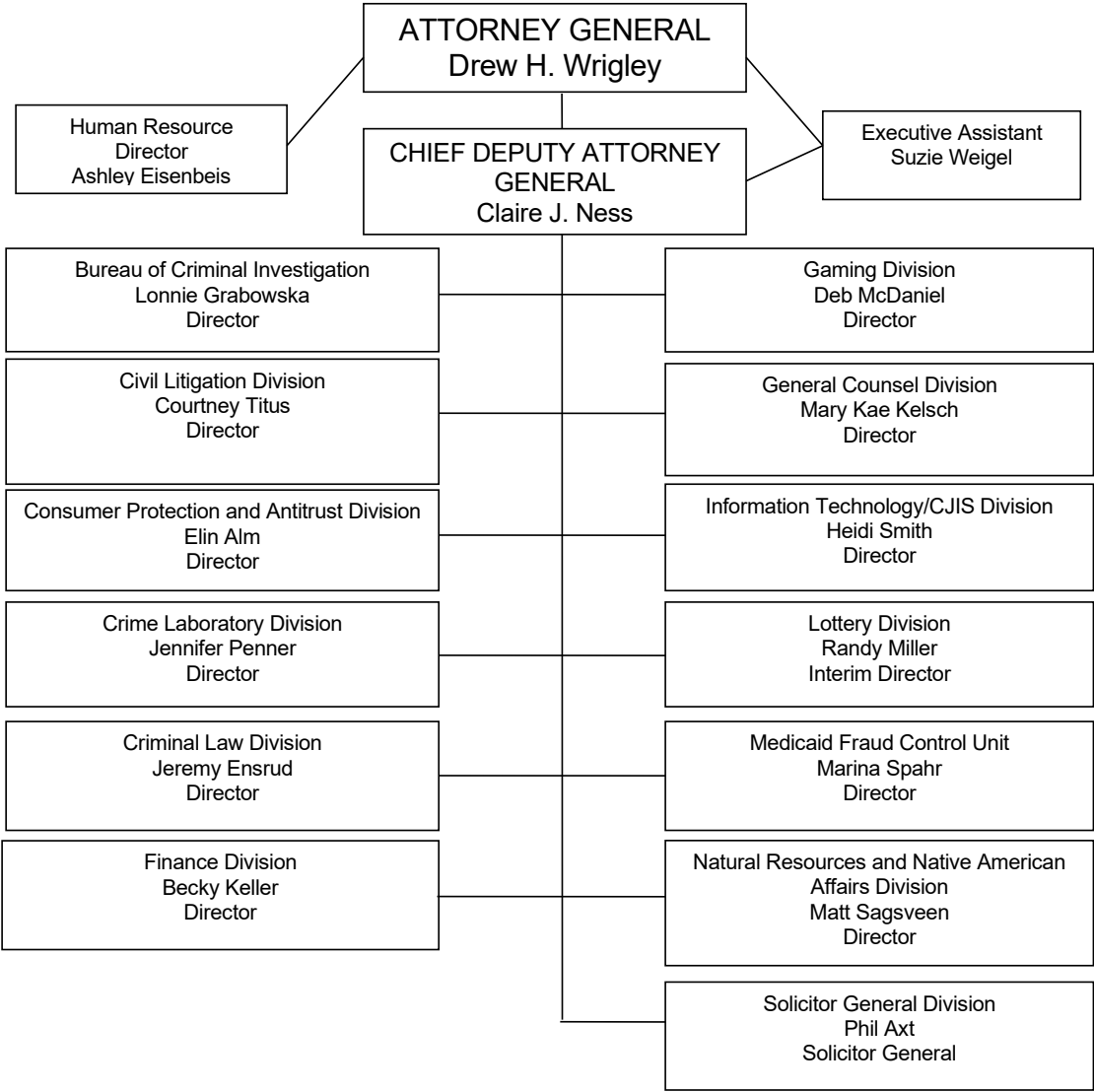


NORTH DAKOTA OFFICE OF THE ATTORNEY GENERAL

2025-27 BIENNIUM
69TH LEGISLATIVE SESSION

BUDGET PRESENTATION
SUPPLEMENTARY MATERIALS

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
March 2025



BUDGET DEVELOPMENT

Process for developing the 2025-27 budget request:

