

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2382

2007 SENATE JUDICIARY

SB 2382

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2382**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2142

Committee Clerk Signature

Monica L. Selby

Minutes: Relating to provide an appropriation to the attorney general for the purpose of funding bureau of criminal investigation

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of Bill:

Sen. Dave Oelke, Dist. 15 # Introduced the bill.

Rep. Kim Koppelman, Dist. #30 Spoke in support (meter 2:41) of the bill. The hiring of two additional people to work on the I.T. Side is very important. My police chief, from west Fargo, requested this legislation. The majority of the work is done in Bismarck. The Fargo area has to have it's own location. Crimes have gotten more complex as the computers get more complex.

Aaron Burst, States Attorney Association (meter 4:30) We are in support of the bill. Fargo has started there own program and they need the dollars to support it.

Garry Kennit – Dir. Of Criminal Investigation Program (meter 4:39) Gave an overview or what the current program consists of and its costs. The advancement in computer size and technology has increased the work load per computer. Discussed how some new legislation, for example the "internet luring site" bill will also increase workload.

Sen. Nething questioned why this isn't in the appropriation budget bill? This is a field demand and is not a part of the Attorney General's budget. Mr. Kennit stated that his priority is to keep his current agents. In the past I have had 80-100 applicants, today I get maybe 17.

Sen. Olafson asked if the work of "hackers" take their time.

Tim Erickson, Agent for the Bureau of Criminal Investigation responded, "not much". He also stated that the last two homicides have taken quite a lot of their time. He elaborated on some of his case load.

Sen. Fiebiger asked how the department plans to grow to meet the challenges of the trends. (meter 12:15) If we get a case load of one a week/per employee that would be four a week or approximately 200 extra cases. We will be so back logged it will be scary.

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Senator David Nething, Chairman closed the hearing.

Sen. Lyson made the motion to Do Pass and refer to appropriations, **Sen. Nelson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Nelson**

Senator David Nething, Chairman closed the hearing.

FISCAL NOTE
Requested by Legislative Council
01/24/2007

Bill/Resolution No.: SB 2382

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

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$350,000		\$312,000	
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill provides for 2 computer forensic agents to examine computers used in luring, child porn, identity theft, and other crimes. It also allows more proactivity in undercover work developing cases against people who lure victims into inappropriate sexual and criminal activities.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section one contains a \$350,000 general fund appropriation for the Bureau of Criminal Investigation's computerized forensic investigations and examinations.

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

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

N/A

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

This fiscal note provides general fund monies for two special agent FTE's and associated operating costs.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Executive Recommendation excludes funding for this purpose.

Name:	Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-3622	Date Prepared:	01/26/2007

REPORT OF STANDING COMMITTEE

SB 2382: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2382 was rereferred to the Appropriations Committee.

2007 SENATE APPROPRIATIONS

SB 2382

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2382

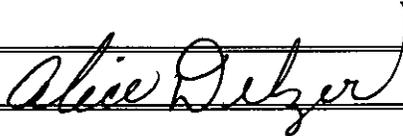
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-01-07

Recorder Job Number: 2509

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2382 at 10:45 am on February 1, 2007 relating to the Department of the Attorney General in regards to funding for the BCI computerized investigations and examinations. This bill is re-referred from the Judicial Committee.

Senator Dave Oehlke, District 15, Devils Lake introduced the bill and gave oral testimony in support of this bill. He stated the fact that the 2 FTE's are overwhelmed with the work load. This bill would provide for two additional FTE Forensic Examiners. SB 2248 deals with penalties and prosecution. Some of you may watch To Catch a Predator Program and notice that older people are going on the internet to entice young people to meet them and then molest them, and the problem is right here in North Dakota and the problem is on the rise.

Senator Krauter stated he was amazed this was not in the budget and where is this as a priority for the Department of the Attorney General.

Senator Mathern asked about the fiscal note in the other bill, how the money is spent, how the job is portioned out, is there any chance people in other areas duplicating these jobs and had questions regarding the computer hard drive.

Wayne Stenehjem, Attorney General stated that their office works with local officers with the STING Program. Fargo does quite a bit in this area and it is important to send two messages:

1. Send the message to young people on the internet.
2. Send the message to predator that he may be talking to law enforcement and the consequences that will follow; for one – a one year minimum jail sentence.

Senator Krauter asked for information regarding the fiscal note and if federal dollars are allotted in regards to this matter. He was informed that yes there is federal funding regarding the Crimes Against Children Act and funding for training purposes.

