

FISCAL NOTE
Requested by Legislative Council
01/23/2007

Bill/Resolution No.: SB 2375

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

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$841,570	\$0	\$841,570
Expenditures	\$0	\$0	\$0	\$841,570	\$0	\$841,570
Appropriations	\$0	\$0	\$0	\$841,580	\$0	\$841,570

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This bill transfers DOT hearings under sections 39-06.2-10.6 and 39-20-05 from DOT to OAH. The bill does not transfer any persons or equipment from DOT to OAH. Therefore, OAH is required to hire ALJs and provide equipment, supplies, training, and travel funds required to conduct these hearings.

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

All the provisions of this bill are included to accomplish a complete transfer of certain DOT hearings to OAH and to require OAH ALJs to conduct those hearings.

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

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

OAH receives no general funds. All of its budget is special funds obtained by billing its user agencies. OAH ALJs bill user agencies for each .1 hr. worked on conducting a hearing and writing a decision, and related matters. OAH ALJs keep daily time records, and based on those time records, each month OAH sends a billing statement to agencies requiring payment for hearing services provided to them. OAH's billing rate is based on the actual expenditures OAH incurs for providing hearing services to all agencies in the previous biennium. OAH will likely base DOT's billing rate for OAH ALJs providing hearing services to DOT in the first biennium on OAH's proposed budget under this bill and an estimate of time to be spent in providing hearing services; and, thereafter, in future biennia, on actual expenditures and actual time spent. Without any hearing officers of its own, it is likely that DOT will voluntarily request OAH to provide ALJs to conduct other, miscellaneous hearings not included in this bill. This fiscal note anticipates that OAH ALJs will provide to DOT all of the hearing services now provided by its in-house hearing officers. To that end, OAH will hire five ALJs and locate them in the state's four major cities. These ALJs will work out of their home, telecommuting with OAH.

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

DOT currently employes 4 full-time and 2 part-time hearing officers to conduct all of its hearing. This approximates between 4 1/2 and 4 2/3 FTEs. OAH will hire 5 new ALJs to conduct DOT hearings. Any time remaining to the 5 new ALJs after conducting DOT hearings will be spent working on DHS and WSI hearings. OAH currently extensively

uses temporary, contract ALJs to conduct some of its DHS and WSI hearings. The work performed by the 5 new ALJs in this regard will replace the work of some of OAH's temporary, contract ALJs. By law, OAH ALJs are all classified employees, at Grade 16. The minimum salary that OAH may pay its ALJs is \$51,240/yr. Thus, with the 4%/4% executive recommendation for salary increases, the minimum that OAH may pay an ALJ is \$57,471/yr. OAH proposes to pay its five new ALJs hired to conduct DOT hearings at this rate. All current DOT ALJs are paid less than this amount. The total amount of salaries to be paid the five ALJs is \$574,710. The total amount of benefits to be paid for the five ALJs based on the proposed salary is \$172,410. Additionally, OAH will require \$94,450 in operating funds to provide for equipment, supplies, travel, training, and miscellaneous monthly office expenses necessary to do these hearings. See C below

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

OAH proposes to hire 5 new ALJs to conduct DOT hearings and locate them in the four large cities around the state (Bismarck, Fargo, Grand Forks, and Minot), as telecommute ALJs working out of their own homes. The hearings conducted by these ALJs will be held at available rooms in various government buildings around North Dakota. The appropriation detail for accomplishing this is as follows:

Salary per ALJ - \$51,240(current) + \$6231 (4%/4%) = \$57,471 per ALJ
 Total ALJ salaries for 5 ALJs for two years = \$574,710
 Benefits per ALJ = \$17,241
 Total ALJ benefits for 5 ALJs for two years = \$ 172,410
 Total salaries and benefits = \$747,120

Equipment per telecommute ALJ (desk, chair, computer, digital recorder, printer, etc.) = \$5250
 Total equipment expenses = \$26,250

Miscellaneous monthly expenses (postage, phone lines, computer connection, etc.) = 235/ mo./ALJ
 Total monthly expenses = \$28,200

Travel to hearings and other travel (mileage, lodging, meals, etc.) per ALJ = \$5,000
 Total travel expenses = \$25,000

Training and CLE costs per ALJ (all ALJs are attorneys) = \$3,000
 Total Training and CLE costs = \$15,000

Total salaries and benefits = \$747,120
 Total operating costs = \$ 94,450
 Total Appropriation = \$841,570

Name:	Allen C. Hoberg	Agency:	Office of Administrative Hearings
Phone Number:	328-3260	Date Prepared:	01/26/2007