

Claire Ness
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HB 1003

2025-27 BUDGET

Office of Attorney General
State of North Dakota

Drew H. Wrigley
Attorney General

**For the Government Operations
Division of the Senate
Appropriations Committee**

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INTRODUCTION

Office of Attorney General

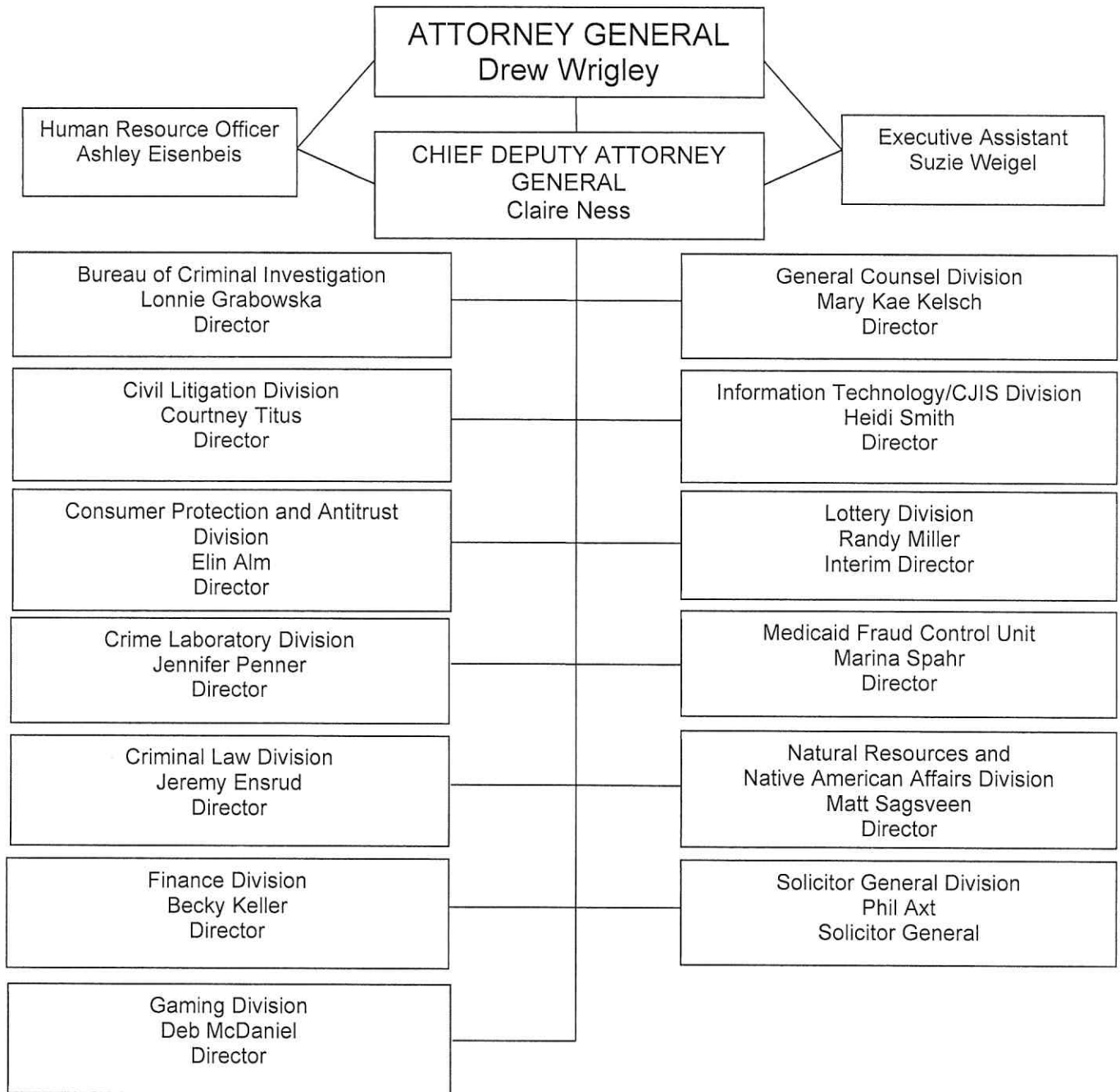
The Office of Attorney General protects and defends the interests of the citizens of North Dakota by executing the responsibilities charged to the Attorney General by the North Dakota Constitution, state statutes and administrative rules, state and federal case law, and common law. The Attorney General is the chief legal counsel for the State of North Dakota and provides legal representation to all parts of state government, including the Governor and other elected officials, the Legislative Assembly, and all state departments, agencies, boards, and commissions. The Attorney General also defends the constitutionality of state statutes passed by the Legislative Assembly and signed by the Governor.

In addition, the Attorney General has authority to act on behalf of the state in areas including criminal investigations; arrests and law enforcement; sex offender risk assessment and registrations; Medicaid fraud control; criminal evidence examination and testimony; consumer protection and antitrust enforcement; and the administration, regulation, and enforcement of charitable gaming and lottery activity.

The office consists of 14 divisions:

- Administration
- Bureau of Criminal Investigation (BCI)
- Civil Litigation
- Consumer Protection and Antitrust (CPAT)
- Crime Laboratory
- Criminal Law
- Finance
- Gaming
- General Counsel
- Information Technology (IT) and Criminal Justice Information Sharing (CJIS)
- Lottery
- Medicaid Fraud Control Unit (MFCU)
- Natural Resources and Native American Affairs, and
- Solicitor General

NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL
January 2025



CURRENT AND FUTURE CRITICAL ISSUES

RECRUITMENT, RETENTION, AND SALARIES

The Attorney General's office continues to struggle with structurally engrained salary equity issues. As a result, the office is at significant disadvantage for recruitment and retention of qualified staff across several divisions. The legal divisions and IT/CJIS, in particular, struggle to fill and maintain positions because the salaries the office can offer are not competitive with other state or local government agencies' salaries and salaries offered by nongovernment entities. Legal cases are becoming more complicated and, coupled with increased workloads and demand for services in these divisions, existing staff are feeling the strain. For many years, the Attorney General's office has been forced to secure millions of dollars to hire outside counsel to meet the legal needs of the state. Several nonlawyer positions also have been historically underpaid, and this Office is seeking equity funding for staff who fall below 90 percent of the midpoint their paygrade, provided they are not new to the paygrade and are demonstrating good performance.

In its 2023-25 budget request, the office has requested salary equity funding and several FTE positions to address these issues. The Legislative Assembly graciously appropriated equity funds for legal positions, allowing the office to implement a merit-based pay structure for attorneys. Not only did this provide additional salary funding for attorneys whose salaries were significantly below what they should have earned based on their experience and skills, it also provided attorneys in the office – for the first time in decades – an opportunity for career advancement. To encourage retention and continue to reward merit, the office is seeking additional equity for attorneys.

Moreover, this investment by the Legislative Assembly in legal salaries has been a smart investment of state resources. For non-MFCU attorneys, the cost per year per attorney was \$200,410. The net savings per year per non-MFCU attorney was \$359,000 - \$1,535,690. For a full biennium, this will amount to \$2,154,000 - \$9,214,140, in state savings for the 3 non-MFCU attorneys.

The savings for the MFCU attorney FTE granted by the Legislative Assembly in 2023 are harder to quantify but likely more significant. As 75 percent of the costs of that FTE being paid by federal funds, the state investment in the FTE for a biennium is \$40,570. Due to the difficulty of recruiting a specialized attorney for MFCU, the attorney was hired in the fall of 2024. However, with only one attorney, who also was the Unit Director and responsible for many more duties, MFCU recovered at least \$364,000 so far this biennium. Having a second attorney has made MFCU even more efficient and able to handle and finalize more cases. This is expected to significantly increase MFCU's ability to recover Medicaid funds that have been obtained fraudulently, deter Medicaid fraud, and stop ongoing Medicaid fraud.

Employees in the IT/CJIS division have some of the most marketable skill sets in state government and are widely recruited by other state agencies and the private sector, both of which can offer higher salaries. IT/CJIS staff work with sensitive and confidential law enforcement information and provide services to the criminal justice system throughout the state. For obvious reasons, they need to work on

site in office locations despite other types of IT positions offering work-from-home or remote work opportunities. ND ITD and Legislative Council are two state agencies able to pay significantly higher IT salaries than the AG office, leading to inefficient turnover and down time. To compete for and retain talented employees, the Office needs to address the salary inequities that exist in this division.

CRIME LABORATORY INTAKE AND SPACE

During meetings with law enforcement officers around the state, many of them expressed concerns about the difficulty of delivering evidence to the Crime Laboratory. The laboratory currently has only one Evidence Technician who can intake evidence. When multiple agencies from around the state deliver evidence for testing at the same time, the inability to have multiple intake personnel is a problematic bottleneck. The office is seeking an FTE for an additional Evidence Technician to correct this issue.

