

2023 HOUSE APPROPRIATIONS

HB 1017

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

Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2023-25 Executive Budget	\$0	\$3,020,467	\$3,020,467
2023-25 Base Level	0	2,881,529	2,881,529
Increase (Decrease)	\$0	\$138,938	\$138,938

Selected Budget Changes Recommended in the Executive Budget

	General Fund	Other Funds	Total
1. Adds funding for state employee salary and benefit increases, of which \$92,633 is for salary increases and \$25,720 is for health insurance increases	\$0	\$118,353	\$118,353
2. Adds funding for information technology rate increases	\$0	\$2,962	\$2,962
3. Increases funding for rent expenses	\$0	\$6,640	\$6,640

A summary of the executive budget changes to the agency's base level appropriations is attached as an appendix.

A copy of the draft appropriations bill containing the executive budget recommendations is attached as an appendix.

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 Appropriations

There are no deficiency appropriations recommended for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

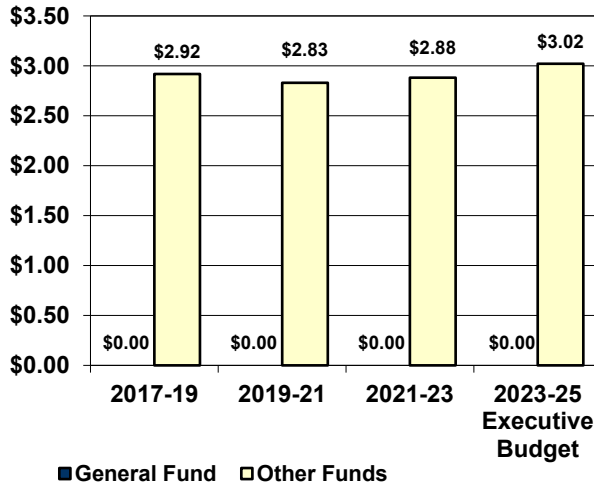
Major Related Legislation

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

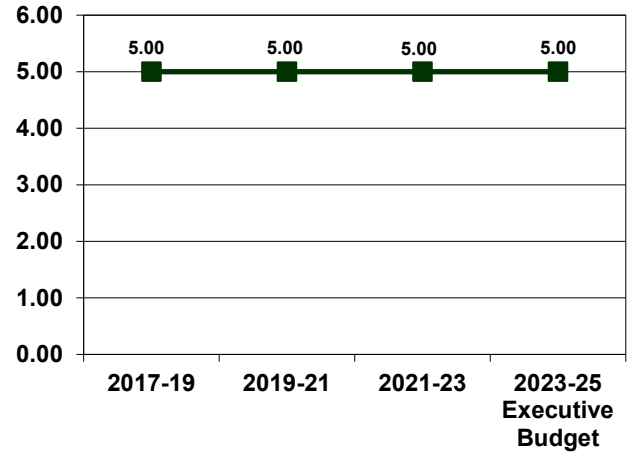
Historical Appropriations Information

Agency Appropriations and FTE Positions

Agency Funding (Millions)



FTE Positions



Ongoing Other Funds Appropriations

	2015-17	2017-19	2019-21	2021-23	2023-25 Executive Budget
Ongoing general fund appropriations	\$2,965,651	\$2,918,634	\$2,830,664	\$2,881,529	\$3,020,467
Increase (decrease) from previous biennium	N/A	(\$47,017)	(\$87,970)	\$50,865	\$138,938
Percentage increase (decrease) from previous biennium	N/A	(1.6%)	(3.0%)	1.8%	4.8%
Cumulative percentage increase (decrease) from 2015-17 biennium	N/A	(1.6%)	(4.6%)	(2.8%)	1.8%

Major Increases (Decreases) in Ongoing Other Funds Appropriations

2017-19 Biennium

1. No major changes

2019-21 Biennium

1. Reduced funding for operating expenses (\$144,450)

2021-23 Biennium

1. No major changes

2023-25 Biennium (Executive Budget Recommendation)

1. Adds funding for information technology rate increases \$2,962
2. Adds funding for rent increases \$6,640

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
2023-25 Biennium Base Level	5.00	\$0	\$2,881,529	\$2,881,529
2023-25 Ongoing Funding Changes				
Base payroll and budget changes			\$10,983	\$10,983
Salary increase			92,633	92,633
Health insurance increase			25,720	25,720
Information technology expenses			2,962	2,962
Office rent increase			6,640	6,640
Total ongoing funding changes	0.00	\$0	\$138,938	\$138,938
One-time funding items				
No one-time funding items				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$138,938	\$138,938
2023-25 Total Funding	5.00	\$0	\$3,020,467	\$3,020,467
<i>Federal funds included in other funds</i>			\$0	
<i>Total ongoing changes as a percentage of base level</i>	0.0%		4.8%	4.8%
<i>Total changes as a percentage of base level</i>	0.0%		4.8%	4.8%

Other Sections in Office of Administrative Hearings - Budget No. 140

Executive Budget Recommendation

There are no sections recommended to be added in the executive budget.

HOUSE BILL NO. 1017
(Governor's Recommendation)

Introduced by

Appropriations Committee

(At the request of the Governor)

A bill for an act to provide an appropriation for defraying the expenses of the office of administrative hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from income, to the office of administrative hearings for the purpose of defraying the expenses of the office of administrative hearings, for the biennium beginning July 1, 2023, and ending June 30, 2025, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and Wages	\$1,298,644	\$ 139,431	\$1,438,075
Operating Expenses	<u>1,582,885</u>	<u>(493)</u>	<u>1,582,392</u>
Total Special Funds	\$2,881,529	\$138,938	\$3,020,467
Full-Time Equivalent Positions	5.00	0.00	5.00

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

HB 1017
1/6/2023

A bill for an act to provide an appropriation for defraying the expenses of the office of administrative hearings.
--

Chairman Nelson, Jon O. called the meeting to order at 9:05am.
Roll call was taken. Representatives Nelson, Stemen, B. Anderson, Kreidt, Mitskog, O'Brien, Schobinger, Striden were present.

Discussion Topics:

- Staff changes
- Accomplishments and challenges

Timothy J. Dawson, Director of the Office of Administrative Hearings presented an overview of the department (Testimony #12370).

Chairman Nelson, Jon O. adjourned the meeting at 9:42am

Jan Kamphuis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

HB 1017
1/20/2023

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

8:30 AM Chairman J. Nelson called the meeting to order. Roll call was taken. Representatives Nelson, Stemen, B. Anderson, Kreidt, O'Brien, Schobinger, Striden were present. Not present Rep. Mitskog.

Discussion Topics:

- Office Equipment
- Professional Fees

Tim Dawson, Director, Office of Administrative Hearings (Testimony #14561, # 14842).

9:14 AM Chairman J. Nelson closed the meeting.

Jan Kamphuis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

HB 1017
2/3/2023

A BILL for an ACT to provide an appropriation for defraying the expense of the office of administrative hearings.

2:30 PM Chairman J. Nelson called the meeting to order.

Roll call was taken. Chairman J. Nelson, Vice Chairman Stemen, Representative B. Anderson, Kreidt, Mitskog, O'Brien, Schobinger, Strinden were present.

Discussion Topics:

- Base level funding
- Committee action

Brady Larson, Fiscal Analyst, Legislative Council: #19119.

Representative Kreidt moved that base payroll changes be moved over, seconded by **Representative Schobinger**.

Voice Vote: motion carried.

Representative Stemen moved to bring the salary increases over, seconded by **Representative Mitskog**.

Voice Vote: motion carried.

Representative Schobinger moved to pass the health insurance increases, seconded by **Representative Stemen**.

Voice Vote: motion carried.

Representative Stemen moved that information technologies be moved over, seconded by **Representative Strinden**.

Voice Vote: motion carried.

Representative Kreidt moved that the office rent be moved over, seconded by **Representative Anderson**.

Voice Vote: motion carried.

2:38 PM Chairman J. Nelson closed the meeting.

Jan Kamphuis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

HB 1017
2/6/2023

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

2:45 PM Chairman J Nelson called the meeting to order.

Roll call was taken.

Chairman J Nelson, Vice Chairman Stemen, Representatives B. Anderson, Kreidt, Mitskog, Schobinger, Strinden were present, O'Brien not present.

Discussion Topics:

- Funding changes
- Committee actions

Adam Mathitak, Senior Fiscal Analyst, Legislative Council: #19591

Representative Stemen moved to adopt the amended bill, seconded by **Representative Schobinger**.

Representatives	Vote
Representative Jon O. Nelson	Y
Representative Greg Stemen	Y
Representative Bert Anderson	Y
Representative Gary Kreidt	Y
Representative Alisa Mitskog	Y
Representative Emily O'Brien	A
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y

Motion carried, 7-0-1

Representative Stemen moved a do pass as amended, seconded by **Representative Kreidt**.

Representatives	Vote
Representative Jon O. Nelson	Y
Representative Greg Stemen	Y
Representative Bert Anderson	Y
Representative Gary Kreidt	Y
Representative Alisa Mitskog	Y
Representative Emily O'Brien	A
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y

Motion carried, 7-0-1

Representative Stemen to carry.

2:52 PM Chairman J. Nelson closed the meeting.

Jan Kamphuis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1017
2/8/2023

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

10:51 AM Chairman Vigesaa- Meeting was called to order and roll call was taken:

Members present; Chairman Vigesaa, Representative Kempenich, Representative B. Anderson, Representative Bellew, Representative Brandenburg, Representative Hanson, Representative Kreidt, Representative Martinson, Representative Meier, Representative Monson, Representative Nathe, Representative O'Brien, Representative Pyle, Representative Richter, Representative Sanford, Representative Schatz, Representative Schobinger, Representative G. Stemen and Representative Swiontek.

Members not Present: Representative Mitskog Representative Mock
Representative J. Nelson and Representative Strinden

Discussion Topics:

- Proposed Amendment

Representative J. Stemen Introduces the budget and amendment 23.0246.01001 (Testimony #19856)

Representative J. Stemen Move to amend HB 1017

Representative O'Brien Second the motion

Roll Call Vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Mike Brandenburg	Y
Representative Karla Rose Hanson	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	A
Representative Corey Mock	A
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	A

Representative Emily O'Brien	Y
Representative Brandy Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Mike Schatz	Y
Representative Randy A. Schobinger	Y
Representative Greg Stemen	Y
Representative Michelle Strinden	A
Representative Steve Swiontek	Y

Motion Carries 19-0-4

Representative J. Stemen Move for a Do Pass as Amended

Representative O'Brien Second the motion

Roll call Vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Mike Brandenburg	Y
Representative Karla Rose Hanson	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	A
Representative Corey Mock	A
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	A
Representative Emily O'Brien	Y
Representative Brandy Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Mike Schatz	Y
Representative Randy A. Schobinger	Y
Representative Greg Stemen	Y
Representative Michelle Strinden	A
Representative Steve Swiontek	Y

Motion Carries 19-0-4 Representative J. Stemen will carry the bill.

Chairman Vigesaa Closed the meeting for HB 1017 at 11:05 AM

Risa Berube, Committee Clerk

2-8-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1017

Page 1, replace lines 8 through 13 with:

"		<u>Adjustments or</u>	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,298,644	\$116,744	\$1,415,388
Operating expenses	<u>1,582,885</u>	(493)	<u>1,582,392</u>
Total special funds	\$2,881,529	\$116,251	\$2,997,780
Full-time equivalent positions	5.00	0.00	5.00"

Re-number 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	\$1,298,644	\$116,744	\$1,415,388
Operating expenses	<u>1,582,885</u>	(493)	<u>1,582,392</u>
Total all funds	\$2,881,529	\$116,251	\$2,997,780
Less estimated income	<u>2,881,529</u>	116,251	<u>2,997,780</u>
General fund	\$0	\$0	\$0
FTE	5.00	0.00	5.00

Department 140 - Office of Administrative Hearings - Detail of House Changes

	Adjusts Funding for Base Payroll and Budget Changes ¹	Adds Funding for Salary and Benefit Increases ²	Increases Funding for Information Technology Expenses ³	Increases Funding for Office Space Lease ⁴	Total House Changes
Salaries and wages	\$21,078	\$95,666			\$116,744
Operating expenses	<u>(10,095)</u>		\$2,962	\$6,640	(493)
Total all funds	\$10,983	\$95,666	\$2,962	\$6,640	\$116,251
Less estimated income	<u>10,983</u>	95,666	2,962	6,640	<u>116,251</u>
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

¹ Funding is adjusted for base payroll and budget changes, including the transfer of \$10,095 from the operating expenses line item to the salaries and wages line item.

² The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance premiums from \$1,429 to \$1,648 per month:

	<u>Other Funds</u>
Salary increase	\$69,354
Health insurance increase	<u>26,312</u>
Total	\$95,666

³ Funding is increased for information technology processing expenses to provide a total of \$73,383 of other funds.

⁴ Funding is increased for office space lease costs to provide a total of \$90,618 of other funds.

REPORT OF STANDING COMMITTEE

HB 1017: Appropriations Committee (Rep. Vigesaa, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1017 was placed on the Sixth order on the calendar.

Page 1, replace lines 8 through 13 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,298,644	\$116,744	\$1,415,388
Operating expenses	<u>1,582,885</u>	(493)	<u>1,582,392</u>
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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

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Less estimated income	<u>2,881,529</u>	116,251	<u>2,997,780</u>
General fund	\$0	\$0	\$0
FTE	5.00	0.00	5.00

Department 140 - Office of Administrative Hearings - Detail of House Changes

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Operating expenses	<u>(10,095)</u>		\$2,962	\$6,640	<u>(493)</u>
Total all funds	\$10,983	\$95,666	\$2,962	\$6,640	\$116,251
Less estimated income	<u>10,983</u>	<u>95,666</u>	<u>2,962</u>	<u>6,640</u>	<u>116,251</u>
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

¹ Funding is adjusted for base payroll and budget changes, including the transfer of \$10,095 from the operating expenses line item to the salaries and wages line item.