- ❖ Review of current budget
- ❖ Analysis of evolving responsibilities
- ❖ Division directors' input and meetings
- ❖ Prioritization of needs

OPTIONAL REQUESTS

1. Cost to Continue Salaries

- This will allow the OAG to fund the second year of legislatively authorized annual raises and equity-funded raises as well as employer-paid retirement increases into the 2025-27 biennium.
- OAG raises were based on employee performance metrics.
 - The annual raises averaged 4% and 6% but were allocated based on individual performance.
 - Equity funding was allocated:
 - To attorneys to establish the merit-based pay system; and
 - To other staff whose salaries diverged the most from where they should be based on performance and experience.

OPTIONAL REQUESTS

2(a). Attorney Equity

Thank you for appropriating the first step in our equity pay initiative in 2023.

- Our merit-based pay system was initiated successfully.
- Salaries, especially for newer attorneys, were increased but remain below many other public entities.
- For example:
 - Assistant States Attorneys:
 - Can earn \$155,000.
 - With 2 years' legal experience can earn \$110,000 or more.
 - With 0 legal experience can earn \$100,000 or more.
 - State court staff attorneys can earn \$109,000 or more with 2 years' experience and up to \$150,000.
 - DOCR, DOT, and other state agency attorneys earn more than several of our Division Directors.
- Recruitment, especially for our Criminal Law and Solicitor General Divisions, is difficult in this competitive market.

Our proposed package would:

- Let us continue progress on our merit-based pay system;
- Improve recruitment and retention; and
- Reduce turnover costs and loss of legal expertise for the state.

OPTIONAL REQUESTS (con't)

2(b). Staff Equity Package

- Office leadership evaluated the salaries of non-attorney staff paid less than 90% of the midpoints of their HRMS pay grades.
- Division Directors provided input regarding those staff members' performance and experience.
- Our proposed package would allow the office to remedy salaries that diverge the most from where they should be.

OPTIONAL REQUESTS (con't)

3. Funding Source Changes

- Starting in 2019, the Legislative Assembly began funding salary increases for BCI and the Crime Lab through the OAG refund fund. Starting in 2021, the Legislative Assembly funded operating expenses for BCI and IT/CJIS through the refund fund.
- Each session since 2019, the Appropriations Committees have noted the Legislative Assembly eventually will need to change the funding source to a reliable fund for these appropriations.
- These appropriations now equal almost \$2.8 million per biennium, and the refund fund cannot maintain the expenditures.
 - Deposits into the refund fund are inconsistent and not predictable.
 - Large litigation awards that would otherwise be deposited into the refund fund have routinely been appropriated to other agencies.
 - Many settlement dollars in the refund fund are restricted to other uses.

OPTIONAL REQUESTS (con't)

4. IT Systems Replacement, Maintenance, and Rate Increases

- Switch replacement – The switches handle communications between servers and shared storage and are critical pieces of our information systems. The current network switches are so old we can no longer obtain maintenance or support for them.
- Octopus Deploy – This is necessary for us to deploy custom-developed applications. Without it, we cannot deploy updates, fixes, changes, or new systems. This request is for the increase in cost of Octopus Deploy.
- E-Prosecutor System – This is our document management system, and we provide it to 34 State's Attorneys' Offices around the state at no charge. The system also provides an important interface with law enforcement agencies and courts, allowing smooth communications and filings throughout the criminal justice system. The vendor will discontinue the current system (JustWare) in 2025, and E-Prosecutor will be the replacement system. This funding will pay for the increased maintenance and support costs.
- Jail Management System – Similar to the E-Prosecutor System, we provide a jail management system to 7 county jails around the state. The current system (Premier One) will no longer be supported by its vendor in 2027. The funding will allow us to procure a replacement system.
- NDIT Rate Increases – State law requires us to use some NDIT services and connect to some NDIT systems. We have to pay NDIT rates for those services, and the rates increase each biennium. OMB factored in some – but not all – of the increases in Governor Burgum's budget. This funding would make up the difference between the budgeted amount and what the increases are expected to equal.