In 2023, many legislators recognized the Crime Laboratory is extremely tight on space. The Legislative Assembly provided funding for additional cubicles, which were installed in the receptionist area, and for an architect study to identify the space needs of the Crime Laboratory. The legislatively directed study was completed, and the architects presented their study process and final report to the interim Government Services Committee in September 2024.

The report identified options for providing the critical space needed for Crime Lab employees to continue serving law enforcement agencies through North Dakota. The current lab was built for 16 employees and has 19,508 square feet. There are now 31 Crime Lab employees, and the study architects calculated they require 52,000 square feet or more to accommodate current and future state needs.

STATUS OF AUDIT FINDINGS

During the operational audit of the office for the period ending June 30, 2022, the State Auditor's office identified one finding relating to the use of expired or unapproved gas standards canisters for breath alcohol toxicology results. The office has begun the replacement of Intoxilyzer 8000s with Intoxilyzer 9000s. The 9000s are capable of preventing operators from performing tests with expired gas standard canisters. Through September 2024, the Office has purchased ninety-one 9000s. The Office anticipates the 9000s will be fully validated and operational within the next year.

STATUS OF 2023-25 BIENNIUM ONE-TIME APPROPRIATIONS

BCI, Crime Laboratory, and Gaming Division inflationary increases

These funds have been allocated and will be spent throughout the biennium. The office has requested inflationary increases in the 2025-27 budget request on an ongoing basis.

Staff operating and equipment costs

These funds have been spent on office equipment and furniture, software licenses, firearms, body armor, and computer equipment for staff.

Statewide Litigation Funding Pool

The 2023 legislative assembly provided \$5 million for the pool. In September 2024, the office estimated only \$971,000 would be remaining in the fund for the remainder of the biennium. The Budget Section approved an Emergency Commission request in September to transfer \$3.0 million from the office's operating line to the Litigation Pool line in case additional funds were needed. Through February 2025, \$4.6 million has been spent from the litigation pool.

Anti-methamphetamine Grant (CAMP)

Of the \$2.0 million CAMP grant award, \$622,466 was spent in the 2021-23 biennium. Through February 2025, an additional \$506,686 has been spent leaving \$870,848 for the remainder of the 2023-25 biennium. Some procurements are in process and expected to be completed before the end of the biennium. It is anticipated the office will request carryover authority for any unspent appropriation.

Crime Laboratory Capital Improvements

The office has spent \$224,496.48 of the \$250,000 appropriation throughout ~~the biennium~~ February 2025. As noted in the previous section, the money was expended on a legislative mandated architect study of the Crime Laboratory space and cubicles for Crime Laboratory staff. The contracted architect firm presented on the study and the final study report to the interim Government Services committee in September 2024.

Crime Laboratory Capital Assets

Of the \$2.2 million dollar appropriation for crime lab capital assets, \$1.6 million has been spent through February 2025. The office anticipates spending the remaining funds throughout the remainder of the biennium.

Gaming, Licensing, and Deposit Software

Of the \$876,000 appropriation, \$349,591 has been spent through February 2025. Further work will be completed throughout the remainder of the biennium. It is anticipated the office will request carryover authority for any unspent appropriation.

Gaming and CPAT vehicles

The vehicles have been purchased.

Undercover Vehicles

Through December 2024, seven of the ten undercover vehicles have been purchased. The remaining three vehicles will be purchased by the end of the 2023-25 biennium.

Law Enforcement Resiliency Grant

These funds have been allocated.

Domestic Violence Forensic Medical Examination Grant

These funds have been allocated.

Back the Blue Grant

These funds have been allocated.

Law Enforcement Staffing Grant

These funds have been allocated.

**2025-27 BIENNIUM ONE-TIME
APPROPRIATION REQUESTS**

Switch Replacement - \$32,000

The existing network switches were purchased in May of 2017 (7 years old) and only support 10 GB connections. The IT division no longer has maintenance and support on those switches. It's critical to get these updated with current technology and get them under maintenance again so that the division can get support and updates from the vendor. These switches handle the communication between our servers and shared storage. **The House provided this funding.**

Jail Management System Replacement - \$650,000

ND CJIS provides a jail management system for seven county jails in ND. The current jail management system is the Premier One system. This system will not be supported by Motorola upon the contract expiring in 2027. This funding will replace the jail management system for those county jails. **The House provided this funding.**

Statewide Automated Victim Information and Notification System (SAVIN) Replacement - \$1,500,000

The ND Statewide Automated Victim Information and Notification system (SAVIN) is currently powered by the VINE system owned by Equifax. Equifax acquired the company known as Appriss approximately two years ago. The current company's culture and support of the SAVIN system is insufficient to the point that it places victims of crime at risk. The system very often provides information to victims late or inaccurately, or information is missed completely. The time it takes to address the problems reported to Equifax is often months or, for multiple issues, even years. The company has changed its mission of trying to provide timely, accurate information to victims to, instead, collecting as much data as possible to help support the other products they own and sell. Due to the inaccuracies of the system, victims and criminal justice personnel question the validity and accuracy of the system. **The House provided this funding. The office is requesting an emergency clause to begin the project as soon as possible.**

ID Printer - \$6,000

This amount reflects the increase in cost to purchase a new ID printer that is currently on the replacement schedule. **The House did not provide this funding.**

Statewide Litigation Pool - \$8,000,000

The litigation pool pays for litigation costs incurred by state agencies, boards, and commissions as needed; litigation to defend statutes passed by the legislative assembly; litigation on behalf of North Dakota against unlawful federal government overreach, litigation related to DAPL; and other litigation costs. This request will require \$8 million from gaming tax funds or a transfer of \$8 million from the strategic investment and improvements fund. **The House provided this funding from the strategic investment and improvements fund.**

Crime Lab Equipment - \$554,000

This funding will be used to purchase additional instruments and replace instruments that are outdated and/or no longer covered under service contracts due to their age. **The House provided this funding, replacing the general fund with the strategic investment and improvement fund.**

- 2 Gas Chromatography/Mass spectrometry instruments for the Forensic Chemistry unit - \$150,000 each (\$300,000 total) – General Funds
- 3 water purification units for the Toxicology unit and Latent Print unit- \$7,000 each (\$21,000 total) – General Funds
- 4 Alternate Light Sources for DNA unit - \$12,000 each (\$48,000 total) – Federal Funds
- 2 Thermal cycler units for DNA unit - \$20,000 each (\$40,000 total) – Federal Funds
- 2 Hydrogen generators for the Toxicology unit - \$50,000 each (\$100,000 total) – Federal Funds
- 1 Temperature monitoring system for the entire laboratory - \$45,000– Federal Funds

New Agent FTE Equipment, Vehicles and Radios - \$335,540

This request will provide computer equipment, protective equipment, weapons, radios, and vehicles for four new BCI agents. **The House did not provide this funding.**

Undercover Vehicle replacement - \$540,000

This request includes funding from the general fund to replace 20 undercover agent vehicles. These vehicles are on a rotation schedule whereby one-third of the fleet is replaced each biennium. **The House provided this funding from the strategic investment and improvements fund.**

Portable Handheld Radios - \$105,000

This request includes funding from the general fund to purchase 15 portable dual band radios to allow for communications with other entities, particularly in areas with little or no service for other types of communication. **The House provided this funding from the strategic investment and improvements fund.**

Internet Crimes Against Children (ICAC) Lab Renovation - \$100,000

This request from the general fund is to renovate the ICAC lab space in Fargo to combine two separate digital forensic labs into one lab that will accommodate up to six forensic labs. Not only is the additional workspace needed to ensure ICAC agents can perform the operations they need, the current workspaces are not screened off from others, thereby creating the potential for others to inadvertently be exposed to sensitive evidence. **The House did not provide this funding.**

SUPPLEMENTAL COVID FUNDING

In January 2020, the office was awarded \$2.08 million in Coronavirus Emergency Supplemental Funding (CESF) through the Justice Assistance Grant program to assist local law enforcement, victim services, and emergency ambulance services across the state through grants. The office received authority from the federal government to continue the grant through December 2023. The office expended all but \$3,851 of the \$2.08 million for the following purposes:

- Grants to local law enforcement agencies and political subdivisions;
- Administration of the grant;
- Purchase of personal protection equipment including gloves, masks, disinfectants;
- Purchase of additional equipment or supplies to prevent the spread of the Covid-19 virus;
- Purchase of laptops and other information technology equipment to allow for teleworking and remote meetings; and
- Purchase of additional storage discs due to the increase in online file management.

FEDERAL STATE FISCAL RECOVERY FUNDING

The Office of Attorney General was authorized to use \$1 million for replacement of the legal case management system, \$300,000 for a missing persons database, and \$50,000 for upgrades to the gaming system for tax rate changes implemented by the legislature.

The office has implemented the missing persons database at a cost of \$9,558. The cost for the gaming system upgrades was \$45,821. The remaining funding for both projects were returned at the end of the 2021-23 biennium.

The IT/CJIS Division has signed a contract with a vendor for the new legal case management system. The office has requested a section be included in HB 1003 to continue this funding in the 2025-27 biennium.