² The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance premiums from \$1,429 to \$1,648 per month:

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Total	\$95,666

³ Funding is increased for information technology processing expenses to provide a total of \$73,383 of other funds.

⁴ Funding is increased for office space lease costs to provide a total of \$90,618 of other funds.

2023 SENATE APPROPRIATIONS

HB 1017

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

First Chamber Comparison to Base Level

	General Fund	Other Funds	Total
2023-25 First Chamber Version	\$0	\$2,997,780	\$2,997,780
2023-25 Base Level	0	2,881,529	2,881,529
Increase (Decrease)	\$0	\$116,251	\$116,251

First Chamber Changes

A summary of the first chamber's changes to the agency's base level appropriations and the executive budget is attached as an appendix.

Selected Bill Sections Included in the First Chamber Version

There are no other sections in the bill.

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, any unit of local government in North Dakota, any tribal government in North Dakota, or the judicial branch.

Deficiency Appropriations

There are no deficiency appropriations recommended for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

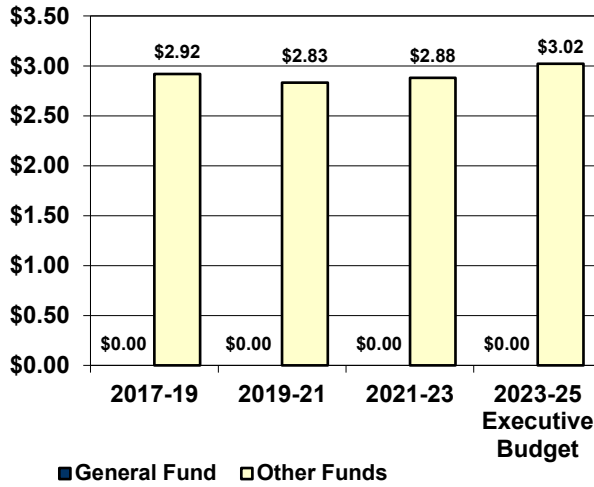
Major Related Legislation

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

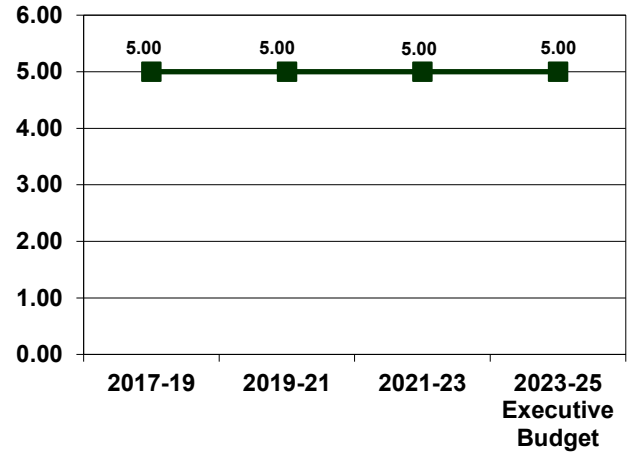
Historical Appropriations Information

Agency Appropriations and FTE Positions

Agency Funding (Millions)



FTE Positions



Ongoing General Fund Appropriations

	2015-17	2017-19	2019-21	2021-23	2023-25 Executive Budget
Ongoing general fund appropriations	\$2,965,651	\$2,918,634	\$2,830,664	\$2,881,529	\$3,020,467
Increase (decrease) from previous biennium	N/A	(\$47,017)	(\$87,970)	\$50,865	\$138,938
Percentage increase (decrease) from previous biennium	N/A	(1.6%)	(3.0%)	1.8%	4.8%
Cumulative percentage increase (decrease) from 2015-17 biennium	N/A	(1.6%)	(4.6%)	(2.8%)	1.8%

Major Increases (Decreases) in Ongoing General Fund Appropriations

2017-19 Biennium

No major changes

2019-21 Biennium

Reduced funding for operating expenses

(\$144,450)

2021-23 Biennium

No major changes

2023-25 Biennium (Executive Budget Recommendation)

1. Adds funding for information technology rate increases

\$2,962

2. Adds funding for rent increases

\$6,640

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
2023-25 Biennium Base Level	5.00	\$0	\$2,881,529	\$2,881,529	5.00	\$0	\$2,881,529	\$2,881,529
2023-25 Ongoing Funding Changes								
Base payroll and budget changes			\$10,983	\$10,983			\$10,983	\$10,983
Salary increase			92,633	92,633			69,354	69,354
Health insurance increase			25,720	25,720			26,312	26,312
Information technology expenses			2,962	2,962			2,962	2,962
Office rent increase			6,640	6,640			6,640	6,640
Total ongoing funding changes	0.00	\$0	\$138,938	\$138,938	0.00	\$0	\$116,251	\$116,251
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	\$138,938	\$138,938	0.00	\$0	\$116,251	\$116,251
2023-25 Total Funding	5.00	\$0	\$3,020,467	\$3,020,467	5.00	\$0	\$2,997,780	\$2,997,780
<i>Federal funds included in other funds</i>			\$0				\$0	
<i>Total ongoing changes as a percentage of base level</i>	0.0%		4.8%	4.8%	0.0%		4.0%	4.0%
<i>Total changes as a percentage of base level</i>	0.0%		4.8%	4.8%	0.0%		4.0%	4.0%

Other Sections in Office of Administrative Hearings - Budget No. 140

	Executive Budget Recommendation	House Version
	There are no sections recommended to be added in the executive budget.	The House did not include any other sections.

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Roughrider Room, State Capitol

HB 1017
3/16/2023

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

10:10 AM Chairman Dever called the meeting to order. Members present: Senators Dever, Davison, Burckhard, Mathern, Kreun.

Discussion Topics:

- Orderly, fair, impartial hearings
- Prompt, reasoned decisions
- Constitutional Due Process clause
- Substantive & procedural due process
- Independence and bias.
- Staff & organization
- Hearings for state & local entities
- Prehearing conferences
- Complexity of hearings stability
- Two-line budget stability
- ARPA funds
- Case management system
- Fees
- Case processing standards
- Arbitration & Mediation
- CARES Act dollars
- In-person or video hearings

10:10 AM Timothy Dawson, Director of Office of Administrative Hearings, testified in favor. Testimony #25565

Additional written testimony:
#25566, #25680

10:31 AM Chairman Dever closed the meeting.

Susan Huntington, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Roughrider Room, State Capitol

HB 1017
3/27/2023

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

10:25 AM Chairman Dever opened the meeting. Members present: Senators Dever, Davison, Burckhard, Mathern, Kreun.

Discussion Topics:

- Amendments
- Committee action

10:26 AM Senator Mathern moved to adopt amendment LC 23.0246.02001 on HB 1017. Senator Burckhard seconded the motion.

Senators	Vote
Senator Dick Dever	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y

Motion passed 5-0-0.

10:27 AM Senator Burckhard moved DO PASS AS AMENDED. Senator Davison seconded the motion.

Senators	Vote
Senator Dick Dever	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y

Motion passed 5-0-0.

Senator Burckhard will carry the bill.

10:28 AM Chairman Dever closed the meeting.

Susan Huntington, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1017
3/31/2023

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

10:17 AM Chairman Bekkedahl opened the meeting on HB 1017.

Members present: Senators Bekkedahl, Krebsbach, Burckhard, Davison, Dever, Dwyer, Erbele, Kreun, Mathern, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, and Rust.

Discussion Topics:

- Committee action

10:30 AM Senator Burckhard introduced the bill.

10:31 AM Senator Burckhard moved to adopt amendment. LC 23.0246.02001 (#27156)

10:32 AM Senator Davison seconded.

Roll call vote.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y

Motion passed. 16-0-0

10:32 AM Senator Burckhard moved DO PASS as amended.

10:32 AM Senator Dever seconded.

Roll call vote.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y

Motion passed. 16-0-0

Senator Burckhard will carry the bill.

10:33 AM Chairman Bekkedahl closed the meeting.

Justin Boone on behalf of Kathleen Hall, Committee Clerk

24
03-31-23

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1017

Page 1, replace lines 8 through 13 with:

"	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,298,644	\$119,373	\$1,418,017
Operating expenses	<u>1,582,885</u>	<u>(493)</u>	<u>1,582,392</u>
Total special funds	\$2,881,529	\$118,880	\$3,000,409
Full-time equivalent positions	5.00	0.00	5.00"

Re-number 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	\$1,298,644	\$1,415,388	\$2,629	\$1,418,017
Operating expenses	<u>1,582,885</u>	<u>1,582,392</u>		<u>1,582,392</u>
Total all funds	\$2,881,529	\$2,997,780	\$2,629	\$3,000,409
Less estimated income	<u>2,881,529</u>	<u>2,997,780</u>	<u>2,629</u>	<u>3,000,409</u>
General fund	\$0	\$0	\$0	\$0
FTE	5.00	5.00	0.00	5.00

Department 140 - Office of Administrative Hearings - Detail of Senate Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Removes Salary Funding for Funding Pool ²	Total Senate Changes
Salaries and wages	\$22,687	(\$20,058)	\$2,629
Operating expenses			
Total all funds	\$22,687	(\$20,058)	\$2,629
Less estimated income	<u>22,687</u>	<u>(20,058)</u>	<u>2,629</u>
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

¹ Salaries and wages funding is adjusted to provide for 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase	\$0	\$23,279	\$23,279
Health insurance adjustment	<u>0</u>	<u>(592)</u>	<u>(592)</u>
Total	\$0	\$22,687	\$22,687

The House provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

² Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

YA
03-31-23

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
New FTE positions	\$0	\$0	\$0
Vacant FTE positions	<u>0</u>	<u>(20,058)</u>	<u>(20,058)</u>
Total	\$0	(\$20,058)	(\$20,058)

REPORT OF STANDING COMMITTEE

HB 1017, as engrossed: Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1017 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, replace lines 8 through 13 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,298,644	\$119,373	\$1,418,017
Operating expenses	<u>1,582,885</u>	(493)	<u>1,582,392</u>
Total special funds	\$2,881,529	\$118,880	\$3,000,409
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 - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$1,298,644	\$1,415,388	\$2,629	\$1,418,017
Operating expenses	<u>1,582,885</u>	<u>1,582,392</u>		<u>1,582,392</u>
Total all funds	\$2,881,529	\$2,997,780	\$2,629	\$3,000,409
Less estimated income	<u>2,881,529</u>	<u>2,997,780</u>	2,629	<u>3,000,409</u>
General fund	\$0	\$0	\$0	\$0
FTE	5.00	5.00	0.00	5.00

Department 140 - Office of Administrative Hearings - Detail of Senate Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Removes Salary Funding for Funding Pool ²	Total Senate Changes
Salaries and wages	\$22,687	(\$20,058)	\$2,629
Operating expenses			
Total all funds	\$22,687	(\$20,058)	\$2,629
Less estimated income	<u>22,687</u>	<u>(20,058)</u>	<u>2,629</u>
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

¹ Salaries and wages funding is adjusted to provide for 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	General Fund	Other Funds	Total
Salary increase	\$0	\$23,279	\$23,279
Health insurance adjustment	0	(592)	(592)
Total	\$0	\$22,687	\$22,687

The House provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

² Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	General Fund	Other Funds	Total
New FTE positions	\$0	\$0	\$0
Vacant FTE positions	0	(20,058)	(20,058)
Total	\$0	(\$20,058)	(\$20,058)

TESTIMONY

HB 1017



MEMORANDUM

TO: Sixty-eighth Legislative Assembly
State of North Dakota
House Appropriations Committee
Human Resources Division

FROM: Timothy J. Dawson, Director
Office of Administrative Hearings

RE: OAH 2023-2025 Operating Budget Request
House Bill No. 1017

DATE: January 6, 2023

There have been many changes in recent history at the Office of Administrative Hearings ("OAH"), especially during this and the last biennium. What has stayed the same is our mission to conduct orderly, fair, and impartial hearings and to issue prompt, reasoned recommended or final decisions. If a person receives a benefit or license from the state, the person is entitled to a hearing under the Due Process Clause of the Constitution. There is procedural due process and substantive due process.

We provide substantive due process by deciding justly with well-reasoned decisions based on the law. We also provide real and perceived procedural due process, we hear the "other side" and are independent from the governmental entity that provides

Timothy J. Dawson DIRECTOR

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the benefit or license. If the governmental entity that provides the benefit or license were to make the determination, there is the perception of bias.

There have been many changes in the staff in the last few years. The present permanent administrative law judges (“ALJs”) are Jessica Binder, Hope Hogan, and me. I began as director in December 2015, when the previous director of OAH, Wade C. Mann, resigned. He was followed closely in early 2016 by Rosey Sand. Both went into private practice. Jeanne Steiner started about a year before me and resigned in September 2018 for a position in Arizona. Jeanne McLean, who started in March 2016, retired in March 2021. Hope Hogan started in November 2018. Jessica Binder started in July 2021.

OAH has five permanent FTEs - three ALJs and two support staff – and seven part-time, contract ALJs. (See attached organizational chart, Attachment “A.”) OAH's contract ALJs conduct primarily Workforce Safety and Insurance (“WSI”) hearings. Of the contract ALJs, four are in Fargo, two in Bismarck, and one in Dickinson.

OAH's three full-time permanent ALJs conduct a mixture of different agency hearings but, primarily, DHS, PSC, WSI, Human Resource Management Services state employee grievance hearings, and occupational licensing hearings. One permanent ALJ has almost a full workload of WSI hearings. The other two full-time ALJs conduct the other hearings that are not WSI hearings. The bulk of these hearings are DHS hearings.

OAH will go forward into the 2023-2025 biennium with the same structure. However, workload considerations and the need for the replacement of contract ALJs may require new contract ALJs at some time in the future. Another option would be for OAH to employ more full-time, permanent ALJs. Currently, we do not have that authority.