Drew Wrigley, US Attorney for North Dakota gave oral testimony in support of the SB 2382. His comments included information regarding the Gonzales case last spring, federal, state and local governments working together, the fact that these type of cases over the internet are exploding and crimes regarding child pornography are on the rise. The cache of crime scene photos is actually rape of young children, anywhere from 18 months to 24 months and the predators look at it as a way to make money. I am sure if I would come back for your next session we would see a great increase on these types of crimes, and we need to take action now regarding this very serious crime. He explained in detail the critical work a Forensic Examiner does and the urgency to catch the predator as soon as possible. He stated that these Legislatures can have a positive impact in lessening this type of crime in the future for North Dakota, and how important it is to deal with this problem now.

Arland Rasmusson, Chief of Police, Fargo, ND gave testimony in support of the bill. He shared how he assigned an officer in his department to go online and chat with people, and they prosecuted the first case in North Dakota through their efforts to catch the predator. He stated that within one week they saw activity on the computer, some from rural areas in North Dakota and even Montana responses.

Senator Bowman requested information regarding the impact of media on the repeat of sex crimes on the computer.

Debbie Ness, Police Chief, Bismarck, ND gave oral testimony in support of SB 2382. She shared on the circumstance of two young girls who came up missing who were in town to testify in another matter. They found the information they needed on the computer, and were able to prosecute the people who had intended to do them harm. She stated the dire need of the trained people in the computer work. When you lose the evidence, you lose the predator.

Chairman Holmberg stated this bill will go before the Subcommittee which consists of

Senator Kilzer, Chairman; Senators Mathern and Holmberg. They are meeting today at 3:15 pm.

Tim Erickson, BCI gave testimony in support of this bill.

Senator Holmberg was called to another hearing. **Vice Chairman Grindberg** closed the hearing on SB 2382.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2382

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-12-07

Recorder Job Number: 3416

Committee Clerk Signature

Alicia DeLuz

Minutes:

Chairman Holmberg opened the hearing on SB 2382 regarding funding for the BCI computerized investigations and examinations.

Senator Wardner commented that this bill needed to be on a top priority level. Discussion followed regarding the importance of this bill and the need for more FTE's.

Senator Tallackson moved a **DO PASS**, **Senator Krebsbach** seconded. A roll call vote was taken resulting in 8 yeas, 4 nays and 2 absent. The motion carried. **Senator Nelson will carry the bill.**

The hearing on SB 2382 closed.

Date: 2-12-07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2382

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

do pass

Motion Made By

Tallackson

Seconded By

Krubback

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓	✓	Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm		✓	Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓	✓	Senator Tim Mathern		✓
Senator Randel Christmann	✓	✓	Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 8 No 2

Absent 2

Floor Assignment S. Nelson Jud. Carried

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

REPORT OF STANDING COMMITTEE (410)
February 13, 2007 7:56 a.m.

Module No: SR-30-2982
Carrier: Nelson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2382: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). SB 2382 was placed on the
Eleventh order on the calendar.

2007 HOUSE JUDICIARY

SB 2382

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2382

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/6/07

Recorder Job Number: 4458

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on SB 2382.

Sen. Dave Oehlke: Sponsor (see attached testimony).

Chairman DeKrey: We just passed out a bill yesterday that does the same thing that came from the AG's office; you are talking about forensic experts to look at these chat rooms. We will have to reconcile that in committee. Thank you. Further testimony in support.

Rep. Kim Koppelman: Sponsor, just a little background. The bill we heard the other day does something different. SB 2382 came about as a result of local law enforcement making a plea and coming and saying that they need this help in the eastern part of the state. As Sen. Oehlke has indicated, there is a growing problem of crime with computers. As society has become more technologically savvy, so have criminals. When I received this request, I talked with the AG's office and they were very eager to see this legislation move forward and it was past our bill introduction deadline in the House, so Sen. Oehlke was kind enough to become the prime sponsor of the bill and he has worked very diligently for its passage.

Rep. Wolf: Why isn't this in the AG's budget?

Rep. Koppelman: My understanding is that, like with any other budgets, the AG's office has to prioritize their issues and that happens long before the Legislature comes to town, and

happens when the Governor begins preparing his budget for months and months before we come to town. Sometimes these issues, and the need for them, become more prevalent as we get here, and I think that is what happened with this.

Rep. Delmore: What is the number of the other bill, and whether there was an appropriation on that bill as well?

Rep. Koppelman: I don't know. Maybe Liz can help us reconcile that question. I was out at BCI a few years ago and visited with them, they are able to take a computer and if there was anything ever on that computer, I think these guys can find it. They are very good. Their workload is overwhelming and these cases are growing so it would allow more folks to do what they do.

Chairman DeKrey: Thank you. Further testimony in support.