AGENCY COLLECTIONS

The table below provides a summary of agency collection estimates for major funds:

General Fund	2023-25 Estimated Collections	2025-27 Estimated Collections
Beer Licenses	\$305,200	\$306,000
Liquor Licenses	288,900	289,000
Tobacco Wholesale and Retail License	52,350	52,500
Transient Merchant License	16,200	15,000
Wholesale Fireworks License	5,500	0
Coin Operated Amusement Machine Location and Operator License	49,825	49,500
Detection of Deception License	1,330	1,285
Fair Board License	900	900
Gaming Licenses and Stamps	609,000	610,050
Non-Criminal justice record checks	1,231,855	1,235,000
Fines-Forfeitures-Escheat	1,000	0
Copier Revenue	<u>1,536</u>	<u>1,600</u>
Total General Fund Collections	\$2,563,596	\$2,560,835

Refund Fund	2023-25 Estimated Collections	2025-27 Estimated Collections
Background Checks	34,200	30,000
Unrestricted Settlements	2,465,400	3,000,000
Interest on Investment	152,691	65,000
Misc Revenue	<u>225</u>	<u>225</u>
Total Refund Fund Collections	\$2,652,516	\$3,095,225

AG Operating Fund	2023-25 Estimated Collections	2025-27 Estimated Collections
Gaming Stamps	\$36,000	\$36,000
Misc License Fees	514,500	450,000
Background Checks	50,000	50,000
Legal Services	<u>2,650,000</u>	<u>3,264,000</u>
Total AG Operating Fund Collections	\$3,250,500	\$3,800,000

Charitable Gaming Operating Fund	2023-25 Estimated Collections	2025-27 Estimated Collections
Gaming Taxes	\$53,300,000	\$52,000,000
Fines – Forfeitures	209,000	200,000
Misc Sales and Services	<u>54,000</u>	<u>50,000</u>
Total AG Operating Fund Collections	\$53,563,000	\$52,250,000

COMPARISON OF BUDGET REQUEST TO BASE BUDGET

Line Item	Base Budget Request	OAG Budget Request	Incr (Decr)
Salaries and Wages	53,007,980	66,451,295	13,443,315
Operating Expenses	17,579,264	20,473,841	2,894,577
Capital Assets	606,000	1,897,400	1,291,400
Grants	3,903,440	3,903,440	-
Human Traffic Grants	1,110,614	1,119,111	8,497
FN Examiner Grants	252,676	254,628	1,952
Litigation Fees	127,500	127,500	-
Litigation Pool	-	8,000,000	8,000,000
Medical Examinations	660,000	660,000	-
North Dakota Lottery	5,413,453	5,625,177	211,724
Arrest/Return of Fugitives	8,500	8,500	-
Gaming Commission	7,489	7,489	-
CJIS	4,579,950	7,351,555	2,771,605
Law Enforcement	3,377,659	3,732,717	355,058
Children's Forensics	<u>304,560</u>	<u>304,560</u>	<u>-</u>
	90,939,085	119,917,213	28,978,128
General Fund	49,024,265	68,869,972	19,845,707
Federal Fund	13,556,967	15,119,394	1,562,427
Other Funds	<u>28,357,853</u>	<u>35,927,847</u>	<u>7,569,994</u>
	90,939,085	119,917,213	28,978,128
FTE Positions	266.00	281.00	15.00

House CHANGES TO 2025 HOUSE BILL 1003

The office's optional adjustments requested in the submitted budget and as approved in the Executive Recommendation are shown below. **The House included these requests.**

Description	Priority	General Fund	Federal Fund	Other Funds	Total	FTE
Cost to continue salaries	1	\$1,020,488	\$94,000	\$570,389	\$1,684,877	
Fund source change	3	2,744,134		(2,744,134)		
IT systems, maint, rates	4	1,473,775			1,473,775	
SAVIN replacement	5			1,500,000	1,500,000	
Crime Lab supplies, maint	7	592,000			592,000	
Crime Lab equipment	8		233,000	321,000	554,000	
Crime Lab FTE	9	189,393			189,893	1.00
MFCU Attorney	11	85,826	257,477		343,303	1.00
Cost increases – rent, supplies, witness fees, travel	12	119,087	31,770	53,988	204,845	
Litigation pool	13			8,000,000	8,000,000	
CPAT reclassification	16			30,000	30,000	
Portable dual band radios	22			105,000	105,000	
Undercover vehicle replcmnt	23			540,000	540,000	
Total		\$6,224,703	\$616,247	\$8,376,243	\$15,217,193	2.00

The Governor's recommendation decreased the office's request for the litigation pool from \$8.0 million to \$5 million and changed the funding source to \$1.0 million from the general fund and \$4.0 million from the strategic investment and improvements fund. **The House restored the \$8 million request and funded it through the strategic investment and improvements fund. The House changed the funding source for the SAVIN replacement, a portion of crime lab equipment, the dual band radios, and the undercover vehicle replacement from the general fund to the strategic investment and improvement fund**

The office's optional adjustments requested in the submitted budget and not included in the Executive Recommendation were **included by the House** as shown below.

Description	Priority	General Fund	Federal Fund	Other Funds	Total	FTE
Executive Staff Officer	10	\$195,432			\$195,432	1.00
Tobacco tax compliance auditor	25			\$239,716	239,716	1.00
Total		\$195,432	\$0	\$239,716	\$435,148	2.00

The office is requesting the following optional adjustments requested in the submitted budget and **not included** in the Executive Recommendation or House Bill 1003 be restored.

Description	Priority	General Fund	Federal Fund	Other Funds	Total	FTE
Salary equity increases	2	254,317	16,775	20,685	291,777	
IT equipment, subscriptions	6	160,000			160,000	
Crime Lab FTE	9	274,774			274,774	1.00
Finance admin Assistant	14	186,740			186,740	1.00
Nat'l Forensic Academy	15	50,000			50,000	
Criminal investigator- SLIC	19	387,330			387,330	1.00
Tribal/Field admin assistant	20	354,208			354,208	2.00
Research/open records software	21	300,000			300,000	
PACER/WestLaw/Quickbooks/ Scraping tool	24	241,\$		20,000	261,000	
Fargo cyber office remodel	26	100,000			100,000	
Criminal investigators-Tribal	27	1,161,990			1,161,990	3.00
Victim witness advocates	17	475,204			475,204	2.00
Cybercrime admin assistant	18	177,104			177,104	1.00
Crime Lab overtime	28		130,000		130,000	
Restore 3 percent reduction	29	1,531,995		806,359	2,338,354	
Total		\$5,654,662	\$146,775	\$847,044	\$6,648,481	11.00

2023 Legislation Having a Fiscal Impact on the Office of Attorney General

The following legislative bills have been introduced which impact the Office of Attorney General.

- House Bill 1193 provides a \$3.5 million general fund appropriation to the Office for a law enforcement appreciation grant program.
- Engrossed House Bill 1199 provides a \$250,000 general fund appropriation and requires the Attorney General to act as chairman for a missing indigenous people grant program.
- Engrossed House Bill 1525 replaces the current 5-member gaming commission with a 9-member gaming commission and increases the daily compensation from \$75 per day per member to an amount provided in NDCC 54-03-20 for legislators, currently \$213 per day. **The House provided a \$25,000 general fund appropriation for the increased cost.**
- Reengrossed Senate Bill 2029 provides that the Attorney General shall act as legal counsel and has primary authority for investigations for a new office of guardianship. **Funding for the estimated expense for the Office of \$1.9 million was not included in the bill and is not included in House Bill 1003, the office's appropriation bill.**
- Engrossed Senate Bill 2084 provides for the actual General Services Administration (GSA) rate for hotel stays in North Dakota for state employees rather than 90 percent of the GSA rate. The fiscal impact of this bill is anticipated to be minimal.

- Senate Bill 2167 imposes a fee on any individual convicted of a felony or misdemeanor for reimbursement of costs associated with digital forensic examinations. The bill creates an internet crimes investigation fund and provides a continuing appropriation to the Attorney General for information technology hardware, software, licensing, digital forensic training, and internet safety presentations.
- Senate Bill 2205 increases the transfer of gaming taxes to the gambling prevention fund from \$10,000 per quarter to \$75,000 per quarter resulting in a decrease of \$520,000 to the transfer of gaming taxes to the general fund.
- Reengrossed Senate Bill 2209 provides an appropriation of \$200,000 from the general fund to provide for forensic examinations for victims of domestic violence and increases the allowable timeframe for completing the exams to 120 hours from the time of the alleged crime.
- Senate Bill 2224 abolishes the gaming commission and provides for the Attorney General to adopt rules to administer and regulate the gaming industry.
- Engrossed Senate Bill 2292 changes the funding source for forensic medical exams and children's forensic interviews from the insurance reserve fund to the general fund. **The Senate did not include a general fund appropriation for this fund source change.**
- Several bills have been introduced that may trigger litigation and increases in workload of the Office's legal staff. These bills do not include additional FTE or funding to provide additional legal services.

