

2015 HOUSE APPROPRIATIONS

HB 1017

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

HB1017
1/15/2015
Job 22035

☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the office of administrative hearings.

Minutes:

Attachment 1

Chairman Pollert called the committee to order.

Wade Mann, Director of the Office of Administrative Hearings: Read written testimony (attachment 1).

Chairman Pollert: Did you come from the outside or were you part of the agency?

Wade Mann: I came from the outside. I was a partner at Crowley Fleck Law Firm in Bismarck.
Continued to read testimony.

Vice Chairman Bellew: Can you give me an example of why your agency would be used over a court or district court?

Wade Mann: It's statutory. In regards to workforce safety, by statute, we hear those appeals. We issue final orders for them. If the party disagrees with our decision, they can then appeal to district court. We do hearings for many agencies. It's very diverse. Just within Human Services, we do hearings that relate to child abuse and neglect, intentional program violations, and eligibility for different programs.

Vice Chairman Bellew: Who would come to you, the department or the individual?

Wade Mann: The agency submits a request to our office. I then assign an ALJ to that matter to handle that hearing. All requests come from the agencies.

Rep. Silbernagel: Are all of the published administrative rules hearings under you?

Wade Mann: When an agency does administrative rules and has a hearing on those rules, we act as a procedural administrative law judge for those matters.

Rep. Nelson: What types of issues in the Public Service Commission go to administrative court?

Wade Mann: We primarily serve as a procedural administrative law judge in those cases, which means we "direct traffic"; we swear in the witnesses, rule on any preliminary or evidentiary issues. It's primarily citing issues in those cases. We handle the procedural aspect of it, but the commissioners are in attendance and they do make the decision and write the findings.

Rep. Nelson: So this would be more in the corridor itself? Not a particular land owner. When they come to the state with an issue over citing, do you get involved in that aspect or is this earlier on when the corridor is being established?

Wade Mann: It is early on when the corridor is being established as part of the application process. There are also some instances, for example when PSC brings a complaint against somebody for maybe violation of one call.

Rep. Holman: In the chain of responsibility and ruling, where does this stand? How does this one tie into the next level?

Wade Mann: Generally how it would work is we would have the hearing before our agency. Then if the party does not like the decision, pursuant to the administrative practices, then they would appeal to district court. The district court would hear the appeal from our agency and then that could be appealed to the Supreme Court.

Rep. Holman: Do the agencies save money when they deal with that as opposed to having to defend something at the next level? Is that why we have this?

Wade Mann: I'm not certain.
Continued to read testimony.

Vice Chairman Bellew: When you hold hearings for school districts, do you charge the district?

Wade Mann: They do get billed at an hourly rate, similar to a state agency that we would provide services to.

Rep. Nelson: You stated that you had additional offices needs in Bismarck for the FTE moved from West Fargo. Wasn't there some allowance for office space in West Fargo?

Wade Mann: ALJ Bailey worked out of her home in West Fargo so we didn't have office space for her. The only expenses we had there was office equipment and internet.

Rep. Nelson: She wasn't provided any office rent?

Wade Mann: No, she wasn't paid for the use of her home as office space.

Chairman Pollert: I'm looking at the base level funding changes. You talked about the need for additional office space. Where is that? Is it under continuing appropriation increase?

Alex Cronquist, Fiscal Analyst, Legislative Council: It wasn't included on the Executive Budget.

Wade Mann: That's correct.

Chairman Pollert: So you're looking for an amendment. We'll need to know that.

Wade Mann: I'll bring that.

Alex Cronquist, Legislative Council: I don't have the amounts.

Lori Laschkewitsch, OMB: We can get that amount for you.

Wade Mann: The only other change that hadn't been accounted for in the Governor's Budget was that salary is slightly increased for the position that we hired to replace ALJ Bailey.

Chairman Pollert: Is that more than what's showing on our sheet?

Alex Cronquist, Legislative Council: The amount is not shown.

Chairman Pollert: Was that for one person?

Wade Mann: It was for the two other full-time ALJs. Mine did not change.

Chairman Pollert: Will the expenses change for those also or just the salaries and office space?

Wade Mann: Yes, to my understanding those are the only issues.

Rep. Kreidt: What are you looking at for an office? Are you building a new building?

Wade Mann: No. We are currently housed in the Kirkwood Bank building on Century Avenue. In the space that we currently have, there was a small space that had been an IT storage area. The landlord converted that space into an office. It's a very small office. That is the only additional space that we've picked up.

Chairman Pollert: Is that leased space?

Wade Mann: That is correct. We did just renew our lease. The price went up about \$2 per square foot but that is accounted for in the budget.

Rep. Silbernagel: I see you're serving the addiction counselors and some of the licensure boards. Are you required to be at all of their meetings or just upon request?

Wade Mann: We don't go to any of their meetings. We only provide services to them for their hearings when they're necessary.

Chairman Pollert: On the salary increases performance and market equity, are those put in based on the Hay study? Or is your office different?

Lori Laschkewitsch, OMB: The market equity increases would be the money that was calculated for people that are in the first and second quartiles of their range.

Chairman Pollert: So it is based off the Hay study?

Lori Laschkewitsch, OMB: That was the policy that directed us to calculate the compensation that way.

Rep. Nelson: Didn't we make some rather significant changes to equity in the past? There were a number of years where the administrative judges were at lower ranges. We made some changes. Now there has been a 40% turnover. With the changes that were made, was that before the turnover?

Lori Laschkewitsch, OMB: I believe the Administrative Law Judges are non-classified positions so they would not fall into that market policy piece because there wouldn't be quartile ranges for them.

Vice Chairman Bellew: This is for OMB. I would like to know how the base pay changes were figured out, salary increase performance and the market equity also.

Rep. Kreidt: For this particular budget, the only way they can generate income is to raise their fees. There's no state or federal dollars.

Chairman Pollert: Would you raise your fees to the agencies that you're working with to cover that?

Wade Mann: How it works is after the biennium there is a vendor that comes in and assesses the rates, looks at what is being billed, and looks at our budget. They establish a range. Based on that, that's how the billing rate is set. At this point, I can't say for sure if it will need to be increased.

Rep. Kreidt: They've increased volume, but that also increases expenses because they will need additional help.

Lori Laschkewitsch, OMB: As far as their rates, they set the rates and those go into the budget guidelines so that agencies can budget for them.

Rep. Kreidt: But somehow they need to generate the money for the increases.

Lori Laschkewitsch, OMB: They probably projected that rate increase. When we ask the different rate charging agencies like the Attorney General's office and ITD when we put the budget guidelines out for the agencies, they give us what they project the billing rates will be for the 15-17 biennium.

Wade Mann: That's correct.

Chairman Pollert dismissed the committee.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

HB1017
1/23/2015
Job #22429

- ☐ Subcommittee
☐ Conference Committee

Kenneth M. Torkelson

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the Office of Administrative Hearings.

Minutes:

Attachments: 1

Chairman Pollert called the committee to order.

Chairman Pollert: We'll start at the top of the spend-down and try to go through a little of the testimony. We'll look at the top of the IBAR sheet, and take it from there. (See Attachment #1.) I would say that this is probably the same as everything else. The salary increase of the 3-5 is under Salary Increase. The tax ramifications are under the Benefit Increase. And then the health increase, is that the 179/month increase, that's under Health. And the retirement is the one percent. And the Salary Budget Adjustment on the 5038, that is the market from the Hay Study. We're actually getting that part down, committee. I think when you look at the green sheet, they've got one change on the green sheet, and of course that's Other Funds because those are the fees that you are charging the other agencies, I would suspect. Or the hourly wage or whatever it's called.

Wade Mann, Director of the Office of Administrative Hearings: That's correct.

Rep. Silbernagel: Regarding the salaries, is the annual increase the 4-4. Is that where that's at?

Becky Keller, OMB: Yes.

Vice Chairman Bellew: Under operating expenses, I have IT equipment under \$5,000. You've budgeted \$13,000 and you've only spent \$579. And then for the next biennium, you've budgeted \$13,000 again.

Wade Mann: It is my understanding that there are computers in the office that will need to be changing out soon, and that hasn't been paid for yet.

Vice Chairman Bellew: Will that be in this biennium still?

Wade Mann: I believe so, yes.

Vice Chairman Bellew: Then why do you need it for the next biennium?

Wade Mann: Some of this I'm not certain on. I have brought my office manager, Francis Zuther, who has some more familiarity with why these numbers were budgeted for the current biennium, and what we still need the money for. My understanding with that number is computers that will need to be updated, coming up.

Chairman Pollert: IT Desk Support. I see on HB 1053, Administrative Hearings has \$27,363. Where is that in Administrative Hearings?

Becky Keller, OMB: We didn't budget for IT Desk Support for the Office of Administrative Hearings because we weren't sure if it was going to be a go or not. And so because they're special fund, we didn't want to throw it in there if they weren't ready for it. And then, they have continuing appropriation, so if they do need to use it, they can add it in there. We just kind of told them, don't do it because at the time we weren't really in support of it.

Wade Mann: Before I came on, OAH had been looking at different possibilities of holding some hearings remotely, maybe with some IVAN-type equipment, but maybe not to that level. And I'm not sure if that's something that they had maybe planned on having included there.

Chairman Pollert: Is there one-time funding under the IT, under \$5000. You could look at it as saying it's a \$5000 increase, or you could look at it as saying it's a \$12,000 increase. Do you have some one-time funding in there?

Becky Keller, OMB: It's not one-time; it's cyclical. So they've got some stuff that needs to be replaced this biennium. They haven't done it yet. They will have some stuff that needs to be replaced next biennium. Because we don't know if they're going to be moved to the desktop support and stuff, we weren't sure what they would need and what they wouldn't need. So we left it the way it is. Since they're a special fund, if they don't use it, it stays in their fund.

Rep. Silbernagel: So four and four increases are in the Salaries Permanent. And the market is the 5038. What is the 49,665 of Salary Increase?

Becky Keller, OMB: The four and four is in the salary increase, not Salaries Permanent.

Chairman Pollert: The salary increase will be the 3-5 range, which OMB has everything at 4 percent. The benefit increase would be the taxes off of that 4 percent increase. So the fringe benefits, is that the \$179 per month cost of the health insurance?

Becky Keller, OMB: That's under health increase. The fringe benefits is the taxes based on the regular salaries.

Chairman Pollert: The retirement increase is the 1% that the legislature passed last session, and the salary budget adjustment, is that if there is any market performance?

Becky Keller, OMB: Yes.

Chairman Pollert: You won't have to bring that part to the floor, though.

Rep. Nelson: On the floor when you carry this budget, highlight the fact that there are no general funds in this budget. It's all special funds. That works on the floor; it doesn't work so well on this committee, obviously.

Vice Chairman Bellew: A lot of their funds come from general funds from other agencies.

Chairman Pollert: Some of us would say those are general funds, even though they're special funds because they will show up on the other agencies' costs, and they'll be general funds to that, going to that, which is going to be a special fund for them.

Wade Mann: There were a couple items that were different than the Governor's budget. One was salaries for two positions. The change would be \$28,737.

Chairman Pollert: What page of your testimony was that on?

Alex, Legislative Council: At the time, he didn't have numbers.

Vice Chairman Bellew: Can you give me that number again?

Wade Mann: It comes out to \$28,737. The other change was in operating expenses. That was for the office rent for the additional office we picked up when the ALJ moved from West Fargo to Bismarck. The additional funding needed for the biennium would be \$3744 over the Governor's recommendation.

Chairman Pollert: The report we have in front of us, where it shows the 15-17 base budget changes, that \$4000 should be \$3744 more? Is that what I'm hearing?

Wade Mann: That's correct.

Rep. Nelson: In your spend-down, in the rental lease code, you have a \$4000 increase in there. So is this \$3700 in addition to that?

Wade Mann: Yes it is. The increase occurred because at the first of the year we got extra square feet and put another office in our current location that we didn't have before. And that's what is for. I think the other number you were referring to is, our lease was up and we renewed, and I think we went up \$2 per square foot for our space.

Rep. Nelson: Do you know what the rental cost is for your agency?

Wade Mann: It's \$16 per square foot.

Rep. Nelson: Where is your office?

Wade Mann: It's in the Kirkwood Bank Building off of Century.

Chairman Pollert: On the green sheet under Other Funds of \$91,566, you're hoping that number will change to \$120,303. Am I looking at that correctly?

Becky Keller, OMB: Yes.

Vice Chairman Bellew: Would you explain why you need that extra \$28,000 in salaries?

Wade Mann: Yes. In the Governor's budget, one of the positions was vacant, and the amount they had allocated for that position that we filled after we weren't able to fill it at the salary it was, we couldn't find anybody who would accept that salary, so that slightly increased. That occurred with both of the open positions. One we filled in November, the other one the first of this year.

Chairman Pollert: I got \$124,047. The \$3744 of rental and the \$28,737 of the bump in the wages you had to pay to get the person hired. That was one of those spots correct?

Wade Mann: No, that includes both positions.

Chairman Pollert: So, instead of \$91,566, you're actually looking for \$124,047.

Rep. Kreidt: So the actual positions will still remain as five FTEs?

Wade Mann: That's correct. The FTEs will not change.

Chairman Pollert: Didn't your caseloads go up?

Wade Mann: They have been trending up. Each biennium, they have been going up, and that trend appears to be continuing.

Vice Chairman Bellew: If we grant your request, are you going to have to adjust your fees?

Wade Mann: At this point I don't know for sure whether the rate will have to increase. It's possible after we have an accountant-vendor come in and review. I believe they usually give us a range. Last time we set at 165 for the rate. It's possible, but I don't anticipate that it will be a large increase if there is one.

Rep. Kreidt: With the five FTEs, how many more hearings per biennium could you do with the five people you have, where at some point you might have to go to six to get the hearings done?

Wade Mann: I think we can handle a significant increase in cases. All of our full-time ALJs are all very busy. There are nine different administrative law judges that we have under

contract, and when the full-time ALJs get to capacity, we assign those cases to the temporary ALJs. That's how we address that.

Rep. Nelson: I see that Workforce Safety takes up nearly half of your cases. Are they a general fund agency?

Wade Mann: I can't speak on Workforce Safety's budget.

Rep. Silbernagel: In the salaries-permanent, we have a base payroll change of \$25,478 on the green sheet. Does that include the health increase and the retirement increase? Is that what that is?

Becky Keller, OMB: The base payroll changes the cost to continue the raises they were given at July 1 2014 to take into the next biennium.

Rep. Silbernagel: So the four by four isn't in there?

Becky Keller, OMB: No, that is down in the salary increase line.

Rep. Silbernagel: And that's the ongoing increase.

Becky Keller, OMB: Yes.

Alex, Legislative Council: The base payroll changes are not identified on the green sheets.

Chairman Pollert: To further muddy that, we've got the \$28,737.