Arlan Rasmussen, Chief of Police for West Fargo Police Department: I would ask for your support of this bill. I represent a police department and community that made use of forensic experts. At one time I had a police officer who had been injured on duty, so he had a temporary disability and he was not an expert on computers, but he knew his way around. We started him on the Internet on this luring, just like you are seeing on TV these days. People thought that doesn't happen here in West Fargo. We arrested 22 people within just a few months. We confiscated 27 computers. Doing the luring, we could work these 24 hours a day. We worked it at noon, at 10:00 am and 10:00 pm. There wasn't any problem; there were people on the internet willing to meet 14 year old girls and boys, that's what my officer portrayed himself to be, 14 years old. We got as many as three arrests that day. That's in West Fargo. We had people traveling 100 miles. Eventually my officer got better, and I put him back on the street to do his regular job, but we found that we were bottlenecked, in that we couldn't get our computers checked out in a timely manner. We had to go to the AG's office

and I think they only had one person at that time. We actually went out of state, and it cost me \$900 in shipping fees just to ship computers out and it took many months to get the information back and cases were delayed for a long time. If we would have continued, we have broken the system, and we kind of did because the state couldn't handle what we had; we were the only one doing it basically. I can tell you from experience that this is a need in our community, in all our communities. We had people driving from 100 miles away to meet a 14 year old girl. That is the farthest someone drove. We had one guy from Montana that wanted us to come to his ranch. He told us how he had this ranch, and that nobody would find you if you came, of course, this was our officer posing as the girl. I would ask that you support this. This is just one area. I'm sure that everyday you use a computer, doing email back and forth. We are finding more ways to solve cases. I have friends in other states that have solved homicides because of what was found on a computer. Obviously, it used to be that we would ask that the criminal bring in their financial records in, and you got a stack of papers. Now the financial records are on the computer and we use a certain system, but it's password protected, and we need to be able to crack their password. We need these people.

Rep. Kretschmar: These people on the computer, were they convicted of a crime.

Arlan Rasmussen: Yes, they were; 22 people were convicted of the luring. Some went through the federal system, some went through the state system, but we had 22 convictions.

Rep. Koppelman: One of the things that came up with the other bill that was mentioned earlier, was a question of how this luring works. I am familiar with the example you described in West Fargo and what went on there. Do you still have people doing this in your department, and do they always initiate or are parents reporting that they think their child is being lured by someone, and then the officer continues posing as the child.

Arlan Rasmussen: We've done it both ways. We actually initiated this because we did have a complaint from a parent. That complaint led me to believe that I could use my officer to try this. We did it several years ago. We've done it both ways, where we had people getting threats and followed up through that and we had people getting lured where their daughter was on the internet. The majority of times what you hear about is the officer being on line and portraying himself to be somebody else. What they are portraying themselves to be are your nieces and nephews, grandchildren and children. We protect our children. We have safe secure communities, we have our homes, etc. There are so many people these days that have their computers, they take their laptop, go into the bedroom, and come into your homes via the internet. The children are not safe in her home because they are being visited and on numerous occasions. The officer I had, would have up to eight conversations going at a time. I'm not asking for help in that area, I'm asking for help in doing the forensic examination work. There are a lot of people out there, criminals doing this.

Rep. Wolf: Has your department ever checked into hiring your own person to do this versus the state doing it.

Arlan Rasmussen: I don't have to hire somebody specifically to do that, I don't have the resources to do that. I don't have anyone doing the luring right now, I would like to have it, but that's not been one of the priorities. We do that intermittently, we get enough clients that come in that have had threats, harassing emails, etc. We've actually looked at doing this with Fargo and Cass County as a combined effort. We did get a grant for some equipment, but couldn't get a grant for any manpower. We talked with the AG's office, and our idea was to get someone in the eastern part of the state, but at that time, there was only one person in the state that could do this and he worked for the AG's office and they needed to have two people doing it, because the law changed, it says that you need to have two people, as a check. You

actually have to have two people checking each other. We used our grant for equipment that was given to the AG's office in Bismarck so that the entire state could use it. I don't have the funding for that, I think this would be better used in the state.

Rep. Wolf: Do you have the AG's office look at it when there are threats by emails, etc.

Arlan Rasmussen: Yes, and for financial records as well. A forensic person knows just how to get into the system, to break the passwords, etc. So you can use them on accounting problems, threats, luring, etc.

Chairman DeKrey: Thank you. Further testimony in support.

Liz Broeckel, AG's office: (see attached testimony from AG). The bill you heard last week, SB 2248, the electronic luring, that is the end of the process. This bill is the beginning. SB 2248 strengthens the penalties relating to the electronic crimes against the children, this bill relates to the investigation of those crimes. This bill comes before that bill. As to the question regarding the budget, in the presentations that the AG gave to the budget appropriations committee, he was asked the same question. His response was that our budget addressed priorities that we had identified for the existing functions that we have including equitable salaries for staff we already employ. While we agreed that this indeed a very important public safety bill, the AG wanted to first ensure that our budget, under the existing disparities that were already identified, before we took on to fund additional FTE's. The AG had asked me to mention in the testimony and it relates mainly to the use of the BCI agents to do the forensic investigations, as others have mentioned, these are highly specialized investigations. They are able to get into computers and are currently swamped. They are backlogged around 4-6 months. The bill was asked for by local, state and federal law enforcement agencies and prosecutors.

