chairman Thoreson:** Do you expect with the increased numbers of these tests you're having to do that you'll be coming back looking for of this equipment next time around?

**Kathy Roll:** We have included monies for the 2011-2013 biennium for replacement equipment.

**Chairman Thoreson:** That would be just to replace what's currently there; not to add? That would maybe add capacity because I would guess new equipment has a better use?

**Kathy Roll:** We always hope that new technology comes along that it's going to become more efficient.

**Representative Klein:** I'm looking at the green sheet. Item #3 which adds funding for position reclassifications and salary adjustments of \$190,000.00. Then I'm looking at item #8 which adds funding equity adjustments and salary increases. So basically, you're looking at around \$400,000.00?

**Kathy Roll:** What happened there was our identification technician positions were reviewed by HRMS this biennium. When they reviewed those positions, they didn't change the classification but they changed the grade associated with it. Some of those technicians went up to 3 grade increases. Because of that review, those increases needed to be given this biennium and the \$190,000.00 you see there continues it into next biennium. The other item relates to the \$105,000.00 that's for the crime lab forensic scientists and the remaining amount of that relates to certification increases. It's very important to have our forensic scientists certified in the disciplines in which they work when they go before a court and they're testifying on their analysis of evidence.

**Representative Klein:** How are doing that now?

**Kathy Roll:** We're not doing it right now.

**Representative Klein:** This would be a new area you're entering into?

**Kathy Roll:** It's a new area only in terms of the employee pursuing the education and the testing to become certified. It would give maybe \$100.00 a month increase to them recognizing their effort in attaining that training and certification.

**Chairman Thoreson:** In the bill there is the refund fund authority. Did you have any information on that?

**Brady Larson, North Dakota Legislative Council:** That authority has been included in appropriation bills for the past couple bienniums. I'm not sure when that authority first started.

**Chairman Thoreson:** So you have had that authority to hold those dollars.

**Kathy Roll:** That's correct. I think it's been more than a couple bienniums that we've carried that money over and those monies are budgeted; except for about \$5,000.00.

**Representative Klein:** What's in that refund fund right now?

**Representative Kroeber:** \$3.1 million.

**Kathy Roll:** That's correct.

**Representative Glassheim:** I have a question about the gaming division and the lottery. For gaming we just cut \$10 million out of our income. What does it cost you to supervise gaming and whether you get any income from gaming to do that?

**Kathy Roll:** I believe what the house passed was deduction of \$5.8 million in the gaming taxes in SB2042.

**Representative Glassheim:** But total is about \$10 million.

**Kathy Roll:** That's correct.

**Representative Glassheim:** I see in one of your charts gaming division is \$2.8 million?

**Kathy Roll:** For the 2011-2013 biennium there's about \$2.8 million in total expenditures. About \$1.8 million is from the general fund and we don't actually receive any of the taxes directly; that's what the general fund appropriation is.

**Representative Glassheim:** But your total cost to administer is?

**Kathy Roll:** \$2.8 million.

**Representative Glassheim:** How is the lottery doing?

**Kathy Roll:** We transfer money to the general fund every year. We transferred a little less than what we had anticipated the first year of the biennium; about \$400,000.00 to \$500,000.00 less. We think we'll end up about what we projected this biennium to deposit into the general fund.

**Representative Glassheim:** How much is that?

**Kathy Roll:** About \$11 million.

**Representative Glassheim:** Then your operating costs for administering that are \$2 million to \$3 million dollars.

**Kathy Roll:** It's about \$3.7 million. That comes out before the transfer to the general fund.

**Representative Klein:** I'm going to follow up a little bit on what Representative Dahl asked earlier in regard to that rewrite planning for the criminal history. I see in the previous biennium you spent \$1,557,000.00; your request was for another \$1,167,000.00. Where are we at now? This is just for a study on rewriting this system? What have we spent this money on before?

**Kathy Roll:** What we're asking for next biennium is the planning for a complete rewrite of the criminal history system.

**Representative Klein:** Is that separate from what you had in here using federal funds \$1,167,000.00; is that a different project?

**Kathy Roll:** They're a little bit different in terms of their usage.

**Chairman Thoreson:** If you could get a breakdown of what each of those are and what the differences are; I think we'd like to have some information.

**Representative Klein:** Are we doing the same thing or are we adding to it? We must have something in place now?

**Kathy Roll:** That's correct. A lot of times what we're doing is maintaining what we have. There might be fixes, changes that are required at the federal level because those are federal funds. This is a complete rewrite that's planned of the whole system. The other monies a lot of times are used for improvements to the current system; but they're not actually rewriting the whole system. I can provide you a diagram that shows all the different places the criminal history information touches.

**Representative Klein:** I'm kind of confused with looking at what we're spending. What are we getting? Are we overlapping between some of these?

**Kathy Roll:** I will provide that information to you.

**Representative Dahl:** I think I understand the difference of what's between the two. With regard to the \$450,000.00 if we could get a breakdown to understand what exactly those costs are.

**Kathy Roll:** Certainly.

**Representative Klein:** A number of these positions are funded with federal dollars. As the federal dollars go away, are you intending to keep those positions and move them over to the general fund?

**Kathy Roll:** As you recall we have 7 positions that are funded with ARRA funds. The forensic scientists were originally included in the governor's budget from the general fund. When the ARRA monies became available, the legislature chose to fund 2 of those positions from the ARRA monies. Those are positions we are still going to need.

**Representative Klein:** Two out of those 7 you're saying?

**Kathy Roll:** Right. As far as the other positions that we're talking about; there was a discussion about the state and local law enforcement intelligence center. Two of those positions are related to that; there's internet crimes against children agent that is funded from ARRA money. There is a 24/7 attorney general sobriety program; there's an administrator that's funded from that money. What I expect will happen is we will take a look as we prepare our next budget to determine what we're going to do about that funding.

**Chairman Thoreson:** Recessed the discussion.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

SB2003  
March 28, 2011  
Recorder Job# 16076

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the attorney general; to create and enact two new sections to chapter 18-01 of the North Dakota Century Code, relating to fire and tornado fund fees and petroleum release compensation fund fees; to amend and reenact sections 12-60-25, 54-12-11, and 57-43.1-03.2 of the North Dakota Century Code, relating to missing children, the salary of the attorney general, and refunds of tax for fuel purchased by native Americans; to provide an exemption; and to declare an emergency.

## Minutes:

**Chairman Thoreson:** Reopened the discussion on SB2003.

**Kathy Roll:** See attached testimony 2003.3.28.11A.

**Chairman Thoreson:** If you want to describe the graph and information on page 1.

**Kathy Roll:** Explained 2003.3.28.11A.

**Chairman Thoreson:** That's total for the nation and not just North Dakota?

**Kathy Roll:** That's correct. Most recently it's about \$10 million a year and at this point the bureau of justice statistics doesn't know how much of this money will be available for the next grant cycle. In the past, federal funds were reasonably predictable; due to the changes in funding and the action on the federal level to reduce the budget, it's become unpredictable.

Testimony continued.

**Chairman Thoreson:** That \$557,000.00; that's grants to other entities. Do you know which entities have received those and what the purpose has been for those dollars?

**Kathy Roll:** We don't know what we'll receive; but, this is what we requested last biennium and requested for the 2011-2013 biennium.

**Chairman Thoreson:** You did have that for this biennium? We did have the grants this time around?

**Kathy Roll:** That's correct and we budgeted for those.

Explanation continued.

**Chairman Thoreson:** You said large project oversight was done by ITD?

**Mike Ressler, Director, North Dakota Information Technology Department:** ITD does large project oversight on projects \$250,000.00 or more. We have a project management methodology that we've deployed in state government; so, all agencies participate in that. Those projects that are \$250,000.00 or more; agencies are required to prepare specific reports and then quarterly ITD reports those to the legislative IT committee.

**Chairman Thoreson:** What level of oversight is it? Do you just review the information or do get involved in the actual planning or rewriting of the project?

**Mike Ressler:** There's a required steering committee that has to be done for large project oversight. A large project oversight analyst participates in the steering committee. When agencies put together their business case; that's reviewed by the large project oversight analyst as well. We have involvement but it's similar to what an auditor would do and some independence exists.

Kathy Roll continued with her explanation.

**Representative Dahl:** Do you know if other states are looking to rewrite or revamp their programs?

**Kathy Roll:** Yes, they are.

Explanation continued.

**Chairman Thoreson:** Why is it not conforming? Is it because it's too old?

**Kathy Roll:** Yes.

**Chairman Thoreson:** Are those standards developed by ITD?

**Kathy Roll:** Yes they are.

Explanation continued.

**Chairman Thoreson:** Not conforming to state software standards?

**Mike Ressler:** I'm not personally familiar with this particular standard; but, I will explain how we set the standards. Enterprise architecture's a process that we've deployed inside state government. We have domain teams which consist of members from the agencies. Domain teams determine what it is that we're trying to accomplish; that gets rung up through an architecture team which are the technical people. It then gets passed up to the architecture review board and Shara Thomas is the chair of the ARB. From there it goes up to the cytech. What we look at when we look at technology is we try to limit the number of platforms that we deploy in state government; and then we will follow the industry when it comes technology standards. If there's old technology that was deployed; when we create a new standard, what we'll do is allow the old technology to exist with the direction that if they ever modify that application, they need to upgrade that technology.

**Shara Thomas, ITD Director, North Dakota Office of the Attorney General:** The criminal history repository was developed in 1998-1999. The standards were not in place at that time. We were looking for technology that would communicate with all the pieces over the place and at that time it was very difficult to find it because technology wasn't there yet. So, we chose a technology direction using Progress to do that; which is not on our standard list for standards in the state. Part of the problem is it is older technology and it is not one on the standard list.

**Representative Klein:** A question in regard to the automated fingerprint system. Are looking to have North Dakota have its own; rather than share with Minnesota and South Dakota?

**Shara Thomas:** We have it in our plan to look at it. We don't know if it's an option or not. We do know that it costs us a lot of money in the last upgrade that we did with Minnesota and South Dakota and with our vendor which was Motorola. Had we been able to do that on our own, we could have scheduled it, cut the time in half to do that; we were about a year late on implementation of that project because of problems they had with Minnesota and South Dakota and the vendor. We do want to look at the possibility that that would be a savings to us. We wouldn't eliminate the interaction with Minnesota and South Dakota; there are other ways today to do that. Technology has advanced enough that we wouldn't necessarily have to share the database in Minnesota in order to do that.

**Judy Volk, Information Services Manager, North Dakota Bureau of Criminal Investigation:** See attached testimony 2003.3.28.11A.

**Representative Klein:** Before we go further, CWP, Livescan and FITS? What does it stand for?

**Judy Volk:** CWP is concealed weapon permits. FITS is fingerprint imaging transmission system. It's an internal system that we use to convert our inked fingerprint cards that come in from our local police departments and sheriff's offices; we use FITS to scan them and turn them into an electronic file so that they can be submitted to our fingerprint system.

**Representative Klein:** Are you also sharing those with MN and SD?

(recording glitch)



**Judy Volk:** Livescan units are fingerprint systems where you can put in all the demographic information as well as roll the fingerprints; you don't need ink. That information gets transmitted electronically to our office; we don't have to wait for mail time, that information gets to us directly.

**Representative Klein:** So what you call the criminal history records. That would have fingerprint, DNA, photographs, etc?

**Judy Volk:** Criminal history record system is not the repository for all of that information. It's linked to the other databases. Criminal history record system includes the names, dates of birth, social security numbers and the offenses for which the individuals were arrested, information on the fingerprint card that is connected to each particular arrest; but it doesn't actually contain the image of the fingerprint.

**Representative Klein:** You have that information but it's just not in the same repository?

**Judy Volk:** You're right. The systems are connected together; but, it doesn't all reside in one big database. The fingerprint images are stored in our AFIS system.

**Chairman Thoreson:** It's an electronic card?

**Judy Volk:** Yes.

Testimony continued.

**Representative Klein:** Does the fingerprint information also go to the FBI central depository?

**Judy Volk:** Yes it does. We forward our information directly out of our AFIS system for our arrest cards. Part of the workflow is to send them to the FBI and we receive a response from the FBI as well. You'll see that on our chart. It says FBI IAFIS fingerprint; that's the connection to the FBI.

**Chairman Thoreson:** The other FBI reference is for firearms sales.

**Judy Volk:** That's correct.

Judy Volk continued with her explanation.

**Representative Klein:** I'm looking at the next sheet where you plan for a repository replacement. You talk about a new federal rap sheet. Is that going to be standardized for all the states so that it will be one format?

**Judy Volk:** Yes, that is the plan. There is a rap sheet standard that has been developed by the FBI and we are not using that rap sheet standard.

**Representative Klein:** You also have plan for addition of gun purchase indicators. Is there going to be more information that they want with gun purchases?

**Judy Volk:** The FBI has the opportunity in national records to indicate whether or not an individual is prohibited from purchase of firearms. We do not use that indicator at this time; and it is something that we would like to investigate.

**Representative Klein:** Based on some background; whether it's mental, etc, they have a check saying don't issue one to this one; but, we don't in our state?

**Judy Volk:** The FBI has the opportunity in their database to indicate whether yes or no; this person is prohibited from purchase of a firearm. It makes it a lot easier when checks are run on individuals when they go to purchase if there's information on the record indicating that this person is prohibited. It could be prohibition for a variety of purposes; one of them being if the individual has been convicted of a misdemeanor crime of domestic violence, they are prohibited from weapons purchase.

**Representative Klein:** How is this going to fit in with some of the states that are doing away entirely with the concealed weapons permit?

**Judy Volk:** I don't have any information on the other states and concealed weapon permit processes.

Judy Volk continued with her explanation.

**Representative Dahl:** If we don't do this study this biennium, there was some mention of wanting an individual's expertise on this project. Is that the reason that we want to do this this biennium; how long can we run on our current technology?

**Judy Volk:** Technology is getting older and Shara mentioned the database. It's getting more and more difficult to have staff that work on that project; and that's one of the reasons. I don't know the answer to how long we can continue to hobble along; we could continue to use this database. The problem is if you don't start the planning now, you'd have to wait another 2 years.

**Shara Thomas:** There are a couple of issues for this database. One of them is to find consultants to work on this are averaging \$250.00 an hour; where you can get dot net type people for \$100.00 to \$125.00 an hour. That's one of the big issues. The other issue is we're developing in the new technology and this older technology. When we're communicating between these applications, it's a slow process.

**Representative Dahl:** I think the reason the committee has so many questions on this particular project is exactly for the reason you both have indicated; it's going to be a major project and it is the hub of a lot of your information sharing. Do you have any projections or preliminary estimates of what that will cost?

**Shara Thomas:** I believe I stated previously that my best guess would be between \$1.25 million and \$1.50 million. My intention in the planning process is that we can break it down into multiple projects and then prioritize those projects. What may end up happening is that certain projects are critical for us to do within the next 2 to 4 years; where other projects

may not be critical to do for another 6 years, etc. That's what I'm hoping the planning will tell us.

**Representative Dahl:** If some of those components are held off, does that make the planning process mute or outdated by that time?

**Shara Thomas:** I don't believe so; I believe that it will tell us how well we can break this apart or if we can. That's what we need to know because the bigger your project, the more chance of failure. We want to eliminate any chance of failure by breaking it down into more manageable projects; and the only way we can do that, I believe, is doing proper planning at the beginning.

**Representative Klein:** Closed the discussion.

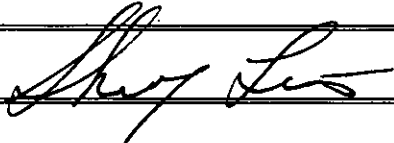
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

SB2003  
April 1, 2011  
Recorder Job# 16278

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the attorney general; to create and enact two new sections to chapter 18-01 of the North Dakota Century Code, relating to fire and tornado fund fees and petroleum release compensation fund fees; to amend and reenact sections 12-60-25, 54-12-11, and 57-43.1-03.2 of the North Dakota Century Code, relating to missing children, the salary of the attorney general, and refunds of tax for fuel purchased by native Americans; to provide an exemption; and to declare an emergency.

## Minutes:

**Chairman Thoreson:** Opened the discussion on SB2003.

**Representative Dahl:** I wanted to add some language on the green sheet with regard to item# 2. I just want to make sure that when those federal dollars go away that those positions would also go and then a case would have to be made to the next assembly.

**Representative Klein:** Seconded the motion.

A voice vote was made and carried on the amendment.

**Representative Dahl:** I want to further amend #3 on the green. It discusses reclassifications and salary adjustments for \$190,501.00. I would move to remove that funding.

**Representative Klein:** Seconded the motion.

A voice vote was made and carried on the amendment.

**Representative Dahl:** With regard to item #8 there's some funding in there for salary increases for the lab people for their certification. I would move to remove that funding.

**Representative Kempenich:** Seconded the motion

**Representative Glassheim:** I understand removing it if it's for equity; but, if they're going to be reclassified because of receiving certification isn't that automatic?

**Representative Kempenich:** It's a supplemental payment hinged on a certification?

**Kathy Roll, Financial Administrator, North Dakota Office of the Attorney General:** Yes.

A voice vote was made and carried on the amendment.

**Representative Dahl:** The attorney general's office has been very impressive with the IT projects that they have done. I propose an amendment to clarify the intent that the attorney general's office work with ITD in the study and planning of the criminal history repository replacement project. The project team performing the study must include the following architects from ITD and receive their approval for options recommended at the completion of this study; for development computer systems, security and network.

**Chairman Thoreson:** Is that for item number 4?

**Representative Dahl:** That's correct.

**Chairman Thoreson:** Did you move that?

**Representative Dahl:** If not, so moved.

**Representative Kempenich:** Seconded the motion.

A voice vote was made and carried on the amendment.

**Representative Kempenich:** The exemption that the senate put in I'd like to remove that also. It's general fund equivalent money.

**Chairman Thoreson:** It's on the green sheet dated March 8, 2011?

**Becky Keller, North Dakota Legislative Council:** That's correct. If you go to statement of purpose of amendments and it's on the very last page.

**Chairman Thoreson:** You're moving that we remove that language?

**Representative Kempenich:** Yes. The senate added it and I'm sure there's reasons why; but we can talk about it.

**Representative Dahl:** Maybe we can get clarification but there would only be \$5,000.00 in that fund by the time we're done appropriating that fund.

**Kathy Roll:** There would only be about \$500.00 left.

**Representative Klein:** Seconded the motion.

**Kathy Roll:** At the end of the next biennium the amount remaining will be \$500.00. In this bill, you are appropriating all of that except that.

**Representative Glassheim:** That doesn't change the appropriations at all; just what they can keep?

**Kathy Roll:** In the event that we don't have the carry over authority, we won't be able to spend the money. So we'll have authority without any actual funds and that's about \$3 million.

**Chairman Thoreson:** So this would affect that, correct?

**Kathy Roll:** It would.

**Representative Kempenich:** The problem is that we keep exempting and it keeps pulling these funds forward.

**Representative Glassheim:** I wonder if we want to amend this to say we have the language to take effect at the end of next biennium? Otherwise, we'd have to go back and see if we want to appropriate these.

(recording glitch)

**Chairman Thoreson:** Do you want this to be in effect for the 2013-2015 biennium?

**Representative Klein:** Why don't you do it now?

**Representative Kempenich:** It would affect the budget the way it is now. You'd have to turn it into general fund money instead of special funds.

**Becky Keller:** I don't understand what he's trying to do by putting that later date on; because, if you don't have the section in as it is now, they don't have the authority next biennium to just use it.

**Chairman Thoreson:** They'd have to request it again.

**Representative Kempenich:** Then why didn't the executive recommendations keep it in?

**Becky Keller:** I don't know if it was an oversight or what. They don't have the authority to keep that money; if they want to keep it, you have to put it in each time. If you let them have this money for this upcoming biennium, they would still need permission to get again in the next biennium.

**Becky Keller:** You could put language in that they not, for the next biennium, budget using the anticipation of the carry over.

**Representative Klein:** I think you need to take it out each time because you don't have track of it in the general fund.

**Representative Kempenich:** Rescinded the motion.

**Representative Klein:** Seconded the motion.

**Representative Dahl:** Made a motion for a "Do Pass as Amended".

**Representative Brandenburg:** Seconded the motion.

A roll call vote was made for a "Do Pass as Amended". 7 Yea's 0 Nay's 0 Absent

**Chairman Thoreson:** Closed the discussion.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

SB 2003  
4/5/11  
16352

☐ Conference Committee

Committee Clerk Signature

*Meredith Trachott*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general; relating to fire and tornado fund fees and petroleum release compensation fund fees; relating to missing children, the salary of the attorney general, and refunds of tax for fuel purchased by native Americans; to provide an exemption; and to declare an emergency.

### Minutes:

You may make reference to "attached testimony."

**Chairman Delzer:** Opened discussion on SB 2003.

**Representative Dahl:** Went over green sheet and amendment .02001. I move amendment .02001.

**Representative Thoreson:** Second.

**Chairman Delzer:** Why did you put in the last sentence in section 11? It's almost intent that we expect them to ask for these positions.

**Representative Dahl:** I don't think it's anything we would insist on. It's what they can do anyway.

**Chairman Delzer:** Even though it's something they can do, we've had situations in the past where we put that type of language in the bill relating to a deficiency, and they said the language forced them to do a deficiency. That option is always there, but I have a concern about putting it in legislative intent.

**Representative Dahl:** I don't read it that way, since it says they 'may request,' which they could do anyway.

**Representative Hawken:** I have a question about the equity money for the forensic scientists. I don't think that's a normal equity money; was there an answer to that question during your hearing, or specifically referred to?



**Representative Dahl:** If I understand this correctly, there are two issues in there. There is some equity money just for those scientists, that's about \$105,000, just in pure equity money. There's an additional \$87,000 for the certification. It's two different issues within that item.

**Representative Hawken:** Then why would you take out the money for certification?

**Representative Dahl:** Basically it was in the same item. Since we pulled all the equity money, we also just pulled that.

**Chairman Delzer:** The certification is not guaranteed to be done yet, right? The attorney general's office has roll up the same as everyone else – if they have the money in their summary line item, they can do the certification when the time happens that it's done. Further discussion on the motion to amend?

**Representative Kaldor:** On section 7 of the first engrossment (.02000), would the salary of the attorney general change, due to the change in the salary line item?

**Chairman Delzer:** I think the question is, is the money for the increase in the salary line item? I believe it is because it came from the governor's office. Neither side changed this.

**Becky Keller, Legislative Council (LC):** Correct.

**Chairman Delzer:** Further discussion? Voice vote carries. Are there further amendments to SB 2003?

**Representative Dahl:** I move Do Pass as Amended.

**Representative Brandenburg:** Second.

**Representative Dahl:** Went through the green sheet further.

**Chairman Delzer:** Was there any discussion on the issue of the salary increase?

**Representative Dahl:** I don't believe anything extensive. The increase you see is in accordance with the 3 & 3, although I know there was a substantial increase last session.

**Chairman Delzer:** This is a point of contention to me, it does change the attorney general's salary considerably. We had the discussion on it last session, it passed. I am not going to vote for the bill simply for that reason. Each person needs to vote their own opinion.

**Representative Kaldor:** The question I have about that is, last session when we passed the salary increase, we set in place the salary as of July 1, 2011, which is this coming biennium. Now the 3% is being added onto that, even though it's a future raise.

**Representative Dahl:** If I remember correctly, there was some discussion about tying his salary to the supreme court justices' salaries, so if LC would double check, I would hope this is in line with those salaries.

**Representative Kaldor:** I was on the conference committee last session on that, and we specifically did not tie it to the supreme court justices. That was pulled out.

**Vice Chairman Kempenich:** I move we substitute on the proposed annual salary recommendation of the 2011-2013 executive budget the \$134,135 with \$130,228, and July 1, 2012 with \$134,135. We don't increase it, it basically stays what it is, as stated. In the 2009 legislative assembly it was \$130,228 for July 1, 2011, and increase it for 2012.

**Chairman Delzer:** So that would be a 0 & 3 increase.

**Vice Chairman Kempenich:** Yes.

**Representative Kaldor:** Second.

**Chairman Delzer:** Discussion by the committee. If not, we'll do a voice vote. Result uncertain, we'll do a roll call vote. Motion carries 13-8. Are there any further amendments?

**Representative Skarphol:** The refund fund in the attorney general's office, can you tell us what kind of carry forward there is in that fund, since it would go to the general fund if it were not carried forward?

**Representative Dahl:** I was prepared for that question. On June 30, 2011, the balance is expected to be \$2.7 million. During the 11-13 biennium, estimated revenue is about \$360,000. With all of the appropriated money we are spending in this budget, the estimated June 30 is estimated to be \$547.

**Chairman Delzer:** Further questions or comments? Since we had a substitute motion which passed, we need a new motion to continue a Do Pass.

**Vice Chairman Kempenich:** I move Do Pass as Amended on SB 2003.

**Representative Klein:** Second.

**Chairman Delzer:** Further discussion.

**Representative Thoreson:** I understand the committee has just amended the bill to deal with the salary increase of the attorney general. We had that discussion last session, and I know there were still some questions. I personally cannot support the bill as it stands, and I'm not certain about the carrier from our subsection.

**Chairman Delzer:** Well, if the carrier votes no, we'll have to have a different carrier.

**Representative Dahl:** I am the carrier. I voted against that motion, I strongly believe we should not have done that, but I will vote yes on the entire bill and I will carry the bill.

**Chairman Delzer:** Further discussion on the motion for a Do Pass as Amended? We'll call the roll. Motion carries 15-6-0. Representative Dahl will carry the bill.

Date: 4-4-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

House Appropriations Government Operations Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Representative Dahl Seconded By Representative Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Thoreson	✓		Representative Glassheim	✓	
Vice Chairman Klein	✓		Representative Kroeber	✓	
Representative Brandenburg	✓				
Representative Dahl	✓				
Representative Kempenich	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Representative Dahl

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

April 2, 2011

**PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2003**

Page 1, line 6, after the second semicolon insert "to provide legislative intent;"

Page 1, replace line 15 with:

"Salaries and wages	\$25,958,281	\$3,232,264	\$29,190,545"
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Page 2, replace line 1 with:

"Total all funds	\$50,862,653	\$7,205,409	\$58,068,062"
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Page 2, replace line 3 with:

"Total general fund	\$28,060,432	\$3,166,312	\$31,226,744"
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Page 5, after line 13, insert:

**"SECTION 10. PROJECT PLANNING AND IMPLEMENTATION.** The attorney general shall involve the information technology department in the study and planning of the criminal history repository replacement project, for the biennium beginning July 1, 2011, and ending June 30, 2013. The attorney general shall include information technology department architects in software development, computer systems, security and network on the project team responsible for the study and planning of the project and receive approval from the information technology department before proceeding with any study recommendations relating to the project.

**SECTION 11. LEGISLATIVE INTENT - EMPLOYEE POSITIONS PAID WITH FEDERAL FISCAL STIMULUS FUNDS.** It is the intent of the sixty-second legislative assembly that the attorney general's base budget for the 2013-15 biennium not include funding or full-time equivalent positions for employees paid for with federal fiscal stimulus funds during the 2011-13 biennium. The attorney general may request funding for these positions as optional requests in the agency's budget request for the 2013-15 biennium."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2003 - Attorney General - House Action**

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$29,573,339	\$29,573,339	(\$382,794)	\$29,190,545
Operating expenses	16,418,016	16,418,016		16,418,016
Capital assets	2,256,183	2,256,183		2,256,183
Grants	3,420,000	3,420,000		3,420,000
Litigation fees	50,000	50,000		50,000
Medical examinations	660,000	660,000		660,000
North Dakota Lottery	3,700,242	3,700,242		3,700,242
Arrest and return of fugitives	10,000	10,000		10,000
Gaming Commission	7,368	7,368		7,368
Federal stimulus funds	2,355,708	2,355,708		2,355,708
Total all funds	\$58,450,856	\$58,450,856	(\$382,794)	\$58,068,062

Less estimated income	26,841,318	26,841,318	0	26,841,318
General fund	\$31,609,538	\$31,609,538	(\$382,794)	\$31,226,744
FTE	202.50	202.50	0.00	202.50

#### Department No. 125 - Attorney General - Detail of House Changes

	Removes Funding for Equity and Reclassification for Technicians <sup>1</sup>	Removes Funding for Equity and Increases for Forensic Staff <sup>2</sup>	Total House Changes
Salaries and wages	(\$190,501)	(\$192,293)	(\$382,794)
Operating expenses			
Capital assets			
Grants			
Litigation fees			
Medical examinations			
North Dakota Lottery			
Arrest and return of fugitives			
Gaming Commission			
Federal stimulus funds			
Total all funds	(\$190,501)	(\$192,293)	(\$382,794)
Less estimated income	0	0	0
General fund	(\$190,501)	(\$192,293)	(\$382,794)
FTE	0.00	0.00	0.00

<sup>1</sup> This amendment removes funding included in the executive recommendation for position reclassifications and salary equity adjustments for identification technicians.

<sup>2</sup> This amendment removes funding included in the executive recommendation for forensic scientists for salary equity adjustments and salary increases upon employees receiving certification.

This amendment adds two sections relating to:

- The study and planning of the criminal history repository replacement information technology project.
- Legislative intent regarding employee positions paid for with federal stimulus funding during the 2011-13 biennium.

Date: 4/5  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

House Appropriations Committee

Legislative Council Amendment Number .02001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Dahl Seconded By Rep. Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Nelson		
Vice Chairman Kempenich			Representative Wieland		
Representative Pollert					
Representative Skarphol					
Representative Thoreson			Representative Glassheim		
Representative Bellew			Representative Kaldor		
Representative Brandenburg			Representative Kroeber		
Representative Dahl			Representative Metcalf		
Representative Dosch			Representative Williams		
Representative Hawken					
Representative Klein					
Representative Kreidt					
Representative Martinson					
Representative Monson					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

voice vote carries

Date: 4/5  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

House Appropriations Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Dahl Seconded By Rep. Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Nelson		
Vice Chairman Kempenich			Representative Wieland		
Representative Pollert					
Representative Skarphol					
Representative Thoreson			Representative Glassheim		
Representative Bellew			Representative Kaldor		
Representative Brandenburg			Representative Kroeber		
Representative Dahl			Representative Metcalf		
Representative Dosch			Representative Williams		
Representative Hawken					
Representative Klein					
Representative Kreidt					
Representative Martinson					
Representative Monson					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

substitute motion



Date: 4/5  
Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

House Appropriations Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Kaldor

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson		X
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol		X			
Representative Thoreson		X	Representative Glassheim	X	
Representative Bellew	X		Representative Kaldor	X	
Representative Brandenburg		X	Representative Kroeber	X	
Representative Dahl		X	Representative Metcalf	X	
Representative Dosch	X		Representative Williams	X	
Representative Hawken		X			
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson		X			
Representative Monson		X			

Total (Yes) 13 No 8

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

replace on proposed salary  
130,228 + replace July 1 2012  
134,135

a 0 + 3 increase

VR  
4/6/11  
log2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2003

Page 1, line 6, after the second semicolon insert "to provide legislative intent;"

Page 1, replace line 15 with:

"Salaries and wages	\$25,958,281	\$3,219,735	\$29,178,016"
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Page 2, replace line 1 with:

"Total all funds	\$50,862,653	\$7,192,880	\$58,055,533"
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Page 2, replace line 3 with:

"Total general fund	\$28,060,432	\$3,153,783	\$31,214,215"
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Page 4, line 15, replace "thirty-four" with "thirty"

Page 4, line 16, replace "one" with "two"

Page 4, line 16, replace "thirty-five" with "twenty-eight"

Page 4, line 18, replace "thirty-eight" with "thirty-four"

Page 4, line 19, replace "fifty-nine" with "thirty-five"

Page 5, after line 13, insert:

**"SECTION 10. PROJECT PLANNING AND IMPLEMENTATION.** The attorney general shall involve the information technology department in the study and planning of the criminal history repository replacement project, for the biennium beginning July 1, 2011, and ending June 30, 2013. The attorney general shall include information technology department architects in software development, computer systems, and security and network on the project team responsible for the study and planning of the project and receive approval from the information technology department before proceeding with any study recommendations relating to the project.

**SECTION 11. LEGISLATIVE INTENT - EMPLOYEE POSITIONS PAID WITH FEDERAL FISCAL STIMULUS FUNDS.** It is the intent of the sixty-second legislative assembly that the attorney general's base budget for the 2013-15 biennium not include funding or full-time equivalent positions for employees paid for with federal fiscal stimulus funds during the 2011-13 biennium. The attorney general may request funding for these positions as optional requests in the agency's budget request for the 2013-15 biennium."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2003 - Attorney General - House Action**

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$29,573,339	\$29,573,339	(\$395,323)	\$29,178,016
Operating expenses	16,418,016	16,418,016		16,418,016

292

Capital assets	2,256,183	2,256,183		2,256,183
Grants	3,420,000	3,420,000		3,420,000
Litigation fees	50,000	50,000		50,000
Medical examinations	660,000	660,000		660,000
North Dakota Lottery	3,700,242	3,700,242		3,700,242
Arrest and return of fugitives	10,000	10,000		10,000
Gaming Commission	7,368	7,368		7,368
Federal stimulus funds	2,355,708	2,355,708		2,355,708
Total all funds	\$58,450,856	\$58,450,856	(\$395,323)	\$58,055,533
Less estimated income	26,841,318	26,841,318	0	26,841,318
General fund	\$31,609,538	\$31,609,538	(\$395,323)	\$31,214,215
FTE	202.50	202.50	0.00	202.50

**Department No. 125 - Attorney General - Detail of House Changes**

	Removes Funding for Equity and Reclassification for Technicians <sup>1</sup>	Removes Funding for Equity and Increases for Forensic Staff <sup>2</sup>	Reduces Funding for the Attorney General's Salary <sup>3</sup>	Total House Changes
Salaries and wages	(\$190,501)	(\$192,293)	(\$12,529)	(\$395,323)
Operating expenses				
Capital assets				
Grants				
Litigation fees				
Medical examinations				
North Dakota Lottery				
Arrest and return of fugitives				
Gaming Commission				
Federal stimulus funds				
Total all funds	(\$190,501)	(\$192,293)	(\$12,529)	(\$395,323)
Less estimated income	0	0	0	0
General fund	(\$190,501)	(\$192,293)	(\$12,529)	(\$395,323)
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> This amendment removes funding included in the executive recommendation for position reclassifications and salary equity adjustments for identification technicians.

<sup>2</sup> This amendment removes funding included in the executive recommendation for forensic scientists for salary equity adjustments and salary increases upon employees receiving certification.

<sup>3</sup> This amendment reduces funding for salary increases included in the executive recommendation for the Attorney General to provide a July 1, 2011, annual salary of \$130,228, and a July 1, 2012, annual salary of \$134,135.

This amendment adds two sections relating to:

- The study and planning of the criminal history repository replacement information technology project.
- Legislative intent regarding employee positions paid for with federal stimulus funding during the 2011-13 biennium.

Date: 4/5  
Roll Call Vote #: 4

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2003

House Appropriations Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Kempenich Seconded By Rep. Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Representative Nelson	X	
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol	X				
Representative Thoreson		X	Representative Glassheim	X	
Representative Bellew		X	Representative Kaldor	X	
Representative Brandenburg	X		Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch		X	Representative Williams	X	
Representative Hawken		X			
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson		X			
Representative Monson	X				

Total (Yes) 15 No 6

Absent 0

Floor Assignment Rep. Dahl

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

**REPORT OF STANDING COMMITTEE**

**SB 2003, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2003 was placed on the Sixth order on the calendar.

Page 1, line 6, after the second semicolon insert "to provide legislative intent;"

Page 1, replace line 15 with:

"Salaries and wages	\$25,958,281	\$3,219,735	\$29,178,016"
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Page 2, replace line 1 with:

"Total all funds	\$50,862,653	\$7,192,880	\$58,055,533"
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Page 2, replace line 3 with:

"Total general fund	\$28,060,432	\$3,153,783	\$31,214,215"
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Page 4, line 15, replace "thirty-four" with "thirty"

Page 4, line 16, replace "one" with "two"

Page 4, line 16, replace "thirty-five" with "twenty-eight"

Page 4, line 18, replace "thirty-eight" with "thirty-four"

Page 4, line 19, replace "fifty-nine" with "thirty-five"

Page 5, after line 13, insert:

**"SECTION 10. PROJECT PLANNING AND IMPLEMENTATION.** The attorney general shall involve the information technology department in the study and planning of the criminal history repository replacement project, for the biennium beginning July 1, 2011, and ending June 30, 2013. The attorney general shall include information technology department architects in software development, computer systems, and security and network on the project team responsible for the study and planning of the project and receive approval from the information technology department before proceeding with any study recommendations relating to the project.

**SECTION 11. LEGISLATIVE INTENT - EMPLOYEE POSITIONS PAID WITH FEDERAL FISCAL STIMULUS FUNDS.** It is the intent of the sixty-second legislative assembly that the attorney general's base budget for the 2013-15 biennium not include funding or full-time equivalent positions for employees paid for with federal fiscal stimulus funds during the 2011-13 biennium. The attorney general may request funding for these positions as optional requests in the agency's budget request for the 2013-15 biennium."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2003 - Attorney General - House Action**

	Executive Budget	Senate Version	House Changes (\$395,323)	House Version
Salaries and wages	\$29,573,339	\$29,573,339		\$29,178,016
Operating expenses	16,418,016	16,418,016		16,418,016
Capital assets	2,256,183	2,256,183		2,256,183
Grants	3,420,000	3,420,000		3,420,000

Litigation fees	50,000	50,000		50,000
Medical examinations	660,000	660,000		660,000
North Dakota Lottery	3,700,242	3,700,242		3,700,242
Arrest and return of fugitives	10,000	10,000		10,000
Gaming Commission	7,368	7,368		7,368
Federal stimulus funds	2,355,708	2,355,708		2,355,708
Total all funds	\$58,450,856	\$58,450,856	(\$395,323)	\$58,055,533
Less estimated income	26,841,318	26,841,318	0	26,841,318
General fund	\$31,609,538	\$31,609,538	(\$395,323)	\$31,214,215
FTE	202.50	202.50	0.00	202.50

**Department No. 125 - Attorney General - Detail of House Changes**

	Removes Funding for Equity and Reclassification for Technicians <sup>1</sup>	Removes Funding for Equity and Increases for Forensic Staff <sup>2</sup>	Reduces Funding for the Attorney General's Salary <sup>3</sup>	Total House Changes
Salaries and wages	(\$190,501)	(\$192,293)	(\$12,529)	(\$395,323)
Operating expenses				
Capital assets				
Grants				
Litigation fees				
Medical examinations				
North Dakota Lottery				
Arrest and return of fugitives				
Gaming Commission				
Federal stimulus funds				
Total all funds	(\$190,501)	(\$192,293)	(\$12,529)	(\$395,323)
Less estimated income	0	0	0	0
General fund	(\$190,501)	(\$192,293)	(\$12,529)	(\$395,323)
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> This amendment removes funding included in the executive recommendation for position reclassifications and salary equity adjustments for identification technicians.

<sup>2</sup> This amendment removes funding included in the executive recommendation for forensic scientists for salary equity adjustments and salary increases upon employees receiving certification.

<sup>3</sup> This amendment reduces funding for salary increases included in the executive recommendation for the Attorney General to provide a July 1, 2011, annual salary of \$130,228, and a July 1, 2012, annual salary of \$134,135.

This amendment adds two sections relating to:

- The study and planning of the criminal history repository replacement information technology project.
- Legislative intent regarding employee positions paid for with federal stimulus funding during the 2011-13 biennium.

**2011 SENATE APPROPRIATIONS**

**CONFERENCE COMMITTEE**

**SB 2003**

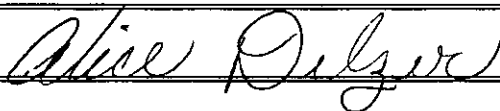
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003  
04-14-2011  
Job # 16619

☒ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A CONFERENCE COMMITTEE ON THE ATTORNEY GENERAL BUDGET

Minutes:

MEMBERS OF THE CONFERENCE COMMITTEE ARE AS FOLLOWS:

SENATE: Senator Kilzer (Chair), Senator Erbele, Senator Warner

HOUSE: Representative Dahl, Representative Klein, Representative Glassheim

OMB: Tad H. Torgerson, LEGISLATIVE COUNCIL: Becky J. Keller.

**Chairman Kilzer** called the conference committee to order. Let the record show that all 6 conferees are present. Those of us on the Senate side would appreciate an introduction to the changes.

**Representative Dahl:** I will go through the changes. On .02002. Basically the changes that the House made are as follows, on the green sheet item 3 was for \$190,501. This was approved in the executive recommendation. There was \$190,501 for reclassifications that took place for the BCI identification technician positions. They went through the HRMS. On page #2 in the middle of the page, where it says "detail of the House changes", there is a category that says removes funding for equity and reclassification for technicians. For those BCI techs, the House removed that funding. We also removed equity increases for the crime lab staff, in addition the House removed more money that was there if those individuals took additional certification tests. That is what is encompassed; basically the House removed all of the equity money in the budget. In addition when we got to full committee, there was a motion to reduce the attorney general's salary. That was done, and that is reflected on that change. Those are the changes the House made.

**Senator Kilzer:** In each one of the three, I would ask why or what was the justification?

**Representative Glassheim:** The people who were involved in a big bump in last session's Attorney General's salary to make it competitive were under the impression that that bump was going to start July 1 of 2011, and we thought it was odd that he would get the big bump, plus the 3% of the big bump so we held off the 3% until the year. It seemed to be piling a 3% raise on top of a significant raise. That was the rational in the full committee.



**Representative Dahl:** Part of the reason the House removed the equity money from both of those items was because the HEY group study was being conducted. If you look at most of the budgets coming from the House side we pulled the equity money because we were anticipating the HEY group coming in with a bigger solution than just trying to put equity dollars into some of these budgets so it is certainly something that will need to be discussed further.

**Senator Kilzer:** And where is that happening?

**Representative Dahl:** The HEY group presented their findings last week, but at this point in the session it's probably too late to make those huge substantive changes.

**Senator Kilzer:** Why shouldn't we remove it now?

**Representative Dahl:** That is the discussion that needs to happen.

**Senator Kilzer:** The reason was in anticipation of something?

**Representative Dahl:** Correct, and that was the HEY group study. I believe that they had recommendations for regrading what we wouldn't ideally like them to be paid, but again our position.....

**Senator Kilzer:** Just a moment. Do you think it is really fair just because a lot of positions are underpaid that we can use that as an excuse for adding on to the problem?

**Representative Dahl:** What I am saying is we don't want to do this just in a piecemeal way any longer. We want to fundamentally restructure the way we pay people in our state. That was the purpose of the HEY group study.

**Senator Warner:** There was a deliberate sequence of events last biennium for when the equity was added. Do you recall exactly what the sequence is? Does the inflator go on, then the equity, then the inflator? Is there an inflator in the first year beyond the equity? I remember it was a deliberate process and it was consistent across all the agencies.

**Tad H. Torgerson:** I believe that for the current biennium the 5 and 5 was added before the equity pool allocations were made. And then the equity pool allocations were made after those calculations, but I am not sure. I could find out.

**Senator Warner:** In which case you would need to retain part of the second year. You would have to adjust down the first one a little bit just so you had adequate money to fund the second year.

**Tad H. Torgerson:** I can find out.

**Senator Kilzer:** On the "reduction of funding for the attorney general's salary", did this change what we had done last session?

**Representative Dahl:** No, this simply impacted the 3% raise for the 1<sup>st</sup> year of this coming biennium.

**Senator Kilzer:** Why would you select one individual?

**Representative Dahl:** I did not support that move. Representative Glassham tried to articulate the reason for those who did support it.

**Senator Kilzer:** If I have a motion to remove it now, would it pass?

**Representative Dahl:** I would rather do it all at one time.

**Representative Glassheim:** You'll see that the attorney general was getting \$91,719 through June of 2010, then \$96,304 through December of 2010, then \$113,266 through June of 2011, then it jumps to \$130,228 from June of 2011 to June of 2012. So those were significant increases in salary in order to be equitable with the attorney general. I don't know if it was comparing with judges' salaries or to other attorneys general. This was done in the 09 session. So in a short period of time it went up from \$91,230 and that is why the 3% was not to kick in the first year. That was the appropriation committee's thought.

**Senator Kilzer:** That was the legislature's action last session to increase the attorney general up to the level of the associate justices of the Supreme Court, the same salary. I don't follow the reasoning. Just because someone has had a boost in the past, that they are not entitled to a regular increase from henceforth forward.

**Representative Glassheim:** They went from 113 to 130 starting June of 2011 so the bump of 17,000 is just starting right now. I think that some on the committee thought to add the 3% to the already large bump was too excessive. That was the thinking.

**Senator Kilzer:** I do want to know the thinking.

**Representative Dahl:** I think we should work towards making sure that our attorney general is on par with those associate justices. I hope we work towards that goal.

**Senator Kilzer:** I agree with you. I hope we stay on course. Those of us on this committee are also dealing with the judiciary committee so we do have those budgets also. Any other changes, comments, or thinking? It looks like there weren't a whole lot of changes made.

**Representative Klein:** Two of those changes were made in the subcommittee and then the last change (the attorney general's salary) was made in the whole committee.

**Senator Kilzer:** Any other questions or comments? Is there anything from the folks that are affected by this?

**Attorney General:** We have a sheet that outlines in narrative form the changes that were made if you wish to have us distribute those. Testimony attached # 1.

**Representative Dahl:** I forgot two smaller amendments that the House included in its work. Looking back to the amendments, there is a \$450,000 criminal history rewrite project; just the planning alone is estimated to cost \$450,000. It is a significant undertaking. The attorney general's office gave a diagram of where this project sits within their information system and it is right at the heart of all of their information sharing. It is very important to how they communicate with law enforcement. We know from the past that when we have involved the IT department it has gone very well. So we required that the office work with the IT department to plan for this project. The attorney general's office had planned to involve them anyway.

**Senator Kilzer:** Is that intent language located somewhere?

**Representative Dahl:** Yes, it is located in sections 10 and 11 of 003. The other amendment was: there are 8 FTEs that were approved last time but the funding did not come through from the federal government. They are all federally funded positions so there is money in the budget this time around. We put some intent language that when the federal money goes away those positions will go away. So effectively if we want to replace those positions with state dollars, we will need to have that conversation in the future. Those are the other two amendments.

**Senator Kilzer:** How long are the federal funds guaranteed?

**Representative Dahl:** Just this biennium and into next biennium.

**Senator Kilzer:** Which section is that on the last page?

**Representative Dahl:** Section 11

**Senator Kilzer:** It does mention the FTEs but it doesn't mention 8 of them. Is that correct?

**Representative Dahl:** Correct, go down to the 3<sup>rd</sup> line of that amendment, it says "those FTEs paid for with federal fiscal stimulus funds during the 11-13 biennium", that language addresses those 8.

**Senator Kilzer:** Any other comments or ideas we are going to have to act on in the future?

**Senator Warner:** The associate justices would be \$143,000. So if we follow the House actions, then the attorney general begins to fall behind again.

**Senator Kilzer:** We will be adjourned. Watch the calendar closely.

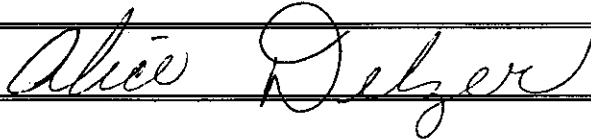
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003  
04-18-2011  
Job # 16730

☒ Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

### A CONFERENCE COMMITTEE FOR ATTORNEY GENERAL

**Minutes:**

You may make reference to "attached testimony."

### MEMBERS PRESENT ARE AS FOLLOWS:

**SENATE:** Senator Kilzer, (Chair) Senator Erbele, Senator Warner

**HOUSE:** Rep. Dahl, Rep. Klein, Rep. Glassheim

**OMB:** Tad H. Torgerson, **LEGISLATIVE COUNCIL:** Becky J. Keller

**Chairman Kilzer** opened the conference committee in reference to SB 2003 at 2:30 pm in the Harvest room. Let the record show that all 6 conferees are present.

The House did explain the 3 changes that they made and I would ask them to refresh our memories on those changes. When you are explaining the first two changes, equity and reclassification for technicians and also the equity and increases for the forensic staff, I don't have the beginning and ending numbers. Please include those.

**Rep. Dahl** states, I think the handout that the attorney general gave us has 2 categories.

**Testimony attached # 1. Lead category on the first page indicating, BUREAU OF CRIMINAL INVESTIGATION IDENTIFICATION TECHNICIAN GRADE CHANGE.** If you look at the House changes, we took that funding out. Basically, that was a grade change made by HRMS to those BCI positions and that was \$190,501 and we took that out for further discussion, in light of the Hay Group study, whose fundings were presented about a week and a half ago. The second issue is the crime lab equity. The AG office did a nice job of breaking that down. There was \$105,000 of equity money to go towards crime lab staff. On top of that, there was \$88,892 included for additional certification for those individuals, equivalent to getting a masters degree, if you are teacher. We also removed that so we may have a further discussion, although the House removed all the equity pools that were included in any of the executive budget recommendations. That amounted to approximately \$192,293, when you take the \$105,000 of equity and include the \$86,000 in additional certification, that money to go towards that purpose. We also put in the collaboration piece with ITD, on the criminal history rewrite. One other amendment that just indicated anything funded with federal stimulus funds, those positions are to go away when the federal funding goes away.

**Chairman Kilzer** asks, about the 3 and 3 increase for the attorney generals salary. The response is, that is correct.

**Rep. Glassheim** asks, is the Senate ok with these two things, employee positions paid with federal funds, if the fed money goes away, and section 10, requires the depts. planning criminal history replacement project to include IT department architects and the development of software etc.

**Chairman Kilzer** states, I can express my individual opinion but we as a Senate appropriations committee have not discussed it among ourselves so we are open to anything. Generally speaking, on the stimulus funds approach, once the stimulus funds go away, don't expect them to be paid by other funds.

**Rep. Klein**, states, on section 10, discussed with ITD, we wanted to make sure that we had a package that worked out.

**Chairman Kilzer** asks, do the Senate members agree with the 2 sections with ITD and stimulus funds are not replaced by general funds?

**Senator Erbele** states, I'd be fine with both of those.

**Senator Warner** states, I would agree to those changes too. The stimulus funded FTE's; I think there is a clear understanding they could not be included on any base budget. But there is a reason for those, requiring an independent justification at that time, to see if that is something we wanted to continue at that time. I wouldn't want to see any language that would forbid us to use that at another time.

**Chairman Kilzer** states, if they can stand on their own merit okay.

**Rep. Glasshiem**, states, I believe that is the language that is there. That the base budget not include full time positions from the stimulus. The attorney general may request funding for these positions, as optional, requesting the agency's budget request for 2013.

**Chairman Kilzer** states, so section 10 and 11 are pretty agreeable. The 3 issues, the lesser of the three is the attorney generals 3% and I would have an objection to that and that is it takes us out of step with what we did 2 years ago and that was to put the AG salary at the same level as the associated justices in the Supreme Court. If we give them a 3% raise, which will probably come, even though they asked for a 5% and the legislature has taken it back to 3%. It would be like sometimes that happens to me when I am watching to the TV but listening to the sound from the radio and there is a 2 second delay. It would be that the AG would not be marching in step with the associate justices.

**Rep. Dahl** states, there is agreement on adding the 3% back in. I want to address it when we talk about the whole budget but I think that is a point of agreement.

**Rep. Klein** states, that was not an amendment came out of our subcommittee. That was an amendment that was passed in the big committee. So I think we can accept that change.

**Chairman Kilzer** asks, are there any other comments regarding the AG's 3 and 3? We will continue on.

**Rep. Dahl** states, these are two slightly different issues because there was a regrading of those BCI positions. It's a little different issue than the equity put in for the crime lab. So I do not particularly love the process by which this came to us. The point is, it is in front of us. Those are grade changes that were made HRMS and guess it is a more of a clean issue than the equity money. In regard to the equity money, the \$105,000, the House is very firm that we should not be putting band aids on the issues. We should look towards implementation of the Hay Group recommendations to more fully address the structural issues in state government.