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 PSC, 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 Title IX 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 100 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. The table below shows the number of requests by year.

<u>Year</u>	<u>Hearing Requests</u>
2015	671
2016	717
2017	663
2018	646
2019	482
2020	432
2021	364
2022	404

In calendar year 2021, 23 different agencies or entities made 364 requests for hearing. In calendar year 2022, 27 different agencies or entities made 404 requests for hearing. In those two years, we had 768 requested hearings from 39 different agencies or entities. (See Attachment "B.") This is comparable to the previous two years in which we had 914 requested hearings from 37 different agencies or entities.

Attachment "C" shows the number of hearings held for calendar years 2021 and 2022. This shows about 65 percent of the hearing requests went to hearing in those two years. In the previous two years 69 percent of the hearing requests went to hearing. Historically, between 45 percent and 55 percent of hearing requests have gone to hearing. In short, the number of hearing requests peaked in 2016 near the height of the oil boom and has plateaued at approximately 400. An increase in DHS hearing requests is expected as

waivers instituted by the federal government due to COVID-19 expire and more recipients are denied benefits.

Attachment "D" shows 387 prehearing conferences held for calendar years 2021 and 2022, down from 457 for calendar years 2019 and 2020. Prehearing conferences are usually held for the more complex hearings. As a percentage of hearings requested, the percentage of prehearing conferences is stable at about 50 percent.

In short, over time the complexity of hearings is stable, the number of hearings requesting is stabilizing to a normal level, and more requests for hearing are going to hearing.

For the first 18 months of this biennium (July 1, 2021, through December 31, 2022), 33 different agencies or entities have made 576 requests for hearing. (See Attachment "E.") As you can see from the attachments, the bulk of requests for hearing this biennium have come from two agencies, DHS and WSI, which is typical for most biennia. Another increasingly frequent OAH user in the last few years is the PSC. OAH has also started conducting Title IX hearings for the University of North Dakota.

BUDGET

- The OAH budget was done with little or no change from last biennium. OAH reduced its budget professional services budget to allow for anticipated office space rent and information technology increases.
- The OAH budget is two lines; one for salaries and benefits for the 5 FTEs and one for operating. Of the operating line, 79 percent is to pay contract ALJs for work completed, 6.6 percent for IT, 5.7 percent for office space.
- The OAH budget is funded completely through special funds and with no federal funds.
- OAH received \$20,000 of American Rescue Plan Act of 2021 funds in one-time funding for the 2021-23 biennium from the 2021 Legislative Assembly for a web-based document management system. To date, \$2,800 has been spent updating our current case management system, a portion of which allows remote timekeeping entry by contract administrative law judges instead of entry by OAH permanent staff. Additionally, solutions for on-line document submission by parties to the hearings are being reviewed. There are other states in the process of implementing the same or similar systems and waiting for that implementation may provide meaningful information for OAH in implementing our system. Funds obligated by OAH for the system may or may not be made by June 30, 2023, and OAH requests until December 31, 2024, to obligate the funds to give OAH time to properly evaluate potential systems.

- OAH charges a fee for service. The rate of \$195 per hour has been in place since July 1, 2021. The rate will stay in place until July 1, 2023. At that time, the rate may be raised \$20 per hour.
- OAH has a continuing appropriation under North Dakota Century Code Section 54-57-07.

ACCOMPLISHMENTS AND CHALLENGES

In the 2019 session, House Bill No. 1064 was enacted into law and codified in N.D.C.C. § 54-57-09. This section provides:

1. The office of administrative hearings shall track the time elapsed between the date the office receives a file from workforce safety and insurance and the date of the administrative law judge's decision, and monthly calculate a rolling six-month average of time elapsed.
2. The office of administrative hearings shall adopt case processing standards and policies, including provisions intended to meet a goal of an average of two hundred fifteen days or less per case. Administrative law judges have an average of two hundred fifteen days to issue a decision for any injured worker case from the date the office of administrative hearings receives a file from workforce safety and insurance. The date of the last assigned file is the date of assignment for all consolidated files.

3. The office of administrative hearings and workforce safety and insurance shall report statistical information regarding results under the case processing standards and policies to the legislative management and the state advisory council each quarter. The reports must include the information required under subsection 1.

Appendix "F" shows how OAH responded to this challenge. We have reduced the average number of days from 290 to between 158 and 185 for the rolling six-month average in each of the last six months. This is a reduction of at least 105 days or about 36 percent and is below the goal of under 215 days.

With CARES Act money our hearing rooms have been equipped with the technology required to conduct video conferences for hearings. We can conduct touchless hearings that are in-person using the same technology. As challenges, there are the typical training and technical issues surrounding any technology project. There is the challenge that some people participating in administrative hearings are not technology savvy and do not have access to the proper technology equipment and services. In addition, the challenge with the new technology is deciding which hearings should be in-person and which hearings can be by video.

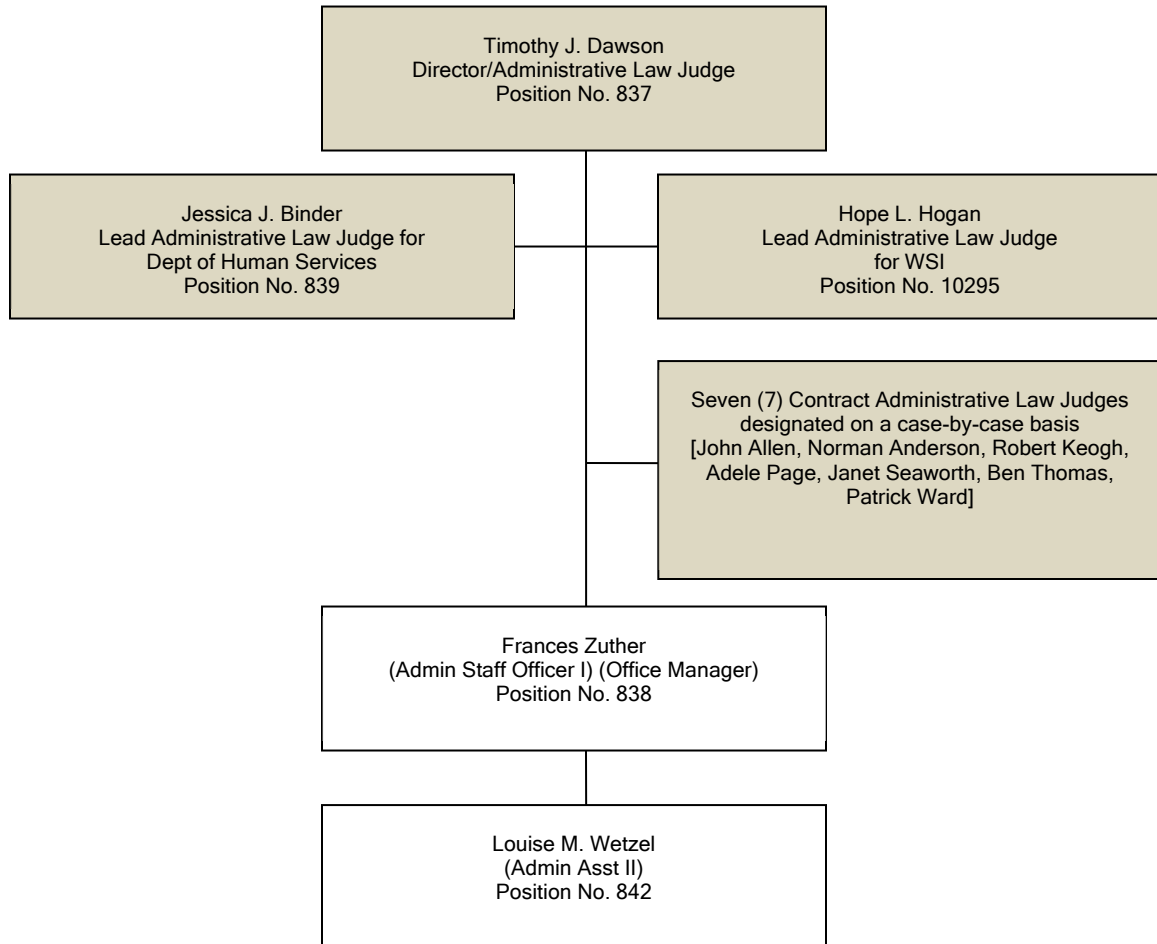
Some hearings contain issues related to credibility and these hearings are better in-person. It is easier to judge demeanor and credibility in-person. We sometimes are the first time anyone in government has heard the concerns of the person wanting the hearing. In some hearings, having an ALJ who takes a concern seriously enough to show up in-person reflects well on the accessibility of government, and this value exceeds the increase cost and inconvenience to the ALJ and involved agency. In addition to issues of credibility, we may continue to conduct in-person hearings when the interests at stake are important: the right to maintain a professional licensure or parental rights.

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.

OFFICE OF ADMINISTRATIVE HEARINGS
ORGANIZATIONAL CHART

January 1, 2023



Hearing Request Comparison

Requests Received Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

Agency	2021		2022		Total	
1 Beach Public School District No. 3	0	0.00%	1	0.25%	1	0.13%
2 Belcourt Public School District	0	0.00%	1	0.25%	1	0.13%
3 Cosmetology, Board of	0	0.00%	1	0.25%	1	0.13%
4 DHS, Human Services, Department of	164	45.05%	211	52.23%	375	48.83%
5 Dickinson State University	0	0.00%	1	0.25%	1	0.13%
6 Education Standards & Practices Board	0	0.00%	1	0.25%	1	0.13%
7 Fargo Public School	0	0.00%	1	0.25%	1	0.13%
8 Game and Fish Department	1	0.27%	1	0.25%	2	0.26%
9 Health, Department of	2	0.55%	1	0.25%	3	0.39%
10 Horace, City of	1	0.27%	0	0.00%	1	0.13%
11 Human Resource Management Services	0	0.00%	5	1.24%	5	0.65%
12 IC, Insurance Commissioner	1	0.27%	1	0.25%	2	0.26%
13 Industrial Commission	4	1.10%	5	1.24%	9	1.17%
14 Job Service North Dakota	0	0.00%	1	0.25%	1	0.13%
15 Labor, Dept. of	1	0.27%	4	0.99%	5	0.65%
16 Lake Region State College	1	0.27%	0	0.00%	1	0.13%
17 Maddock School District	1	0.27%	0	0.00%	1	0.13%
18 Mandaree Public School District #36	1	0.27%	0	0.00%	1	0.13%
19 Massage, North Dakota Board of	0	0.00%	1	0.25%	1	0.13%
20 Milnor Public School District	1	0.27%	0	0.00%	1	0.13%
21 Minot State University	0	0.00%	1	0.25%	1	0.13%
22 Munich Public School District	0	0.00%	1	0.25%	1	0.13%
23 New Town Public School District	0	0.00%	1	0.25%	1	0.13%
24 Nursing, State Board of	1	0.27%	0	0.00%	1	0.13%
25 Pingree-Buchanan Public School	0	0.00%	1	0.25%	1	0.13%
26 Professional Engineers & Land Surveyors Board	1	0.27%	0	0.00%	1	0.13%
27 PSC, Public Service Commission	11	3.02%	12	2.97%	23	2.99%
28 Public Employees Retirement Board	1	0.27%	0	0.00%	1	0.13%
29 Public Instruction, Department of	4	1.10%	6	1.49%	10	1.30%
30 Real Estate Appraiser Qualifications and Ethics, Board o	2	0.55%	0	0.00%	2	0.26%
31 Securities Department	0	0.00%	1	0.25%	1	0.13%
32 UND, University of North Dakota	9	2.47%	5	1.24%	14	1.82%
33 Valley City State University	1	0.27%	0	0.00%	1	0.13%
34 VP, City of Minot	1	0.27%	0	0.00%	1	0.13%

Hearing Request Comparison

Requests Received Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

<i>Agency</i>	<i>2021</i>		<i>2022</i>		<i>Total</i>	
35 VP, First District Health	1	0.27%	0	0.00%	1	0.13%
36 Washburn Public School District #4	0	0.00%	1	0.25%	1	0.13%
37 Water Commission, State/State Engineer	1	0.27%	1	0.25%	2	0.26%
38 Williston Public School District #1	0	0.00%	1	0.25%	1	0.13%
39 Workforce Safety & Insurance	153	42.03%	137	33.91%	290	37.76%
	364		404		768	

Hearings Held

Hearings Held Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

Agency	2021		2022		Total	
1 Addiction Counseling Examiners, Board of	1	0.4%	0	0.0%	1	0.2%
2 Belcourt Public School District	0	0.0%	1	0.4%	1	0.2%
3 DHS, Human Services, Department of	111	43.9%	142	58.2%	253	50.9%
4 Dickinson State University	0	0.0%	1	0.4%	1	0.2%
5 Education Standards & Practices Board	0	0.0%	1	0.4%	1	0.2%
6 Fargo Public School	0	0.0%	1	0.4%	1	0.2%
7 Game and Fish Department	1	0.4%	1	0.4%	2	0.4%
8 Health, Department of	1	0.4%	0	0.0%	1	0.2%
9 IC, Insurance Commissioner	1	0.4%	0	0.0%	1	0.2%
10 Industrial Commission	0	0.0%	1	0.4%	1	0.2%
11 Labor, Dept. of	1	0.4%	0	0.0%	1	0.2%
12 Physical Therapy, North Dakota Board of	2	0.8%	0	0.0%	2	0.4%
13 Pingree-Buchanan Public School	0	0.0%	1	0.4%	1	0.2%
14 PSC, Public Service Commission	12	4.7%	8	3.3%	20	4.0%
15 Public Instruction, Department of	4	1.6%	1	0.4%	5	1.0%
16 Real Estate Appraiser Qualifications and Ethics, B	0	0.0%	2	0.8%	2	0.4%
17 UND, University of North Dakota	3	1.2%	2	0.8%	5	1.0%
18 VP, City of Minot	1	0.4%	0	0.0%	1	0.2%
19 VP, First District Health	1	0.4%	0	0.0%	1	0.2%
20 Workforce Safety & Insurance	114	45.1%	82	33.6%	196	39.4%
	253		244		497	