Rep. Meyer: With these people, how readily available would they be here, are there any here right now or would we have to bring them in from out of state.

Liz Broeckel: We currently have two BCI investigators, and I will defer to Tim Erickson from BCI.

Chairman DeKrey: Thank you. Further testimony in support.

Dean Ross, Valley City Police Department: We are in support of this bill. We are small in size, we aren't able to hire a person dedicated to computer forensics. So we use BCI whenever we can. We hope that they can add two forensic experts in the eastern part of the state. Last September, we had a murder in Valley City, so everybody here thinks that it's just luring, sexual predators, and things like that. Granted that's a huge part of it; however, when

Mindy Morgenstern from New Salem was murdered, we brought our computers out to Tim Erickson. They took the time immediately, put all their other work aside and probably made other agencies unhappy, but took time to put our case in a priority mode which I thought was great. They would do that any agency, which is very important. In the meantime, we are putting other cases that also have high priority, in the backlog. Personally I couldn't do the work he does. I think that if you sit there and look at sexual innuendos all the time, child exploitation and stuff going on in computers, it takes a different sort of individual to be able to do that and not burn out immediately. That isn't the only aspect of this that we're looking at. Their training is now into cell phone text messaging. The forensic part comes into play now, because that is another separate section that they actually have schools for that to learn that expertise. We can't take the time to send anybody, nor the financial resources. That makes us negligent. Our former sheriff said that when it comes to learning computer crimes, we didn't have the staff or the manpower. I don't think we can afford not to have the staff or money to do these cases. If any of you look over the balcony out here, there are 5th graders that are all

sitting out there on laptops. What they are doing today is probably putting on a show for all the people here in the legislature, but what they are doing at home is unknown. Between the homicides, the sexual exploitation, the luring, all the financial crimes out there, every one has kids, grandkids, nieces, nephews, brothers, sisters, whoever it may be, that may be exploited in one manner or form with a computer. It is with this reason in mind, that we strongly encourage you, because smaller agencies truthfully don't have the manpower or the money to do it. That's unfortunate. I would like every city to be able to do that; every major city should be able to do that on their own. It's not going to happen. We're looking for support on this legislation from your committee and hopefully the House.

Rep. Klemin: I can understand why you don't have enough work for somebody in Valley City to do this as a full time staff member, but collectively once the cities, consider any alternatives to having BCI do that, like through the League of Cities, so that you could have a person you can go to that could do the work.

Dean Ross: That's exactly what I hope we are doing here. I hope that having those two forensic people only under the hiring of BCI to do that work, that all of these cities can go to.

Rep. Klemin: Is there any provision that BCI does now, or if BCI does work for a local political subdivision that they can charge back the costs of doing that to the entity that asked them to do that.

Dean Ross: I don't believe that they do that at all. We have never seen a bill from BCI. I'm not going to say that they don't have that capability, because it seems like even within a city, certain departments charge other departments; whether BCI would choose to do that, I don't know. I'm sure that cities would prefer that they not, of course,

Rep. Klemin: Here we are talking about having the state do investigation work for the city or county.

Dean Ross: Correct. That's actually what BCI does best. If you would have looked at Valley City, ND on September 13, 2006, you would have seen probably 17 BCI agents, not in the area, but you would have seen them in various parts of the state, traveling into MN, various parts of ND, they are an assisting agency for the cities. Without their help on this particular case, our agency would have been snowballed. There is no way in the world that we could have done all those separate investigations that have to be done simultaneously. So they are an assisting agency. We all owe them a debt of gratitude. We don't pay them, the State pays them. We pay them through taxes and through appropriations like hopefully this committee will make. We don't pay them, but we depend on them as an assisting agency. Is that right? I don't know.

Rep. Klemin: If we took this \$350,000 and turned it into an hourly rate somehow, could they bill you for that service.

Dean Ross: Can they? Probably. Would they? I don't know.

Rep. Klemin: Would you be opposed to it.

Dean Ross: Well if it were a decent hourly rate, it would be okay. I'm cheap too.

Rep. Koppelman: When we think about what BCI does, I know from my time in the legislature, my understanding of what they've done and what they do, is change over the years. I think we think of crime we think of blood samples and forensic examinations of a crime scene. Do you see this computer technology just being a modern day extension of what they've always done.