**Chairman Kilzer** states, any other comments? What is your priority or biggest opposition to the remaining two issues?

**Rep. Dahl** states, I think we can have further discussion on the BCI grade changes and those would take priority over the equity in the crime lab. It is not to say that they are not important but it is a little more clear issue so I think we can begin our discussions from there. The House is very firm that the equity money should not be included. Although that said, that addresses the \$105,000. There is an additional \$86,000, which is put in there for additional certifications. Although it's directed at the crime lab, it's a little bit different issue than the equity money.

**Senator Warner** states, I was a forensic analyst in my life. I worked 3 years for the State Toxicology lab ending in 1980. When I left the place, I was making \$12,000 a year. It's a field; don't know what they make now. Salaries are not very generous and it's a painstaking, meticulous work.

**Rep. Dahl** states, in my job, I am an assistant municipal prosecutor. We do deal with those analysts in the crime and they do an excellent job. It is an issue that needs to be addressed; the question is how we should address those issues we have. Not only in the crime lab, the attorneys in the AG's office are 15% behind the market pay, others behind the pay, we are looking for a more broad approach.

**Chairman Kilzer** asks, is it fair or is it not a good idea to say the House has a different approach on equity? Tell us what it is?

**Rep. Dahl** states, this interim will be used to implement the findings of the Hay Group. We had initial presentation to the House Appropriations Committee at the beginning of the session; we did not receive the final report because that came to a different committee. I am not aware of what their recommendations are but we need to take care of all our employees.

**Chairman Kilzer** states, can I conclude you are not thrilled about funding the \$105,000 part of it? The response was, that is correct.

**Senator Warner** asks, how are your feelings differing on the \$86,000 on the certification piece?

**Rep. Dahl** states, it's a little bit different. I relate it like a teacher getting a masters degree. It is not just a salary issue; it is a merit based issue. I want to be careful. I know we need to do more on their salaries. This one way I think we can help with both of those areas.

**Chairman Kilzer** asks, any other comments?

**Rep. Klein** asks, in regards to the \$86,000, we looked at that similarly too, someone who is an accountant, and receives his CPA. I don't think I would have that much trouble with that part of it because you have upgraded yourself and certainly there should be some reward going with it.

**Chairman Kilzer** asks, would you be interested in using some kind of incentive, that the person wouldn't use their acquired degree, to get a better high paying job somewhere else because that is what happens for sure.

**Senator Erbele** asks, is the \$86,000 back in? Then we are back to page 1 on the DCI and crime laboratory?

**Chairman Kilzer** states, I would ask the question of the House members?

**Rep. Dahl** states, I think there could be agreement on that piece. I want to be sure it's part of the comprehensive agreement.

**Rep. Klein** states, we want to check and see but it looks like a possibility.

**Chairman Kilzer** asks, if I would ask for amendments to be drawn up, leaving out the \$86,000 item, would that be potentially feasible?

**Rep. Dahl** states, it was the \$105,000 to be left out.

**Chairman Kilzer** states, leave out the \$105,000 but leave everything else in.

**Rep. Dahl** states, I don't want to lock ourselves into an agreement right here but it would be a good starting point.

**Chairman Kilzer** asks, can we do that draw up new amendment along with section 10 and 11 are ok. The next time we meet will be when the amendments are done.

**Thank-you committee members.**

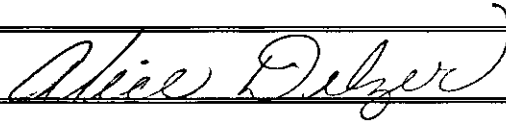
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2003  
04-20-2011  
Job # 16793

☒ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A CONFERENCE COMMITTEE HEARING ON ATTORNEY GENERAL DO PASS AS AMENDED

### Minutes:

You may make reference to "attached testimony."

### MEMBERS PRESENT ARE AS FOLLOWS:

SENATE: Senator Kilzer, (Chair); Senator Erbele, Senator Warner  
HOUSE: Rep. Dahl, Rep. Klein, Rep. Glassheim

OMB: Tad H. Torgerson; LEGISLATIVE COUNCIL: Becky J. Keller

**Chairman Kilzer** opened the conference committee in reference to SB 2003 at 10:00 am in the Harvest Room. Let the record show that all 6 conferees are present.

**Rep. Dahl:** I passed out proposed amendments # .02004. I think we should have consensus here about where to go in this conference committee but these amendments would include some of the changes the House made with regards to the project planning for the criminal history rewrite and that the positions paid for by federal stimulus funds are to go away once the that money goes away. The equity money would be removed on the BCI, I'm sorry, from the crime lab. The equity money would be removed from the crime lab but then we would increase the amount they could earn on the certification piece by \$38,000 and we would also fund those salary reclassifications.

**Rep. Dahl moved the amendment # .02004. Seconded by Senator Warner.**

**Chairman Kilzer:** We have a motion by Rep. Dahl, seconded by Senator Warner to adopt .02004. Discussion.

**Rep. Dahl:** If I may clarify the language, towards the bottom of page 2, there's a second sort of line that says the conference committee did not make funding reductions included in the House version relating to the Attorney General's salary and I think it should read "And salary reclassifications" so the language regarding equity increases and that language should come out because what it really is is just a reclassification, it's not technically equity.



**Chairman Kilzer:** Becky, do you have a comment on that?

**Becky J. Keller:** That's fine. We will probably have that language removed when it's prepared for enrolling and engrossing if that's ok?

**Chairman Kilzer:** Is everyone comfortable with that?

**Rep. Klein:** I would move that the House recede from it's previous amendments and then further amend.

**Chairman Kilzer:** We do have a motion in front of us now and that is to adopt this document. So do you pull back, Rep. Klein? His response was that's fine. Thank-you.

**Becky J. Keller:** This version does include the language on it.

**Chairman Kilzer:** Are you ok with that, Rep. Dahl? She replied yes. Further discussion?

**Rep. Glassheim:** I'd just like an opportunity to record a no vote on the Attorney General's salary portion of it. I've been chatting with conferees from last session's conference committee and they were under the impression the money for the first year of the Attorney General's salary was set last time, so I would like to vote no on that but yes on the whole package.

**Chairman Kilzer:** Rep. Glassheim, we'll first take a vote on this document and then we will take a vote on the whole bill and you would have your opportunity if you desire to vote no on this one and yes on the final bill.

**Rep. Glassheim:** Could I divide out just that one section? He was told no.

**Becky J. Keller:** This amendment does not include any action on the Attorney General's salary because that was a House amendment and when we come into Conference Committee the House amendments are stripped and we go back to the first House version.

**Rep. Dahl:** Perhaps the appropriate move would be to further amend if that's what you wanted to do after we adopt these amendments.

**Chairman Kilzer:** I will give opportunities to further amend after we adopt this. Any more discussion on .02004? If not we will ask the clerk to take the roll.

**A roll call vote was taken on Amendment # .02004. Yea: 5; Nay: 1; Absent: 0. Motion carried.**

**Chairman Kilzer:** OK, we have adopted .02004.

**Chairman Kilzer:** moved a DO PASS AS AMENDED on SB 2003. Seconded by Senator Erbele. Any further discussion? Did you want to make an amendment, Rep. Glassheim?

**Rep. Glassheim:** I'll move an amendment to remove the 3% increase in the first year for the Attorney General's salary.

**Chairman Kilzer:** Is there a second? The motion dies for lack of a second. Any other items that we want to have before we disband or adjourn, whichever one you prefer? Thank-you very much, committee members. We need the final vote on the final motion. Please call the roll to accept the bill in it's present position?

**A ROLL CALL VOTE WAS TAKEN ON A DO PASS AS AMENDED ON SB 2012. YEA: 6; NAY: 0; ABSENT: 0. MOTION CARRIED. Chairman Kilzer will carry the bill on the floor.**

**Chairman Kilzer:** Thank-you everyone for coming and for coming the last time and the time before. The hearing on SB 2003 was closed.

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2003 as (re) engrossed

Date: 4-14-11

Roll Call Vote #: \_\_\_\_\_

## Action Taken

- ☐ SENATE accede to House amendments  
☐ SENATE accede to House amendments and further amend  
☐ HOUSE recede from House amendments  
☐ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) --

- ☐ 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

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Senators	4/14	4/18	Yes	No		Representatives	4/14	4/18	Yes	No
Senator Kilzer	✓	✓				Rep. Dahl	✓	✓		
Senator Erbele	✓	✓				Rep. Klein	✓	✓		
Senator Warner	✓	✓				Rep. Glassheim	✓	✓		

Vote Count: Yes \_\_\_\_\_ No \_\_\_\_\_ Absent \_\_\_\_\_

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2003 as (re) engrossed

Date: 4-20-11

Roll Call Vote #: 1

*Amend # 0200 4p*

## Action Taken

- ☐ SENATE accede to House amendments  
☐ SENATE accede to House amendments and further amend  
☐ HOUSE recede from House amendments  
☐ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) --

- ☐ 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

Motion Made by: Rep Dahl Seconded by: Sen Warner

Senators	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No		Representatives	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Yes	No
Senator Kilzer	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			Rep. Dahl	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Senator Erbele	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			Rep. Klein	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Senator Warner	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			Rep. Glassheim	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>

Vote Count: Yes \_\_\_\_\_ No \_\_\_\_\_ Absent \_\_\_\_\_

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2003

That the House recede from its amendments as printed on pages 1290-1292 of the Senate Journal and pages 1445-1447 of the House Journal and that Engrossed Senate Bill No. 2003 be amended as follows:

Page 1, line 6, after the second semicolon insert "to provide legislative intent;"

Page 1, replace line 15 with:

"Salaries and wages	\$25,958,281	\$3,547,765	\$29,506,046"
---------------------	--------------	-------------	---------------

Page 2, replace line 1 with:

"Total all funds	\$50,862,653	\$7,520,910	\$58,383,563"
------------------	--------------	-------------	---------------

Page 2, replace line 3 with:

"Total general fund	\$28,060,432	\$3,481,813	\$31,542,245"
---------------------	--------------	-------------	---------------

Page 5, after line 13, insert:

**"SECTION 10. PROJECT PLANNING AND IMPLEMENTATION.** The attorney general shall involve the information technology department in the study and planning of the criminal history repository replacement project, for the biennium beginning July 1, 2011, and ending June 30, 2013. The attorney general shall include information technology department architects in software development, computer systems, and security and network on the project team responsible for the study and planning of the project and receive approval from the information technology department before proceeding with any study recommendations relating to the project.

**SECTION 11. LEGISLATIVE INTENT - EMPLOYEE POSITIONS PAID WITH FEDERAL FISCAL STIMULUS FUNDS.** It is the intent of the sixty-second legislative assembly that the attorney general's base budget for the 2013-15 biennium not include funding or full-time equivalent positions for employees paid for with federal fiscal stimulus funds during the 2011-13 biennium. The attorney general may request funding for these positions as optional requests in the agency's budget request for the 2013-15 biennium."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2003 - Attorney General - Conference Committee Action**

	Executive Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$29,573,339	\$29,573,339	(\$67,293)	\$29,506,046	\$29,178,016	\$328,030
Operating expenses	16,418,016	16,418,016		16,418,016	16,418,016	
Capital assets	2,256,183	2,256,183		2,256,183	2,256,183	
Grants	3,420,000	3,420,000		3,420,000	3,420,000	
Litigation fees	50,000	50,000		50,000	50,000	
Medical examinations	660,000	660,000		660,000	660,000	
North Dakota Lottery	3,700,242	3,700,242		3,700,242	3,700,242	
Arrest and return of fugitives	10,000	10,000		10,000	10,000	

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2003 as (re) engrossed

Date: 4-20-11

Roll Call Vote #: 2

## Action Taken

- ☐ SENATE accede to House amendments  
☐ SENATE accede to House amendments and further amend  
☐ HOUSE recede from House amendments  
☒ HOUSE recede from House amendments and amend as follows

on SB 2003

Senate/House Amendments on SJ/HJ page(s) --

- ☐ 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

Motion Made by: Sen Kilzer Seconded by: Sen Erbele

Senators				Yes	No		Representatives				Yes	No
Senator Kilzer				✓			Rep. Dahl				✓	
Senator Erbele				✓			Rep. Klein				✓	
Senator Warner				✓			Rep. Glassheim				✓	

Vote Count: Yes \_\_\_\_\_ No \_\_\_\_\_ Absent \_\_\_\_\_

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**SB 2003, as engrossed:** Your conference committee (Sens. Kilzer, Erbele, Warner and Reps. Dahl, Klein, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1290-1292, adopt amendments as follows, and place SB 2003 on the Seventh order:

That the House recede from its amendments as printed on pages 1290-1292 of the Senate Journal and pages 1445-1447 of the House Journal and that Engrossed Senate Bill No. 2003 be amended as follows:

Page 1, line 6, after the second semicolon insert "to provide legislative intent;"

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Renumber accordingly

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Operating expenses	16,418,016	16,418,016		16,418,016	16,418,016	
Capital assets	2,256,183	2,256,183		2,256,183	2,256,183	
Grants	3,420,000	3,420,000		3,420,000	3,420,000	
Litigation fees	50,000	50,000		50,000	50,000	
Medical examinations	660,000	660,000		660,000	660,000	
North Dakota Lottery	3,700,242	3,700,242		3,700,242	3,700,242	
Arrest and return of fugitives	10,000	10,000		10,000	10,000	
Gaming Commission	7,368	7,368		7,368	7,368	
Federal stimulus funds	2,355,708	2,355,708		2,355,708	2,355,708	
Total all funds	\$58,450,856	\$58,450,856	(\$67,293)	\$58,383,563	\$58,055,533	\$328,030

Less estimated income	26,841,318	26,841,318	0	26,841,318	26,841,318	0
General fund	\$31,609,538	\$31,609,538	(\$67,293)	\$31,542,245	\$31,214,215	\$328,030
FTE	202.50	202.50	0.00	202.50	202.50	0.00

**Department No. 125 - Attorney General - Detail of Conference Committee Changes**

	Removes Funding for Salary Equity Increases for Forensic Staff <sup>1</sup>	Increases Funding for Forensic Staff Salaries for Certification <sup>2</sup>	Total Conference Committee Changes
Salaries and wages			
Operating expenses			
Capital assets			
Grants			
Litigation fees			
Medical examinations			
North Dakota Lottery			
Arrest and return of fugitives			
Gaming Commission			
Federal stimulus funds			
	(\$105,401)	\$38,108	(\$67,293)
Total all funds	(\$105,401)	\$38,108	(\$67,293)
Less estimated income	0	0	0
General fund	(\$105,401)	\$38,108	(\$67,293)
FTE	0.00	0.00	0.00

<sup>1</sup> This amendment removes funding included in the executive recommendation for forensic scientists for salary equity adjustments. The House removed \$192,293 for salary equity adjustments and salary increases upon employees receiving certification.

<sup>2</sup> This amendment increases funding for salary increases for forensic staff upon certification, from \$86,892 included in the executive recommendation to a total of \$125,000. The House removed \$86,892.

The conference committee did not make funding reductions included in the House version relating to the Attorney General's salary (\$12,529) and salary reclassifications (\$190,501).

This amendment adds two sections relating to:

- The study and planning of the criminal history repository replacement information technology project.
- Legislative intent regarding employee positions paid for with federal stimulus funding during the 2011-13 biennium.

These sections were also added by the House.

Engrossed SB 2003 was placed on the Seventh order of business on the calendar.



2011 TESTIMONY

SB 2003

# **2011 - 2013 BUDGET**

**Office of Attorney General  
State of North Dakota**

**Wayne Stenehjem  
Attorney General**

**Presented to  
Senate Appropriations Committee**

# TABLE OF CONTENTS

CURRENT AND FUTURE CRITICAL ISSUES.....	2
➤ Equity Adjustments and Certifications .....	2
STAFF MEMBER NEEDS .....	3
➤ Federal Stimulus Positions .....	3
OFFICE OPERATING NEEDS .....	5
➤ Crime Statistic Repository Update .....	5
➤ Additional Bureau of Criminal Investigation Case Management Modules.....	6
➤ Public On-line Record Checks and Concealed Weapon Permit Applications .....	6
➤ AG Refund Fund Carryover .....	7
➤ Equipment Recycling Budget and Preventive Maintenance Contracts .....	7
➤ Missing Children Repository .....	7
➤ Gaming Commission Budget Deficiency.....	7
➤ Increased ITD Costs .....	8
➤ Criminal Trends Using Technology.....	8
➤ Prescription Drugs .....	8
➤ Information Technology Service to Office Customers.....	8
➤ State and Federal Mandates .....	9
2009-2011 Biennium Appropriation by Line Item .....	10
2009-2011 Biennium Appropriation by Division .....	11
2009-2011 Biennium Appropriation by Funding Source .....	12
2011-2013 Biennium Recommendation by Line Item .....	13
2011-2013 Biennium Recommendation by Division .....	14
2011-2013 Biennium Recommendation by Funding Source.....	15
2011 LEGISLATION IMPACTING THE OFFICE OF ATTORNEY GENERAL.....	16
➤ Native American Fuel Tax Refund Amendment.....	16
➤ Criminal History Record Checks Legislation.....	17
SUMMARY OF OFFICE OF ATTORNEY GENERAL MAJOR ACCOMPLISHMENTS .....	17
➤ Methamphetamine and Other Illicit Drugs.....	17
➤ Pharmaceutical Take Back and Take Away Programs .....	18
➤ Statewide Law Enforcement Intelligence Center (SLIC).....	18
➤ Do Not Call Enforcement.....	19

➤ Concealed Weapon Permits .....	19
➤ Criminal History Record Information Requests .....	19
➤ 24-7 Sobriety Program.....	19
➤ AFIS Upgrade Completed.....	20
➤ Other Office Information .....	20
Offender Samples Workload .....	22
DNA Submitted Cases .....	23
State & Federal Record Checks Under NDCC 12-60-24 .....	24
Toxicology Drug Analysis Submissions .....	25
North Dakota Prescription Drug Deaths vs. Homicides .....	26

# **2011 ENGROSSED SENATE BILL NO. 2003**

## **Office of Attorney General**

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

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

The office consists of 13 divisions:

- Administration
- Bureau of Criminal Investigation
- Civil Litigation
- Consumer Protection and Antitrust
- Crime Laboratory
- Criminal and Regulatory
- Finance and Administration
- Fire Marshal
- Gaming
- Information Technology
- Lottery
- Natural Resources and Indian Affairs
- State and Local Government

## CURRENT AND FUTURE CRITICAL ISSUES

### ➤ Equity Adjustments and Certifications

This office is very appreciative of the equity adjustments provided during the last session. As noted last session, the Crime Laboratory staff members will continue to require salary increases to make up the salary difference when compared with other states and localities.

#### Crime Laboratory Salaries

The Crime Laboratory (Lab) Division salaries have suffered significantly in comparison to similar positions in other state agencies and in comparison to similar positions in other crime laboratories. Recruitment and retention in the Lab continues to be a challenging issue. North Dakota salaries for the same positions are significantly below their Midwest counterparts. As a result, when employees leave state employment, the Lab has difficulty attracting equally qualified staff. It has only been able to hire individuals without forensic experience -- leaving the new hires in the Lab with a learning curve of between six months to two years. Consequently, the Lab has become a training ground for new scientists with no forensic experience. Experienced staff must monitor the work of the new employees and also handle the growing workload. The situation has added to casework processing delays, particularly with continued caseload increases, and has had a tremendous negative impact on employee morale which in turn causes employees to look for employment elsewhere.

The forensic scientists' salaries must become competitive within the region. In May 2010 a Midwest Crime Laboratory salary survey was completed indicating that, out of the job classifications surveyed, the Crime Lab forensic scientist series was 21% below the surveyed market salaries. There are currently 3 staff members with over 10 years of state service still below the midpoint of their salary range and 3 staff members with over 20 years of state service still well below the salary range maximum. This \$105,401 general fund request will allow the division to provide a more competitive minimum starting salary and an equitable increase for scientists within the Crime Laboratory Division. The requested equity increase for Crime Lab forensic scientists is only 20% of the amount needed to bring these scientists salaries in line with the Midwest region average salaries. The increased salaries will hopefully allow the Lab to recruit and retain experienced scientists, thereby allowing the best possible service to the law enforcement community.

### **Crime Laboratory Certification**

In light of the recent National Academy of Sciences Report, the Laboratory is requesting to begin a proactive approach for certification of analysts in their respective disciplines. The Laboratory is requesting a modest increase in forensic scientists' salaries if scientists pass nationally standardized certification test, at a cost of \$86,892 from the general fund. A scientist certified in a particular discipline will benefit from the additional credibility the certification adds to their court testimony. As a result, the whole criminal justice system benefits by having increased confidence in the results generated by a certified scientist.

## **STAFF MEMBER NEEDS**

### **➤ Federal Stimulus Positions**

This office again requests authority for the ARRA federal stimulus funding and associated staff positions. The Justice Assistance Grant (JAG) and the Internet Crimes Against Children (ICAC) stimulus grants funding is provided for a total of four years. The Rural Law Enforcement Act grant has money remaining to partially fund the 2 intelligence analyst positions added this biennium in the 2011-13 biennium. The remaining amount needed for these analysts, \$106,804, is funded with special funds. In addition, one intelligence analyst will be funded with other ongoing federal funds. The Executive Recommendation includes \$2,355,708, of which \$2,248,904 is from federal stimulus funds to fund 7 positions.

### **Forensic Scientists**

The Crime Lab DNA unit is responsible for maintaining the DNA database for convicted and registered offenders and performing DNA analysis on criminal casework. The DNA unit of the laboratory has experienced continued growth in offender data basing and DNA casework.

16.9% increase from 2006 to 2007

39.7% increase from 2007 to 2008

15.8% increase from 2008 to 2009

26.7% increase from 2009 to 2010 (estimated)

DNA technology is an extremely valuable tool for law enforcement to solve crimes, and the laboratory needs to provide timely analysis. In order to provide

timely service to the law enforcement community these two forensic scientists FTE's are critical. When the laboratory can process the caseload in a timely manner, law enforcement and the citizens of North Dakota will be better served and protected because the law enforcement community has more tools available to solve crimes (more DNA profiles).

These two forensic scientist positions were funded from the General Fund in the Governor's 2009-11 biennium budget recommendation. After federal stimulus (ARRA) funding became available, the Legislature decided to use this funding for these positions. The 2011-13 biennium Executive Recommendation funds these two positions from federal stimulus funds.

#### **24/7 Statewide Program Coordinator**

Federal stimulus funding is being used for a 24/7 coordinator's salary and expenses to manage the Attorney General's 24/7 Sobriety Program, which has developed into an effective means to remove intoxicated drivers from the road and improve their success with treatment. This individual has been responsible for coordinating all phases of program development, statewide expansion of the program, and organizing and conducting training for the sobriety programs with local, county, and state law enforcement agencies, as well as municipal and district judges. The coordinator determines what issues need to be addressed throughout expansion, and identifies solutions for them as they arise. Additionally, the coordinator interacts with other states sobriety programs and vendors that supply the necessary equipment used for participant testing. It is imperative that there be a central point of contact to continue coordinating the 24/7 program and training on behalf of the state to ensure the ongoing success of the program.

#### **Cyber Agent**

Funding from the federal stimulus act is being used for an agent who provides cyber crime services in the eastern part of North Dakota. This agent primarily assists with the cyber crime aspect of investigations including narcotics activity, child pornography, child abuse, child molesters, and counterfeit documents such as drivers' licenses, internet auction fraud, terrorizing, extortion, and identity theft. It is imperative to continue to fund this cyber crime agent, as the workload continues to grow, and the expertise developed by these agents is crucial to the success of office investigations and subsequent convictions.

#### **Intelligence Analysts**

Federal stimulus funding is being used in the efforts of two intelligence analysts located at the Statewide Law Enforcement Intelligence Center (SLIC). The induction of the SLIC team into the state crime fighting and intelligence gathering arsenal has allowed task forces and all law enforcement agencies to overcome



the information gap and target their limited resources more effectively. These analysts collect information and evidence from current and terminated investigations/seizures; and compare data to identify relationships, commonality, and linkages in an attempt to identify organizations responsible for the trafficking of illegal narcotics and terrorist activity. The team then develops case packages and intelligence leads that are given to local law enforcement, task forces, and other state and federal agencies for further case development and prosecution. The team's efforts also involve exchanging terrorist activity information with the other fifty fusion centers throughout the nation. These efforts have been vital in compiling information regarding Drug Trafficking Organizations (DTO) and disseminating that information to the agencies, allowing officers to focus their attention on specific individuals and organizations responsible for the trafficking of illegal narcotics.

The SLIC operation provides the only service of this kind in North Dakota, and has quickly gained the support of law enforcement. It is imperative to continue to fund these analysts, as the requests for analysis continue to increase, and these additional services help to ensure a backlog does not accumulate.

#### **Grants Staff**

Federal stimulus act monies fund the efforts of an administrative assistant who assists in managing stimulus funding made available to the Office of Attorney General. The workload has increased substantially due to increased reporting requirements and numerous additional sub grantees required to be monitored. Grants management staff monitors the fiscal and program activities of sub grantees to ensure proper implementation of their projects, as well as timely and comprehensive reporting, through site visits and fiscal reviews. It is imperative that this position continue to ensure that programs are properly implemented, to provide timely and accurate reports of grant activities as well as the sub grantees this office oversees.

## **OFFICE OPERATING NEEDS**

### **➤ Crime Statistic Repository Update**

The office's software contract only covers critical federal updates to the crime reporting repository application. The FBI has added more code structures, including location and property codes, which are not mandatory so our vendor will not make the updates. This information is important to track and make available to provide law enforcement entities with better, more detailed information. The codes better reflect where crimes are being

committed and as an example, what types of items are being stolen. This request provides for \$100,000 in other funds for these software updates which is included in the Executive Recommendation.

### ➤ **Additional Bureau of Criminal Investigation Case Management Modules**

The DOS-based agent case time-tracking system needs to be replaced, for which \$200,000 in other funds is included in the Executive Recommendation. The new module can also be used by legal divisions, replacing the over 20 year old AS400 case time tracking and billing system.

One module allows BCI to bar code evidence for submission to the Crime Lab's new system saving data entry time, for which \$100,000 in other funds is included in the Executive Recommendation. The new application can also be used for bar coding office fixed assets inventory saving physical verification and data entry time.

The statewide task forces currently use a DOS-based system for crime reporting. A new BCI case management system module will handle this task force information, for which \$125,000 on other funds is funded in the Executive Recommendation.

### ➤ **Public On-line Record Checks and Concealed Weapon Permit Applications**

During the last several legislative sessions the number of criminal history record checks which can be requested by the public have increased significantly. Currently mailed applications are received and the information is keyed into the system. The payment checks are handled manually and the reconciliation process alone takes one-fourth of one staff member's time each month.

Returned checks for the items above have increased and the process to handle these is manual and very labor intensive.

The concealed weapon permits reciprocity change has substantially increased the number of requests for the permits. This is a very manual and labor intensive operation which has become overwhelming.

With internet-based systems for criminal history record checks requests and concealed weapon permits applications, and on-line payments, there will be a noticeable reduction in this manual, labor-intensive effort, which will hopefully allow the office to continue these responsibilities with its current staff. This request is for \$175,000 from other funds for the concealed weapons permits system and \$200,000 in other funds for the criminal history record check request system, both of which are funded in the Executive Recommendation.

## ➤ **AG Refund Fund Carryover**

The 2011-13 biennium budget includes use of the AG Refund Fund 2009-11 remaining balance for Consumer Protection work, several law enforcement computer applications, and Crime Lab replacement equipment. Carryover authority for the fund is needed to make these expenditures. **This request is to carryover the AG Refund Fund balance as of the end of this biennium to the 2011-13 biennium.**

## ➤ **Equipment Recycling Budget and Preventive Maintenance Contracts**

The Crime Lab has relied on federal funds to purchase major pieces of equipment. Currently, the lab has over \$2.2 million in capital assets. The Lab will purchase additional instrumentation this biennium which is not included in the capital assets total above. Just as computers, cars, and other equipment are recycled, the Lab is requesting a percentage of its capital assets to be recycled. The federal funds previously received for equipment purchases have been slowly dwindling; still the Lab is mandated to use cutting edge technology to analyze casework. The Lab is requesting \$178,000 in special funds and \$30,400 from the general fund monies for this purpose. This equipment will allow the Lab to attain and maintain the level of technology required for casework analysis.

In addition to an equipment recycling budget, a \$35,532 general fund increase is needed for preventative maintenance agreements, which was included in the Executive Recommendation. This funding will ensure the equipment is properly calibrated and running efficiently. Without maintenance contracts, some instruments would become idle because only certified trained technicians can repair/calibrate the instruments. In effect, the Lab would not be able to adequately perform its legislative mandates and provide timely analysis for the law enforcement community. Maintenance agreements are requested only for equipment the Lab staff cannot fix and to keep the integrity associated with the equipment for court purposes.

## ➤ **Missing Children Repository**

2009 Senate Bill No. 2161 passed last session provided for the Bureau of Criminal Investigation (BCI) to implement a statewide missing children repository. This application needs to interact with Criminal Justice Information Sharing, State Radio, and the FBI and is estimated to cost \$500,000. The Legislature failed to address the fiscal impact of this system.

## ➤ **Gaming Commission Budget Deficiency**

Due to the increased cost to adopt new administrative rules the state Gaming Commission's current biennial budget of \$6,141 is insufficient. During the most recent rule making process the cost to publish the required notices in the county newspapers totaled \$2,045, or approximately one-third of the entire biennial budget. Without

adequate funding the state Gaming Commission is unable to perform its duties as required by state law. This request is for an additional \$1,228 from the general fund, which is included in the Executive Recommendation.

### ➤ Increased ITD Costs

ITD is increasing their charges to agencies mainly due to increases in their agency wages and benefits. ITD passes these increases on to all agencies. The BCI Division connections to the wide-area network from various locations continue to increase, often moving locations to support investigative efforts. The office must be able to provide the quick, high quality data transfer and access for office agents, and local law enforcement to access information from office databases through State Radio and Criminal Justice Information Sharing (CJIS).

### ➤ Criminal Trends Using Technology

Keeping current with advancing technology and its potential for misuse is a daunting task. The criminal abuse of internet sales, social networks, e-mail, cell phones, text messaging, and others is now a major component of many investigations including fraud, public corruption, drug dealing, bullying, online predators, pornography, and much more. These forms of communication are now used, one way or another, to carry out virtually every crime, and ensuring that all agents stay current with the skill sets necessary to investigate these aspects will be challenging.

### ➤ Prescription Drugs

The illegal diversion and use of prescription narcotics has become a major focus of drug investigations and seemingly knows no socioeconomic or age boundaries. The abuse and sale of these drugs is occurring with children and adults in all walks of life. Those abusing and dealing these drugs steal prescription pads, painkillers from family members, and even other identities in order to obtain these narcotics. They barter with one another to obtain other drugs of their choice. This new, frightening trend is another major focus of many of the office's drug investigations.

The annual number of state deaths from prescription drugs is now exceeding the number of homicides, which indicates the incredible impact of this trend. In 2010, of the 300 autopsies completed, 22 deaths were attributed to prescription drugs and 10 were homicides in 2010. In 2010, North Dakotans were twice as likely to die from prescription drug overdose versus from a homicide.

### ➤ Information Technology Service to Office Customers

The office has 13 very diverse divisions with very different customers that the Information Technology (IT) Division must support. IT personnel must thoroughly understand the business areas which include legal, criminal justice, charitable gaming,

fire inspections and investigations, Lottery, Licensing, Consumer Protection, Finance and Administration, and the Crime Lab in order to support the computer applications which provide information for the external customers, as well as internal personnel. The business knowledge gained by the IT staff is very valuable and hard to replace.

Public and criminal justice entities are asking for instant access to more information from the office. In the criminal justice arena, much of the information is made available nationwide, as well as statewide. Homeland security and public safety concerns are often requiring more information to be gathered and sent to national databases.

In order to meet these needs, the office's technical staff is focused on supporting new and existing systems, in addition to learning and understanding the business of the divisions. The office is using temporary employees to do the lower skilled technical tasks, such as testing, training manuals, and system upgrades. This frees permanent staff to concentrate on tasks that match their high-level skill sets. The office also uses consultants to help build new applications and rewrite existing applications.

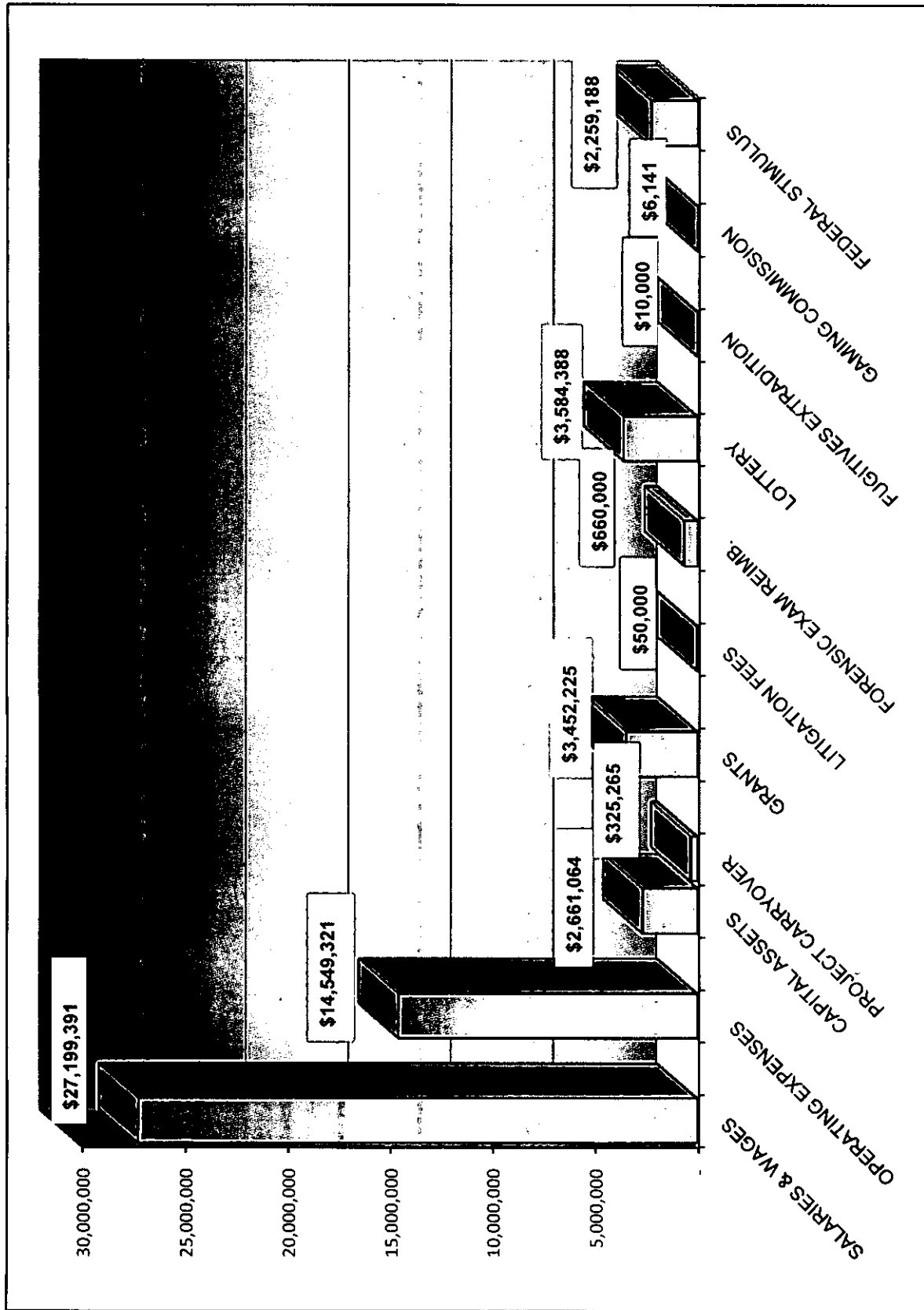
Because the office's customer base and the number of applications and databases made available across the state continue to grow, the number of calls from external customers to the office help desk continues to increase. The office anticipates additional support in the network area will be needed once the Adam Walsh Act changes have been fully implemented in the 2013-2015 biennium.

### **➤ State and Federal Mandates**

When federal mandates such as the Adam Walsh Act, and state mandates such as the Missing Children Repository are implemented, it has an impact on the office Information Technology staff. Rewrites and other projects that need to be done are put on hold. With current staff, the office must look at available money and how many projects office staff can realistically manage using consultants to do the majority of the work.

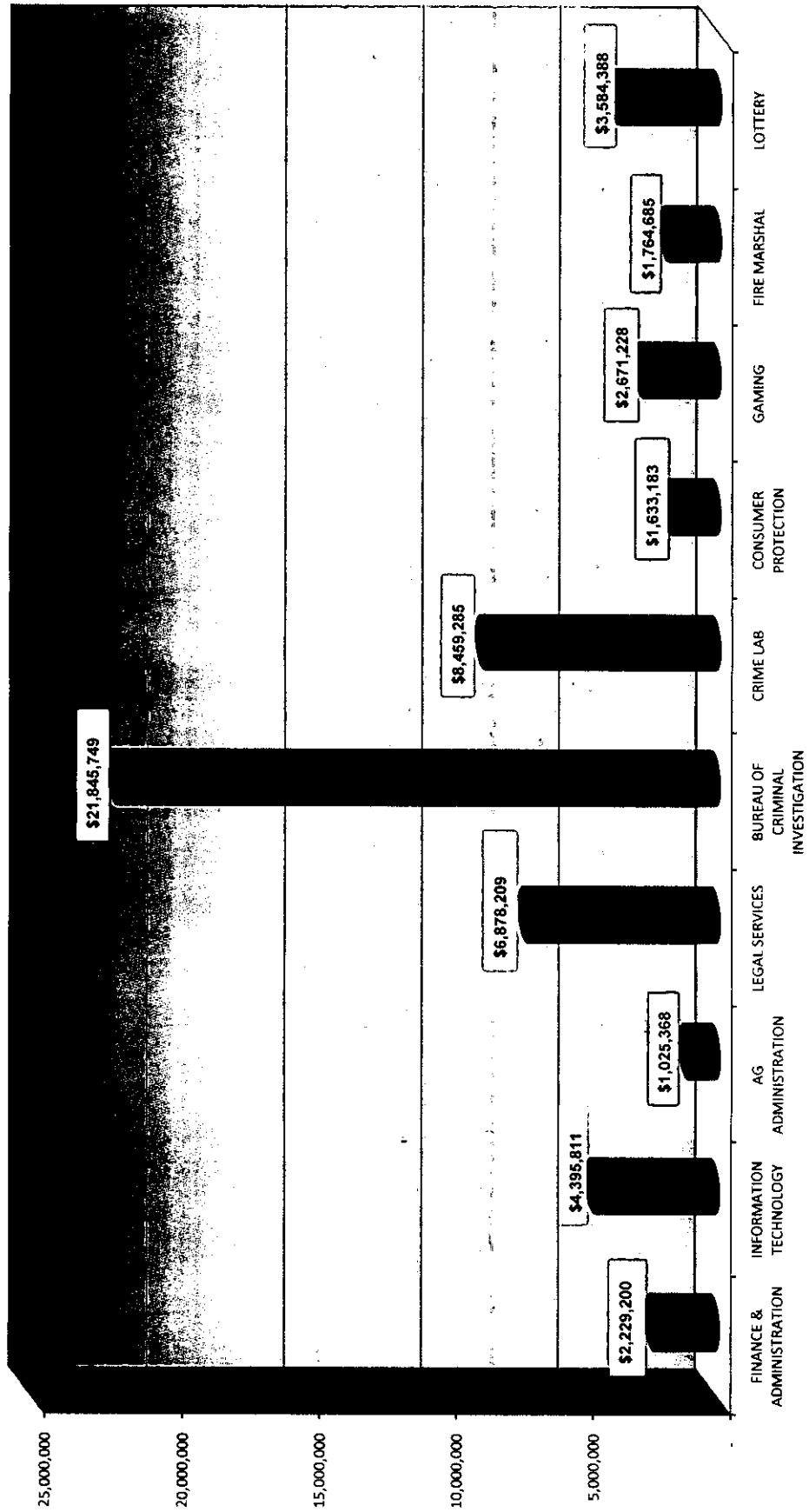
# Office of Attorney General 2009-2011 Biennium Appropriation By Line Item

Total \$54,487,106

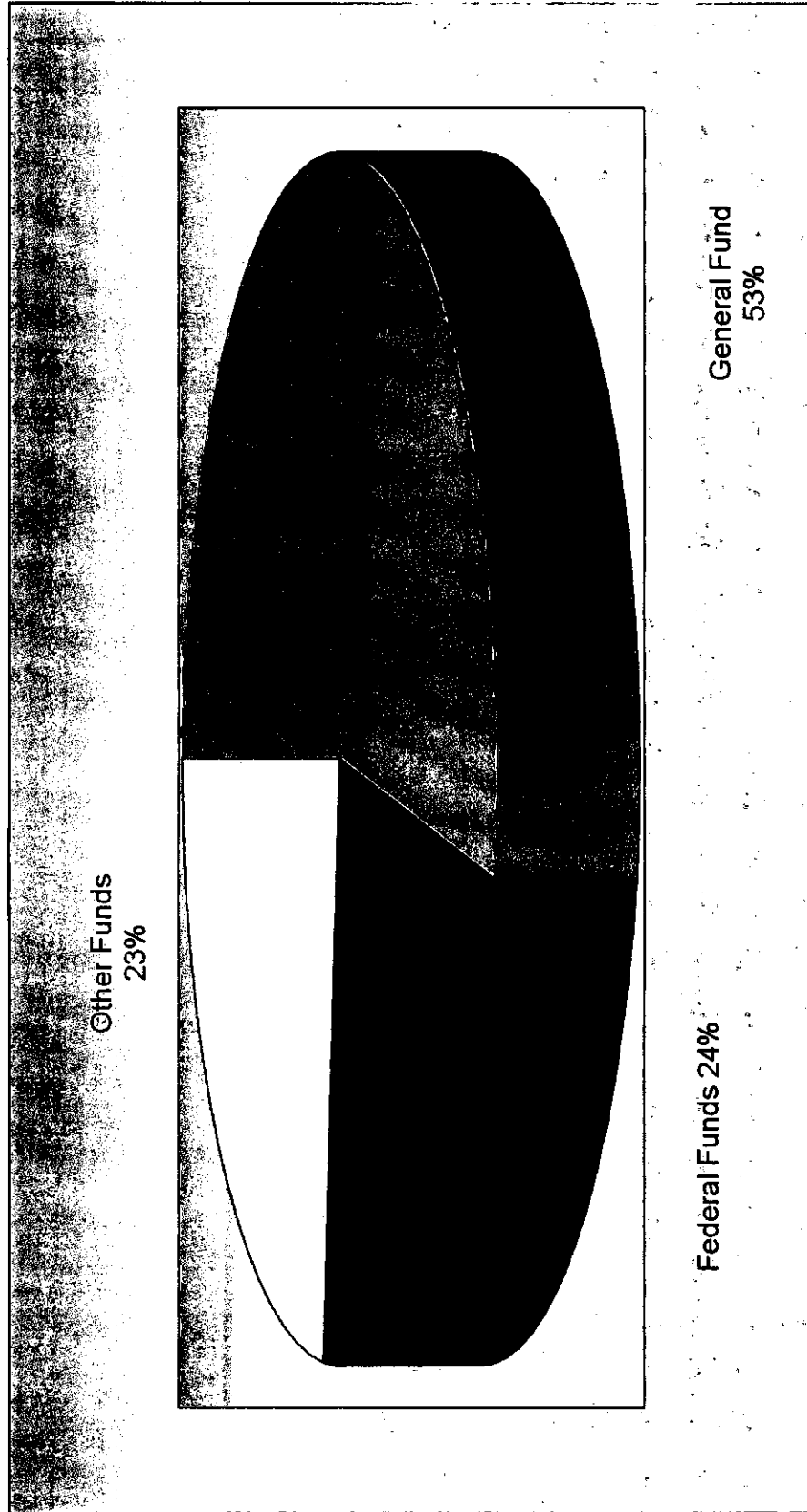


# Office of Attorney General 2009-2011 Biennium Appropriation By Division

Total \$54,487,106



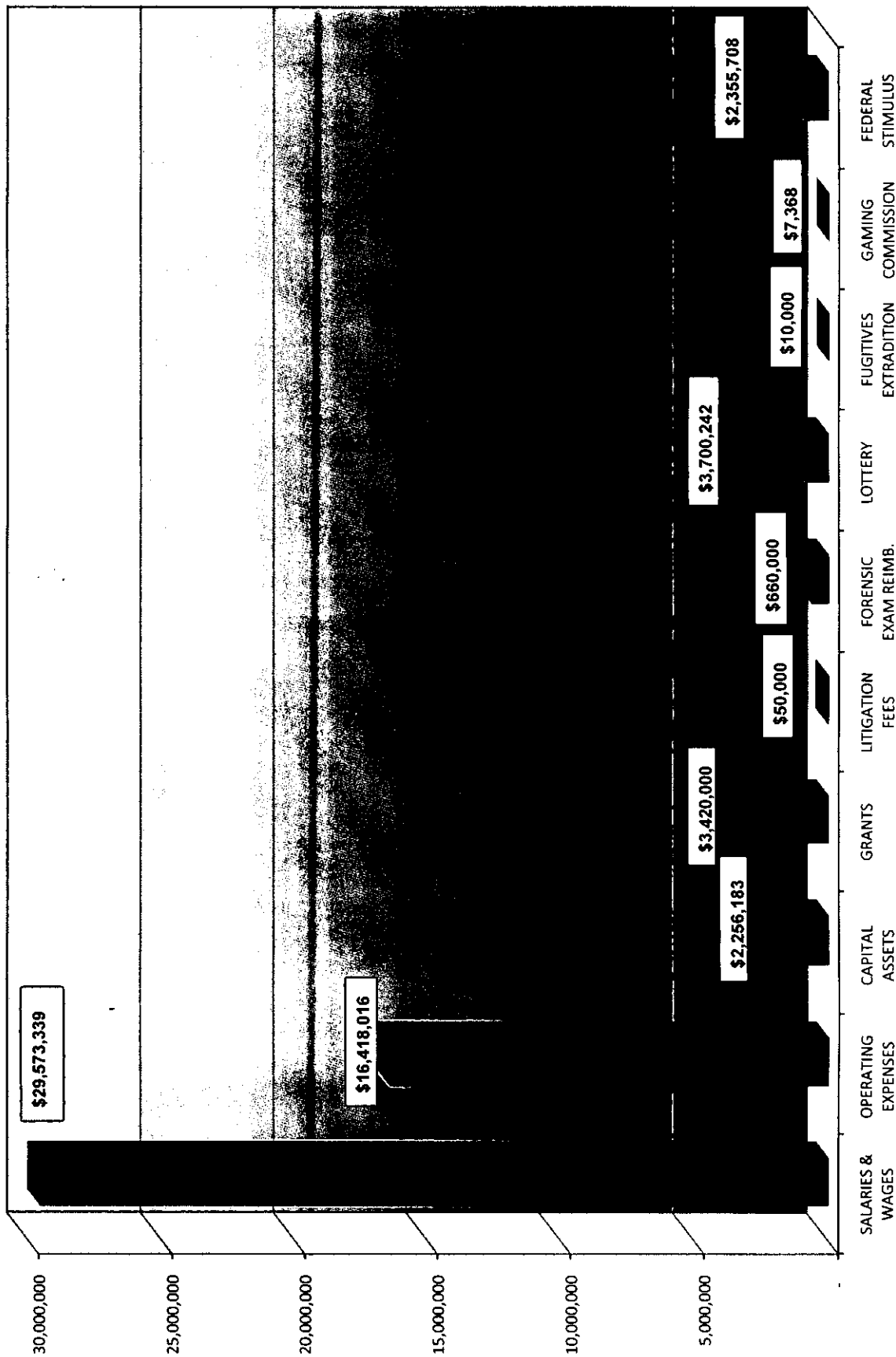
Office of Attorney General  
2009-2011 Biennium Appropriation  
By Funding Source  
Total \$54,487,106





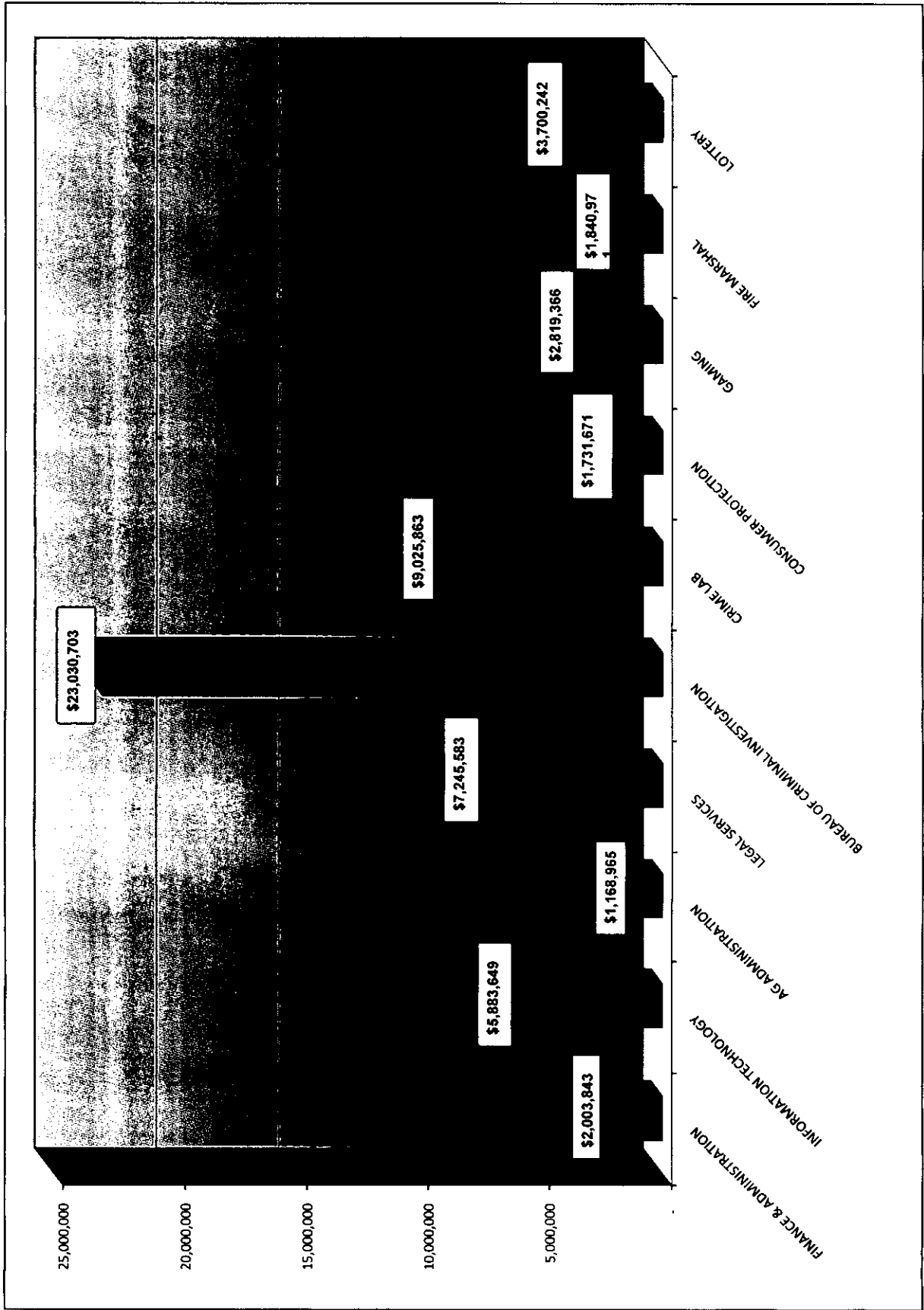
# Office of Attorney General 2011-13 Biennium Recommendation By Line Item

Total \$58,450,856



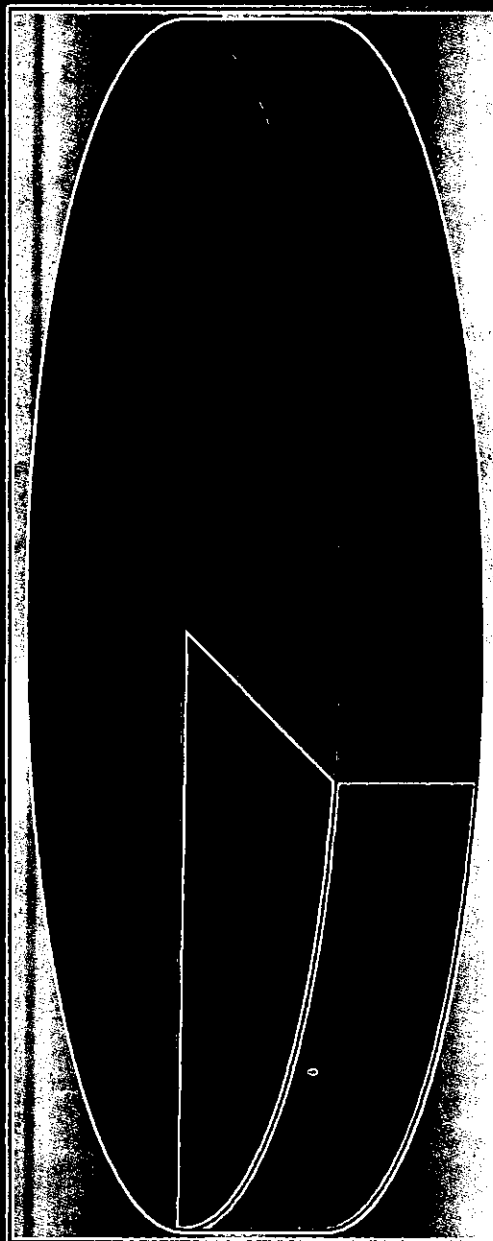
# Office of Attorney General 2011-13 Biennium Recommendation By Division

## Total \$58,450,856



Office of Attorney General  
2011-2013 Biennium Recommendation  
By Funding Source  
Total \$58,450,856

Other Funds  
22%



## 2011 LEGISLATION IMPACTING THE OFFICE OF ATTORNEY GENERAL

### ➤ Native American Fuel Tax Refund Amendment

In the 2005 legislative session, N.D.C.C. § 57-43.1-03.2 was added, which relates to Native American motor vehicle fuel tax refunds. Although the section provides for involvement by the Attorney General, the Tax Department in reality handles these refunds. As a result, this amendment, included below, removes the references to the Attorney General.