Prehearing Conferences Held

Prehearing Conferences Held Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

<i>Agency</i>	<i>2021</i>		<i>2022</i>		<i>Total</i>	
1 Addiction Counseling Examiners, Board of	1	0.5%	0	0.0%	1	0.3%
2 Beach Public School District No. 3	0	0.0%	1	0.5%	1	0.3%
3 Belcourt Public School District	0	0.0%	1	0.5%	1	0.3%
4 Cosmetology, Board of	0	0.0%	1	0.5%	1	0.3%
5 DHS, Human Services, Department of	51	25.5%	50	26.7%	101	26.1%
6 Dickinson State University	0	0.0%	2	1.1%	2	0.5%
7 Education Standards & Practices Board	0	0.0%	1	0.5%	1	0.3%
8 Fargo Public School	0	0.0%	2	1.1%	2	0.5%
9 Health, Department of	1	0.5%	1	0.5%	2	0.5%
10 Horace, City of	1	0.5%	0	0.0%	1	0.3%
11 Human Resource Management Services	0	0.0%	3	1.6%	3	0.8%
12 IC, Insurance Commissioner	1	0.5%	1	0.5%	2	0.5%
13 Industrial Commission	4	2.0%	5	2.7%	9	2.3%
14 Job Service North Dakota	0	0.0%	1	0.5%	1	0.3%
15 Labor, Dept. of	3	1.5%	3	1.6%	6	1.6%
16 Maddock School District	1	0.5%	0	0.0%	1	0.3%
17 Massage, North Dakota Board of	0	0.0%	1	0.5%	1	0.3%
18 Minot State University	0	0.0%	2	1.1%	2	0.5%
19 Munich Public School District	0	0.0%	1	0.5%	1	0.3%
20 New Town Public School District	0	0.0%	1	0.5%	1	0.3%
21 Nursing, State Board of	1	0.5%	2	1.1%	3	0.8%
22 Pingree-Buchanan Public School	0	0.0%	1	0.5%	1	0.3%
23 Professional Engineers & Land Surveyors Board	0	0.0%	1	0.5%	1	0.3%
24 PSC, Public Service Commission	1	0.5%	1	0.5%	2	0.5%
25 Public Employees Retirement Board	1	0.5%	0	0.0%	1	0.3%
26 Public Instruction, Department of	9	4.5%	3	1.6%	12	3.1%
27 Real Estate Appraiser Qualifications and Ethics, Board o	2	1.0%	0	0.0%	2	0.5%
28 Securities Department	0	0.0%	2	1.1%	2	0.5%
29 UND, University of North Dakota	7	3.5%	5	2.7%	12	3.1%
30 VP, City of Minot	1	0.5%	0	0.0%	1	0.3%
31 VP, First District Health	2	1.0%	0	0.0%	2	0.5%
32 Water Commission, State/State Engineer	2	1.0%	1	0.5%	3	0.8%
33 Workforce Safety & Insurance	111	55.5%	94	50.3%	205	53.0%
	200		187		387	

Tuesday, January 3, 2023

Total Requests Received by Agency

Files Received Between 07-01-2021 and 12-31-2022

Office of Administrative Hearings

Agency	# of Files Received	
Beach Public School District No. 3	1	0.17%
Belcourt Public School District	1	0.17%
Cosmetology, Board of	1	0.17%
DHS, Human Services, Department of	285	49.48%
Dickinson State University	1	0.17%
Education Standards & Practices Board	1	0.17%
Fargo Public School	1	0.17%
Game and Fish Department	2	0.35%
Health, Department of	1	0.17%
Horace, City of	1	0.17%
Human Resource Management Services	5	0.87%
IC, Insurance Commissioner	2	0.35%
Industrial Commission	8	1.39%
Job Service North Dakota	1	0.17%
Labor, Dept. of	4	0.69%
Lake Region State College	1	0.17%
Mandaree Public School District #36	1	0.17%
Massage, North Dakota Board of	1	0.17%
Milnor Public School District	1	0.17%
Minot State University	1	0.17%
Munich Public School District	1	0.17%
New Town Public School District	1	0.17%
Nursing, State Board of	1	0.17%
Pingree-Buchanan Public School	1	0.17%
Professional Engineers & Land Surveyors Board	1	0.17%
PSC, Public Service Commission	18	3.13%
Public Instruction, Department of	8	1.39%
Securities Department	1	0.17%
UND, University of North Dakota	13	2.26%
Washburn Public School District #4	1	0.17%
Water Commission, State/State Engineer	2	0.35%
Williston Public School District #1	1	0.17%
Workforce Safety & Insurance	207	35.94%
Grand Total:	576	

OFFICE OF ADMINISTRATIVE HEARINGS

Average Days to ALJ Decision

Decisions Issued from 10/01/2018 - 12/31/2022

	Number of Matters	Request for ALJ to ALJ Decision Issued			Hearing Held to ALJ Decision Issued		
		Average	Median	Range	Average	Median	Range
October 1, 2018 - March 31, 2019	54	290	231	64 - 808	34	28	3 - 156
November 1, 2018 - April 30, 2019	60	278	230	64 - 808	32	29	3 - 156
December 1, 2018 - May 31, 2019	63	263	206	64 - 976	28	26	3 - 105
January 1, 2019 - June 30, 2019	62	259	205	64 - 976	27	25	3 - 105
February 1, 2019 - July 31, 2019	64	244	198	64 - 976	27	25	3 - 105
March 1, 2019 - August 31, 2019	72	246	186	69 - 976	25	25	3 - 99
April 1, 2019 - September 30, 2019	79	229	169	69 - 976	24	24	3 - 99
May 1, 2019 - October 31, 2019	75	215	159	69 - 976	24	24	4 - 99
June 1, 2019 - November 30, 2019	71	214	171	69 - 834	26	25	4 - 99
July 1, 2019 - December 31, 2019	64	196	159	57 - 481	26	26	6 - 99
August 1, 2019 - January 31, 2020	71	197	158	57 - 481	27	25	1 - 99
September 1, 2019 - February 29, 2020	63	187	154	57 - 428	26	24	7 - 93
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January 1, 2020 - June 30, 2020	64	165	147	46 - 491	27	23	2 - 89
February 1, 2020 - July 31, 2020	60	159	147	46 - 491	25	23	2 - 83
March 1, 2020 - August 31, 2020	60	157	147	46 - 491	27	25	2 - 83
April 1, 2020 - September 30, 2020	61	164	155	46 - 491	27	23	2 - 83
May 1, 2020 - October 31, 2020	62	165	156	46 - 491	25	22	2 - 81
June 1, 2020 - November 30, 2020	65	164	154	46 - 338	26	24	2 - 63
July 1, 2020 - December 31, 2020	61	170	155	40 - 362	28	27	3 - 63
August 1, 2020 - January 31, 2021	56	167	153	40 - 362	29	27	3 - 63
September 1, 2020 - February 28, 2021	56	171	157	92 - 362	29	27	3 - 63
October 1, 2020 - March 31, 2021	51	173	167	40 - 362	30	27	3 - 63
November 1, 2020 - April 30, 2021	53	171	167	40 - 362	30	27	3 - 63
December 1, 2020 - May 31, 2021	47	174	168	40 - 362	30	28	3 - 98
January 1, 2021 - June 30, 2021	48	172	155	85 - 379	29	28	2 - 98

OFFICE OF ADMINISTRATIVE HEARINGS

Average Days to ALJ Decision

Decisions Issued from 10/01/2018 - 12/31/2022

	Number of Matters	Request for ALJ to ALJ Decision Issued			Hearing Held to ALJ Decision Issued		
		Average	Median	Range	Average	Median	Range
February 1, 2021 - July 31, 2021	47	174	161	74 - 379	28	27	2 - 98
March 1, 2021 - August 31, 2021	48	166	142	38 - 379	28	28	2 - 98
April 1, 2021 - September 30, 2021	50	161	143	38 - 379	25	27	2 - 98
May 1, 2021 - October 31, 2021	50	161	144	38 - 379	24	23	2 - 98
June 1, 2021 - November 30, 2021	49	165	144	74 - 462	21	21	2 - 48
July 1, 2021 - December 31, 2021	48	160	146	67 - 462	22	22	2 - 46
August 1, 2021 - January 31, 2022	50	165	150	67 - 462	25	25	6 - 82
September 1, 2021 - February 28, 2022	52	170	154	67 - 462	26	26	6 - 82
October 1, 2021 - March 31, 2022	46	176	159	67 - 472	27	26	7 - 82
November 1, 2021 - April 30, 2022	47	179	164	67 - 462	31	27	7 - 82
December 1, 2021 - May 31, 2022	49	172	162	67 - 392	32	28	7 - 82
January 1, 2022 - June 30, 2022	44	175	160	82 - 392	32	26	7 - 82
February 1, 2022 - July 31, 2022	43	185	157	82 - 428	29	24	7 - 70
March 1, 2022 - August 31, 2022	37	178	155	82 - 428	27	23	7 - 70
April 1, 2022 - September 30, 2022	39	169	151	82 - 428	27	23	7 - 70
May 1, 2022 - October 31, 2022	38	166	145	80 - 428	25	24	7 - 65
June 1, 2022 - November 30, 2022	35	166	143	59 - 428	26	24	8 - 63
July 1, 2022 - December 31, 2022	35	158	139	59 - 428	27	27	8 - 63

*Includes initial decisions for workers benefits only; does not include reconsiderations, settlements, dismissals, stipulations.
Consolidated files are counted as one unit, not separate units.*

NORTH
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MEMORANDUM

TO: Sixty-eighth Legislative Assembly
State of North Dakota
House Appropriations Committee
Human Resources Division

FROM: Timothy J. Dawson, Director
Office of Administrative Hearings

RE: OAH 2023-2025 Operating Budget Request
House Bill No. 1017

DATE: January 20, 2023

There have been many changes in recent history at the Office of Administrative Hearings ("OAH"), especially during this and the last biennium. What has stayed the same is our mission to conduct orderly, fair, and impartial hearings and to issue prompt, reasoned recommended or final decisions. If a person receives a benefit or license from the state, the person is entitled to a hearing under the Due Process Clause of the Constitution. There is procedural due process and substantive due process.

We provide substantive due process by deciding justly with well-reasoned decisions based on the law. We also provide real and perceived procedural due process,

Timothy J. Dawson DIRECTOR

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

PHONE 701-328-3200 | FAX 701-328-3254 | oah@nd.gov | nd.gov/oah

we hear the “other side” and are independent from the governmental entity that provides the benefit or license. If the governmental entity that provides the benefit or license were to make the determination, there is the perception of bias.

There have been many changes in the staff in the last few years. The present permanent administrative law judges (“ALJs”) are Jessica Binder, Hope Hogan, and me. I began as director in December 2015, when the previous director of OAH, Wade C. Mann, resigned. He was followed closely in early 2016 by Rosey Sand. Both went into private practice. Jeanne Steiner started about a year before me and resigned in September 2018 for a position in Arizona. Jeanne McLean, who started in March 2016, retired in March 2021. Hope Hogan started in November 2018. Jessica Binder started in July 2021.

OAH has five permanent FTEs - three ALJs and two support staff – and seven part-time, contract ALJs. (See attached organizational chart, Attachment “A.”) OAH's contract ALJs conduct primarily Workforce Safety and Insurance (“WSI”) hearings. Of the contract ALJs, four are in Fargo, two in Bismarck, and one in Dickinson.

OAH's three full-time permanent ALJs conduct a mixture of different agency hearings but, primarily, DHHS, PSC, WSI, Human Resource Management Services state employee grievance hearings, and occupational licensing hearings. One permanent ALJ

has almost a full workload of WSI hearings. The other two full-time ALJs conduct the other hearings that are not WSI hearings. The bulk of these hearings are DHS hearings. OAH will go forward into the 2023-2025 biennium with the same structure. However, workload considerations and the need for the replacement of contract ALJs may require new contract ALJs at some time in the future. Another option would be for OAH to employ more full-time, permanent ALJs. Currently, we do not have that authority.

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 PSC, 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 Title IX 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 100 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. The table below shows the number of requests by year.

<u>Year</u>	<u>Hearing Requests</u>
2015	671
2016	717
2017	663
2018	646
2019	482
2020	432
2021	364
2022	404

In calendar year 2021, 23 different agencies or entities made 364 requests for hearing. In calendar year 2022, 27 different agencies or entities made 404 requests for hearing. In those two years, we had 768 requested hearings from 39 different agencies or entities. (See Attachment “B.”) This is comparable to the previous two years in which we had 914 requested hearings from 37 different agencies or entities.

Attachment “C” shows the number of hearings held for calendar years 2021 and 2022. This shows about 65 percent of the hearing requests went to hearing in those two years. In the previous two years 69 percent of the hearing requests went to hearing. Historically, between 45 percent and 55 percent of hearing requests have gone to hearing. In short, the number of hearing requests peaked in 2016 near the height of the

oil boom and has plateaued at approximately 400. An increase in DHHS hearing requests is expected as waivers instituted by the federal government due to COVID-19 expire and more recipients are denied benefits.

Attachment "D" shows 387 prehearing conferences held for calendar years 2021 and 2022, down from 457 for calendar years 2019 and 2020. Prehearing conferences are usually held for the more complex hearings. As a percentage of hearings requested, the percentage of prehearing conferences is stable at about 50 percent.

In short, over time the complexity of hearings is stable, the number of hearings requesting is stabilizing to a normal level, and more requests for hearing are going to hearing.