Dean Ross: Absolutely. That is a total extension and it's just to go with the way the times have changed, that's what it is. I don't know if criminal investigations are going to ever get to a reduced state of affairs, as we know we are building prisons and putting people in there, but I don't think that's ever going to change. This is an extension of their duties. Their old duties

aren't going to go away. The new ones are going to come in the form of computer problems. Computer problems, I don't foresee an end to them at this particular point in time. They are going to think of things that we haven't even thought of at this point. There is no question. As Chief Rasmussen said, he and I really aren't that great on computers. We can do our job, but we don't get into forensics, we don't know how to do the technical aspects of this that these people do. Their training is extremely expensive and intense.

Chairman DeKrey: Thank you. Further testimony in support.

Dallas Carlson, Chief Agent with BCI: I think there was a question about where the agents would come from, such as hire from out of state – we have a couple of agents that are interested in transferring from their current duties into the computer forensic field. They have a little computer background, they know what it entails, and so we would draw those people first, we want to draw from within our agency first, that would be great. If not, we will advertise outside the agency. The fiscal note of \$350,000 is not total salary, there is some equipment attached, I think we figured in a vehicle for each of them, so it is not total salary. As far as charging back for our services, BCI was set up when it was started as an assisting agency. Twenty years ago, 90% of our assists were probably burglaries. We don't charge for burglaries then and we don't charge for homicides. This is just a small aspect of what we do as an assisting agency; is there just one of the jobs that we do that could be charged back? I guess I never thought about that. Historically we've never charged the locals for any assistance that we've given. We would like to place these agents in the eastern part of the state. This would save travel time and court time for not only our agency, but for the local agencies requesting the computers being examined. This can be anything from cell phones to computers, computers aren't just for child sexual luring, we've done them for homicides, drug

cases, exams for just about any crime that you can imagine. A computer seems to be attached to most crimes these days.

Rep. Onstad: Is your office doing any work in educating the kids, say in junior high schools, I know teachers can do that, but it seems to be more effective coming from you telling them what actually happens when they go into these places about what can happen.

Dallas Carlson: BCI is a member of Internet Crimes Against Children, which is a national organization that part of the approach is education. Within ICAC there is a program called NetSmart that we try to integrate that with local agencies and their crime programs that they have now. We don't want to come in and take over their program, but if the people can put this into their programs, the AG's consumer protection division has gone on it and done some training on it up in the Towner area; so yes, there is a program.

Chairman DeKrey: Thank you. Further testimony in support.

Arlan Rasmussen, ND Peace Officers Association: I was asked to mention that they back this bill as well.

Chairman DeKrey: Thank you. Further testimony in support.

Tim Erickson, Special Agent, BCI, Minot: My main assignment is the computer forensic lab and I am here to answer any questions.

Rep. Koppelman: Tell us about your workload.

Tim Erickson: My workload now is a backlog of about 4-5 months. We have to prioritize cases when they come in. At this point in time, we do a majority of person cases are child abuse, child neglect, things of that nature. The online luring cases, we only do those at this point in time as a reactive nature, it's when a caregiver contacts law enforcement agency, and says there is a problem with their child, then we work with local agencies to investigate it and we work with agencies from as far away as Grand Forks, to recently Dickinson, Jamestown,

we work the whole state. We have been successful in those investigations. Hopefully we have saved some children and we've put some bad people in jail.

Rep. Koppelman: In just glancing at the AG's written testimony on this bill, it talked about that 4-5 months backlog that you also talked about and pointed out that individuals arrested for these crimes can't be prosecuted until your forensic work is completed. I assume that means that probably the back log in county jails when we talk about costs, that the system isn't moving as quickly and efficiently as it could.

Tim Erickson: That is probably fair to say but I can't provide specific details; but one of the things that we do when we do the forensics, we need something called peer review. I have a partner, Steve Harstad, who is a native of Williston, ND, and I'm from Carrington originally. I went to BJC. What we do is called peer review. We will work with a case with the forensics, we have our findings here, my partner doesn't have to redo the case, but we have a checklist that is a national standard, about what should be maintained in an examination to make sure that everything is done correctly to meet those standards. That's why we are asking for two agents for the eastern part of the state. The cases can be done, but the peer review is still going to have a lot of windshield time, having to come from Fargo to Bismarck. That's my understanding of part of this.

Rep. Koppelman: Is the online luring a big part of your cases.