SUMMARY OF OFFICE OF ATTORNEY GENERAL DIVISIONS

OFFICE OF ATTORNEY GENERAL ADMINISTRATION

The Administration Division of the office includes the Attorney General, the Chief Deputy Attorney General, the Human Resources Director, the Executive Assistant to the Attorney General and Chief Deputy Attorney General, and one administrative assistant.

The Administrative Division provides legal, administrative, and human resource support services to the other office divisions, and informational services to citizens and other state agencies.

BUREAU OF CRIMINAL INVESTIGATION

The Bureau of Criminal Investigation (BCI) division is comprised of 98 FTE positions including 59 sworn personnel including the director, and 39 support personnel consisting of criminal intelligence analysts (6), administrative services (4), uniform crime reporting and statistics (1), offender registration (3), information processing (4), concealed weapons (4), criminal history (13), CJIS Systems Officers (3), and Peace Officer Standards and Training and 24/7 Sobriety Program (1). The BCI's primary duties are as follows:

- Collaborate with local law enforcement agencies on general and specialized investigations including cyber-crime, homicide, sexual assault, human trafficking, organized crime, child abuse, arson, and terrorism;
- Provide drug trafficking reduction support through participation and supervision of all 11 narcotics task forces;
- Maintain a statewide sex offender and offenders against children registration system and a registered offenders' website for lifetime registrants and high-risk offenders;
- Operation of the Sex Offender Risk Assessment Committee for North Dakota;
- Maintain the statewide criminal history record information system and provide this information to the federal criminal history database;
- Maintain the ABIS for identification and criminal investigation purposes;
- Provide training for law enforcement and corrections officers, maintain officer training records, and issue peace officer licenses;
- Provide training to children and the general public about the dangers of drugs and criminal activity;
- Facilitate the 24/7 sobriety program;
- As the Criminal Justice Information Services (CJIS) Systems Agency (CSA), provide the necessary hardware, software, funding, quality assurance and training for complete access to all FBI CJIS data services for all authorized agencies within the state; and
- Process applications for a North Dakota Concealed Weapons License (Class 1 and Class 2).

Among BCI's many responsibilities and achievements in the 2023-25 biennium, BCI:

1. Expanded the technical expertise in crime scene reconstruction that consists of crime scene mapping, utilization of drones, video enhancement, and agents attending the National Forensic Academy at the University of Tennessee to become crime scene experts.
2. Continued the Victim Services Unit utilizing two Victim Witness Coordinators that respond to crime scenes and offer victims and families guidance and support during complex investigations. Each coordinator (currently temp employees funded by federal grants) is assigned half of the state which covers a large geographical area. The coordinators also work with the States Attorney's Offices to provide witness services in preparation for court hearings.
3. Expanded the BCI Internet Crimes Against Children (ICAC) task force with additional BCI Agents assigned to Fargo and Minot offices and an electronic detection K-9 located in Bismarck. This supports a growing statewide cyber-crime task force which includes affiliate agencies from police departments and sheriff's offices across the state.
4. During the 2023 session, BCI received legislative authority to hire three BCI agents assigned to assist with narcotics trafficking on tribal lands. Each agent is assigned to assist a reservation within North Dakota. This initiative created a new multi-jurisdictional narcotics task force around the Turtle Mountain Reservation.
5. Had two BCI agents earn their Certified Fire Investigator certification through ATF. Those agents are in Bismarck and Rugby, ND. There is also an ATF arson K-9 assigned to the Bismarck agent.

6. Had two agents earn their IACIS (International Association of Computer Investigative Specialists) Forensic Computer Examiner Certification. These agents are located in Bismarck and Fargo, ND.

CIVIL LITIGATION DIVISION

The Civil Litigation Division includes 17 FTE positions. Including the director, the division has 9 attorneys, 3 paralegals, and 5 legal assistants. The Division provides a wide variety of legal services. The attorneys represent the state, state agencies, and state employees in legal actions, including administrative and enforcement hearings, state court lawsuits, federal court lawsuits, challenges to the constitutionality of statutes, and appeals.

Despite the modest number of attorneys in the division, the division has handled more than 400 cases so far this biennium and saved or obtained millions of dollars for the state. Division attorneys practice in administrative, state, and federal courts on behalf of the state in many different types of litigation. Division attorneys also provide some general counsel services such as advising all state agencies on employment-related matters. In fact, almost all the employment-related legal advice and litigation for state agencies and entities is managed by just one litigator in this division. The Division also enforces the Tobacco Master Settlement Agreement. Some of the areas in which the Division provides legal services are as follows:

- Cases regarding constitutional questions and the constitutionality of state statutes; and
- Cases involving challenges to other types of state regulation.
- Implied consent cases for the Department of Transportation;
- Tort cases, including cases involving the state's Risk Management Fund;
- Construction litigation;
- Appeals of economic (*e.g.* Medicaid) and non-economic program determinations by the Department of Health and Human Services;
- Housing discrimination, human rights violations, and wage claims for the Department of Labor and Human Rights;
- Unemployment benefit cases for Job Service;
- Contract claims;
- Administrative licensing matters and appeals for state licensing boards;
- Claims filed under the Prison Litigation Reform Act;

CONSUMER PROTECTION AND ANTITRUST DIVISION

The Consumer Protection and Antitrust (CPAT) Division staff consists of the division director, 3 consumer investigators, 3 assistant attorneys general, and 2 administrative assistants for a total of 9 FTE positions. The division's responsibilities include:

- Taking legal action to obtain injunctive relief, civil penalties, restitution, and other equitable relief and remedies necessary to address violations of law;
- Referring investigation and prosecution of criminal violations to local law enforcement;
- Coordinating with other federal, state, and local law enforcement and regulatory agencies, including participating in multi-state investigations and legal actions;
- Providing consumer fraud training for law enforcement; and

- Researching consumer protection and antitrust laws and issues and assisting state and federal legislators in the development and implementation of legislation.
- Conducting consumer complaint mediation between consumers and businesses in effort to facilitate an amicable resolution of disputes;
- Providing statewide consumer education presentations to elderly North Dakotans, students, and civic and professional groups, and providing consumer warnings and tip sheets;
- Investigating possible violations of antitrust, consumer protection, and other laws enforced by the Attorney General, including laws involving deceptive business practices, contractor licensing and fraud, false advertising, home solicitation sales, do-not-call, transient merchants, data security breach, privacy, nonprofit corporations, charitable solicitations, debt settlement, automatic renewal terms, retail installment sales, and pyramid schemes;

Examples of the division's accomplishments include:

1. Generic Drug Price Fixing Settlements: On behalf of the state and North Dakota consumers, the division entered into settlements with pharmaceutical companies to resolve allegations that the companies engage in widespread, long-running conspiracies to artificially inflate generic drug prices and other anticompetitive actions. The division is leading efforts to register North Dakota consumers for refunds under the terms of the settlements.
2. Data breach: The division obtained a consent judgment including injunctive relief and approximately \$379,000 from a hotel chain for a data breach impacting North Dakota consumers.
3. Opioid Settlement Collections: As a result of the division's legal efforts in multistate settlements with opioid manufacturers, North Dakota has received \$22,732,986 to date with more payments scheduled. As a result of those settlements, political subdivisions in North Dakota have received \$3,212,612 to date with more payments scheduled.
4. Vaping and Smoke Shops: The division issued a Cease & Desist Order against a North Dakota smoke shop for selling unlawful products that are misbranded, adulterated, contain controlled substances, and carry labeling that provides inadequate disclosure or indication of the true content. This follows the division's success, as part of a coalition of 34 states and territories, in reaching a \$438.5 million settlement with JUUL Labs on behalf of the state to remedy and limit the e-cigarette manufacturer's marketing and sales practices, including its targeted advertising to youth.

CRIME LABORATORY DIVISION

The Crime Laboratory Division consists of 31 FTE positions including the division director, 28 forensic scientists, a state toxicologist, 1 evidence technician, and 1 administrative assistant. The Crime Laboratory's mission is to provide scientific support to the state's law enforcement and criminal justice system through the use of accepted techniques in the analysis, identification, and comparison of physical and toxicological evidence involved in the investigation and prosecution of criminal offenses. The staff members are responsible for analyzing evidence, preparing laboratory reports and certified documents, collecting data, training and certifying law enforcement personnel, providing courtroom testimony, and performing associated administrative duties for law enforcement entities throughout the state. The staff of the Crime Laboratory, including the Director and the Team Leads,

have devoted many hours of overtime work to resolving preexisting backlogs, including the backlog in rape kit testing, and ensuring performance standards are met.

During this biennium, the Crime Laboratory succeeded in reviving the capability to test firearms and latent fingerprints. The firearms and latent fingerprints units completed writing their procedures and finished the validations for all their methods. The two units are now operational and performing casework analyses.