For the first 18 months of this biennium (July 1, 2021, through December 31, 2022), 33 different agencies or entities have made 576 requests for hearing. (See Attachment "E.") As you can see from the attachments, the bulk of requests for hearing this biennium have come from two agencies, DHS and WSI, which is typical for most biennia. Another increasingly frequent OAH user in the last few years is the PSC. OAH has also started conducting Title IX hearings for the University of North Dakota.

BUDGET

- The OAH budget was done with little or no change from last biennium. OAH reduced its budget professional services budget to allow for anticipated office space rent and information technology increases.
- The OAH budget is two lines; one for salaries and benefits for the 5 FTEs and one for operating. Of the operating line, 79 percent is to pay contract ALJs for work completed, 6.6 percent for IT, 5.7 percent for office space.
- The OAH budget is funded completely through special funds and with no federal funds.
- OAH received \$20,000 of American Rescue Plan Act of 2021 funds in one-time funding for the 2021-23 biennium from the 2021 Legislative Assembly for a web-based document management system. To date, \$2,800 has been spent updating our current case management system, a portion of which allows remote timekeeping entry by contract administrative law judges instead of entry by OAH permanent staff. Additionally, solutions for on-line document submission by parties to the hearings are being reviewed. There are other states in the process of implementing the same or similar systems and waiting for that implementation may provide meaningful information for OAH in implementing our system. Funds obligated by OAH for the system may or may not be made by June 30, 2023, and OAH requests until December 31, 2024, to obligate the funds to give OAH time to properly evaluate potential systems.

- OAH charges a fee for service. The rate of \$195 per hour has been in place since July 1, 2021. The rate will stay in place until July 1, 2023. At that time, the rate may be raised \$20 per hour.
- OAH has a continuing appropriation under North Dakota Century Code Section 54-57-07.

ACCOMPLISHMENTS AND CHALLENGES

In the 2019 session, House Bill No. 1064 was enacted into law and codified in N.D.C.C. § 54-57-09. This section provides:

1. The office of administrative hearings shall track the time elapsed between the date the office receives a file from workforce safety and insurance and the date of the administrative law judge's decision, and monthly calculate a rolling six-month average of time elapsed.
2. The office of administrative hearings shall adopt case processing standards and policies, including provisions intended to meet a goal of an average of two hundred fifteen days or less per case. Administrative law judges have an average of two hundred fifteen days to issue a decision for any injured worker case from the date the office of administrative hearings receives a file from workforce safety and insurance. The date of the last assigned file is the date of assignment for all consolidated files.

3. The office of administrative hearings and workforce safety and insurance shall report statistical information regarding results under the case processing standards and policies to the legislative management and the state advisory council each quarter. The reports must include the information required under subsection 1.

Appendix "F" shows how OAH responded to this challenge. We have reduced the average number of days from 290 to between 158 and 185 for the rolling six-month average in each of the last six months. This is a reduction of at least 105 days or about 36 percent and is below the goal of under 215 days.

With CARES Act money our hearing rooms have been equipped with the technology required to conduct video conferences for hearings. We can conduct touchless hearings that are in-person using the same technology. As challenges, there are the typical training and technical issues surrounding any technology project. There is the challenge that some people participating in administrative hearings are not technology savvy and do not have access to the proper technology equipment and services. In addition, the challenge with the new technology is deciding which hearings should be in-person and which hearings can be by video.

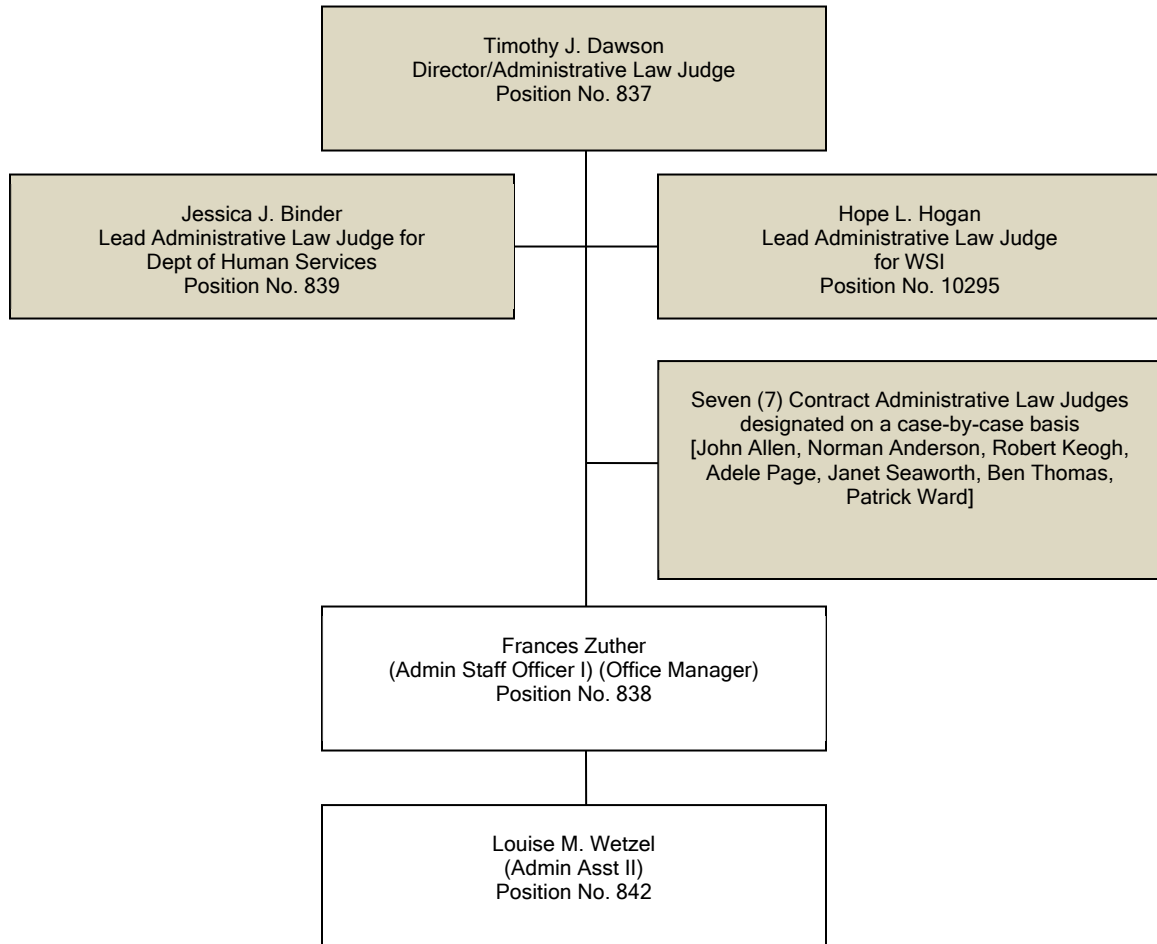
Some hearings contain issues related to credibility and these hearings are better in-person. It is easier to judge demeanor and credibility in-person. We sometimes are the first time anyone in government has heard the concerns of the person wanting the hearing. In some hearings, having an ALJ who takes a concern seriously enough to show up in-person reflects well on the accessibility of government, and this value exceeds the increase cost and inconvenience to the ALJ and involved agency. In addition to issues of credibility, we may continue to conduct in-person hearings when the interests at stake are important: the right to maintain a professional licensure or parental rights.

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.

OFFICE OF ADMINISTRATIVE HEARINGS
ORGANIZATIONAL CHART

January 1, 2023



Hearing Request Comparison

Requests Received Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

Agency	2021		2022		Total	
1 Beach Public School District No. 3	0	0.00%	1	0.25%	1	0.13%
2 Belcourt Public School District	0	0.00%	1	0.25%	1	0.13%
3 Cosmetology, Board of	0	0.00%	1	0.25%	1	0.13%
4 DHS, Human Services, Department of	164	45.05%	211	52.23%	375	48.83%
5 Dickinson State University	0	0.00%	1	0.25%	1	0.13%
6 Education Standards & Practices Board	0	0.00%	1	0.25%	1	0.13%
7 Fargo Public School	0	0.00%	1	0.25%	1	0.13%
8 Game and Fish Department	1	0.27%	1	0.25%	2	0.26%
9 Health, Department of	2	0.55%	1	0.25%	3	0.39%
10 Horace, City of	1	0.27%	0	0.00%	1	0.13%
11 Human Resource Management Services	0	0.00%	5	1.24%	5	0.65%
12 IC, Insurance Commissioner	1	0.27%	1	0.25%	2	0.26%
13 Industrial Commission	4	1.10%	5	1.24%	9	1.17%
14 Job Service North Dakota	0	0.00%	1	0.25%	1	0.13%
15 Labor, Dept. of	1	0.27%	4	0.99%	5	0.65%
16 Lake Region State College	1	0.27%	0	0.00%	1	0.13%
17 Maddock School District	1	0.27%	0	0.00%	1	0.13%
18 Mandaree Public School District #36	1	0.27%	0	0.00%	1	0.13%
19 Massage, North Dakota Board of	0	0.00%	1	0.25%	1	0.13%
20 Milnor Public School District	1	0.27%	0	0.00%	1	0.13%
21 Minot State University	0	0.00%	1	0.25%	1	0.13%
22 Munich Public School District	0	0.00%	1	0.25%	1	0.13%
23 New Town Public School District	0	0.00%	1	0.25%	1	0.13%
24 Nursing, State Board of	1	0.27%	0	0.00%	1	0.13%
25 Pingree-Buchanan Public School	0	0.00%	1	0.25%	1	0.13%
26 Professional Engineers & Land Surveyors Board	1	0.27%	0	0.00%	1	0.13%
27 PSC, Public Service Commission	11	3.02%	12	2.97%	23	2.99%
28 Public Employees Retirement Board	1	0.27%	0	0.00%	1	0.13%
29 Public Instruction, Department of	4	1.10%	6	1.49%	10	1.30%
30 Real Estate Appraiser Qualifications and Ethics, Board o	2	0.55%	0	0.00%	2	0.26%
31 Securities Department	0	0.00%	1	0.25%	1	0.13%
32 UND, University of North Dakota	9	2.47%	5	1.24%	14	1.82%
33 Valley City State University	1	0.27%	0	0.00%	1	0.13%
34 VP, City of Minot	1	0.27%	0	0.00%	1	0.13%

Hearing Request Comparison

Requests Received Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

<i>Agency</i>	<i>2021</i>		<i>2022</i>		<i>Total</i>	
35 VP, First District Health	1	0.27%	0	0.00%	1	0.13%
36 Washburn Public School District #4	0	0.00%	1	0.25%	1	0.13%
37 Water Commission, State/State Engineer	1	0.27%	1	0.25%	2	0.26%
38 Williston Public School District #1	0	0.00%	1	0.25%	1	0.13%
39 Workforce Safety & Insurance	153	42.03%	137	33.91%	290	37.76%
	364		404		768	

Hearings Held

Hearings Held Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

<i>Agency</i>	<i>2021</i>		<i>2022</i>		<i>Total</i>	
1 Addiction Counseling Examiners, Board of	1	0.4%	0	0.0%	1	0.2%
2 Belcourt Public School District	0	0.0%	1	0.4%	1	0.2%
3 DHS, Human Services, Department of	111	43.9%	142	58.2%	253	50.9%
4 Dickinson State University	0	0.0%	1	0.4%	1	0.2%
5 Education Standards & Practices Board	0	0.0%	1	0.4%	1	0.2%
6 Fargo Public School	0	0.0%	1	0.4%	1	0.2%
7 Game and Fish Department	1	0.4%	1	0.4%	2	0.4%
8 Health, Department of	1	0.4%	0	0.0%	1	0.2%
9 IC, Insurance Commissioner	1	0.4%	0	0.0%	1	0.2%
10 Industrial Commission	0	0.0%	1	0.4%	1	0.2%
11 Labor, Dept. of	1	0.4%	0	0.0%	1	0.2%
12 Physical Therapy, North Dakota Board of	2	0.8%	0	0.0%	2	0.4%
13 Pingree-Buchanan Public School	0	0.0%	1	0.4%	1	0.2%
14 PSC, Public Service Commission	12	4.7%	8	3.3%	20	4.0%
15 Public Instruction, Department of	4	1.6%	1	0.4%	5	1.0%
16 Real Estate Appraiser Qualifications and Ethics, B	0	0.0%	2	0.8%	2	0.4%
17 UND, University of North Dakota	3	1.2%	2	0.8%	5	1.0%
18 VP, City of Minot	1	0.4%	0	0.0%	1	0.2%
19 VP, First District Health	1	0.4%	0	0.0%	1	0.2%
20 Workforce Safety & Insurance	114	45.1%	82	33.6%	196	39.4%
	253		244		497	