Tim Erickson: Well, with online luring, if we partner up with the 4 major cities, and each city only does four cases a month, times 12 months, how many more cases is that. Part of the problem that we had, when I started doing this back DOS 622 was king and Windows was something new, that hard drive was less than 1 gbyte. Now we're going online, we are doing search warrants and taking multiple terabytes, thousands of gigabytes storage from homes, my travel kit used to be a DOS boot disk and a little skuzzy drive. I would travel over and hook

up and do the forensics on the computers; now we're taking portable servers along, multiple terabyte servers just to get the data. Searching that data is taking us a lot longer. How do we archive that data. Things have changed a lot. You had pictures before in a child exploitation case, here are the pictures and you never went to court and you would be out of jail. The way it is now, here are the pictures, how did they get there, did they have someone hack in, who is behind the keyboard, there are a multitude of questions and it's gotten a lot more technical. We probably go to specialized training a minimum of 2 weeks a year and that's once we get our certifications. My certification took me two years to do this. It's a long term program.

Chairman DeKrey: Thank you. Further testimony in support; testimony in opposition or neutral. We are going to close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2382

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/7/07

Recorder Job Number: 4587

Committee Clerk Signature

A. Penrose

Minutes:

Chairman DeKrey: We will take a look at SB 2382.

Rep. Heller: Did they say part of the money was for vehicles.

Chairman DeKrey: They said that the \$350,000 was not all salary, some of it was equipment.

Rep. Meyer: And cars...

Chairman DeKrey: A vehicle for each of them. We could save Appropriations a lot of time and kill this bill up here.

Rep. Klemin: Why can't they use the motor pool like the other agencies.

Rep. Meyer: Did we already pass this.

Chairman DeKrey: Nobody passed out the AG's bills. If they want to put it in, they will have the opportunity. I can guarantee Appropriations, if they fund any of it, it will fund the appropriations, not this.

Rep. Koppelman: This is very important to the eastern part of the state. The guys are presently overloaded. There is a need in the eastern part of the state. There is a 3-4 month backlog. The AG supports it. I am very sensitive to the fiscal note. I guess my preference

would be to pass it and rerefer it, but if the committee wishes to do something with the dollars, cutting it in half, it would take it from 2 FTE's down to 1.

Rep. Delmore: Then if you are going to do that, you may as well let them hack it down there as up here.

Rep. Klemin: I guess I'm sympathetic to the issue, but on the other hand, we keep getting asked by the political subdivisions to have the state do more and more for them. This is another one of those examples where they say we can't. We're not doing this so much for the state, but for the cities and counties who don't want to hire the people themselves to do it, or to have any kind of joint authority agreement to do it, or whatever. So the burden is then passed on to the State to take this over and if there was some mechanism to charge it back to them, but there isn't. Is there any corresponding requirement that they have a property tax reduction because they won't be spending this money themselves.

Rep. Koppelman: Do we have a motion on this.

Chairman DeKrey: No.

Rep. Koppelman: I move a Do Pass with a rereferral to Appropriations.

Rep. Delmore: Second.

Rep. Meyer: This bill would help, but the bill you just passed wouldn't help what happened in Valley City. This has the potential to help. That's how the gentleman was caught. If we hadn't had the BCI agent had come in immediately and had talked with agents and took his computers and hers, I don't think you would have caught him at all.

Rep. Koppelman: I think there is merit in those comments. I understand your concern and to a large extent, local governments can and should take part in the process of what they do.

However, this is a state responsibility, nobody else in the state does what BCI does. We have one crime lab in our state and it involves, as you heard testimony on this bill and others,

involves investigating crime scene. If you watch CSI and all those kinds of programs, that's what those folks do. Now, today with our technological society, that is including to a greater and greater extent computer forensics. The fact that we only have two people doing that, is just a sign of the times that that needs to change. The backlog is what it is, and we want to change the whole approach, then we should have a crime lab in the eastern part of the state and I think it is a state function. I suppose everybody east of Valley City could pay for that one, and everybody west of Valley City could pay for the one here. I think it is essentially a state function.

Rep. Onstad: We are just giving the agencies that use BCI the ability to do background checks. Those agencies are going to pay for that information. I think where Rep. Klemin is coming from, is that they are providing a service, is there some responsibility that they should pay for some of that. There is a cost for district courts and counties pay for that. I don't think it is totally out of line to ask for reimbursement. It seemed in testimony that they don't do that right now.

Rep. Klemin: The other thing I remember from this, when Liz Broecker was up here, she said that when the AG's budget was prepared they had to prioritize things and they didn't include this. So they had this under consideration when they prepared their own budget, but they didn't put it in. So this is kind of the backdoor way of getting this into the budget.

Chairman DeKrey: I think our conversation here is moot, because it's going to go to Appropriations anyway.