#### **57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax refund reserve fund - Continuing appropriation.**

1. A native American may file a claim with the tax commissioner for a refund of motor vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from a retail fuel dealer located on the Indian reservation where the native American is an enrolled member and the fuel was delivered to the native American on that reservation. The refund provisions of this chapter apply to refund claims made under this section.
2. A fuels tax refund reserve fund is created as a special fund in the state treasury. The tax commissioner shall deposit in that fund such amounts from motor vehicle fuel tax and special fuel tax collections as ~~the attorney general determines~~ necessary to be expended for refunds to which native American government entities may be entitled under qualifying circumstances and conditions determined by the attorney general. There is appropriated as a continuing appropriation out of funds set aside under this subsection so much of the funds as ~~the attorney general determines~~ is necessary to meet the expenditures authorized under this subsection and such funds may be expended for that purpose.

**2011 Senate Bill No. 2042** reduces the tax on gross gaming wagers tax to 1%, which will reduce General Fund revenues by \$10.8 million in the 2011-13 biennium. The current gaming tax rates range from 5 – 20% of adjusted gross proceeds (the rates

increase as the adjusted gross proceeds increase). The pull tab and bingo card excise taxes, which are currently 3% of gross proceeds, are eliminated.

### ➤ **Criminal History Record Checks Legislation**

**2011 House Bill No. 1081** provides for criminal history record checks for chiropractors. Criminal history record checks need not be made unless required by the board. It is estimated this change will increase the number of record checks by about 20 checks annually.

**2011 Senate Bill No. 2114** provides for criminal history record checks for Workforce Safety and Insurance final applicants for a specified occupation with Workforce Safety and Insurance as designated by the director, or for contractors who may have access to confidential information as designated by the director. This change is estimated to increase by 20 annually the number of record checks performed by this office.

**2011 Senate Bill No. 2097** provides record checks for counselors. All costs associated with obtaining a background check are the responsibility of the applicant or licensee. It is estimated this change will increase the number of record checks by about 30 checks annually.

## **SUMMARY OF OFFICE OF ATTORNEY GENERAL MAJOR ACCOMPLISHMENTS**

### ➤ **Methamphetamine and Other Illicit Drugs**

Methamphetamine (meth) continues to be a serious drug problem challenging North Dakota law enforcement; however, the number of methamphetamine laboratory seizures in North Dakota remained relatively low at 31 in 2009, compared to 192 in 2005. During the 2007-2009 biennium, 50% of the Bureau of Criminal Investigation (BCI) cases were drug related, and meth was involved in 23% of those cases. As meth use declines, however, other drug trafficking and use increases. Prescription drug abuse, as well as the availability of cocaine and high potency marijuana, continues to increase.

Most local agencies rely heavily on the BCI to provide its expertise in the drug enforcement area. The BCI has teamed with local law enforcement partners in establishing task forces which are having a significant impact on major trafficking organizations.

The Office of Attorney General continues to participate as a member of the Midwest High Intensity Drug Trafficking Area (HIDTA), a regional network that includes the states

of North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri. This partnership provides for regional collaboration, demand reduction, and intelligence activities. The association with HIDTA has provided a tremendous boost to the efforts to combat drugs by allowing the BCI to maintain additional HIDTA staff, including three special agents located throughout the state and two forensic scientists for the Crime Lab.

### ➤ **Pharmaceutical Take Back and Take Away Programs**

In December 2009, the office launched the Prescription Drug (RX) Take Back Pilot Program. The Take Back program provides disposal units for people to dispose of their unused medications. The units, which are similar to the needle disposal containers in hospital rooms but on a much larger scale, are located in the lobby of the police departments. The program is operated by the office at no cost to the communities or the local law enforcement agencies. Once the container is full, the law enforcement agency contacts the BCI Division to collect the drugs for disposal. The RX drugs are disposed of at the same time as seized drugs. The BCI Division is responsible for the Federal Drug Enforcement Agency required documentation relating to collection and disposal of controlled substances deposited into the containers.

Designed to remove unwanted and frequently abused narcotics from circulation, the program was immediately popular with residents and law enforcement alike. The program accepts all over-the-counter and prescription medications – but focuses on collecting controlled substances. The pilot program launched in five cities – Minot, Bismarck, Grand Forks, West Fargo and Fargo – but has proven so popular with residents and law enforcement alike that it has expanded into 22 communities located across the state. In the first twelve months of operation, the program has collected more than a half-ton of unused and unwanted medications. As of January 4, 2011, 1,307 pounds of prescription drugs have been destroyed.

In April 2010, this office joined the North Dakota Pharmacists Association and the Board of Pharmacy in implementing the new pharmaceutical "Take Away" program launched by this office in December 2009. The Take Away program provides participating pharmacists with a container for customers to dispose of many of their unused and unwanted medicines.

### ➤ **Statewide Law Enforcement Intelligence Center (SLIC)**

In an effort to utilize local, state, and federal resources more effectively, a Statewide Law Enforcement Intelligence Center (SLIC) was formed to merge the intelligence gathering efforts of the former Post Seizure Analysis Team (PSAT) and the North Dakota Fusion Cell's homeland security efforts. These combined efforts allow the state to more effectively provide support that leads to identifying, investigating, and prosecuting criminal activities, including drug suppliers from out-of-state sources and homeland security threats. Combining these efforts was essential considering many crimes typically involve conspiracies, several layers of networks, and individuals who utilize the same routes and modes of transportation. The SLIC facilitates information sharing between task forces, analysts across the nation, the northern border

International Border Enforcement Teams (IBET), and many local, state, and federal agencies. It is a multi-agency team consisting of the Border Patrol, Immigration and Customs Enforcement (ICE), Bureau of Criminal Investigation (BCI), North Dakota Highway Patrol, North Dakota National Guard, and the Division of Emergency Management.

### ➤ **Do Not Call Enforcement**

The office's Consumer Protection Division continues to pursue enforcement of the do not call laws through business and consumer education, investigations, and legal actions. From July 1, 2009, to December 31, 2010, 175 complaints for solicitations to consumers registered on the national and state do not call registry, 124 complaints for pre-recorded messages and 19 text message complaints were received. The Division conducted 37 investigations and reached 32 settlements with civil penalties collected totaling \$43,500.

### ➤ **Concealed Weapon Permits**

As of May 14, 2010, a total of 13,877 individuals hold North Dakota concealed weapon permits. This is an increase of 116% compared to March 1, 2004, total of 6,421 permits. In the 2007-2009 biennium, a total of 9,822 permits were issued, which is up 143% from the 2001-2003 biennium when a total of 4,049 new or renewal permits were issued.

Recent legislation regarding reciprocity of North Dakota's permit has caused an even greater increase in workload during the current 2009-11 biennium. With more and more states adding North Dakota to their list of acceptable permits to hold, there are no signs of this workload slowing down. Instead, it seems apparent that the demand for these permits will continue to grow.

### ➤ **Criminal History Record Information Requests**

BCI processed 31,797 requests for criminal history record information in 2009. Of those, 21,517 were requests for data from the state database and 10,280 were requests for fingerprint based searches of the FBI database. While the State of North Dakota record check total has remained relatively stable since 2007, during this period the number of fingerprint based searches of the FBI database allowed under N.D.C.C. § 12-60-24 has increased by 76%. In 2005, the total number of fingerprint based searches of the FBI database was 2,566.

### ➤ **24-7 Sobriety Program**

After a successful pilot program was implemented in the 2007-09 biennium, the 2009 Legislature authorized the Attorney General to implement a statewide sobriety program pilot project called "24-7," with the goal being to remove intoxicated drivers from the road and ultimately improve their ability to succeed in their treatment choices. Offenders who are court-ordered to participate are required to submit to twice-per-day breath tests or electronic alcohol monitoring, seven days per week, as long as the court

order mandates. Participants are also required to pay a fee for the monitoring, which in turn is used to pay for intoximeters, electronic monitoring devices, and other program costs. This program has been very well received and supported by law enforcement, the courts, and the participants.

As of January 6, 2011, 1,289 individuals have participated in the 24/7 program, of which 801 completed successfully. To date, only 92 participants have re-offended. There are currently 224 active participants.

### ➤ **AFIS Upgrade Completed**

During this biennium, the BCI completed an upgrade to the Automated Fingerprint Identification System (AFIS). This is the fingerprint matching system that interfaces with state criminal history, offender registration, concealed weapon permits, and other databases. North Dakota, South Dakota and Minnesota share an AFIS system and manage that system under the Midwest Automated Fingerprint Identification Network (MAFIN). The upgrade involved complete replacement of all equipment and AFIS software in the three states. In North Dakota, the office also replaced the livescan units that had reached end of life and expanded the use of livescan technology by deploying 14 additional livescan units for use at local police departments and sheriff's offices. With technological changes, BCI anticipates needing to update the AFIS system within the next 6 years.

### ➤ **Other Office Information**

Statistical crime data is currently collected from 86 local law enforcement agencies, plus data from the Highway Patrol and state drug task forces.

As of January 3, 2011, there are 1,673 sex offenders and offenders against children in North Dakota with a requirement to register.

Annually, the grants management section administers approximately \$3 million in grant funds. During the 2009-11 biennium, the grants management section will manage an additional \$4.2 million in stimulus grants.

Training and license records are maintained for approximately 2,041 peace officers.

In the 2007-09 biennium, 103 training programs were presented to 2,248 students representing police and sheriff's departments, state and federal agencies, and the public.

Over 19,062 cases were submitted during 2008 and 2009 to the Crime Laboratory for physical and toxicological examinations.

During the 2007-09 biennium, Consumer Protection opened 2,543 consumer complaints and investigations, closed 2,543 files, and recovered \$1.5 million on behalf of consumers.

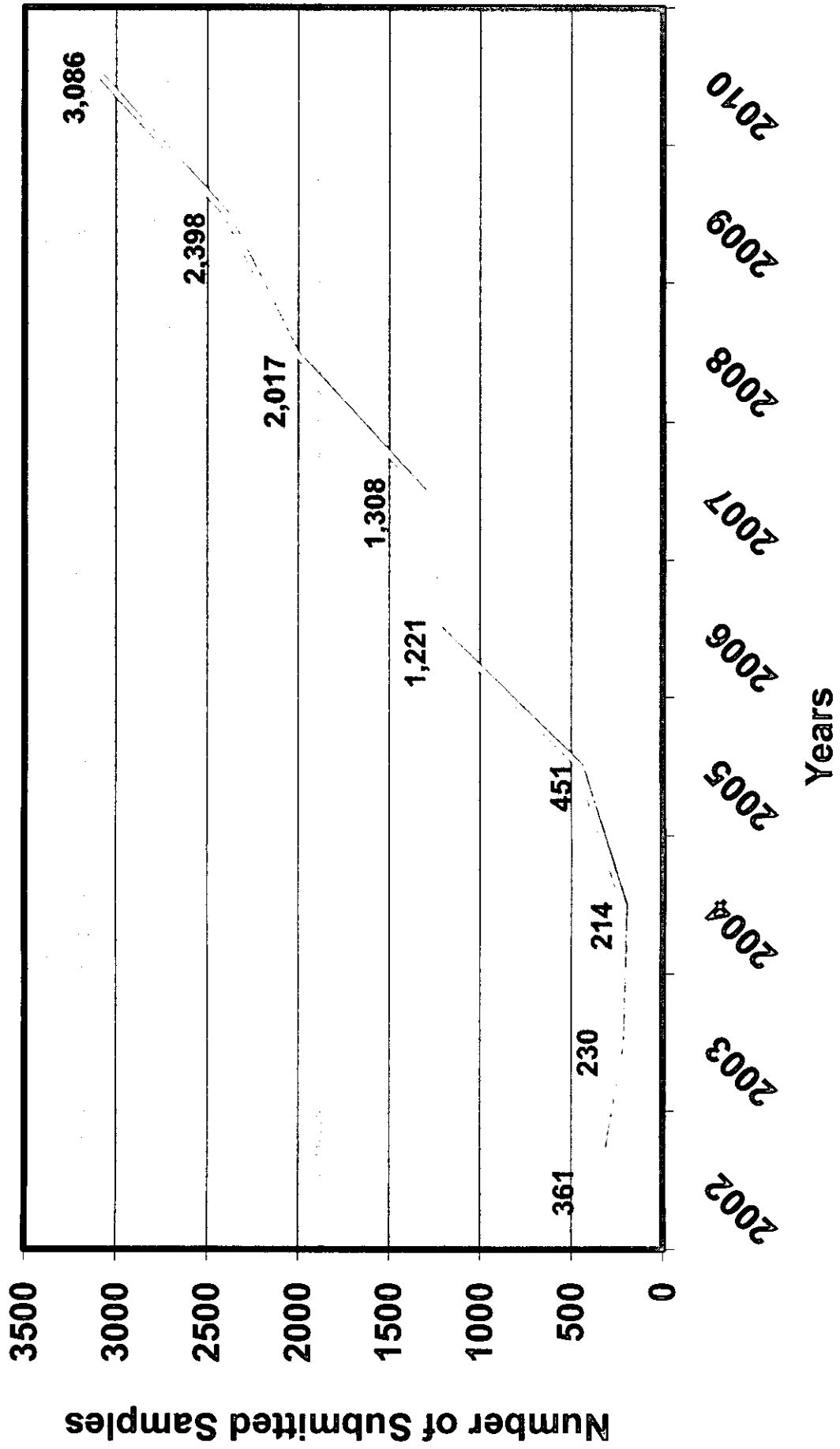


During the 2007-09 biennium, 950 active gaming sites were monitored; \$522 million was wagered; \$33 million was raised for charitable uses; and \$20.5 million was paid to the state in gaming and excise taxes.

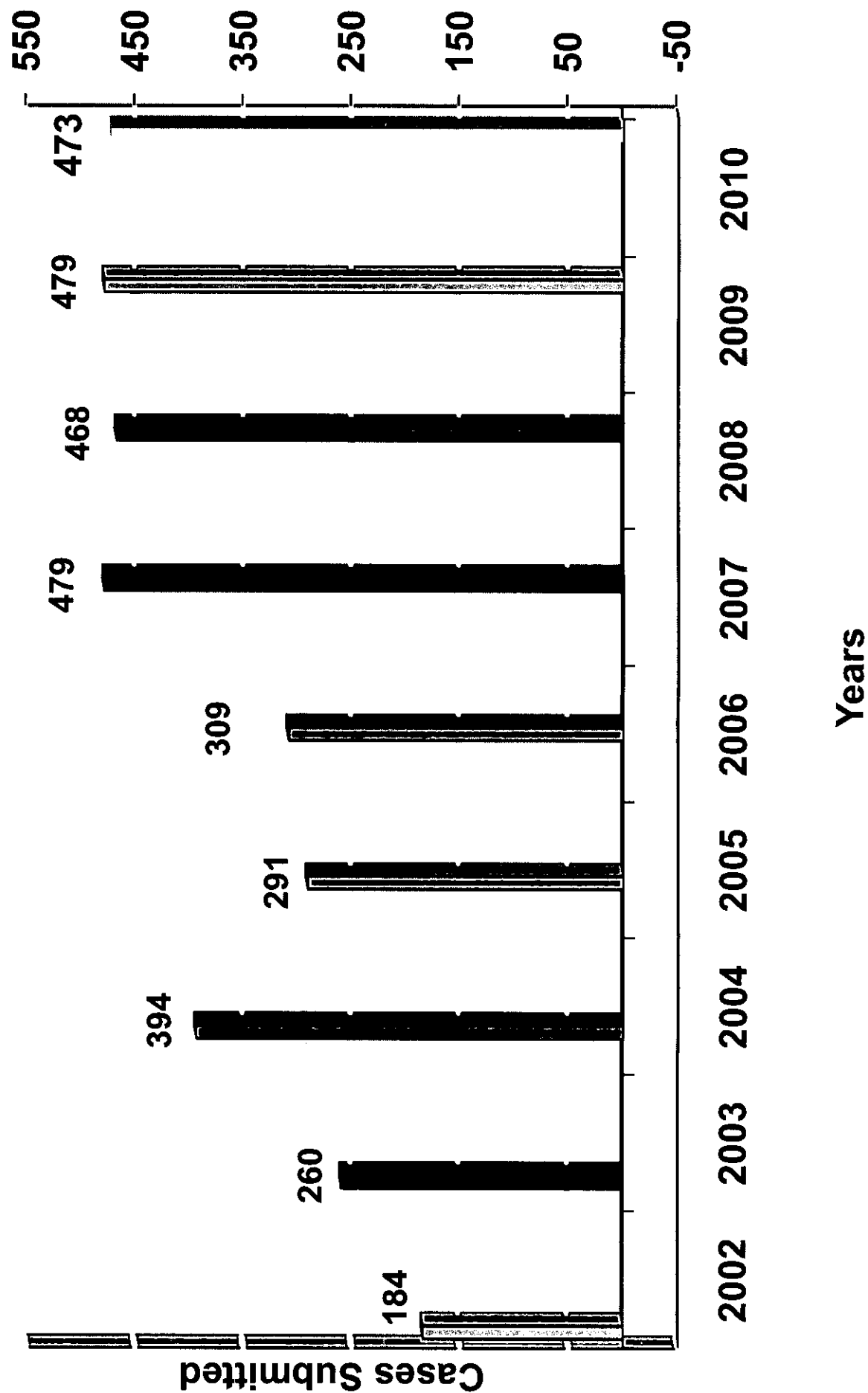
For the 2009-2011 biennium, the Lottery projected sales of \$46.4 million and net proceeds of \$12.4 million. The Lottery is on track to meet projected sales for the first year of the biennium, although sales appear slightly below projected net proceeds.

Lottery subscriptions enable players to prepay and be automatically entered into draws for 13, 26, or 52 weeks. There are over 1,873 subscribers and over 2,555 subscriptions with subscription sales accounting for over 1.7% of total draw sales.

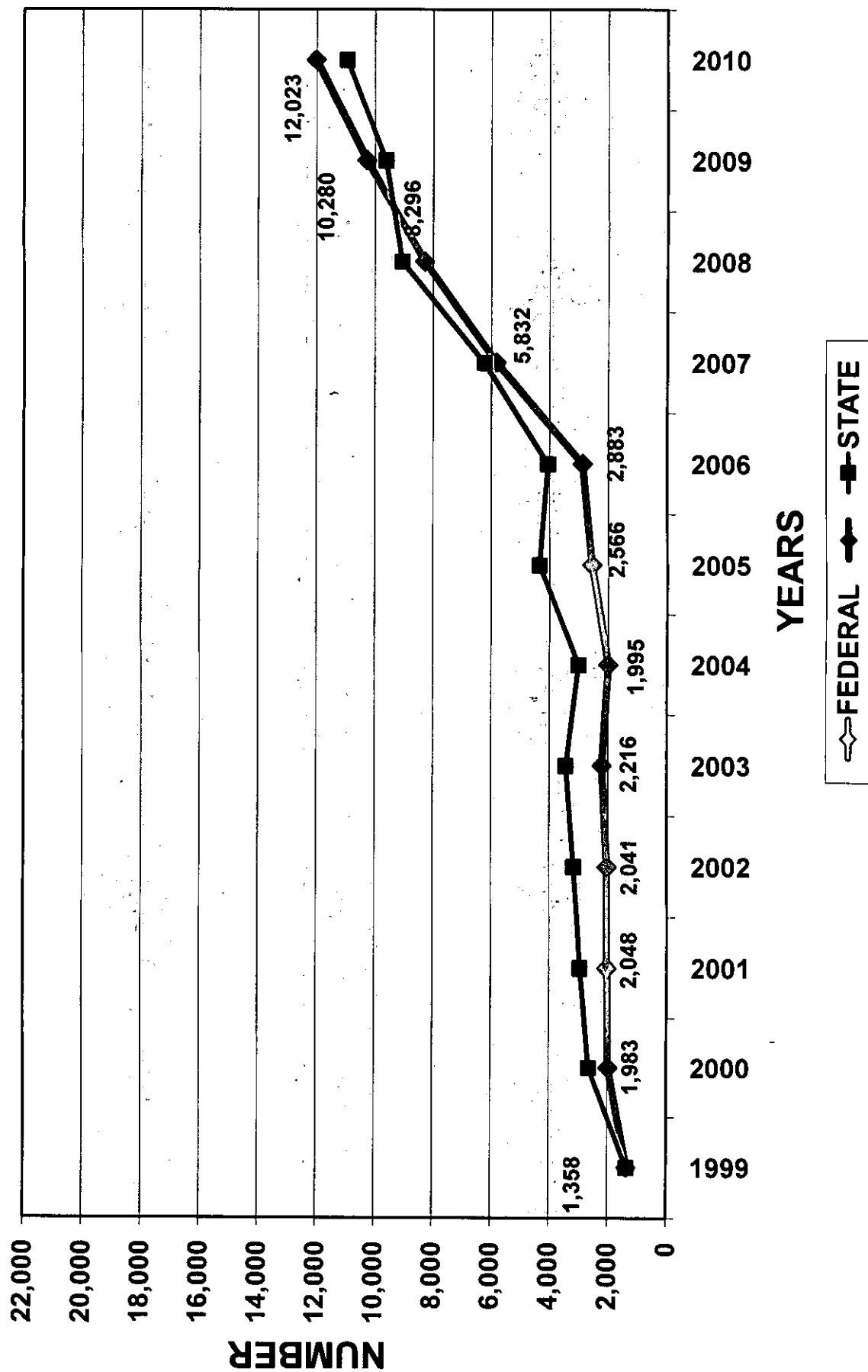
# OFFENDER SAMPLES WORKLOAD



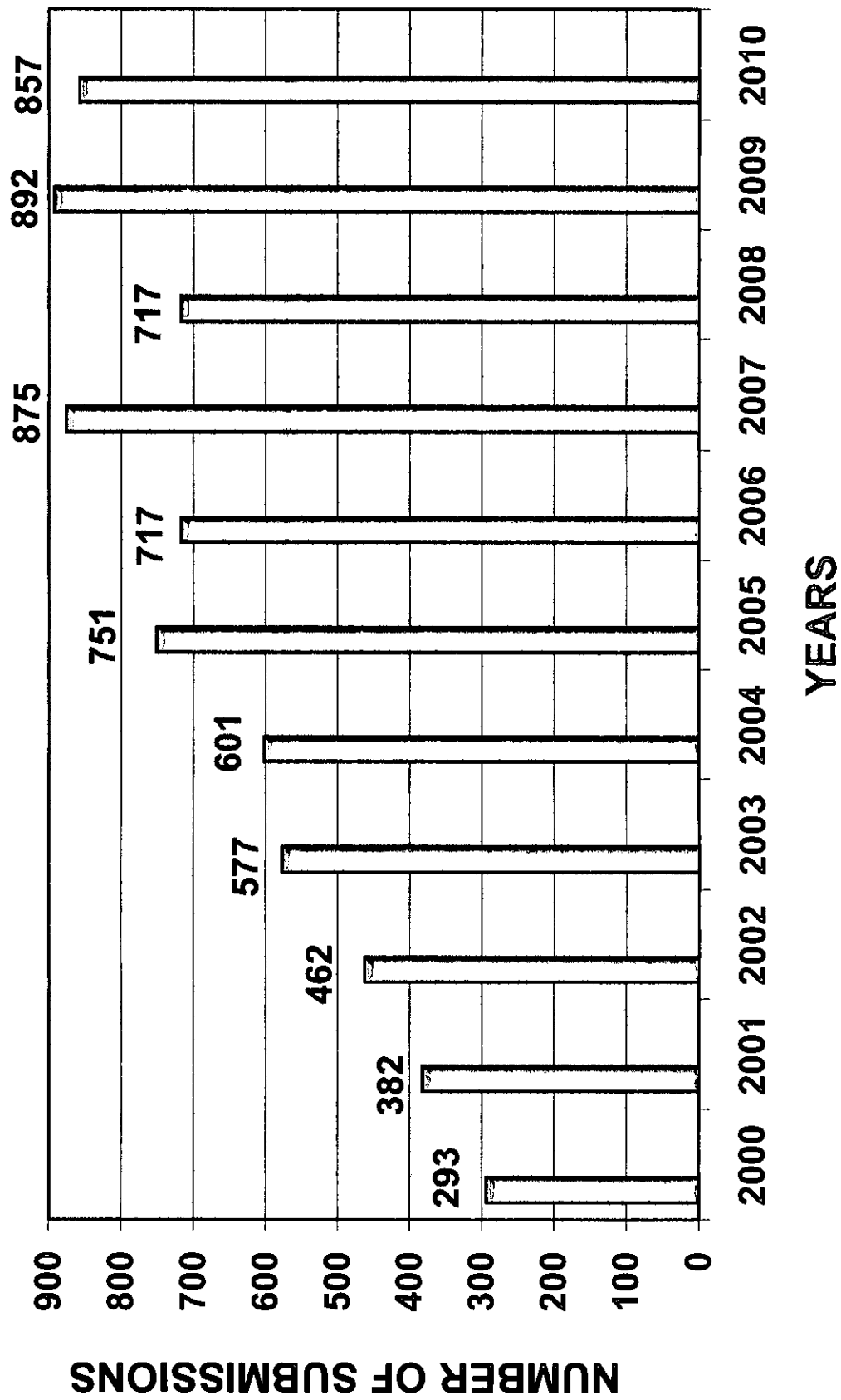
# DNA SUBMITTED CASES



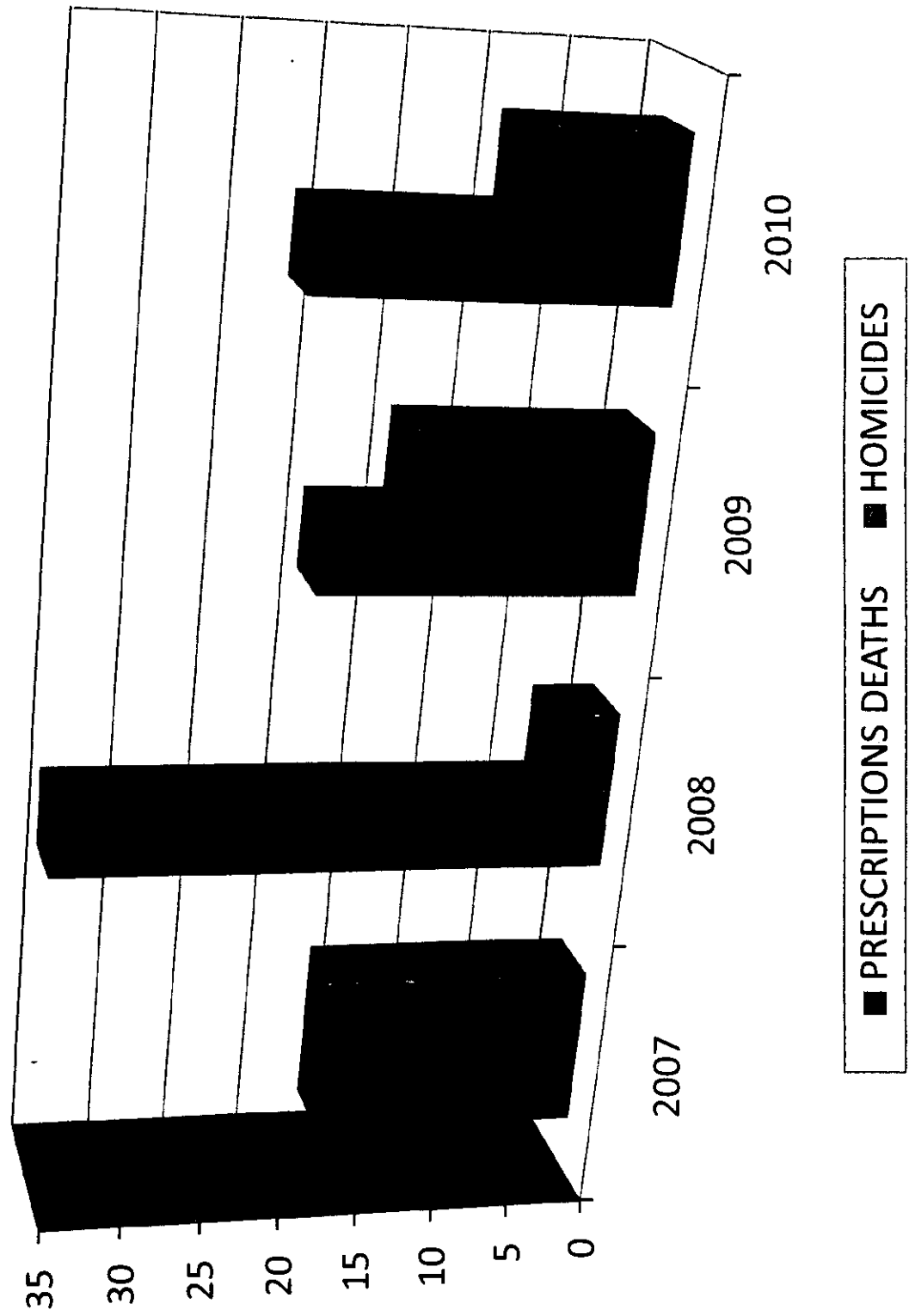
# STATE & FEDERAL RECORD CHECKS UNDER NDCC 12-60-24 YEARS 1999 - 2010



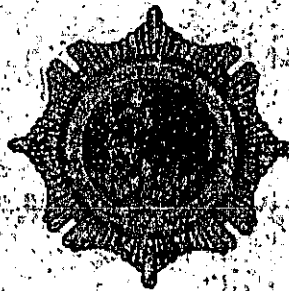
# TOXICOLOGY DRUG ANALYSIS SUBMISSIONS



# NORTH DAKOTA PRESCRIPTION DRUG DEATHS VS. HOMICIDES



# **Office of Attorney General 2007-2009 BIENNIAL REPORT**



**Attorney General  
Wayne Stenehjem**

# Table of Contents

OFFICE OF ATTORNEY GENERAL .....	1
ND ATTORNEYS GENERAL .....	1
QUALIFICATIONS .....	1
BOARDS AND COMMISSIONS .....	1
DUTIES AND FUNCTIONS .....	1
ORGANIZATIONAL CHART .....	3
ADMINISTRATION .....	4
PUBLIC INFORMATION .....	4
CONSTITUENT RESPONSES .....	4
PUBLICATIONS .....	4
WEB ACCESS .....	4
AGENCY INITIATIVES .....	5
24/7 SOBRIETY PILOT PROGRAM .....	5
INTERNET LURING UNIT .....	5
2009 LEGISLATION .....	6
DEFECTS IN THE PRACTICAL OPERATION OF THE LAW .....	7
IN THE NEWS .....	8
BUREAU OF CRIMINAL INVESTIGATION .....	9
POST SEIZURE ANALYSIS TEAM (PSAT) .....	9
TRAINING .....	9
PUBLIC PRESENTATIONS .....	10
INFORMATION SERVICES SECTION .....	10
AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS) .....	10
CONCEALED WEAPONS PERMITS .....	11
SEX OFFENDER REGISTRATION .....	11
SIGNIFICANT CASES .....	11
CIVIL LITIGATION .....	12
BANK OF NORTH DAKOTA .....	12
DEPARTMENT OF CORRECTIONS & REHABILITATION .....	12
DEPARTMENT OF HUMAN SERVICES .....	12
DEPARTMENT OF TRANSPORTATION .....	12
EMPLOYMENT .....	13



## Table of Contents cont.

RISK MANAGEMENT FUND.....	13
SIGNIFICANT CASES.....	13
DAKOTA BOYS & GIRLS RANCH .....	13
SUPREME COURT DISCIPLINARY JURISDICTION .....	13
ECONOMIC DEVELOPMENT AUTHORITY.....	14
AUTHORITY OF ADJUTANT GENERAL .....	14
UNIVERSITY OF NORTH DAKOTA SIOUX NAME & LOGO .....	15
MASTER SETTLEMENT AGREEMENT .....	15
CONSUMER PROTECTION DIVISION .....	17
CEASE & DESIST ORDERS & INJUNCTIONS .....	17
IDENTITY THEFT .....	17
INVESTIGATIONS/LEGAL ACTIONS .....	18
DO NOT CALL ENFORCEMENT .....	18
LIFESMARTS.....	18
CRIME LABORATORY.....	19
SIGNIFICANT ACCOMPLISHMENT.....	19
CRIMINAL & REGULATORY .....	20
LICENSING REVENUE.....	20
FINANCE & ADMINISTRATION.....	21
BIENNIUM EXPENDITURES .....	21
SPECIAL ASSISTANT ATTORNEYS GENERAL .....	21
FIRE MARSHAL.....	23
SIGNIFICANT ACCOMPLISHMENTS .....	23
GAMING .....	24
LEGISLATIVE CHANGES.....	24
LOCAL LAW ENFORCEMENT GRANTS .....	24
EDUCATION PROGRAM .....	24
AUDIT PROGRAM.....	25
INDIAN GAMING .....	25
OVERVIEW OF GAMING INDUSTRY.....	25
FISCAL YEAR ENDED JUNE 30, 2008 .....	26
FISCAL YEAR ENDED JUNE 30, 2009 .....	27
INFORMATION TECHNOLOGY.....	28
SIGNIFICANT ACCOMPLISHMENTS .....	28

## Table of Contents cont.

LOTTERY .....	29
MARKETING PROMOTIONS .....	29
LOTTERY SALES .....	30
SIGNIFICANT ACCOMPLISHMENTS .....	30
NATURAL RESOURCES/INDIAN AFFAIRS .....	31
ENVIRONMENTAL PROTECTION .....	31
EPA-CLEAN AIR ACT .....	32
WATER .....	32
DEVILS LAKE LAWSUIT .....	32
AGRICULTURAL LAW .....	33
STATE LAND & MINERALS .....	33
INDIAN ISSUES .....	33
CORPORATE FARMING .....	33
NATIONAL GRASSLANDS .....	34
CLIMATE CHANGE .....	34
STATE & LOCAL GOVERNMENT .....	35
LEGAL SERVICES .....	35
ATTORNEY GENERAL OPINIONS .....	35
LEGAL OPINIONS .....	35
SIGNIFICANT OPINIONS .....	36
OPEN RECORDS AND MEETINGS .....	37
SIGNIFICANT OPINIONS .....	37
PUBLICATIONS OF THE OFFICE OF ATTORNEY GENERAL .....	38
NEWS	
PUBLICATIONS	
FORMS	
REPORTS	
MANUALS	
INFORMATION	

# OFFICE OF ATTORNEY GENERAL

## THE AGENCY

The Attorney General is one of 12 statewide elected officials. The Office of Attorney General was established in the 1889 state constitution. The office is headed by the Attorney General, an independently elected constitutional officer.

The Office of Attorney General is organized into 13 divisions with specific duties and responsibilities: Administration, Bureau of Criminal Investigation, Civil Litigation, Consumer Protection and Antitrust, Criminal and Regulatory, Finance and Administration, Fire Marshal, Gaming, Information Technology, Natural Resources and Indian Affairs, Crime Laboratory, Lottery, and State & Local Government.

## QUALIFICATIONS

To be eligible for election to the Office of Attorney General, an individual must be a licensed attorney, at least 25 years old, and qualified to vote in North Dakota.

## BOARDS/COMMISSIONS

The Attorney General serves on numerous boards and commissions, including the Board of University and School Lands, Industrial Commission (which oversees all state-owned industries), Commission on Drug and Alcohol Abuse, PERS Board of Trustees, Judicial Council, and Pardon Advisory Board.

## DUTIES AND FUNCTIONS

The Attorney General represents the state in all legal matters, civil and criminal, where the state is named as a party or the state may have an interest in the outcome of the litigation. The duties of the Attorney General are set out in several chapters of the North Dakota Century Code.

### North Dakota ATTORNEYS GENERAL

Wayne Stenehjem 2001-

M. K. "Heidi" Heitkamp 1993-2000

Nicholas Spaeth 1985-1992

Robert Wefald 1981-1984

Allen I. Olson 1973-1980

Helgi Johannesson 1963-1972

Leslie R. Burgum 1955-1962

Paul Benson 1954-1954

Elmo T. Christianson 1951-1954

Wallace E. Warner 1949-1950

P.O. Sathre 1948-1948

Nels G. Johnson 1945-1948

Alvin C. Strutz 1937-1944

P.O. Sathre 1933-1937

Arthur J. Gronna 1933-1933

James Morris 1929-1932

George F. Shafer 1923-1928

Sveinbjorn Johnson 1921-1922

William Lembke 1921-1921

William Langer 1917-1920

Henry Linde 1915-1916

Andrew Miller 1909-1914

Thomas F. McCue 1907-1908

Carl N. Frich 1903-1906

Oliver D. Comstock 1901-1902

John F. Cowan 1895-1900

William H. Standish 1893-1894

Clarence A.M. Spencer 1891-1892

George F. Goodwin 1889-1890

Office of Attorney General  
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Dept. 125  
Bismarck, ND 58505  
(701) 328-2210  
(701) 328-2226 (fax)  
E-mail: ndag@nd.gov  
Website: www.ag.nd.gov

Consumer Protection and Antitrust  
4205 State Street  
PO Box 1054  
Bismarck ND 58502-1054  
(701) 328-3404  
Toll free (800) 472-2600

Bureau of Criminal Investigation  
PO Box 1054  
Bismarck ND 58502  
(701) 328-5500  
Tip Hotline (800) 472-2185

Gaming Division  
17th Floor, Capitol Building  
(701) 328-4848

Licensing Section  
17th Floor, Capitol Building  
(701) 328-2329

Fire Marshal  
(701) 328-5555

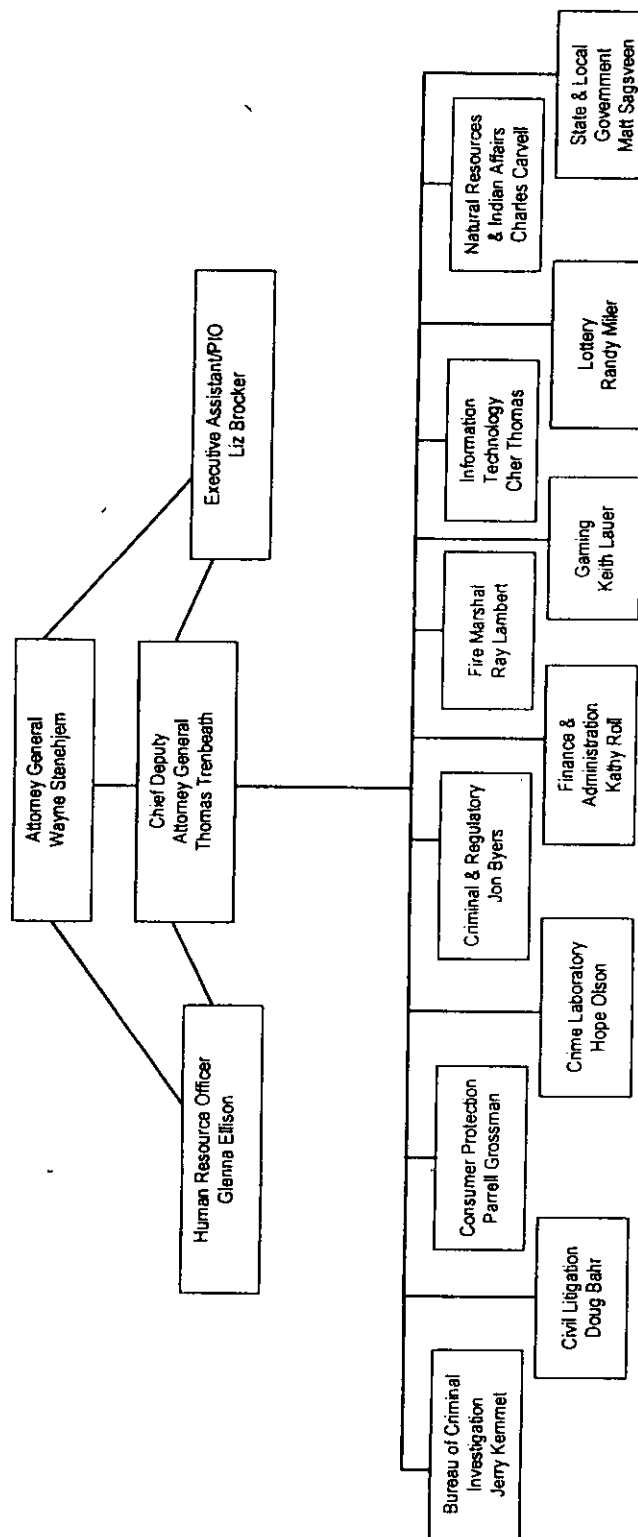
North Dakota Lottery  
600 E. Boulevard Ave  
Dept. 125  
Bismarck, ND 58505  
(17th Floor, Capitol Building)  
(701) 328-1574  
E-mail: ndlottery@nd.gov  
Website: www.lottery.nd.gov

The Attorney General issues opinions on questions of law related to matters involving state statutes, the state constitution, and matters having statewide significance. The office provides legal services to state and constitutional officers, state agencies, boards, and commissions. The office enforces the open meetings and open records laws, and issues opinions in response to complaints that a public entity has violated those laws

In addition to its legal duties, the Office of Attorney General has several divisions with regulatory or investigative functions:

- The **Bureau of Criminal Investigation** assists local governments in criminal and drug enforcement investigations, maintains the criminal history and sex offender registration systems, and provides training for law enforcement officials.
- The **Consumer Protection and Antitrust Division** (CPAT) enforces the state's consumer fraud and do not call laws, investigates and prosecutes consumer fraud cases and enforces the state's anti-trust statutes.
- The **Fire Marshal's Office** conducts fire safety training and inspections, controls hazardous materials incidents, and investigates fires.
- The **Gaming** division regulates charitable gaming, and ensures compliance with tribal-state casino gaming compacts.
- The **Licensing** section regulates and issues certain wholesale, retail, and distributor licenses.
- The **North Dakota Lottery** division is responsible for the day-to-day operation of the lottery and its games.

# ORGANIZATIONAL CHART



# ADMINISTRATION

The Office of Attorney  
General website is  
[www.ag.nd.gov](http://www.ag.nd.gov)

The Administration Division is responsible for providing personnel support services, coordinating public education and information programs, and coordinating relations with state and local government officials and the legislative branch.

## PUBLIC INFORMATION

### ❖ CONSTITUENT RESPONSES

In addition to thousands of telephone calls received by the Office of Attorney General dealing with everything from requests for general information to referrals to other government entities, the public information office responded to 1839 e-mails and 365 letters from citizens. The average response time was 1.5 days.

### ❖ PUBLICATIONS

During the biennium, the division continued its efforts to provide the public with useful information regarding the Office of Attorney General and state government in general. The office also continued to prepare and offer information and publications to the public on a variety of topics. These are listed at the end of this report in the "Publications" section.

### ❖ WEB ACCESS

The Office of Attorney General serves the people of North Dakota and is committed to providing instant access, via the Internet, to information and resources on a variety of issues, including:

- Information about sex offenders, through the state's Sex Offender website, [www.sexoffender.nd.gov](http://www.sexoffender.nd.gov);
- Scams, frauds, security freeze, do not call registration and other consumer information;
- Concealed weapons permits;
- Information about the North Dakota Lottery and lottery games, at [www.lottery.nd.gov](http://www.lottery.nd.gov).

- The state's open record and open meetings laws and Attorney General Opinions;

During the biennium, the agency expanded its existing searchable database of Attorney General Opinions to include advisory letters and opinions going back to 1942.

## AGENCY INITIATIVES

### ❖ 24/7 SOBRIETY PILOT PROGRAM

The 2007 Legislature authorized the Attorney General to establish a 24/7 Sobriety Program, designed to keep drunk drivers off the road, in one or more judicial districts of the state. The pilot program rolled out in January 2008 in the twelve counties of the South Central Judicial District.

Under the program, individuals who are arrested for a 2nd or subsequent DUI are required to complete breath alcohol testing twice a day as a condition of bond. As the arrestee is responsible for the costs of testing (\$1.00 each time), the program is largely self-funded.

Over 98% of the participants in the pilot program successfully completed it. The program quickly gained the support of law enforcement, the courts, and participants, and as a result, was funded by the 2009 Legislature for expansion throughout the state during the 2009-2011 biennium.

### ❖ INTERNET LURING UNIT

The 2007 Legislature authorized one additional full time agent for computer forensic investigations, bringing the total to three. These specialized agents investigate Internet crimes, particularly Internet luring and other Internet crimes against children. The Bureau of Criminal Investigation works with 22 local law enforcement agencies and state's attorneys to investigate and prosecute these crimes. The Internet Luring Unit has a 98% conviction rate. The unit also provides training and equipment to local agencies to aid in the investigation and prosecution of these crimes.

"The 24/7 Sobriety program is designed to stop repeat DUI offenders from continuing to drink and drive," said Attorney General Stenehjem. "A condition of bond will be that they cannot drink alcohol. If they do, the breath test will show it and they will be taken directly to jail. This program will make our streets safer for everyone."

The Drug Endangered Children Committee was formed in 2005 to develop uniform procedures to coordinate state and local agency resources and services for drug endangered children. The committee completed its work during the biennium, producing written protocols for distribution.

## 2009 LEGISLATION

The 2009 Legislature passed several bills which directly or indirectly affected the Office of Attorney General, including:

- **HB 1184: ID Theft Reports.** Expanded legislation passed in 2007, to permit a victim of identity theft to file a report with local law enforcement even if jurisdiction lies elsewhere.
- **HB 1306: 24/7 Sobriety Program.** Expanded the pilot program statewide, added participation as a condition of parole/probation; provided for temporary restricted driver's license for purposes of testing.
- **HB 1308: Security Credit Freeze.** Amended statute to reduce the amount of time to 15 minutes (for phone or electronic requests) or 2 business days (mail requests) during normal business hours (excluding acts of God) within which the freeze/thaw must be made.
- **HB 1416: Adam Walsh Act Compliance.** Expanded Attorney General administrative subpoena powers for internet luring investigations; requires all warrants be entered in the Central Warrant Information System but law enforcement may specify the area of extradition.
- **SB 2209: Human Trafficking.** Prohibits human trafficking for labor, sex or drugs; requirement to register as "offender against children" if victim under 18.
- **SB 2216: Forensic Medical Examinations.** Expanded legislation passed in 2007 to add reimbursement for the pre-screening examination and for the cost of non-acute child sexual assault examinations.
- **SB 2218: Justin's Law.** Requires face-to-face prescribing of certain controlled drugs.
- **SB 2415: Concealed Weapon Reciprocity.** In an effort to increase the number of states with which ND has reciprocity, the bill created a 2-tier permit system; existing permits converted to a Class 2, while a new Class 1 permit requires completion of a proficiency test.



## **DEFECTS IN THE PRACTICAL OPERATION OF THE LAW RELATING TO CRIMINAL OFFENSES**

The Attorney General identified several areas in the practical operation of the criminal law that merit consideration for amendment by the 2011 Legislature:

- Although Section 504 of the Adam Walsh Child Protection and Safety Act prohibits the copying and distribution of child pornography images as a part of discovery in federal cases, no similar provision prevents such distribution during discovery in state criminal cases. The Attorney General will recommend that the Supreme Court's Joint Procedures Committee amend Rule 16, North Dakota Rules of Criminal Procedure, to require that any material that constitutes child pornography, or forensic medical examination photographs or video, shall remain in the care, custody, and control of either the government or the court. The materials would be made available for inspection, examination, or viewing by the defense counsel or his expert at a government facility.
- The statute of limitations for the crime of possession of stolen property should be amended to allow prosecution within two or three years of when law enforcement discovers that a person is in possession of the property. Unfortunately, current ND case law requires that a charge be filed within two or three years of the theft.
- The penalties for theft of prescription medications need to be increased. When the penalty is based only on the value of the medication, the offense is typically a class B misdemeanor.

Criminal penalties and sentences are contained within N.D.C.C. Ch. 12.1-32.

During the biennium, the Attorney General issued 22 news releases relating to current scams affecting the state's residents and enforcement actions against entities which had violated the state's consumer fraud laws.

## IN THE NEWS

The Office of Attorney General issued news releases on a variety of issues and distributes them to media from North Dakota and the United States, legislators, state officials and members of the public who have asked to receive such information. All news releases and consumer alert releases are posted to the agency's website.