Prehearing Conferences Held

Prehearing Conferences Held Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

<i>Agency</i>	<i>2021</i>		<i>2022</i>		<i>Total</i>	
1 Addiction Counseling Examiners, Board of	1	0.5%	0	0.0%	1	0.3%
2 Beach Public School District No. 3	0	0.0%	1	0.5%	1	0.3%
3 Belcourt Public School District	0	0.0%	1	0.5%	1	0.3%
4 Cosmetology, Board of	0	0.0%	1	0.5%	1	0.3%
5 DHS, Human Services, Department of	51	25.5%	50	26.7%	101	26.1%
6 Dickinson State University	0	0.0%	2	1.1%	2	0.5%
7 Education Standards & Practices Board	0	0.0%	1	0.5%	1	0.3%
8 Fargo Public School	0	0.0%	2	1.1%	2	0.5%
9 Health, Department of	1	0.5%	1	0.5%	2	0.5%
10 Horace, City of	1	0.5%	0	0.0%	1	0.3%
11 Human Resource Management Services	0	0.0%	3	1.6%	3	0.8%
12 IC, Insurance Commissioner	1	0.5%	1	0.5%	2	0.5%
13 Industrial Commission	4	2.0%	5	2.7%	9	2.3%
14 Job Service North Dakota	0	0.0%	1	0.5%	1	0.3%
15 Labor, Dept. of	3	1.5%	3	1.6%	6	1.6%
16 Maddock School District	1	0.5%	0	0.0%	1	0.3%
17 Massage, North Dakota Board of	0	0.0%	1	0.5%	1	0.3%
18 Minot State University	0	0.0%	2	1.1%	2	0.5%
19 Munich Public School District	0	0.0%	1	0.5%	1	0.3%
20 New Town Public School District	0	0.0%	1	0.5%	1	0.3%
21 Nursing, State Board of	1	0.5%	2	1.1%	3	0.8%
22 Pingree-Buchanan Public School	0	0.0%	1	0.5%	1	0.3%
23 Professional Engineers & Land Surveyors Board	0	0.0%	1	0.5%	1	0.3%
24 PSC, Public Service Commission	1	0.5%	1	0.5%	2	0.5%
25 Public Employees Retirement Board	1	0.5%	0	0.0%	1	0.3%
26 Public Instruction, Department of	9	4.5%	3	1.6%	12	3.1%
27 Real Estate Appraiser Qualifications and Ethics, Board o	2	1.0%	0	0.0%	2	0.5%
28 Securities Department	0	0.0%	2	1.1%	2	0.5%
29 UND, University of North Dakota	7	3.5%	5	2.7%	12	3.1%
30 VP, City of Minot	1	0.5%	0	0.0%	1	0.3%
31 VP, First District Health	2	1.0%	0	0.0%	2	0.5%
32 Water Commission, State/State Engineer	2	1.0%	1	0.5%	3	0.8%
33 Workforce Safety & Insurance	111	55.5%	94	50.3%	205	53.0%
	200		187		387	

Tuesday, January 3, 2023

Total Requests Received by Agency

Files Received Between 07-01-2021 and 12-31-2022

Office of Administrative Hearings

Agency	# of Files Received	
Beach Public School District No. 3	1	0.17%
Belcourt Public School District	1	0.17%
Cosmetology, Board of	1	0.17%
DHS, Human Services, Department of	285	49.48%
Dickinson State University	1	0.17%
Education Standards & Practices Board	1	0.17%
Fargo Public School	1	0.17%
Game and Fish Department	2	0.35%
Health, Department of	1	0.17%
Horace, City of	1	0.17%
Human Resource Management Services	5	0.87%
IC, Insurance Commissioner	2	0.35%
Industrial Commission	8	1.39%
Job Service North Dakota	1	0.17%
Labor, Dept. of	4	0.69%
Lake Region State College	1	0.17%
Mandaree Public School District #36	1	0.17%
Massage, North Dakota Board of	1	0.17%
Milnor Public School District	1	0.17%
Minot State University	1	0.17%
Munich Public School District	1	0.17%
New Town Public School District	1	0.17%
Nursing, State Board of	1	0.17%
Pingree-Buchanan Public School	1	0.17%
Professional Engineers & Land Surveyors Board	1	0.17%
PSC, Public Service Commission	18	3.13%
Public Instruction, Department of	8	1.39%
Securities Department	1	0.17%
UND, University of North Dakota	13	2.26%
Washburn Public School District #4	1	0.17%
Water Commission, State/State Engineer	2	0.35%
Williston Public School District #1	1	0.17%
Workforce Safety & Insurance	207	35.94%
Grand Total:	576	

OFFICE OF ADMINISTRATIVE HEARINGS

Average Days to ALJ Decision

Decisions Issued from 10/01/2018 - 12/31/2022

	Number of Matters	Request for ALJ to ALJ Decision Issued			Hearing Held to ALJ Decision Issued		
		Average	Median	Range	Average	Median	Range
October 1, 2018 - March 31, 2019	54	290	231	64 - 808	34	28	3 - 156
November 1, 2018 - April 30, 2019	60	278	230	64 - 808	32	29	3 - 156
December 1, 2018 - May 31, 2019	63	263	206	64 - 976	28	26	3 - 105
January 1, 2019 - June 30, 2019	62	259	205	64 - 976	27	25	3 - 105
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January 1, 2020 - June 30, 2020	64	165	147	46 - 491	27	23	2 - 89
February 1, 2020 - July 31, 2020	60	159	147	46 - 491	25	23	2 - 83
March 1, 2020 - August 31, 2020	60	157	147	46 - 491	27	25	2 - 83
April 1, 2020 - September 30, 2020	61	164	155	46 - 491	27	23	2 - 83
May 1, 2020 - October 31, 2020	62	165	156	46 - 491	25	22	2 - 81
June 1, 2020 - November 30, 2020	65	164	154	46 - 338	26	24	2 - 63
July 1, 2020 - December 31, 2020	61	170	155	40 - 362	28	27	3 - 63
August 1, 2020 - January 31, 2021	56	167	153	40 - 362	29	27	3 - 63
September 1, 2020 - February 28, 2021	56	171	157	92 - 362	29	27	3 - 63
October 1, 2020 - March 31, 2021	51	173	167	40 - 362	30	27	3 - 63
November 1, 2020 - April 30, 2021	53	171	167	40 - 362	30	27	3 - 63
December 1, 2020 - May 31, 2021	47	174	168	40 - 362	30	28	3 - 98
January 1, 2021 - June 30, 2021	48	172	155	85 - 379	29	28	2 - 98

OFFICE OF ADMINISTRATIVE HEARINGS

Average Days to ALJ Decision

Decisions Issued from 10/01/2018 - 12/31/2022

	Number of Matters	Request for ALJ to ALJ Decision Issued			Hearing Held to ALJ Decision Issued		
		Average	Median	Range	Average	Median	Range
February 1, 2021 - July 31, 2021	47	174	161	74 - 379	28	27	2 - 98
March 1, 2021 - August 31, 2021	48	166	142	38 - 379	28	28	2 - 98
April 1, 2021 - September 30, 2021	50	161	143	38 - 379	25	27	2 - 98
May 1, 2021 - October 31, 2021	50	161	144	38 - 379	24	23	2 - 98
June 1, 2021 - November 30, 2021	49	165	144	74 - 462	21	21	2 - 48
July 1, 2021 - December 31, 2021	48	160	146	67 - 462	22	22	2 - 46
August 1, 2021 - January 31, 2022	50	165	150	67 - 462	25	25	6 - 82
September 1, 2021 - February 28, 2022	52	170	154	67 - 462	26	26	6 - 82
October 1, 2021 - March 31, 2022	46	176	159	67 - 472	27	26	7 - 82
November 1, 2021 - April 30, 2022	47	179	164	67 - 462	31	27	7 - 82
December 1, 2021 - May 31, 2022	49	172	162	67 - 392	32	28	7 - 82
January 1, 2022 - June 30, 2022	44	175	160	82 - 392	32	26	7 - 82
February 1, 2022 - July 31, 2022	43	185	157	82 - 428	29	24	7 - 70
March 1, 2022 - August 31, 2022	37	178	155	82 - 428	27	23	7 - 70
April 1, 2022 - September 30, 2022	39	169	151	82 - 428	27	23	7 - 70
May 1, 2022 - October 31, 2022	38	166	145	80 - 428	25	24	7 - 65
June 1, 2022 - November 30, 2022	35	166	143	59 - 428	26	24	8 - 63
July 1, 2022 - December 31, 2022	35	158	139	59 - 428	27	27	8 - 63

*Includes initial decisions for workers benefits only; does not include reconsiderations, settlements, dismissals, stipulations.
Consolidated files are counted as one unit, not separate units.*

Expense Code	Description	2021 - 2023	2021 - 2023	2021 - 2023	% Under	2019 - 2021	2021 - 2023	2023 - 2025
		Budget	Biennium thru 12/2022	Budget Remaining		Budget	Budget	Gov Rec
511000	Salaries - Permanent	933,186.00	694,748.21	238,437.79		892,525.00	933,186.00	951,362.00
513000	Temporary Salaries	1,000.00	-	1,000.00		1,722.00	1,000.00	2,750.00
514000	Overtime	1,000.00	-	1,000.00		1,722.00	1,000.00	2,750.00
515000	Fringe Benefits	363,458.00	268,039.19	95,418.81		352,361.00	363,458.00	362,860.00
	Salaries & Benefits	1,298,644.00	962,787.40	335,856.60	25.9%	1,248,330.00	1,298,644.00	1,319,722.00
521000	Travel	35,025.00	8,950.43	26,074.57	74.4%	35,025.00	35,025.00	35,025.00
531000	Supplies - IT Software	24,990.00	5,344.06	19,645.94	78.6%	22,840.77	24,990.00	24,990.00
532000	Supply/Material - Professional	2,000.00	-	2,000.00	100.0%	2,000.00	2,000.00	2,000.00
535000	Miscellaneous Supplies	9,000.00	3,724.88	5,275.12	58.6%	3,200.00	9,000.00	9,000.00
536000	Office Supplies	6,500.00	2,206.70	4,293.30	66.1%	6,500.00	6,500.00	6,500.00
541000	Postage	9,800.00	6,599.36	3,200.64	32.7%	9,800.00	9,800.00	9,800.00
542000	Printing	2,000.00	909.80	1,090.20	54.5%	2,000.00	2,000.00	2,000.00
551000	IT Equipment under \$5,000	3,000.00	-	3,000.00	100.0%	3,000.00	3,000.00	3,000.00
552000	Other Equipment under \$5,000	1,000.00	-	1,000.00	100.0%	1,000.00	1,000.00	1,000.00
553000	Office Equip & Furniture under \$5,000	14,842.00	209.24	14,632.76	98.6%	11,615.60	14,842.00	14,842.00
561000	Utilities	400.00	161.50	238.50	59.6%	400.00	400.00	400.00
571000	Insurance	1,785.00	1,575.57	209.43	11.7%	1,780.59	1,785.00	1,785.00
581000	Rentals/Leases - Equipment & Other	5,000.00	2,800.45	2,199.55	44.0%	5,000.00	5,000.00	5,000.00
582000	Rentals/Leases - Bldg/Land	83,978.00	62,232.84	21,745.16	25.9%	83,978.00	83,978.00	90,618.00
591000	Repairs	3,350.00	1,257.40	2,092.60	62.5%	3,233.05	3,350.00	3,350.00
601000	IT - Data Processing	70,421.00	47,497.67	22,923.33	32.6%	70,421.00	70,421.00	73,383.00
602000	IT - Communications	10,000.00	3,876.33	6,123.67	61.2%	10,000.00	10,000.00	10,000.00
603000	IT - Contractual Services	11,200.00	4,190.00	7,010.00	62.6%	11,000.00	11,200.00	11,200.00
611000	Professional Development	15,760.00	5,988.00	9,772.00	62.0%	15,760.00	15,760.00	15,760.00
621000	Operating Fees and Services	7,640.00	1,072.45	6,567.55	86.0%	10,444.39	7,640.00	7,640.00
623000	Professional Fees and Services	1,265,194.00	390,838.56	874,355.44	69.1%	1,273,144.00	1,265,194.00	1,255,099.00
625000	Medical, Dental and Optical	-	-	-		191.60	-	-
	Operating Expenses	1,582,885.00	549,435.24	1,033,449.76	65.3%	1,582,334.00	1,582,885.00	1,582,392.00
	Salaries & Benefits	1,298,644.00	962,787.40	335,856.60		1,248,330.00	1,298,644.00	1,319,722.00
	Operating Expenses	1,582,885.00	549,435.24	1,033,449.76		1,582,334.00	1,582,885.00	1,582,392.00
		2,881,529.00	1,512,222.64	1,369,306.36		2,830,664.00	2,881,529.00	2,902,114.00
	Total Federal Fund Expenditures		2,800.00	(ARPA)		Governor's Rec	Salaries & Wages	1,438,075.00
	Total Special Fund Expenditures		1,509,422.64				Operating	1,582,392.00
	Total Expenditures by Source		1,512,222.64					3,020,467.00

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
2023-25 Biennium Base Level	5.00	\$0	\$2,881,529	\$2,881,529	5.00	\$0	\$2,881,529	\$2,881,529
2023-25 Ongoing Funding Changes								
Base payroll and budget changes			\$10,983	\$10,983				\$0
Salary increase			92,633	92,633				0
Health insurance increase			25,720	25,720				0
Information technology expenses			2,962	2,962				0
Office rent increase			6,640	6,640				0
Total ongoing funding changes	0.00	\$0	\$138,938	\$138,938	0.00	\$0	\$0	\$0
One-Time Funding Items				\$0				\$0
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	\$138,938	\$138,938	0.00	\$0	\$0	\$0
2023-25 Total Funding	5.00	\$0	\$3,020,467	\$3,020,467	5.00	\$0	\$2,881,529	\$2,881,529
<i>Federal funds included in other funds</i>			\$0				\$0	
<i>Total ongoing changes as a percentage of base level</i>	0.0%		4.8%	4.8%	0.0%		0.0%	0.0%
<i>Total changes as a percentage of base level</i>	0.0%		4.8%	4.8%	0.0%		0.0%	0.0%

Other Sections in Office of Administrative Hearings - Budget No. 140

	Executive Budget Recommendation	House Version
	There are no sections recommended to be added in the executive budget.	Section 2 provides an exemption to continue unexpended 2021-23 biennium funds for the web-based document management system into the 2023-25 biennium. A total of \$20,000 was appropriated from the federal State Fiscal Recovery Fund for the 2021-23 biennium.