Rep. Koppelman: I agree with that. I think one comment, in response to Rep. Klemin, she did say that, however, I'm also under the understanding that the need for this has become far more apparent since the budgets were prepared, since the Governor's and AG's budgets are prepared a year ago or so, or 9 months. This is a growing need, and came after the budgets

were prepared. In response to Rep. Onstad's point, I think you have a good point. I guess the question that we can respond to in this bill is whether BCI services ought to be paid through a rationale basis on a fee-for-service basis, we could do that, but we have computers and technology through the ITD process. The fact of the matter is, the taxpayers are paying for this. It's a question of what pocket it is coming out of. We could have the locals pay a portion of it and raise property taxes to do that, or we can continue to pay for it from the state, which our main source of funding is income and sales tax.

Chairman DeKrey: The clerk will call the roll on SB 2382.

8 YES 6 NO 0 ABSENT

DO PASS WITH REREFERRAL TO APPROPRIATIONS

CARRIER: Rep. Koppelman

Date: 3/7/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2382

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass + Rerefer to Appropriations

Motion Made By Rep. Koppelman Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey		✓	Rep. Delmore	✓	
Rep. Klemin		✓	Rep. Griffin		✓
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging	✓		Rep. Onstad		✓
Rep. Dahl	✓		Rep. Wolf		✓
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar		✓			

Total (Yes) 8 No 6

Absent 0

Floor Assignment Rep. Koppelman

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

REPORT OF STANDING COMMITTEE (410)
March 7, 2007 3:40 p.m.

Module No: HR-43-4671
Carrier: Koppelman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2382: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). SB 2382 was rereferred to the Appropriations Committee.

2007 HOUSE APPROPRIATIONS

SB 2382

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2382

House Appropriations Committee
Government Operations Division

Check here for Conference Committee

Hearing Date: 3/19/07

Recorder Job Number: 5274

Committee Clerk Signature



Minutes:

Chairman Carlson opened discussion on Senate Bill 2382.

Representative DeKrey explained the bill.

Senator Oehlke spoke in support of the bill. See testimony 2382.3.19.07 A

Chairman Carlson: Are you aware that they are requesting some of these cyber agents in their budget?

Senator Oehlke: I think we are a little confused on what that is. This money is not to support counties, it is to have the two cyber agents in this area in Bismarck are so busy they don't have time to handle all of the activity in the eastern part of the state. That is what this bill is for. I think there is confusion about what is supposed to go where.

Representative Koppelman spoke in support of the bill.

Wayne Stenehjem, Attorney General, spoke in support of the bill.

Chairman Carlson: You did not include this in your base budget?

Wayne Stenehjem: No we didn't.

Chairman Carlson: My understanding when we toured up there is that there was one more being hired for eastern ND?

Wayne Stenehjem: That is what we are hoping to do with this legislation.

Chairman Carlson: So this is on your wish list but not on the top of the wish list.

Representative Kroeber: We have seen this in one of the budgets. Is it in the Senate version coming over?

Chairman Carlson: All I know is that when I was up there the impression I got was that we were going to add people. Maybe I was mistaken and it was this bill.

Vice Chairman Carlisle: You currently have two on staff and this would add one more right?

Wayne Stenehjem: This bill as it stands would add two.

Vice Chairman Carlisle: This is outside the Governor's Budget?

Wayne Stenehjem: That is correct.

Representative Kroeber: This is just the salaries and benefits correct? They don't need an office?

Wayne Stenehjem: No they will be housed in our office in Fargo.

Chairman Carlson: We are not going to take a lot of testimony on the bill itself. We are going to focus on the money side. I hope no one feels offended if we move on but our job is not to rehash the old issue, I think we understand what is going on the question is whether or not we want to fund two more positions right now or not.

Dean Ross, Chief of Police in Valley City, spoke in support of the bill

Arlen Rathsmussen, Chief of Police for West Fargo, spoke in support of the bill.

Chairman Carlson: We are not going to act on this bill today. We will reconcile it with the budget.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2382

House Appropriations Committee
Government Operations Division

Check here for Conference Committee

Hearing Date: 3/20/07

Recorder Job Number: 5354

Committee Clerk Signature

Angya Voegelé

Minutes:

Chairman Carlson opened the discussion on Senate Bill 2382.

Chairman Carlson: This is not already in your budget?

Kathy Roll: No.

Chairman Carlson: Why did you not put this in your budget if you were so overbooked?

Wayne Stenehjem: It was not as high on our priority list. The equity for our people and the crime lab were our highest needs.

Representative Williams: Let's try one FTE for the biennium.

Representative Kempenich: We are going to be in the second year already by the time they hire the person.

Representative Williams: We all agree that this has merit. We all agree that it is necessary. So that we don't jeopardize the total bill lets amend at the appropriate places one FTE and put in the sum of \$175,000 if that is appropriate for the time span of July 07 to July 09. Then you are hiring one FTE for the biennium. Two years from now, we can come back and look at it and probably add another FTE if you see fit.

Representative Skarphol: I would like Allen to prepare an amendment to the Attorney General's budget authorizing an FTE and the dollar amount and kill the bill.