CRIMINAL LAW DIVISION

The Criminal Law Division includes 4 attorneys and 1 legal assistant. The mission of the Criminal Law Division is to effectively and impartially prosecute criminal cases in North Dakota and provide legal counsel to several state agencies, boards, and committees. Attorneys in the division provide legal training to law enforcement academy students and train Crime Laboratory employees on courtroom procedures and practices. The division also provides prosecutorial assistance to the 53 state's attorneys across North Dakota upon request.

Division lawyers assist states attorney's offices by assuming the defense of federal court habeas corpus matters. These cases are brought by inmates alleging federal constitutional violations. During the biennium, the division defended the state in thirteen federal habeas corpus cases at the U.S. District Court and three cases at the 8th Circuit Court of Appeals.

The Peace Officer Standards & Training (POST) Board, which licenses and regulates law enforcement officers, is one of the boards that receives general counsel legal services from attorneys in the Criminal Law Division. During the biennium, the POST Board conducted 11 administrative hearings relating to licensure of officers. Discipline was imposed for reasons ranging from shoplifting to driving under the influence. In all 11 cases, the officer received some form of license sanction, from probation to revocation. Division attorneys also provide general counsel legal services to the Sex Offender Risk Assessment Committee, BCI, Pardon Advisory Board, Child Fatality Review Panel, and other state entities.

FINANCE DIVISION

The Finance Division consists of 13 FTE positions including the financial administrator, 1 accounting manager, 4 grants staff, 3 payroll and accounting staff, 2 licensing staff, 1 administrative assistant and 1 purchasing agent. The division staff provide technical, budget, finance, payroll, grants administration, records management, purchasing, licensing, reception, and other administrative services for the entire office.

GAMING DIVISION

The Gaming Division consists of the Division Director, 12 auditors, 2 audit technicians, 3 investigators, 1 training and communications specialist and 1 administrative assistant for a total of 20 FTE positions. The Division's duties include:

- Collecting delinquent gaming taxes, interest, penalties, and monetary fines;
- Coordinating and conducting investigations into illegal gaming activity and thefts;
- Laboratory testing of pull-tab dispensing devices, electronic pull-tab dispensing devices, electronic bingo devices, bingo card marking devices, and electronic 50/50 raffle systems;

- Inspecting gaming businesses manufacturing pull-tabs and paper bingo cards;
- Providing legislative research and legislative testimony at hearings;
- Preparing and issuing gaming administrative complaints, assessing monetary fines, and imposing appropriate sanctions; and
- Inspecting tribal casinos to ensure compliance with tribal-state gaming compacts.
- Administration, regulation, and enforcement for the charitable gaming industry;
- Providing guidance to local law enforcement officials, gaming organizations, distributors, manufacturers, and the general public regarding gaming laws and rules, recordkeeping, and preparation of tax returns;
- Assisting the State Gaming Commission in drafting proposed gaming laws and rules and conducting public hearings;
- Conducting gaming training sessions for organization board members, gaming employees and volunteers;
- Developing standard recordkeeping systems and model systems of internal control for gaming organizations;
- Conducting gaming compliance and financial office and field audits of gaming, distributor, and manufacturer licensees;
- Reviewing and processing gaming distributor records and gaming tax returns;

The division regulates over 350 gaming organizations conducting gaming in over 1,050 sites. The division completed over 80 comprehensive and in-office audits and investigated over 210 complaints. The current e-tab activity includes 5,207 devices, 845 sites, and 277 organizations.

GENERAL COUNSEL DIVISION

The General Counsel Division has 16 attorneys including the division director, 1 paralegal, 1 legal assistant, and 2 administrative assistants. The General Counsel Division provides general counsel legal services to approximately 100 state agencies, boards, and commissions. The division also researches and drafts legal opinions and open records and open meetings opinions. Each legal opinion requires many hours of legal research and analysis as well as drafting time. Each open record or open meeting opinion also requires many hours of communications and analysis in addition to drafting time.

General Counsel Division attorneys are relied upon by their many clients to provide guidance on an extremely wide range of day-to-day legal issues. The scope of legal advice provided by the division attorneys covers everything from state and federal constitutional questions, state procurement requirements, legislation, federal laws and regulations, open records and meetings, ethics and compliance requirements, occupational licensing, construction contracts, private-public partnerships, board governance, and many other topics. In addition, these attorneys need to be subject matter experts in their particular clients' fields of specialization. The division attorneys also review all administrative rules adopted by state agencies and assist client agencies and members of the Legislative Assembly by drafting bills and amendments, explaining the ramifications of proposed legislation, and testifying before legislative committees.

INFORMATION TECHNOLOGY/CRIMINAL JUSTICE INFORMATION SYSTEM

The Information Technology and Criminal Justice Information Sharing (IT/CJIS) Division has 21 FTE positions including the Division Director, 1 architect associate, 1 operations manager, 1 CJIS manager, 1 software development manager, 1 project manager, 1 business analyst, 4 programmer analysts, 2 system administrators, 1 database design analyst, 4 program managers, 1 computer and network specialist, 1 customer tech support specialist, and 1 administrative assistant. IT/CJIS staff provide services not only to the Attorney General's Office but also to police departments, sheriff's offices, state's attorneys offices, courts, and corrections facilities across the state. These services include:

- Support for computer equipment and network needs of all the divisions of the Office of Attorney General including several locations within the Bismarck area and 17 remote locations across the state;
- Desktop support and troubleshooting for all office staff and several narcotics task force personnel;
- Management and support for several statewide criminal justice systems, including a case management system for 34 North Dakota State's Attorney offices; a records management system used by 71 local law enforcement agencies and 8 correctional facilities; an information sharing hub for criminal justice personnel; and a statewide victim notification system used for incarceration, court, parole and probation, commitment and protection order notifications as well as a statewide database used to track victim rights assertions;
- Administration of servers housed in a secured room within the Division's office area, including maintenance, disaster recovery, and security;
- Staff and management of a help desk that supports office staff, as well as any external customers that utilize the office's applications or equipment;
- 24 hour, 7 days a week support for computer applications utilized by law enforcement agencies and other criminal justice personnel statewide on a rotating on-call schedule;
- On-going support, enhancements, changes, additional functionality, and upgrades to all business applications on a regular basis;
- Access to office records through the CJIS portal to North Dakota criminal justice personnel and through BCI to law enforcement across the entire country; and
- Audit participation in FBI, Sex Offender, Security, Gaming, grants and other audits, as needed, providing information as needed, determining changes needed, and developing timelines for changes.

During the 2023-25 biennium, the division has executed many initiatives. For example, the division implemented the gaming distributor system, developed and implemented a scrap metal dealer registration database, implemented the sex assault kit tracking system, developed a statewide law enforcement warrants system, updated the offender registration system, and began working on implementing a new legal case management system for the Attorney General's Office and the county state's attorney offices.

LOTTERY DIVISION

The Lottery Division is comprised of 8 FTE positions, including the Division Director, an account budget specialist, security officer, 2 customer service specialists, a sales and marketing manager, an administrative staff officer and one administrative assistant. The division also has two temporary draw operators.

The North Dakota Lottery is responsible for administering, regulating, and promoting the state's lottery, which offers five multi-state games: Powerball®, Lucky for Life®, Mega Millions®, Lotto America®, and 2by2®.

The Lottery sells ticket in partnership with 450 retailers and offers ticket subscriptions through its website and mobile app. The Lottery manages a loyalty program in which its 60,000 members can use points to purchase merchandise or win prizes.

The Lottery Division transfers net proceeds annually to the State General Fund and makes quarterly transfers to the Multijurisdictional Drug Task Force Grant Fund and Compulsive Gambling Prevention and Treatment Fund.

1. During the 2021-23 biennium the Lottery transferred:
 - \$5.6 million of revenue to the State General Fund;
 - \$800,000 to the Multi-Jurisdictional Drug Task Force Grant Fund; and
 - \$320,000 to the Compulsive Gambling Prevention and Treatment Fund in the first year of the biennium. Similar transfers are underway and anticipated in the second year.
2. In the first year of the 2023-25 biennium:
 - Lottery had record ticket sales of \$40 million due in large part to interest in several billion-plus jackpots;
 - Including prize expense and salaries, the Lottery had total operating expense in FY 2024 of \$29.9 million; and
 - The Lottery transferred
 - \$8.6 million to the General Fund
 - \$1 million to the drug fighting efforts
 - \$320,000 for compulsive gambling
3. In FY 2025 the Lottery anticipates:
 - \$31.7 million of ticket sales, allowing for statutory transfers to drug fighting and compulsive gambling funds and \$5.3 million to the General Fund.
4. Based on the five-year trend, during the 2025-2027 biennium, the Lottery estimates:
 - \$32.8 million of sales each year;
 - \$24.5 million of annual operating expenses; and
 - Total transfers of \$14 million.