OPTIONAL REQUESTS (con't)

5. Statewide Automated Victim Information and Notification System (SAVIN) Replacement

- We maintain SAVIN pursuant to N.D.C.C. § 12.1-34-06.
 - SAVIN allows crime victims to register for alerts when their offenders are released, escape, have scheduled court proceedings, have parole reviews, or other status changes.
 - SAVIN is critically important to victims and an important resource for their safety and peace of mind.
 - SAVIN helps criminal justice agencies fulfill their obligations under N.D.C.C. Ch. 12.1-34 and Art. 1, Sec. 25 of the North Dakota Constitution.
- SAVIN is powered by the VINE system. The VINE system was purchased by a credit reporting agency 2 years ago. The new owner does not support the system sufficiently to keep it operating at an appropriate level. Critical problems go unresolved for months, despite the diligent and determined efforts of our staff.
- A new system is required to meet the needs of crime victims and to satisfy the legal requirements of our office and the criminal justice system.

OPTIONAL REQUESTS (con't)

6. Printer and Computer Replacement, Subscription, and Storage

- This request is to fund the increased costs for software and hardware used by multiple divisions of the office including:
 - High-capacity printer for IDs;
 - High-capacity laptops for BCI agents and other laptops for office employees;
 - Servers; and
 - Various software used for day-to-day work.
- Funding for the replacement of servers (on the scheduled rotation of four servers per biennium) is included in our base budget, but the replacement cost increased since the amount in our base budget was calculated. The increase is included in this request.

OPTIONAL REQUESTS (con't)

7. Crime Lab Supplies and Maintenance Agreements

- This request will cover inflationary increases in lab supply costs, costs of new maintenance agreements, and inflationary increases in maintenance agreement costs.
- Costs of consumable lab supplies have risen approximately 15 percent over the past 2 years.
- Maintenance agreements are critical cost-saving and productivity measures for the Crime Lab.
 - One piece of equipment for the Crime Lab may cost \$500,000 or more.
 - A maintenance agreement ensures the vendor will maintain, service, and repair the equipment for a period of years at a set cost.
 - Without the agreement, a vendor will de-prioritize our service requests and charge for travel, parts, labor, and other fees each time a piece of equipment needs service.
 - Each service visit can cost \$1000s.
 - Maintenance agreements reduce down time for the equipment (and staff), prevent backlogs, prolong the life of the equipment, and are by far the most cost-effective way to get service.

OPTIONAL REQUESTS (con't)

8. Crime Lab Equipment

- The Crime Lab needs additional equipment to manage workloads and replace aging equipment, including equipment that is no longer covered under maintenance agreements due to age.
 - 2 Gas Chromatography Mass Spectrometry (GCMS) instruments for Forensic Chemistry
 - 3 water purification units for Toxicology and Latent Prints
 - 4 alternate light sources for DNA
 - 2 thermal cycler units for DNA
 - 2 hydrogen generators for Toxicology
 - 1 temperature monitoring system for the whole Crime Lab

OPTIONAL REQUESTS (con't)

9. Crime Lab Evidence Technician and Quality Assurance (QA) Manager

➤ Evidence Technician

- This FTE intakes evidence from law enforcement officers.
- Currently there is 1 FTE.
 - There were 4 FTEs prior to 2017.
- This is a bottleneck and significant source of frustration for law enforcement around the state.
- There is no backup if the current FTE is out sick or unavailable.

➤ QA Manager

- The Crime Lab has extensive accreditation requirements, inspections, procedure manuals, policies, training systems, and documentation requirements that require a QA Manager.
- Currently there is no FTE for this position.
- QA duties are performed part-time by a DNA analyst.

OPTIONAL REQUESTS (con't)

10. Executive Staff Officer

- The OAG has no communications personnel.
- The volume of internal and external communications is extremely high, and we have a responsibility to respond timely and accurately to the public, legislators, executive branch officials, law enforcement agencies, and others.
- The OAG website contains important legal, public safety, and consumer protection news and information.
- This FTE will:
 - Manage and respond to inquiries and requests, including requests for opinions;
 - Ensure the website is updated timely with critical information;
 - Assist with responses to open records requests; and
 - Coordinate internal communications and office-wide responses to inquiries.