Page 2
House Appropriations Committee
Government Operations Division
Bill/Resolution No. 2382
Hearing Date: 3/20/07

Vice Chairman Carlisle: Do you want that FTE a year out or now?

Representative Skarphol: For the biennium.

A motion was made by Representative Skarphol, seconded by Representative Thoreson for a DO NOT PASS recommendation to the full committee. The committee vote was 8 Yeas, 0 Nays and 0 Absent and Not Voting. The bill will be carried to full committee by Representative Skarphol.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2382**

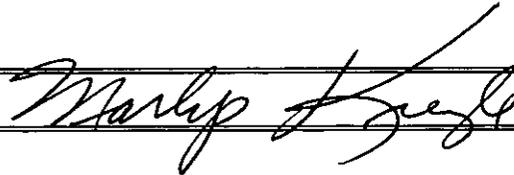
House Appropriations Committee

Check here for Conference Committee

Hearing Date: 3/21/07

Recorder Job Number: #5393

Committee Clerk Signature



Minutes:

Chairman Svedjan opened the hearing for SB 2382.

Rep Skarphol: There are no amendments to this bill.

I would simply be part of the Attorney Generals budget and was an understanding between our committee members and we did request an amendment to put on the AG budget to fund one of these positions not two, in the amount of \$175,000. There is a pending burn out situation with regard to the two gentlemen that do this currently in the AG's office and it was felt in our sub committee that there is a need to help out that situation and to further investigate or worrying by sexual predators. We did not think this bill was needed and there for our committee would move a do not pass and I would like to make a motion to have a "Do not Pass on SB 2382 for those reasons.

It was seconded by Rep Kempenich.

Chairman Svedjan: Sot the AG budget would be some what less than the \$350,000?

Rep Skarphol: It would be half of the 350.

Chairman Svedjan: Have you adopted that amendment yet?

Rep Skarphol: We have not worked the AG's budget yet but we ask that the amendment be prepared.

We will take a Roll Call Vote for a "Do not Pass" motion to SB 2382.

Page 2

House Appropriations Committee

Bill/Resolution No. SB 2381

Hearing Date: 3/21/07

With a 20 yes, 2 no and 2 absent.

Carrier will be Rep Skarphol.

Date: 3/21/07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2382

House Appropriations Full Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Net Pass

Motion Made By Skarphol Seconded By Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold		✓
Representative Monson	✓		Representative Gulleson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman		✓
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 20 No 2

Absent 2

Floor Assignment Skarphol

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

REPORT OF STANDING COMMITTEE (410)
March 22, 2007 4:18 p.m.

Module No: HR-53-5988
Carrier: Skarphol
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2382: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO NOT PASS (20 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). SB 2382 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2382

RE: SB 2382

*Same
given to
House Approps -*

House Judiciary Committee

Chairman DeKrey and members of the committee, my name is Dave Oehlke, senator from district 15.

As a sponsor of 2382, I would encourage you to give this legislation every consideration. I learned just recently that the insiders name for the people this bill will fund is "cyber agent". If that sounds a little Star Wars or for those of us who are even older, Dick Tracy or Flash Gordon, consider that the two "cyber agents" that the Bureau of Criminal Investigation(BCI) currently employs are so busy they are unable to attend to all of the computer related crimes in our state!

Unfortunately, each of us probably knows, is related to or has been a victim of some kind of computer fraud, or at the worst know or have read of a minor who was lured into a violent situation through computer related activities.

These situations are part of our life and times. More help is required in the eastern part of ND to provide adequate assistance to law enforcement. Please favorably consider supporting SB 2382.

Thank you.

Testimony of Attorney General Wayne Stenehjem
SB 2382
House Judiciary
March 6, 2007

Mr. Chairman and Members of the Committee

I had hoped to appear in person to speak to the committee but I regret that I am currently in Washington, DC, attending a conference of the National Association of Attorneys General.

Last week, this committee heard testimony on SB 2248 – Luring by Electronic Means. You heard that Internet crimes, and particularly Internet crimes against children, are a growing problem. The problems will only continue to grow in the future.

The Bureau of Criminal Investigation has two computer forensic investigators. They are the only two computer forensic investigators in the entire state. This office works cooperatively with state, local and federal authorities to investigate and prosecute crimes committed using computers. A vast majority of these crimes are perpetrated against children. A forensic examination and investigation of the computer hard drives and other electronic equipment used in these crimes is both highly specialized and time consuming. The two BCI agents are swamped, with a four or five month backlog, and an ever increasing workload. The individuals arrested for the crimes cannot be prosecuted until the forensic investigation is completed.

This bill was requested by local and federal law enforcement agencies and prosecutors, particularly in eastern North Dakota, and I support SB 2382.