MEDICAID FRAUD CONTROL UNIT

The Medicaid Fraud Control Unit (MFCU) was established by the 2019 Legislative Assembly and operates under a joint funding arrangement, with 75% of funding provided by the federal government and 25% by the state. Although federally supported, MFCU is state-administered.

The MFCU budget supports 9 FTEs, including a Division Director who is an attorney, 1 additional staff attorney, 3 investigators who are also Bureau of Criminal Investigation (BCI) agents, a claims auditor, a nurse auditor, a paralegal, and an administrative assistant. The primary mission of MFCU is to investigate and prosecute Medicaid providers who defraud the North Dakota Medicaid Program. Additionally, the Unit addresses cases involving abuse, neglect, or financial exploitation of patients in facilities that receive Medicaid funding.

Since its inception, MFCU has made substantial strides in protecting both the integrity of North Dakota's Medicaid Program and the welfare of vulnerable individuals in Medicaid-supported facilities. From August 1, 2019, through the end of January 2025, MFCU successfully recovered more than the state invested in the Unit to date. Since August 1, 2019, MFCU recovered a total of \$2,854,045.62 and collected \$886,487.43 of that amount. The State's cumulative investment in the Unit through October 31, 2024, was \$775,092.86. Additionally, by eliminating fraudulent actors from the Medicaid program, the Unit stops ongoing fraudulent payments to those actors and deters fraudulent activities by others, thus saving the state even more money. These actions not only offset the state's expenditure on the program but also signify the effectiveness and fiscal responsibility of MFCU's operations.

During the 2023-25 biennium, MFCU has maintained its strong record of enforcement by collecting at least \$364,000 through the end of January 2025. The Unit has continued to actively initiate and resolve investigations, prosecute criminal cases, and secure settlements in civil matters. These cases often involve complex schemes, requiring the Unit to apply sophisticated investigative and legal strategies to track and combat fraud, abuse, and exploitation. The criminal charges brought by MFCU include reckless endangerment due to opioid overprescribing without medical necessity, conspiracy to distribute controlled substances, billing for services that were never provided, no documentation to support billed claims, Medicaid fraud, unauthorized use of personal identifying information, and endangerment of an eligible adult. The settled civil cases involved billing for services that were never provided, no documentation to support billed claims, failure of administrative oversight of opioid overprescribing, various patient care issues, and reckless endangerment of patients due to medically unnecessary opioid overprescribing.

In addition to these measurable outcomes, the MFCU's presence has created a significant deterrent effect, discouraging potential fraud and misconduct among healthcare providers and Medicaid-supported facilities. Although this impact is challenging to quantify, it is a critical component of the Unit's mission, contributing to a safer and more accountable healthcare environment in North Dakota.

NATURAL RESOURCES AND NATIVE AMERICAN AFFAIRS

The Natural Resources and Native American Affairs Division includes a Division Director who is an attorney, 5 additional attorneys and 1 paralegal. The division provides general counsel legal advice to state agencies with responsibilities towards the state's natural resources. This includes assisting the Department of Water Resources in regulating the appropriation of water, regulating dams, dikes, and

drains, and managing the beds of navigable rivers and lakes; the Water Commission in developing water resources; the Industrial Commission in regulating the exploration and development of mineral resources; the Department of Environmental Quality in protecting our environment; the Game and Fish Department in managing wildlife and wildlife habitat; the Parks and Recreation Department in managing public recreation areas; and the State Mill and Elevator in conducting its operations. The division also administers the state's anti-corporate farming law and represents other Boards and Commissions. Lastly, the division advises state as well as local officials on Native American law issues.

Division attorneys also represent state agencies in administrative and civil matters, including mineral ownership disputes relating to the Missouri River, enforcement proceedings relating to oil and gas development, environmental enforcement, and various challenges to federal laws and regulations.

Division attorneys have assisted agencies with the assessment and collect and recover over \$10 million in fines and penalties during the current biennium.

SOLICITOR GENERAL

A separate Solicitor General Division was created within the Attorney General's Office in 2023 to address the State's need for a coordinated legal strategy against an unprecedented level of federal overreach affecting the State's interests, as well as defending the State's statutes from constitutional challenges. This division consists of the Solicitor General and a Deputy Solicitor General. Acting at the direction of the Attorney General, the Solicitor General maintains primary responsibility for developing and overseeing the State's legal strategy for litigation against the federal government and for litigation against other States, to include coordination with States whose legal interests may be aligned with our own. The Solicitor General is also heavily involved in defending the State's statutes from constitutional challenges, particularly at the level of appellate review, including matters before the U.S. Supreme Court, the State Supreme Court, and federal circuit courts of appeal.

Optional Adjustments Summary

01 Cost to Continue Salaries

This request is for funding to continue the second year of legislatively authorized performance increases and employer paid retirement increases into the 2025-27 biennium.

02 Attorney and Non-attorney Staff Equity

As described in the Current and Future Critical Issues Section, the office cannot currently compete with attorney salaries offered by other state agencies, local government entities, or the private sector. To successfully recruit and retain attorneys and to continue rewarding attorney performance in our newly implemented merit-based pay system, the office needs additional equity funds. Under the new system, an Assistant Attorney General must master identified criteria to move up from one performance tier to the next. This system rewards talented, motivated, hard-working attorneys and gives them an avenue for advancement based on excellence in legal representation of North Dakota's interests.

For non-attorneys, the office carefully reviewed staff members' salaries based on the state's pay schedules established by the Office of Management and Budget. Several staff members remain impacted by years of salaries below the midpoints of their relative classifications' pay schedules. These staff members' supervisors were consulted the reasons for their current pay levels and for input on the appropriate salaries based on the staff members' ability, work quality, and years of service. The amount of equity was calculated based on bringing meritorious employees' salaries up to 90 percent of the midpoint of their salary ranges.

03 Fund Source Change

During the 2019 and 2021 legislative sessions and the November 2021 special session, the Legislative Assembly authorized equity increases for attorneys, BCI agents, and Crime Lab scientists. However, the equity increases totaling \$1.54 million per biennium were funded through the Attorney General refund fund, an unpredictable, one-time funding source. Similarly, the 2021 Legislative Assembly restored \$1.2 million in funding for operating expenses for BCI and IT/CJIS but changed the funding source from the general fund to the Attorney General refund fund. The refund fund is not able to sustain these expenditures because a significant number of settlement dollars are legally restricted to other, specified purposes. Also, in 2023, the Legislative Assembly appropriated more of the settlement dollars to other agencies such as the Department of Health and Human Services.

04 IT Systems Replacement, Maintenance and Rate Increases

IT/CJIS must replace the network switches that handle the communication between the office's servers and shared storage. The existing network switches were purchased in May 2017 and only support outdated 10 GB connections. Maintenance and support are no longer available for those switches. It is critical to update these old switches with current technology and enter maintenance contracts for them so the office will receive technical support and updates from the vendor.

The cost of Octopus Deploy has increased over the last biennium. Octopus Deploy helps automate the deployment of our custom-developed applications by interacting with the build server and deploying the applications consistently through development, testing, and production. Without Octopus Deploy, we cannot deploy any fixes, updates, changes, or new systems to production environments.

The cost of the new E-Prosecutor system and the cost to host it both have increased. The E-Prosecutor system is a necessary update to the JustWare system used by the office's legal divisions and provided by the office at no charge to state's attorney offices around the state. JustWare will be discontinued by the vendor when our contract expires in 2025. The current JustWare system is hosted at NDIT and the office. The new E-prosecutor system will be cloud hosted, and the vendor will provide hosting support.

IT/CJIS provides a jail management system for seven county jails in ND and it must be replaced. The current jail management system is the Premier One system. This system will not be supported by Motorola upon our contract expiring in 2027, so the vendor will not fix problems or issue any updates after that time. Funding for the new jail management system would replace the unsupported jail management system for county jails that rely on it.

Funding is needed to pay for increased NDIT charges to our Office. State law requires state agencies like ours to use some NDIT services and connect to some NDIT systems. We must pay rates set by NDIT 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 request close the gap between that budgeted amount and the total amount the increases are expected to equal.

05 Statewide Automated Victim Information and Notification System (SAVIN) Replacement

IT/CJIS maintains the ND Statewide Automated Victim Information and Notification system (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. This allows the victims to take safety precautions, appear in court to testify, submit letters to the Parole Board, talk to their victim advocates, or take other measures. The system is very meaningful to crime victims and an important resource for their physical safety and peace of mind. SAVIN also helps criminal justice agencies fulfill their obligations under Marsy’s Law.

SAVIN is powered by the VINE system, and the company that owned the VINE system was acquired by Equifax approximately two years ago. Since that time, Equifax has removed or reallocated many of the resources previously devoted to the VINE system, and critical problems with the SAVIN system now go unresolved for weeks, months, or longer, despite very frequent communications and escalations by IT/CJIS to the company. The current level of service for the VINE system is insufficient to ensure North Dakota crime victim consistently receive timely, accurate information through the system, and a change must be made to fulfill victim notification requirements.