23.0246.01001
Title.

Prepared by the Legislative Council staff for
the House Appropriations - Human Resources
Division Committee

Fiscal No. 1

February 3, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1017

Page 1, replace lines 8 through 13 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,298,644	\$116,744	\$1,415,388
Operating expenses	1,582,885	(493)	1,582,392
Total special funds	\$2,881,529	\$116,251	\$2,997,780
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	\$1,298,644	\$116,744	\$1,415,388
Operating expenses	1,582,885	(493)	1,582,392
Total all funds	\$2,881,529	\$116,251	\$2,997,780
Less estimated income	2,881,529	116,251	2,997,780
General fund	\$0	\$0	\$0
FTE	5.00	0.00	5.00

Department 140 - Office of Administrative Hearings - Detail of House Changes

	Adjusts Funding for Base Payroll and Budget Changes ¹	Adds Funding for Salary and Benefit Increases ²	Increases Funding for Information Technology Expenses ³	Increases Funding for Office Space Lease ⁴	Total House Changes
Salaries and wages	\$21,078	\$95,666			\$116,744
Operating expenses	(10,095)		\$2,962	\$6,640	(493)
Total all funds	\$10,983	\$95,666	\$2,962	\$6,640	\$116,251
Less estimated income	10,983	95,666	2,962	6,640	116,251
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

¹ Funding is adjusted for base payroll and budget changes, including the transfer of \$10,095 from the operating expenses line item to the salaries and wages line item.

² The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance premiums from \$1,429 to \$1,648 per month:

	<u>Other Funds</u>
Salary increase	\$69,354
Health insurance increase	26,312
Total	\$95,666

³ Funding is increased for information technology processing expenses to provide a total of \$73,383 of other funds.

⁴ Funding is increased for office space lease costs to provide a total of \$90,618 of other funds.

23.0246.01001
Title.

Prepared by the Legislative Council staff for
the House Appropriations - Human Resources
Division Committee

Fiscal No. 1

February 3, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1017

Page 1, replace lines 8 through 13 with:

"		<u>Adjustments or</u>	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,298,644	\$116,744	\$1,415,388
Operating expenses	<u>1,582,885</u>	<u>(493)</u>	<u>1,582,392</u>
Total special funds	\$2,881,529	\$116,251	\$2,997,780
Full-time equivalent positions	5.00	0.00	5.00"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	<u>Base Budget</u>	<u>House Changes</u>	<u>House Version</u>
Salaries and wages	\$1,298,644	\$116,744	\$1,415,388
Operating expenses	<u>1,582,885</u>	<u>(493)</u>	<u>1,582,392</u>
Total all funds	\$2,881,529	\$116,251	\$2,997,780
Less estimated income	<u>2,881,529</u>	<u>116,251</u>	<u>2,997,780</u>
General fund	\$0	\$0	\$0
FTE	5.00	<u>0.00</u>	5.00

Department 140 - Office of Administrative Hearings - Detail of House Changes

	<u>Adjusts Funding for Base Payroll and Budget Changes¹</u>	<u>Adds Funding for Salary and Benefit Increases²</u>	<u>Increases Funding for Information Technology Expenses³</u>	<u>Increases Funding for Office Space Lease⁴</u>	<u>Total House Changes</u>
Salaries and wages	\$21,078	\$95,666			\$116,744
Operating expenses	<u>(10,095)</u>		<u>\$2,962</u>	<u>\$6,640</u>	<u>(493)</u>
Total all funds	\$10,983	\$95,666	\$2,962	\$6,640	\$116,251
Less estimated income	<u>10,983</u>	<u>95,666</u>	<u>2,962</u>	<u>6,640</u>	<u>116,251</u>
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	<u>0.00</u>

¹ Funding is adjusted for base payroll and budget changes, including the transfer of \$10,095 from the operating expenses line item to the salaries and wages line item.

² The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance premiums from \$1,429 to \$1,648 per month:

	<u>Other Funds</u>
Salary increase	\$69,354
Health insurance increase	<u>26,312</u>
Total	\$95,666

³ Funding is increased for information technology processing expenses to provide a total of \$73,383 of other funds.

⁴ Funding is increased for office space lease costs to provide a total of \$90,618 of other funds.

NORTH
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MEMORANDUM

TO: Sixty-eighth Legislative Assembly
State of North Dakota
Senate Appropriations Committee
Human Resources Division

FROM: Timothy J. Dawson, Director
Office of Administrative Hearings

RE: OAH 2023-2025 Operating Budget Request
Engrossed House Bill No. 1017

DATE: March 14, 2023

There have been many changes in recent history at the Office of Administrative Hearings ("OAH"), especially during this and the last biennium. What has stayed the same is our mission to conduct orderly, fair, and impartial hearings and to issue prompt, reasoned recommended or final decisions. If a person receives a benefit or license from the state, the person is entitled to a hearing under the Due Process Clause of the Constitution. There is procedural due process and substantive due process.

We provide substantive due process by deciding justly with well-reasoned decisions based on the law. We also provide real and perceived procedural due process,

Timothy J. Dawson DIRECTOR

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

PHONE 701-328-3200 | FAX 701-328-3254 | oah@nd.gov | nd.gov/oah

we hear the “other side” and are independent from the governmental entity that provides the benefit or license. If the governmental entity that provides the benefit or license were to make the determination, there is the perception of bias.

There have been many changes in the staff in the last few years. The present permanent administrative law judges (“ALJs”) are Jessica Binder, Hope Hogan, and me. I began as director in December 2015 when the previous director of OAH, Wade C. Mann, resigned. He was followed closely in early 2016 by Rosey Sand. Both went into private practice. Jeanne Steiner started about a year before me and resigned in September 2018 for a position in Arizona. Jeanne McLean, who started in March 2016, retired in March 2021. Hope Hogan started in November 2018. Jessica Binder started in July 2021.

OAH has five permanent FTEs - three ALJs and two support staff – and seven part-time, contract ALJs. (See attached organizational chart, Attachment “A.”) OAH's contract ALJs conduct primarily Workforce Safety and Insurance (“WSI”) hearings. Of the contract ALJs, four are in Fargo, two in Bismarck, and one in Dickinson.

OAH's three full-time permanent ALJs conduct a mixture of different agency hearings but, primarily, DHHS, PSC, WSI, Human Resource Management Services state employee grievance hearings, and occupational licensing hearings. One permanent ALJ has almost a full workload of WSI hearings. The other two full-time ALJs conduct the

other hearings that are not WSI hearings. The bulk of these hearings are DHHS hearings. OAH will go forward into the 2023-2025 biennium with the same structure. However, workload considerations and the need for the replacement of contract ALJs may require new contract ALJs at some time in the future. Another option would be for OAH to employ more full-time, permanent ALJs. Currently, we do not have that authority.

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 PSC, 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 Title IX 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 100 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. The table below shows the number of requests by year.

<u>Year</u>	<u>Hearing Requests</u>
2015	671
2016	717
2017	663
2018	646
2019	482
2020	432
2021	364
2022	404

In calendar year 2021, 23 different agencies or entities made 364 requests for hearing. In calendar year 2022, 27 different agencies or entities made 404 requests for hearing. In those two years, we had 768 requested hearings from 39 different agencies or entities. (See Attachment “B.”) This is comparable to the previous two years in which we had 914 requested hearings from 37 different agencies or entities.

Attachment “C” shows the number of hearings held for calendar years 2021 and 2022. This shows about 65 percent of the hearing requests went to hearing in those two years. In the previous two years 69 percent of the hearing requests went to hearing. Historically, between 45 percent and 55 percent of hearing requests have gone to hearing. In short, the number of hearing requests peaked in 2016 near the height of the

oil boom and has plateaued at approximately 400. An increase in DHHS hearing requests is expected as waivers instituted by the federal government due to COVID-19 expire and more recipients are denied benefits.

Attachment "D" shows 387 prehearing conferences held for calendar years 2021 and 2022, down from 457 for calendar years 2019 and 2020. Prehearing conferences are usually held for the more complex hearings. As a percentage of hearings requested, the percentage of prehearing conferences is stable at about 50 percent.

In short, over time the complexity of hearings is stable, the number of hearings requesting is stabilizing to a normal level, and more requests for hearing are going to hearing.

For the first 18 months of this biennium (July 1, 2021, through December 31, 2022), 33 different agencies or entities have made 576 requests for hearing. (See Attachment "E.") As you can see from the attachments, the bulk of requests for hearing this biennium have come from two agencies, DHS and WSI, which is typical for most biennia. Another increasingly frequent OAH user in the last few years is the PSC. OAH has also started conducting Title IX hearings for the University of North Dakota.

BUDGET

- The OAH budget was done with little or no change from last biennium. OAH reduced its professional services budget to allow for anticipated office space rent and information technology increases.
- The OAH budget is two lines; one for salaries and benefits for the 5 FTEs and one for operating. Of the operating line, 79 percent is to pay contract ALJs for work completed, 6.6 percent for IT, 5.7 percent for office space. This totals 91.3 percent.
- The OAH budget is funded completely through special funds and with no federal funds.
- OAH received \$20,000 of American Rescue Plan Act of 2021 funds in one-time funding for the 2021-23 biennium from the 2021 Legislative Assembly for a web-based document management system. To date, \$2,800 has been spent updating our current case management system, a portion of which allows remote timekeeping entry by contract administrative law judges instead of entry by OAH permanent staff. Additionally, solutions for on-line document submission by parties to the hearings are being reviewed. There are other states in the process of implementing the same or similar systems and waiting for that implementation may provide meaningful information for OAH in implementing our system. Funds obligated by OAH for the system may or may not be made by June 30, 2023, and OAH requests until December 31, 2024, to obligate the funds to give OAH time to properly evaluate potential systems.

- OAH charges a fee for service. The rate of \$195 per hour has been in place since July 1, 2021. The rate will stay in place until July 1, 2023. At that time, the rate may be raised \$20 per hour.
- OAH has a continuing appropriation under North Dakota Century Code Section 54-57-07.
- Changes in the House include a \$116,744 increase for salaries and wages and a reduction of \$493 in operating expenses for a total increase in special funds authority of \$116,251.

ACCOMPLISHMENTS AND CHALLENGES

In the 2019 session, House Bill No. 1064 was enacted into law and codified in N.D.C.C. § 54-57-09. This section provides:

1. The office of administrative hearings shall track the time elapsed between the date the office receives a file from workforce safety and insurance and the date of the administrative law judge's decision, and monthly calculate a rolling six-month average of time elapsed.
2. The office of administrative hearings shall adopt case processing standards and policies, including provisions intended to meet a goal of an average of two hundred fifteen days or less per case. Administrative law judges have an average of two hundred fifteen days to issue a decision for any injured worker case from the date the office of administrative hearings receives a

file from workforce safety and insurance. The date of the last assigned file is the date of assignment for all consolidated files.

3. The office of administrative hearings and workforce safety and insurance shall report statistical information regarding results under the case processing standards and policies to the legislative management and the state advisory council each quarter. The reports must include the information required under subsection 1.

Appendix "F" shows how OAH responded to this challenge. We have reduced the average number of days from 290 to between 158 and 185 for the rolling six-month average in each of the last six months. This is a reduction of at least 105 days or about 36 percent and is below the goal of under 215 days.

With CARES Act money our hearing rooms have been equipped with the technology required to conduct video conferences for hearings. We can conduct touchless hearings that are in-person using the same technology. As challenges, there are the typical training and technical issues surrounding any technology project. There is the challenge that some people participating in administrative hearings are not technology savvy and do not have access to the proper technology equipment and services. In addition, the challenge with the new technology is deciding which hearings should be in-person and which hearings can be by video.

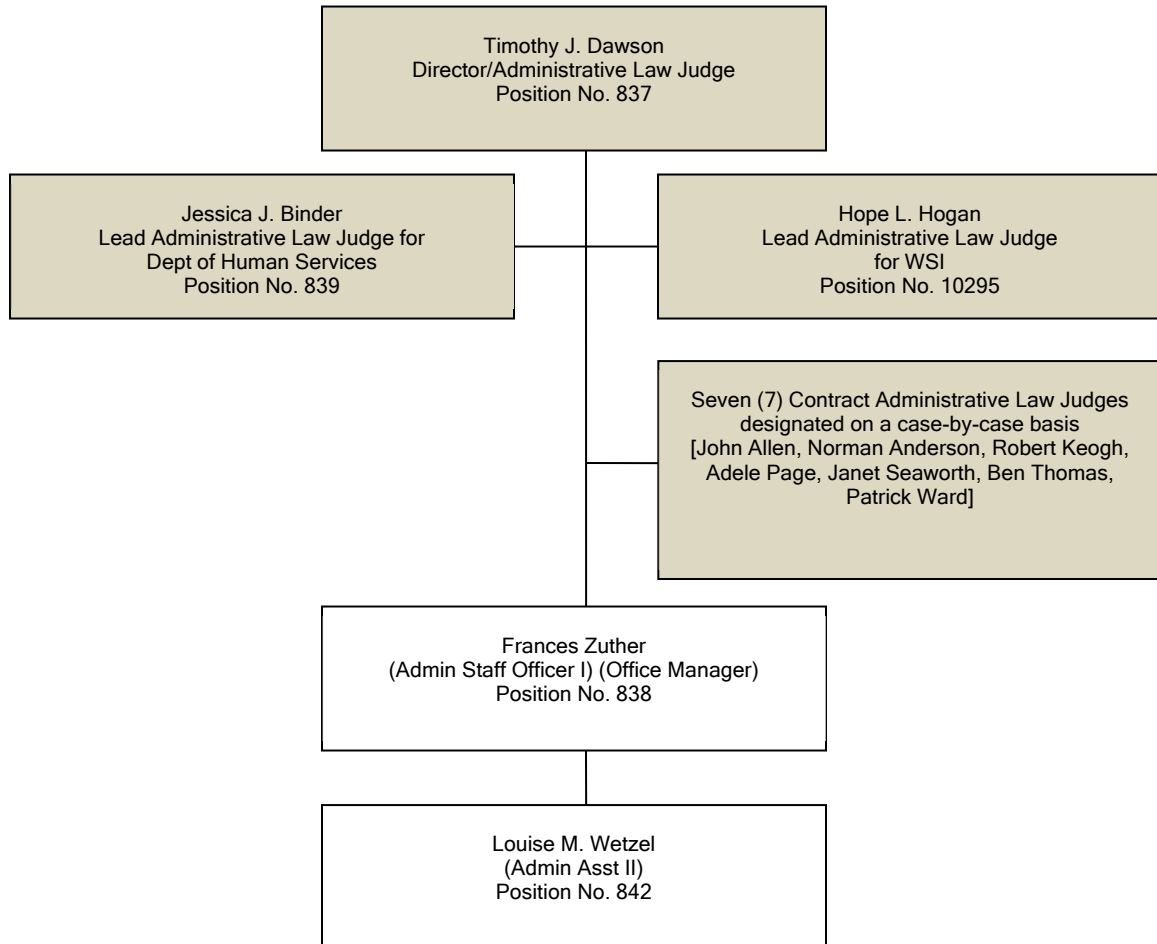
Some hearings contain issues related to credibility and these hearings are better in-person. It is easier to judge demeanor and credibility in-person. We sometimes are the first time anyone in government has heard the concerns of the person wanting the hearing. In some hearings, having an ALJ who takes a concern seriously enough to show up in-person reflects well on the accessibility of government, and this value exceeds the increase cost and inconvenience to the ALJ and involved agency. In addition to issues of credibility, we may continue to conduct in-person hearings when the interests at stake are important: the right to maintain a professional licensure or parental rights.