- **STENEHJEM OBTAINS INFORMATION FROM MYSPACE (August 1, 2007):** <http://www.ag.nd.gov/NewsReleases/2007/08-01-07.pdf>
- **GROUND BREAKING FOR NEW STATE CRIME LAB (October 4, 2007):** <http://www.ag.nd.gov/NewsReleases/2007/10-04-07.pdf>
- **STENEHJEM ANNOUNCES 24/7 SOBRIETY PROGRAM (December 19, 2007):** <http://www.ag.nd.gov/NewsReleases/2007/12-19-07.pdf>
- **STENEHJEM FINES UNLICENSED FARGO ROOFING CONTRACTORS (December 20, 2007):** <http://www.ag.nd.gov/NewsReleases/2007/12-20-07.pdf>
- **ATTORNEYS GENERAL CALL ON CONGRESS TO RESTORE FUNDING FOR CRIME AND DRUG ENFORCEMENT EFFORTS (March 3, 2008):** <http://www.ag.nd.gov/NewsReleases/2008/03-03-08.pdf>
- **GRAND OPENING FOR NEW STATE CRIME LABORATORY BUILDING (October 20, 2008):** <http://www.ag.nd.gov/NewsReleases/2008/10-20-08.pdf>
- **PREVENTING UNDERAGE DRINKING IS FOCUS OF JOINT CAMPAIGN (March 9, 2009):** <http://www.ag.nd.gov/NewsReleases/2009/03-09-09.pdf>
- **CORPORATE FARMING LAW RULED CONSTITUTIONAL (June 15, 2009):** <http://www.ag.nd.gov/NewsReleases/2009/06-15-09.pdf>

# BUREAU OF CRIMINAL INVESTIGATION

The Bureau of Criminal Investigation (BCI) is the law enforcement division of the Office of Attorney General. It assists local, state, and federal law enforcement agencies in criminal and drug enforcement investigations, maintains the criminal history and sex offender registration systems, provides training and licensing for law enforcement officials, and facilitates federal funding for many local law enforcement agencies. The division has 12 field offices which house criminal and narcotics agents who support local law enforcement agencies and provide smaller agencies a mechanism through which they may share resources and personnel.

## ❖ POST SEIZURE ANALYSIS TEAM (PSAT)

The Post Seizure Analysis Team (PSAT) continues to help law enforcement identify, investigate, and prosecute suppliers from out-of-state sources which typically involve conspiracies and several layers of networks. The PSAT facilitates information sharing among task forces, analysts across the nation, and the northern border International Border Enforcement Teams. It is a multi-agency team consisting of Border Patrol, Immigration and Customs Enforcement, BCI, and the North Dakota Highway Patrol. The PSAT is merging with the North Dakota Fusion Cell which collaborates with the FBI's Field Intelligence Group, and which utilizes the Department of Homeland Security's critical infrastructure sectors, and state and local partners regarding Homeland Security issues.

## ❖ TRAINING

The training section provides field training and assistance with academy training for law enforcement officers. In the 2007-2009 biennium, 103 training programs were presented to 2,248 students. In addition, the section conducts the law enforcement licensing for the Peace Officer Standards and Training (POST) Board. Members of the POST Board are appointed by the Attorney General and enforce minimum standards for the issuance and maintenance of peace officer licenses, including education and weapons qualification requirements.

BCI agents serve as coordinators and consultants for seven of the nine multi-jurisdictional narcotics task forces.

While methamphetamine (meth) has been the drug of choice during the past several years, it was involved in only 22% of BCI drug investigations in 2007-2009, down from 32% of the drug cases for the 2005-2007 biennium.

## ❖ PUBLIC PRESENTATIONS

Agents provided community awareness training about the signs of drug abuse and meth manufacture to 2,090 adults and children. Agents are current on the latest trends and can share anecdotal stories with the public that are extremely effective in demonstrating the danger of drugs.

## ❖ INFORMATION SERVICES SECTION

The Information Services Section includes a variety of systems that provide criminal justice agencies and the public with information critical to the protection and safety of the citizens of North Dakota. The systems include the state central repository for criminal histories which includes arrest and prosecution information for individual offenders; the Uniform Crime Reporting (UCR) program which compiles statistics on reported crimes and provides annual reports; the Central Warrant Information System (CWIS) which is available for law enforcement to record outstanding warrants, protection and restraining orders, etc.; and the Automated Fingerprint Identification System (AFIS).

## ❖ AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS)

AFIS is a fingerprint matching system that compares newly submitted arrest fingerprints against a fingerprint database. Work was completed on a full replacement of the Automated Fingerprint Identification System (AFIS). North Dakota is a partner with Minnesota and South Dakota in managing a regional AFIS. Given that all criminal history records are based on fingerprint matches, this system is a great tool to assist identification technicians in their daily work.

Latent prints from crime scenes may be submitted to the regional database for a possible match. If a match is not found, the latent print from an unsolved crime is retained and searched each time a set of prints is added to the database by any of the three states. During the 2007-2009 biennium, law enforcement officers throughout the state submitted 159 cases involving latent print examination for various offenses. Thirteen individuals were identified from the latent prints, including one cold hit, where there was either no suspect or someone was identified other than the individual originally suspected by law enforcement.

### ❖ **CONCEALED WEAPONS PERMITS**

Concealed weapon permit applications increased steadily during the 2007-09 biennium. During the biennium, 8,967 permits were issued, with the corresponding permit fees generating revenues of \$224,175.

The number of active concealed weapon permits grew by 46% from 8,300 last biennium, to 12,111 at the end of the 2007-09 biennium.

### ❖ **SEX OFFENDER REGISTRATION**

During the 2007-2009 biennium, the number of registered sex offenders increased from 1,015 to 1,236. Of those, as of the end of the biennium, only 18 were delinquent, which equates to a 99% compliance rate. A risk assessment committee reviewed data on each registered offender and determined each individual's risk assessment level as either low, moderate, or high. Through the biennium, 643 assessments were completed. At the end of the biennium, 314 offenders were identified as high risk, 435 as moderate risk, and 653 as low risk.

**Sex Offender Website**  
[www.sexoffender.nd.gov](http://www.sexoffender.nd.gov)

North Dakota's sex  
offender registration  
compliance rate is 99%.

### ❖ **SIGNIFICANT CASES**

- A manhunt in the Drake, North Dakota, area culminated with the arrest of Jeremy Brooks, who was wanted for homicides in three states. Numerous agencies were involved in the manhunt which lasted over one week.
- The first completely self-contained underground meth lab to be seized in North Dakota occurred during this biennium in rural Cavalier county, North Dakota. The lab was connected by tunnels which ran from a quonset to a fish house which had been buried in a farmyard. The lab had been there for over one year.
- Three officer-involved shootings were investigated by BCI in 2007-2009; one in Dickinson, and two in Morton County. All officers involved were cleared of wrong doing.

# CIVIL LITIGATION

The Civil Litigation Division represents state agencies, officials, and employees in legal actions, including administrative hearings, state court lawsuits, federal court lawsuits, and appeals. The attorneys handle cases ranging from challenges to the constitutionality of state laws to collection actions for various state agencies. The division strives to ensure that North Dakota laws are upheld and protects the interests of the State of North Dakota in the courts.

## DIVISION CLIENTS

### ❖ BANK OF NORTH DAKOTA

The Attorney General represents the Bank of North Dakota in cases seeking to recover overdue loans or property from delinquent borrowers. During the biennium Civil Litigation Division legal staff represented the Bank in 4,534 home loan foreclosures, 9 home loan bankruptcies, 36 farm loan foreclosures, 27 farm bankruptcy cases, 6 student loan bankruptcy cases, and 2767 student loan collection actions. Through its efforts this biennium, the Office of Attorney General collected \$2,004,501.91 for the Bank.

### ❖ DEPARTMENT OF CORRECTIONS & REHABILITATION/STATE PENITENTIARY

The division represents the North Dakota State Penitentiary and penitentiary employees in state and federal court cases involving inmates' allegations of unlawful conduct by prison officials, including challenges to prison policies and civil rights actions. During the past biennium, Civil Litigation Division staff attorneys handled 36 such cases.

### ❖ DEPARTMENT OF HUMAN SERVICES

During the biennium, division attorneys represented DHS in 138 economic assistance, developmental disability services, and adoption cases and 110 child care licensing, child care protective services, and foster care cases.

### ❖ DEPARTMENT OF TRANSPORTATION

Civil Litigation Division attorneys represent the Department of Transportation in a variety of cases, including im-

The Civil Litigation Division recovered over \$4,735,593 for state agencies during the biennium.

plied consent, driver's license, condemnation, quiet title, and contract cases. During the biennium, division staff was involved in 302 district court and 23 North Dakota Supreme Court appeals relating to drivers licenses.

### ❖ **EMPLOYMENT**

Division attorneys represented **Job Service** in 23 state district court appeals and 2 North Dakota Supreme Court appeal involving grants or denials of unemployment benefits. Staff attorneys issued 672 unemployment tax complaints against employers who owed payments to Job Service, resulting in 217 judgments and the recovery of \$2,273,816.44. Division attorneys took legal action for Job Service to recover employee benefit overpayments in 1,659 cases, resulting in 691 judgments and collection of an additional \$457,276.46.

The division handled 78 wage claim cases for the **Labor Department** against employers who failed to pay their employees, recovering over \$64,500 for those employees. In addition to representing state agencies in employment cases, staff attorneys also defended matters appealed through the **Central Personnel Division**.

### ❖ **RISK MANAGEMENT FUND**

The division provides general counsel services to the Risk Management Fund and represents the State Risk Management Fund in litigation. In addition to assisting the Risk Management Fund in responding to and resolving many of the new claims filed during the biennium, staff defended the Risk Management Fund in 64 lawsuits.

## **SIGNIFICANT CASES OR MATTERS**

### ❖ **SUPREME COURT DISCIPLINARY JURISDICTION**

Division staff are presently representing the North Dakota Disciplinary Board in a challenge to its jurisdiction. The plaintiff, a member of the Three Affiliated Tribes, is licensed to practice law by the state of North Dakota and the Fort Berthold District Court. The Disciplinary Board initiated disciplinary action against the plaintiff based on the

### **DISMISSAL OF LAWSUIT REGARDING DAKOTA BOYS & GIRLS RANCH.**

The Freedom from Religion Foundation, Inc. and various North Dakota residents brought a suit against the State alleging that public entities' referral of children to the Dakota Boys & Girls Ranch violates the Establishment Clause of the First Amendment.

The State moved to dismiss the action on the ground the plaintiffs lacked standing. Accepting the State's argument, on July 16, 2008 the federal district court issued an order granting the State's motion and dismissing the case. The plaintiffs did not appeal the district court's decision.

### **AMICUS CURIAE**

Amicus curiae or "friend of the court" briefs are filed by a state or other entity in a pending court case in which it is not a party. The briefs are designed to provide the court with information or a perspective that should be considered in the court's decision but that might not be presented to the court by the parties to the case.

The Civil Litigation Division monitors the requests the state receives from the attorneys general of other states or other entities to write or join these amicus briefs.

During the 2005-2007 biennium, the Office of Attorney General received 159 requests to write or join briefs amicus curiae, the majority of the briefs filed in the United States Supreme Court.

The Office of Attorney General joined or wrote briefs in 44 of these cases.

plaintiff's conduct on the Fort Berthold Indian Reservation. The plaintiff filed an action in federal court requesting the federal court enjoin the Disciplinary Board from pursuing the disciplinary action, arguing the Disciplinary Board, and thus the North Dakota Supreme Court, lacks jurisdiction to discipline the plaintiff based on his conduct on the Fort Berthold Indian Reservation. The Disciplinary Board moved to dismiss the Complaint. On January 14, 2009, the federal district court entered an order dismissing the Complaint. The district court found the North Dakota Supreme Court has jurisdiction to discipline the plaintiff. The matter is currently on appeal to the Eighth Circuit Court of Appeals.

### **❖ ECONOMIC DEVELOPMENT AUTHORITY**

Division staff are defending a lawsuit against the North Dakota Department of Commerce that alleges the Department's disbursement of funds to private persons, associations, and corporations for economic development purposes violates Article X, section 18 of the North Dakota Constitution. The city of Minot, also named in the lawsuit, moved the case to federal court. Because the Complaint does not identify the specific statutes or programs being challenged, the Department filed a motion requesting the Complaint be dismissed or that the plaintiff provide a more definite statement of his claim.

### **❖ AUTHORITY OF ADJUTANT GENERAL**

A significant case involving the North Dakota National Guard and the Adjutant General was decided by the North Dakota Supreme Court during the biennium. The case stemmed from the Adjutant General's order separating an officer from the North Dakota Air National Guard. The officer challenged the authority of the Adjutant General to separate him from the Air National Guard. The officer also argued the Adjutant General's order separating him from the Air National Guard was subject to the state administrative hearing process. The Adjutant General moved to dismiss the case, arguing the state administrative hearing process did not govern the Adjutant General's military personnel decisions. Rather, the Adjutant General argued, his military personnel decisions are governed by federal law and regulations.

The state district court denied the Adjutant General's mo-



tion, holding the state administrative hearing process applied to the separation and that the Adjutant General exceeded his authority in ordering the separation. The Adjutant General appealed.

In August of 2007 the North Dakota Supreme Court reversed the state district court. Agreeing with the Adjutant General, the Supreme Court held the state district court lacked jurisdiction to consider the officer's appeal because federal law, not state law, governed the separation decision and any review of that decision. Accordingly, the Supreme Court held the district court erred in deciding it had jurisdiction to hear the officer's appeal and erred in denying the Adjutant General's motion to dismiss the appeal.

#### ❖ **UNIVERSITY OF NORTH DAKOTA (UND) SIOUX NAME & LOGO—UPDATE**

Detailed information about the case and its status through the end of the 2005-07 biennium is provided in the previous Report. In October 2007, while preparing for trial, the case was settled. Under the settlement, UND has until November 30, 2010, to seek and obtain approval from the Spirit Lake and Standing Rock Sioux Tribes to use the nickname and logo. If approval is not obtained, UND must transition to a new nickname and logo on or before August 15, 2011.

#### ❖ **MASTER SETTLEMENT AGREEMENT (MSA) & NON-PARTICIPATING MANUFACTURERS (NPM) STATUTE ENFORCEMENT UPDATE**

An explanation of the Master Settlement Agreement (MSA) and the obligations of the settling states, the tobacco companies that signed the MSA, known as Participating Manufacturers (PMs), and the Non-Participating Manufacturers (NPM) is contained in previous biennial reports.

N.D.C.C. ch. 51 25, requires the NPMs to pay funds into an escrow account based upon the number of cigarettes sold in North Dakota. During the biennium, Civil Litigation Division staff spent substantial time enforcing the statute. Division staff also spent significant time enforcing the payment obligations under the MSA. Under the MSA, the PMs' an-

Civil Litigation Division attorneys represent numerous state professional licensing boards and commissions in a variety of cases, including appeals from the denial of applications, and disciplinary actions. Most cases are handled or resolved at the administrative hearing stage.

During the biennium, Civil  
Litigation attorneys  
participated in 40  
arguments before the  
North Dakota Supreme  
Court, two arguments in  
the Eighth Circuit Court of  
Appeals, and numerous  
arguments in other courts  
and administrative  
proceedings.

nual base payment amount is subject to several adjustments, including the NPM Adjustment. The MSA requires each Settling State (North Dakota and others) to pass a "Qualifying Statute" (N.D.C.C. ch. 51-25, Tobacco Sales Act) allowing the Settling State to collect escrow payments from the NPMs. Under the MSA, a Settling State's annual settlement payment cannot be reduced by the NPM Adjustment so long as that Settling State "diligently enforced" its Qualifying Statute.

North Dakota's total share of the settlement is expected to be **\$866 million**. Through the end of the biennium, the state had received a total of \$258,170,673.46 in settlement payments. Of that amount \$167,726,727.76 was received during the 2007-2009 biennium.

In April 2006, several PMs withheld approximately \$775 million from the Settling States, claiming an offset for the 2003 NPM Adjustment. While North Dakota's current share of the amount withheld by the PMs is approximately \$2.75 million, it is possible for North Dakota to lose its entire payment of approximately \$28 million.

In May 2006, the North Dakota Attorney General filed a motion in Cass County District Court, requesting a ruling that North Dakota diligently enforced its Tobacco Sales Act. In July 2006 the Cass County District Court denied the PMs' motion to compel arbitration of the diligent enforcement dispute. The PMs appealed and the North Dakota Supreme Court reversed, holding the MSA requires the diligent enforcement dispute be arbitrated.

Division staff is working with other Settling States to prepare for the multi-state arbitration, which will be held before three retired federal judges. The date, length, and location of the arbitration are currently unknown. The arbitration proceeding will involve all Settling States and could last a year or longer depending on the procedures adopted by the arbitrators.

# CONSUMER PROTECTION & ANTITRUST

The Consumer Protection and Antitrust Division (CPAT) enforces the state's consumer fraud laws, investigates and prosecutes consumer fraud cases, mediates individual consumer complaints, enforces the state's do not call laws, is the state's clearinghouse for identity theft prevention, and educates the public on how to avoid becoming victims of fraud.

The division staff conducted 112 consumer fraud presentations and public appearances discussing consumer fraud issues. CPAT continued publication of its monthly consumer newsletter "Too Good To Be True," printed in newspapers throughout the state; issued news releases and consumer alerts; and participated in frequent radio and television appearances to talk about current consumer scams.

## ❖ CEASE & DESIST ORDERS AND INJUNCTIONS

During the biennium CPAT issued cease and desist orders against five businesses for fraudulent or illegal activity. These orders typically are issued in the event of blatantly fraudulent activity, or in circumstances that present imminent harm to consumers. The division also obtained court ordered injunctions against three businesses, suspending their business activities in North Dakota until they complied with the Attorney General's request for information.

## ❖ IDENTITY THEFT

The division provided 48 victims with identity theft affidavits to complete and file with the Office of Attorney General, credit reporting agencies, and creditors.

CPAT participated in an investigation concerning security breaches by data warehouses, credit card companies, or other entities collecting financial or confidential information, in order to ensure that the entity had not engaged in illegal or wrongful acts in violation of state or federal law.

Consumer Protection opened 2,543 complaints and investigations and closed 2,543 files.

CPAT recovered or collected **\$2,986,393.51** during the 2007-09 biennium, a **73%** increase from the previous biennium.

**LIFESMARTS**  
The Consumer Protection continued its participation in the National Consumers League's "LifeSmarts" competition, a game show style. During the biennium, the Attorney General hosted the 12th and 13th state LifeSmarts competitions.

Ray High School, the 2008 winning team, participated in the national LifeSmarts competition in Minneapolis, Minnesota. Ray High School repeated its success in 2009, winning the state competition and going on to participate in the national LifeSmarts competition in St. Louis, Missouri.

## **INVESTIGATIONS/LEGAL ACTIONS**

CPAT pursued numerous investigations or legal actions against individuals or entities under consumer protection, do not call, and other laws. The investigations resulted in 77 civil actions for violations of consumer fraud laws, a 32% increase over the previous biennium, and 37 civil actions for violations of do not call laws. The actions included violations of deceptive and misleading practices, false advertising, do not call, home solicitation sales, transient merchant, contractor, charitable solicitations, security breach, non-profit corporation, and antitrust laws.

CPAT's aggregated costs of prosecuting these actions was \$6,812.52. The Attorney General, through CPAT, collected \$1.4 million in fines, penalties, attorney's fees, and payments in lieu of civil penalties during the biennium.

### **❖ DO NOT CALL ENFORCEMENT**

The Attorney General continues to pursue enforcement of the do not call laws through business and consumer education, investigations, and legal actions. During the biennium, the division received 208 complaints for solicitations to consumers registered on the national and state do not call registry, 225 complaints for pre-recorded messages, and four text message complaints. The division conducted 53 investigations and reached 37 settlements with total civil penalties collected in the amount of \$103,500.

In 2007 CPAT obtained a \$21,212.62 judgment against EMT Alert, Inc. for violations of the do not call laws. CPAT obtained an Order for Injunction & Order to Compel issued against National Auto Warranty Service, Inc in 2008.

# CRIME LABORATORY

The Crime Laboratory provides scientific support to the state's criminal justice system through the analysis, identification, and comparison of physical evidence used in the investigation and prosecution of criminal offenses. Services provided by the Crime Lab include:

- Examination of physical and toxicological evidence for local, state, and federal law enforcement agencies, prosecutors, and defense attorneys.
- Equipment selection, inspection, repair, and training of law enforcement agents in breath alcohol analysis.
- Maintenance of a DNA database of convicted offenders and registered offenders.
- Providing expert testimony in court proceedings.

The Toxicology section held 20 classes and trained 368 law enforcement officers in the use of breath alcohol instruments. An additional 1,362 officers received certification for breath equipment remotely via the internet. Lab staff members maintained, supported, and certified 648 non-evidentiary and 74 evidentiary breath alcohol instruments for law enforcement agencies for a total of 4,841 breath alcohol cases statewide.

During the 2005-2007 biennium, the Crime Laboratory processed 13,309 cases: 6,609 blood alcohol (driving under the influence); 4,048 narcotics; 1,529 urine/blood drug screens; 525 biological and 405 DNA screening; 76 latent fingerprint; 58 firearm/toolmark; 26 miscellaneous; and 33 arson cases. Laboratory staff testified in 125 administrative hearings, depositions, or court hearings.

## SIGNIFICANT ACCOMPLISHMENT

The Crime Laboratory Division moved into a new 19,000 square foot building on October 21, 2008. The Lab is the first building built exclusively for the Office of Attorney General. The building came in under budget and on time.

The Lab received 3,412 convicted/registered offender samples for the National DNA Database. Those samples resulted in 46 database hits.

# CRIMINAL AND REGULATORY

The division conducts research on legal issues for local prosecutors and law enforcement officials, assists in the prosecution of criminal cases when requested by a local state's attorney, and provides legal services to various state agencies and officials, including the Department of Corrections & Rehabilitation, and ND Highway Patrol. The division provides general legal counsel to the ND POST Board and represents the Board in adverse license actions against peace officers.

Division attorneys have been actively involved in the risk assessment of sex offenders and those persons who committed offenses against children. The division participated in law enforcement and correctional training at the Law Enforcement Training Academy, and public presentations regarding offender risk assessment and notification of offender community presence.

The division also handles the legal issues associated with alcoholic beverage licensing, including enforcement actions for gaming and alcoholic beverage administrative rule and statutory violations.

The Licensing section issues licenses to alcoholic beverage retailers, wholesale and retail tobacco products dealers, transient merchants, coin operated amusement device operators, fair boards, polygraph examiners, charitable gaming operators, gaming manufacturers and distributors, and wholesale fireworks distributors.

The division processes all extradition requests received by the Governor. During the biennium, there were **79 extradition** requests processed.

## ❖ LICENSING REVENUE

Type of License	# Issued	Revenue
Beer License	3,100	\$245,691
Liquor License	2,879	226,712
Cigarette License	3,463	55,165
Coin License	235	83,875
Detection of Deception License	34	1,240
Fair Board License	20	1,000
Gaming/Distributor/Manufacturer	1,281	301,650
Transient Merchant License	121	24,200
Wholesale Fireworks	39	9,750
<b>Total Licensing Revenue:</b>	<b>11,172</b>	<b>\$949,238</b>

# FINANCE & ADMINISTRATION

Finance and Administration is responsible for budget, payroll, and accounting matters, information processing, purchasing and other administrative functions.

## BIENNIUM EXPENDITURES

Expenditures for the Civil Litigation, Natural Resources & Indian Affairs, State and Local Government and Criminal & Regulatory divisions are combined under "Legal" (Figure 1, next page).

Of the total expenditures, \$24.8 million (63%) was general fund monies, \$4.9 million was federal funds (12%), and \$9.8 million (25%) was special funds (Figure 2).

The costs associated with defending and prosecuting actions on behalf of the state by attorneys within the Office of Attorney General totaled \$2.2 million. The five legal divisions were responsible for these costs (Figure 3).

### ❖ SPECIAL ASSISTANT ATTORNEYS GENERAL

The Risk Management Division of the Office of Management and Budget spent \$306,478 in legal fees associated with actions against the state. These fees were paid to various special assistant attorneys general and for services provided by our office.

During the biennium an additional \$10.5 million was paid in either salaries or legal fees to over 200 special assistant attorneys general. Of these fees, an undetermined percentage was expended for litigation related services. Included within these costs were in-house counsel salaries and private law firm legal fees totaling \$2.17 million for services provided to North Dakota Workforce Safety & Insurance, an increase from \$1.99 million last biennium.

Total expenditures were approximately \$39.5 million. The office had 187.5 authorized FTEs and salary expenditures of \$21.2 million.

Figure 1.

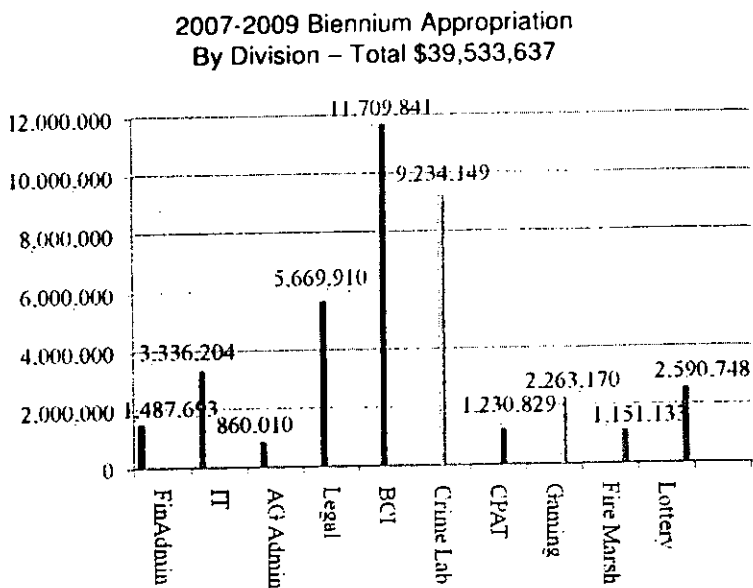


Figure 2.

**2007-2009 Biennium Expenditures By Funding Source  
Total \$39,533,637**

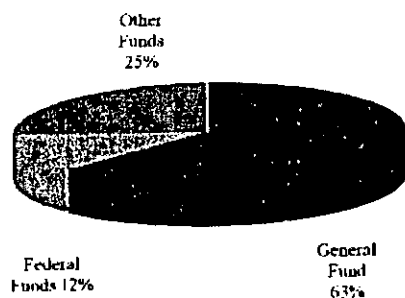
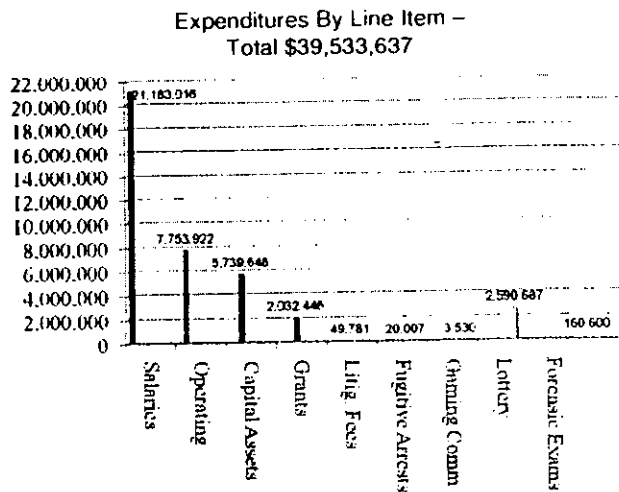


Figure 3.





# **FIRE MARSHAL**

The division is headed by the State Fire Marshal. The main office is in Bismarck with field offices in Grafton, Fargo, Dickinson and Minot. The division conducts fire investigations to determine origin and cause. During the biennium, the division conducted 143 fire origin and cause investigations. Of these, arson was determined to be the cause in 20% of the investigations.

The division provides services and education in areas including building plan review, fire prevention and life safety public education, fire investigation and inspections, and fire department certificates of existence. The division also provides technical assistance to entities throughout the state on fire code interpretations.

The Fire Marshal's emphasis on prevention is carried out through public education programs and training. Education programs are conducted to assist citizens in preventing fire and protecting themselves and their families should a fire occur. The division also provides specialized training in fire prevention, fire scene investigation, and hazardous materials response support.

To enhance the level of fire safety throughout the state, the division conducts fire inspections in public facilities, educational buildings, childcare facilities, state buildings, and at flammable material storage sites. During the biennium, the Fire Marshal staff conducted inspections at 230 schools, 141 fuel sites, 353 state buildings, 127 day care facilities, and 82 assembly sites.

The Fire Marshal's office manages the state's National Fire Incident Reporting System (NFIRS) and compiles state fire statistics from reports provided by local fire departments. Almost 67% of local fire departments now code and report incidents to NFIRS, which is well above the national average.

## **SIGNIFICANT ACCOMPLISHMENTS**

- The Fire Marshal Division provided 39 classes for hazardous materials/weapons of mass destruction classes for 723 students.

There were sixteen fire related fatalities during the biennium.

# GAMING

Continued revisions of the gaming administrative rules have clarified provisions and addressed statutory changes. The rules were developed through a cooperative effort among the industry's all volunteer Gaming Advisory Board, the Governor-appointed five-member State Gaming Commission, and the Gaming Division, and are available on the Attorney General's website.

## GAMING UPDATE

The "Gaming Update" quarterly newsletter includes statistics on gaming, interpretation and updates of law and rules, calendar of events, and other special topics. It is distributed to organizations, distributors, manufacturers, the Gaming Advisory Board and Gaming Commission, and is available online

Among its many duties, the Gaming division regulates, enforces and administers charitable gaming, provides training, and performs audits and investigations of gaming organizations, and ensures compliance with tribal-state casino gaming compacts.

## LEGISLATIVE CHANGES

The 2009 Legislative Assembly enacted five changes to the state's gaming statutes:

- HB 1194 changed the definition of an "eligible organization."
- HB 1317 decreased the excise tax on pull tabs from 4½% to 3%.
- HB 1367 increased the primary prize limit under a local permit and charity local permit.
- SB 2091 transferred responsibility for depositing gaming and excise taxes and the allocation of gaming and excise taxes to the Office of Attorney General.
- SB 2215 required that only licensed gaming organizations are subject to the payment of excise taxes and related interest, penalties, or estimated taxes.

## ❖ LOCAL LAW ENFORCEMENT GRANTS

The Legislature authorized local gaming enforcement grants. The grant allocation amount is 3% of the gaming and excise taxes paid, or \$77,125 per quarter, not to exceed \$617,000. The amount a city or county receives is proportionate to the level of its gaming activity. The total enforcement grants awarded were \$600,759.

## ❖ EDUCATION PROGRAM

The division conducted five group training sessions in five major cities, reaching 176 individuals representing 99 organizations. Individual training was provided to 51

individuals from 29 organizations, and post-audit training was given to 16 individuals from six organizations.

### ❖ **AUDIT PROGRAM**

The office conducted six comprehensive field audits and 2 distributor audits. In addition, 73 in-office and 24 limited reviews of organizations were completed. Internal control manuals of several large organizations were also evaluated and approved.

### ❖ **INDIAN GAMING**

The state has tribal-state casino gaming compacts to allow the five Indian tribes to conduct gaming operations at the following facilities:

- Dakota Magic Casino & Hotel, operated by the Sisseton Wahpeton Oyate Tribe, employing 485 people and containing 985 slot machines and 7 table games and a poker room.
- Four Bears Casino & Resort operated by the Mandan, Hidatsa, and Arikara Nation (Three Affiliated Tribes), employing 349 people and containing 637 slot machines, 18 table games and a poker room.
- Prairie Knights Casino & Resort, operated by the Standing Rock Sioux Tribe, employing 340 people and containing 611 slot machines and nine table games.
- Sky Dancer Casino & Hotel and Mini-Casino, operated by the Turtle Mountain Band of Chippewa Indians, employing 432 people and including 576 slot machines, 9 table games and a poker room.
- Spirit Lake Casino & Resort, an alcohol-free facility operated by the Spirit Lake Tribe, employing 450 people and containing 664 slot machines, 8 table games and a poker room.

### ❖ **OVERVIEW OF THE GAMING INDUSTRY**

An overview of the gaming activity for the fiscal years ended June 30, 2008, and June 30, 2009, follows:

During the biennium, there were approximately 950 active gaming sites, taking wagers of \$522 million, raising over \$33 million for charitable uses, and bringing in \$20.5 million in gaming and pull tab excise taxes.

# OVERVIEW OF GAMING ACTIVITY

## ❖ FISCAL YEAR ENDED JUNE 30, 2008

	<u>Gross Proceeds</u>	<u>Prizes</u>	<u>Adjusted Gross Proceeds</u>
Bingo	\$33,119,959	\$25,581,214	\$7,538,745
Raffles	4,094,132	1,672,120	2,422,012
Pull Tabs (Jar Bar)	88,721,705	69,860,265	18,861,440
Pull Tabs (Dispensing Devices)	53,476,742	41,362,599	12,114,143
Club Specials, Tip Boards, Coin Boards, & Seal Boards	1,271,646	953,509	318,137
Punchboards	16,441	12,497	3,944
Sports Pools	115,132	92,606	22,526
Twenty-one	77,014,739	64,778,841	12,235,898
Calcuttas	144,326	120,999	23,327
Paddlewheels	153,790	79,414	74,376
Paddlewheels used with a table	4,904,799	3,624,391	1,280,408
Poker	<u>1,000,020</u>	<u>798,469</u>	<u>201,551</u>
<b>Totals</b>	<b>\$264,033,431</b>	<b>\$208,936,924</b>	<b>\$55,096,507</b>
Plus: Interest Earned & Cash Long (Short)			\$59,722
Less: ND Excise Tax			\$6,181,651
Federal Excise Tax			97,061
ND Bingo Excise Tax			963,793
			<u>\$7,242,505</u>
Total Adjusted Gross Proceeds			\$47,913,724
Less: ND Gaming Tax			\$3,273,863
Allowable Expenses			27,646,865
Total Deductible Expenses			<u>\$30,920,728</u>
<b>Net Proceeds Earned</b>			<b>\$16,992,996</b>
Eligible Use Contributions			\$17,515,919

# OVERVIEW OF GAMING ACTIVITY

❖ FISCAL YEAR ENDED JUNE 30, 2009

	<u>Gross Proceeds</u>	<u>Prizes</u>	<u>Adjusted Gross Proceeds</u>
Bingo	\$32,208,486	\$25,360,290	\$6,848,196
Raffles	4,195,945	1,735,460	2,460,485
Pull Tabs (Jar Bar)	83,267,227	65,634,590	17,632,637
Pull Tabs (Dispensing Devices)	56,827,576	43,971,636	12,855,940
Club Specials, Tip Boards, Coin Boards, & Seal Boards	1,025,868	728,081	297,787
Punchboards	14,324	9,652	4,672
Sports Pools	110,760	90,226	20,534
Twenty-one	74,349,285	62,779,608	11,569,677
Calcuttas	216,080	184,016	32,064
Paddlewheels	146,200	81,188	65,012
Paddlewheels used with a table	5,061,029	3,777,101	1,283,928
Poker	<u>883,345</u>	<u>704,080</u>	<u>179,265</u>
<b>Totals</b>	<b><u>\$258,306,125</u></b>	<b><u>\$205,055,928</u></b>	<b><u>\$53,250,197</u></b>
Plus: Interest Earned & Cash Long (Short)			\$43,571
Less: ND Excise Tax			\$6,080,768
Federal Excise Tax			95,404
Bingo Sales Tax			937,258
			<u>\$7,113,430</u>
Total Adjusted Gross Proceeds			\$46,180,338
Less: ND Gaming Tax			\$3,059,621
Allowable Expenses			<u>26,708,347</u>
Total Deductible Expenses			\$29,767,968
<b>Net Proceeds Earned</b>			<b>\$16,412,370</b>
Eligible Use Contributions			\$19,605,483

# INFORMATION TECHNOLOGY

During the biennium the Information Technology (IT) division continued to provide technical services and support for the agency's 12 locations across the state, as well as five locations in Bismarck. Over 5,400 calls for service came into the IT help desk during the biennium. These calls resulted in IT staff providing network support, troubleshooting, software installation, equipment replacement, creation of new computer applications, and enhancement of existing applications.

In addition the IT staff maintains the website for the Office of Attorney General, as well as the Sex Offender web site which shares information with the National Dru Sjödin web site, and facilitates information sharing from agency databases with law enforcement across the state through State Radio and the Criminal Justice Information Sharing (CJIS) initiative.

The IT staff maintains approximately 20 different business applications for the agency.

Staff is on call 24 hours a day, 7 days a week.

## SIGNIFICANT ACCOMPLISHMENTS

- IT worked with BCI to implement a pilot 24-7 Sobriety Program. The division received a version of the software from South Dakota, but was required to make many enhancements to meet North Dakota security requirements, as well as to address the state's specific rules and court procedures.
- The IT division worked with Motorola, BCI, South Dakota and Minnesota to upgrade the Livescan software and replace Livescan units. The project consumed 2270 man-hours for IT and an additional 975 hours from consultants.
- IT worked with the ND Supreme Court and CJIS to route protection orders updates through CJIS to our office. We also worked with CJIS to allow law enforcement to enter the served date of the order through CJIS and receive it in our office as an update to a protection/restraining order. The CJIS project took IT staff 720 hours to complete.

# LOTTERY

The North Dakota Lottery regulates, enforces and promotes the state's lottery.

The Lottery selects and licenses retailers; trains retailer employees; develops administrative rules and proposes legislation; investigates allegations of unlawful activity; assists retailers in promoting lottery games; pays high-tier prizes to players; ensures that retailers and players comply with the lottery law and rules; and provides full accountability to the public and Legislature.

The Lottery conducts four multi-state games: POWERBALL®, HOT LOTTO®, WILD CARD 2® and 2BY2®. The Lottery's product mix of games provides jackpots starting from \$22,000 to \$20 million, and overall odds of winning a prize on a \$1 play ranging from 1 in 3.59 to 1 in 35.11.

The number of retailers and sales percent, by type, for the biennium are:

No.	Type	Sales %
302	Convenience Store	71.4
61	Grocery Store/Supermarket	23.1
6	Gas/Service Station	.7
17	Truck Stop/Plaza	3.4
14	Other (i.e. Bar, Drug Store)	1.4

## ❖ MARKETING PROMOTIONS

The Lottery conducted several marketing promotions during the biennium, including Powerball Power Play 10X, 5th Anniversary Cash Dash, Father's Day Subscription Gift-Giving, Annual Holiday Subscription Gift-Giving, Wild Card 2 – One Wild Deal, 2by2 Feast on This Multi-draw, and Hot Lotto Get Three Plays.

During the biennium:

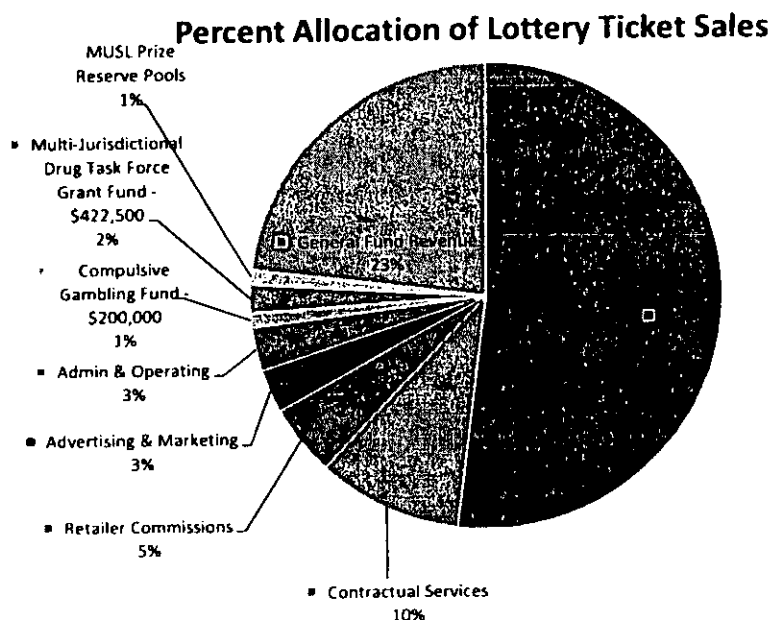
The lottery generated total operating revenue of \$44 million, **paid out \$22.67 million in prizes**, and generated net proceeds of \$11.81 million.

The Lottery transferred **\$11,055 million to the state general fund**, \$845,000 to the multi-jurisdictional drug task force grant fund, and \$400,000 to the compulsive gambling prevention and treatment fund.

**FACEBOOK**  
Be a Facebook Fan of the  
North Dakota Lottery!  
The Lottery's FACEBOOK  
page is posted with the  
latest winners, jackpots  
and promotions.

## LOTTERY SALES

The chart below shows a breakdown of each \$1 of sales.



## SIGNIFICANT ACCOMPLISHMENTS

During the biennium, the Lottery:

- Added the Triple Sizzler feature to the Hot Lotto game. To play the Triple Sizzler option, a player pays an additional one dollar per play for an opportunity to multiply the player's set prize (excluding the jackpot prize) by 3.
- Added the 7-day multi-draw Tuesday Double Prize feature to the 2by2 game. To play the Tuesday Double Prize option, a player must purchase a 7-day multi-draw play for an opportunity to double all prizes won on Tuesday.
- Developed a lottery coupon program to promote all four lottery games. The coupons, which are redeemable for lottery tickets at any of the 400 lottery retailers, are provided to radio stations to promote high jackpots, which reduces advertising expenses.



# **NATURAL RESOURCES/INDIAN AFFAIRS**

North Dakota's natural resources are vital to the state's economy and to the lifestyle and well-being of its citizens. The Attorney General, as a member of boards that oversee natural resources, plays an important role in their wise use. In addition, the division provides legal advice to state agencies with responsibilities for these resources.

The division assists the Land Department in managing state-owned lands and minerals; the State Engineer in regulating the appropriation of water, dams, dikes, and drains, and managing the beds of navigable rivers and lakes; the Industrial Commission in regulating the exploration and development of mineral resources and administering grant programs for the lignite and oil and gas industries; the Health Department in protecting our environment; the Game and Fish Department in managing wildlife and wildlife habitat; the Water Commission in developing water resources; and the Parks and Recreation Department in managing public recreation areas.

The division also administers the state's anti-corporate farming law and represents the Department of Agriculture, the Board of Animal Health, Wheat Commission, and other related agricultural agencies.

In addition, the division advises state and local officials on Indian law issues.

## **ENVIRONMENTAL PROTECTION**

During the biennium, the division authored legal briefs supporting persons injured by the 2002 Canadian Pacific derailment in Minot in their suits against CP Rail. One brief, filed with the U.S. Supreme Court, was joined by 19 other states. Other amicus briefs were filed with the Eighth Circuit Court of Appeals. An example of other work in which the division assisted the Health Department is the \$100,000 settlement of a saltwater spill by an oil company, \$55,000 of which was paid the state, with the remainder suspended under specified conditions.

The Natural Resources & Indian Affairs Division authored and edited portions of the Conference of Western Attorneys General 4th Edition of the "American Indian Law Deskbook."

The division successfully defended the state at trial and in front of the ND Supreme Court in an inverse condemnation action brought by numerous landowners around Devils Lake claiming over \$25 million in damages for the lake's rise that inundated their land.

## ❖ **EPA-CLEAN AIR ACT**

The division continued its work involving the Environmental Protection Agency's interpretation of the Clean Air Act and its application to North Dakota and its power plants. The EPA instituted a national rulemaking in June of 2007, but abandoned the rulemaking in 2008.

The division intervened and filed briefs in several suits filed in the U.S. District Court for the District of Columbia by eastern states challenging EPA decisions applying the Clean Air Act. The division became involved in the litigation in support of EPA to protect North Dakota interests.

## **WATER**

Besides handling the day- to-day legal work concerning North Dakota's water resources, North Dakota was involved in a number of unique issues. In early 2009 the State of Missouri filed suit against the federal government to stop the Northwest Area Water Supply project. The division intervened in that suit and is now, in cooperation with the federal government, preparing to ask the court to dismiss both lawsuits.

Another trans-boundary dispute involves a suit filed in a Canadian court by a political subdivision of Manitoba alleging that the state along with local entities in northeastern North Dakota have, through water management practices, exacerbated flooding in Manitoba. The case was dismissed.

Lastly, the States of Montana, Wyoming, and North Dakota are parties to the Yellowstone River Compact. Montana believes that Wyoming is wrongfully limiting the flow to Yellowstone tributaries and filed suit with the U.S. Supreme Court. Montana named North Dakota as a defendant because the state is a compact signatory. The Supreme Court assigned a Special Master to preside over the case and file a report and recommended decision. The division is involved to ensure that North Dakota's interests are not compromised.

## **AGRICULTURAL LAW**

The division continued to assist the Agriculture Department in administering its many programs. It also represented the state in a suit by Farmers Union and the Dakota Resource Council challenging the constitutionality of a statute dealing with the wheat check-off. The district court's dismissed the suit, a ruling affirmed by the North Dakota Supreme Court. The division also assisted the Board of Animal Health in such matters as livestock import violations, feral swine, abandoned animals, and humane treatment of animals.

## **STATE LAND AND MINERALS**

As a member of the Board of University and School Lands, the Attorney General helps manage approximately 712,000 acres of state-owned land and 1.8 million acres of state owned minerals. Income generated from these resources supports the state's schools. The "Bakken Play" and rapid expansion of the state's oil and gas industry directly affects the Land Board and its minerals management work, requiring the division's active involvement.

The division presided over more than 1,000 oil and gas administrative hearings.

## **INDIAN ISSUES**

The division provided legal advice on such issues as the role of state law enforcement officers over Indians and over the on-reservation activities of Indians as well as non-Indians. For example, the division represented the Bank of North Dakota against tribal members in the Fort Berthold Tribal Court regarding an on-reservation foreclosure and in the Turtle Mountain Tribal Court in a loan collection action.

## **CORPORATE FARMING**

The division is responsible for administering the state's corporate farming law. The division represents the state in an action against a nonprofit entity, Crosslands, Inc., that acquired farmland in violation of the corporate farming law and who challenged the law's constitutionality. Crosslands' effort to get the issue before a federal court failed. Crosslands' constitutional challenge was rejected

**GAME AND FISH**  
The division helped the Game & Fish Department enforce new legislation regulating commercial guides and outfitters and, as a result of the department's heightened concern about water safety, the division handled a number of boating under the influence (BUI) cases

by a state district court. The case is on appeal to the N.D. Supreme Court, but since Crosslands did not appeal the constitutional ruling the appeal concerns other issues.

## **NATIONAL GRASSLANDS**

The United States Forest Service has taken a number of significant management initiatives affecting the Little Missouri and Sheyenne River National Grasslands. The division has monitored these events and submitted formal comments and administrative appeals on some of them, such as proposed revisions to the Grasslands Management Plan.

Also, in 2001, the division filed suit challenging the Forest Service's "off highway vehicle" policy, its roadless rule, and its failure to recognize the applicability of the state's section line right-of-way law to federal land. The suit was settled in 2007. The settlement's primary feature establishes a process by which the Forest Service and local entities will share information and seek to resolve their disputes over road issues, a process that is ongoing.

## **CLIMATE CHANGE**

The division played a lead role in drafting groundbreaking legislation enacted by the 2009 Legislature that establishes a regulatory regime for the underground storage of carbon dioxide. It also closely monitored and assisted the Industrial Commission in submitting comments on action by the Minnesota Public Utilities Commission seeking to reduce the use of power produced by coal burning, carbon dioxide emitting plants, an action that has consequences for North Dakota coal and power industries.

# STATE AND LOCAL GOVERNMENT

## LEGAL SERVICES

The State and Local Government division provides day-to-day legal services to 65 state agencies, boards, and commissions. Division attorneys represent multiple agencies and are required to be experts in a wide variety of practice areas. In addition to providing legal services, attorneys from the division assisted agencies and members of the Legislative Assembly by drafting bills and amendments, explaining the ramifications of proposed legislation and testifying before legislative committees when requested.

By statute the Office of Attorney General must review all administrative rules adopted by state agencies and boards for legal sufficiency and to ensure that proper procedures have been followed. The division reviewed 72 sets of rules during the biennium.

The Attorney General issues opinions on questions of law related to matters involving state statutes, the state constitution, and matters having statewide significance.

## ATTORNEY GENERAL OPINIONS

One of the Attorney General's most important statutory duties is issuing Attorney General Opinions on questions of law and on questions relating to open records and meetings. The attorneys within the State and Local Government Division are also primarily responsible for researching and drafting these opinions.

## LEGAL OPINIONS

The Attorney General is frequently asked for legal opinions by state legislators, state officials, county state's attorneys, city attorneys, city governing bodies, water resource boards, and soil conservation districts. These opinions guide the actions of public officials until the courts decide the issue. During the biennium the Attorney General issued 37 legal opinions. The Attorney General issued 12 opinions to legislators, seven to state's attorneys, six to city attorneys, and 12 to state agencies.

OPINIONS  
Attorney General Opinions  
from 1942 are available  
online at [www.ag.nd.gov](http://www.ag.nd.gov)  
on the "Legal Opinions"  
page.

Individual copies of opin-  
ions issued prior to 1942  
may be requested by con-  
tacting the Office of Attor-  
ney General at (701) 328-  
2210, or by e-mail to  
[ndag@nd.gov](mailto:ndag@nd.gov).

#### ❖ **SIGNIFICANT OPINIONS**

- 2007-L-11: A compensation program which distin-  
guishes between the National Guard and Reserve  
and active duty members does not violate the Equal  
Protection Clause of the Fourteenth Amendment  
because the distinctions were not based on unlawful  
criteria. While the Equal Protection Clause prohib-  
its discrimination for inherently suspect reasons  
such as race, it permits rational distinctions between  
groups.
- 2007-L-16: The Governor does not have authority  
to remove members of the Workforce Safety & In-  
surance board of directors. Although generally the  
power to appoint public officials would include the  
power to remove those officials, there are excep-  
tions to the general rule where the terms of the offi-  
cials are fixed by statute or where the officials are  
required to be selected from a list of candidates pro-  
vided by outside entities. In those instances, both of  
which are present with respect to members of the  
WSI board of directors, the Governor does not have  
the authority to remove them.
- 2008-L-05: The Fargo Public School District has  
statutory authority to use combined building fund  
levies to finance construction of a new high school.  
A non-profit building authority is not generally sub-  
ject to the same limitations on building and con-  
struction as a school district.
- 2009-L-08: The state constitution grants the Gover-  
nor the authority to present information and propose  
recommended legislation to the Legislative Assem-  
bly. The legislature has the power to approve, dis-  
approve, or amend these recommendations and in-  
dividual legislators or groups of legislators may in-  
troduce their own appropriation bills or offer  
amendments to those submitted by the executive  
branch. The legislature does not have free rein to  
encroach upon the Governor's constitutional power,  
but the Governor's budget authority is not totally  
exclusive.

## OPEN RECORDS AND MEETINGS

Between July 1, 2007, and June 30, 2009, the office issued 44 opinions based on alleged violations of the open records or open meetings laws. The division also handled a large number of telephone calls from public entities and citizens regarding open records and meetings requirements. Responding over the telephone in many cases eliminated possible violations or opinion requests.

### ❖ SIGNIFICANT OPINIONS

- 2007-O-14: An exchange of emails among a quorum of the governing body that involves a matter pending before the governing body may meet the definition of a "meeting" under the state's open meetings law.
- 2007-O-15: Committees created by a governing body are subject to the open meetings laws.
- 2008-O-07: E-mails sent by public entities relating to public business are subject to disclosure even if the individuals use private e-mail accounts.
- 2008-O-15: The Fargo Public School District and Fargo Park District violated the open records laws by not providing copies of e-mails that were on the private computers of their appointees serving on the Board of Directors of Metro Sports Foundation, Inc because the appointees were acting as agents of the public entities and the e-mails related to public business.
- 2008-O-19: When Foster county denied a request for electronic records because the requester was not a resident of the state, and then claimed it would provide only a hard copy, for which it estimated excessive charges and almost a year to provide the records, it violated the law.
- 2009-O-08: The University of North Dakota's Alumni Association and the UND Foundation are both agents of UND and therefore violated the open records laws by refusing to provide a copy of a contract with a software vendor.

### Not sure if a record or meeting is open?

Look on the Open Records and Open Meetings link of the Attorney General's website for:

A **Summary of Open Records**, giving examples of open, exempt and confidential records along with the statutory authority; and

a **Summary of Open Meetings**, setting out the steps for noticing and holding a general, special or sub-committee meeting.