Rep. Nelson: Last session, what we did, was, with the market based portion and the equity, we pulled that, in the House, out of all the budgets. And it wouldn't surprise me if that is what would occur again. Is that fair to say?

Chairman Pollert: I haven't heard that for a definite, but probably. We know the equity that we saw in the DOCR and Health Department will be pulled and put as one.

Rep. Nelson: If you see that, there's nothing intended by this committee for Administrative Hearings. It's just a blanket situation. Then we'll review that agency by agency. That's the way it's been done in the past, and you know that one's coming.

Chairman Pollert: Anything else from the section?

Chairman Pollert: Any public testimony?

Rachel Schauer, Dept. of Human Services:

Chairman Pollert: Are you an attorney?

Rachel : No, I'm a legal assistant.

Chairman Pollert: So you keep track of whenever there's a case for DHS, you're in contact with the Office of Administrative Hearings quite a bit?

Rachel: Correct.

Chairman Pollert: Do you have any input on the fees?

Rachel: No, I just review the bills.

Chairman Pollert: So how long have you been at DHS?

Rachel: I started in May 2013.

Chairman Pollert: Where did you get your education?

Rachel: The University of Mary.

Chairman Pollert: Give me an example of how it would work for a case.

Rachel: We would receive a request for hearing from a client for any program; SNAP, child abuse and neglect. They can appeal a notice they received. Child abuse and neglect is a services required letter that they get. A SNAP would be a reduction in benefits, or they're not happy with the benefits they are receiving. We process the appeal. We send it to the various programs to review in case the worker did something incorrectly. Then they can reverse that decision.

Chairman Pollert: When you say "they," you mean the Office of Administrative Hearings? Or do you mean DHS?

Rachel: DHS. This is before it goes over. If everything is correct on DHS' part, then we send it over to the Office of Administrative Hearings for them to schedule a hearing. They hold a hearing, and prepare a findings and order, we review that, and we can either accept their findings, have Maggie Anderson sign it or we could modify it.

Chairman Pollert: What about the other party involved, who is questioning say the benefits of SNAP, or they thought they weren't treated correctly? Who represents them? Do they have an attorney they could hire, or could they represent themselves? Would this be out in a public hearing, or what?

Rachel: It's not public. They can hire an attorney. It's usually 50-50; some do, some don't. It just depends on what they want. And if they want to hire one.

Rep. Kreidt: After a hearing is completed and the administrative law judge makes his ruling, it's true that you can overturn his ruling; is that right?

Rachel: Correct.

Rep. Kreidt: So, no matter what, you make the final decision?

Rachel: Correct.

Rep. Kreidt: How many hearings do you reverse the ALJ's decision?

Rachel: It's not very often.

Rep. Holman: What is the typical turn-around time on a case?

Rachel: Three months.

Rep. Nelson: Is the department represented by attorneys as well?

Rachel: In all child abuse and neglect cases, we have the AG's office represent us. In the other programs, if the appellant has an attorney, then we request one from the AG's office. If they don't have an attorney, then we either have the eligibility worker who handled the case, they will appear on behalf of the department.

Rep. Nelson: If you're represented by an attorney or the AG's office, that cost is in addition to the administrative hearing cost for the agency.

Rachel: Correct.

Chairman Pollert: If someone wants to appeal the benefits, how often does DHS, what's the success ratio between DHS, if they're correct, or the client who brought forward the case?

Rachel: It depends on the case. Usually the department's decision is affirmed, but it does happen where it's denied and reversed.

Chairman Pollert: At any time, is it felt that the clients that bring the case forward, that they don't feel it's independent? We hear that from WSI cases a lot, that there's not an independent third-party. Do you hear that a lot in these cases?

Wade Mann: We may hear it a little more often in Workforce Safety, but we hear that occasionally in Human Services, as well. It's kind of an impression that claimants get, that the balance might be in favor of the Department, with their resources and the ability to.

Chairman Pollert: There are standards set in code what you go by. It's kind of cut and dry. If a nursing home has a question, will that go to DHS? If anything I hear more, it's nursing homes and the rates they're charging. But that wouldn't be something that would come to you unless there was a case of abuse or if they felt what they were being charged. Would it go that far?

Rep. Kreidt: Abuse is handled a little different.

Chairman Pollert: The rates would be settled between the nursing home and.

Rep. Kreidt: Periodically, I think you get one.

Rachel: The cases we handle for nursing homes is transfer and discharge of the patient. They can send it to our office. We're more of an independent agency, in that aspect.

Rep. Kreidt: In the administrative hearing process, is the DHS the only department that has the power to rule against Administrative Hearings procedure, or can all departments that are involved with the Department of Administrative Hearings, their CEO overturn? Or are you the only department that does that?

Wade Mann: Workforce Safety Insurance is different because our decision is final in those cases. We don't do a recommended order that then goes to the head of Workforce Safety. Our decisions are final. Most other agencies are recommendations, unless they request otherwise. It's a recommended decision that goes to the director or the agency head, and they have the ability to adopt ours, or they can modify it or reject it.

Rep. Nelson: When you issue a recommendation and the agency doesn't grant that recommendation, does that have a high standing in court if it's appealed? Is that part of court record?

Wade Mann: Yes. If the administrator goes against what the ALJ recommended, that can be appealed to the District Court, and the District Court will review what the ALJ found.

Rep. Nelson: At that point, is that a very strong message if you are the plaintiff. That would probably be the basis for their appeal.

Wade Mann: It could be. A lot of factors go into that.

Rep. Nelson: Are the hearings closed?

Wade Mann: It depends on the type of hearing. A lot of them are closed. It just depends on what type of hearing it is. There could be confidential information, when you're talking about child abuse things or teacher discharge. Those types of things. There's only certain people who are permitted to attend. Some of them can be public.

Chairman Pollert: There was a case dealing with recipient liability and he felt he wasn't being treated right. If he wanted to appeal that case, would that have gone to you? ...The department ruled correctly that this gentleman's mother needed him or her, whoever was taking care of them, needed to pay more money on the recipient liability part, and he wanted to challenge that. I don't know if he did in the end. If he wanted to appeal that, would that then be assigned from DHS to you?

Wade Mann: That's correct. It goes through the department first, the appeals supervisor reviews everything and gets it in order, and then puts in the request for an administrative law judge to our office, and then I designate an ALJ to preside over the hearing on the appeal.

Chairman Pollert: At that hearing, this particular person bringing the recipient liability that he wasn't getting treated right, would he or his mother be at that hearing, you would be the person up in front, DHS would plead their case, and if he had an attorney, he would plead his case, and then you would make your judgment from there.

Wade Mann: Correct.

Chairman Pollert: If he didn't like that, then what would be the next step?

Wade Mann: I would submit my recommended findings of fact, conclusion of law and a recommended order that I would send to the director of Human Services, and then she has the ability to adopt those findings. If it was against the claimant, then they can appeal that to district court.

Rep. Silbernagel: On the WSI side of the House, you hear about 265 or 270 cases, what percent of that ends up in the court system?

Wade Mann: I don't have numbers on how many get appealed.

Rep. Nelson: When you talk about Workforce Safety, one of the things we hear as legislators is access to the system, and at least in a couple of cases, travel has been brought up. You mentioned something about using IVAN, and your ability to use some type of technology. Can you do hearings electronically or are they all held in Bismarck?

Wade Mann: On occasion, I've used IVAN. You have to have the facilities on both ends, and that sometimes makes it difficult. As far as locations of the hearings, a lot of those can be held telephonically. Depending on the type of case, we'll go to where the claimant is at. The hearing will be conducted there. Not all of the hearings need to be conducted in Bismarck.

Rep. Nelson: I would assume that most of them are. Correct?

Wade Mann: I would say the majority of hearings are held in Bismarck.

Rep. Nelson: But that is a concern. If somebody had a workforce safety claim; the injury, in the person that's injured, restricted travel. Does that trip a wire for you to hold a hearing in a more convenient location?

Wade Mann: We will generally hold a hearing at the location of the claimant or the claimant's counsel. Sometimes it might be where the witnesses are located or where the injury occurred. If the claimant has to have it in a certain location, we will go there or hold it telephonically. We won't force them to come to Bismarck.

Chairman Pollert: Any other questions?

Chairman Pollert: This actually was informative for me and educational. Wade, what you will see happen is, probably around the second week of February, is when we will ask for amendments. We will invite you, if you want to be here to see what we have decided or not

decided. Angela would get ahold of you and let you know. That's one of those things, though, that second week, when we start working, it's just for amendments, it's going to go click-click-click. It'll just be fast, especially with this one. So, we'll try to let you know when that's going to be. But it's probably only going to be about one day's notice.

Wade Mann: That's fine. Thank you, Mr. Chairman.

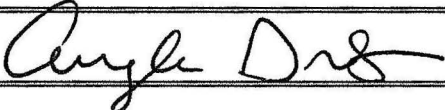
Chairman Pollert: Closed the hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

HB1017
2/12/2015
Job 23705

☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the office of administrative hearings.

Minutes:

Attachments 1-2

Chairman Pollert called the committee to order.

Lori Laschkewitsch, OMB: Someone in Government Ops requested a spreadsheet outlining what we had in the budget for compensation and what the changes that are being made for the amendments to have a visual of what that is (attachment 1).

Chairman Pollert: Can you explain that?

Lori Laschkewitsch, OMB: There are two columns; one shows what was included in the Executive recommendation and one is what we understand the Legislative compensation package is.

Vice Chairman Bellew: We're on Office of Administrative Hearings. On our green sheet it says \$58,813 related to performance increases. Is that the four and four?

Lori Laschkewitsch, OMB: Yes. The \$58,813 is the amount for the four and four. The \$5,038 for market equity adjustments would have been the increase.

Rep. Nelson: My understanding was that the market point increase wasn't necessarily going to be zeroed out. That it would be put into an overall state employee pot and then there would be some agencies selected to possibly have some equity or market point increases that potentially could come out of that. That hasn't changed, has it?

Chairman Pollert: I hope you are correct.

Rep. Silbernagel: I think that was talked about possibly happening after a forecast.

Chairman Pollert: I have concerns in the DOCR budget with their big turnover. That's what I've been told to, but I also understand what we're under too.

Rep. Nelson: I don't want to make it sound like there is a good or bad chance. My understanding was that we would look at those areas. We don't necessarily agree that zero market point increases should be the rule across the board.

Chairman Pollert: I would agree with that statement. But I can't say that that's exactly what's going to happen. Everything is being pulled on that part of it.

Chairman Pollert: Sheila handed out what the executive budget recommendation was (attachment 2). This is zero based budgeting this time. For anything to move forward, it has to be moved from the left to the right. If it isn't asked for, it doesn't move. The first amendment will be the three and three and the health benefit. That would change the base payroll changes?

Sheila Sandness, Senior Fiscal Analyst, Legislative Council: That is to continue this biennium.

Chairman Pollert: I have to ask for that amendment to move?

Sheila Sandness: Yes, we would want that to move over because that's to continue the current biennium's increases.

Chairman Pollert: My amendment would be to move the base payroll changes over and to have the three and three. That means the \$58,813 will change, the market equity will not move forward, the retirement contribution increase would not move forward. I would also ask that the health insurance increase would move forward.

Rep. Holman: Would you repeat that once more? You're going to do the base payroll as continuation. So last biennium we did three and three. Is that what you're saying?

Chairman Pollert: Whatever we did last biennium, this is the cost to continue that.

Rep. Holman: So we're continuing last biennium's numbers?

Chairman Pollert: Yes, that is correct. Under the salary increase for performance, is that where the three and three will show up?

Sheila Sandness: That's correct. I have those numbers. It's \$43,998. That would be the three and three.

Chairman Pollert: And the health insurance increase of \$21,589.

Rep. Holman: I only wrote down two numbers. Should I have three?

Chairman Pollert: You should have the \$25,478, the three and three is the \$43,998 and then the \$21,589.

Rep. Holman: That's what I was missing.

Chairman Pollert: The retirement increase and the salary increase market equity doesn't pull forward.

Rep. Silbernagel: Can you explain the continuing appropriation increase, the bottom line?

Chairman Pollert: That is another amendment. Isn't that dealing with the rent?

Sheila Sandness: I would have to look at the change package.

Chairman Pollert: I know that when they came forward, they have an increase in rental space of \$3,744 because they had a person in that was in Fargo and that position was put back to Bismarck. Unless we want them to do their office in the street, we have to bring that amendment forward.

Rep. Silbernagel: That's the number I have. So there is \$6,000 unaccounted for.

Lori Laschkewitsch, OMB: My understanding is that the rent had to be an amendment adding to their budget because they didn't have the rent included in their budget recommendation. This \$9,373 is other operating changes to their budget and they needed an additional amendment of the rent.

Rep. Silbernagel: In testimony they talked about hiring two positions at a higher amount than what had been budgeted and I think that is probably built into that \$9,373.

Chairman Pollert: Maybe that's where the \$28,737 comes from.

Rep. Kreidt: All I had was the \$3,744 for the increase in rent and I had that as an amendment to move that forward, but I don't have anything on a salary though.

Chairman Pollert: I have another figure of \$28,737 plus the \$3,744. That's for that position when it came over.

Lori Laschkewitsch, OMB: Yes, that is correct. That was a position that was added after the Executive recommendation came out. That's what the \$28,737 was for and the \$3,744 was for the rent because that position moved from Fargo.

Chairman Pollert: Is the green sheet going to show 7 FTE and not 5?

Wade Mann, Director of the Office of Administrative Hearings: That's correct. The \$28,737, there's not actually two new positions but we hired two new ALJs to fill vacant positions and those were after the Governor's budget was submitted.

Chairman Pollert: The \$28,737 fulfills what you hired the two ALJs at?

Wade Mann: Correct.

Chairman Pollert: The \$3,744 was for the rent space you needed because the person in Fargo was working out of their home?

Wade Mann: Correct.

Rep. Kreidt: I would bring forth an amendment to allow the \$28,737.

Wade Mann: That's correct. The number of FTEs remains the same.

Rep. Nelson: I'd like to ask for an amendment for the \$3,744 for the rent.

Chairman Pollert: There is still a line item on there that isn't covered for their office. We are asking for amendments for the base payroll changes, the salary of the three and three, the health insurance increase. There is not an amendment to ask for the continuing appropriation increase of the \$9,373.

Rep. Silbernagel: Do we need an amendment for the rent?

Chairman Pollert: The salaries on the extra staffing are \$28,737 and the rental space of the \$3,744 have been asked for. Getting back to the continuing appropriation increase. Is anyone asking for the amendment for the \$9,373? Is the continuing appropriation increase the increases that he would have asked for in his operating line item budget?

Sheila Sandness: I believe that was in the operating line but let me double-check. I was mistaken, it was in salaries.

Chairman Pollert: If I'm correct, that could be part of the continuing of what we have approved for the 13-15 biennium. But also if they would have had an increase in say printing, that would probably show up in that line item or an increase in travel.