OPTIONAL REQUESTS (con't)

11. Medicaid Fraud Control Unit (MFCU) Attorney

- MFCU is funded 75% with federal funds and 25% with state funds.
- The state investment in a MFCU attorney results in an increase of state funds.
 - With the MFCU Director as the only attorney in the unit until September 2024, MFCU recovered at least \$364,000 this biennium, just through January 2025.
 - In total, for every dollar expended on it, ND MFCU recovered \$3.68 (above the national average).
 - Estimates suggest that, through deterrence, MFCU saves 2-10 times the amount of money recovered.
 - MFCU stops the flow of state money to fraudulent schemes.
- MFCU attorneys protect vulnerable North Dakotans being abused or neglected by fraudulent Medicaid providers.
- MFCU educates and works with providers, such as nursing homes, to improve patient care.
- Each year, many cases referred to MFCU cannot be pursued due to a lack of attorneys.

OPTIONAL REQUESTS (con't)

12. Operating Cost Increases

➤ Inflation and increased workloads, especially for attorneys and BCI agents, resulted in increased needs for the following:

- | | |
|---------------------------|----------|
| • Rent increases | \$89,845 |
| • Expert witness fees | \$20,000 |
| • Travel | \$10,000 |
| • Fuel for BCI vehicles | \$22,000 |
| • Supplies for BCI agents | \$63,000 |

OPTIONAL REQUESTS (con't)

13. Litigation Pool (\$8 million)

- The litigation pool serves a critical function for the state, and the need for litigation funded by the pool will continue to increase.
- Last year the pool had \$5 million, and we received emergency authority to use an additional \$3 million from our operating line.
- The litigation pool covers:
 - Defense of several state statutes;
 - Protection of the state's interests against federal agencies' regulatory overreach, especially regarding:
 - Constitutional limitations on federal power;
 - The state's energy and agriculture industries; and
 - Individual constitutional rights;
 - Litigation costs incurred by several state agencies, boards, and commissions; and
 - Participation in multi-state litigation on behalf of the people of North Dakota.

OPTIONAL REQUESTS (con't)

14. Finance Division Administrative Assistant

- This FTE will assist both the licensing and procurement functions in the Finance Division.
- Licensing demands increased significantly, especially with the increase in e-Tab gaming.
 - OAG licenses many types of alcohol establishments in which e-Tabs are played.
 - Several legislators have asked about turnaround times for these licenses.
 - Turnaround times will be reduced by an Administrative Assistant working part-time for the 2 FTEs in licensing.
- State procurement processes and requirements have become much more complicated and time-consuming and apply to more purchases than in the past.
 - OAG has just 1 FTE to handle procurement for 14 divisions.
 - BCI alone has extremely high procurement needs.
 - The part-time assistance of an Administrative Assistant is a critical need for procurement.

OPTIONAL REQUESTS (con't)

15. BCI Agent Training

- Each year, up to 2 BCI agents may be admitted to the National Forensic Academy (NFA), an intensive, 400-hour training program on crime scene processing and forensic investigation that:
 - Provides unique field experience and classroom instruction by national experts;
 - Improves agents' abilities to collect, identify, preserve, and analyze evidence; and
 - Improves public safety by significantly elevating agents' skillsets.
- BCI's goal is to have 60% of field agents complete NFA training. Currently, 37% have completed it.

OPTIONAL REQUESTS (con't)

16. Employee Reclassification from Paralegal to Attorney

- The Consumer Protection and Antitrust Division (CPAT) has approximately 100 open complaints and dozens of open investigative and legal files at any time.
 - Completion of these files requires significant attorney time.
- CPAT is engaged in many multistate, consumer protection lawsuits against large national or international companies armed with an array of law firms.
 - Many responsibilities in these cases require an attorney.
 - The formulas used to allocate financial compensation in these cases are increasingly based on the number of hours each state puts into the cases. More attorney time results in more money paid to the state.
- Reclassification of this FTE will help CPAT manage its workload and increase North Dakota's ability to participate in – and collect greater financial compensation in – multistate litigation to protect our consumers.