# **PUBLICATIONS OF THE OFFICE OF ATTORNEY GENERAL**

The Office of Attorney General makes available a variety of forms and publications, from informational pamphlets explaining consumer rights to administrative rules and license applications for gaming organizations. For convenience, these publications are available online from the

## **NEWS/PUBLICATIONS**

### ❖ **NEWS**

- News Releases
- Too Good To Be True...

### ❖ **PUBLICATIONS**

- Attorney General, Office of
- Attorney General Opinions
- Choosing a Contractor
- Concealed Weapons Permit
- Disaster Scams
- Do Not Call
- Document Retention
- Eminent Domain - Landowner Rights
- Fair Credit Reporting Act
- Fair Debt Collections Practice Act
- File a Complaint About
- Identity Theft
- Junk Mail
- Lemon Law, North Dakota
- Liability of State Employees
- Meth
- Network Marketing/Pyramid Schemes
- Online Safety Tips
- Open Records and Open Meetings
- Satellite and Cable Programming
- Scams, Shams & Flimflams
- Security Freeze
- Security Freeze-Brochure
- Sex Offender Information
- Small Claims Court in North Dakota
- Tenant Rights
- Your Credit Score
- What Teenagers Need to Know about Sex and the Law

## **FORMS**

### ❖ **BCI**

- Criminal History Authorization
- Application for Reduction in Fee
- Non-Criminal Justice Request
- Offender Registration

### ❖ **CONSUMER PROTECTION**

- Consumer Complaint

### ❖ **FIRE MARSHAL**

- Certificate of Fire Department Existence
- Training Report
- Assembly Occupancy Inspection Form
- Aboveground Fuel Storage Tank Pre-Installation Application - Fuel Dispensing Sites
- Adjunct Instructor Expense Form
- Liquefied Petroleum Gas Pre-Installation Checklist
- Law Enforcement Training Roster

### ❖ **GAMING**

- Gaming and Tax Returns
- Bingo
- Bingo Dispensing Device
- Calcutta
- Club Special
- Combined Concept
- Long Form Tax
- Paddlewheel W/Table
- Paddlewheel W/O Table
- Poker
- Prize Board Dispensing Devices
- Prize Board
- Pull Tab Dispensing
- Pull Tab
- Pull Tabs By Deal Method
- Raffle
- Short Form Tax Return
- Sports Pool
- Twenty-One



Request for Record Check  
Designated Usage of Funds  
Evaluation of Video Surveillance Equipment

❖ **LICENSING**

Alcoholic Beverage License  
Amusement Games  
Local Gaming Permit/Application/Report  
Fireworks  
Gaming License Application  
Manufacture/Distribute Gaming Equipment  
and Supplies  
Polygraph  
Tobacco  
Transient Merchant

❖ **OTHER**

Forensic Medical Exam Reimbursement  
Application to Limit Liability of Vendor  
Prosecution Witness Fee Reimbursement  
Report of Expenditures

## REPORTS

Law Report  
Attorney General Biennial Reports  
Crime & Homicide Reports  
Comprehensive Status and Trends Report

## MANUALS

❖ **BCI**

Concealed Weapons  
Model Law Enforcement Domestic Violence  
Model Law Enforcement Involved Domestic  
Violence  
Offender Registration Procedures

❖ **STATE & LOCAL GOV'T**

Administrative Rules Manual  
Contract Drafting Manual  
Open Records and Meetings Manuals

❖ **CRIME LAB**

Chemical Test Operator - Spring 2009  
Chemical Test Operator 2007/2008  
Chemical Test Operator 2006/2007  
Chemical Test Operator 2005/2006  
Chemical Test Operator 2004/2005  
Chemical Test Operator 2003/2004

S-D2 Operating Instruction  
Sample Retention/Disposal

## INFORMATION-DIVISION

❖ **BCI**

Concealed Weapons Permits  
Criminal History Records  
Law Enforcement Training and Licensing  
Methamphetamine  
Offender Registration  
Cold Case Unit

❖ **CONSUMER PROTECTION**

Consumer Rights and Information  
Security Freeze  
Do Not Call  
Free Credit Reports  
Identity Theft  
Internet Safety

❖ **FIRE MARSHAL**

Fireworks Safety  
Guidelines for Requesting Assistance

❖ **GAMING**

Gaming Newsletter  
Gaming Commission & Advisory Board  
Members  
Sample Gaming Compact  
Rules and Regulations  
License Holders

❖ **LICENSING**

Alcoholic Beverage License  
Amusement Games  
Local Gaming Permit/Application/Report  
Fireworks  
Gaming License Application  
Manufacture/Distribute Gaming Equipment  
and Supplies  
Polygraph  
Tobacco  
Transient Merchant  
License Holders

❖ **STATE & LOCAL GOV'T**

Opinions  
Open Records & Open Meetings Opinions



*2003 Subcommittee Meeting*

## MEMORANDUM

To: Senator Kilzer, Senator Erbele, and Senator Warner  
From: Kathy Roll, <sup>R</sup>Financial Administrator, Office of Attorney General  
Re: Requested Federal Stimulus Information and Amendment  
Date: January 25, 2011

Attached is the following requested information:

- ❖ The Office of Attorney General federal stimulus expenditures from July 1, 2009 through December 31, 2010 and associated FTE positions.
- ❖ An amendment which revises the Missing Children statute in NDCC Section 12-60-25 to remove the requirement to establish a separate database for tracking and information purposes while still providing the information through the National Crime Information Center (NCIC).

OFFICE OF ATTORNEY GENERAL FEDERAL STIMULUS INFORMATION  
FOR THE PERIOD FROM JULY 1, 2009 THROUGH DECEMBER 31, 2010

ARRA GRANTS AWARDED	ARRA APPROPRIATED FUNDS	AWARD AMOUNT	TOTAL EXPENDITURES	STATE FTE'S	NON-STATE FTE'S	TOTAL ARRA FUNDED FTE'S
EDWARD J. BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT	1,652,426	3,162,336	1,310,198	3.91	8.94	12.85
INTERNET CRIMES AGAINST CHILDREN	216,174	413,449	163,753	1.00	-	1.00
RURAL LAW ENFORCEMENT ASSISTANCE ACT	390,588	635,057	190,440	2.97	-	2.97
TOTAL	2,259,188	4,210,842	1,664,391	7.88	8.94	16.82

OFFICE OF ATTORNEY GENERAL PROPOSED AMENDMENT TO  
ELIMINATE THE COST FOR THE MISSING CHILDREN DATABASE  
2011 SENATE BILL NO. 2003

12-60-25 Lost, missing, or runaway children. The bureau shall:

~~1. Establish and maintain a statewide file system for the purpose of effecting an immediate law enforcement response to reports of lost, missing, or runaway children.~~

2 1. Implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information that can assist appropriate agencies in recovering lost, missing, or runaway children through the national crime information center.

3 2. Establish contacts and exchange information regarding lost, missing, or runaway children with the national crime information center.

4 3. Notify all enforcement agencies that reports of lost, missing, or runaway children must be entered as soon as the minimum level of data specified by the bureau is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the bureau immediately upon notification shall enter the information into the national crime information center file.

5 4. Compile and retain information regarding lost, missing, or runaway children in a separate file, in a manner that allows the information to be used by law enforcement and other agencies, considered appropriate by the bureau, for investigative purposes. The reporting law enforcement agency is responsible for maintaining the disposition of the case and ~~periodically shall review the case with the reporting party and the bureau to ensure all available information is included and to determine the current status of the case.~~

6 5. Provide prompt confirmation of the receipt and entry of lost, missing, or runaway children reports ~~into the file system~~ to the enforcement agency providing the report or to the parent, guardian, or identified family member as provided in subsection 7.

7 6. Allow any parent, guardian, or identified family member to submit a lost, missing, or runaway child report to the bureau which will be ~~included in the bureau file system and~~ transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.

8 7. Compile and maintain a historical ~~data repository~~ information relating to lost, missing, or runaway children for all of the following purposes:

a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of lost, missing, or runaway children.

b. To provide a factual and statistical base for research which would address the problem of lost, missing, or runaway children.

**Critical Incident Stress Management (CISM) Participant Breakdown**

November 8-9, 2010

Which of the following describes the field in which you work?

Victim Services	3
Law Enforcement/Dispatch	15
Corrections	9
Human Services/Addiction Counseling	16
Emergency Response	1
Pastoral/Clergy	6
<b>Total</b>	<b>50</b>

Please Specify the City/town you work in:

REGION 1	
Watford City	2
Williston	2
REGION 2	
Burlington	1
Minot	13
Mohall	1
Plaza	1
Stanley	1
REGION 3	
Belcourt	1
REGION 4	
Cavalier	1
Grand Forks	4
REGION 5	
Fargo	8
REGION 6	
Jamestown	4
REGION 7	
Beulah	2
Bismarck	2
Carson	1
Stanton	3
REGION 8	
Dickinson	1
Medora	2
<b>Total</b>	<b>50</b>

# VAAND Student Breakdown (2009 & 2010)

Which of the following describes the field in which you work?

Victim Services	19	38.8
Law Enforcement	6	12.2
Prosecution	3	6.1
Corrections: Probation	1	2.1
Human Services	7	14.3
Education	3	6.1
Student: College	1	2.1
Other: Therapist	1	2.1
911 Dispatch	1	2.1
Advocate for People with Disabilities	1	2.1
Health Services	2	4.1
Crime Victim Instructor/ Presenter	1	2.1
LAF Member and Speaker	1	2.1
Restorative Justice	1	2.1
Tribal Coalition	1	2.1
<b>Total</b>	<b>49</b>	<b>100.5**</b>

\*\*\* Does not add up to 100% due to rounding.

Please Specify the City/town you work in: (populations from 2009 Census data)

Bismarck (pop. 161,217) = urban (50,000+)	4	8.2
Bottineau (pop. 2,046)	1	2.1
Burlington (pop. 1,013)	2	4.1
Devils Lake (pop. 6,711)	2	4.1
Dickinson (pop. 16,265)	1	2.1
Ellendale (pop. 1,454)	1	2.1
Fort Totten (pop. 952 taken from 2000 Census)	1	2.1
Fargo (pop. 95,556) = urban (50,000+)	2	4.1
Grafton (pop. 3,954)	1	2.1
Grand Forks (pop. 51,216) = urban (50,000+)	5	10.2
Harvey/Fessenden (pop. 1,580 & 487)	1	2.1
Hillsboro (pop. 1,474)	1	2.1
Jamestown (pop. 14,687)	1	2.1
Larimore/Northwood (pop. 1,299 & 913)	1	2.1
Linton (pop. 1,018)	1	2.1
Minot (pop. 36,256)	13	26.5
Minot AFB (pop. 7,599 taken from 2000 Census)	1	2.1
Spirit Lake/Tokio (pop. Unavailable for both)	2	4.1
Stanley/ New Town (pop. 1,279 & 1,838)	1	2.1
Watford City (pop. 1,399)	3	6.4
Williston (pop. 13,014)	1	2.1
Walsh County (pop. 10,798)	1	2.1
Did not answer/Did not specify city/town	2	4.1
<b>Total</b>	<b>49</b>	<b>101.2**</b>

\*\*\* Does not add up to 100% due to rounding.

**How many years have you worked in your current position?**

Less than 1 year	6	12.2
1-5 years	29	59.2
6-10 years	8	16.3
11-15 years	2	4.1
16-20 years	1	2.0
More than 20 years	2	4.1
Did not answer	1	2.0
<b>Total</b>	<b>49</b>	<b>99.9**</b>

“\*\*” Does not add up to 100% due to rounding.

**What is the highest level of education you have attained?**

High School Diploma/GED	2	4.1
Some College	2	4.1
Associates Degree	12	24.5
Bachelors Degree	20	40.8
Some Grad School	1	2.1
Grad Degree	9	18.4
Law Degree	1	2.1
Doctorate Degree	1	2.1
Certifications in teaching RT and CT	1	2.1
<b>Total</b>	<b>49</b>	<b>100.3**</b>

“\*\*” Does not add up to 100% due to rounding.

**Why are you attending this training program?**

Required by supervisor to attend	7	10.1
Interested with working with victims of crime	30	43.5
Receiving continuing education credits	18	26.1
Gain knowledge and skill to help with clients	6	8.7
Office representation	1	1.4
A “me” retreat	1	1.4
LAF survivor	1	1.4
Better serve the needs of victims I encounter in my work	2	2.9
Networking	1	1.4
Develop skills, knowledge in my work with children who are abused	1	1.4
I do work with all types of victims and need new ideas and trends	1	1.4
<b>Total</b>	<b>69*</b>	<b>99.7**</b>

“\*” Indicates that participants were allowed more than one answer.

“\*\*” Does not add up to 100% due to rounding.



# Victim Assistance Academy for North Dakota (VAAND)

## Steering Committee Members – (2009-2010)

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Testimony on HB1168  
~~Senate~~ <sup>House</sup> Judiciary Committee  
January 17, 2011

Chairman DeKrey and Members of the Committee:

My name is Rodney Hair, and I am speaking this morning as private citizen in support of HB1168.

**Overview:** The Victim Assistance Academy for North Dakota (VAAND) offers a rare opportunity to live, work, study, and interact with allied professionals who routinely work with victims of all crimes.

**Purpose:** To provide comprehensive training to those professionals who interact with victims of crime in order to provide quality services in North Dakota. This is a week-long (40 hour) course on victimology, victims' rights, and victim services designed to meet the entry-level educational and training needs.

**Vision:** To provide consistent and quality services to victims of crime.

**Mission:** To develop, implement, and maintain a statewide structure to expand and enhance the level of skills and knowledge for those who interact with victims of crime.

In 2007, the Rural Crime and Justice Center (RCJC) applied for and was awarded a grant from the Office for Victims of Crime (DOJ/OVC), under the Department of Justice, to facilitate a State Victim Assistance Academy within North Dakota. The goal of the OVC State Victim Assistance Academy (SVAA) initiative is to assist states in developing effective strategies for establishing their own SVAAAs as a means to increase the knowledge of victim service personnel. VAAND was originally funded through a three year grant and this funding has been depleted. In order to offer the academy, state funding is needed to keep costs low for students.

As part of the requirement under the grant, awardees had to have support from an academic partner, as well as letters of support from allied agencies. Therefore, letters of support were obtained from Minot State University (MSU), the North Dakota Victims of Crime Act/Crime Victims Account (VOCA/CVA) Grants Program, and the North Dakota Victim's Assistance Association (NDVAA).

As part of the first year of the VAAND, a multidisciplinary steering committee was formed to advise and review all aspects of the academy development. The steering committee consists of professionals with diverse backgrounds from across the state. Its membership includes victim advocates, law enforcement, prosecution, judicial, victim assistance, victim compensation, social services, tribal services, members of higher education, and state representatives.

Some of the goals for the first year of the VAAND were to develop and conduct a training needs assessment survey, develop the curriculum design, develop a strategic plan, and develop a marketing plan.

The goal for both the second and third year of the VAAND was to host an annual state victim assistance academy in North Dakota. The third year of the VAAND included two additional goals: to determine the need to develop a curriculum for an advanced academy and to develop a sustainability plan. The development of a sound sustainability plan continues to be a goal of the VAAND that we wish to address with this funding as well.

The VAAND has had numerous accomplishments over the past three years. The VAAND has hosted two academies for professionals working with crime victims. As a result, there have been a total of 49 professionals from around the state of North Dakota who have completed the 40 hour training academy thus far. Comments provided by students from both the 2009 and 2010 academy classes indicate that the VAAND met their expectations. The majority of the 2009 VAAND students surveyed indicated that they are still using materials and information acquired at the academy in their job six months later. Additionally, there were 48 professionals who completed a Critical Incident Stress Management training conducted and funded by the Academy in October 2010.

The main challenge faced by the VAAND is to secure sustained funding in order to continue to host the academy annually for the state at little to no cost to attending professionals. All of these professionals are North Dakota residents, coming from all parts of the state for the training. That is why I urge you to support House Bill 1168. Thank You.

Testimony for Victim Assistance Academy for North Dakota  
Senate Committee  
February 2, 2011

Chairman and Members of the Committee:

My name is Rodney Hair, and I am speaking this morning in support of the North Dakota Victim Assistance Academy.

**Overview:** The Victim Assistance Academy for North Dakota (VAAND) offers a rare opportunity to live, work, study, and interact with allied professionals who routinely work with victims of all crimes.

**Purpose:** To provide comprehensive training to those professionals who interact with victims of crime in order to provide quality services in North Dakota. This is a week-long (40 hour) course on victimology, victims' rights, and victim services designed to meet the entry-level educational and training needs.

**Vision:** To provide consistent and quality services to victims of crime.

**Mission:** To develop, implement, and maintain a statewide structure to expand and enhance the level of skills and knowledge for those who interact with victims of crime.

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A

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The main challenge faced by the VAAND is to secure sustained funding in order to continue to host the academy annually for the state at little to no cost to attending professionals. All of these professionals are North Dakota residents, coming from all parts of the state for the training. That is why I urge you to support the Victim Assistance Academy for North Dakota. Thank You.

# Critical Incident Stress Management (CISM) Participant Breakdown

November 8-9, 2010

Which of the following describes the field in which you work?

Victim Services	3
Law Enforcement/Dispatch	15
Corrections	9
Human Services/Addiction Counseling	16
Emergency Response	1
Pastoral/Clergy	6
Total	50

Please Specify the City/town you work in:

REGION 1	
Watford City	2
Williston	2
REGION 2	
Burlington	1
Minot	13
Mohall	1
Plaza	1
Stanley	1
REGION 3	
Belcourt	1
REGION 4	
Cavalier	1
Grand Forks	4
REGION 5	
Fargo	8
REGION 6	
Jamestown	4
REGION 7	
Beulah	2
Bismarck	2
Carson	1
Stanton	3
REGION 8	
Dickinson	1
Medora	2
Total	50

# VAAND Student Demographics (2009 & 2010)

Which of the following describes the field in which you work?

Victim Services	19
Law Enforcement	6
Prosecution	3
Corrections: Probation	1
Human Services	7
Education	3
Student: College	1
Therapist	1
911 Dispatch	1
Advocate for People with Disabilities	1
Health Services	2
Crime Victim Instructor/ Presenter	1
LAF Member and Speaker	1
Restorative Justice	1
Tribal Coalition	1
<b>Total</b>	<b>49</b>

Please Specify the City/town you work in: *(populations from 2009 Census data)*

Bismarck ( <i>pop. 61,217</i> )	4
Bottineau ( <i>pop. 2,046</i> )	1
Burlington ( <i>pop. 1,013</i> )	2
Devils Lake ( <i>pop. 6,711</i> )	2
Dickinson ( <i>pop. 16,265</i> )	1
Ellendale ( <i>pop. 1,454</i> )	1
Fort Totten ( <i>pop. 952 taken from 2000 Census</i> )	1
Fargo ( <i>pop. 95,556</i> )	2
Grafton ( <i>pop. 3,954</i> )	1
Grand Forks ( <i>pop. 51,216</i> )	5
Harvey/Fessenden ( <i>pop. 1,580 &amp; 487</i> )	1
Hillsboro ( <i>pop. 1,474</i> )	1
Jamestown ( <i>pop. 14,687</i> )	1
Larimore/Northwood ( <i>pop. 1,299 &amp; 913</i> )	1
Linton ( <i>pop. 1,018</i> )	1
Minot ( <i>pop. 36,256</i> )	13
Minot AFB ( <i>pop. 7,599 taken from 2000 Census</i> )	1
Spirit Lake/Tokio ( <i>pop. Unavailable for both</i> )	2
Stanley/ New Town ( <i>pop. 1,279 &amp; 1,838</i> )	1
Watford City ( <i>pop. 1,399</i> )	3
Williston ( <i>pop. 13,014</i> )	1
Walsh County ( <i>pop. 10,798</i> )	1
Did not answer/Did not specify	2
<b>Total</b>	<b>49</b>



### Rural Vers Urban (50,000+ people) Communities Represented

<b>Urban</b>	<b>3</b>
<b>Rural</b>	<b>44</b>
<b>Not applicable</b>	<b>2</b>
<b>Total</b>	<b>49</b>

### How many years have you worked in your current position?

<b>Less than 1 year</b>	<b>6</b>
<b>1-5 years</b>	<b>29</b>
<b>6-10 years</b>	<b>8</b>
<b>11-15 years</b>	<b>2</b>
<b>16-20 years</b>	<b>1</b>
<b>More than 20 years</b>	<b>2</b>
<b>Did not answer</b>	<b>1</b>
<b>Total</b>	<b>49</b>

### What is the highest level of education you have attained?

<b>High School Diploma/GED</b>	<b>2</b>
<b>Some College</b>	<b>2</b>
<b>Associates Degree</b>	<b>12</b>
<b>Bachelors Degree</b>	<b>20</b>
<b>Some Grad School</b>	<b>1</b>
<b>Grad Degree</b>	<b>9</b>
<b>Law Degree</b>	<b>1</b>
<b>Doctorate Degree</b>	<b>1</b>
<b>Certifications in teaching RT and CT</b>	<b>1</b>
<b>Total</b>	<b>49</b>

### Why are you attending this training program?

<b>Required by supervisor to attend</b>	<b>7</b>
<b>Interested with working with victims of crime</b>	<b>30</b>
<b>Receiving continuing education credits</b>	<b>18</b>
<b>Gain knowledge and skill to help with clients</b>	<b>6</b>
<b>Office representation</b>	<b>1</b>
<b>A "me" retreat</b>	<b>1</b>
<b>LAF survivor</b>	<b>1</b>
<b>Better serve the needs of victims I encounter in my work</b>	<b>2</b>
<b>Networking</b>	<b>1</b>
<b>Develop skills, knowledge in my work with children who are abused</b>	<b>1</b>
<b>I do work with all types of victims and need new ideas and trends</b>	<b>1</b>
<b>Total</b>	<b>69*</b>

“\*” Indicates that participants were allowed more than one answer.

# **VAAND Steering Committee Demographics (2010)**

**Which of the following describes the field in which you work?**

<b>Victim Services: Victim/Witness Coordinator and Advocate</b>	<b>10</b>
<b>Law Enforcement</b>	<b>2</b>
<b>Prosecution</b>	<b>1</b>
<b>Corrections: Probation and Parole</b>	<b>1</b>
<b>Human Services: Advocate for people with disabilities</b>	<b>2</b>
<b>Research</b>	<b>3</b>
<b>Medical</b>	<b>1</b>
<b>Legal Services: Paralegal</b>	<b>1</b>
<b>Other: VOCA Administrator</b>	<b>1</b>
<b>Other: SAVIN Program Manager</b>	<b>1</b>
<b>Total</b>	<b>23</b>

**Please Specify the City/town you work in:**

<b>Belcourt</b>	<b>1</b>
<b>Bismarck</b>	<b>8</b>
<b>Dickinson</b>	<b>1</b>
<b>Fargo</b>	<b>3</b>
<b>Grand Forks</b>	<b>2</b>
<b>Jamestown</b>	<b>1</b>
<b>Minot</b>	<b>6</b>
<b>Williston</b>	<b>1</b>
<b>Total</b>	<b>23</b>

SB 2003

**Cost to Operate the VAAND:**

2008 - \$38,789

Federal \$26,775 + RCJC \$12,014 (match)

2009 - \$100,419

Federal \$65,992 + RCJC \$34,427 (match)

2010 - \$80,000

Federal \$59,835 + RCJC \$20,165 (match)

**SECTION XX. 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, 2011.

SENATE BILL NO. 2003 - OFFICE OF ATTORNEY GENERAL

SUMMARY OF AMENDMENTS DISCUSSED

- yes
- The first amendment is to NDCC Section 57-43.1-03.2 to reflect the actual practice of the Tax Commissioner determining deposits into the Fuels Tax Refund Reserve Fund from motor vehicle fuel tax and special fuel tax collections to provide for Native American Fuel tax refunds for fuel purchased on the reservation where the Native American is an enrolled tribe member, and to remove the Attorney General from this statute.

- no
- Senate Bill No. 2247 establishes a Domestic Violence Fatality Review Commission in the Office of Attorney General to review domestic violence fatalities to recommend policies and protocols to prevent the incidence of domestic violence and resulting fatalities; and to provide consultation and coordination for agencies involved in prevention and investigation of domestic violence. The estimated general fund cost of this bill is \$19,583 for the 2011-13 biennium.

- yes
- The third amendment is to NDCC Section 12-60-25, Lost, Missing, or Runaway Children to eliminate the required new state database, reverting back to the previous process of utilizing the National Crime Information Center to track these children. This eliminates the estimated \$500,000 estimated general fund cost to create a new database while still providing an acceptable means of tracking missing children.

- no
- The last amendment is to add \$100,000 from the general fund to the grants line item to provide a grant to the Victim Assistance Academy.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2003

Page 1, replace line 17 with:

"Grants            3,452,225      67,775            3,520,000"

Page 1, replace line 24 with:

"Total all funds            \$50,862,653    \$7,688,203    \$58,550,856"

Page 2, replace line 2 with:

"Total general fund    \$28,060,432    \$3,649,106    \$31,709,538"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2003 - Attorney General - Senate Action

	Executive Budget	Senate Changes	Senate Version
Salaries and wages	\$29,573,339		\$29,573,339
Operating expenses	16,418,016		16,418,016
Capital assets	2,256,183		2,256,183
Grants	3,420,000	100,000	3,520,000
Litigation fees	50,000		50,000
Medical examinations	660,000		660,000
North Dakota Lottery	3,700,242		3,700,242
Arrest and return of fugitives	10,000		10,000
Gaming Commission	7,368		7,368
Federal stimulus funds	2,355,708		2,355,708
Total all funds	\$58,450,856	\$100,000	\$58,550,856
Less estimated income	26,841,318	0	26,841,318
General fund	\$31,609,538	\$100,000	\$31,709,538
FTE	202.50	0.00	202.50

Department No. 125 - Attorney General - Detail of Senate Changes

	Add Funding for Grant to Victim Assistance Academy <sup>1</sup>	Total Senate Changes
Salaries and wages		
Operating expenses		
Capital assets		
Grants	100,000	100,000
Litigation fees		
Medical examinations		
North Dakota Lottery		
Arrest and return of fugitives		
Gaming Commission		
Federal stimulus funds		
Total all funds	\$100,000	\$100,000
Less estimated income	0	0
General fund	\$100,000	\$100,000

FTE

0.00

0.00

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<sup>1</sup> This amendment adds funding for a grant to the Victim Assistance Academy.

2003.3.8.114

# **2011 - 2013 BUDGET**

**Office of Attorney General  
State of North Dakota**

**Wayne Stenehjem  
Attorney General**

**Presented to Government  
Operations Section of the  
House Appropriations Committee**



# TABLE OF CONTENTS

2011 ENGROSSED SENATE BILL NO. 2003 .....	1
CURRENT AND FUTURE CRITICAL ISSUES .....	2
➤ Equity Adjustments and Certifications .....	2
STAFF MEMBER NEEDS .....	3
➤ Federal Stimulus Positions .....	3
OFFICE OPERATING NEEDS .....	6
➤ Crime Statistic Repository Update .....	6
➤ Additional Bureau of Criminal Investigation Case Management Modules .....	6
➤ Public On-line Record Checks and Concealed Weapon Permit Applications .....	7
➤ AG Refund Fund Carryover .....	7
➤ Equipment Recycling Budget and Preventive Maintenance Contracts .....	7
➤ Missing Children Repository .....	8
➤ Gaming Commission Budget Deficiency .....	8
➤ Increased ITD Costs .....	8
➤ Criminal Trends Using Technology .....	9
➤ Prescription Drugs .....	9
➤ Information Technology Service to Office Customers .....	9
➤ State and Federal Mandates .....	10
Office of Attorney General 2009-2011 Biennium Appropriation by Line Item .....	11
Office of Attorney General 2009-2011 Biennium Appropriation by Division .....	12
Office of Attorney General 2009-2011 Biennium Appropriation by Funding Source .....	13
Office of Attorney General 2011-2013 Biennium Recommendation by Line Item .....	14
Office of Attorney General 2011-2013 Biennium Recommendation by Division .....	15
Office of Attorney General 2011-2013 Biennium Recommendation by Funding Source .....	16
2011 LEGISLATION IMPACTING THE OFFICE OF ATTORNEY GENERAL .....	17
➤ Engrossed House Bill No. 1269 .....	17
➤ Engrossed House Bill No. 1450 .....	17
➤ Engrossed Senate Bill No. 2003 - Native American Fuel Tax Refund Amendment .....	17
➤ Engrossed Senate Bill No. 2042 .....	17
➤ Senate Bill No. 2070 .....	18

➤ Senate Bill No. 2247 .....	18
➤ Criminal History Record Checks Legislation .....	18
SUMMARY OF OFFICE OF ATTORNEY GENERAL MAJOR ACCOMPLISHMENTS .....	19
➤ Methamphetamine and Other Illicit Drugs .....	19
➤ Pharmaceutical Take Back and Take Away Programs .....	19
➤ Statewide Law Enforcement Intelligence Center (SLIC) .....	20
➤ Do Not Call Enforcement .....	20
➤ Concealed Weapon Permits .....	20
➤ Criminal History Record Information Requests .....	21
➤ 24-7 Sobriety Program .....	21
➤ AFIS Upgrade Completed .....	21
➤ Other Office Information .....	22
Offender Samples Workload .....	23
DNA Submitted Cases .....	24
State & Federal Record Checks Under NDCC 12-60-24 .....	25
Toxicology Drug Analysis Submissions .....	26
North Dakota Prescription Drug Deaths vs. Homicides .....	27

# 2011 ENGROSSED SENATE BILL NO. 2003

## Office of Attorney General

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

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

The office consists of 13 divisions:

- Administration
- Bureau of Criminal Investigation
- Civil Litigation
- Consumer Protection and Antitrust
- Crime Laboratory
- Criminal and Regulatory
- Finance and Administration
- Fire Marshal
- Gaming
- Information Technology
- Lottery
- Natural Resources and Indian Affairs
- State and Local Government

## CURRENT AND FUTURE CRITICAL ISSUES

### ➤ Equity Adjustments and Certifications

This office is very appreciative of the equity adjustments provided during the last session. As noted last session, the Crime Laboratory staff members will continue to require salary increases to make up the salary difference when compared with other states and localities.

#### Crime Laboratory Salaries

The Crime Laboratory (Lab) Division salaries have suffered significantly in comparison to similar positions in other state agencies and in comparison to similar positions in other crime laboratories. Recruitment and retention in the Lab continues to be a challenging issue. North Dakota salaries for the same positions are significantly below their Midwest counterparts. As a result, when employees leave state employment, the Lab has difficulty attracting equally qualified staff. It has only been able to hire individuals without forensic experience -- leaving the new hires in the Lab with a learning curve of between six months to two years. Consequently, the Lab has become a training ground for new scientists with no forensic experience. Experienced staff must monitor the work of the new employees and also handle the growing workload. The situation has added to casework processing delays, particularly with continued caseload increases, and has had a tremendous negative impact on employee morale which in turn causes employees to look for employment elsewhere.

The forensic scientists' salaries must become competitive within the region. In May 2010 a Midwest Crime Laboratory salary survey was completed indicating that, out of the job classifications surveyed, the Crime Lab forensic scientist series was 21% below the surveyed market salaries. There are currently 3 staff members with over 10 years of state service still below the midpoint of their salary range and 3 staff members with over 20 years of state service still well below the salary range maximum. This \$105,401 general fund request will allow the division to provide a more competitive minimum starting salary and an equitable increase for scientists within the Crime Laboratory Division. The requested equity increase for Crime Lab forensic scientists is only 20% of the amount needed to bring these scientists' salaries in line with the Midwest region average salaries and was included in the Executive Recommendation and passed by the Senate.

The increased salaries will hopefully allow the Lab to recruit and retain experienced scientists, thereby allowing the best possible service to the law enforcement community.

### **Crime Laboratory Certification**

In light of the recent National Academy of Sciences Report, the Laboratory is requesting to begin a proactive approach for certification of analysts in their respective disciplines. The Laboratory is requesting a modest increase in forensic scientists' salaries if scientists pass a nationally standardized certification test, at a cost of \$86,892 from the general fund, and was included in the Executive Recommendation and passed by the Senate. A scientist certified in a particular discipline will benefit from the additional credibility the certification adds to the scientist's court testimony. As a result, the whole criminal justice system benefits by having increased confidence in the results generated by a certified scientist.

### **Identification Technician Grade Change**

During the 2009-11 biennium, all identification technician position classifications were submitted to Human Resource Management Services (HRMS) for review. HRMS determined the grades associated with the identification technician positions needed to increase, some as much as three grades. This request provides \$190,051 in general fund authority for salary increases due to these grade changes for the 14 identification technician positions, and was included in the Executive Recommendation and passed by the Senate.

## **STAFF MEMBER NEEDS**

### **➤ Federal Stimulus Positions**

This office again requests authority for the ARRA federal stimulus funding and associated staff positions. The Justice Assistance Grant (JAG) and the Internet Crimes Against Children (ICAC) stimulus grants funding is provided for a total of four years. The Rural Law Enforcement Act grant has money remaining to partially fund the 2 intelligence analyst positions added this biennium in the 2011-13 biennium. The remaining amount needed for these analysts, \$106,804, is funded with special funds. In addition, one intelligence analyst will be funded with other ongoing federal funds. The Executive Recommendation includes \$2,355,708, of which \$2,248,904 is from federal stimulus funds to fund 7 positions, which the Senate passed.

### **Forensic Scientists**

The Crime Lab DNA unit is responsible for maintaining the DNA database for convicted and registered offenders and performing DNA analysis on criminal casework. The DNA unit of the laboratory has experienced continued growth in offender data basing and DNA casework.

16.9% increase from 2006 to 2007

39.7% increase from 2007 to 2008

15.8% increase from 2008 to 2009

23.9% increase from 2009 to 2010 (estimated)

The increase from 2008-09 to 2009-10 is a result of now receiving DNA from all felony arrestees. DNA technology is an extremely valuable tool for law enforcement to solve crimes, and the laboratory needs to provide timely analysis. In order to provide timely service to the law enforcement community these two forensic scientist FTE's are critical. When the laboratory can process the caseload in a timely manner, law enforcement and the citizens of North Dakota will be better served and protected because the law enforcement community has more tools available to solve crimes (more DNA profiles).

**These two forensic scientist positions were funded from the general fund in the Governor's 2009-11 biennium budget recommendation.** After federal stimulus (ARRA) funding became available, the Legislature decided to use this funding for these positions. The 2011-13 biennium Executive Recommendation funds these two positions from federal stimulus funds, which the Senate passed.

### **24/7 Statewide Sobriety Program Coordinator**

Federal stimulus funding is being used for a 24/7 coordinator's salary and expenses to manage the Attorney General's 24/7 Sobriety Program, which has developed into an effective means to remove intoxicated drivers from the road and improve their success with treatment. This individual has been responsible for coordinating all phases of program development, statewide expansion of the program, and organizing and conducting training for the sobriety programs with local, county, and state law enforcement agencies, as well as municipal and district judges. The coordinator determines what issues need to be addressed throughout expansion, and identifies solutions for them as they arise. Additionally, the coordinator interacts with other states' sobriety programs and vendors that supply the necessary equipment used for participant testing. It is imperative that there be a central point of contact to continue coordinating the

24/7 program and training on behalf of the state to ensure the ongoing success of the program. The 2011-13 biennium Executive Recommendation funds this position from federal stimulus funds, which the Senate passed.

### **Cyber Agent**

Funding from the federal stimulus act is being used for an agent who provides cyber crime services in the eastern part of North Dakota. This agent primarily assists with the cyber crime aspect of investigations including narcotics activity, child pornography, child abuse, child molesters, and counterfeit documents such as drivers' licenses, internet auction fraud, terrorizing, extortion, and identity theft. It is imperative to continue to fund this cyber crime agent, as the workload continues to grow, and the expertise developed by these agents is crucial to the success of office investigations and subsequent convictions. The 2011-13 biennium Executive Recommendation funds this position from federal stimulus funds, which the Senate passed.

### **Intelligence Analysts**

Federal stimulus funding is being used in the efforts of two intelligence analysts located at the Statewide Law Enforcement Intelligence Center (SLIC). The induction of the SLIC team into the state crime fighting and intelligence gathering arsenal has allowed task forces and all law enforcement agencies to overcome the information gap and target their limited resources more effectively. These analysts collect information and evidence from current and terminated investigations/seizures, and compare data to identify relationships, commonality, and linkages in an attempt to identify organizations responsible for the trafficking of illegal narcotics and terrorist activity. The team then develops case packages and intelligence leads that are given to local law enforcement, task forces, and other state and federal agencies for further case development and prosecution. The team's efforts also involve exchanging terrorist activity information with the other fifty fusion centers throughout the nation. These efforts have been vital in compiling information regarding Drug Trafficking Organizations (DTO) and disseminating that information to the agencies, allowing officers to focus their attention on specific individuals and organizations responsible for the trafficking of illegal narcotics. The 2011-13 biennium Executive Recommendation funds this position from federal stimulus funds and other funds, which the Senate passed.

The SLIC operation provides the only service of this kind in North Dakota, and has quickly gained the support of law enforcement. It is imperative to continue to fund these analysts, as the requests for analysis continue to increase, and these additional services help to ensure a backlog does not accumulate.

### **Grants Staff**

Federal stimulus act monies fund the efforts of an administrative assistant who assists in managing stimulus funding made available to the Office of Attorney General. The workload has increased substantially due to increased reporting requirements and numerous additional sub grantees required to be monitored. Grants management staff monitors the fiscal and program activities of sub grantees to ensure proper implementation of their projects, as well as timely and comprehensive reporting, through site visits and fiscal reviews. It is imperative that this position continue to ensure that programs are properly implemented, to provide timely and accurate reports of grant activities as well as the sub grantees this office oversees. The 2011-13 biennium Executive Recommendation funds this position from federal stimulus funds, which the Senate passed.

## **OFFICE OPERATING NEEDS**

### **➤ Crime Statistic Repository Update**

The office's software contract only covers critical federal updates to the crime reporting repository application. The FBI has added more code structures, including location and property codes, which are not mandatory so our vendor will not make the updates. This information is important to track and make available to provide law enforcement entities with better, more detailed information. The codes better reflect where crimes are being committed and, as an example, what types of items are being stolen. This request provides for \$100,000 in other funds for these software updates which was included in the Executive Recommendation and passed by the Senate.

### **➤ Additional Bureau of Criminal Investigation Case Management Modules**

The DOS based agent case time tracking system needs to be replaced, for which \$200,000 in other funds was included in the Executive Recommendation and passed by the Senate. The new module can also be used by legal divisions, replacing the over 20-year-old AS400 case time tracking and billing system.

One module allows BCI to bar code evidence for submission to the Crime Lab's new system saving data entry time, for which \$100,000 in other funds was included in the Executive Recommendation and passed by the Senate. The new application can also be used for bar coding office fixed assets inventory saving physical verification and data entry time.



The statewide task forces currently use a DOS based system for crime reporting. A new BCI case management system module will handle this task force information, for which \$125,000 in other funds was funded in the Executive Recommendation and passed by the Senate.

### ➤ **Public On-line Record Checks and Concealed Weapon Permit Applications**

During the last several legislative sessions criminal history record checks which can be requested by the public have increased significantly. Currently, mailed applications are received and the information is keyed into the system. The payment checks are handled manually and the reconciliation process alone takes 1/4 of one staff member's time each month.

Returned checks for the items above have increased and the process to handle these is manual and very labor intensive.

The concealed weapon permits reciprocity change has substantially increased the number of requests for the permits. This is a very manual and labor intensive operation which has become overwhelming.

With Internet based systems for criminal history record checks requests and concealed weapon permits applications, and on-line payments, there will be a noticeable reduction in this manual, labor intensive effort, which will hopefully allow the office to continue these responsibilities with its current staff. This request is for \$175,000 from other funds for the concealed weapons permits system and \$200,000 in other funds for the criminal history record check request system, both of which were funded in the Executive Recommendation and passed by the Senate.

### ➤ **AG Refund Fund Carryover**

The 2011-13 biennium budget includes substantial use of the AG Refund Fund 2009-11 remaining balance for Consumer Protection work, several law enforcement computer applications, and Crime Lab replacement equipment. Carryover authority for the fund is needed to make these expenditures. **This request is to carryover the AG Refund Fund balance as of the end of this biennium to the 2011-13 biennium and was passed by the Senate.**

### ➤ **Equipment Recycling Budget and Preventive Maintenance Contracts**

The Crime Lab has relied on federal funds to purchase major pieces of equipment. Currently, the Lab has over \$2.2 million in capital assets. The Lab will purchase additional instrumentation this biennium which is not included in the capital assets total above. Just as computers, cars, and other equipment are recycled, the Lab is

requesting a percentage of its capital assets to be recycled. The federal funds previously received for equipment purchases have been slowly dwindling; still the Lab is mandated to use cutting edge technology to analyze casework. The Lab is requesting \$178,000 in special funds and \$30,400 from the general fund monies for this purpose, which was included in the Executive Recommendation and passed by the Senate. This equipment will allow the Lab to attain and maintain the level of technology required for casework analysis.

In addition to an equipment recycling budget, a \$35,532 general fund increase is needed for preventative maintenance agreements, which was included in the Executive Recommendation and passed by the Senate. This funding will ensure the equipment is properly calibrated and running efficiently. Without maintenance contracts, some instruments would become idle because only certified trained technicians can repair/calibrate the instruments. In effect, the Lab would not be able to adequately perform its legislative mandates and provide timely analysis for the law enforcement community. Maintenance agreements are requested only for equipment the Lab staff cannot fix and to keep the integrity associated with the equipment for court purposes.

### ➤ **Missing Children Repository**

2009 Senate Bill No. 2161 passed last session provided for the Bureau of Criminal Investigation (BCI) to implement a statewide missing children database repository. This application needs to interact with Criminal Justice Information Sharing, State Radio, and the FBI and was estimated to cost \$500,000. The Legislature failed to address the fiscal impact of this system; however, the Senate adopted an amendment to maintain an appropriate system without requiring a new system to be developed.

### ➤ **Gaming Commission Budget Deficiency**

Due to the increased cost to adopt new administrative rules, the state Gaming Commission's current biennial budget of \$6,141 is insufficient. During the most recent rule making process the cost to publish the required notices in the county newspapers totaled \$2,045, or approximately 1/3 of the entire biennial budget. Without adequate funding the state Gaming Commission is unable to perform its duties as required by state law. This request is for an additional \$1,228 from the general fund, which was included in the Executive Recommendation and passed by the Senate.

### ➤ **Increased ITD Costs**

ITD is increasing their charges to agencies mainly due to increases in their agency wages and benefits. ITD passes these increases on to all agencies. The BCI Division connections to the wide area network from various locations continue to increase, often moving locations to support investigative efforts. The office must be able to provide the quick, high quality data transfer and access for office agents, and local law enforcement to access information from office databases through State Radio and Criminal Justice Information Sharing (CJIS).

## ➤ Criminal Trends Using Technology

Keeping current with advancing technology and its potential for misuse is a daunting task. The criminal abuse of internet sales, social networks, e-mail, cell phones, text messaging, and others is now a major component of many investigations including fraud, public corruption, drug dealing, bullying, online predators, pornography, and much more. These forms of communication are now used, one way or another, to carry out virtually every crime, and ensuring that all agents stay current with the skill sets necessary to investigate these aspects will be challenging.

## ➤ Prescription Drugs

The illegal diversion and use of prescription narcotics has become a major focus of drug investigations and seemingly knows no socioeconomic or age boundaries. The abuse and sale of these drugs is occurring with children and adults in all walks of life. Those abusing and dealing these drugs steal prescription pads, painkillers from family members, and even other identities in order to obtain these narcotics. They barter with one another to obtain other drugs of their choice. This new, frightening trend is another major focus of many of the office's drug investigations.

The annual number of state deaths from prescription drugs is now exceeding the number of homicides, which indicates the incredible impact of this trend. In 2010, of the 300 autopsies completed, 22 deaths were attributed to prescription drugs and 10 were homicides. In 2010, North Dakotans were twice as likely to die from prescription drug overdose versus from a homicide.

## ➤ Information Technology Service to Office Customers

The office has 13 very diverse divisions with very different customers that the Information Technology (IT) Division must support. IT personnel must thoroughly understand the business areas which include legal, criminal justice, charitable gaming, fire inspections and investigations, Lottery, Licensing, Consumer Protection, Finance and Administration, and the Crime Lab in order to support the computer applications which provide information for the external customers, as well as internal personnel. The business knowledge gained by the IT staff is very valuable and hard to replace.

Public and criminal justice entities are asking for instant access to more information from the office. In the criminal justice arena, much of the information is made available nationwide, as well as statewide. Homeland security and public safety concerns are often requiring more information to be gathered and sent to national databases.

In order to meet these needs, the office's technical staff is focused on supporting new and existing systems, in addition to learning and understanding the business of the divisions. The office is using temporary employees to do the lower skilled technical tasks, such as testing, training manuals, and system upgrades. This frees permanent

staff to concentrate on tasks that match their high level skill sets. The office also uses consultants to help build new applications and rewrite existing applications.

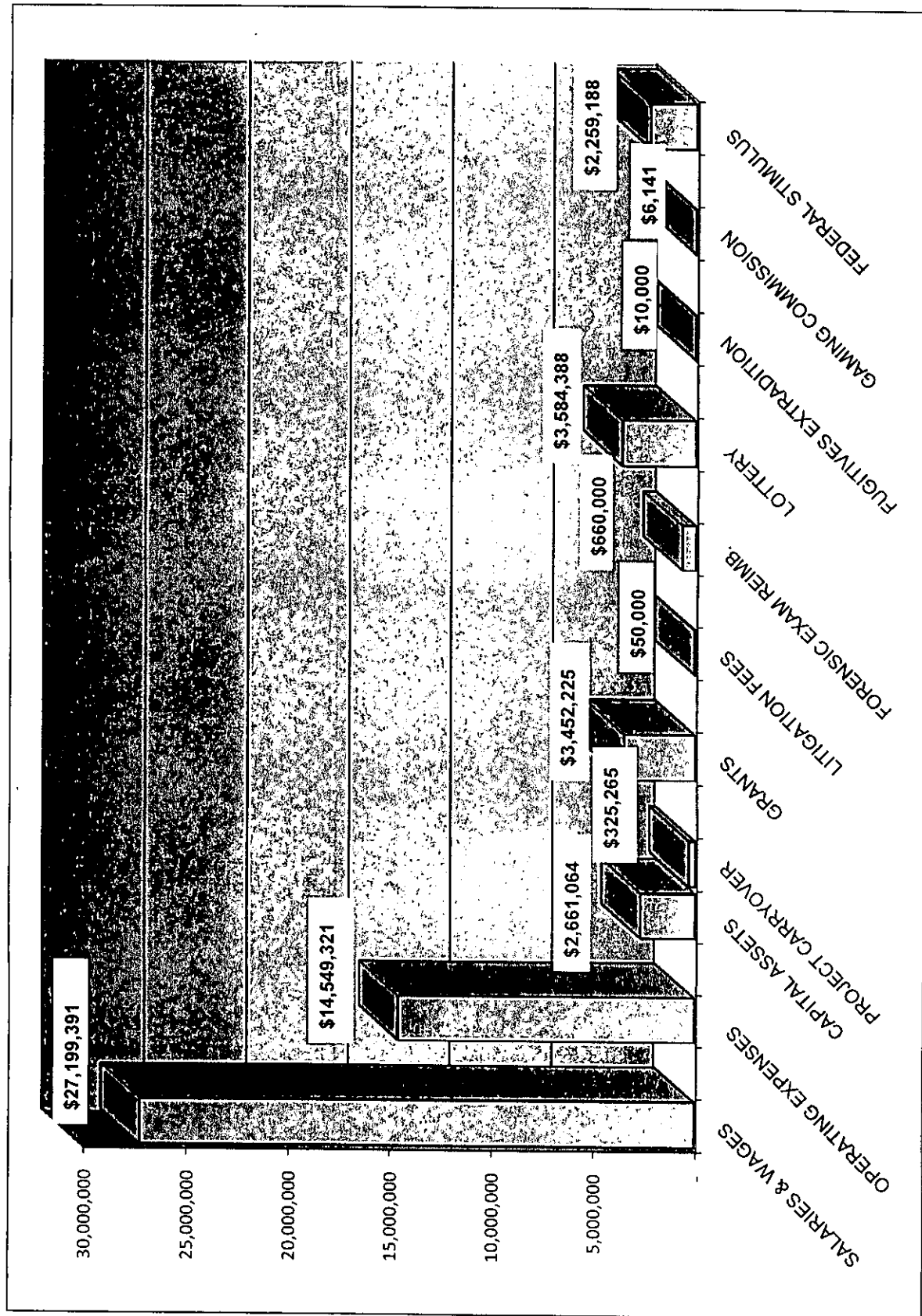
Because the office's customer base and the number of applications and databases made available across the state continue to grow, the number of calls from external customers to the office help desk continues to increase. The office anticipates additional support in the network area will be needed once the Adam Walsh Act changes have been fully implemented in the 2013-2015 biennium.

### ➤ **State and Federal Mandates**

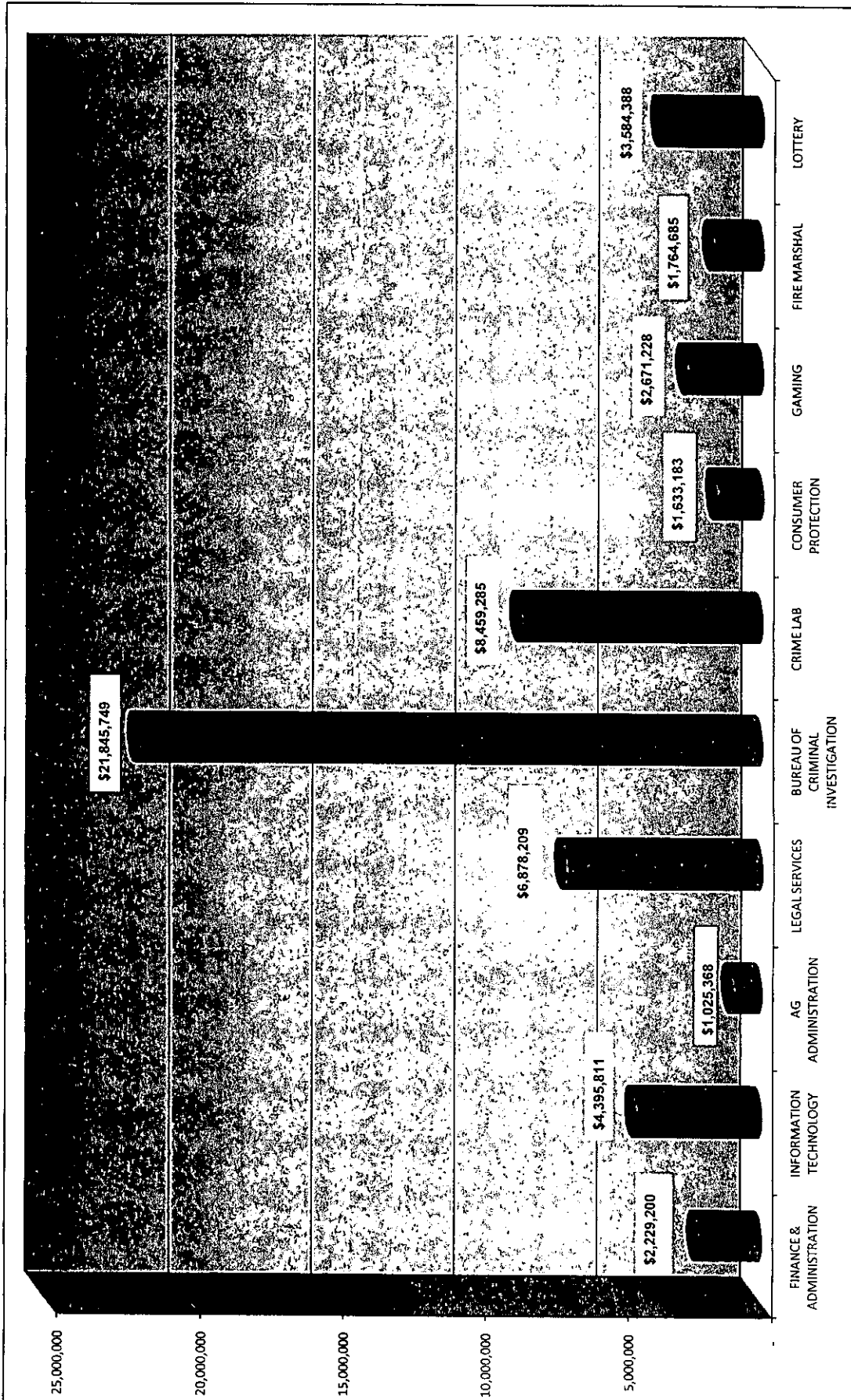
When federal mandates such as the Adam Walsh Act, and state mandates such as the Missing Children Repository are implemented, it has an impact on the office Information Technology staff. Rewrites and other projects that need to be done are put on hold. With current staff, the office must look at available money and how many projects office staff can realistically manage using consultants to do the majority of the work.