Lori Laschkewitsch, OMB: That's correct.

Sheila Sandness: Except that their operating expense line on the bill didn't change so the change in their budget in the bill is all in the salaries line. That increase is in the salaries line.

Rep. Nelson: So that is the continuation of the salary increase that is in the current biennium?

Sheila Sandness: I'm not really sure. The base payroll changes, the 25, should be the cost to continue. I'm not really sure what the \$9,373 is.

Rep. Holman: Does that mean we're continuing the three and three?

Sheila Sandness: They added it to their salaries line. Their operating expense line didn't change at all in the bill from base level to the recommendation.

Rep. Nelson: I thought the first line was the continuation of the salary increase and then the next line would be the three and three.

Chairman Pollert: That's how I'm reading it.

Sheila Sandness: That's how I thought it was too. Based on the budget, it has to be on the salaries line because the operating expense line didn't change from the 13-15 biennium to the 15-17 biennium.

Lori Laschkewitsch, OMB: It's not a number I can find any place.

Chairman Pollert: We've already asked for amendments for the salary increases and the rental space. If that amount is something we had as a cost to continue from last biennium, and then they had extra charges, that's what I need to know.

Lori Laschkewitsch, OMB: From what I can see on these reports because they are given a base budget limit that they can come in at and they did not have any optionals added to their budget except for the Governor's compensation package. Any dollars that were in their budget, were in their base. We don't always know where these descriptions come from on these sheets. Anything you are not carrying over is reducing their base budget.

Rep. Nelson: Why don't ask to have that amendment added?

Rep. Holman: It is. I want to do the retirement too.

Chairman Pollert: That would be clarified before we officially move the budget. Because the only additions to the budget, unless Rep. Holman's would get added, would be the \$25,478, the \$43,998, the \$21,589, and the \$3,744 and the \$28,737 should be what would be added to the base. Would that be a correct number?

Rep. Holman: If that continuing appropriation is in the salary line, it has to be part of some requested increase in salary. I'll add to that motion. The retirement contribution is probably directly tied to that salary line too then because it comes as a percentage. I would like that amendment to go along with that.

Chairman Pollert: You're asking to move forward the \$9,373 and the \$6,126.

Rep. Holman: They may or may not be exactly what they will be but that will keep them in the discussion.

Rep. Silbernagel: I don't know if this is a part of it but in the budget in their operations, there is an increase requested of \$8,674 for fees and professional services over 13-15.

Chairman Pollert: Where is that?

Rep. Silbernagel: It's on the back of the bars report.

Rep. Holman: When we do the base payroll changes on the top, that's continuous of three and three. Was the number that was given there before the four and four?

Sheila Sandness: The four and four is in the salary increase-performance, the \$58,813. The current motion is to add in \$43,998, that's the three and three. So the difference would be the reduction. My understanding was the base payroll changes, the \$25,478, was the cost to continue. But it looks like in order to reconcile to the Governor's budget and what's in the bill, we had to add another \$9,373 to the salaries line. I'm not sure where the description came from but in order to reconcile the 13-15 biennium number for salaries to what was in the bill, there was an extra \$9,373 somewhere.

Lori Laschkewitsch, OMB: Basically in the end they had some high payouts for people who left that they had to payout their vacation and sick leave. With the new people they hired, they ended up adding \$13,000 in their budget to be paying the current staff at the levels that they had to hire them. That \$9,373, it's just a plug number to get to the bottom line. You're not going to find that number anywhere in their budget.

Chairman Pollert: This session more than ever, we've seen more plug numbers on green sheets than we've ever seen before.

Lori Laschkewitsch, OMB: I believe it's the change in your process. In the past the green sheets showed you some highlights of what the major changes in their budget were. But now because they were trying to do the math of going from the last Legislative number to the Executive Recommendation, if you looked at a budget you would see a lot of pluses and minuses as these agencies try to figure out what they need for their budget. To go at it from this angle makes it very difficult to get to the numbers. In order for them to get to that bottom number, they had to put a number in that balanced.

Rep. Nelson: So they have to anticipate the payouts for PTO and retirements to plug in a number that makes sense? How can they do that appropriately, especially the bigger budgets?

Lori Laschkewitsch, OMB: They don't typically put those numbers in their budget. They usually leave a position vacant for a few months to make up for that. In Wade's situation, the people he brought in, he had to pay at a higher amount than the people he had there. They can make that money come out to what the budget request is. I think the difference here is that you're adding things back in as opposed to starting from the recommendation.

Rep. Nelson: Nevertheless with this \$9,373, there's blue sky in there. Maybe not in this one, but in some of the budgets, is that an actual number that you can look at with some confidence and say this is the real need?

Lori Laschkewitsch, OMB: According to what Becky Keller said, there was \$13,000 extra in their salaries in their base budget request because of the people they're paying. Those are actual people in the budget so that isn't blue sky. That's in there.

Rep. Nelson: In this budget I would agree with that. But let's take the Department of Corrections for example.

Lori Laschkewitsch, OMB: If there's money in their operating. In their salaries it's going to be the salary amounts that they have for those people on the reports you've seen. That number gets calculated by the system.

Rep. Nelson: But they don't calculate the vacant positions.

Lori Laschkewitsch, OMB: It's put in there as the amount that probably the person left. Then in the situation of Wade, he probably had it in his budget that he was going to pay this person \$4,000 a month and then when he hired, he had to pay them \$5,000 which amounted to the extra \$13,000 that is in this budget over the 13-15 budget. That's why you're seeing this \$9,373. It's part of that \$13,000.

Rep. Kreidt: With a small budget, he doesn't have 2 or 3 FTEs vacant that he can roll-up some funds if he needs to hire somebody at a higher wage. This accumulated because he had to hire those employees and it cost that much more.

Lori Laschkewitsch, OMB: One of the things that you're seeing different here is that he is a special fund agency. Because he's special funds, there is more flexibility in the budget.

Rep. Holman: Had we not made that change back in August, would that line not be there?

Lori Laschkewitsch, OMB: That is correct. You would have been looking at the budget and you would've seen that he is paying his people what they were hired at and it wouldn't have been drawn out as a highlight of any sort.

Rep. Holman: They do have the authority to move between salary and operating?

Lori Laschkewitsch, OMB: Within the biennium, they do not unless they go to the emergency commission. However, when they put in their budget request for the next biennium, they have the ability to move the money to the lines where they need it most.

Chairman Pollert: It's a different way of doing things so we have to be cognizant of that. The amendments that I see are the cost to continue the base payroll, the three and three, the retirement increase, the health insurance increase, the continuing appropriation increase, the salaries on the staffing plus the rental space.

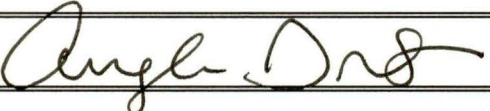
Chairman Pollert closed the meeting.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Human Resources Division Sakakawea Room, State Capitol

HB1017
2/16/2015
Job 23869

- ☐ Subcommittee
☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the office of administrative hearings.

Minutes:

Attachment 1

Chairman Pollert called the committee to order.

Chairman Pollert: Does everyone have a sheet of the amendments asked for (attachment 1)? The first amendment was the base payroll changes, plus the salary increase of the three and three which shows under performance, and the health insurance.

A Roll Call Vote was taken. Yes: 6, No: 0, Absent: 0

Chairman Pollert: The next is for the retirement contribution increase of 1%.

A Roll Call Vote was taken. Yes: 1, No: 5, Absent: 0

Chairman Pollert: Next is the salaries and staffing. That deals with the people they brought on board so they had to pay a little more to get in the market. That is \$28,737.

A Roll Call Vote was taken. Yes: 6, No: 0, Absent: 0

Chairman Pollert: Next is the office rent increase of \$3,744 that deals with the former person had an office in their home in Fargo and now the position is in Bismarck.

A Roll Call Vote was taken. Yes: 6, No: 0, Absent: 0

Chairman Pollert: The next one is a continuing appropriation increase of \$9,373. Alex, can you explain that?

Alex Cronquist, Fiscal Analyst, Legislative Council: What happened was this last biennium when they had a couple of retirements of long time employees, they didn't have enough money in their line item for accrued leave to pay out all the retirement that they had

stored up. The Office of Administrative Hearings has continuing appropriation authority from their special fund to use more of it when it's necessary. So they increased their authority by that amount to pay those retirements. That ended up going into the salaries and wages line because the accrued leave line all went into the salaries and wages line.

Chairman Pollert: You said it goes into the salaries and wages line.

Alex Cronquist: Right. Last biennium it moved through both chambers. They voted to move funding from the salaries and wages line into an accrued leave line, into a separate line. The Governor vetoed that and said that everybody could use the accrued leave line for salaries and wages if they wanted to.

Vice Chairman Bellew: Is that what the \$9,000 represents?

Alex Cronquist: The \$9,000 is from when they had a couple of retirements and they had to increase their continuing appropriation.

Vice Chairman Bellew: That was from last session though, correct?

Alex Cronquist: They did it during the biennium.

Vice Chairman Bellew: This session?

Alex Cronquist: During the 13-15, yes.

Vice Chairman Bellew: But there's no guarantee they'll need that for the 15-17 session is there?

Alex Cronquist: They asked for it.

Vice Chairman Bellew: If they don't anticipate any retirements, I don't know if that's necessary.

Chairman Pollert: Are we going to see that with other agencies with the accrued leave?

Alex Cronquist: No, this is because they have continuing appropriation authority from that special fund. Other agencies did move their accrued leave line into their salaries and wages but you're not going to see an increase here. It would have been included in the base payroll changes.

Vice Chairman Bellew: My understanding of the way it used to be done, not just this department but all the departments, was they would pay accrued leave through their roll-up dollars from the employees that they had open positions.

Alex Cronquist: You're saying that they wouldn't hire somebody and they'd use those savings of not having an employee for a couple of months?

Chairman Pollert: The vacant FTEs.

Vice Chairman Bellew: I thought that's the way they were doing it.

Alex Cronquist: Some agencies would do that.

Chairman Pollert: Some agencies were, but not the small agencies.

A Roll Call Vote was taken. Yes: 5, No: 1, Absent: 0

Vice Chairman Bellew: If I have it figured right, the bottom line is \$2,951,815. Is that correct?

Alex Cronquist: Yes, that's correct.

Vice Chairman Bellew: That represents a 4.7% increase over the last biennium.

Rep. Silbernagel: I motion for a Do Pass as Amended.

Rep. Holman: Second.

A Roll Call Vote was taken. Yes: 6, No: 0, Absent: 0

Chairman Pollert: Rep. Silbernagel will carry the bill.

Chairman Pollert dismissed the committee.

2015 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1017
2/19/2015
24192

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Reed *Wassner*

Explanation or reason for introduction of bill/resolution:

Provide an appropriation for defraying expenses of the Office of Administrative Hearings

Minutes:

Representative Silbernagel: Spoke on the amendment .01001. The changes with the amendment include; moving the base payroll, performance increase, the health insurance increase, and the continuing appropriation increase. The total increase is \$132,919 for a total appropriation of \$2,951,815. There is also a rent increase \$3,744 to accommodate the relocation.

Chairman Jeff Delzer: How many hearings are actually being held?

Representative Silbernagel: A bunch of other agencies are holding hearings with the number increasing. These funds are other funds because they are billing out their time to other agencies.

Chairman Jeff Delzer: General funds in other agencies. How many cases total do they have, and how long does a case take?

Representative Silbernagel: It depends on the complexity of the case. Sometimes they have to do some pre-hearing work. If you average them out it is probably a little bit over a \$100 per individual.

Vice Chairman Keith Kempenich: Is there any legislation that has been passed about oil-related topics?

Representative Silbernagel: Yes, we received the full detail of all of their hearings.

Representative Silbernagel: I move a Do Pass on amendments .01001 on HB 1017

Rep. Kreidt: seconds the motion.

Voice Vote: the Aye's have it.

Motion is carried

Rep. Silbernagel: I move a Do Pass as Amended on HB 1017.

Rep. Kreidt: Seconds the Motion.

Roll Call Vote: Yes 20, No 1, Absent 2.

Rep. Silbernagel Carries the Bill.

Handwritten:
2-20-15
102

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1017

Page 1, replace lines 10 through 14 with:

"Salaries and wages	\$1,059,175	\$139,873	\$1,199,048
Accrued leave payments	10,698	(10,698)	0
Operating expenses	<u>1,749,023</u>	<u>3,744</u>	<u>1,752,767</u>
Total special funds	\$2,818,896	\$132,919	\$2,951,815
Full-time equivalent positions	5.00	0.00	5.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1017 - Office of Administrative Hearings - House Action

	Base Budget	House Changes	House Version
Salaries and wages	\$1,059,175	\$139,873	\$1,199,048
Operating expenses	1,749,023	3,744	1,752,767
Accrued leave payments	<u>10,698</u>	<u>(10,698)</u>	
Total all funds	\$2,818,896	\$132,919	\$2,951,815
Less estimated income	<u>2,818,896</u>	<u>132,919</u>	<u>2,951,815</u>
General fund	\$0	\$0	\$0
FTE	5.00	0.00	5.00

Department No. 140 - Office of Administrative Hearings - Detail of House Changes

	Adds Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds Funding for Increased Salaries ³	Adds Funding for Office Rent Increase ⁴	Total House Changes
Salaries and wages	\$36,176	\$65,587	\$38,110		\$139,873
Operating expenses				3,744	3,744
Accrued leave payments	<u>(10,698)</u>				<u>(10,698)</u>
Total all funds	\$25,478	\$65,587	\$38,110	\$3,744	\$132,919
Less estimated income	<u>25,478</u>	<u>65,587</u>	<u>38,110</u>	<u>3,744</u>	<u>132,919</u>
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

¹ Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

² The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	General Fund	Other Funds	Total
Salary increase - Performance	\$0	\$43,998	\$43,998
Health insurance increase	0	21,589	21,589
Total	<u>\$0</u>	<u>\$65,587</u>	<u>\$65,587</u>

³ Funding of \$38,110 from other funds is added for salaries and wages, this includes \$9,373 added to the

2012
agency's budget during the 2013-15 biennium pursuant to continuing appropriation authority granted in North Dakota Century Code Section 54-57-07.

4 Funding of \$3,744 is added for increased office rent due to an employee moving from a home office in West Fargo to an office in Bismarck.