OPTIONAL REQUESTS (con't)

17. Victim Witness Advocates

- Two victim witness advocates (one in Fargo, one in Dickinson) fill temporary positions and provide services throughout the state.
- This request is to make the positions FTEs.
- Victim witness advocates serve a mission-enhancing role in law enforcement by:
 - Notifying and explaining court proceedings to victims and families;
 - Acting as a liaison between victims and law enforcement and other court staff;
 - Participating as an active member of multi-disciplinary teams;
 - Training law enforcement and the general public of victims' needs and concerns; and
 - Participating in child forensic interviews and assist victims, families, and staff when a child is a crime victim.

OPTIONAL REQUESTS (con't)

18. Cyber Crime Administrative Assistant

- The number of cyber crime agents in the field has increased, and the number of cyber crime cases has dramatically grown over several years.
- Cases have become more complex and involve more voluminous reports.
- BCI's information processing section, which produces reports, can no longer maintain acceptable turnaround times, hampering time-sensitive investigations.
 - At any time, there are 150-200 reports waiting for work.
 - This affects BCI agents' ability to present reports to prosecutors for decisions whether to charge sexual offenders, drug traffickers, child pornographers, and other criminals.

OPTIONAL REQUESTS (con't)

19. State and Local Intelligence Center (SLIC) Criminal Investigator (BCI Agent)

➤ SLIC requires a BCI agent to:

- Become a member of the FBI's Joint Terrorism Task Force Initiative, which would allow the agent to access some top secret information regarding foreign actors in the state;
- Support the Cass Clay Threat Assessment Threat Management Team created by Sheriff Jesse Jahner to target dangerous individuals and groups in the eastern part of the state; and
- Conduct intelligence gathering and other activities to support SLIC and work with federal and state law enforcement partners.

OPTIONAL REQUESTS (con't)

20. Tribal Field Agents' Administrative Assistant and Sex Offender Registration Administrative Assistant

- The Legislative Assembly appropriated 3 tribal field agents for BCI in 2023. Those agents rely on the information processing section discussed in Request 18 to produce their reports.
- OAG is responsible for staffing the Sex Offender Risk Assessment Committee and maintaining the sex offender registry.
 - The state has 1800 registered sex offenders with more than 12 new registrants per month on average.
 - Each new registration requires a large volume of exacting work.
 - Each existing registration requires careful maintenance and updates up to 4 times per year.
 - Homeless sex offenders must register every 3 days.
 - BCI processes about 900 registration forms each month.

OPTIONAL REQUESTS (con't)

21. Discovery and Redaction Software

- Software that will facilitate legal discovery and redaction has become an essential tool for attorneys.
- Legal discovery is very resource-intensive, and well-funded litigants with many attorneys try to “drown” state attorneys in documents.
 - Discovery and redaction software evens the playing field by sorting, reviewing, analyzing, and classifying large volumes of documents produced by litigants.
 - The software also saves state resources and makes staff more efficient by allowing attorneys to devote their time to other essential tasks.
- The software also will assist OAG staff in identifying, reviewing, and redacting open records requested from this office.
 - This will reduce our response turnaround times.

OPTIONAL REQUESTS (con't)

22. Portable Handheld Dual Band Radios

- Portable handheld dual band radios for BCI agents need to be updated due to the new state radio system.
- These radios are essential to maintain communications in the field among multijurisdictional team members conducting operations.
 - Without reliable and interoperative communication equipment:
 - Law enforcement officers face considerable safety risks; and
 - Public safety is jeopardized.

OPTIONAL REQUESTS (con't)

23. BCI Undercover Vehicle Replacement

- BCI has a 6-year replacement cycle for undercover vehicles, based on actuarial assessments.
- When possible, federal funds or other funds are used to pay for the vehicles.
- 53 of the vehicles are funded by the general fund.
- The net price of each vehicle after trade-in and with a six-year warranty is \$33,000.

OPTIONAL REQUESTS (con't)

24. PACER/WestLaw/Quickbooks/OSINT Scraping Tool

- The costs for PACER and WestLaw have increased due to inflation.
 - PACER – This is the only way our legal divisions can access federal court filing systems. Without it, OAG can not file and access briefs in federal courts.
 - WestLaw – This is the legal research system for our legal divisions and is necessary for their day-to-day work.
- Quickbooks – This will help the Gaming and Finance Divisions audit charitable gaming organizations' tax returns.
- OSINT Scraping Tool – This will allow BCI to collect and analyze information from overt sources and publicly available information to produce actionable intelligence.