# Office of Attorney General 2009-2011 Biennium Appropriation By Line Item

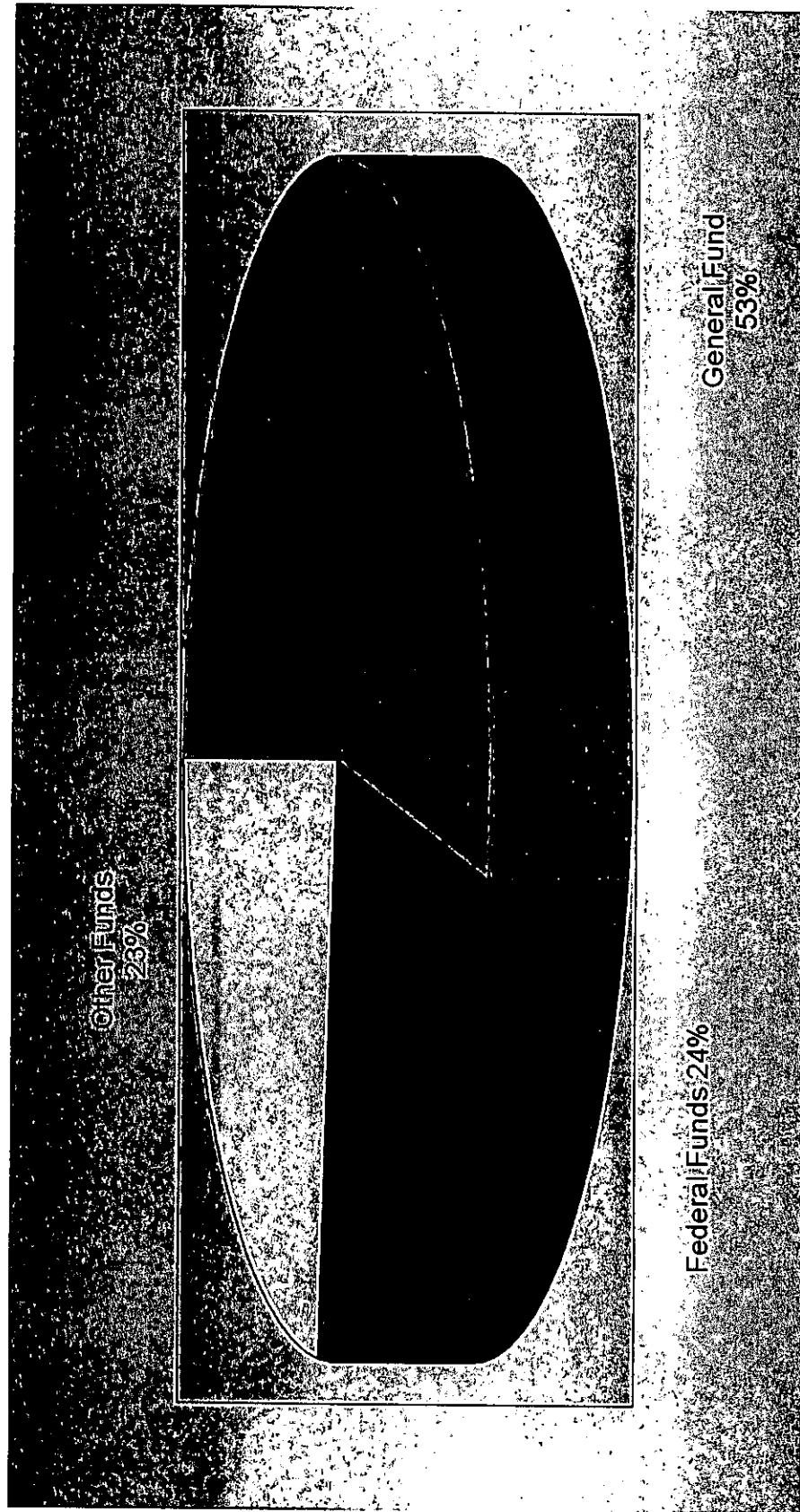
Total \$54,487,106



# Office of Attorney General 2009-2011 Biennium Appropriation By Division Total \$54,487,106

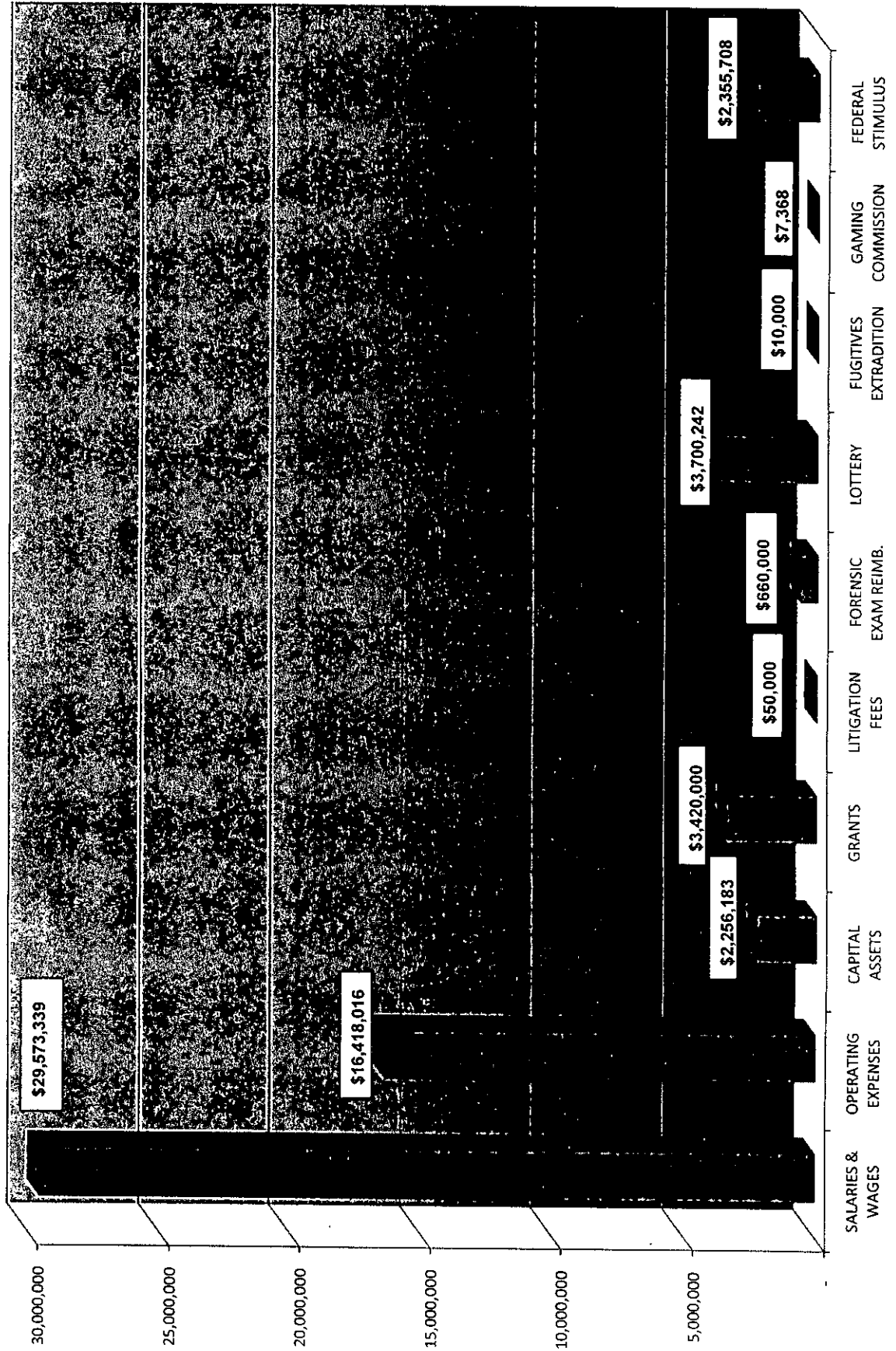


Office of Attorney General  
2009-2011 Biennium Appropriation  
By Funding Source  
Total \$54,487,106



# Office of Attorney General 2011-13 Biennium Recommendation By Line Item

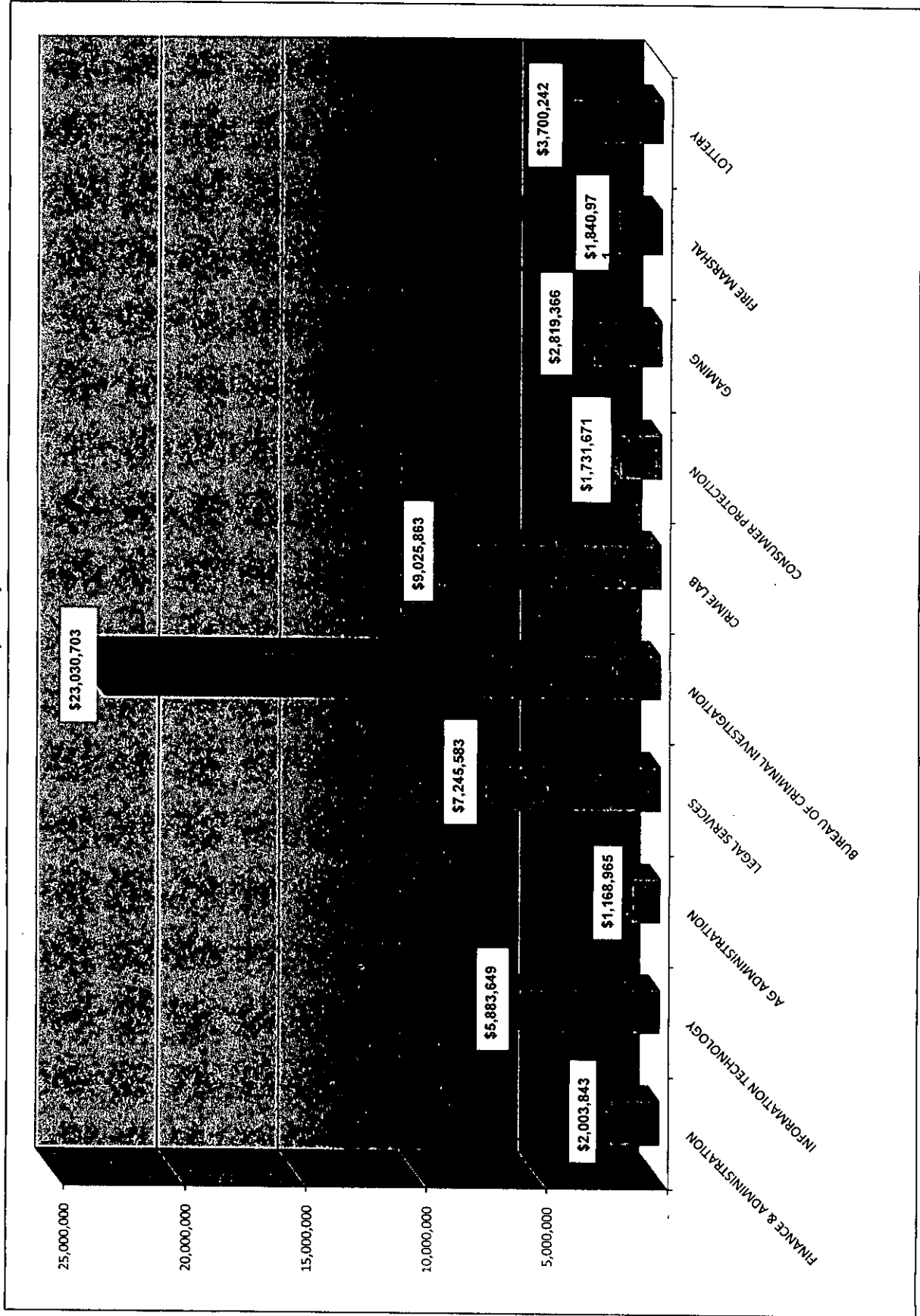
Total \$58,450,856



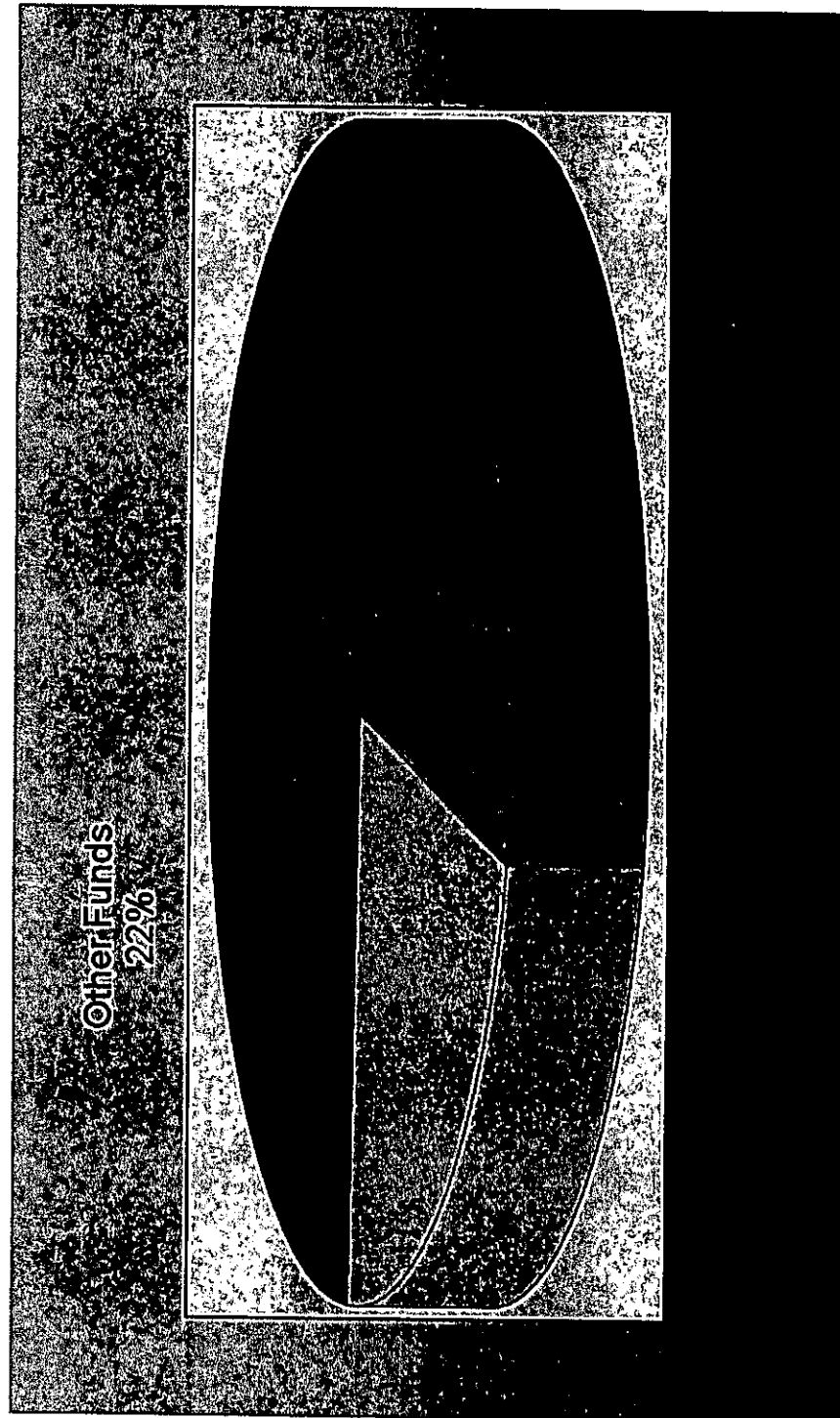


# Office of Attorney General 2011-13 Biennium Recommendation By Division

Total \$58,450,856



Office of Attorney General  
2011-2013 Biennium Recommendation  
By Funding Source  
Total \$58,450,856



## **2011 LEGISLATION IMPACTING THE OFFICE OF ATTORNEY GENERAL**

### **➤ Engrossed House Bill No. 1269**

This legislation provides for courts to forward to the Office of Attorney General involuntary mental and chemical dependency commitment treatment information required for the Bureau of Criminal Investigation (BCI) to verify if an individual is eligible to purchase/possess weapons which then reports such information to the FBI's National Instant Criminal Background Check System (NICS) to prevent the individual from obtaining a concealed weapon license. The anticipated costs to the Office of Attorney General are \$354,134 and 1.5 administrative support FTE's to manage the information from the courts (for which the courts will need \$231,725) and submit it to the FBI's National Instant Criminal Background Check System (NICS). The staff would enter and forward information to NICS, remove information from NICS as necessary, and research problems due to incomplete/insufficient data. The court program must be approved by the Bureau of Alcohol, Firearms, Tobacco and Explosives (ATF).

### **➤ Engrossed House Bill No. 1450**

This bill changes the definition of a human being to include every stage of a human being's development and makes a human being a person. It appears to indirectly make performing abortions illegal. The fiscal note for this bill is estimated at \$20,000 from the general fund in the event the law is litigated and the state does not prevail.

### **➤ Engrossed Senate Bill No. 2003 - Native American Fuel Tax Refund Amendment**

In the 2005 legislative session, N.D.C.C. § 57-43.1-03.2 was added, which relates to Native American motor vehicle fuel tax refunds. Although the section provides for involvement by the Attorney General, the Tax Department in reality handles these refunds. As a result, an amendment, adopted by the Senate, removes the references to the Attorney General.

### **➤ Engrossed Senate Bill No. 2042**

This bill reduces the tax on gross gaming wagers to 1%, which will reduce general fund revenues by \$10.8 million in the 2011-13 biennium. The current gaming tax rates range from 5 – 20% of adjusted gross proceeds (the rates increase as the adjusted gross

proceeds increase). The pull tab and bingo card excise taxes, which are currently 3% of gross proceeds, are eliminated.

### ➤ **Senate Bill No. 2070**

This legislation increases the limits of Fire Marshal service billings which can be charged to the Fire and Tornado Fund and the Petroleum Release Compensation Fund for the 2009-11 biennium to more accurately reflect anticipated charges, and was passed by the Senate. Senate Bill No. 2003 codifies this billing process and excludes any billing limits.

### ➤ **Senate Bill No. 2247**

This bill provides for a domestic fatality review commission in the Office of Attorney General and is estimated to have a general fund fiscal impact of \$19,583 for the 2011-13 biennium.

### ➤ **Criminal History Record Checks Legislation**

**2011 House Bill No. 1081** provides for criminal history record checks for chiropractors. Criminal history record checks need not be made unless required by the board. It is estimated this change will increase the number of record checks by about 20 checks annually.

**2011 Senate Bill No. 2114** provides for criminal history record checks for Workforce Safety and Insurance final applicants for a specified occupation with Workforce Safety and Insurance as designated by the director, or for contractors who may have access to confidential information as designated by the director. This change is estimated to increase by 20 annually the number of record checks performed by this office.

**2011 Engrossed Senate Bill No. 2097** provides record checks for counselors. All costs associated with obtaining a background check are the responsibility of the applicant or licensee. It is estimated this change will increase the number of record checks by about 30 checks annually.

## **SUMMARY OF OFFICE OF ATTORNEY GENERAL MAJOR ACCOMPLISHMENTS**

### **➤ Methamphetamine and Other Illicit Drugs**

Methamphetamine (meth) continues to be a serious drug problem challenging North Dakota law enforcement; however, the number of methamphetamine laboratory seizures in North Dakota remained relatively low at 31 in 2009, compared to 192 in 2005. During the 2007-2009 biennium, 50% of the Bureau of Criminal Investigation (BCI) cases were drug related, and meth was involved in 23% of those cases. As meth use declines, however, other drug trafficking and use increases. Prescription drug abuse, as well as the availability of cocaine and high potency marijuana, continues to increase.

Most local agencies rely heavily on the BCI to provide its expertise in the drug enforcement area. The BCI has teamed with local law enforcement partners in establishing task forces which are having a significant impact on major trafficking organizations.

The Office of Attorney General continues to participate as a member of the Midwest High Intensity Drug Trafficking Area (HIDTA), a regional network that includes the states of North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri. This partnership provides for regional collaboration, demand reduction, and intelligence activities. The association with HIDTA has provided a tremendous boost to the efforts to combat drugs by allowing the BCI to maintain additional HIDTA staff, including three special agents located throughout the state and two forensic scientists for the Crime Lab.

### **➤ Pharmaceutical Take Back and Take Away Programs**

In December 2009, the office launched the Prescription Drug (RX) Take Back Pilot Program. The Take Back program provides disposal units for people to dispose of their unused medications. The units, which are similar to the needle disposal containers in hospital rooms but on a much larger scale, are located in the lobby of the police departments. The program is operated by the office at no cost to the communities or the local law enforcement agencies. Once the container is full, the law enforcement agency contacts the BCI Division to collect the drugs for disposal. The RX drugs are disposed of at the same time as seized drugs. The BCI Division is responsible for the Federal Drug Enforcement Agency required documentation relating to collection and disposal of controlled substances deposited into the containers.

Designed to remove unwanted and frequently abused narcotics from circulation, the program was immediately popular with residents and law enforcement alike. The

program accepts all over the counter and prescription medications – but focuses on collecting controlled substances. The pilot program launched in five cities - Minot, Bismarck, Grand Forks, West Fargo and Fargo – but has proven so popular with residents and law enforcement alike that it has expanded into 22 communities located across the state. In the first twelve months of operation, the program has collected more than a half ton of unused and unwanted medications. As of February 28, 2011, 1,426.6 pounds of prescription drugs have been destroyed.

In April 2010, this office joined the North Dakota Pharmacists Association and the Board of Pharmacy in implementing the new pharmaceutical “Take Away” program launched by this office in December 2009. The Take Away program provides participating pharmacists with a container for customers to dispose of many of their unused and unwanted medicines.

### ➤ **Statewide Law Enforcement Intelligence Center (SLIC)**

In an effort to utilize local, state, and federal resources more effectively, a Statewide Law Enforcement Intelligence Center (SLIC) was formed to merge the intelligence gathering efforts of the former Post Seizure Analysis Team (PSAT) and the North Dakota Fusion Cell’s homeland security efforts. These combined efforts allow the state to more effectively provide support that leads to identifying, investigating, and prosecuting criminal activities, including drug suppliers from out-of-state sources and homeland security threats. Combining these efforts was essential considering many crimes typically involve conspiracies, several layers of networks, and individuals who utilize the same routes and modes of transportation. The SLIC facilitates information sharing between task forces, analysts across the nation, the northern border International Border Enforcement Teams (IBET), and many local, state, and federal agencies. It is a multi-agency team consisting of the Border Patrol, Immigration and Customs Enforcement (ICE), Bureau of Criminal Investigation (BCI), North Dakota Highway Patrol, North Dakota National Guard, and the Division of Emergency Management.

### ➤ **Do Not Call Enforcement**

The office's Consumer Protection Division continues to pursue enforcement of the do not call laws through business and consumer education, investigations, and legal actions. From July 1, 2009, to December 31, 2010, 175 complaints for solicitations to consumers registered on the national and state do not call registry, 124 complaints for pre-recorded messages and 19 text message complaints were received. The Division conducted 37 investigations and reached 32 settlements with civil penalties collected totaling \$43,500.

### ➤ **Concealed Weapon Permits**

As of March 3, 2011, a total of 14,558 individuals hold North Dakota concealed weapon permits. This is an increase of 127% compared to the March 1, 2004, total of 6,421 permits. In the 2007-2009 biennium, a total of 9,822 concealed weapon permits were

issued, which is up 143% from the 2001-2003 biennium when a total of 4,049 new or renewal permits were issued.

Recent legislation regarding reciprocity of North Dakota's permit has caused an even greater increase in workload during the current 2009-11 biennium. With more states adding North Dakota to their list of acceptable permits to hold, there are no signs of this workload slowing down. Instead, it seems apparent that the demand for these permits will continue to grow.

### ➤ **Criminal History Record Information Requests**

BCI processed 34,738 requests for criminal history record information in 2010. Of those, 22,980 were requests for data from the state database and 11,758 were requests for fingerprint based searches of the FBI database. While the State of North Dakota record check total has remained relatively stable since 2007, during this period the number of fingerprint based searches of the FBI database allowed under N.D.C.C. § 12-60-24 has increased by 76%. In 2005, the total number of fingerprint based searches of the FBI database was 2,566.

### ➤ **24-7 Sobriety Program**

After a successful pilot program was implemented in the 2007-09 biennium, the 2009 Legislature authorized the Attorney General to implement a statewide sobriety program pilot project called "24-7," with the goal being to remove intoxicated drivers from the road and ultimately improve their ability to succeed in their treatment choices. Offenders who are court ordered to participate are required to submit to twice per day breath tests or electronic alcohol monitoring, seven days per week, as long as the court order mandates. Participants are also required to pay a fee for the monitoring, which in turn is used to pay for intoximeters, electronic monitoring devices, and other program costs. This program has been very well received and supported by law enforcement, the courts, and the participants.

As of March 1, 2011, 1,483 individuals have participated in the 24/7 program, of which 944 completed successfully. To date, only 101 participants have re-offended. There are currently 238 active participants.

### ➤ **AFIS Upgrade Completed**

During this biennium, the BCI completed an upgrade to the Automated Fingerprint Identification System (AFIS). This is the fingerprint matching system that interfaces with state criminal history, offender registration, concealed weapon permits, and other databases. North Dakota, South Dakota and Minnesota share an AFIS system and manage that system under the Midwest Automated Fingerprint Identification Network (MAFIN). The upgrade involved complete replacement of all equipment and AFIS software in the three states. In North Dakota, the office also replaced the livescan units that had reached end of life and expanded the use of livescan technology by deploying 14 additional livescan units for use at local police departments and sheriff's offices.

With technological changes, BCI anticipates needing to update the AFIS system within the next 6 years.

### ➤ Other Office Information

Statistical crime data is currently collected from 86 local law enforcement agencies, plus data from the Highway Patrol and state drug task forces.

As of March 2, 2011, there are 1,689 sex offenders and offenders against children in North Dakota with a requirement to register.

Annually, the grants management section administers approximately \$3 million in grant funds. During the 2009-11 biennium, the grants management section will manage an additional \$4.2 million in stimulus grants.

Training and license records are maintained for approximately 2,041 peace officers.

In the 2007-09 biennium, 103 training programs were presented to 2,248 students representing police and sheriff's departments, state and federal agencies, and the public.

Over 24,440 cases were submitted during 2009 and 2010 to the Crime Laboratory for physical and toxicological examinations. Over 23,350 cases were submitted during 2008 and 2009 to the Crime Laboratory for physical and toxicological examinations.

During the 2007-09 biennium, Consumer Protection opened 2,543 consumer complaints and investigations, closed 2,543 files, and recovered \$1.5 million on behalf of consumers.

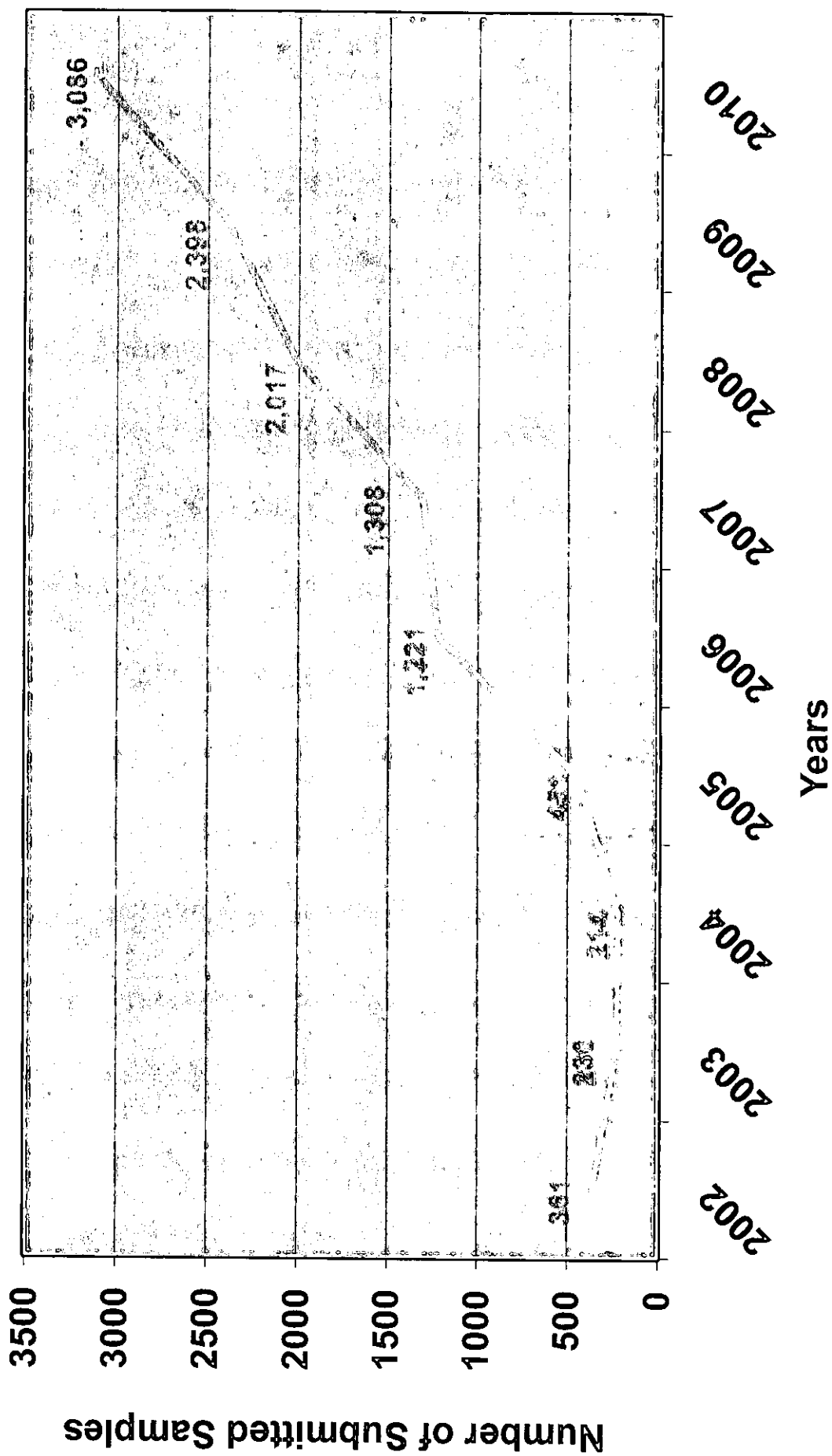
During the 2007-09 biennium, 950 active gaming sites were monitored; \$522 million was wagered; \$33 million was raised for charitable uses; and \$20.5 million was paid to the state in gaming and excise taxes.

For the 2009-2011 biennium, the Lottery projected sales of \$46.4 million and net proceeds of \$12.4 million. The Lottery is on track to meet projected sales for the first year of the biennium, although sales appear slightly below projected net proceeds.

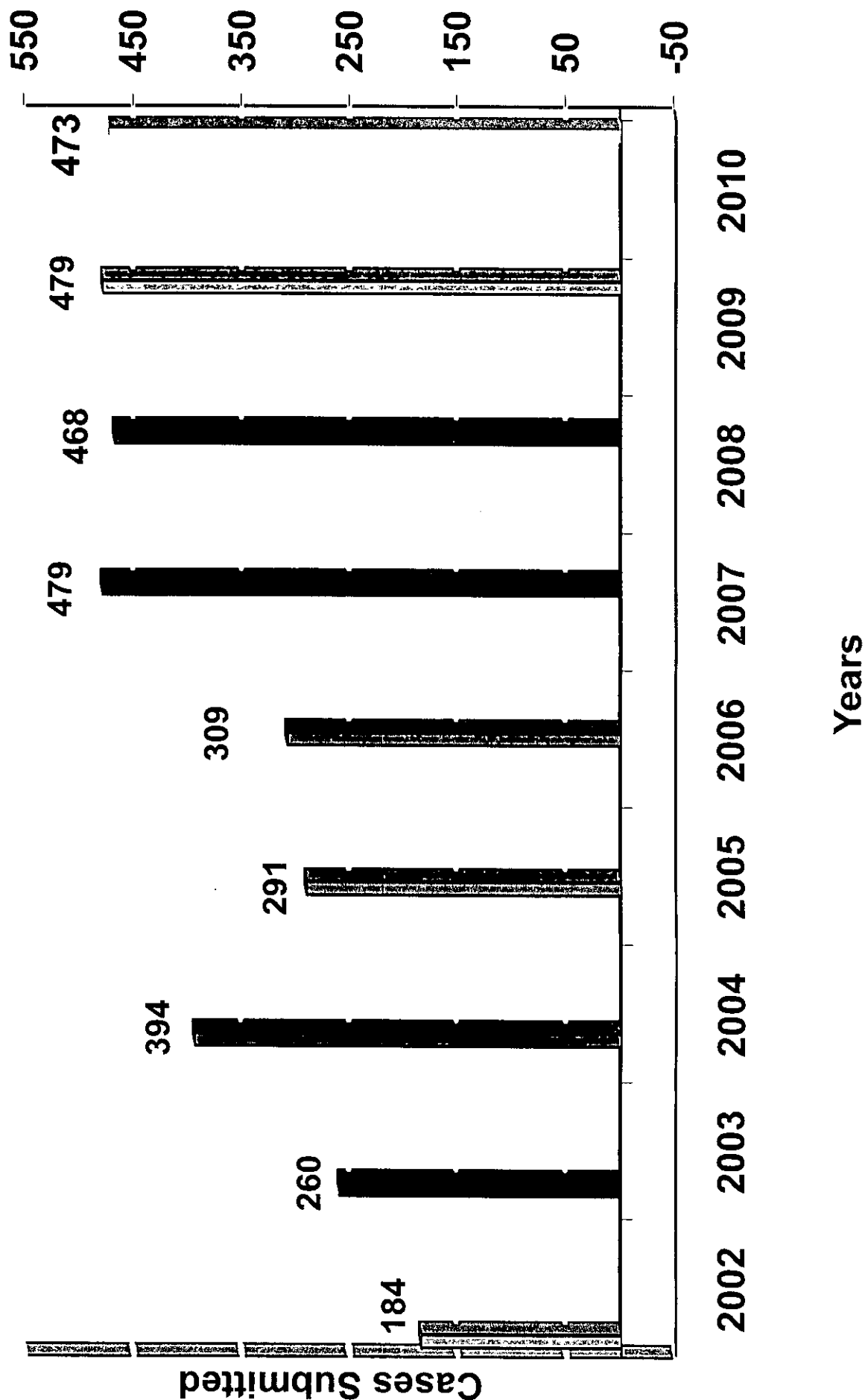
Lottery subscriptions enable players to prepay and be automatically entered into draws for 13, 26, or 52 weeks. There are over 1,873 subscribers and over 2,555 subscriptions with subscription sales accounting for over 1.7% of total draw sales.



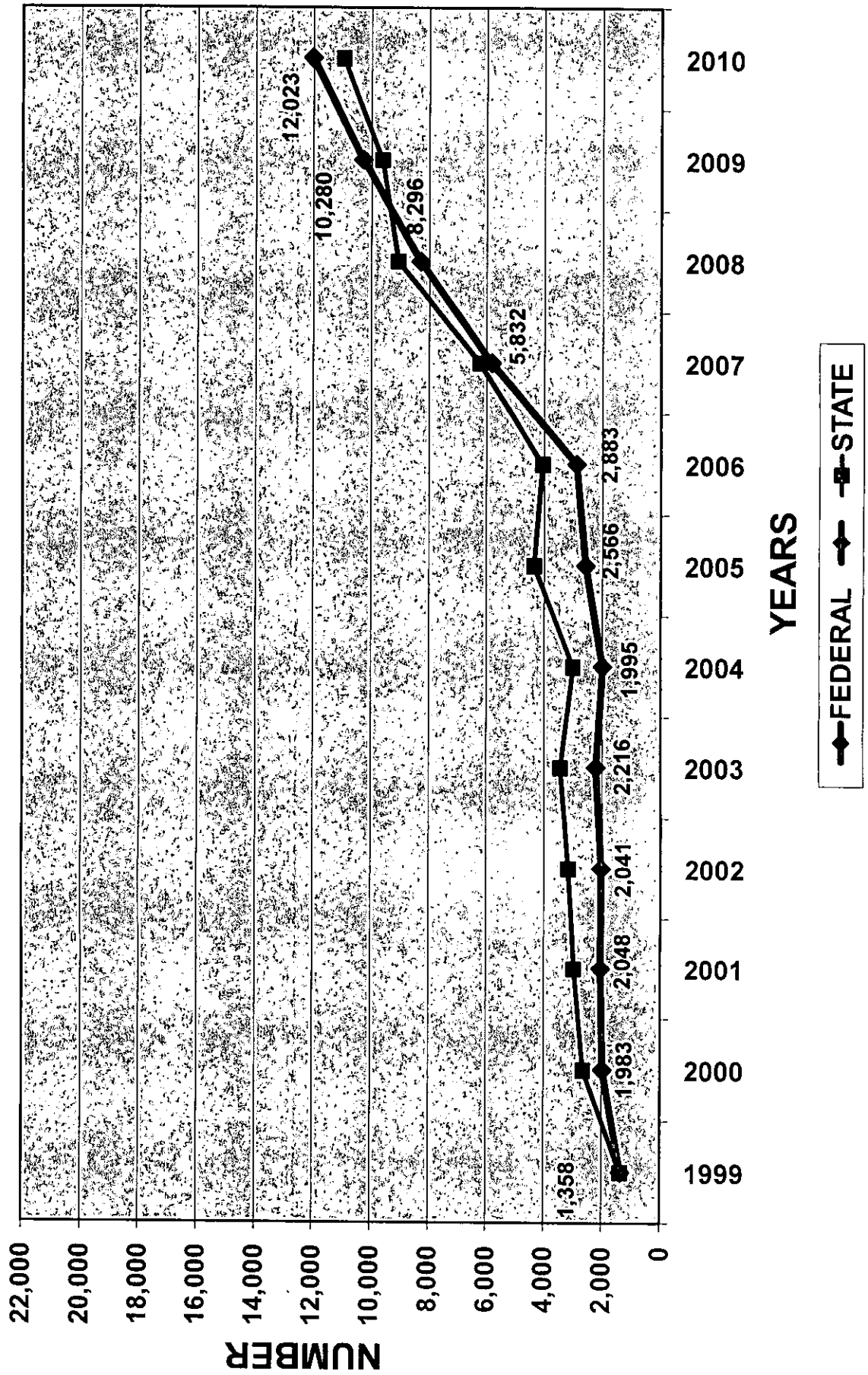
# OFFENDER SAMPLES WORKLOAD



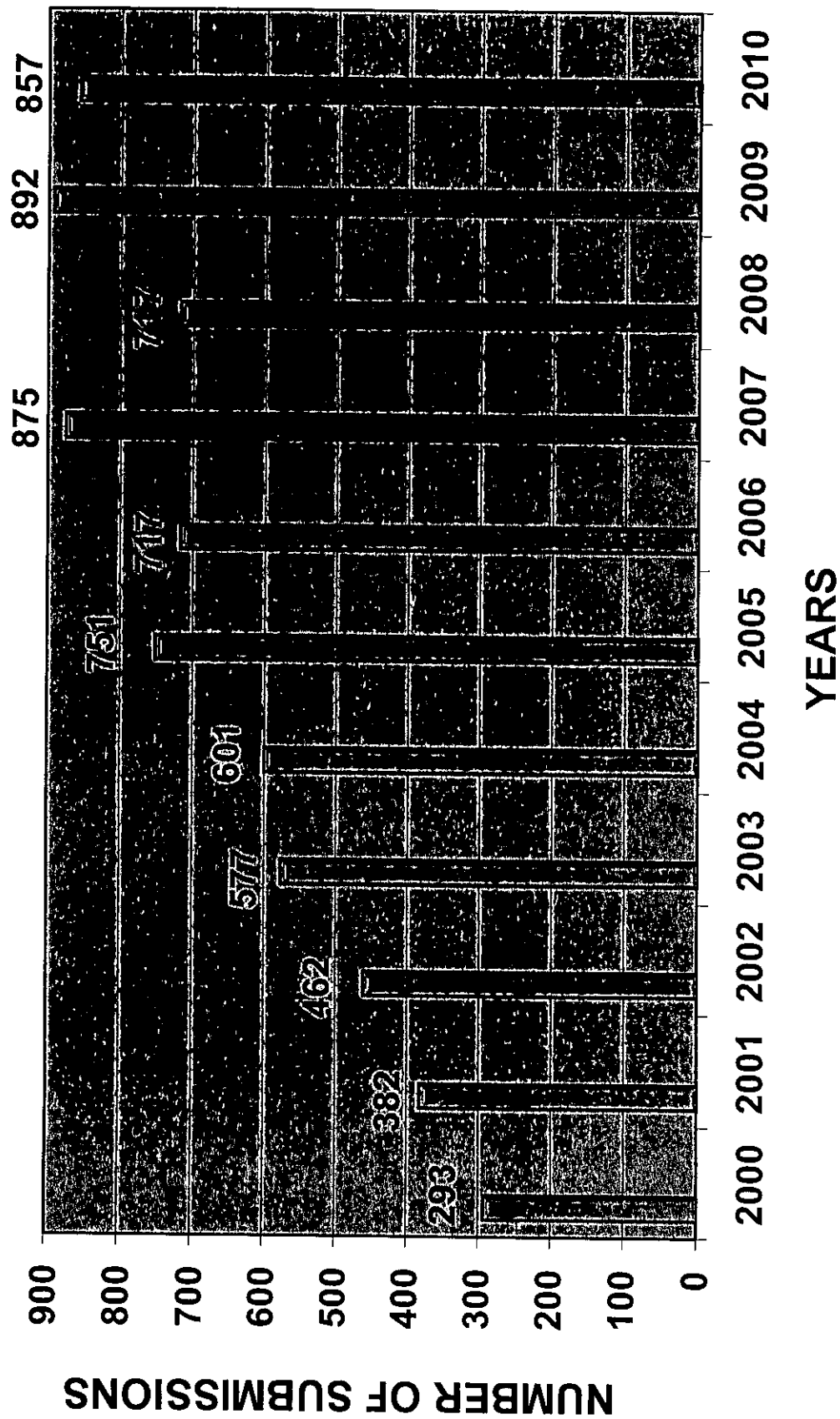
# DNA SUBMITTED CASES



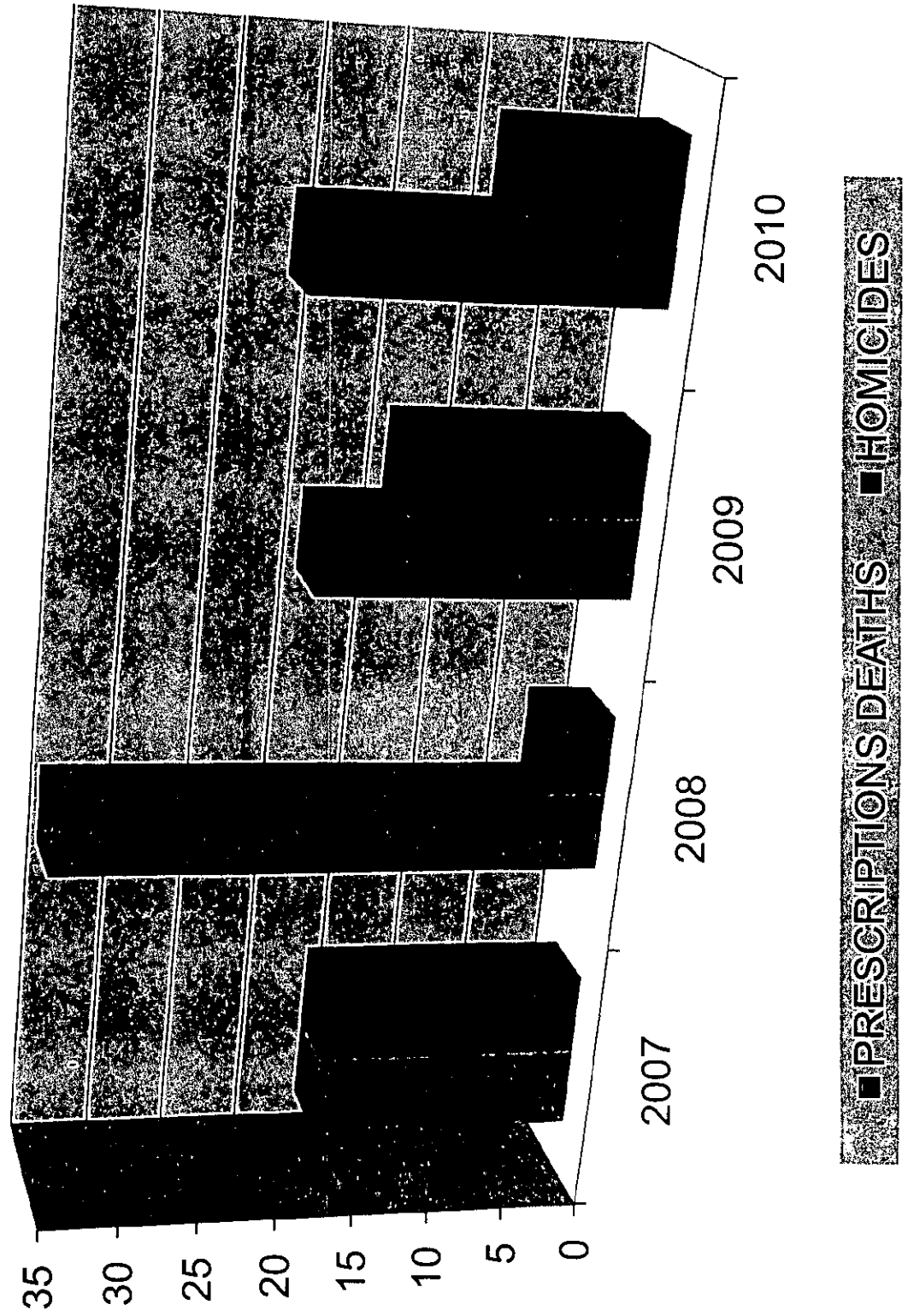
# STATE & FEDERAL RECORD CHECKS UNDER NDCC 12-60-24 YEARS 1999 - 2010



# TOXICOLOGY DRUG ANALYSIS SUBMISSIONS



# NORTH DAKOTA PRESCRIPTION DRUG DEATHS VS. HOMICIDES

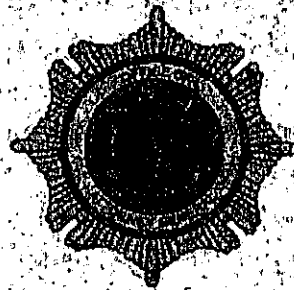


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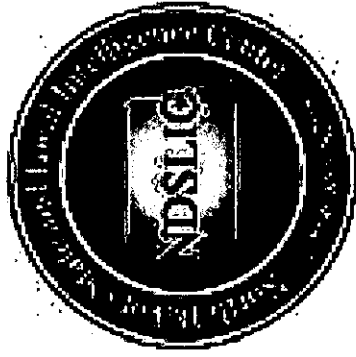
# **Office of Attorney General**

## **2007-2009**

### **BIENNIAL REPORT**



**Attorney General**  
**Wayne Stenehjem**

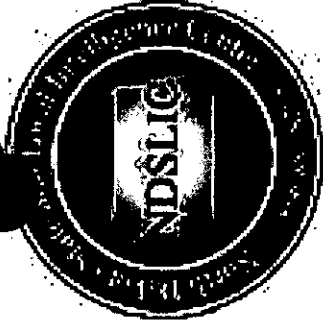


# **North Dakota State & Local Intelligence Center Overview & Capabilities**

Unclassified FOUO

2013.5



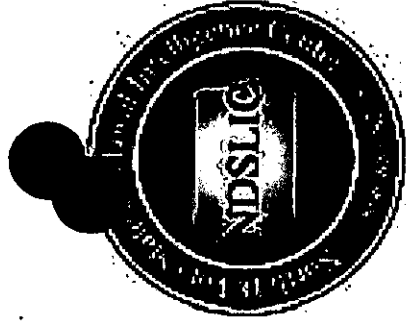


# Mission

The mission of the North Dakota State & Local Intelligence Center (ND SLIC) is to collect, store, analyze and disseminate information on crimes, both real and suspected, to the law enforcement community, government officials and private industry concerning dangerous drugs, fraud, organized crime, terrorism and other criminal activity for the purposes of decision making, public safety and proactive law enforcement while ensuring the rights and privacy of citizens.