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1017**

House Appropriations - Human Resources Division Committee

☐ Subcommittee

Amendment LC# or Description: Base payroll, three and three, health insurance

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Pollert	X		Rep. Holman	X	
Vice Chairman Bellew	X				
Rep. Kreidt	X				
Rep. Nelson	X				
Rep. Silbernagel	X				

Total Yes 6 No 0

Absent 0

Floor Assignment _____

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

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1017**

House Appropriations - Human Resources Division Committee

☐ Subcommittee

Amendment LC# or Description: Retirement contribution increase

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Pollert		X	Rep. Holman	X	
Vice Chairman Bellew		X			
Rep. Kreidt		X			
Rep. Nelson		X			
Rep. Silbernagel		X			

Total Yes 1 No 5

Absent 0

Floor Assignment _____

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

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1017**

House Appropriations - Human Resources Division Committee

☐ Subcommittee

Amendment LC# or Description: Salaries and staffing, \$28,737

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Pollert	X		Rep. Holman	X	
Vice Chairman Bellew	X				
Rep. Kreidt	X				
Rep. Nelson	X				
Rep. Silbernagel	X				

Total Yes 6 No 0

Absent 0

Floor Assignment _____

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

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1017**

House Appropriations - Human Resources Division Committee

☐ Subcommittee

Amendment LC# or Description: Office rent increase of \$3,744

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Pollert	X		Rep. Holman	X	
Vice Chairman Bellew	X				
Rep. Kreidt	X				
Rep. Nelson	X				
Rep. Silbernagel	X				

Total Yes 6 No 0

Absent 0

Floor Assignment _____

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

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1017**

House Appropriations - Human Resources Division Committee

☐ Subcommittee

Amendment LC# or Description: continuing appropriation increase of \$9,373

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Pollert	X		Rep. Holman	X	
Vice Chairman Bellew		X			
Rep. Kreidt	X				
Rep. Nelson	X				
Rep. Silbernagel	X				

Total Yes 5 No 1

Absent 0

Floor Assignment _____

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

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1017**

House Appropriations - Human Resources Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Silbernagel Seconded By Rep. Holman

Representatives	Yes	No	Representatives	Yes	No
Chairman Pollert	X		Rep. Holman	X	
Vice Chairman Bellew	X				
Rep. Kreidt	X				
Rep. Nelson	X				
Rep. Silbernagel	X				

Total Yes 6 No 0

Absent 0

Floor Assignment Rep. Silbernagel

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

Date: 2/19/15Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1017

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 15.8/25.01001

Recommendation:

☒ Adopt Amendment

☐ Do Pass ☐ Do Not Pass

☐ Without Committee Recommendation

☐ As Amended

☐ Rerefer to Appropriations

☐ Place on Consent Calendar

Other Actions:

☐ Reconsider

☐ _____

Motion Made By:

Silbernagel

Seconded By:

Kreidt

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer				Representative Nelson				Representative Boe			
Vice Chairman Keith Kempenich				Representative Pollert				Representative Glassheim			
Representative Bellew				Representative Sanford				Representative Guggisberg			
Representative Brandenburg				Representative Schmidt				Representative Hogan			
Representative Boehning				Representative Silbernagel				Representative Holman			
Representative Dosch				Representative Skarphol							
Representative Kreidt				Representative Streyle							
Representative Martinson				Representative Thoreson							
Representative Monson				Representative Vigasaa							

Totals

(Yes)	
No	
Absent	
Grand Total	

*Voice Vote
Motion carries*

Floor Assignment: _____

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

Date: 2/19/15Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE

ROLL CALL VOTES

BILL/RESOLUTION NO. 1017House Appropriations Committee☐ SubcommitteeAmendment LC# or Description: 15. 8125.01001

Recommendation:

☐ Adopt Amendment☒ Do Pass☐ Do Not Pass☐ Without Committee Recommendation☒ As Amended☐ Rerefer to Appropriations☐ Place on Consent Calendar

Other Actions:

☐ Reconsider☐ _____

Motion Made By:

Silbernagel

Seconded By:

Kreidt

Representatives	Yes	No	Absent	Representatives	Yes	No	Absent	Representatives	Yes	No	Absent
Chairman Jeff Delzer	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		Representative Nelson	<input checked="" type="checkbox"/>			Representative Boe	<input checked="" type="checkbox"/>		
Vice Chairman Keith Kempenich	<input checked="" type="checkbox"/>			Representative Pollert	<input checked="" type="checkbox"/>			Representative Glasheim	<input checked="" type="checkbox"/>		
Representative Bellew	<input checked="" type="checkbox"/>			Representative Sanford	<input checked="" type="checkbox"/>			Representative Guggisberg	<input checked="" type="checkbox"/>		
Representative Brandenburg	<input checked="" type="checkbox"/>			Representative Schmidt	<input checked="" type="checkbox"/>			Representative Hogan	<input checked="" type="checkbox"/>		
Representative Boehning	<input checked="" type="checkbox"/>			Representative Silbernagel	<input checked="" type="checkbox"/>			Representative Holman	<input checked="" type="checkbox"/>		
Representative Dosch			<u>A</u>	Representative Skarphol	<input checked="" type="checkbox"/>						
Representative Kreidt	<input checked="" type="checkbox"/>			Representative Streyle			<u>A</u>				
Representative Martinson	<input checked="" type="checkbox"/>			Representative Thoreson	<input checked="" type="checkbox"/>						
Representative Monson	<input checked="" type="checkbox"/>			Representative Vigasaa	<input checked="" type="checkbox"/>						
	<u>7</u>	<u>1</u>	<u>1</u>		<u>8</u>	<u>0</u>	<u>1</u>		<u>5</u>		

Totals

(Yes)	<u>20</u>
No	<u>1</u>
Absent	<u>2</u>
Grand Total	<u>23</u>

Floor Assignment:

Silbernagel

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

REPORT OF STANDING COMMITTEE

HB 1017: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). HB 1017 was placed on the Sixth order on the calendar.

Page 1, replace lines 10 through 14 with:

"Salaries and wages	\$1,059,175	\$139,873	\$1,199,048
Accrued leave payments	10,698	(10,698)	0
Operating expenses	<u>1,749,023</u>	<u>3,744</u>	<u>1,752,767</u>
Total special funds	\$2,818,896	\$132,919	\$2,951,815
Full-time equivalent positions	5.00	0.00	5.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1017 - Office of Administrative Hearings - House Action

	Base Budget	House Changes	House Version
Salaries and wages	\$1,059,175	\$139,873	\$1,199,048
Operating expenses	1,749,023	3,744	1,752,767
Accrued leave payments	<u>10,698</u>	<u>(10,698)</u>	
Total all funds	\$2,818,896	\$132,919	\$2,951,815
Less estimated income	<u>2,818,896</u>	<u>132,919</u>	<u>2,951,815</u>
General fund	\$0	\$0	\$0
FTE	5.00	0.00	5.00

Department No. 140 - Office of Administrative Hearings - Detail of House Changes

	Adds Funding for Base Payroll Changes ¹	Adds Funding for Salary and Benefit Increases ²	Adds Funding for Increased Salaries ³	Adds Funding for Office Rent Increase ⁴	Total House Changes
Salaries and wages	\$36,176	\$65,587	\$38,110		\$139,873
Operating expenses				3,744	3,744
Accrued leave payments	<u>(10,698)</u>				<u>(10,698)</u>
Total all funds	\$25,478	\$65,587	\$38,110	\$3,744	\$132,919
Less estimated income	<u>25,478</u>	<u>65,587</u>	<u>38,110</u>	<u>3,744</u>	<u>132,919</u>
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

¹ Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

² The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	General Fund	Other Funds	Total
Salary increase - Performance	\$0	\$43,998	\$43,998
Health insurance increase	0	21,589	21,589
Total	\$0	\$65,587	\$65,587

³ Funding of \$38,110 from other funds is added for salaries and wages, this includes \$9,373 added to the agency's budget during the 2013-15 biennium pursuant to continuing appropriation authority granted in North Dakota Century Code Section 54-57-07.

⁴ Funding of \$3,744 is added for increased office rent due to an employee moving from a

home office in West Fargo to an office in Bismarck.

2015 SENATE APPROPRIATIONS

HB 1017

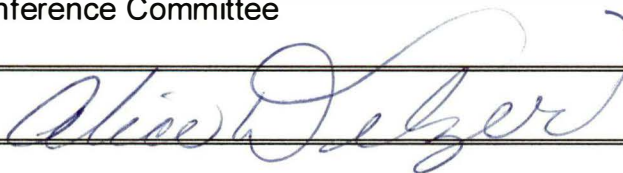
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

HB 1017
3/4/2015
Job # 24291

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to defray the expenses of the Office of Administrative Hearings

Minutes:

Attachment # 1 and 2

Chairman Holmberg called the committee to order on Wednesday, March 04, 2015 at 9:45 am in regards to HB1017. Becky Keller, OMB, and Alex Cronquist, Legislative Council, were also present.

V.Chairman Bowman opened the hearing in regards to HB 1017.

Wade C. Mann, Director of the Office Administrative Hearing testified in favor of HB 1017 and provided written Testimony Attached # 1 RE: Operating Budget Request in support of HB 1017. (5.15)

Chairman Holmberg commented that the House, according to our green sheet #2 - made minimal change in your budget, just the equity and health insurance. Otherwise it is as presented. He asked if it is on the green sheet?

Alex Cronquist, Legislative Council The updated green sheet just shows the changes that were made to the items that were on the original green sheet.

Senator Mathern: What is the cost of contract judges versus employees per hour?

Mr. Mann: The contract for Administrative Law Judges (ALJ) they bill their time to the agency as do we as they come through our office. We bill the agencies \$165 per hour for the work done, the Contract ALJ's get paid \$140 an hour for the work that they do. It's just an hourly rate for the work they complete.

Senator Mathern: it doesn't cost the agency any more to have a contract judge than to have an employed judge. He was told it costs the same.

Chairman Holmberg: any other questions? There were none. The hearing was closed on HB 1017. There will not be a subcommittee on this budget.

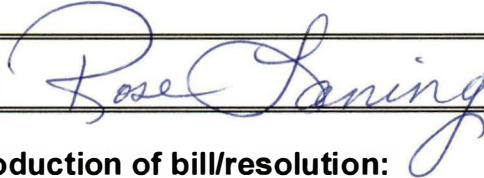
2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

HB 1017
3/30/2015
Job # 25601

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to defray the expenses of the Office of Administrative Hearings.

Minutes:

Chairman Holmberg said this bill is as the House passed it with the exception of removing the \$3,764.00 for the health insurance adjustment. That's the only change.

Senator Krebsbach moved amendment 15.8125.02001.
Senator G. Lee seconded.

Voice vote carried.

Senator Bowman moved Do Pass as Amended on HB 1017.
Senator Robinson seconded.

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

Senator Kilzer will carry the bill on the floor.

3/30/15
Jue

March 30, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1017

Page 1, replace lines 10 through 13 with:

"Salaries and wages	\$1,059,175	\$136,109	\$1,195,284
Accrued leave payments	10,698	(10,698)	0
Operating expenses	<u>1,749,023</u>	<u>3,744</u>	<u>1,752,767</u>
Total special funds	\$2,818,896	\$129,155	\$2,948,051"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1017 - Office of Administrative Hearings - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$1,059,175	\$1,199,048	(\$3,764)	\$1,195,284
Operating expenses	1,749,023	1,752,767		1,752,767
Accrued leave payments	<u>10,698</u>			
Total all funds	\$2,818,896	\$2,951,815	(\$3,764)	\$2,948,051
Less estimated income	<u>2,818,896</u>	<u>2,951,815</u>	<u>(3,764)</u>	<u>2,948,051</u>
General fund	\$0	\$0	\$0	\$0
FTE	5.00	5.00	0.00	5.00

Department No. 140 - Office of Administrative Hearings - Detail of Senate Changes

	Adjusts Funding for Health Insurance Premium Increases ¹	Total Senate Changes
Salaries and wages	(\$3,764)	(\$3,764)
Operating expenses		
Accrued leave payments		
Total all funds	(\$3,764)	(\$3,764)
Less estimated income	<u>(3,764)</u>	<u>(3,764)</u>
General fund	\$0	\$0
FTE	0.00	0.00

¹ Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

Date: 3-30-15
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1017

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 15. 8125. 02001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Krebsbach Seconded By Lee

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg			Senator Heckaman		
Senator Bowman			Senator Mathern		
Senator Krebsbach			Senator O'Connell		
Senator Carlisle			Senator Robinson		
Senator Sorvaag					
Senator G. Lee					
Senator Kilzer					
Senator Erbele					
Senator Wanzek					

Total (Yes) _____ No _____

Absent _____

Floor Assignment K Voice Vote Carried

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

Date: 3-30-15
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1017

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Bowman Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Heckaman	✓	
Senator Bowman	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator O'Connell	✓	
Senator Carlisle	✓		Senator Robinson	✓	
Senator Sorvaag	✓				
Senator G. Lee	✓				
Senator Kilzer	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Kilzer

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

REPORT OF STANDING COMMITTEE

HB 1017, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1017
was placed on the Sixth order on the calendar.

Page 1, replace lines 10 through 13 with:

"Salaries and wages	\$1,059,175	\$136,109	\$1,195,284
Accrued leave payments	10,698	(10,698)	0
Operating expenses	<u>1,749,023</u>	<u>3,744</u>	<u>1,752,767</u>
Total special funds	\$2,818,896	\$129,155	\$2,948,051"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1017 - Office of Administrative Hearings - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$1,059,175	\$1,199,048	(\$3,764)	\$1,195,284
Operating expenses	1,749,023	1,752,767		1,752,767
Accrued leave payments	<u>10,698</u>			
Total all funds	\$2,818,896	\$2,951,815	(\$3,764)	\$2,948,051
Less estimated income	<u>2,818,896</u>	<u>2,951,815</u>	<u>(3,764)</u>	<u>2,948,051</u>
General fund	\$0	\$0	\$0	\$0
FTE	5.00	5.00	0.00	5.00

Department No. 140 - Office of Administrative Hearings - Detail of Senate Changes

	Adjusts Funding for Health Insurance Premium Increases ¹	Total Senate Changes
Salaries and wages	(\$3,764)	(\$3,764)
Operating expenses		
Accrued leave payments		
Total all funds	(\$3,764)	(\$3,764)
Less estimated income	<u>(3,764)</u>	<u>(3,764)</u>
General fund	\$0	\$0
FTE	0.00	0.00

¹ Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

2015 TESTIMONY

HB 1017

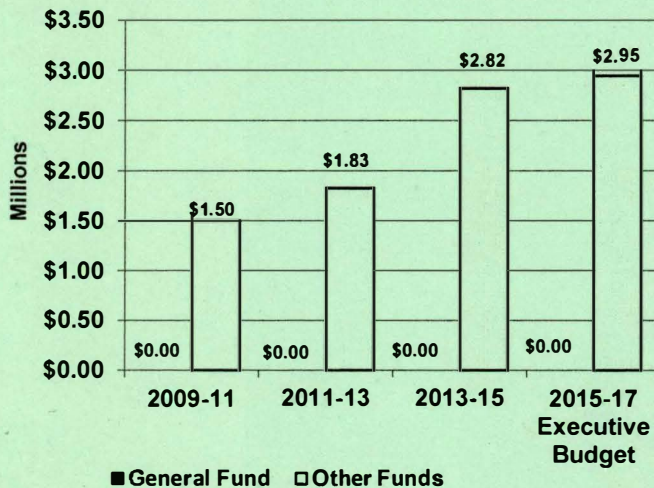
**Department 140 - Office of Administrative Hearings
House Bill No. 1017**

Executive Budget Comparison to Prior Biennium Appropriations

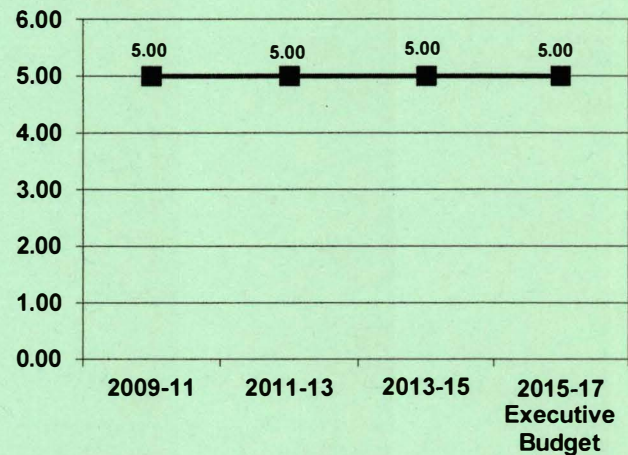
	FTE Positions	General Fund	Other Funds	Total
2015-17 Executive Budget	5.00	\$0	\$2,945,313	\$2,945,313
2013-15 Legislative Appropriations ¹	5.00	0	2,818,896	2,818,896
Increase (Decrease)	0.00	\$0	\$126,417	\$126,417

¹The 2013-15 appropriation amounts do not include additional special funds authority of \$13,000 from the agency's continuing appropriation during the 2013-15 biennium.