OPTIONAL REQUESTS (con't)

25. Tobacco Tax Settlement Compliance Auditor

- North Dakota generally receives more than \$20 million per year through the multistate Master Settlement Agreement (MSA) with several tobacco manufacturers.
- The MSA requires each state signatory to “diligently enforce” its provisions.
 - The meaning of “diligently enforce” has evolved due to litigation, and states have had to increase their enforcement efforts to stay in compliance with the MSA.
 - Failure to stay in compliance can result in the loss of MSA funds.
 - This FTE could conduct or oversee more frequent audits and inspections to ensure the state meets the courts’ requirements for diligently enforcing the MSA.
- This FTE would not be funded from the general fund.
 - The bill has a provision for this to be paid by the fee from the electronic smoking device manufacturers, but the fee needs to be increased to cover the cost.
 - Alternatively, a transfer from the Tobacco Settlement Fund for this FTE to supplement the fees would be a prudent investment in the MSA settlement dollars for North Dakota.

OPTIONAL REQUESTS (con't)

26. BCI's Fargo Cyber Office Remodel

- BCI works with other law enforcement agencies in and around Fargo to investigate cyber crimes, including those against children, and the Fargo office serves as a regional center for these investigations.
- These investigations involve digital forensic analysis of seized electronic devices.
- The Fargo office lacks the necessary screened forensic lab space for these investigations.
- This request will allow BCI to use modular work surfaces for up to six forensic labs to meet the demands of the continually expanding number of child exploitation and drug trafficking investigations.

OPTIONAL REQUESTS (con't)

27. 3 BCI Tribal Field Agents

- In 2023, the Legislative Assembly appropriated 3 of 6 requested FTEs for BCI agents to start multijurisdictional units near reservations to combat drug trafficking on and around tribal lands.
 - Several appropriators recommended that BCI request the other 3 FTEs this year.
- OAG successfully obtained the appropriate tribal and federal authority to conduct operations on the lands of the Spirit Lake Nation, The Turtle Mountain Band of Chippewa Indians, and the Mandan, Hidatsa, and Arikara Nation. BCI is continuing to work with the Standing Rock Sioux Tribe for the same authorization.
- The 3 FTEs granted in 2023 are actively serving tribal nations, and a new multijurisdictional task force is already established in Rolla to serve the nearby tribal lands.

OPTIONAL REQUESTS (con't)

28. Crime Lab Overtime

- Crime Lab personnel have worked significant overtime hours this biennium to ensure evidence is tested as timely as possible, in preparation for criminal investigations and trials.
- The overtime is funded by a federal grant called the DNA Capacity Enhancement for Backlog Reduction Grant.
- This request is for authority to expend the federal grant funds.

OPTIONAL REQUESTS (con't)

29. Restore 3 Percent Reduction

- In the previous Governor's budget, there was a 3% overall cut in agency funds. This request is to restore those funds.

OTHER BILLS WITH UNACCOUNTED FISCAL IMPACTS

Reengrossed SB 2029 – estimated \$1.9 million not funded / no FTEs

- OAG serves as legal counsel to new Office of Guardianship in any investigation or proceeding;
- OAG defends any Office of Guardianship employee or member of the Board
- BCI has primary responsibility to investigate criminal cases related to guardianship or conservatorship in ND
- 4 BCI agents and 1 prosecutor are needed but were taken out of the policy bill
- Appropriations indicated FTEs should be put into OAG's budget instead

Engrossed SB 2292 – appropriation for sexual assault survivor services removed

- Funding source change for sexual assault survivor services
 - Forensic medical exams and children's forensic interviews
- Historically have been funded from insurance reserve fund
- Funds are appropriated to OAG to distribute reimbursements to exam/interview providers
- This bill changes the source to the general fund but removes the appropriation to OAG

Several other bills that increase OAG duties with no new funding or FTEs

Thank You