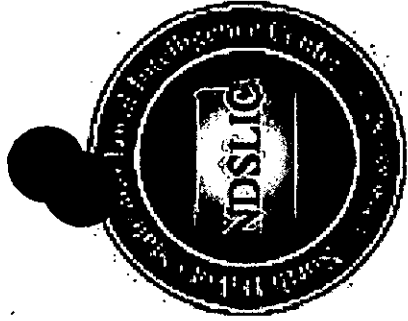
Unclassified FOUO





# ND SLIC Authority

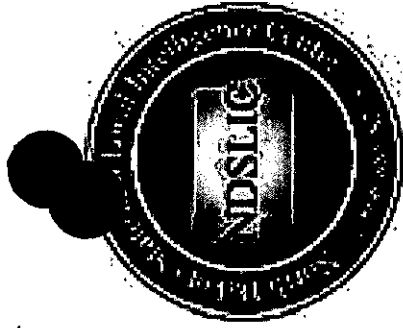
- North Dakota Governor, John Hoeven, on June 27, 2007 signed Executive Order 2007-06 establishing the North Dakota Fusion Center



# ND SLIC Oversight

- **Executive Committee (ND Executive Order 2007-06)**
  - Will be comprised of officers from the:
    - North Dakota Division of Homeland Security
    - North Dakota National Guard
    - North Dakota Highway Patrol
    - North Dakota Bureau of Criminal Investigation
  - Executive Board has assigned a BCI Special Agent with general oversight of daily operations

Unclassified FOUO



# Who are we?

- 1 BCI Special Agent
- 1 NDHP Sgt
- 1 Field Liaison Officer
- 5 BCI Analysts
- 1 OTAG Civilian Analyst
- 1 DHS Intelligence Officer
- 1 Critical Infrastructure Program Manager
- 1 North Dakota Anti-Terrorism Program Force Protection Officer
- 1 North Dakota Anti-Terrorism Program Specialist
- 1 US Border Patrol Agent

# ND SLIC Organization Chart

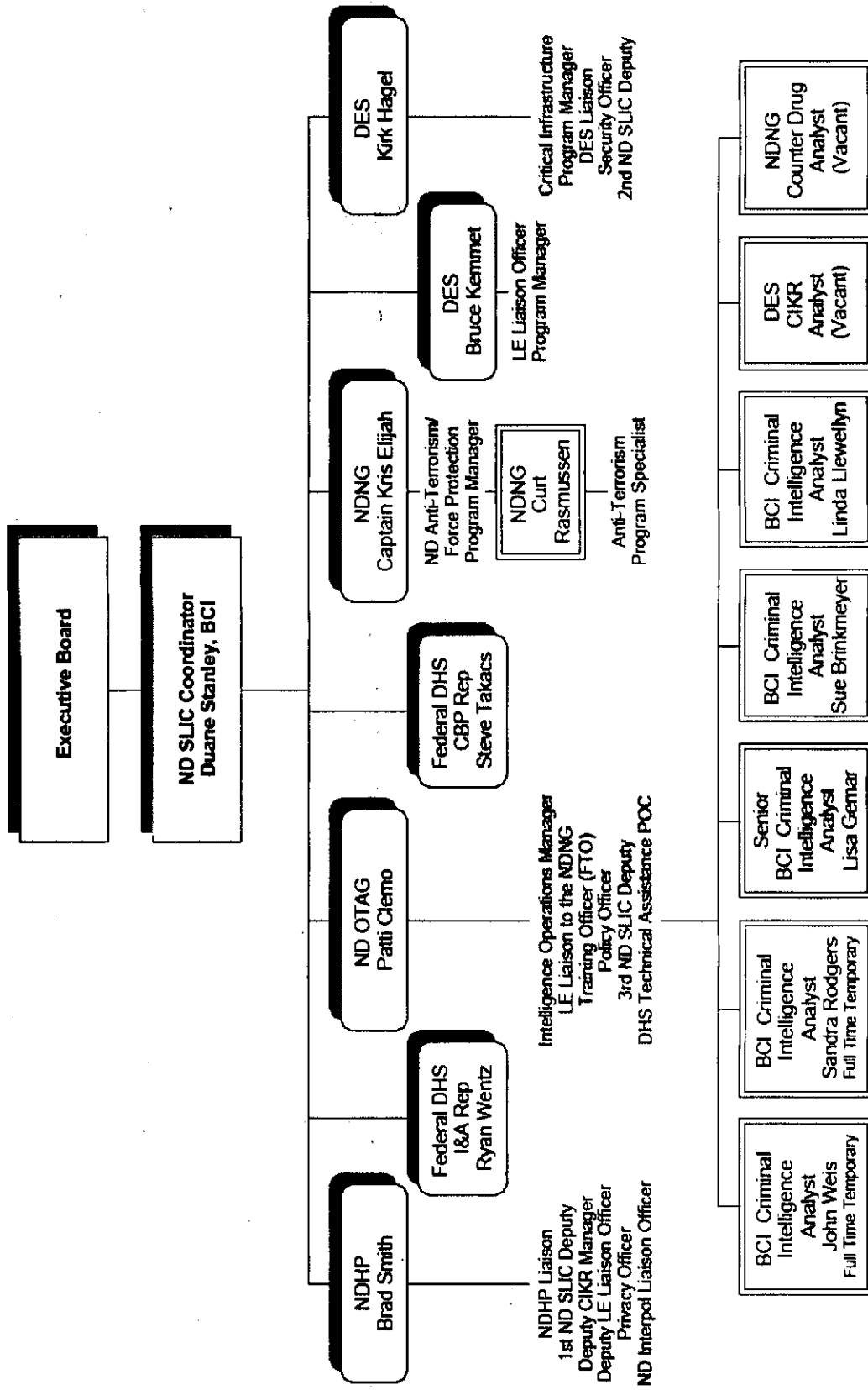
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graph TD
    EB[Executive Board] --> NSLIC[ND SLIC Coordinator  
Duane Stanley, BCI]
    NSLIC --> NDHP[NDHP  
Brad Smith]
    NSLIC --> NDOTAG[ND OTAG  
Patti Clemo]
    NSLIC --> NDNG[NDNG  
Captain Kris Elijah]
    NSLIC --> DES[DES  
Kirk Hagel]
    NDHP --> NDHP_L[NDHP Liaison  
1st ND SLIC Deputy  
Deputy CIKR Manager  
Deputy LE Liaison Officer  
Privacy Officer  
ND Interpol Liaison Officer]
    NDHP_L --> FDI[Federal DHS I&A Rep  
Ryan Wentz]
    NDHP_L --> FDR[Federal DHS CBP Rep  
Steve Takacs]
    NDHP_L --> NDNT[ND Anti-Terrorism/  
Force Protection  
Program Manager]
    NDHP_L --> NDLE[LE Liaison Officer  
Program Manager]
    NDHP_L --> CIP[Critical Infrastructure  
Program Manager  
DES Liaison  
Security Officer  
2nd ND SLIC Deputy]
    NDOTAG --> IO[Intelligence Operations Manager  
LE Liaison to the NDNG  
Training Officer (FTO)  
Policy Officer  
3rd ND SLIC Deputy  
DHS Technical Assistance POC]
    NDOTAG --> NDNT
    NDOTAG --> NDLE
    NDOTAG --> CIP
    NDNG --> NDNT
    NDNG --> NDLE
    NDNG --> CIP
    DES --> NDNT
    DES --> NDLE
    DES --> CIP
    NDNT --> NDNT_Analyst[BCI Criminal Intelligence Analyst  
John Weis  
Full Time Temporary]
    NDNT_Analyst --> NDNT_Analyst2[BCI Criminal Intelligence Analyst  
Sandra Rodgers  
Full Time Temporary]
    NDNT_Analyst2 --> NDNT_Analyst3[Senior BCI Criminal Intelligence Analyst  
Lisa Gemar]
    NDNT_Analyst3 --> NDNT_Analyst4[BCI Criminal Intelligence Analyst  
Sue Brinkmeyer]
    NDNT_Analyst4 --> NDNT_Analyst5[BCI Criminal Intelligence Analyst  
Linda Llewellyn]
    NDNT_Analyst5 --> NDNT_Analyst6[DES CIKR Analyst  
(Vacant)]
    NDNT_Analyst6 --> NDNT_Analyst7[NDNG Counter Drug Analyst  
(Vacant)]
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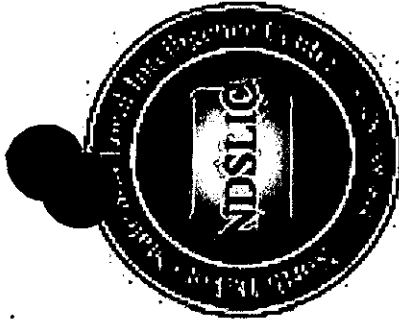
The organization chart for the ND SLIC (National Drug Security Liaison Center) is structured as follows:

- Executive Board**
  - ND SLIC Coordinator**  
Duane Stanley, BCI
    - NDHP**  
Brad Smith
      - NDHP Liaison**  
1st ND SLIC Deputy  
Deputy CIKR Manager  
Deputy LE Liaison Officer  
Privacy Officer  
ND Interpol Liaison Officer
        - Federal DHS I&A Rep**  
Ryan Wentz
        - Federal DHS CBP Rep**  
Steve Takacs
        - ND Anti-Terrorism/Force Protection Program Manager**
        - LE Liaison Officer Program Manager**
        - Critical Infrastructure Program Manager**  
DES Liaison  
Security Officer  
2nd ND SLIC Deputy
    - ND OTAG**  
Patti Clemo
      - Intelligence Operations Manager**  
LE Liaison to the NDNG  
Training Officer (FTO)  
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3rd ND SLIC Deputy  
DHS Technical Assistance POC
      - ND Anti-Terrorism/Force Protection Program Manager**
      - LE Liaison Officer Program Manager**
      - Critical Infrastructure Program Manager**  
DES Liaison  
Security Officer  
2nd ND SLIC Deputy
    - NDNG**  
Captain Kris Elijah
      - ND Anti-Terrorism/Force Protection Program Manager**
      - LE Liaison Officer Program Manager**
      - Critical Infrastructure Program Manager**  
DES Liaison  
Security Officer  
2nd ND SLIC Deputy
    - DES**  
Kirk Hagel
      - ND Anti-Terrorism/Force Protection Program Manager**
      - LE Liaison Officer Program Manager**
      - Critical Infrastructure Program Manager**  
DES Liaison  
Security Officer  
2nd ND SLIC Deputy

The chart also includes a list of analysts and their roles:

- BCI Criminal Intelligence Analyst**  
John Weis  
Full Time Temporary
- BCI Criminal Intelligence Analyst**  
Sandra Rodgers  
Full Time Temporary
- Senior BCI Criminal Intelligence Analyst**  
Lisa Gemar
- BCI Criminal Intelligence Analyst**  
Sue Brinkmeyer
- BCI Criminal Intelligence Analyst**  
Linda Llewellyn
- DES CIKR Analyst**  
(Vacant)
- NDNG Counter Drug Analyst**  
(Vacant)





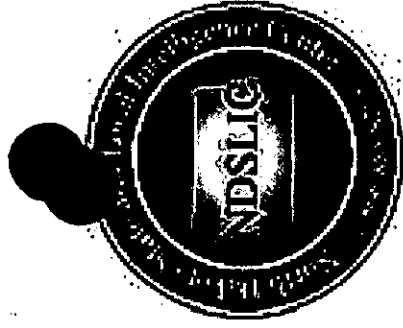
# Stakeholders

- The Law Enforcement Community
  - Local Law Enforcement
    - Sheriff's Offices, Police Departments, Tribal Police, Task Forces, States Attorney Offices, Colleges and Universities
  - State Law Enforcement
    - BCI, NDHP, ND P&P, ND Game & Fish,
  - Federal Law Enforcement
    - DHS (CBP, FPS, TSA, USSS, HSI), FBI, BIA, DEA, ATF, USAO, USMS, JTTF
  - Canadian Law Enforcement
    - Winnipeg PS, Regina PS, Praire/Red River IBET's, Canada Customs, RCMP, CISC

## ND SLIC clients we have done services for.

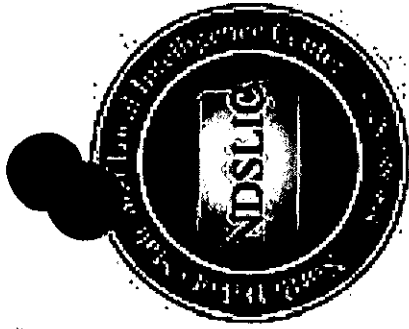
ND PD's	ND SO	Out of State PD/SO	Other Fusion Ctrs
15	20	8	27

Federal Agencies	State Agencies	Other
US Coast Guard	BCI	MOCIC
US Capitol Police	MANTF	Minot Air Force Base
CBP	CCDTF	Grand Forks Air Force Base
DEA	NWNTF	Military Threat Working Grp
FBI	SCNTF	RCMP
ICE	ND Attorney General	IBET (Prairie and Red River)
Interpol	ND HP	Private citizens(refer to local law enforcement)
BIA	ND Dept Ag	
BNSF	ND Dept Health	
HIDTA	ND Firefighters Assoc	
USMS	ND Stockmen's Assoc	
DHS	ND DOC	
NDIC	NDNG	
USSS	DES	
US Attorney's Office	ND Bankers Association	
DHS		
Air Force OSI		
DOE, National Park Service, ATF, US Dept of Commerce		



# ND SLIC Programs

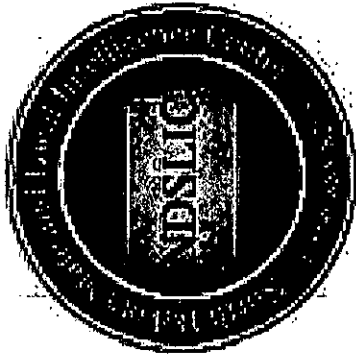
- Intelligence Repository
- Database Research
- Case Support
- Analysis and Production
- Critical Infrastructure



# ND SLIC Products

- Weekly Intelligence Summary
- Daily Teletype/BOLOs
- Daily Hot Sheet
- Public Advisories
- Threat Assessments
- Various Analytical Charts

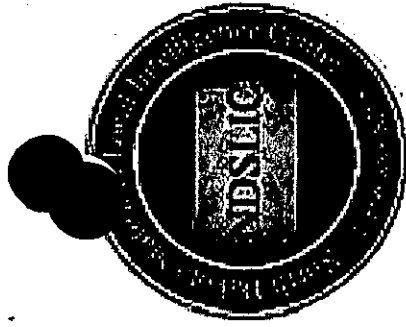




# **North Dakota State & Local Intelligence Center Overview & Capabilities**

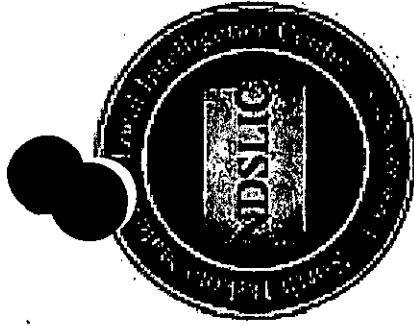
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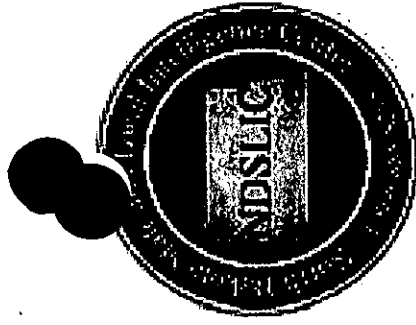
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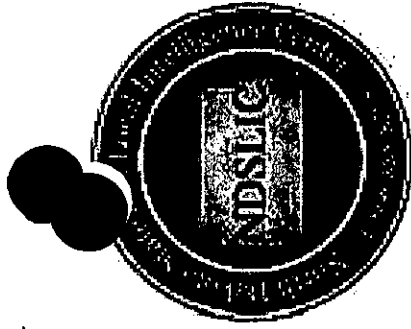
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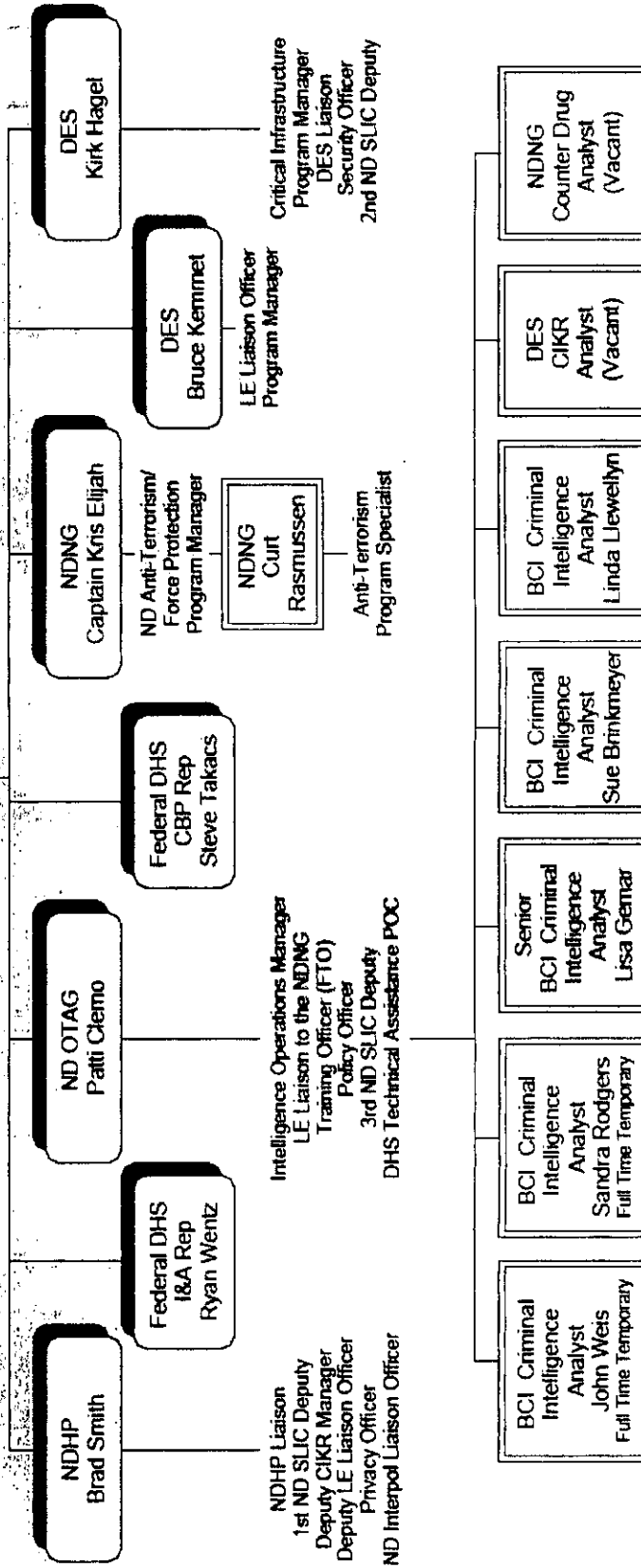
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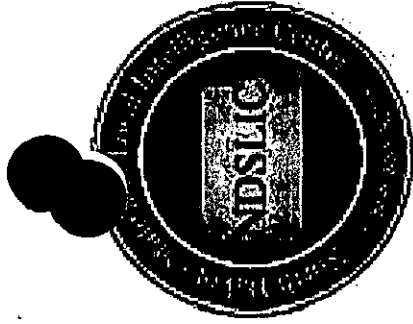


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**ND SLIC Coordinator  
Duane Stanley, BCI**





# Stakeholders

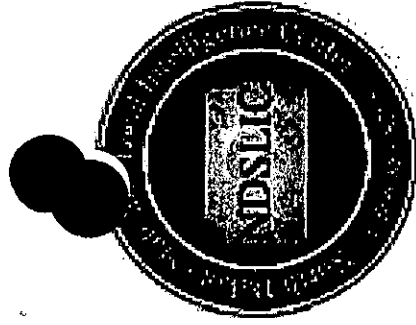
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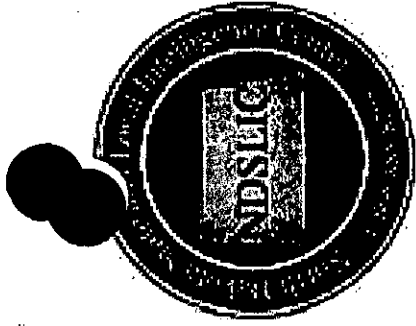
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BIA	ND Dept Ag	
BNSF	ND Dept Health	
HIDTA	ND Firefighters Assoc	
USMS	ND Stockmen's Assoc	
DHS	ND DOC	
NDIC	NDNG	
USSS	DES	
US Attorney's Office	ND Bankers Association	
DHS		
Air Force OSI		
DOE, National Park Service, ATF, US Dept of Commerce		





# ND SLIC Programs

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- Database Research
- Case Support
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- Critical Infrastructure



# ND SLIC Products

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- Daily Teletype/BOLOs
- Daily Hot Sheet
- Public Advisories
- Threat Assessments
- Various Analytical Charts

2003. 3. 8. 11D

SB 2003

Hope Olson, Crime Laboratory Division Director

Notes from Hearing

Replacement Schedule, Preventative Maintenance Agreements, and Analyst Certification

Currently, the laboratory has over 2.2 million dollars in capital assets. These assets are the analytical instruments that the forensic scientists use to analyze evidence in the laboratory. The instruments vary from an analytical balance to accurately weigh a bag of marijuana, to Gas Chromatograph – Head Space Autosampler to determine a blood alcohol concentration for a DUI, to a 3130 Genetic Analyzer to determine a DNA profile in a homicide investigation to a LC-MS-MS to determine the drugs present in a questioned death sample from the Medical Examiner's Office. The laboratory is requesting a percentage of its capital assets to be replaced. Just like computers, cars, and other equipment that need to be replaced on a schedule, the crime laboratory needs to replace these analytical instruments on a schedule to ensure the laboratory is keeping pace with the changing technology and science in the forensic field to analyze casework.

In addition to a replacement schedule, the laboratory is requesting an increase for preventative maintenance agreements. The increase is necessary to ensure the instruments are properly calibrated and running efficiently. Without agreements, some instruments would become idle because only certified trained technicians can repair/calibrate the instruments. In effect, the lab would not be able to perform its legislative mandates and provide timely analysis for the law enforcement community.

I have two recent examples of utilizing preventive maintenance agreements and why agreements are necessary. In the drug laboratory we have an instrument with a preventive maintenance agreement which costs a little over \$7,000 per year. This instrument was not operating properly and needed to be repaired. A service call was made and it was determined a technician had to be on-site to make the needed repairs. The certified technician replaced several crucial components in the instrument (the repair took two separate trips to the laboratory). Because we have a preventative maintenance agreement no additional charges were billed to the laboratory. However, the actual cost of the components, labor, and travel was over \$15,000 dollars. Without these repairs, this instrument would have been idle and casework would not be analyzed.

Another example just happened last week, in the DNA Unit the laboratory utilizes a robotic instrument to automate processing DNA casework. A DNA analyst running the instrument noticed a probe was not aligned properly. A call was made to the company and it was determined the instrument probe couldn't be aligned by laboratory staff. We had two choices have a technician repair the instrument on-site or send the instrument back to the

factory. Because we have a service agreement on the instrument the company sent a replacement instrument overnight and we will be sending our instrument back to the company for repairs. The total impact on the DNA Unit was minimal. The DNA analyst just had to do a quality check to use the replacement instrument while the other instrument is being repaired at the factory.

In addition to a replacement schedule, preventive maintenance agreements, the laboratory is requesting to begin a proactive approach for certification of analysts in their respective disciplines. The laboratory is requesting a modest increase to forensic scientists' salaries if the scientists pass a national certified exam. Since a National Academy of Sciences Report, there has been growing interest in having all forensic scientists certified in their reporting disciplines nationwide. A scientist certified in a particular discipline will benefit by additional credibility the certification adds to their courtroom testimony. As a result, the laboratory and the whole criminal justice system benefits by having an increased confidence in the results generated by a certified scientist.

CRIME LAB PREVENTATIVE MAINTENANCE CONTRACTS

Instrument Type	Recommended Replacement (Years)	Purchase Year	Manufacturer	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013
GC	6	2005	Thermo	Trace Ultra Gas Chromatograph w/Triflow Autosampler Dual Split/Splitless, Dual FID	\$ 35,125	\$ 67,500	X	\$ 5,408	\$ 5,408
GC/MS	8	2010	Varian	450GC / 240MS Gas Chromatograph Mass Spectrometer	\$ 65,000	\$ 104,000	X		due in 2015
GC	6	1997	Varian	3400CX Gas Chromatograph UnivCap/OC, Dual FID	\$ 18,270	\$ 67,500			In service - NO P/M
GC	6	1999	Varian	3800 Gas Chromatograph, 8400 Autosampler, Dual Inj, Dual FID, Pyro	\$ 36,070	\$ 45,000			Trade in for new GC/Mass Spec (Varian 450GC/240MS)
HS AS	6	2004	Leap/CTC	CombiPal HeadSpace Autosampler	\$ 24,584	\$ 36,000	X	\$ 2,200	Based on 3 year agreement
HPLC	8	1999	Agilent	Degasser	\$ 58,510	\$ 92,000			NO P/M
	8	1998	Agilent	BinPump					
	8	1999	Agilent	Aut Liquid Sampler					
	8	1999	Agilent	ColComp					
	8	1999	Agilent	DAD -Liq chromatography system					
LC/MS/MS	10	2009	Applied Biosystems	Liquid Chromatograph - Mass Spectrometer	\$ 238,161	\$ 300,000	X	\$ 30,000	DUE IN 2013
GC	6	2006	Perkin Elmer	Gas Chromatograph /Headspace Autosampler	\$ 55,813	\$ 67,500	X	\$ 7,212	
GC/MS	8	2007	Perkin Elmer	Gas Chromatograph /Mass Spectrometer System	\$ 93,530	\$ 104,000	X	\$ 11,484	
GC/MS	8	2002		Saturn 2100 Mass Spectrometer /MS, 3900 Gas Chromatograph CombiPal	\$ 96,250	\$ 136,000	X	\$ 9,395	
GC/MS	10	1999	HP	5973/6890 Gas Chromatograph/MassSpectrometer D, 7673 Auto Sampler	\$ 93,830	\$ 84,000	X	\$ 7,951	
GC/MS	10	2006	Agilent	5973/6890 Gas Chromatograph/MassSpectrometer D, 7673 Auto Sampler	\$ 57,996	\$ 100,000	X	\$ 7,951	
GC/MS	10	1989	HP	5973/6890 Gas Chromatograph/MassSpectrometer D, 7673 Auto Sampler	\$ 61,794	\$ 84,000			NO P/M
GC/MS	10	2002	Agilent	5973NI/6890 Gas Chromatograph/Mass Spectrometer D, 7673 AS	\$ 87,474	\$ 84,000	X	\$ 7,951	
GC/MS	10	new purchase	Agilent	Gas Chromatograph/Mass Spectrometer	\$ 93,500	\$ 84,000	X	\$ 7,951	

Instrument Type	Recommended Replacement (Years)	Purchase Year	Manufacturer	Equipment	Replacement			2012	2013
					Original Cost	Cost	Maintenance Contract		
Millipore	10	new in building	Millipore	Distilled water	Building cost	\$ 30,000	X	\$ 7,324	\$ 7,324
FT-IR	10	2005	Thermo	Nicolet 380/Continuum Scope	\$ 80,000	\$ 100,000	X	\$ 6,568	\$ 6,568
PCR	6	2010	Beckman Coulter	ROBOT	\$ 133,414	\$ 140,000	X	\$ 17,766	\$ 18,299
PCR	6	2006	Applied Bio	ABI 3130	\$ 93,362	\$ 100,000	X	\$ 8,696	\$ 8,696
PCR	6	2010	Applied Bio	ABI 3130	\$ 92,000	\$ 92,000	X	\$ 8,696	\$ 8,696
PCR	6	2005	Applied Bio	7500 Real Time PCR System	\$ 43,128	\$ 50,000	X	\$ 5,510	\$ 5,510
PCR	6	2005	Applied Bio	9700 GeneAmp PCR System	\$ 7,745	\$ 10,000			
Microspec	10	2009	Craic	Microspectrophotometer	\$ 54,914	\$ 45,000	X	\$ 400	\$ 400
CE	8	1993	Beckman	P/ACE 2200 UV - CE	\$ 34,098	\$ 62,000			
CDS	10	2001	Thermo	Chromserver/Server/Workstation Chromatography Data System	\$ 15,094	\$ 27,800	X	\$ 1,133	\$ 1,133
CDS	10	2008	Thermo	2447 DataServer with A2D	\$ 27,800	\$ 27,800	X	\$ 2,970	\$ 2,970
CDS	10	2010	Thermo	2447 DataServer with A2D	\$ 20,750	\$ 20,750	X	\$ 5,355	\$ 5,355
SPE WARE	5	2009		Extraction device	\$ 18,400	\$ 20,000			
Sonicator	10	1993	Branson	5200 Sonicator		\$ 2,000			
Oven	15	Pie 1991	Thelco	Precision Oven 40-200 C		\$ 3,000			
Oven	15	Pie 1991	Thelco	Precision Oven Model-16		\$ 3,000			
Oven	15	Pie 1991	Thelco	Precision Oven 65-200 C		\$ 3,000			
Conc	10	2001	Zymark/Caliper	TurboVap LV	\$ 7,321	\$ 27,000			
Centrifuge	8	2009	Thermo	Heraeus Megafuge 11	\$ 12,900	\$ 15,000			
Centrifuge	8	2009	VWR	Clinical 200	\$ 5,500	\$ 6,000			
Centrifuge	8	2005	Eppendorf	5702 Centrifuge	\$ 2,407	\$ 6,000			
Centrifuge	8	1998	Thermo	IEC Centra MP4 +rotors	\$ 5,500	\$ 10,000			
Autoclave	10	1993	Market Forge	Automatic Autoclave	\$ 4,770	\$ 10,000			
Autoclave	10	2005	Brinkman	Turnauer 234DE Autoclave	\$ 3,124	\$ 6,000			
PipDil	6	2005	Hamilton	MI.500 Pipettor/Diluter	\$ 3,739	\$ 5,800			
PipDil	6	2009	Hamilton	MI.500 Pipettor/Diluter	\$ 4,700	\$ 5,800			
Gas	8	2004	Dornick Hunter	Nitrogen Generator	\$ 6,188	\$ 10,000			
Gas	8	2004	Dornick Hunter	Hydrogen Generator	\$ 7,279	\$ 12,500			
Gas	8	2004	Dornick Hunter	Zero Air Generator	\$ 2,956	\$ 7,500			

**CRIME LAB PREVENTATIVE MAINTENANCE CONTRACTS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Manufacturer	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013
Gas	8	2008	Parkinson	PG-H2 500	\$ 7,500	\$ 12,500			NO P/M
Co-Oximeter	5	2010	ITC	Avoximeter 4000	\$ 17,000	\$ 22,000			NO P/M
Balance	10	2006	AND	GH-200	\$ 6,500				NO P/M
Balance	10	2003	AND	GX-2000 Scale	\$ 3,500				NO P/M
Balance	10	Pre 1991	Sartorius	BP3100S	\$ 1,700				NO P/M
Balance	10	Pre 1991	Sartorius	BP3100S	\$ 1,700				NO P/M
Balance	10	Pre 1991	Sartorius	BP3100S	\$ 1,700				NO P/M
Balance	10	Pre 1991	Sartorius	U4100S	\$ 3,762	\$ 5,000			NO P/M
Balance	10	Pre 1991	Sartorius	R200D	\$ 3,500				NO P/M
Balance	10	Pre 1991	O-Haus	I-20W Scale	\$ 750				NO P/M
Scope	12	2005	Olympus	Leeds Firearms Comparison	\$ 56,820	\$ 60,000	X	\$ 1,625	\$ 1,625
Scope	12	Pre 1991	Olympus	Leeds BH-2 Microscope	\$ 4,605	\$ 6,500			NO P/M
Scope	12	Pre 1991	Olympus	Phase contrast scope	\$ 11,619	\$ 6,500			NO P/M
Scope	12	Pre 1991	Olympus	Leeds Comparison BH-2 Microscope	\$ 16,855	\$ 18,000			NO P/M
Scope	12	Pre 1991	Olympus	Leeds SZX9 Microscope	\$ 5,064	\$ 6,000			NO P/M
Scope	12	Pre 1991	Olympus	Leeds BX-51 Microscope	\$ 18,591	\$ 20,000			NO P/M
Scope	12	Pre 1991	VM	VMZ Scope	\$ 2,500				NO P/M
Scope	12	Pre 1991	VM	VMZ Scope	\$ 2,500				NO P/M
Scope	~8	2009		Fluorescence Scope	\$ 17,923	\$ 20,000			Due in 2014
UV	5	2005	Thermo	Evolution 100	\$ 12,144	\$ 15,000			NO P/M
Autoclave	20 years	2009		Autoclave	\$ 38,083	\$ 35,000			NO P/M
QIAcube	8	2010	QIAGEN	QIAcube - fully automated sample preparation	\$ 14,222	\$ 14,222	X	\$ 3,850	
Centrifuge	6 - 10 years	new purchase		Centrifuge	\$ 12,500	\$ 12,500			NO P/M
Bullet Trap	50 to 80 years	new purchase		Bullet Trap	\$ 24,500	\$ 24,000			NO P/M
					\$ 2,615,022		\$	\$ 137,395	\$ 164,078

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## CRIME LAB PREVENTATIVE MAINTENANCE CONTRACTS

Instrument Type	Recommended Replacement (Years)	Purchase Year	Manufacturer	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013
GC	6	2005	Thermo	Trace Ultra Gas Chromatograph w/TrIPplus AutoSampler Dual Split/Splitless, Dual FID	\$ 35,125	\$ 67,500	X	\$ 5,408	\$ 5,408
GC/MS	8	2010	Varian	450GC / 240MS Gas Chromatograph Mass Spectrometer	\$ 65,000	\$ 104,000	X		due in 2015
GC	6	1997	Varian	3400C Gas Chromatograph UnivCap/OC, Dual FID	\$ 18,270	\$ 67,500			In service - NO P/M
GC	6	1999	Varian	3800 Gas Chromatograph, 8400 AutoSampler, Dual Inj, Dual FID, Pyro	\$ 36,070	\$ 45,000			Trade in for new GC/Mass Spec (Varian 450GC/240MS)
HS AS	6	2004	Leap/CTC	CombiPal Headspace AutoSampler	\$ 24,584	\$ 36,000	X	\$ 2,200	Based on 3 year agreement
HPLC	8	1999	Agilent	Degasser	\$ 58,510	\$ 92,000			NO P/M
	8	1999	Agilent	BinPump					
	8	1999	Agilent	Auti Liquid Sampler					
	8	1999	Agilent	ColComp					
	8	1999	Agilent	DAD -Liq chromatography system					
LC/MS/MS	10	2009	Applied Biosystems	Liquid Chromatograph - Mass Spectrometer	\$ 238,161	\$ 300,000	X	\$ 30,000	DUE IN 2013
GC	6	2006	Perkin Elmer	Gas Chromatograph /Headspace Autosampler	\$ 55,813	\$ 67,500	X	\$ 7,212	\$ 7,212
GC/MS	8	2007	Perkin Elmer	Gas Chromatograph /Mass Spectrometer System	\$ 93,530	\$ 104,000	X	\$ 11,484	\$ 11,484
GC/MS	8	2002		Saturn 2100 Mass Spectrometer /MS, 3900 Gas Chromatograph CombiPal	\$ 96,250	\$ 136,000	X	\$ 9,395	\$ 9,395
GC/MS	10	1999	HP	5973/6890 Gas Chromatograph/MassSpectrometer D, 7673 Auto Sampler	\$ 93,830	\$ 84,000	X	\$ 7,951	\$ 7,951
GC/MS	10	2006	Agilent	5973/6890 Gas Chromatograph/MassSpectrometer D, 7673 Auto Sampler	\$ 57,996	\$ 100,000	X	\$ 7,951	\$ 7,951
GC/MS	10	1989	HP	5973/6890 Gas Chromatograph/MassSpectrometer D, 7673 Auto Sampler	\$ 61,794	\$ 84,000			NO P/M
GC/MS	10	2002	Agilent	5973N/6890 Gas Chromatograph/Mass Spectrometer D, 7673 AS	\$ 87,474	\$ 84,000	X	\$ 7,951	\$ 7,951
GC/MS	10	new purchase	Agilent	Gas Chromatograph/Mass Spectrometer	\$ 93,500	\$ 84,000	X	\$ 7,951	\$ 7,951



**CRIME LAB PREVENTATIVE MAINTENANCE CONTRACTS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Manufacturer	Equipment	Replacement		Maintenance Contract		
					Original Cost	Cost		2012	2013
Millipore	10	new in building	Millipore	Distilled water	Building cost \$	30,000	X	\$ 7,324	\$ 7,324
FT-IR	10	2005	Thermo	Nicolet 380/Continuum Scope	\$ 80,000	\$ 100,000	X	\$ 6,568	\$ 6,568
PCR	6	2010	Beckman Coulter	ROBOT	\$ 133,414	\$ 140,000	X	\$ 17,786	\$ 18,299
PCR	6	2006	Applied Bio	ABI 3130	\$ 93,362	\$ 100,000	X	\$ 8,696	\$ 8,696
PCR	6	2010	Applied Bio	ABI 3130	\$ 92,000	\$ 92,000	X	\$ 8,696	\$ 8,696
PCR	6	2005	Applied Bio	7500 Real Time PCR System	\$ 43,128	\$ 50,000	X	\$ 5,510	\$ 5,510
PCR	6	2005	Applied Bio	9700 GeneAmp PCR System	\$ 7,745	\$ 10,000			
Microspec	10	2009	Craig	Microspectrophotometer	\$ 54,914	\$ 46,000	X	\$ 400	\$ 400
CE	8	1993	Beckman	P/ACE 2200 LV - CE	\$ 34,098	\$ 62,000			
CDS	10	2001	Thermo	Chromserver/Server/Workstation	\$ 15,094	\$ 27,800	X	\$ 1,133	\$ 1,133
CDS	10	2008	Thermo	Chromatography Data System	\$ 27,800	\$ 27,800	X	\$ 2,970	\$ 2,970
CDS	10	2010	Thermo	247 DataServer with A2D	\$ 20,750	\$ 20,750	X	\$ 5,355	\$ 5,355
SPE WARE	5	2009		Extraction device	\$ 18,400	\$ 20,000			
Sonicator	10	1993	Branson	S200 Sonicator		\$ 2,000			
Oven	15	Pre 1991	Thermo	Precision Oven 40-200 C		\$ 3,000			
Oven	15	Pre 1991	Thermo	Precision Oven Model-16		\$ 3,000			
Oven	15	Pre 1991	Thermo	Precision Oven 65-200 C		\$ 3,000			
Conc	10	2001	Zymark/Caliper	TurboVap LV	\$ 7,321	\$ 27,000			
Centrifuge	8	2009	Thermo	Heraeus Megafuge 11	\$ 12,900	\$ 15,000			
Centrifuge	8	2009	VWR	Clinical 200	\$ 5,500	\$ 6,000			
Centrifuge	8	2005	Eppendorf	5702 Centrifuge	\$ 2,407	\$ 6,000			
Centrifuge	8	1998	Thermo	IEC Centra MP4 rotors	\$ 5,500	\$ 10,000			
Autoclave	10	1993	Market Forge	Automatic Autoclave	\$ 4,770	\$ 10,000			
Autoclave	10	2005	Brinkman	Tuttnauer 2340E Autoclave	\$ 3,124	\$ 6,000			
Pip/Dil	6	2005	Hamilton	ML500 Pipet/Diluter	\$ 3,739	\$ 5,800			
Pip/Dil	6	2009	Hamilton	ML500 Pipet/Diluter	\$ 4,700	\$ 5,800			
Gas	8	2004	Donnick Hunter	Nitrogen Generator	\$ 6,188	\$ 10,000			
Gas	8	2004	Donnick Hunter	Hydrogen Generator	\$ 7,279	\$ 12,500			
Gas	8	2004	Donnick Hunter	Zero Air Generator	\$ 2,956	\$ 7,500			

**CRIME LAB PREVENTATIVE MAINTENANCE CONTRACTS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Manufacturer	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013
Gas	8	2008	PerkinElmer	PG-H2 500	\$ 7,500	\$ 12,500			
Co-Oximeter	5	2010	ITC	Avoximeter 4000	\$ 17,000	\$ 22,000			NO P/M
Balance	10	2006	AND	GH-200	\$ 6,500				NO P/M
Balance	10	2003	AND	GX-2000 Scale	\$ 3,500				NO P/M
Balance	10	Pre 1991	Sartorius	BP3100S	\$ 1,700				NO P/M
Balance	10	Pre 1991	Sartorius	BP3100S	\$ 1,700				NO P/M
Balance	10	Pre 1991	Sartorius	BP3100S	\$ 1,700				NO P/M
Balance	10	Pre 1991	Sartorius	U4100S	\$ 3,762	\$ 5,000			NO P/M
Balance	10	Pre 1991	Sartorius	R2000	\$ 3,500				NO P/M
Balance	10	Pre 1991	O-Haus	I-20W Scale	\$ 750				NO P/M
Scope	12	2005	Olympus	Leeds Firearms Comparison	\$ 56,820	\$ 60,000	X	\$ 1,825	\$ 1,625
Scope	12	Pre 1991	Olympus	Leeds BH-2 Microscope	\$ 4,605	\$ 6,500			NO P/M
Scope	12	Pre 1991	Olympus	Phase contrast scope	\$ 11,619	\$ 6,500			NO P/M
Scope	12	Pre 1991	Olympus	Leeds Comparison BH-2 Microscope	\$ 16,855	\$ 18,000			NO P/M
Scope	12	Pre 1991	Olympus	Leeds SZX9 Microscope	\$ 5,064	\$ 6,000			NO P/M
Scope	12	Pre 1991	Olympus	Leeds BX-51 Microscope	\$ 18,591	\$ 20,000			NO P/M
Scope	12	Pre 1991	VM	VMZ Scope	\$ 2,500				NO P/M
Scope	12	Pre 1991	VM	VMZ Scope	\$ 2,500				NO P/M
Scope	~8	2009		Fluorescence Scope	\$ 17,923	\$ 20,000			Due in 2014
UV	5	2005	Thermo	Evolution 100	\$ 12,144	\$ 15,000			NO P/M
Autoclave	20 years	2009		Autoclave	\$ 38,083	\$ 35,000			NO P/M
QIAcube	8	2010	QIAGEN	QIAcube - fully automated sample preparation	\$ 14,222	\$ 14,222	X	\$ 3,850	
Centrifuge	6 - 10 years	new purchase		Centrifuge	\$ 12,500	\$ 12,500			NO P/M
Bullet Trap	50 to 80 years	new purchase		Bullet Trap	\$ 24,500	\$ 24,000			NO P/M
					\$ 2,615,022		\$	\$ 137,395	\$ 164,078



2003. 3.15.118

FEDERAL FUNDS BUDGETED FOR THE 2009-11 AND 2011-13 BIENNIA  
OFFICE OF ATTORNEY GENERAL

NAME OF GRANT	2009-11 BIENNIIUM APPROPRIATION	2011-13 BIENNIIUM REQUEST	2011-13 BIENNIIUM RECOMMENDATION	RECOMMENDATION VS. REQUEST DIFFERENCE	
EDWARD BYRNE BYRNE FORMULA GRANT	554,925			-	
JUSTICE ASSISTANCE GRANT (JAG)	2,684,486	2,793,525	2,797,757	4,232	SALARY & BENEFIT INCREASES
HIGH INTENSITY DRUG TRAFFICKING ACT	1,230,346	1,247,819	1,253,939	6,120	SALARY & BENEFIT INCREASES
RESIDENTIAL SUBSTANCE ABUSE TREATMENT (RSAT)	200,000	320,000	320,000	-	
STATISCAL ANALYSIS CENTER	37,787	37,787	37,787	-	
SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERIN G AND TRACKING (SMART)	340,000	756,000	756,000	-	
BULLETPROOF VEST PARTNERSHIP PROGRAM	5,000	5,000	5,000	-	
NATIONAL HISTORY IMPROVEMENT PROJECT (NCHIP)	1,557,633	1,167,628	1,167,628	-	
INTERNET CRIMES AGAINST CHILDREN (ICAC)	302,623	407,623	407,623	-	
STATE DOMESTIC PREPAREDNESS GRANT	262,788	265,950	276,295	10,345	SALARY & BENEFIT INCREASES
PROJECT SAFE NEIGHBORHOOD (PSN)	412,878	319,878	319,878	-	
COMMUNITY ORIENTED POLICING RURAL METH INITIATIVE 2006 (COPS)	1,046,547	800,000	800,000	-	
DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY PLAN	516,722	939,823	939,823	-	
COVERDELL NATIONAL FORENSIC IMPROVEMENT	179,388	231,388	231,388	-	
FORENSIC CASEWORK DNA	112,128	112,128	112,128	-	
DNA CAPACITY ENHANCEMENT	323,606	323,606	323,606	-	
CONVICTED OFFENDER DNA BACKLOG	588,966	779,866	779,866	-	
HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS (HMEP)	185,500	-		-	
ARRA JUSTICE ASSISTANCE GRANT	1,658,475	1,708,209	1,730,131	21,922	SALARY & BENEFIT INCREASES
ARRA INTERNET CRIME AGAINST CHILDREN	216,174	192,547	200,007	7,460	SALARY & BENEFIT INCREASES
ARRA RURAL LAW ENFORCEMENT	384,539	306,304	318,766	12,462	SALARY & BENEFIT INCREASES
<b>TOTAL FEDERAL FUNDS BUDGETED</b>	<b>12,800,511</b>	<b>12,715,081</b>	<b>12,777,622</b>	<b>62,541</b>	

2003.3.28.11#

MEMORANDUM

To: Representatives Thoreson, Klein, Brandenburg, Dahl, Glassheim Kempenich, Kroeber  
From: Kathy Roll, Financial Administrator, Office of Attorney General  
Re: Requested and Other Information  
Date: March 28, 2011

Attached is the following requested information:

1. Crime Lab Capital Assets with equipment usage information
2. Fiscal year 2010 Salary Equity Increase information by position type
3. Analysis of Bureau of Criminal Investigation, Crime Lab, and Office wide general fund technology costs
4. Revised Federal Funds Budgeted for the 2009-11 and 2011-13 Biennia

Please contact me with any questions.

**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	Used for:
GC 1/	6	2005	Trace Ultra Gas Chromatograph w/TrilPlus AutoSampler Dual Spl/Spiltless, Dual FID	\$ 35,125	\$ 67,500	X	\$ 5,408	\$ 5,408	Analyze and identify different substances in a test sample
GC/MS 1/	8	2010	450GC / 240MS Gas Chromatograph Mass Spectrometer	\$ 65,000	\$ 104,000	X			Analyze and identify different substances in a test sample due in 2015
GC 1/	6	1997	3400Cx Gas Chromatograph Univ/Cap/OC, Dual FID	\$ 18,270	\$ 67,500				In service - NO P/M Analyze and identify different substances in a test sample
GC 1/	6	1999	3800 Gas Chromatograph, 8400 AutoSampler, Dual Inj, Dual FID, Pyro	\$ 36,070	\$ 45,000				Analyze and identify different substances in a test sample Used to withdraw a portion of gas from samples and inject the gas into the gas chromatograph for blood alcohol analysis. Based on 3 year chromatograph agreement
HS AS 2/	6	2004	CombiPal HeadSpace AutoSampler	\$ 24,584	\$ 36,000	X	\$ 2,200	\$ 2,200	Used in the Toxicology Section for drug screening in biological fluids NO P/M
HPLC	8	1999	Degasser	\$ 58,510	\$ 92,000				Analysis of drugs and pharmaceuticals in blood and urine
	8	1999	BinPump						
	8	1999	Auti Liquid Sampler						
	8	1999	ColComp						
	8	1999	DAD -Li-q chromatography system						
LC/MS/MS	10	2009	Liquid Chromatograph - Mass Spectrometer	\$ 238,161	\$ 300,000	X		\$30,000	Identify different substances in a test sample
GC 1/	6	2006	Gas Chromatograph Headspace Autosampler	\$ 55,813	\$ 67,500	X	\$ 7,212	\$ 7,212	Identify different substances in a test sample
GC/MS 1/	8	2007	Gas Chromatograph Mass Spectrometer System	\$ 93,530	\$ 104,000	X	\$ 11,484	\$ 11,484	Identify different substances in a test sample
GC/MS 1/	8	2002	Saturn 2100 Mass Spectrometer /MS, 3900 Gas Chromatograph CombiPal	\$ 96,250	\$ 136,000	X	\$ 9,395	\$ 9,395	Identify different substances in a test sample
GC/MS 1/	10	1999	5973i6890 Gas Chromatograph/Mass Spectrometer D, 7673 Auto Sampler	\$ 93,830	\$ 84,000	X	\$ 7,951	\$ 7,951	Identify different substances in a test sample
GC/MS 1/	10	2006	5973i6890 Gas Chromatograph/Mass Spectrometer D, 7673 Auto Sampler	\$ 57,996	\$ 100,000	X	\$ 7,951	\$ 7,951	Identify different substances in a test sample

**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	Used for:
GC/MS 1/	10	1989	5973/6890 Gas Chromatograph/Mass Spectrometer D, 7673 Auto Sampler	\$ 61,794	\$ 84,000				Identify different substances in a test sample NO P/M
GC/MS 1/	10	2002	5973N/6890 Gas Chromatograph/Mass Spectrometer D, 7673 AS	\$ 87,474	\$ 84,000	X	\$ 7,951	\$ 7,951	Identify different substances in a test sample
GC/MS 1/	10	new purchase	Gas Chromatograph/Mass Spectrometer	\$ 93,500	\$ 84,000	X	\$ 7,951	\$ 7,951	Identify different substances in a test sample
Milipore	10	new in building	Distilled water	Building cost	\$ 30,000	X	\$ 7,324	\$ 7,324	These provide ultra pure water to the labs to use in making reagents
FT-IR	10	2005	Nicolet 380/Continuum Scope	\$ 80,000	\$ 100,000	X	\$ 6,568	\$ 6,568	Analyzes drug compounds
PCR	6	2010	ROBOT	\$ 133,414	\$ 140,000	X	\$ 17,766	\$ 18,299	DNA analysis - automates the pipetting process
PCR	6	2006	ABI 3130	\$ 93,362	\$ 100,000	X	\$ 8,696	\$ 8,696	DNA analysis - used to analyze DNA samples
PCR	6	2010	ABI 3130	\$ 92,000	\$ 92,000	X	\$ 8,696	\$ 8,696	DNA analysis - used to analyze DNA samples
PCR	6	2005	7500 Real Time PCR System	\$ 43,128	\$ 50,000	X	\$ 5,510	\$ 5,510	Quantitation of DNA samples
PCR	6	2005	9700 GeneAmp PCR System	\$ 7,745	\$ 10,000				Amplifying DNA samples NO P/M
Microspec	10	2009	Microspectrophotometer	\$ 54,914	\$ 45,000	X	\$ 400	\$ 400	Analyzes spectra from materials for trace analysis
CE	8	1993	P/ACE 2200 UV - CE	\$ 34,098	\$ 62,000				Used in toxicology for drug analysis NO P/M
CDS	10	2001	Chromserver/Server/Workstation Chromatography Data System	\$ 15,094	\$ 27,800	X	\$ 1,133	\$ 1,133	Part of Atlas data system for blood alcohol analysis
CDS	10	2008	24/7 DataServer with A2D	\$ 27,800	\$ 27,800	X	\$ 2,970	\$ 2,970	Part of Atlas data system for blood alcohol analysis
CDS	10	2010	24/7 DataServer with A2D	\$ 20,750	\$ 20,750	X	\$ 5,355	\$ 5,355	Part of Atlas data system for blood alcohol analysis
SPE WARE	5	2009	Extraction device	\$ 18,400	\$ 20,000				Used for sample extraction for drug screening in biological fluids NO P/M
Sonicator	10	1993	5200 Sonicator	\$	\$ 2,000				Used in Toxicology analysis for LC/MS MS reagents NO P/M
Oven	15	Pre 1991	Precision Oven 40-200 C	\$	\$ 3,000				Used in Toxicology to derivatize samples for drug analysis NO P/M

**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	Used for:
Oven	15	Pre 1991	Precision Oven Model-16	\$	3,000				Used in Toxicology to derivatize samples for drug analysis NO P/M
Oven	15	Pre 1991	Precision Oven 65-200 C	\$	3,000				Used in Toxicology to derivatize samples for drug analysis NO P/M
Conc	10	2001	TurboVap LV	\$ 7,321	\$ 27,000				Used in Toxicology to concentrate and derivatize samples for drug analysis NO P/M
Centrifuge	8	2009	Heraeus Megafuge 11	\$ 12,900	\$ 15,000				Used in preparation of samples for drug screen analysis; also used for separation of blood (serum and red blood cells) and sediment from urine samples. NO P/M
Centrifuge	8	2009	Clinical 200 Centrifuge	\$ 5,500	\$ 6,000				Used in preparation of samples for drug screen analysis; also used for separation of blood (serum and red blood cells) and sediment from urine samples. NO P/M
Centrifuge	8	2005	5702 Centrifuge	\$ 2,407	\$ 6,000				Used to separate organic and aqueous phases for drug analysis NO P/M
Centrifuge	8	1998	IEC Centra MP4 +rotors	\$ 5,500	\$ 10,000				Used to spin down plates for DNA analysis NO P/M
Autoclave	10	1993	Automatic Autoclave	\$ 4,770	\$ 10,000				Used to sterilize biological waste and prepare consumables for use in analysis NO P/M
Autoclave	10	2005	Tuttnauer 2340E Autoclave	\$ 3,124	\$ 6,000				Used to sterilize pipet tips for DNA analysis NO P/M
Pip/Dil	6	2005	ML500 Pipettor/Diluter	\$ 3,739	\$ 5,800				Used to pipette samples for blood alcohol analysis NO P/M
Pip/Dil	6	2009	ML500 Pipettor/Diluter	\$ 4,700	\$ 5,800				Used to pipette samples for blood alcohol analysis NO P/M
Gas	8	2004	Nitrogen Generator	\$ 6,188	\$ 10,000				Nitrogen gas is needed for the gas chromatographs to run for blood alcohol analysis NO P/M
Gas	8	2004	Hydrogen Generator	\$ 7,279	\$ 12,500				Hydrogen gas is needed for the gas chromatographs to run for blood alcohol analysis. NO P/M



**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	Used for:
Gas	8	2004	Zero Air Generator	\$ 2,955	\$ 7,500				Purified compressed air is needed for the gas chromatographs to run for blood alcohol analysis.
Gas	8	2008	PG-H2 500	\$ 7,500	\$ 12,500				Produce hydrogen gas needed for the gas chromatographs to run for blood alcohol analysis.
Co-Oximeter	5	2010	Avoximeter 4000	\$ 17,000	\$ 22,000				Used in Toxicology to analyze samples for carbon monoxide
Balance	10	2006	GH-200	\$ 6,500					Used to weigh items accurately in the laboratory environment
Balance	10	2003	GX-2000 Scale	\$ 3,500					Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	BP3100S	\$ 1,700					Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	BP3100S	\$ 1,700					Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	BP3100S	\$ 1,700					Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	U4100S	\$ 3,762	\$ 5,000				Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	R200D	\$ 3,500					Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	I-20W Scale	\$ 750					Used to weigh items accurately in the laboratory environment
Scope	12	2005	Leeds Firearms Comparison	\$ 56,820	\$ 60,000	X	\$ 1,625	\$ 1,625	Used to examine evidence in trace analysis
Scope	12	Pre 1991	Leeds BH-2 Microscope	\$ 4,805	\$ 6,500				Used to examine evidence in trace analysis
Scope	12	Pre 1991	Phase contrast scope	\$ 11,619	\$ 6,500				Used to examine evidence for biological screening
Scope	12	Pre 1991	Leeds Comparison BH-2 Microscope	\$ 16,855	\$ 18,000				Used to examine evidence in trace analysis

**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	Used for:
Scope	12	Pre 1991	Leeds SZX9 Microscope	\$ 5,064	\$ 6,000				Stereo microscope for examining evidence in several disciplines NO P/M
Scope	12	Pre 1991	Leeds BX-51 Microscope	\$ 18,591	\$ 20,000				Used to examine and photograph evidence for biological screening NO P/M
Scope	12	Pre 1991	VMZ Scope	\$	\$ 2,500				Stereo microscope for drug analysis NO P/M
Scope	12	Pre 1991	VMZ Scope	\$	\$ 2,500				Stereo microscope for drug analysis NO P/M
Scope	~8	2009	Fluorescence Scope	\$ 17,923	\$ 20,000				Used for the Sparm Hi-liter technique for biological screening Due in 2014
UV	5	2005	Evolution 100	\$ 12,144	\$ 15,000				Used for UV analysis of drug samples NO P/M
Autoclave	20 years	2009	Autoclave	\$ 38,083	\$ 35,000				Used to sterilize biological waste and prepare consumables for use in analysis NO P/M
QIACube	8	2010	QIACube - fully automated sample preparation	\$ 14,222	\$ 14,222	X	\$ 3,850		Automates DNA extractions doing several at a time instead of individual preparation Centrifuges are used to separate blood samples (serum from red blood cells), separate layers in extractions for sample preparation for drug screening analysis, and removing sediment from urine samples. Used to recover test fired bullets for firearms analysis NO P/M
Centrifuge	6 - 10 years	new purchase	Centrifuge	\$ 12,500	\$ 12,500				
Bullet Trap	50 to 80 years	new purchase	Bullet Trap	\$ 24,500	\$ 24,000				

1/ Gas Chromatographs (GC) and Mass Spectrometers (MS) are used for many different types of analysis - Drug Identification in Forensic and Toxicology, arson analysis in forensics, alcohol volatiles and inhalants in toxicology, ethylene glycol in toxicology, carbon monoxide in toxicology.