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2015-17 Executive Budget	\$0	\$2,945,313	\$2,945,313
2015-17 Base Level	0	2,818,896	2,818,896
Increase (Decrease)	\$0	\$126,417	\$126,417

Attached as an appendix is a detailed comparison of the executive budget to the agency's base level appropriations.

Executive Budget Highlights

	General Fund	Other Funds	Total
1. Provides funding for state employee salary and benefit increases, of which \$58,813 relates to performance increases, \$5,038 is for market equity adjustments, \$21,589 is for health insurance increases, and \$6,126 is for retirement contribution increases	\$0	\$91,566	\$91,566

Continuing Appropriations

Administrative hearings fund - North Dakota Century Code Section 54-57-07 - Appropriates funding received by the Office of Administrative Hearings for salaries, wages, benefits, operating expenses, and equipment for the purpose of providing requested administrative law judges to agencies, to any unit of local government in North Dakota, to any tribal government in North Dakota, or to the judicial branch.

Deficiency Appropriation

There are no deficiency appropriations for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

Major Related Legislation

At this time, no major legislation has been introduced affecting this agency.

Office of Administrative Hearings - Budget No. 140**House Bill No. 1017****Base Level Funding Changes**

	Executive Budget Recommendation			
	FTE Positions	General Fund	Other Funds	Total
2015-17 Biennium Base Level	5.00	\$0	\$2,818,896	\$2,818,896
2015-17 Ongoing Funding Changes				
Base payroll changes			\$25,478	\$25,478
Salary increase - Performance			58,813	58,813
Salary increase - Market equity			5,038	5,038
Retirement contribution increase			6,126	6,126
Health insurance increase			21,589	21,589
Continuing appropriation increase			9,373	9,373
Total ongoing funding changes	0.00	\$0	\$126,417	\$126,417
One-time funding items				
Total one-time funding changes	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$126,417	\$126,417
2015-17 Total Funding	5.00	\$0	\$2,945,313	\$2,945,313

Office of Administrative Hearings - Budget No. 140

House Bill No. 1017

Base Level Funding Changes

	Executive Budget Recommendation				House Version				House Changes to Executive Budget			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2015-17 Biennium Base Level	5.00	\$0	\$2,818,896	\$2,818,896	5.00	\$0	\$2,818,896	\$2,818,896	0.00	\$0	\$0	\$0
2015-17 Ongoing Funding Changes												
Base payroll changes			\$25,478	\$25,478			\$25,478	\$25,478				\$0
Salary increase - Performance			58,813	58,813			43,998	43,998			(14,815)	(14,815)
Salary increase - Market equity			5,038	5,038				0			(5,038)	(5,038)
Retirement contribution increase			6,126	6,126				0			(6,126)	(6,126)
Health insurance increase			21,589	21,589			21,589	21,589				0
Continuing appropriation increase			9,373	9,373			9,373	9,373				0
Salary increase			0	0			28,737	28,737			28,737	28,737
Office rent increase			0	0			3,744	3,744			3,744	3,744
Other change			0	0				0				0
Other change			0	0				0				0
Other change			0	0				0				0
Other change			0	0				0				0
Other change			0	0				0				0
Total ongoing funding changes	0.00	\$0	\$126,417	\$126,417	0.00	\$0	\$132,919	\$132,919	0.00	\$0	\$6,502	\$6,502
One-time funding items												
Other one-time funding item			0	0				0				0
Other one-time funding item			0	0				0				0
Other one-time funding item			0	0				0				0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$126,417	\$126,417	0.00	\$0	\$132,919	\$132,919	0.00	\$0	\$6,502	\$6,502
2015-17 Total Funding	5.00	\$0	\$2,945,313	\$2,945,313	5.00	\$0	\$2,951,815	\$2,951,815	0.00	\$0	\$6,502	\$6,502



Wade C. Mann
DIRECTOR

OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA

2911 North 14th Street - Suite 303
Bismarck, North Dakota 58503

HB1017
01-15-15
#1

(701) 328-3200
Fax (701) 328-3254
oah@nd.gov
www.nd.gov/oah

MEMORANDUM

TO: Sixty-fourth Legislative Assembly
State of North Dakota
House Appropriations Committee

FROM: Wade C. Mann, Director *Wm*
Office of Administrative Hearings

RE: OAH 2015-2017 Operating Budget Request
House Bill No. 1017

DATE: January 15, 2015

The 2013-2015 biennium has been busy and eventful for the Office of Administrative Hearings ("OAH"). Allen Hoberg, director of OAH since its inception in 1991 and ALJ Bonny Fetch, also with the agency since its beginning, both retired in December 2014 after more than 30 years working for the state. ALJ Susan Bailey was elected district judge for the East Central Judicial District in November 2014. We added new contract ALJs to address the increasing number of requests for hearing received from all of OAH's user agencies, boards, commissions, and local entities. Based on agency discussions, we anticipate increases in the number of hearing requests during the 2015-2017 biennium. Pursuant to performance guidelines implemented for all of its users, OAH issued its third biennial report for the 2011-2013 biennium in November 2013.

1

OAH conducts hearings for state and local agencies and entities that are required to use OAH (see N.D.C.C. §§ 54-57-03(1), 40-51.2-12, 40-47-01.1, and 15.1-15-08); for state agencies that voluntarily use OAH, *e.g.*, the Public Service Commission, the Insurance Department, the Industrial Commission, the Department of Transportation for dealer licensing hearings, Student Loans of North Dakota for student loan hearings, colleges and universities for personnel hearings, and occasionally Job Service North Dakota for conflict unemployment compensation hearings; and for local entities such as cities or counties that voluntarily use OAH to conduct such hearings as employee discipline, tobacco sales enforcement, or public nuisance abatement hearings.

Over the years, OAH has conducted hearings for over 85 different state and local government agencies or entities. Some agencies make many requests for hearing each year, while others have made only a few requests for hearing since OAH was established. In calendar year 2013, 31 different agencies or entities made 576 requests for hearing, and in calendar year 2014, 25 different agencies or entities made 571 requests for hearing, a total of 1,147 requests by 39 different agencies or entities in those two years. (See Attachment "A.") For comparison, in calendar year 2011, OAH received 516 requests for hearing and in calendar year 2012 OAH received 510 requests for hearing. Attachment "B" shows the number of hearings held for calendar years 2013 and 2014. This shows about 49 percent of the hearing requests actually

went to hearing in those two years. Historically, between 45 percent and 55 percent of hearing requests have gone to hearing. Attachment "C" shows the number of prehearing conferences held for calendar years 2013 and 2014. Prehearing conferences are usually held for the more complex hearings. 283 prehearing conferences were held during those two years.

For the first 18 months of this biennium (July 1, 2013, through December 31, 2014), 32 different agencies or entities have made 859 requests for hearing. (See Attachment "D.") As you can see from the attachments, the bulk of requests for hearing this biennium have come from two agencies, the Department of Human Services and Workforce Safety and Insurance; that is typical for most biennia. Another increasingly frequent OAH user in the last few years is the Public Service Commission.

OAH has five permanent FTEs - three ALJs and two support staff - and nine part-time, contract ALJs. (See attached organizational chart, Attachment "E.") OAH's contract ALJs conduct primarily WSI hearings; three are located in Fargo, four in Bismarck, one in Minot, and one in Dickinson. OAH's three full-time permanent ALJs conduct a mixture of different agency hearings but, primarily, DHS, PSC, WSI, HRMS state employee grievance hearings, and occupational licensing hearings. OAH proposes to move forward into the 2015-2017 biennium with the same structure. However, workload

considerations may require more part-time, contract ALJs. At some time in the future OAH may want to employ more full-time, permanent ALJs and fewer contract ALJs, but it is probably wise to wait to do so until caseloads level off so that we can more accurately assess our needs.

I also wanted to update you on one of the agency major accomplishments in our proposed budget. OAH and North Dakota hosted the Central Panel Directors Conference in Bismarck in September 2014. The Central Panel Directors Conference is a major conference involving administrative hearing agency leaders and chief ALJs from about 25 states. The conference included presentations from Chief Justice VandeWalle and Public Service Commissioner Brian Kalk, among others. We received considerable positive feedback from attendees who left with a favorable impression of our state.

BUDGET

For the coming biennium, OAH initially submitted a hold-even budget in operating expenses to the governor, with the largest component being its professional services costs, which are primarily payments for contract ALJ services. Our budget situation has changed slightly due to the two retirements and moving the ALJ position held by ALJ Bailey from West Fargo to Bismarck for administrative efficiency. The annual leave payout for these three employees exceeded the amount set aside and required

RESPONSES TO SPECIFIC QUESTIONS

In response to the December 15, 2014, letter from Allen Knudson, and to the extent I have not addressed them elsewhere:

- OAH had no formal or informal recommendations in the 2011-2013 biennium audit;
- OAH had a major ongoing increase in the professional services line item for the contract ALJS which was approved by the 2013 legislative assembly;
- Exhibit F reflects the 2013-2015 biennium spending to the 2013-2015 appropriation;
- OAH is seeking a change in the compensation line item which includes the Governor's recommendation and the increase to maintain salary levels for the staffing changes and a change in the operations to pay for increased rental space;
- OAH receives no federal funding.

CONCLUSION

OAH continues to perform a vital task for state and local agencies, boards, commissions, and other governmental entities, both for mandatory and voluntary users of OAH's services, holding a wide variety of types of administrative hearings for these users. Having a separate entity such as OAH for conducting administrative hearings allows for the fair and impartial conduct of these hearings for state and local government and for the citizens of North Dakota. OAH's current structure will allow us to

Sixty-fourth Legislative Assembly
State of North Dakota
House Appropriations Committee
January 15, 2015
Page 7

continue to meet the administrative hearing requirements of all users who depend on OAH to conduct their hearings.

Hearing Request Comparison by Year

Requests Received Between 01-01-2013 and 12-31-2014

Office of Administrative Hearings

Agency	2013		2014		Total	
1 Addiction Counseling Examiners Board	0	0.0%	1	0.2%	1	0.1%
2 Agriculture Commissioner	2	0.3%	0	0.0%	2	0.2%
3 Attorney General, Office of	2	0.3%	0	0.0%	2	0.2%
4 Audiology & Speech-Language Pathology, Board of	0	0.0%	1	0.2%	1	0.1%
5 Belfield School District	0	0.0%	1	0.2%	1	0.1%
6 BND, Student Loans of North Dakota	3	0.5%	3	0.5%	6	0.5%
7 Chiropractic Examiners, State Board of	1	0.2%	0	0.0%	1	0.1%
8 Corrections - Parole & Probation	1	0.2%	1	0.2%	2	0.2%
9 Corrections & Rehabilitation - Dept. of	1	0.2%	0	0.0%	1	0.1%
10 Cosmetology, Board of	1	0.2%	1	0.2%	2	0.2%
11 Dental Examiners, Board of	0	0.0%	1	0.2%	1	0.1%
12 DHS, Human Services, Department of	217	37.7%	211	37.0%	428	37.3%
13 FI, Financial Institutions, Department of	1	0.2%	0	0.0%	1	0.1%
14 Fort Yates Public School District	0	0.0%	1	0.2%	1	0.1%
15 Game and Fish Department	1	0.2%	0	0.0%	1	0.1%
16 Health, Department of	1	0.2%	2	0.4%	3	0.3%
17 Human Resource Management Services	4	0.7%	6	1.1%	10	0.9%
18 IC, Insurance Commissioner	2	0.3%	7	1.2%	9	0.8%
19 Industrial Commission	7	1.2%	6	1.1%	13	1.1%
20 Job Service North Dakota	1	0.2%	0	0.0%	1	0.1%
21 Labor, Dept. of	1	0.2%	0	0.0%	1	0.1%
22 Medical Examiners, State Board of	3	0.5%	2	0.4%	5	0.4%
23 Milk Marketing Board	1	0.2%	0	0.0%	1	0.1%
24 Minot State University	1	0.2%	1	0.2%	2	0.2%
25 Nursing Home Administrators, Board of Examiners for	1	0.2%	0	0.0%	1	0.1%
26 Podiatric Medicine, Board of	1	0.2%	0	0.0%	1	0.1%
27 Private Investigative and Security Board	0	0.0%	2	0.4%	2	0.2%
28 Professional Engineers & Land Surveyors Board	1	0.2%	4	0.7%	5	0.4%
29 PSC, Public Service Commission	30	5.2%	37	6.5%	67	5.8%
30 Public Instruction - Bismarck Public School District	1	0.2%	0	0.0%	1	0.1%
31 Public Instruction, Department of	17	3.0%	9	1.6%	26	2.3%

Thursday, January 15, 2015

Hearing Request Comparison by Year

Requests Received Between 01-01-2013 and 12-31-2014

Office of Administrative Hearings

<i>Agency</i>	<i>2013</i>		<i>2014</i>		<i>Total</i>	
32 Real Estate Commission	1	0.2%	0	0.0%	1	0.1%
33 Securities Department	2	0.3%	0	0.0%	2	0.2%
34 Social Work Examiners, Board of	1	0.2%	1	0.2%	2	0.2%
35 Transportation, Department of	2	0.3%	1	0.2%	3	0.3%
36 UND, University of North Dakota	0	0.0%	1	0.2%	1	0.1%
37 University System, N.D.	0	0.0%	2	0.4%	2	0.2%
38 Water Commission, State/State Engineer	3	0.5%	2	0.4%	5	0.4%
39 Workforce Safety & Insurance	265	46.0%	267	46.8%	532	46.4%
	576		571		1147	