06 Printer and Computer Replacement, Subscription and Storage

This request is for increased costs for current software or hardware currently used by various divisions of the office:

- There is an increase in cost for the high-capacity ID printer that is currently used by the office.
- Computer replacement costs have increased. This amount includes the replacement costs for high-capacity laptops used by several BCI agents.
- The cost of replacing servers has increased. Funding is included in the base general budget for server replacements, but the costs have increased since the replacement cost was originally calculated. The increase covers the additional cost to replace four servers per biennium, consistent with our replacement schedule.
- Software subscriptions for various software utilized across OAG have increased. The various subscriptions are for systems utilized in day-to-day work by several divisions.

07 Crime Lab Supplies and Maintenance Agreements

The costs of lab supplies are always increasing and have been seen to increase approximately 15 percent over the past two years. This request is necessary to account for increased costs of consumables and supplies that the laboratory needs to operate daily.

Based on previous years’ data, costs of maintenance agreements for the instruments and equipment at the laboratory are expected to increase on average approximately 15 percent for the next biennium. Maintenance agreements are agreements with vendors of expensive lab equipment that require the vendors to repair, maintain, and update the equipment at a set cost. Without these agreements, vendors

place our service needs at the end of their priority lists and charge us on a per-service basis that includes travel, labor, parts, and other add-on costs. As a result, without the maintenance agreements, the Crime Lab would have very limited access to technical support, annual preventive maintenance, or repair services for equipment that often costs hundreds of thousands of dollars apiece. Moreover, those services would cost the state significantly more than the cost of maintenance agreements, even with the increases each biennium, and the Crime Lab would face disruptions, downtime, and delays in processing evidence for law enforcement agencies without the guaranteed service response times provided by those agreements.

08 Crime Lab Equipment

This funding will be used to purchase additional instruments and replace instruments that are outdated and/or no longer covered under service contracts due to their age. Some of these equipment expenses are associated with general funds and some are federal funds:

- 2 Gas Chromatography/Mass Spectrometry instruments for the Forensic Chemistry unit - \$150,000 each (\$300,000 total) – General Funds
- 3 water purification units for the Toxicology unit and Latent Print unit- \$7,000 each (\$21,000 total) – General Funds
- 4 Alternate Light Sources for DNA unit - \$12,000 each (\$48,000 total) – Federal Funds
- 2 Thermal cycler units for DNA unit - \$20,000 each (\$40,000 total) – Federal Funds
- 2 Hydrogen generators for the Toxicology unit - \$50,000 each (\$100,000 total) – Federal Funds
- 1 Temperature monitoring system for the entire laboratory - \$45,000– Federal Funds

09 Crime Lab Evidence Technician and Quality Assurance Manager

Evidence Technician – As described in the Current and Future Critical Issues section, this position is needed to have a second person available to receive evidence submissions from law enforcement and accommodate the laboratory's caseload. Law enforcement officers around the state have expressed their concerns about the need to increase the Crime Laboratory's evidence intake capacity. The laboratory currently has only one evidence technician, even though, prior to 2017, the laboratory had four evidence technicians. The laboratory needs a second evidence technician to manage the increased evidence submissions expected in coming years, especially with the Firearms and Latent Print units being restarted at the laboratory. More than one evidence technician is also required to receive evidence when the other technician is out of the office or unavailable.

Quality Assurance Manager - The duties of this position are currently being performed by a DNA analyst and not a full time Quality Assurance Manager. As the laboratory has grown by both the number of staff and the disciplines and services that the laboratory offers, there is a growing need for this position to be occupied by a full time Quality Assurance Manager. This position would take over performing the duties that the current part-time Quality Assurance Manager/DNA analyst has been performing which would allow that individual to focus on DNA casework duties full time.

10 Executive Staff Officer

The volume of inquiries, comments, and requests (including communications from legislators, requests for legal opinions, and requests for open records) made to the office is increasing rapidly, and the office has a responsibility to respond to the general public and others in a transparent and thorough manner. The position would respond to inquiries, comments, and requests made to the office (including those made to the office via the general information email account) by state residents, state

agencies, legislators, and others; respond to and track open records requests; track requests for Attorney General opinions and ensure timely opinions are issued; assist with posting timely and accurate communications on the Attorney General website; and assist with other tasks as assigned.

11 Medicaid Fraud Control Unit Attorney

The Medicaid Fraud Control Unit (MFCU) is responsible for investigating provider-caused Medicaid billing fraud and abuse, neglect, and exploitation, and 75 percent of its costs are paid for by federal funds. The state's investment in an attorney FTE for MFCU is more than offset by the recovery of Medicaid dollars lost to fraudulent activity, the cessation of costly schemes to defraud Medicaid, and the deterrent effect of active enforcement of criminal and civil laws that punish abuses of the Medicaid program. In addition to the financial wisdom of investing in a MFCU attorney, there is a significant societal benefit to North Dakota residents. MFCU attorneys stop abuses and neglect of Medicaid patients, including nursing home residents, throughout the state.

MFCU handles especially complex investigations and cases regularly leading to criminal prosecutions or civil settlements. Investigations often take several years to complete, and MFCU attorneys are integrally involved in all stages of investigation and prosecution. This is unique to MFCU as traditional prosecution does not include such complex investigative participation. Additionally, MFCU's distinctive cases involve a disproportionally high level of legal research.

Currently, MFCU has 1.5 attorneys. One attorney began work on September 9, 2024, and the other 0.5 attorney is also the MFCU director. At least half of the director's time is spent on director duties. Even so, MFCU has recovered far more money than the state has invested in it. Just in the first part of this biennium (through January 2025), MFCU collected at least \$364,000. Also, MFCU receives reports and referrals of many more cases than it has been able to accept in the past due to having too few attorneys to work on them. The addition of a new attorney FTE will allow MFCU to accept more cases, recover more fraudulently taken Medicaid funds, protect more Medicaid patients, and deter more fraud and abuse of the Medicaid program.

12 Operating Cost Increases

The Office of Attorney General has seen operating costs increase significantly in several areas. This request is to provide \$204,845 from the general fund to allow the divisions to continue to operate and provide necessary services:

Rent increase	\$89,845
Expert witness fees	\$20,000
Travel	\$10,000
Motor fuel for agent BCI vehicles	\$22,000
Supplies for BCI agents	\$63,000

13 Litigation Pool

The litigation pool pays for litigation costs incurred by state agencies, boards, and commissions as needed; litigation to defend statutes passed by the legislative assembly; litigation on behalf of North Dakota against unlawful federal government overreach, especially related to the energy industry; litigation related to DAPL; and other litigation costs. The litigation pool has become increasingly important to the state in the last biennium as the need for litigation services to protect the interests of

the state have skyrocketed, especially related to the energy industry, Second Amendment, federal executive branch rulemaking, and the agriculture industry.

14 Administrative Assistant – Finance Division

Licensing and procurement activities have expanded significantly over the last few years. The expansion has been driven, in part, by the tremendous increase in charitable gaming, especially e-tab machines. The current staff has not increased and can't keep up with current or anticipated demands. This position will assist the licensing and procurement sections in the Finance Division as well as assist with day-to-day administrative functions as needed.

15 National Forensic Academy

The National Forensic Academy (NFA) provides 400 hours of specialized training focused on crime scene processing, evidence collection, and crime scene photography. Currently, 24 agents have successfully completed this 10-week course in Tennessee. BCI sends two agents each year at a total cost of \$50,000 (\$25,000 each). The need for this type of training is becoming more evident each day, as North Dakota's population and crime rates increase. Violent crimes are on the rise, and the need to solve them expeditiously is paramount. BCI has investigated murders-for-hire, body dumps, aggravated assaults, officer involved shootings, and violent sexual assaults – all of which require the kind of skills and training the NFA provides. BCI's goal is to have 60 percent of field agents trained at the NFA; currently, 37 percent of field agents are NFA trained.

16 Reclassification of CPAT Paralegal to Attorney

The demands of the Consumer Protection and Antitrust Division necessitate an additional attorney position, and the Division has an open paralegal position that can be reclassified to an attorney position. This will allow the FTE to initiate and lead some of the growing number of cases against companies and individuals exploiting North Dakota consumers. As scams and frauds become more complex, the litigation efforts to recover money for consumers have become more complex and resource intensive as well as more numerous. Also, having an additional attorney who can participate in multistate consumer protection litigation will help North Dakota earn and recover a greater share of compensation resulting from those lawsuits.

17 Victim Witness Advocates

Two victim witness advocates fill temporary positions. This request will provide funding to continue these critical positions in Dickinson and Fargo on a permanent position basis.

Victim witness advocates provide direct services to victims of violent crimes. They assist BCI agents and local law enforcement agents around the state. Their services include:

- 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.