2/ Headspace autosamplers (connected to GC and GC/MS) are used for blood alcohol analysis and volatiles (inhalants & ethylene glycol), and drug analysis in toxicology.

\$ 2,615,022 \$ 137,395 \$ 164,078

OFFICE OF ATTORNEY GENERAL FY 2010 EQUITY INCREASES BY POSITION TYPE

<u>Classification Type</u>	<u>Amount</u>	<u>Number of employees</u>
Accounting	\$ 26,457	4
Administrative staff	\$ 50,389	6
Gaming audit staff	\$ 130,124	14
Administrative Assistant/Staff Officer	\$ 67,839	21
Legal Staff	\$ 292,849	28
Bureau of Criminal Investigation staff	\$ 205,622	26
Identification Technician	\$ 26,092	4
Crime Lab Forensic staff	\$ 86,160	15
Information Technology staff	\$ 67,327	9
Consumer Protection investigator	\$ 26,345	4
Fire Marshal staff	\$ 57,871	6
Lottery staff	\$ 2,926	2
TOTAL	\$ 1,040,000	139

Total	1,040,000
General Fund	900,000
Federal/Special funds	140,000

# ANALYSIS OF BUREAU OF CRIMINAL INVESTIGATION, CRIME LAB, AND OFFICE WIDE INFORMATION TECHNOLOGY GENERAL FUND AND OTHER FUNDS COSTS

## GENERAL FUND CHANGES FOR THE 2011-13 BIENNIUM

IT Software/Supplies	\$ 131,000	\$110,000 new Crime Lab Laboratory Information Management System (LIMS) annual maintenance;
IT Data Processing	\$ 33,067	\$21,000 Microsoft Office Assurance Agreement (office wide)
IT Telephone	\$ 2,880	Increase in ITD Costs
<b>Total "Keep the Lights on" cost</b>	<b>\$ 166,947</b>	Increase in usage and ITD increase

The \$11,011 ITD data processing change is a base budget general fund change which did not increase overall the total general fund appropriation for the 2011-13 biennium.

## OTHER FUNDS CHANGES FOR THE 2011-13 BIENNIUM

BCI Uniform Crime Reporting Crime Statistics Changes	\$ 100,000	IT contractual services
BCI additional Case Management Modules:		
Case time tracking	\$ 200,000	IT contractual services
Evidence bar coding	\$ 100,000	IT contractual services
UCR for task forces	\$ 125,000	IT contractual services
	\$ 425,000	
BCI Criminal History Rewrite Planning	\$ 450,000	IT contractual services
BCI Public Online Record Checks / Concealed Weapon Permits	\$ 375,000	IT contractual services
<b>Total BCI projects - other funds</b>	<b>\$ 1,350,000</b>	

FEDERAL FUNDS BUDGETED FOR THE 2009-11 AND 2011-13 BIENNIA  
OFFICE OF ATTORNEY GENERAL

NAME OF GRANT	2009-11 BIENNIIUM	2011-13 BIENNIIUM	2011-13 BIENNIIUM	RECOMMENDATION	
	APPROPRIATION	REQUEST	RECOMMENDATION	VS. REQUEST DIFFERENCE	
EDWARD BYRNE FORMULA GRANT	554,925			-	
JUSTICE ASSISTANCE GRANT (JAG)	2,684,486	2,793,525	2,797,757	4,232	SALARY & BENEFIT INCREASES
HIGH INTENSITY DRUG TRAFFICKING ACT	1,230,346	1,247,819	1,253,939	6,120	SALARY & BENEFIT INCREASES
RESIDENTIAL SUBSTANCE ABUSE TREATMENT (RSAT)	200,000	320,000	320,000	-	
STATISTICAL ANALYSIS CENTER	37,787	37,787	37,787	-	
SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING AND TRACKING (SMART)	340,000	756,000	756,000	-	
BULLETPROOF VEST PARTNERSHIP PROGRAM	5,000	5,000	5,000	-	
NATIONAL CRIMINAL HISTORY IMPROVEMENT PROJECT (NCHIP)	1,557,633	1,167,628	1,167,628	-	
INTERNET CRIMES AGAINST CHILDREN (ICAC)	302,623	407,623	407,623	-	
STATE DOMESTIC PREPAREDNESS GRANT	262,788	265,950	276,295	10,345	SALARY & BENEFIT INCREASES
PROJECT SAFE NEIGHBORHOOD (PSN)	412,878	319,878	319,878	-	
COMMUNITY ORIENTED POLICING RURAL METH INITIATIVE 2006 (COPS)	1,046,547	800,000	800,000	-	
DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY PLAN	516,722	939,823	939,823	-	
COVERDELL NATIONAL FORENSIC IMPROVEMENT	179,388	231,388	231,388	-	
FORENSIC CASEWORK DNA	112,128	112,128	112,128	-	
DNA CAPACITY ENHANCEMENT	323,606	323,606	323,606	-	
CONVICTED OFFENDER DNA BACKLOG	588,966	779,866	779,866	-	
HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS (HMEP)	185,500	-		-	
ARRA JUSTICE ASSISTANCE GRANT	1,658,475	1,708,209	1,730,131	21,922	SALARY & BENEFIT INCREASES
ARRA INTERNET CRIME AGAINST CHILDREN	216,174	192,547	200,007	7,460	SALARY & BENEFIT INCREASES
ARRA RURAL LAW ENFORCEMENT	384,539	306,304	318,766	12,462	SALARY & BENEFIT INCREASES
<b>TOTAL FEDERAL FUNDS BUDGETED</b>	<b>12,800,511</b>	<b>12,715,081</b>	<b>12,777,622</b>	<b>62,541</b>	

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MEMORANDUM



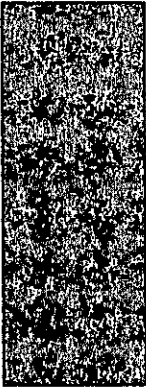
To: Representatives Thoreson, Klein, Brandenburg, Dahl, Glassheim Kempenich, Kroeber  
From: Kathy Roll, Financial Administrator, Office of Attorney General  
Re: Requested and Other Information  
Date: March 28, 2011

Attached is the following requested information:

1. Crime Lab Capital Assets with equipment usage information
2. Fiscal year 2010 Salary Equity Increase information by position type
3. Analysis of Bureau of Criminal Investigation, Crime Lab, and Office wide general fund technology costs
4. Revised Federal Funds Budgeted for the 2009-11 and 2011-13 Biennia

Please contact me with any questions.

**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	Used for:
GC 1/	6	2005	Trace Ultra Gas Chromatograph w/TrPlus AutoSampler Dual Split/Spillless, Dual FID	\$ 35,125	\$ 67,500	X	\$ 5,408	\$ 5,408	Analyze and identify different substances in a test sample
GC/MS 1/	8	2010	450GC / 240MS Gas Chromatograph Mass Spectrometer	\$ 65,000	\$ 104,000	X			Analyze and identify different substances in a test sample due in 2015
GC 1/	6	1997	3400Cx Gas Chromatograph UnivCap/OC, Dual FID	\$ 18,270	\$ 67,500				In service - NO P/M Analyze and identify different substances in a test sample
GC 1/	6	1999	3800 Gas Chromatograph, 8400 AutoSampler, Dual Inj, Dual FID, Pyro	\$ 36,070	\$ 45,000				Analyze and identify different substances in a test sample
HS AS 2/	6	2004	CombiPal HeadSpace AutoSampler	\$ 24,584	\$ 36,000	X	\$ 2,200	\$ 2,200	Used to withdraw a portion of gas from samples and inject the gas into the gas chromatograph for blood alcohol analysis. Based on 3 year agreement
HPLC	8	1998	Degasser	\$ 58,510	\$ 92,000				Used in the Toxicology Section for drug screening in biological fluids
LC/MS/MS	10	2009	Liquid Chromatograph - Mass Spectrometer	\$ 238,161	\$ 300,000	X	\$ 30,000	\$ 30,000	Analysis of drugs and pharmaceuticals in blood and urine
GC 1/	6	2006	Gas Chromatograph /Headspace Autosampler	\$ 55,813	\$ 67,500	X	\$ 7,212	\$ 7,212	Identify different substances in a test sample
GC/MS 1/	8	2007	Gas Chromatograph /Mass Spectrometer System	\$ 93,530	\$ 104,000	X	\$ 11,484	\$ 11,484	Identify different substances in a test sample
GC/MS 1/	8	2002	Saturn 2100 Mass Spectrometer /MS, 3900 Gas Chromatograph CombiPal	\$ 96,250	\$ 136,000	X	\$ 9,395	\$ 9,395	Identify different substances in a test sample
GC/MS 1/	10	1999	5973/6890 Gas Chromatograph/Mass Spectrometer D, 7673 Auto Sampler	\$ 93,830	\$ 84,000	X	\$ 7,951	\$ 7,951	Identify different substances in a test sample
GC/MS 1/	10	2006	5973/6890 Gas Chromatograph/Mass Spectrometer D, 7673 Auto Sampler	\$ 57,996	\$ 100,000	X	\$ 7,951	\$ 7,951	Identify different substances in a test sample

**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	Used for:
GC/MS 1/	10	1989	5973/6890 Gas Chromatograph/Mass Spectrometer D, 7673 Auto Sampler	\$ 61,794	\$ 84,000				Identify different substances in a test sample NO P/M
GC/MS 1/	10	2002	5973N/6890 Gas Chromatograph/Mass Spectrometer D, 7673 AS	\$ 87,474	\$ 84,000	X	\$ 7,951	\$ 7,951	Identify different substances in a test sample
GC/MS 1/	10	new purchase	Gas Chromatograph/Mass Spectrometer	\$ 93,500	\$ 84,000	X	\$ 7,951	\$ 7,951	Identify different substances in a test sample
Millipore	10	new in building	Distilled water	Building cost	\$ 30,000	X	\$ 7,324	\$ 7,324	These provide ultra pure water to the labs to use in making reagents
FT-IR	10	2005	Nicolet 380/Continuum Scope	\$ 80,000	\$ 100,000	X	\$ 6,568	\$ 6,568	Analyses drug compounds
PCR	6	2010	ROBOT	\$ 133,414	\$ 140,000	X	\$ 17,786	\$ 18,299	DNA analysis - automates the pipetting process
PCR	6	2006	ABI 3130	\$ 93,362	\$ 100,000	X	\$ 8,696	\$ 8,696	DNA analysis - used to analyze DNA samples
PCR	6	2010	ABI 3130	\$ 92,000	\$ 92,000	X	\$ 8,696	\$ 8,696	DNA analysis - used to analyze DNA samples
PCR	6	2005	7500 Real Time PCR System	\$ 43,128	\$ 50,000	X	\$ 5,510	\$ 5,510	Quantitation of DNA samples
PCR	6	2005	9700 GeneAmp PCR System	\$ 7,745	\$ 10,000				Amplifying DNA samples NO P/M
Microspec	10	2009	Microspectrophotometer	\$ 54,914	\$ 45,000	X	\$ 400	\$ 400	Analyses spectra from materials for trace analysis
CE	8	1993	PI/ACE 2200 UV - CE	\$ 34,098	\$ 62,000				Used in toxicology for drug analysis NO P/M
CDS	10	2001	Chromserver/Server/Workstation Chromatography Data System	\$ 15,094	\$ 27,800	X	\$ 1,133	\$ 1,133	Part of Atlas data system for blood alcohol analysis
CDS	10	2008	24/7 DataServer with AZD	\$ 27,800	\$ 27,800	X	\$ 2,970	\$ 2,970	Part of Atlas data system for blood alcohol analysis
CDS	10	2010	24/7 DataServer with AZD	\$ 20,750	\$ 20,750	X	\$ 5,355	\$ 5,355	Part of Atlas data system for blood alcohol analysis
SPE WARE	5	2009	Extraction device	\$ 18,400	\$ 20,000				Used for sample extraction for drug screening in biological fluids. NO P/M
Sonicator	10	1993	5200 Sonicator	\$	\$ 2,000				Used in Toxicology analysis for LC/MS/MS reagents NO P/M
Oven	15	Pre 1991	Precision Oven 40-200 C	\$	\$ 3,000				Used in Toxicology to derivatize samples for drug analysis NO P/M















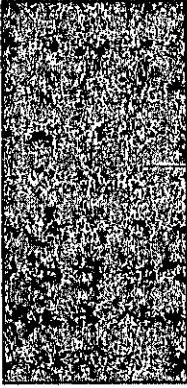
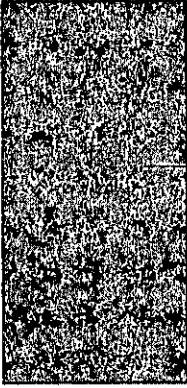


**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	Used for:
Oven	15	Pre 1991	Precision Oven Model-16	\$	3,000				Used in Toxicology to derivatize samples for drug analysis NO P/M
Oven	15	Pre 1991	Precision Oven 65-200 C	\$	3,000				Used in Toxicology to derivatize samples for drug analysis NO P/M
Conc	10	2001	TurboVap LV	\$ 7,321	\$ 27,000				Used in Toxicology to concentrate and derivatize samples for drug analysis NO P/M
Centrifuge	8	2009	Heraeus Megafuge 11	\$ 12,900	\$ 15,000				Used in preparation of samples for drug screen analysis, also used for separation of blood (serum and red blood cells) and sediment from urine samples. NO P/M
Centrifuge	8	2009	Clinical 200 Centrifuge	\$ 5,500	\$ 6,000				Used in preparation of samples for drug screen analysis; also used for separation of blood (serum and red blood cells) and sediment from urine samples. NO P/M
Centrifuge	8	2005	5702 Centrifuge	\$ 2,407	\$ 6,000				Used to separate organic and aqueous phases for drug analysis NO P/M
Centrifuge	8	1998	IEC Centra MP4 +rotors	\$ 5,500	\$ 10,000				Used to spin down plates for DNA analysis NO P/M
Autoclave	10	1993	Automatic Autoclave	\$ 4,770	\$ 10,000				Used to sterilize biological waste and prepare consumables for use in analysis NO P/M
Autoclave	10	2005	Tutnauer 2340E Autoclave	\$ 3,124	\$ 6,000				Used to sterilize pipet tips for DNA analysis NO P/M
Pip/Dil	6	2005	ML500 Pipettor/Diluter	\$ 3,739	\$ 5,800				Used to pipette samples for blood alcohol analysis NO P/M
Pip/Dil	6	2009	ML500 Pipettor/Diluter	\$ 4,700	\$ 5,800				Used to pipette samples for blood alcohol analysis NO P/M
Gas	8	2004	Nitrogen Generator	\$ 6,188	\$ 10,000				Nitrogen gas is needed for the gas chromatographs to run for blood alcohol analysis NO P/M
Gas	8	2004	Hydrogen Generator	\$ 7,279	\$ 12,500				Hydrogen gas is needed for the gas chromatographs to run for blood alcohol analysis. NO P/M

**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	
Gas	8	2004	Zero Air Generator	\$ 2,956	\$ 7,500				Used for: Purified compressed air is needed for the gas chromatographs to run for blood alcohol analysis.
Gas	8	2008	PG-H2 500	\$ 7,500	\$ 12,500				Produces hydrogen gas needed for the gas chromatographs to run for blood alcohol analysis.
Co-Oximeter	5	2010	Avoximeter 4000	\$ 17,000	\$ 22,000				Used in Toxicology to analyze samples for carbon monoxide
Balance	10	2006	GH-200	\$	\$ 6,500				Used to weigh items accurately in the laboratory environment
Balance	10	2003	GX-2000 Scale	\$	\$ 3,500				Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	BP3100S	\$	\$ 1,700				Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	BP3100S	\$	\$ 1,700				Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	BP3100S	\$	\$ 1,700				Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	U4100S	\$ 3,762	\$ 5,000				Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	R200D	\$	\$ 3,500				Used to weigh items accurately in the laboratory environment
Balance	10	Pre 1991	L20W Scale	\$	\$ 750				Used to weigh items accurately in the laboratory environment
Scope	12	2005	Leeds Firearms Comparison	\$ 56,820	\$ 60,000	X	\$ 1,625	\$ 1,625	Used to examine evidence in trace analysis
Scope	12	Pre 1991	Leeds BH-2 Microscope	\$ 4,605	\$ 6,500				Used to examine evidence in trace analysis
Scope	12	Pre 1991	Phase contrast scope	\$ 11,619	\$ 6,500				Used to examine evidence for biological screening
Scope	12	Pre 1991	Leeds Comparison BH-2 Microscope	\$ 16,855	\$ 18,000				Used to examine evidence in trace analysis

**CRIME LAB CAPITAL ASSETS, PREVENTATIVE MAINTENANCE CONTRACTS, AND DESCRIPTIONS**

Instrument Type	Recommended Replacement (Years)	Purchase Year	Equipment	Original Cost	Replacement Cost	Maintenance Contract	2012	2013	Used for:
Scope	12	Pre 1991	Leeds SZX9 Microscope	\$ 5,064	\$ 6,000				Stereomicroscope for examining evidence in several disciplines NO P/M
Scope	12	Pre 1991	Leeds BX-51 Microscope	\$ 18,591	\$ 20,000				Used to examine and photograph evidence for biological screening NO P/M
Scope	12	Pre 1991	VMZ Scope	\$	\$ 2,500				Stereomicroscope for drug analysis NO P/M
Scope	12	Pre 1991	VMZ Scope	\$	\$ 2,500				Stereomicroscope for drug analysis NO P/M
Scope	~8	2009	Fluorescence Scope	\$ 17,923	\$ 20,000				Used for the Sperm Hi-liter technique for biological screening Due in 2014
UV	5	2005	Evolution 100	\$ 12,144	\$ 15,000				Used for UV analysis of drug samples NO P/M
Autoclave	20 years	2009	Autoclave	\$ 38,083	\$ 35,000				Used to sterilize biological waste and prepare consumables for use in analysis NO P/M
QIacube	8	2010	QIacube - fully automated sample preparation	\$ 14,222	\$ 14,222	X	\$ 3,850		Automates DNA extractions doing several at a time instead of individual preparation Centrifuges are used to separate blood samples (serum from red blood cells), separate layers in extractions for sample preparation for drug screening analysis, and removing sediment from urine samples. NO P/M
Centrifuge	6 - 10 years	new purchase	Centrifuge	\$ 12,500	\$ 12,500				Used to recover test fired bullets for firearms analysis NO P/M
Bullet Trap	50 to 80 years	new purchase	Bullet Trap	\$ 24,500	\$ 24,000				
				\$	\$ 2,615,022	\$	\$ 137,395	\$ 164,078	

1/ Gas Chromatographs (GC) and Mass Spectrometers (MS) are used for many different types of analysis - Drug identification in Forensics and Toxicology, arson analysis in forensics, alcohol volatiles and inhalants in toxicology, ethylene glycol in toxicology, carbon monoxide in toxicology.

2/ Headspace autosamplers (connected to GC and GC/MS) are used for blood alcohol analysis and volatiles (inhalants & ethylene glycol), and drug analysis in toxicology.

2003. 3. 28. 11A

**REQUESTED INFORMATION REGARDING NATIONAL CRIMINAL HISTORY  
IMPROVEMENT PROJECT FEDERAL FUNDS AND REQUESTED CRIMINAL HISTORY  
RECORDS REPOSITORY PLANNING FOR THE 2011-13 BIENNIUM**

**National Criminal History Improvement Project Funding**

The federal National Criminal History Improvement Program (NCHIP) was originally begun in 1995 with a \$100 million appropriation. In the late 1990's to the early 2000's total available funding ranged from \$45-50 million per fiscal year. Funding for NCHIP in recent years has been about \$10 million per year. At this point the federal Bureau of Justice Statistics does not know how much money will be available for the next grant cycle. Receipt of federal funds was previously reasonably predictable. Based on the above, it has become increasingly more difficult to determine with accuracy the amount of federal funds this Office will receive 2-3 years ahead of when the funding is received based on the State's budget cycle. Federal funds come with strict requirements as to the use of the funding. The federal NCHIP funds have been used to improve the criminal records systems which are used by law enforcement officers in this state and every state in the nation.

Federal funds for NCHIP and Statistical Analysis Center (SAC), which were budgeted together for the 2011-13 biennium, were based on \$110,000 for temporary staff to perform statistical analysis projects in such areas as domestic violence or record quality, operating expenses of \$500,000 for projects funded by the federal government and grants of \$557,628 since grants to other entities which have sometimes been funded.

Recent use of federal NCHIP monies funded the Office's Automated Fingerprint Identification System (AFIS) which is shared with Minnesota and South Dakota due to the cost of the equipment and the system (which is housed in Minnesota). AFIS is the fingerprint matching system. All of the data in the criminal history records repository is based on fingerprints. Matching the fingerprints from the arrest fingerprint cards is how the criminal history record is built because people use various names, dates of birth, etc.

The recent AFIS project was a complete replacement of all of our hardware and software and required modifications to several associated system interfaces. ITD provided large project oversight for this project. In addition to the full AFIS replacement, 3 end-of-life livescan fingerprinting units were replaced, 6 livescan units were upgraded, and 14 new livescan units were purchased to place in local law enforcement agencies and 1 unit is used for training purposes. Links were built for Offender Registration and Concealed Weapon Permits. All AFIS workflow processes to criminal history were redone.

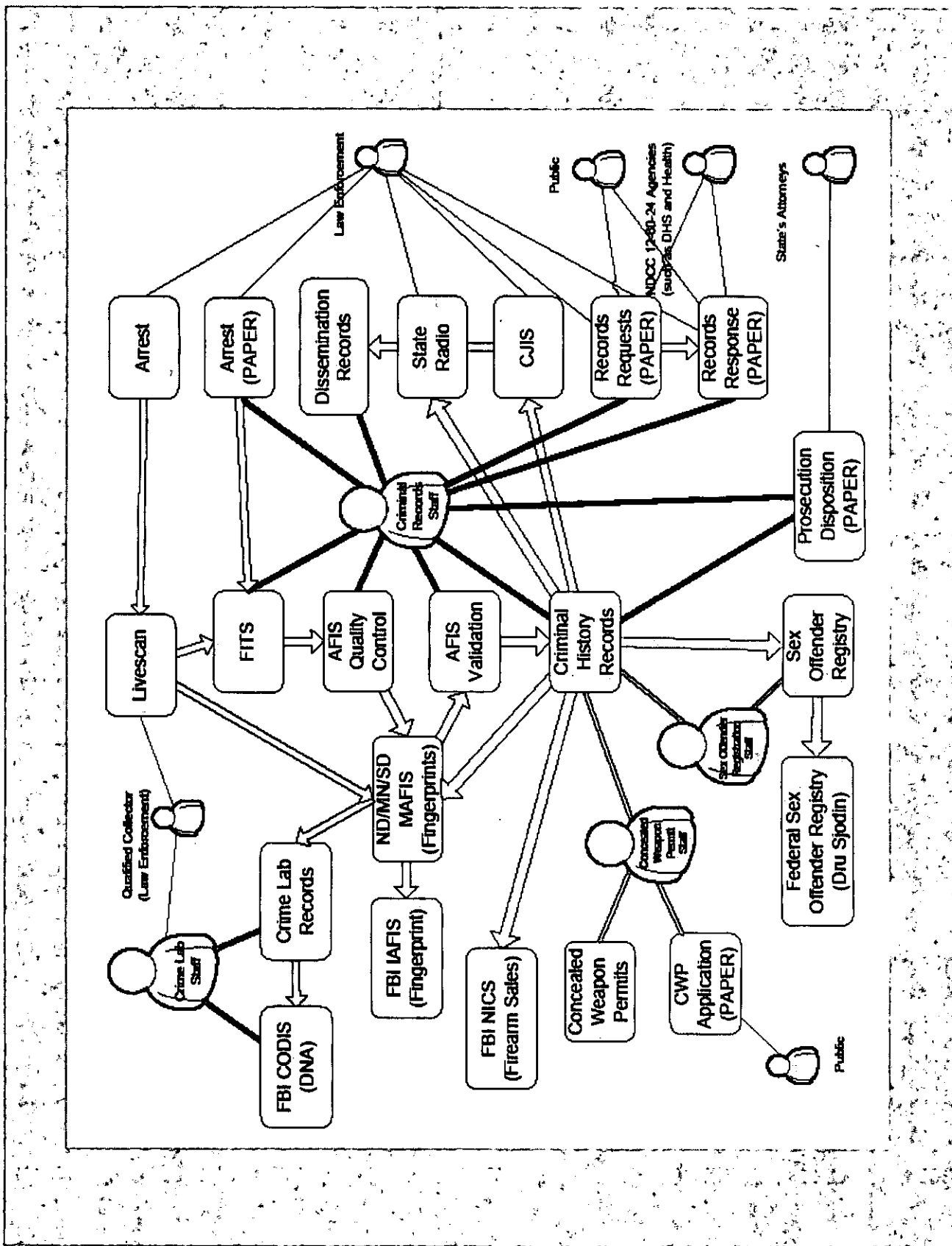
**Criminal History Repository Rewrite Planning Project**

The original Criminal History Records Repository finalized in 1999 was funded with federal NCHIP money. With only \$10 million available nationwide, funding is insufficient to fund either the planning for or the rewrite of this system.

The Criminal History Records Repository system is reaching the end of its life cycle. This is a mission critical system for law enforcement and the major component that communicates with a variety of internal and external computer systems including the Automated Fingerprint Identification System (AFIS), State Radio, CJIS web portal, offender registration, concealed weapon permits, etc. Criminal Justice Information Sharing (CJIS) is planning to automate information from local law enforcement, state's attorneys, and the courts. Our current system does not conform to state software standards and could not receive automated submissions without major upgrades. This request for funds is to develop a plan during the 2011 - 2013 biennium and to begin rewriting the system in the 2013 - 2015 biennium. The fact that this system is at the center of so many interactions between other systems makes it critical that a careful, detailed plan be created for its replacement. There is a strong probability that a key staff member with detailed knowledge of this system will retire in 5 years, and it is critical that we tap into her expertise for this project.

As you can see from the attached chart, the Criminal History Records Repository is the hub of numerous interconnected systems. The highlighted items indicate the work done for the recent AFIS upgrade. The Criminal History Records Repository system is a public safety mission critical system and the rewrite planning must include a review, and likely a rewrite, of the links to and from other interconnected systems. Every single interconnection the Criminal History system has with other systems must be reviewed to determine any needed changes. This part of the rewrite planning process is a huge undertaking.

A summary of the estimated system rewrite costs is attached.



# 2011-13 Biennium Criminal History Repository Rewrite Estimate

Item	Description	Amount (based on an estimated \$100 per hour)
Plan for repository replacement	Plan for the restructuring of the criminal history information to meet federal and state requirements. Plan for new federal rap sheet - Plan for state wide crime codes and statute tables Plan for addition of gun purchase indicators Plan for addition of domestic violence indicators Plan for addition of offender registration requirements	\$120,000
Plan for current interface replacement	The current interfaces between applications is designed around old technology talking to old technology or new technology talking to old technology – these will all need to be revisited for use of more modern methods of communications	\$20,000
Plan for automation of current manual processes	Plan for obtaining electronic arrest information where live scans are not implemented Plan for electronic submission of information from states attorneys and courts Plan for electronic information from and to Department of Corrections Plan for e-charging with fingerprint verification throughout the criminal justice process National Instant Check System – firearm sales	\$50,000
Plan for possible replacement of AFIS process	It is very costly and time-consuming to upgrade Automated Fingerprint Identification System (AFIS) with the vendor and two other states involved as well as ND. Would be it be more cost effective for us to have our own AFIS system and not be dependent upon the other states? The ability of technology and the costs of technology had proven in the past that this was not an option. Is that still true?	\$100,000
Replacement of Fingerprint Identification Transmission System	This is classified as a part of the repository but currently is a separate application that handles the funds and requests for state and federal record checks.	\$100,000
ITD Large Project Oversight and	ITD costs associated with this project. Project manager to assist AG project manager	\$60,000

April 2, 2011

## PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2003

Page 1, line 6, after the second semicolon insert "to provide legislative intent;"

Page 1, replace line 15 with:

"Salaries and wages	\$25,958,281	\$3,232,264	\$29,190,545"
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Page 2, replace line 1 with:

"Total all funds	\$50,862,653	\$7,205,409	\$58,068,062"
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Page 2, replace line 3 with:

"Total general fund	\$28,060,432	\$3,166,312	\$31,226,744"
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Page 5, after line 13, insert:

**"SECTION 10. PROJECT PLANNING AND IMPLEMENTATION.** The attorney general shall involve the information technology department in the study and planning of the criminal history repository replacement project, for the biennium beginning July 1, 2011, and ending June 30, 2013. The attorney general shall include information technology department architects in software development, computer systems, security and network on the project team responsible for the study and planning of the project and receive approval from the information technology department before proceeding with any study recommendations relating to the project.

**SECTION 11. LEGISLATIVE INTENT - EMPLOYEE POSITIONS PAID WITH FEDERAL FISCAL STIMULUS FUNDS.** It is the intent of the sixty-second legislative assembly that the attorney general's base budget for the 2013-15 biennium not include funding or full-time equivalent positions for employees paid for with federal fiscal stimulus funds during the 2011-13 biennium. The attorney general may request funding for these positions as optional requests in the agency's budget request for the 2013-15 biennium."

Renumber accordingly

## STATEMENT OF PURPOSE OF AMENDMENT:

## Senate Bill No. 2003 - Attorney General - House Action

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$29,573,339	\$29,573,339	(\$382,794)	\$29,190,545
Operating expenses	16,418,016	16,418,016		16,418,016
Capital assets	2,256,183	2,256,183		2,256,183
Grants	3,420,000	3,420,000		3,420,000
Litigation fees	50,000	50,000		50,000
Medical examinations	660,000	660,000		660,000
North Dakota Lottery	3,700,242	3,700,242		3,700,242
Arrest and return of fugitives	10,000	10,000		10,000
Gaming Commission	7,368	7,368		7,368
Federal stimulus funds	2,355,708	2,355,708		2,355,708
Total all funds	\$58,450,856	\$58,450,856	(\$382,794)	\$58,068,062



Less estimated income	26,841,318	26,841,318	0	26,841,318
General fund	\$31,609,538	\$31,609,538	(\$382,794)	\$31,226,744
FTE	202.50	202.50	0.00	202.50

**Department No. 125 - Attorney General - Detail of House Changes**

	Removes Funding for Equity and Reclassification for Technicians <sup>1</sup>	Removes Funding for Equity and Increases for Forensic Staff <sup>2</sup>	Total House Changes
Salaries and wages	(\$190,501)	(\$192,293)	(\$382,794)
Operating expenses			
Capital assets			
Grants			
Litigation fees			
Medical examinations			
North Dakota Lottery			
Arrest and return of fugitives			
Gaming Commission			
Federal stimulus funds			
Total all funds	(\$190,501)	(\$192,293)	(\$382,794)
Less estimated income	0	0	0
General fund	(\$190,501)	(\$192,293)	(\$382,794)
FTE	0.00	0.00	0.00

<sup>1</sup> This amendment removes funding included in the executive recommendation for position reclassifications and salary equity adjustments for identification technicians.

<sup>2</sup> This amendment removes funding included in the executive recommendation for forensic scientists for salary equity adjustments and salary increases upon employees receiving certification.

This amendment adds two sections relating to:

- The study and planning of the criminal history repository replacement information technology project.
- Legislative intent regarding employee positions paid for with federal stimulus funding during the 2011-13 biennium.

### **Bureau of Criminal Investigation (BCI) Identification Technician Grade Change**

During the 2009-11 biennium, all BCI identification technician position classifications were submitted to Human Resource Management Services (HRMS) for review. HRMS determined the grades associated with the identification technician positions at BCI needed to increase, some as much as three grades. To comply with this requirement this request is for \$190,501 in general fund authority for salary increases to cover these grade changes for the 14 identification technician positions, and was included in the Executive Recommendation and passed by the Senate.

- The Office submitted Position Information Questionnaires (PIQs) to HRMS for review on March 10, 2010.
- There were several contacts with HRMS throughout the process including an onsite visit in mid-May 2010.
- The Office received notice on June 26, 2010 that the HRMS review was complete and the class description had been finalized.
- PIQs for each employee were submitted in July 2010. Review and approval of each PIQ was completed on August 26, 2010.
- The Office received the grade change notification on September 24, 2010.
- **The identification technician salary increases were implemented retroactively to July 1, 2010.**

### **Crime Laboratory Salary Equity**

The forensic scientists' salaries must become competitive within the region. In May 2010, a Midwest Crime Laboratory salary survey was completed indicating that, out of the job classifications surveyed, the North Dakota Crime Lab forensic scientist series was 21% below the surveyed average market salaries. There are currently 3 staff members with over 10 years of state service still below the midpoint of their salary range and 3 staff members with over 20 years of state service still well below the salary range maximum. This \$105,401 general fund request will allow the division to provide a more competitive minimum starting salary and an equitable increase for scientists within the Crime Laboratory Division. The requested equity increase for Crime Lab forensic scientists is only 20% of the amount needed to bring these scientists salaries in line with the Midwest region average salaries and was included in the Executive Recommendation and passed by the Senate.

The increased salaries will help the Lab recruit and retain experienced scientists, thereby providing the best possible service to the law enforcement community.

### **Crime Laboratory Certification**

G:\Finance\Finadmin\Kathy\2011-13 Biennium Budget\Legislative\Senate Bills\2011 SB 2003 – Identification Technician Grade change, Crime Lab equity increase, Crime Lab certification increases. docx

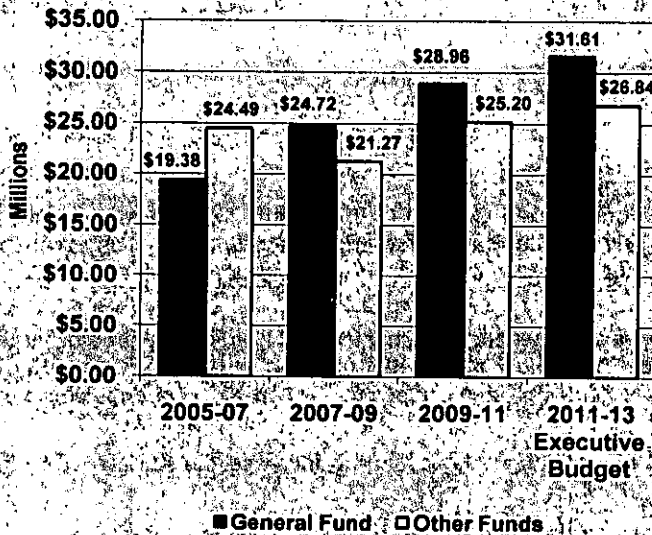
In light of the recent National Academy of Sciences Report, the Laboratory is requesting to begin a proactive approach for certification of forensic scientists in their respective disciplines. This modest increase in forensic scientists' salaries would be provided for scientists who take the initiative to study for and pass a nationally standardized certification test, for a total cost of \$86,892 from the general fund. It was included in the Executive Recommendation and passed by the Senate. The Office and law enforcement will benefit from forensic scientists certified in a particular discipline, which gives additional credibility to their court testimony. As a result, the whole criminal justice system benefits by having increased confidence in the results generated by a certified forensic scientist. A monthly salary increase of \$100 will be given after a forensic scientist becomes certified in their particular discipline.

**Department 125 - Attorney General  
Senate Bill No. 2003**

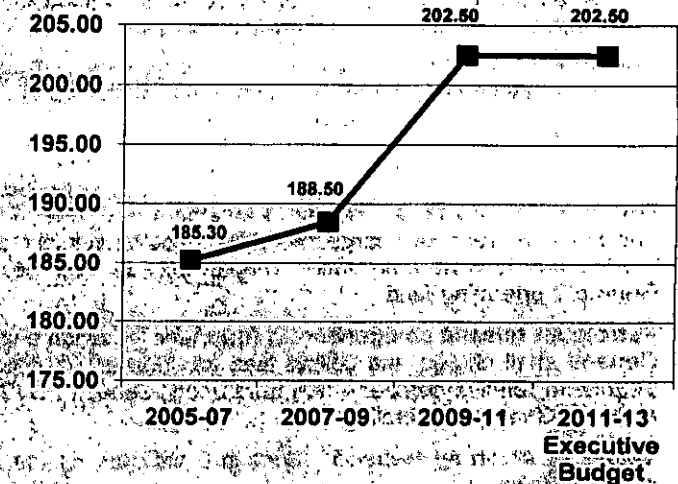
	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	202.50	\$31,609,538	\$26,841,318	\$58,450,856
2009-11 Legislative Appropriations	202.50	28,960,432	25,201,409	54,161,841 <sup>1</sup>
Increase (Decrease)	0.00	\$2,649,106	\$1,639,909	\$4,289,015

<sup>1</sup>The 2009-11 appropriation amounts include \$1,040,000, \$900,000 of which is from the general fund, for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees. The 2009-11 appropriation amounts do not include \$92,000 of additional general fund appropriations from the state contingencies appropriation and \$269,877 of additional special funds authority resulting from Emergency Commission action during the 2009-11 biennium.

**Agency Funding**



**FTE Positions**



**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2011-13 Executive Budget	\$31,297,138	\$312,400	\$31,609,538
2009-11 Legislative Appropriations	28,960,432	0	28,960,432
Increase (Decrease)	\$2,336,706	\$312,400	\$2,649,106

**First House Action**

Attached is a summary of first house changes.

**Executive Budget Highlights  
(With First House Changes in Bold)**

	General Fund	Other Funds	Total
1. Adds one-time funding for equipment and vehicle purchases	\$312,400		\$312,400
2. Adjusts funding relating to federal fiscal stimulus funding:			
Removes federal fiscal stimulus funding and 8 related FTE positions appropriated for the 2009-11 biennium		(\$1,346,556)	(\$1,346,556)
Adds one-time federal fiscal stimulus funding and 7 related FTE positions for the 2011-13 biennium for the justice assistance grant program (\$1,702,160 and 4 FTE positions), Internet Crimes Against Children Grant program (\$192,547 and 1 FTE position), Rural Law Enforcement Assistance Act funding (\$413,326 and 2 FTE positions), and compensation adjustments for the 7 FTE positions (\$47,675)		2,355,708	2,355,708

Adds funding from other federal funds for 1 FTE position that was previously paid with federal fiscal stimulus funds

106,019

106,019

Total

\$1,115,171

\$1,115,171

3. Adds funding for position reclassifications and salary adjustments

\$190,501

\$190,501

4. Adds one-time funding from the Attorney General's refund fund for rewrite planning for the criminal history system

\$450,000

\$450,000

5. Adds funding from federal funds (\$999,901) and the Attorney General's refund fund (\$178,000) for sexual offender registration kiosks and Crime Laboratory equipment

\$1,177,901

\$1,177,901

6. Increases funding for operating expenses

\$191,778

\$433,845

\$625,423

7. Adds federal funding for salary increases for temporary positions

\$352,000

\$352,000

8. Adds funding for forensic scientist salary equity adjustments and salary increases upon employees receiving certification

\$192,293

\$192,293

9. Adds funding from the Attorney General's refund fund for law enforcement computer application updates

\$900,000

\$900,000

10. Removes federal funding for hazardous materials and emergency preparedness grants to the State Fire Marshal from the Department of Emergency Services

(\$185,500)

(\$185,500)

### Other Sections in Bill

**Fire and tornado fees** - Section 4 creates a new section to North Dakota Century Code Chapter 18-01 providing that the Attorney General shall charge and collect fees for services provided by the State Fire Marshal program to entities covered by the fire and tornado fund under Chapter 26-1-22. All fees collected under this section must be deposited in the Attorney General's operating fund.

**Petroleum release compensation fund fees** - Section 5 creates a new section to Chapter 18-01 providing that the Attorney General shall charge and collect fees for services provided by the State Fire Marshal program to entities covered by the petroleum release compensation fund under Chapter 23-37. All fees collected under this section must be deposited in the Attorney General's operating fund.

**Salary of Attorney General** - Section 6 provides for the statutory changes necessary to increase the Attorney General's salary as follows:

Annual salary authorized by the 2009 Legislative Assembly

July 1, 2009	\$91,719
July 1, 2010	\$96,304
January 1, 2011	\$113,266
July 1, 2011	\$130,228

Proposed annual salary recommended in the 2011-13 executive budget

July 1, 2011	\$134,135
July 1, 2012	\$138,159

The executive budget recommendation provided funding for elected officials' salary increases equal to 3 percent of salaries effective July 1, 2011, and 3 percent effective July 1, 2012.

**Missing children database** - The Senate added a section to amend Section 12-60-25 to remove the requirement that the Attorney General create and maintain a statewide file system for lost, missing, or runaway children.

**Exemption - Refund fund** - The Senate added a section to allow the Attorney General to retain the balance in the refund fund that would otherwise be transferred to the general fund at the end of the biennium.

### Continuing Appropriations

**Assets forfeiture fund** - Section 54-12-14 - To pay costs related to law enforcement activities of the Attorney General's office.

**Lottery operating fund** - Section 53-12-1-06 - To pay costs of operating the lottery.

**Refund fund** - Section 54-12-18 - To pay costs of the Consumer Protection and Antitrust Division and the Gaming Division.

**Special operations team reimbursement fund** - Section 54-12-23 - To reimburse city and county governments that provide special operations team services to rural areas.

**Sobriety program fund** - Section 11 of Senate Bill No. 2003 (2007) - To establish a pilot sobriety program for one or more judicial districts for the 2007-09 biennium. The continuing appropriation is authorized for the 2007-09 biennium.

**Multijurisdictional Drug Task Force fund - Section 54-12-26** - To provide support for the narcotics enforcement efforts of the state.

### **Significant Audit Findings**

The financial statement audit of the North Dakota Lottery conducted by the State Auditor's office during the 2009-10 interim included a significant audit finding relating to confidential information of prize winners being included in e-mails that may not be 100 percent secure.

### **Major Related Legislation**

**Senate Bill No. 2042 - Charitable gaming taxes and allowable expenses** - Provides for the consolidation of the allowable expense limit from a graduated rate to a flat rate of 60 percent for all organizations and the consolidation of all gaming taxes into a flat rate of 1 percent of gross proceeds rather than a graduated tax on adjusted gross proceeds. This bill also increases from 3 percent to 10 percent the amount of the total taxes collected which is deposited into the gaming tax allocation fund (Judiciary Committee).

**Senate Bill No. 2070 - Fees** - Amends Section 4 of Chapter 3 of the 2009 Session Laws to provide increases in the amounts the Attorney General may collect for the 2009-11 biennium for services provided by the State Fire Marshal to entities covered by the fire and tornado fund and the petroleum release compensation fund.

ATTACH:1

# STATEMENT OF PURPOSE OF AMENDMENT:

## Senate Bill No. 2003 - Funding Summary

	Executive Budget	Senate Changes	Senate Version
Attorney General			
Salaries and wages	\$29,573,339		\$29,573,339
Operating expenses	16,418,016		16,418,016
Capital assets	2,256,183		2,256,183
Grants	3,420,000		3,420,000
Litigation fees	50,000		50,000
Medical examinations	660,000		660,000
North Dakota Lottery	3,700,242		3,700,242
Arrest and return of fugitives	10,000		10,000
Gaming Commission	7,368		7,368
Federal stimulus funds	2,355,708		2,355,708
Total all funds	\$58,450,856	\$0	\$58,450,856
Less estimated income	26,841,318	0	26,841,318
General fund	\$31,609,538	\$0	\$31,609,538
FTE	202.50	0.00	202.50
Bill Total			
Total all funds	\$58,450,856	\$0	\$58,450,856
Less estimated income	26,841,318	0	26,841,318
General fund	\$31,609,538	\$0	\$31,609,538
FTE	202.50	0.00	202.50

## Senate Bill No. 2003 - Attorney General - Senate Action

### This amendment:

- Amends Section 12-60-25 to remove the requirement that the Attorney General create and maintain a statewide file system for lost, missing, or runaway children and provides for an exchange of information relating to lost, missing, or runaway children through the National Crime Information Center.
- Amends Section 57-43.1-03.2 to allow the Tax Commissioner, rather than the Attorney General, to determine the amount of motor vehicle fuel tax and special fuel tax collections to deposit in the fuels tax refund reserve fund and the amount of funds necessary to meet expenditure requirements under Section 57-43.1-03.2.
- Adds a section as an emergency to allow the Attorney General to retain the balance in the refund fund that would otherwise be transferred to the general fund at the end of the biennium.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2003

Page 1, line 3, remove the third "and"

Page 1, line 4, replace "section" with "sections 12-60-25,"

Page 1, line 4, after "54-12-11" insert ", and 57-43.1-03.2"

Page 1, line 4, after "to" insert "missing children,"

Page 1, line 5, after "general" insert ", and refunds of tax for fuel purchased by native Americans; to provide an exemption; and to declare an emergency"

Page 2, after line 20, insert:

**"SECTION 4. AMENDMENT.** Section 12-60-25 of the North Dakota Century Code is amended and reenacted as follows:

**12-60-25. Lost, missing, or runaway children.**

The bureau shall:

1. ~~Establish and maintain a statewide file system for the purpose of effecting an immediate law enforcement response to reports of lost, missing, or runaway children.~~
2. Implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information that can assist appropriate agencies in recovering lost, missing, or runaway children through the national crime information center.
- 3.2. Establish contacts and exchange information regarding lost, missing, or runaway children with the national crime information center.
- 4.3. Notify all enforcement agencies that reports of lost, missing, or runaway children must be entered as soon as the minimum level of data specified by the bureau is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the bureau immediately upon notification shall enter the information into the national crime information center file.
- 5.4. Compile and retain information regarding lost, missing, or runaway children ~~in a separate file,~~ in a manner that allows the information to be used by law enforcement and other agencies, considered appropriate by the bureau, for investigative purposes. The reporting law enforcement agency is responsible for maintaining the disposition of the case and ~~periodically shall review the case with the reporting party and the bureau to ensure all available information is included and to determine the current status of the case.~~



- 6.5. Provide prompt confirmation of the receipt and entry of lost, missing, or runaway children reports ~~into the file system~~ to the enforcement agency providing the report or to the parent, guardian, or identified family member as provided in subsection 76.
- 7.6. Allow any parent, guardian, or identified family member to submit a lost, missing, or runaway child report to the bureau which will be ~~included in the bureau file system and~~ transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.
- 8.7. Compile and maintain a historical ~~data repository~~ information relating to lost, missing, or runaway children for all of the following purposes:
- To develop and improve techniques utilized by law enforcement agencies when responding to reports of lost, missing, or runaway children.
  - To provide a factual and statistical base for research which would address the problem of lost, missing, or runaway children."

Page 3, after line 10, insert:

**"SECTION 8. AMENDMENT.** Section 57-43.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.1-03.2. Refund of tax for fuel purchased by native Americans - Fuels tax refund reserve fund - Continuing appropriation.**

1. A native American may file a claim with the tax commissioner for a refund of motor vehicle fuel taxes paid by that person under this chapter or special fuel taxes paid under chapter 57-43.2 if the motor vehicle fuel or special fuel was purchased from a retail fuel dealer located on the Indian reservation where the native American is an enrolled member and the fuel was delivered to the native American on that reservation. The refund provisions of this chapter apply to refund claims made under this section.
2. A fuels tax refund reserve fund is created as a special fund in the state treasury. The tax commissioner shall deposit in that fund such amounts from motor vehicle fuel tax and special fuel tax collections as ~~the attorney general determines~~ necessary to be expended for refunds to which native American government entities may be entitled under qualifying circumstances and conditions determined by the attorney general. There is appropriated as a continuing appropriation out of funds set aside under this subsection so much of the funds as ~~the attorney general determines~~ is necessary to meet the expenditures authorized under this subsection and such funds may be expended for that purpose.

**SECTION 9. ATTORNEY GENERAL REFUND FUND TRANSFER TO THE GENERAL FUND - EXEMPTION.** 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, 2011.

**SECTION 10. EMERGENCY.** Section 9 of this Act is declared to be an emergency measure."

Renumber accordingly