Thursday, January 15, 2015

Hearings Held*Hearings Held Between 01-01-2013 and 12-31-2014**Office of Administrative Hearings*

<i>Month</i>	<i>2013</i>		<i>2014</i>		<i>Total</i>	
January	19	6.6%	33	11.9%	52	9.2%
February	23	8.0%	24	8.7%	47	8.3%
March	13	4.5%	26	9.4%	39	6.9%
April	23	8.0%	19	6.9%	42	7.4%
May	29	10.1%	32	11.6%	61	10.8%
June	33	11.5%	30	10.8%	63	11.2%
July	23	8.0%	22	7.9%	45	8.0%
August	34	11.8%	15	5.4%	49	8.7%
September	20	6.9%	19	6.9%	39	6.9%
October	27	9.4%	23	8.3%	50	8.8%
November	20	6.9%	15	5.4%	35	6.2%
December	24	8.3%	19	6.9%	43	7.6%
	288		277		565	

Prehearing Conferences Held*Prehearing Conferenes Held Between 01-01-2013 and 12-31-2014**Office of Administrative Hearings*

Month	2013		2014		Total	
January	18	12.0%	17	12.8%	35	12.4%
February	18	12.0%	15	11.3%	33	11.7%
March	13	8.7%	13	9.8%	26	9.2%
April	14	9.3%	16	12.0%	30	10.6%
May	7	4.7%	7	5.3%	14	4.9%
June	11	7.3%	10	7.5%	21	7.4%
July	11	7.3%	6	4.5%	17	6.0%
August	11	7.3%	8	6.0%	19	6.7%
September	15	10.0%	11	8.3%	26	9.2%
October	11	7.3%	12	9.0%	23	8.1%
November	11	7.3%	8	6.0%	19	6.7%
December	10	6.7%	10	7.5%	20	7.1%
	150		133		283	

Hearing Requests Received by Agency

Requests Received Between 07-01-2013 and 12-31-2014

Office of Administrative Hearings

Agency	# of Files Received	
1 Addiction Counseling Examiners Board	1	0.12%
2 Agriculture Commissioner	1	0.12%
3 Audiology & Speech-Language Pathology, Board of	1	0.12%
4 Belfield School District	1	0.12%
5 BND, Student Loans of North Dakota	5	0.58%
6 Corrections - Parole & Probation	1	0.12%
7 Cosmetology, Board of	1	0.12%
8 Dental Examiners, Board of	1	0.12%
9 DHS, Human Services, Department of	313	36.44%
10 Fort Yates Public School District	1	0.12%
11 Game and Fish Department	1	0.12%
12 Health, Department of	2	0.23%
13 Human Resource Management Services	7	0.81%
14 IC, Insurance Commissioner	8	0.93%
15 Industrial Commission	10	1.16%
16 Medical Examiners, State Board of	3	0.35%
17 Milk Marketing Board	1	0.12%
18 Minot State University	2	0.23%
19 Nursing Home Administrators, Board of Examiners for	1	0.12%
20 Podiatric Medicine, Board of	1	0.12%
21 Private Investigative and Security Board	2	0.23%
22 Professional Engineers & Land Surveyors Board	5	0.58%
23 PSC, Public Service Commission	52	6.05%
24 Public Instruction - Bismarck Public School District	1	0.12%
25 Public Instruction, Department of	13	1.51%
26 Real Estate Commission	1	0.12%
27 Social Work Examiners, Board of	2	0.23%
28 Transportation, Department of	3	0.35%
29 UND, University of North Dakota	1	0.12%

Hearing Requests Received by Agency

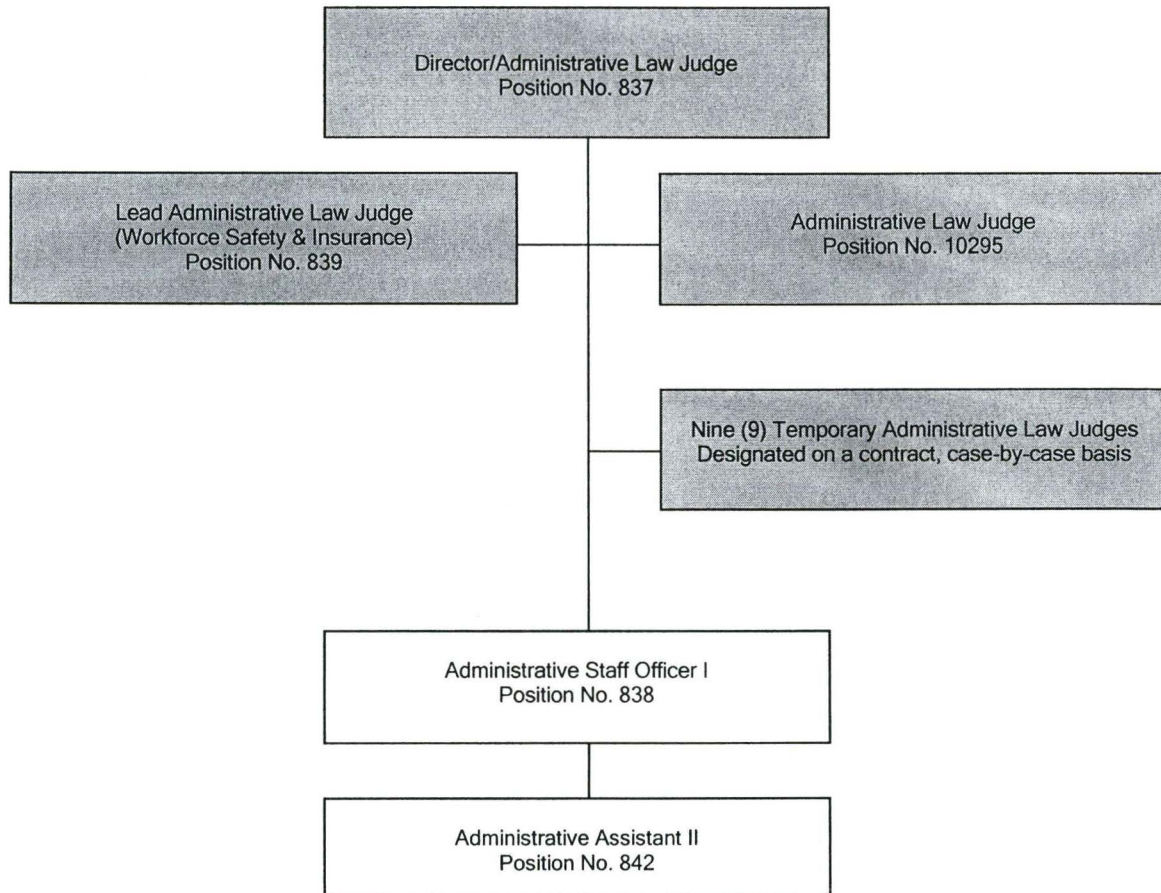
Requests Received Between 07-01-2013 and 12-31-2014

Office of Administrative Hearings

Agency	# of Files Received	
30 University System, N.D.	2	0.23%
31 Water Commission, State/State Engineer	2	0.23%
32 Workforce Safety & Insurance	413	48.08%
Grand Total:	859	

OFFICE OF ADMINISTRATIVE HEARINGS
ORGANIZATIONAL CHART

January 1, 2015



140 Administrative Hearings

		Current Appropriation	Expenditures	Remaining Appropriation	Percent Remaining
14000 Administrative Hearing	14010 Salaries and Wages	\$1,058,257.59	\$787,950.62	\$270,306.97	26%
	14012 Accrued Leave Payments	\$24,615.41	\$24,615.41	\$0.00	0%
	14030 Operating Expenses	\$1,749,023.00	\$888,124.75	\$860,898.25	49%
	Total Expenditures	\$2,831,896.00	\$1,700,690.78	\$1,131,205.22	40%
	Expenditures by Funding Source				
	Special	\$2,831,896.00	\$1,700,690.78	\$1,131,205.22	40%
	Total Expenditures by Source	\$2,831,896.00	\$1,700,690.78	\$1,131,205.22	40%

Agency Office of Administrative Hearings
 Program 100 Office of Administrative Hearings Services
 Reporting Level 00-140-100-00-00-00000000

1 Object/Revenue		2 2011-13 Biennium Expenditures	3 2013-15 First Year Expenditures	4 2013-15 Biennium Appropriation	5 2015-17 Base Budget Changes	6 2015-17 Recommendation	7
Description	Code						
10 Salaries and Wages							
Salaries - Permanent	511000	685,393	334,860	708,291	0	816,860	0
Health Increase	511012	0	0	0	0	21,589	0
Retirement Increase	511013	0	0	0	0	6,126	0
Salary Budget Adjustment	511900	0	0	0	5,038	5,038	0
Temporary Salaries	513000	0	56,493	91,341	0	2,501	0
Overtime	514000	2,406	0	2,500	0	2,500	0
Fringe Benefits	516000	226,010	124,947	252,497	0	282,863	0
Salary Increase	599110	0	0	0	0	49,665	0
Benefit Increase	599160	0	0	0	0	9,148	0
TOTAL		913,809	516,300	1,054,629	5,038	1,196,290	0
MEANS OF FUNDING							
Administrative Hearings Fund 266	266	913,809	516,300	1,054,629	5,038	1,196,290	0
Special Funds TOTAL		913,809	516,300	1,054,629	5,038	1,196,290	0
TOTAL		913,809	516,300	1,054,629	5,038	1,196,290	0
12 Accrued Leave Payments							
Salaries - Permanent	511000	0	24,615	24,617	0	0	0
TOTAL		0	24,615	24,617	0	0	0
MEANS OF FUNDING							
Administrative Hearings Fund 266	266	0	24,615	24,617	0	0	0
Special Funds TOTAL		0	24,615	24,617	0	0	0
TOTAL		0	24,615	24,617	0	0	0
30 Operating Expenses							
Travel	521000	18,503	10,860	24,100	0	24,100	0
Supplies - IT Software	531000	4,512	952	15,200	0	15,200	0
Supply/Material-Professional	532000	2	1	2,244	0	2,244	0
Food and Clothing	533000	0	431	431	(431)	0	0
Miscellaneous Supplies	535000	357	141	3,235	0	3,235	0
Office Supplies	536000	2,316	1,384	7,292	0	7,292	0
Postage	541000	10,085	5,558	11,400	0	11,400	0
Printing	542000	525	395	2,785	0	2,785	0
IT Equip Under \$5,000	551000	7,862	579	13,000	0	13,000	0
Office Equip & Furn Supplies	553000	1,086	1,433	9,950	0	9,950	0
Utilities	561000	47	54	400	0	400	0
Insurance	571000	782	253	1,000	0	1,000	0
Rentals/Leases-Equip & Other	581000	2,379	1,345	5,579	0	5,579	0
Rentals/Leases - Bldg/Land	582000	67,005	33,503	71,823	4,017	75,840	0
Repairs	591000	75	101	1,500	0	1,500	0
IT - Data Processing	601000	41,232	21,212	49,227	0	49,227	0
IT - Communications	602000	8,945	3,871	15,020	0	15,020	0

Agency Office of Administrative Hearings
 Program 100 Office of Administrative Hearings Services
 Reporting Level 00-140-100-00-00-00-00000000

1 Object/Revenue		2 2011-13 Biennium Expenditures	3 2013-15 First Year Expenditures	4 2013-15 Biennium Appropriation	5 2015-17 Base Budget Changes	6 2015-17 Recommendation	7
Description	Code						
IT Contractual Svcs and Rprs	603000	6,330	21,338	22,260	(12,260)	10,000	0
Professional Development	611000	7,465	4,285	15,000	0	15,000	0
Operating Fees and Services	621000	2,017	665	3,000	0	3,000	0
Fees - Professional Services	623000	976,386	545,762	1,474,577	8,674	1,483,251	0
TOTAL		1,157,911	654,123	1,749,023	0	1,749,023	0
MEANS OF FUNDING							
Administrative Hearings Fund 266	266	1,157,911	654,123	1,749,023	0	1,749,023	0
Special Funds TOTAL		1,157,911	654,123	1,749,023	0	1,749,023	0
TOTAL		1,157,911	654,123	1,749,023	0	1,749,023	0
Agency TOTALS							
TOTAL EXPENDITURES		2,071,720	1,195,038	2,828,269	5,038	2,945,313	0
Special Funds							
Administrative Hearings Fund 266	266	2,071,720	1,195,038	2,828,269	5,038	2,945,313	0
TOTAL		2,071,720	1,195,038	2,828,269	5,038	2,945,313	0
TOTAL FUNDING		2,071,720	1,195,038	2,828,269	5,038	2,945,313	0
AUTHORIZED EMPLOYEES							
FTE		4.00	4.00	4.00	0.00	4.00	0.00
Vacant		1.00	1.00	1.00	0.00	1.00	0.00
TOTAL AUTHORIZED EMPLOYEES		5.00	5.00	5.00	0.00	5.00	0.00

Compensation **Legislative changes to Executive Recommendation**

HB1017
02-12-15
#1

Executive Recommendation:

	Year 1 July '15 - June '16	Year 2 July '16 - June '17
Compensation Increase - Year 1 4% (Average 3% - 5%) First Year	4%	
Retirement Increase - Year 1 1% the first year (beginning January)		1%
NET Increase Year 1 (average)	3%	
Compensation Increase - Year 2 4% (Average 3% - 5%) Second Year		4%
NET Increase Year 2 (average)		4%
Market Policy Point Increase - Employees in 1st Quartile - up to 2%	2%	2%
Market Policy Point Increase - Employees in 2nd Quartile - up to 1%	1%	1%
Selected Occupations - with hard-to-fill positions	Amount specific to the agency situation	

Legislative Compensation:

	Year 1 July '15 - June '16	Year 2 July '16 - June '17
Compensation Increase - Year 1 3% (Average 2% - 4%) First Year	3%	
Retirement Increase - 0%		0%
NET Increase Year 1 (average)	3%	
Compensation Increase - Year 2 3% (Average 2% - 4%) Second Year		3%
NET Increase Year 2 (average)		3%
Market Policy Point Increase - Employees in 1st Quartile - 0%	0%	0%
Market Policy Point Increase - Employees in 2nd Quartile - 0%	0%	0%
Selected Occupations - with hard-to-fill positions	\$0	