18 Cyber Crime Administrative Assistant

With the addition of numerous field agents in the cybercrime area the explosion of cybercrime in the state, the expansion of open records requests and their immediate response time frames, and the increased complexity of investigations (large narcotics, violent crimes against persons, and cybercrimes), BCI can no longer maintain an acceptable level of report turnaround times. The Information Processing (IP) Section is now seeing a range of 150 to 200 reports awaiting work at any given time. The resulting extended turnaround time affects the ability of field agents to present the reports for prosecution to state's attorney's offices and federal prosecutors. The demand being placed on the IP staff (due to primary and collateral duties) has exceeded our abilities and technology. BCI needs the additional IP personnel to handle the amount of case reports being submitted due to increased field agent presence and services being rendered to police departments and sheriff's offices.

19 State and Local Intelligence Center (SLIC) Criminal Investigator

The ND SLIC needs a BCI field agent to be able to conduct the communication and follow up on various areas of criminal activity including the intelligence follow up, assistance, and guidance to smaller law enforcement agencies lacking investigative means. This position will be tasked with:

- Becoming a member of the Federal Bureau of Investigation's (FBI's) Joint Terrorism Task Force initiative (JTTF). This agent will become a task force officer with the FBI JTTF and work with the federal partner to identify threats to North Dakota at numerous levels including dangerous traveling actors, foreign actors in the state, and harmful "cell" operations inside our communities. This agent will be required to obtain a top-secret clearance to be able to be briefed on those matters and will be assigned high level cases related to state and national security.
- Supporting the newly created Cass Clay Threat Assessment Threat Management Team which targets dangerous persons and groups in the eastern side of the state.
- Following up on suspicious activity reports, conducting intelligence gathering such as undercover online information, liaising with federal agencies, managing sources for BCI, helping develop intelligence needs and working with agents to ensure needed information is being gathered and sent to SLIC, and carrying a BCI caseload.

20 Tribal/Field Agent and Sex Offender Registration Administrative Assistants

Tribal/Field Agent Administrative Assistant - With the addition of numerous field agents setting up narcotics task forces near tribal lands, the expansion of open records requests and their immediate response time frames, and the increased complexity of investigations (large narcotics, violent crimes against persons, and cybercrimes), BCI can no longer maintain an acceptable level of report turnaround times. The Information Processing (IP) Section is now seeing a range of 150 to 200 reports awaiting work at any given time. The resulting extended turnaround time affects the ability of field agents to present the reports for prosecution to state's attorney's offices and federal prosecutors. The demand being placed on the IP staff (due to primary and collateral duties) has exceeded our abilities and technology. BCI needs the additional IP personnel to handle the amount of case reports being submitted due to increased field agent presence and services being rendered to police departments and sheriff's offices.

Sex Offender Registration Administrative Assistant - The amount of convicted sex offenders, coupled with the increase in cyber investigations nationwide, has led to an increase in the number of registered sex offenders residing in North Dakota. BCI has responsibility for administering the sex offender

registry and supporting the sex offender risk assessment committee, and the resources needed to fulfill these responsibilities are increasing. To ensure North Dakotans have accurate and useable information about sex offenders, an additional FTE is necessary to meet these needs.

21 Discovery/Open Records/Redaction Software

Discovery software has become a necessary tool for the legal divisions to sort, review, analyze, and classify the increasingly voluminous sets of discovery documents produced in litigation and for open records requests. Such software is commonplace among the law firms and other governmental entities that litigate against the state. Use of the software can free up significant amounts of attorney time that can be used to complete other tasks. This request will allow all the legal divisions in the office to acquire and use the same discovery software.

22 Portable Handheld Dual Band Radios

Portable Handheld Dual Band Motorola Radios for the Cyber Crime Unit offices will be updated due to the new state radio system. These radios are used to maintain communication among multi-jurisdictional team members when conducting search warrants and other operations.

23 BCI Undercover Vehicle Replacement

BCI has 64 agents who need undercover vehicles. 11 of the agents receive a vehicle from a unit or a federal program in which they work. The remaining 53 vehicles need to be funded through the general fund. This request is asking for the replacement of 20 vehicles. The average cost of a new mid-size SUV being purchased has been \$46,000. The average trade value of the vehicle being replaced has been \$16,000. This leaves the cost of a vehicle replacement at \$30,000 per vehicle plus \$3,000 per vehicle for maintenance agreements.

24 PACER/WestLaw/Quickbooks/OSINT Scraping Tool

PACER provides necessary access to federal court filing systems, allowing the office to file and access briefs in federal courts. Westlaw is the online legal research tool for our attorneys and paralegals and is necessary for them to conduct their day-to-day work. PACER and Westlaw charges have increased due to additional staff and increased cases. Quickbooks will help the Finance and Gaming Divisions audit charitable organizations' tax returns. An open-source intelligence (OSINT scraping) tool for BCI will provide the collection and analysis of data gathered from open sources (overt sources and publicly available information) to produce actionable intelligence.

25 Tobacco Tax Settlement Compliance Auditor

States are required to "diligently enforce" the Master Settlement Agreement (MSA) executed by many tobacco companies and states to resolve years of litigation over the health effects of tobacco products. In recent years, litigation over the meaning of diligent enforcement resulted in states having to increase their enforcement efforts or risk losing the millions of dollars they receive annually under the MSA. To diligently enforce our escrow statute (N.D.C.C. ch. 51-25) and our directory statute (N.D.C.C. ch. 51-25.1), North Dakota preferably would conduct routine audits once every two or three years rather than once every five years. Additionally, the state should have the resources to conduct a near immediate inspection in response to a report of contraband at a specific retail location. North Dakota receives over \$20 million per year from the tobacco settlement, and the investment in an FTE for a compliance auditor is a prudent way to help protect the settlement dollars. A transfer from the Tobacco Settlement Funds is requested for this position.

26 Fargo Cyber Office Remodel

BCI has been working with the Fargo area law enforcement agencies to create a regional office for investigating crimes against children. This group is responsible for digital forensic analysis of devices seized during investigations. As officers are assigned to assist with the crimes against children unit, they require forensic lab space in the Fargo BCI office. That office would use the requested funds to remove walls and use modular work surfaces to allow the space to accommodate up to six forensic labs, all aimed at meeting the demands from the dramatically escalating number of child exploitation and drug trafficking investigations.

27 Criminal Investigators – Tribal

North Dakota has been plagued by the influx of narcotics directly affecting tribal nations in the state. These tribal nations are affected by drug trafficking organizations moving onto tribal lands and establishing drug distribution points. The inadequate number of federal law enforcement officers on tribal lands in North Dakota is not a new issue but does create a dire need for state response and action. The drugs being housed and trafficked through tribal lands is directly affecting all communities within the state. Several years ago, BCI was asked by tribal leadership on the Spirit Lake Nation to assist them with the problems created by drug trafficking organizations. In response, BCI asked the Legislative Assembly for new field agents who would be assigned to combat drugs on tribal lands through local multi-jurisdictional drug task forces. BCI also began the process of requesting Special Law Enforcement Commission (SLEC) designation from the Department of the Interior and the Bureau of Indian Affairs (BIA) to give BCI field agents the authority of BIA officers and investigators to combat narcotics trafficking on tribal lands. The SLEC designation is granted through the United States Attorney's Office.

The first step in the process of obtaining SLEC designation is receiving a resolution from a tribal nation allowing BCI to pursue the designation. Once the resolution is signed by the tribal nation, BCI agents receive training from the United States Attorney's Office in "Indian Country" laws. The BCI agents then go through an extensive BIA background check. A Memorandum of Understanding (MOU) is then created by BIA for BCI and the requesting tribal nation. The BCI agent is then given BIA credentials to enforce narcotics and criminal laws, affecting enrolled and non-enrolled persons alike.

BCI currently has SLEC designation with 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 their tribal resolution to be passed so the SLEC process can begin for their nation also.

During the 2023 Legislative Session, BCI requested six new field agent FTE to designate as "Tribal Agents" assigned to state-run task multi-jurisdictional drug task forces to directly work with the tribal nations to target drug trafficking organizations' activities. The six new FTE would have been paired for working and directly supporting the three tribal nations that have granted SLEC designation to BCI. The Legislative Assembly approved three of the requested agent FTEs in 2023 with the recommendation that BCI request the three remaining FTEs later. The three FTEs granted in 2023 are actively serving the tribal nations, and a new BCI-run multi-jurisdictional drug task force was created in Rolla to serve the nearby tribal lands. The partnerships and proactive field work in and around the tribal nations is reducing the ability of drug trafficking organizations to set up criminal activity on

tribal nations and ultimately set up distribution or “safe” zones affecting all North Dakota communities.

28 Crime Lab Overtime

The Crime Laboratory overtime funding is federally funded on the DNA Capacity Enhancement for Backlog Reduction grant. This funding allows for DNA analysts to perform overtime work to prevent the backlog of DNA cases and decrease the turn-around time of reporting DNA cases at the laboratory.

29 Restore 3 Percent Reduction

This request is to restore the three percent budget cuts in Governor Burgum’s budget from the general fund and special funds.

APPENDIX A

Attorney General Responsibilities in the N.D.C.C.

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