HB1017
02-12-15
#2

Office of Administrative Hearings - Budget No. 140

House Bill No. 1017

Base Level Funding Changes

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2015-17 Biennium Base Level	5.00	\$0	\$2,818,896	\$2,818,896	5.00	\$0	\$2,818,896	\$2,818,896
2015-17 Ongoing Funding Changes								
Base payroll changes			\$25,478	\$25,478				\$0
Salary increase - Performance			58,813	58,813				0
Salary increase - Market equity			5,038	5,038				0
Retirement contribution increase			6,126	6,126				0
Health insurance increase			21,589	21,589				0
Continuing appropriation increase			9,373	9,373				0
Total ongoing funding changes	0.00	\$0	\$126,417	\$126,417	0.00	\$0	\$0	\$0
One-time funding items								
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$126,417	\$126,417	0.00	\$0	\$0	\$0
2015-17 Total Funding	5.00	\$0	\$2,945,313	\$2,945,313	5.00	\$0	\$2,818,896	\$2,818,896

Other Sections in House Bill No. 1017

Executive Budget Recommendation	House Version
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HB1017
02-16-15
#1

Office of Administrative Hearings - Budget No. 140

House Bill No. 1017

Base Level Funding Changes

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2015-17 Biennium Base Level	5.00	\$0	\$2,818,896	\$2,818,896	5.00	\$0	\$2,818,896	\$2,818,896
2015-17 Ongoing Funding Changes								
Base payroll changes			\$25,478	\$25,478			\$25,478	\$25,478
Salary increase - Performance			58,813	58,813			43,998	43,998
Salary increase - Market equity			5,038	5,038				0
Retirement contribution increase			6,126	6,126			6,126	6,126
Health insurance increase			21,589	21,589			21,589	21,589
Continuing appropriation increase			9,373	9,373			9,373	9,373
Salary increase				0			28,737	28,737
Office rent increase				0			3,744	3,744
Other change				0				0
Other change				0				0
Other change				0				0
Other change				0				0
Other change				0				0
Total ongoing funding changes	0.00	\$0	\$126,417	\$126,417	0.00	\$0	\$139,045	\$139,045
One-time funding items								
Other one-time funding item				0				0
Other one-time funding item				0				0
Other one-time funding item				0				0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$126,417	\$126,417	0.00	\$0	\$139,045	\$139,045
2015-17 Total Funding	5.00	\$0	\$2,945,313	\$2,945,313	5.00	\$0	\$2,957,941	\$2,957,941

Other Sections in House Bill No. 1017

Executive Budget Recommendation

House Version



Wade C. Mann
DIRECTOR

OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF NORTH DAKOTA


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HB1017
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3-4-15

MEMORANDUM

TO: Sixty-fourth Legislative Assembly
State of North Dakota
Senate Appropriations Committee

FROM: Wade C. Mann, Director 
Office of Administrative Hearings

RE: OAH 2015-2017 Operating Budget Request
House Bill No. 1017

DATE: March 4, 2015

The 2013-2015 biennium has been busy and eventful for the Office of Administrative Hearings ("OAH"). Allen Hoberg, director of OAH since its inception in 1991 and ALJ Bonny Fetch, also with the agency since its beginning, both retired in December 2014 after more than 30 years working for the state. ALJ Susan Bailey was elected district judge for the East Central Judicial District in November 2014. We added new contract ALJs to address the increasing number of requests for hearing received from all of OAH's user agencies, boards, commissions, and local entities. Based on agency discussions, we anticipate increases in the number of hearing requests during the 2015-2017 biennium. Pursuant to performance guidelines implemented for all of its users, OAH issued its third biennial report for the 2011-2013 biennium in November 2013.

1-1

OAH conducts hearings for state and local agencies and entities that are required to use OAH (see N.D.C.C. §§ 54-57-03(1), 40-51.2-12, 40-47-01.1, and 15.1-15-08); for state agencies that voluntarily use OAH, *e.g.*, the Public Service Commission, the Insurance Department, the Industrial Commission, the Department of Transportation for dealer licensing hearings, Student Loans of North Dakota for student loan hearings, colleges and universities for personnel hearings, and occasionally Job Service North Dakota for conflict unemployment compensation hearings; and for local entities such as cities or counties that voluntarily use OAH to conduct such hearings as employee discipline, tobacco sales enforcement, or public nuisance abatement hearings.

Over the years, OAH has conducted hearings for over 85 different state and local government agencies or entities. Some agencies make many requests for hearing each year, while others have made only a few requests for hearing since OAH was established. In calendar year 2013, 31 different agencies or entities made 576 requests for hearing, and in calendar year 2014, 25 different agencies or entities made 571 requests for hearing, a total of 1,147 requests by 39 different agencies or entities in those two years. (See Attachment "A.") For comparison, in calendar year 2011, OAH received 516 requests for hearing and in calendar year 2012 OAH received 510 requests for hearing. Attachment "B" shows the number of hearings held for calendar years 2013 and 2014. This shows about 49 percent of the hearing requests actually

went to hearing in those two years. Historically, between 45 percent and 55 percent of hearing requests have gone to hearing. Attachment "C" shows the number of prehearing conferences held for calendar years 2013 and 2014. Prehearing conferences are usually held for the more complex hearings. 283 prehearing conferences were held during those two years.

For the first 18 months of this biennium (July 1, 2013, through December 31, 2014), 32 different agencies or entities have made 859 requests for hearing. (See Attachment "D.") As you can see from the attachments, the bulk of requests for hearing this biennium have come from two agencies, the Department of Human Services and Workforce Safety and Insurance; that is typical for most biennia. Another increasingly frequent OAH user in the last few years is the Public Service Commission.

OAH has five permanent FTEs - three ALJs and two support staff - and eight part-time, contract ALJs. (See attached organizational chart, Attachment "E.") OAH's contract ALJs conduct primarily WSI hearings; three are located in Fargo, three in Bismarck, one in Minot, and one in Dickinson. OAH's three full-time permanent ALJs conduct a mixture of different agency hearings but, primarily, DHS, PSC, WSI, HRMS state employee grievance hearings, and occupational licensing hearings. OAH proposes to move forward into the 2015-2017 biennium with the same structure. However, workload

considerations may require more part-time, contract ALJs. At some time in the future OAH may want to employ more full-time, permanent ALJs and fewer contract ALJs, but it is probably wise to wait to do so until caseloads level off so that we can more accurately assess our needs. Exhibit "F" reflects OAH's 2013-2015 biennium spending to the 2013-2015 appropriation.

I also wanted to update you on one of the agency major accomplishments in our proposed budget. OAH and North Dakota hosted the Central Panel Directors Conference in Bismarck in September 2014. The Central Panel Directors Conference is a major conference involving administrative hearing agency leaders and chief ALJs from about 25 states. The conference included presentations from Chief Justice VandeWalle and Public Service Commissioner Brian Kalk, among others. We received considerable positive feedback from attendees who left with a favorable impression of our state.

BUDGET

For the coming biennium, OAH initially submitted a hold-even budget in operating expenses to the governor, with the largest component being its professional services costs, which are primarily payments for contract ALJ services. Our budget situation has changed slightly due to the two retirements and moving the ALJ position held by ALJ Bailey from West Fargo to Bismarck for administrative efficiency. The annual leave

payout for these three employees exceeded the amount set aside and required transfers from the salaries line to the accrued leave payments line to make up the difference. OAH used its continuing appropriation authority to increase the salaries line in order to continue to pay all its employees. OAH does not anticipate any staffing changes in the upcoming biennium which would require annual leave payouts at those same levels. However, as a result of the staffing changes and anticipated increases in workload, we will be seeking a slight increase in the compensation line in excess of the governor's recommendation. The governor's office and OMB are aware of this request and support it. Exhibit "G" reflects OAH's requested change from the executive recommendation. The requested changes were approved as amendments by the House.

Additionally we have seen substantial increases over the past primarily in PSC (by 15.5 percent) and WSI hearings (by 28.5 percent). Additionally, the workers compensation matters handled involved an increase in the number of cases being handled by attorneys for claimants (complexity increase) and an increasing number of requests for reconsideration, mostly by attorneys, after the ALJ issues a final decision. Because we had the ability to contract with individual ALJs on an as-needed basis, we have been able to respond and keep our case loads moving. With the increases OAH has seen in the overall caseload (11.8 percent over the last two years), and our

understanding the increase will continue, we need to maintain flexibility and the ability to continue to employ contract ALJs.

CONCLUSION

OAH continues to perform a vital task for state and local agencies, boards, commissions, and other governmental entities, both for mandatory and voluntary users of OAH's services, holding a wide variety of types of administrative hearings for these users. Having a separate entity such as OAH for conducting administrative hearings allows for the fair and impartial conduct of these hearings for state and local government and for the citizens of North Dakota. OAH's current structure will allow us to continue to meet the administrative hearing requirements of all users who depend on OAH to conduct their hearings.

Hearings Request Comparison by Year

Hearings Requests Received Between January 1, 2011, and December 31, 2014

of Administrative Hearings

Month	2011		2012		2013		2014		Total	
1 Addiction Counseling Examiners Board	1	0.2%	0	0.0%	0	0.0%	1	0.2%	2	0.1%
2 Agriculture Commissioner	0	0.0%	1	0.2%	2	0.3%	0	0.0%	3	0.1%
3 Animal Health, Board of	0	0.0%	1	0.2%	0	0.0%	0	0.0%	1	0.0%
4 Attorney General, Office of	3	0.6%	1	0.2%	2	0.3%	0	0.0%	6	0.3%
5 Audiology & Speech-Language Pathology, Board of	0	0.0%	0	0.0%	0	0.0%	1	0.2%	1	0.0%
6 Belfield School District	0	0.0%	0	0.0%	0	0.0%	1	0.2%	1	0.0%
7 BND, Student Loans of North Dakota	7	1.4%	1	0.2%	3	0.5%	3	0.5%	14	0.6%
8 Chiropractic Examiners, State Board of	2	0.4%	0	0.0%	1	0.2%	0	0.0%	3	0.1%
9 Corrections - Parole & Probation	0	0.0%	0	0.0%	1	0.2%	1	0.2%	2	0.1%
10 Corrections & Rehabilitation - Dept. of	0	0.0%	0	0.0%	1	0.2%	0	0.0%	1	0.0%
11 Cosmetology, Board of	0	0.0%	0	0.0%	1	0.2%	1	0.2%	2	0.1%
12 County, Burleigh	1	0.2%	0	0.0%	0	0.0%	0	0.0%	1	0.0%
13 Dental Examiners, Board of	0	0.0%	1	0.2%	0	0.0%	1	0.2%	2	0.1%
14 DHS, Human Services, Department of	225	43.6%	210	41.2%	217	37.7%	211	37.0%	863	39.7%
15 FI, Banking Board	1	0.2%	0	0.0%	0	0.0%	0	0.0%	1	0.0%
16 FI, Financial Institutions, Department of	0	0.0%	1	0.2%	1	0.2%	0	0.0%	2	0.1%
17 Fort Yates Public School District	0	0.0%	0	0.0%	0	0.0%	1	0.2%	1	0.0%
18 Game and Fish Department	1	0.2%	2	0.4%	1	0.2%	0	0.0%	4	0.2%
19 Health, Department of	1	0.2%	2	0.4%	1	0.2%	2	0.4%	6	0.3%
20 Human Resource Management Services	6	1.2%	6	1.2%	4	0.7%	6	1.1%	22	1.0%
21 IC, Insurance Commissioner	2	0.4%	7	1.4%	2	0.3%	7	1.2%	18	0.8%
22 Industrial Commission	4	0.8%	1	0.2%	7	1.2%	6	1.1%	18	0.8%
23 Job Service North Dakota	1	0.2%	1	0.2%	1	0.2%	0	0.0%	3	0.1%
24 Labor, Dept. of	1	0.2%	4	0.8%	1	0.2%	0	0.0%	6	0.3%
25 Medical Examiners, State Board of	6	1.2%	4	0.8%	3	0.5%	2	0.4%	15	0.7%
26 Milk Marketing Board	0	0.0%	0	0.0%	1	0.2%	0	0.0%	1	0.0%
27 Minot State University	3	0.6%	1	0.2%	1	0.2%	1	0.2%	6	0.3%
28 Nursing Home Administrators, Board of Examiners for	0	0.0%	0	0.0%	1	0.2%	0	0.0%	1	0.0%
29 Pharmacy, State Board of	0	0.0%	3	0.6%	0	0.0%	0	0.0%	3	0.1%
30 Podiatric Medicine, Board of	0	0.0%	0	0.0%	1	0.2%	0	0.0%	1	0.0%
31 Private Investigative and Security Board	0	0.0%	0	0.0%	0	0.0%	2	0.4%	2	0.1%

Tuesday, March 03, 2015

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Hearings Request Comparison by Year

Hearings Requests Received Between January 1, 2011, and December 31, 2014

of Administrative Hearings

Month	2011		2012		2013		2014		Total	
32 Professional Engineers & Land Surveyors Board	0	0.0%	1	0.2%	1	0.2%	4	0.7%	6	0.3%
33 PSC, Public Service Commission	35	6.8%	23	4.5%	30	5.2%	37	6.5%	125	5.8%
34 Psychologist Examiners, State Board of	1	0.2%	0	0.0%	0	0.0%	0	0.0%	1	0.0%
35 Public Instruction - Bismarck Public School District	0	0.0%	0	0.0%	1	0.2%	0	0.0%	1	0.0%
36 Public Instruction - Richardton-Taylor School District	0	0.0%	1	0.2%	0	0.0%	0	0.0%	1	0.0%
37 Public Instruction, Department of	9	1.7%	14	2.7%	17	3.0%	9	1.6%	49	2.3%
38 Real Estate Commission	1	0.2%	1	0.2%	1	0.2%	0	0.0%	3	0.1%
39 Securities Department	0	0.0%	0	0.0%	2	0.3%	0	0.0%	2	0.1%
40 Social Work Examiners, Board of	0	0.0%	0	0.0%	1	0.2%	1	0.2%	2	0.1%
41 State, Secretary of	2	0.4%	0	0.0%	0	0.0%	0	0.0%	2	0.1%
42 Transportation, Department of	0	0.0%	1	0.2%	2	0.3%	1	0.2%	4	0.2%
43 UND, University of North Dakota	0	0.0%	0	0.0%	0	0.0%	1	0.2%	1	0.0%
44 University System, N.D.	1	0.2%	0	0.0%	0	0.0%	2	0.4%	3	0.1%
45 Valley City, ND, City of	4	0.8%	0	0.0%	0	0.0%	0	0.0%	4	0.2%
46 Veterans Affairs, Department of	0	0.0%	1	0.2%	0	0.0%	0	0.0%	1	0.0%
47 Water Commission, State/State Engineer	2	0.4%	3	0.6%	3	0.5%	2	0.4%	10	0.5%
48 Workforce Safety & Insurance	196	38.0%	218	42.7%	265	46.0%	267	46.8%	946	43.5%
	516		510		576		571		2173	

Tuesday, March 03, 2015

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Hearings Held***Hearings Held Between 01-01-2013 and 12-31-2014****Office of Administrative Hearings*

Month	2013		2014		Total	
January	19	6.6%	33	11.9%	52	9.2%
February	23	8.0%	24	8.7%	47	8.3%
March	13	4.5%	26	9.4%	39	6.9%
April	23	8.0%	19	6.9%	42	7.4%
May	29	10.1%	32	11.6%	61	10.8%
June	33	11.5%	30	10.8%	63	11.2%
July	23	8.0%	22	7.9%	45	8.0%
August	34	11.8%	15	5.4%	49	8.7%
September	20	6.9%	19	6.9%	39	6.9%
October	27	9.4%	23	8.3%	50	8.8%
November	20	6.9%	15	5.4%	35	6.2%
December	24	8.3%	19	6.9%	43	7.6%
	288		277		565	

Prehearing Conferences Held*Prehearing Conferenes Held Between 01-01-2013 and 12-31-2014**Office of Administrative Hearings*

<i>Month</i>	<i>2013</i>		<i>2014</i>		<i>Total</i>	
January	18	12.0%	17	12.8%	35	12.4%
February	18	12.0%	15	11.3%	33	11.7%
March	13	8.7%	13	9.8%	26	9.2%
April	14	9.3%	16	12.0%	30	10.6%
May	7	4.7%	7	5.3%	14	4.9%
June	11	7.3%	10	7.5%	21	7.4%
July	11	7.3%	6	4.5%	17	6.0%
August	11	7.3%	8	6.0%	19	6.7%
September	15	10.0%	11	8.3%	26	9.2%
October	11	7.3%	12	9.0%	23	8.1%
November	11	7.3%	8	6.0%	19	6.7%
December	10	6.7%	10	7.5%	20	7.1%
	150		133		283	

Hearing Requests Received by Agency

Requests Received Between 07-01-2013 and 12-31-2014

Office of Administrative Hearings

Agency	# of Files Received	
1 Addiction Counseling Examiners Board	1	0.12%
2 Agriculture Commissioner	1	0.12%
3 Audiology & Speech-Language Pathology, Board of	1	0.12%
4 Belfield School District	1	0.12%
5 BND, Student Loans of North Dakota	5	0.58%
6 Corrections - Parole & Probation	1	0.12%
7 Cosmetology, Board of	1	0.12%
8 Dental Examiners, Board of	1	0.12%
9 DHS, Human Services, Department of	313	36.44%
10 Fort Yates Public School District	1	0.12%
11 Game and Fish Department	1	0.12%
12 Health, Department of	2	0.23%
13 Human Resource Management Services	7	0.81%
14 IC, Insurance Commissioner	8	0.93%
15 Industrial Commission	10	1.16%
16 Medical Examiners, State Board of	3	0.35%
17 Milk Marketing Board	1	0.12%
18 Minot State University	2	0.23%
19 Nursing Home Administrators, Board of Examiners for	1	0.12%
20 Podiatric Medicine, Board of	1	0.12%
21 Private Investigative and Security Board	2	0.23%
22 Professional Engineers & Land Surveyors Board	5	0.58%
23 PSC, Public Service Commission	52	6.05%
24 Public Instruction - Bismarck Public School District	1	0.12%
25 Public Instruction, Department of	13	1.51%
26 Real Estate Commission	1	0.12%
27 Social Work Examiners, Board of	2	0.23%
28 Transportation, Department of	3	0.35%
29 UND, University of North Dakota	1	0.12%

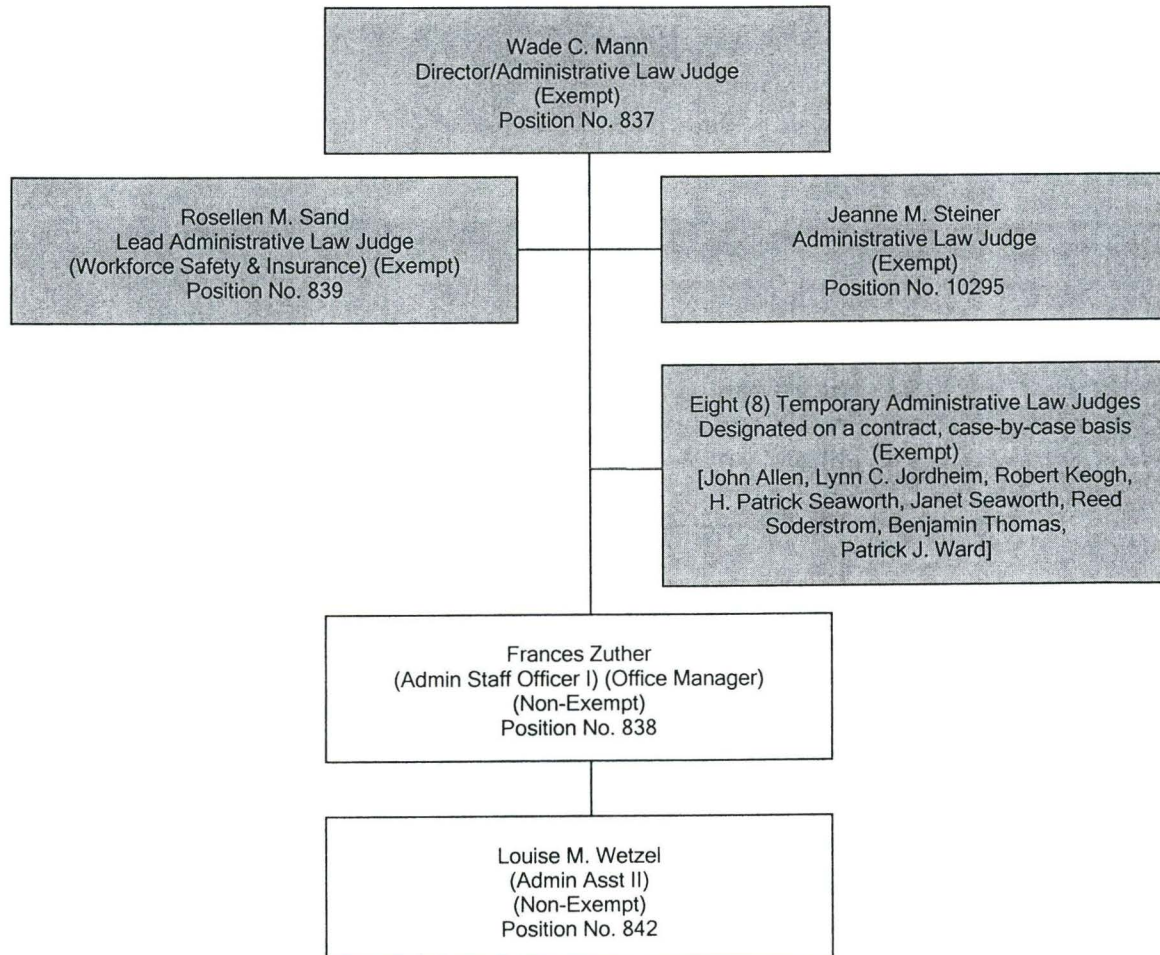
Hearing Requests Received by Agency
Requests Received Between 07-01-2013 and 12-31-2014

Office of Administrative Hearings

Agency	# of Files Received	
30 University System, N.D.	2	0.23%
31 Water Commission, State/State Engineer	2	0.23%
32 Workforce Safety & Insurance	413	48.08%
Grand Total:	859	

OFFICE OF ADMINISTRATIVE HEARINGS
ORGANIZATIONAL CHART

March 1, 2015



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APPROPRIATION STATUS REPORT

For the Month Ending Dec 2014
Percent of Biennium Remaining 25%

	Original Appropriation	Current Appropriation	Expenditures	Remaining Appropriation	Encumbrances	% Remaining
Expenditures by Line Item						
14010 Salaries and Wages	1,059,175.00	1,058,257.59	787,950.62	270,306.97	0.00	26%
14012 Accrued Leave Payments	10,698.00	24,615.41	24,615.41	0.00	0.00	0%
14030 Operating Expenses	1,749,023.00	1,749,023.00	888,124.75	860,898.25	0.00	49%
Total Expenditures	2,818,896.00	2,831,896.00	1,700,690.78	1,131,205.22	0.00	40%
Expenditures by Funding Source						
Special Funds	2,818,896.00	2,831,896.00	1,700,690.78	1,131,205.22	0.00	40%
Total Expenditures by Source	2,818,896.00	2,831,896.00	1,700,690.78	1,131,205.22	0.00	40%

140 Office of Administrative Hearings
HB 1017

	Executive Recommendation	House Changes	House Version
Salaries and wages	\$1,196,290	2,758	1,199,048
Accrued Leave Payments	0	-	0
Operating expenses	1,749,023	3,744	1,752,767
Total all funds	2,945,313	6,502	2,951,815
Less estimated income	2,945,313	6,502	2,951,815
Total general fund	\$0	-	\$0
Full-time equivalent positions	5.00	-	5.00

Ongoing

	Executive Recommendation			House Version			Change		
	FTE	General Fund	Other Funds	Total Funds	FTE	General Fund	Other Funds	Total Funds	
Add funding for rent				-		-	3,744	3,744	
Add funding for salaries for new hires				-			28,737	28,737	
Base adjustment			13,000	13,000			13,000	13,000	
Base payroll changes			21,851	21,851			21,851	21,851	
Performance Increase			58,813	58,813			43,998	43,998	
Market Increase			5,038	5,038			-	-	
Retirement Increase			6,126	6,126			-	-	
Health Increase			21,589	21,589			21,589	21,589	
Total Ongoing	-	-	126,417	126,417	-	-	132,919	132,919	-

One-Time

			-	-		-	-	-	
			-	-		-	-	-	
Total One-Time		-	-	-		-	-	-	
Total Budget Changes		-	126,417	126,417		-	132,919	132,919	-

1-15

HB 1017
#2
3-4-15

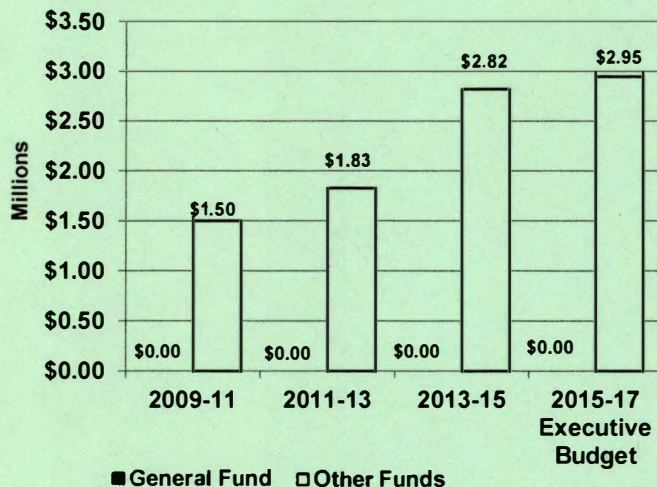
Department 140 - Office of Administrative Hearings
House Bill No. 1017

Executive Budget Comparison to Prior Biennium Appropriations

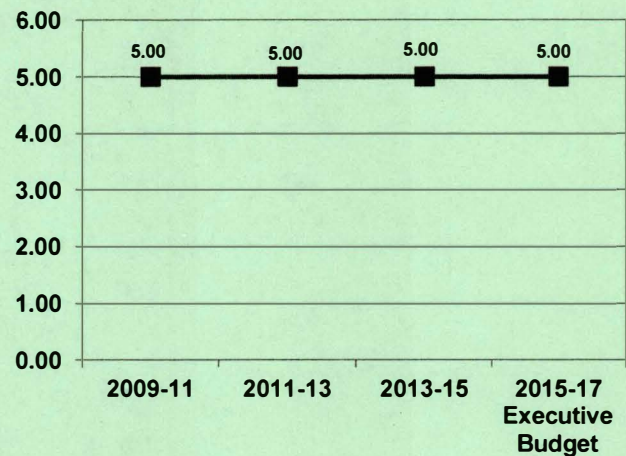
	FTE Positions	General Fund	Other Funds	Total
2015-17 Executive Budget	5.00	\$0	\$2,945,313	\$2,945,313
2013-15 Legislative Appropriations ¹	5.00	0	2,818,896	2,818,896
Increase (Decrease)	0.00	\$0	\$126,417	\$126,417

¹The 2013-15 appropriation amounts do not include additional special funds authority of \$13,000 from the agency's continuing appropriation during the 2013-15 biennium.

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2015-17 Executive Budget	\$0	\$2,945,313	\$2,945,313
2015-17 Base Level	0	2,818,896	2,818,896
Increase (Decrease)	\$0	\$126,417	\$126,417

First House Action

Attached is a comparison worksheet detailing first house changes to base level funding and the executive budget.

Executive Budget Highlights
(With First House Changes in Bold)

	General Fund	Other Funds	Total
1. Provides funding for state employee salary and benefit increases, of which \$58,813 relates to performance increases, \$5,038 is for market equity adjustments, \$21,589 is for health insurance increases, and \$6,126 is for retirement contribution increases. The House provided funding for performance salary increases of 2 to 4 percent per year and funding for health insurance increases but did not include funding for market equity increases or funding for retirement contribution increases.	\$0	\$91,566	\$91,566

Continuing Appropriations

Administrative hearings fund - North Dakota Century Code Section 54-57-07 - Appropriates funding received by the Office of Administrative Hearings for salaries, wages, benefits, operating expenses, and equipment for the purpose of providing requested administrative law judges to agencies, to any unit of local government in North Dakota, to any tribal government in North Dakota, or to the judicial branch.

Deficiency Appropriation

There are no deficiency appropriations for this agency.

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Significant Audit Findings

There are no significant audit findings for this agency.

Major Related Legislation

At this time, no major legislation has been introduced affecting this agency.

Office of Administrative Hearings - Budget No. 140

House Bill No. 1017

Base Level Funding Changes

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2015-17 Biennium Base Level	5.00	\$0	\$2,818,896	\$2,818,896	5.00	\$0	\$2,818,896	\$2,818,896
2015-17 Ongoing Funding Changes								
Base payroll changes			\$25,478	\$25,478			\$25,478	\$25,478
Salary increase - Performance			58,813	58,813			43,998	43,998
Salary increase - Market equity			5,038	5,038				0
Retirement contribution increase			6,126	6,126				0
Health insurance increase			21,589	21,589			21,589	21,589
Continuing appropriation increase			9,373	9,373			9,373	9,373
Additional funding for salaries				0			28,737	28,737
Office rent increase				0			3,744	3,744
Total ongoing funding changes	0.00	\$0	\$126,417	\$126,417	0.00	\$0	\$132,919	\$132,919
One-time funding items								
No one-time funding items				0				0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$126,417	\$126,417	0.00	\$0	\$132,919	\$132,919
2015-17 Total Funding	5.00	\$0	\$2,945,313	\$2,945,313	5.00	\$0	\$2,951,815	\$2,951,815

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