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.

OFFICE OF ADMINISTRATIVE HEARINGS
ORGANIZATIONAL CHART

January 1, 2023



Hearing Request Comparison

Requests Received Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

Agency	2021		2022		Total	
1 Beach Public School District No. 3	0	0.00%	1	0.25%	1	0.13%
2 Belcourt Public School District	0	0.00%	1	0.25%	1	0.13%
3 Cosmetology, Board of	0	0.00%	1	0.25%	1	0.13%
4 DHS, Human Services, Department of	164	45.05%	211	52.23%	375	48.83%
5 Dickinson State University	0	0.00%	1	0.25%	1	0.13%
6 Education Standards & Practices Board	0	0.00%	1	0.25%	1	0.13%
7 Fargo Public School	0	0.00%	1	0.25%	1	0.13%
8 Game and Fish Department	1	0.27%	1	0.25%	2	0.26%
9 Health, Department of	2	0.55%	1	0.25%	3	0.39%
10 Horace, City of	1	0.27%	0	0.00%	1	0.13%
11 Human Resource Management Services	0	0.00%	5	1.24%	5	0.65%
12 IC, Insurance Commissioner	1	0.27%	1	0.25%	2	0.26%
13 Industrial Commission	4	1.10%	5	1.24%	9	1.17%
14 Job Service North Dakota	0	0.00%	1	0.25%	1	0.13%
15 Labor, Dept. of	1	0.27%	4	0.99%	5	0.65%
16 Lake Region State College	1	0.27%	0	0.00%	1	0.13%
17 Maddock School District	1	0.27%	0	0.00%	1	0.13%
18 Mandaree Public School District #36	1	0.27%	0	0.00%	1	0.13%
19 Massage, North Dakota Board of	0	0.00%	1	0.25%	1	0.13%
20 Milnor Public School District	1	0.27%	0	0.00%	1	0.13%
21 Minot State University	0	0.00%	1	0.25%	1	0.13%
22 Munich Public School District	0	0.00%	1	0.25%	1	0.13%
23 New Town Public School District	0	0.00%	1	0.25%	1	0.13%
24 Nursing, State Board of	1	0.27%	0	0.00%	1	0.13%
25 Pingree-Buchanan Public School	0	0.00%	1	0.25%	1	0.13%
26 Professional Engineers & Land Surveyors Board	1	0.27%	0	0.00%	1	0.13%
27 PSC, Public Service Commission	11	3.02%	12	2.97%	23	2.99%
28 Public Employees Retirement Board	1	0.27%	0	0.00%	1	0.13%
29 Public Instruction, Department of	4	1.10%	6	1.49%	10	1.30%
30 Real Estate Appraiser Qualifications and Ethics, Board o	2	0.55%	0	0.00%	2	0.26%
31 Securities Department	0	0.00%	1	0.25%	1	0.13%
32 UND, University of North Dakota	9	2.47%	5	1.24%	14	1.82%
33 Valley City State University	1	0.27%	0	0.00%	1	0.13%
34 VP, City of Minot	1	0.27%	0	0.00%	1	0.13%

Hearing Request Comparison

Requests Received Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

<i>Agency</i>	<i>2021</i>		<i>2022</i>		<i>Total</i>	
35 VP, First District Health	1	0.27%	0	0.00%	1	0.13%
36 Washburn Public School District #4	0	0.00%	1	0.25%	1	0.13%
37 Water Commission, State/State Engineer	1	0.27%	1	0.25%	2	0.26%
38 Williston Public School District #1	0	0.00%	1	0.25%	1	0.13%
39 Workforce Safety & Insurance	153	42.03%	137	33.91%	290	37.76%
	364		404		768	

Hearings Held

Hearings Held Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

<i>Agency</i>	<i>2021</i>		<i>2022</i>		<i>Total</i>	
1 Addiction Counseling Examiners, Board of	1	0.4%	0	0.0%	1	0.2%
2 Belcourt Public School District	0	0.0%	1	0.4%	1	0.2%
3 DHS, Human Services, Department of	111	43.9%	142	58.2%	253	50.9%
4 Dickinson State University	0	0.0%	1	0.4%	1	0.2%
5 Education Standards & Practices Board	0	0.0%	1	0.4%	1	0.2%
6 Fargo Public School	0	0.0%	1	0.4%	1	0.2%
7 Game and Fish Department	1	0.4%	1	0.4%	2	0.4%
8 Health, Department of	1	0.4%	0	0.0%	1	0.2%
9 IC, Insurance Commissioner	1	0.4%	0	0.0%	1	0.2%
10 Industrial Commission	0	0.0%	1	0.4%	1	0.2%
11 Labor, Dept. of	1	0.4%	0	0.0%	1	0.2%
12 Physical Therapy, North Dakota Board of	2	0.8%	0	0.0%	2	0.4%
13 Pingree-Buchanan Public School	0	0.0%	1	0.4%	1	0.2%
14 PSC, Public Service Commission	12	4.7%	8	3.3%	20	4.0%
15 Public Instruction, Department of	4	1.6%	1	0.4%	5	1.0%
16 Real Estate Appraiser Qualifications and Ethics, B	0	0.0%	2	0.8%	2	0.4%
17 UND, University of North Dakota	3	1.2%	2	0.8%	5	1.0%
18 VP, City of Minot	1	0.4%	0	0.0%	1	0.2%
19 VP, First District Health	1	0.4%	0	0.0%	1	0.2%
20 Workforce Safety & Insurance	114	45.1%	82	33.6%	196	39.4%
	253		244		497	

Prehearing Conferences Held

Prehearing Conferences Held Between 01-01-2021 and 12-31-2022

Office of Administrative Hearings

<i>Agency</i>	<i>2021</i>		<i>2022</i>		<i>Total</i>	
1 Addiction Counseling Examiners, Board of	1	0.5%	0	0.0%	1	0.3%
2 Beach Public School District No. 3	0	0.0%	1	0.5%	1	0.3%
3 Belcourt Public School District	0	0.0%	1	0.5%	1	0.3%
4 Cosmetology, Board of	0	0.0%	1	0.5%	1	0.3%
5 DHS, Human Services, Department of	51	25.5%	50	26.7%	101	26.1%
6 Dickinson State University	0	0.0%	2	1.1%	2	0.5%
7 Education Standards & Practices Board	0	0.0%	1	0.5%	1	0.3%
8 Fargo Public School	0	0.0%	2	1.1%	2	0.5%
9 Health, Department of	1	0.5%	1	0.5%	2	0.5%
10 Horace, City of	1	0.5%	0	0.0%	1	0.3%
11 Human Resource Management Services	0	0.0%	3	1.6%	3	0.8%
12 IC, Insurance Commissioner	1	0.5%	1	0.5%	2	0.5%
13 Industrial Commission	4	2.0%	5	2.7%	9	2.3%
14 Job Service North Dakota	0	0.0%	1	0.5%	1	0.3%
15 Labor, Dept. of	3	1.5%	3	1.6%	6	1.6%
16 Maddock School District	1	0.5%	0	0.0%	1	0.3%
17 Massage, North Dakota Board of	0	0.0%	1	0.5%	1	0.3%
18 Minot State University	0	0.0%	2	1.1%	2	0.5%
19 Munich Public School District	0	0.0%	1	0.5%	1	0.3%
20 New Town Public School District	0	0.0%	1	0.5%	1	0.3%
21 Nursing, State Board of	1	0.5%	2	1.1%	3	0.8%
22 Pingree-Buchanan Public School	0	0.0%	1	0.5%	1	0.3%
23 Professional Engineers & Land Surveyors Board	0	0.0%	1	0.5%	1	0.3%
24 PSC, Public Service Commission	1	0.5%	1	0.5%	2	0.5%
25 Public Employees Retirement Board	1	0.5%	0	0.0%	1	0.3%
26 Public Instruction, Department of	9	4.5%	3	1.6%	12	3.1%
27 Real Estate Appraiser Qualifications and Ethics, Board o	2	1.0%	0	0.0%	2	0.5%
28 Securities Department	0	0.0%	2	1.1%	2	0.5%
29 UND, University of North Dakota	7	3.5%	5	2.7%	12	3.1%
30 VP, City of Minot	1	0.5%	0	0.0%	1	0.3%
31 VP, First District Health	2	1.0%	0	0.0%	2	0.5%
32 Water Commission, State/State Engineer	2	1.0%	1	0.5%	3	0.8%
33 Workforce Safety & Insurance	111	55.5%	94	50.3%	205	53.0%
	200		187		387	

Tuesday, January 3, 2023

Total Requests Received by Agency

Files Received Between 07-01-2021 and 12-31-2022

Office of Administrative Hearings

Agency	# of Files Received	
Beach Public School District No. 3	1	0.17%
Belcourt Public School District	1	0.17%
Cosmetology, Board of	1	0.17%
DHS, Human Services, Department of	285	49.48%
Dickinson State University	1	0.17%
Education Standards & Practices Board	1	0.17%
Fargo Public School	1	0.17%
Game and Fish Department	2	0.35%
Health, Department of	1	0.17%
Horace, City of	1	0.17%
Human Resource Management Services	5	0.87%
IC, Insurance Commissioner	2	0.35%
Industrial Commission	8	1.39%
Job Service North Dakota	1	0.17%
Labor, Dept. of	4	0.69%
Lake Region State College	1	0.17%
Mandaree Public School District #36	1	0.17%
Massage, North Dakota Board of	1	0.17%
Milnor Public School District	1	0.17%
Minot State University	1	0.17%
Munich Public School District	1	0.17%
New Town Public School District	1	0.17%
Nursing, State Board of	1	0.17%
Pingree-Buchanan Public School	1	0.17%
Professional Engineers & Land Surveyors Board	1	0.17%
PSC, Public Service Commission	18	3.13%
Public Instruction, Department of	8	1.39%
Securities Department	1	0.17%
UND, University of North Dakota	13	2.26%
Washburn Public School District #4	1	0.17%
Water Commission, State/State Engineer	2	0.35%
Williston Public School District #1	1	0.17%
Workforce Safety & Insurance	207	35.94%
Grand Total:	576	

OFFICE OF ADMINISTRATIVE HEARINGS

Average Days to ALJ Decision

Decisions Issued from 10/01/2018 - 12/31/2022

	Number of Matters	Request for ALJ to ALJ Decision Issued			Hearing Held to ALJ Decision Issued		
		Average	Median	Range	Average	Median	Range
October 1, 2018 - March 31, 2019	54	290	231	64 - 808	34	28	3 - 156
November 1, 2018 - April 30, 2019	60	278	230	64 - 808	32	29	3 - 156
December 1, 2018 - May 31, 2019	63	263	206	64 - 976	28	26	3 - 105
January 1, 2019 - June 30, 2019	62	259	205	64 - 976	27	25	3 - 105
February 1, 2019 - July 31, 2019	64	244	198	64 - 976	27	25	3 - 105
March 1, 2019 - August 31, 2019	72	246	186	69 - 976	25	25	3 - 99
April 1, 2019 - September 30, 2019	79	229	169	69 - 976	24	24	3 - 99
May 1, 2019 - October 31, 2019	75	215	159	69 - 976	24	24	4 - 99
June 1, 2019 - November 30, 2019	71	214	171	69 - 834	26	25	4 - 99
July 1, 2019 - December 31, 2019	64	196	159	57 - 481	26	26	6 - 99
August 1, 2019 - January 31, 2020	71	197	158	57 - 481	27	25	1 - 99
September 1, 2019 - February 29, 2020	63	187	154	57 - 428	26	24	7 - 93
October 1, 2019 - March 31, 2020	63	184	148	57 - 428	26	24	7 - 93
November 1, 2019 - April 30, 2020	55	176	147	57 - 428	28	24	3 - 93
December 1, 2019 - May 31, 2020	56	168	147	57 - 491	28	24	3 - 89
January 1, 2020 - June 30, 2020	64	165	147	46 - 491	27	23	2 - 89
February 1, 2020 - July 31, 2020	60	159	147	46 - 491	25	23	2 - 83
March 1, 2020 - August 31, 2020	60	157	147	46 - 491	27	25	2 - 83
April 1, 2020 - September 30, 2020	61	164	155	46 - 491	27	23	2 - 83
May 1, 2020 - October 31, 2020	62	165	156	46 - 491	25	22	2 - 81
June 1, 2020 - November 30, 2020	65	164	154	46 - 338	26	24	2 - 63
July 1, 2020 - December 31, 2020	61	170	155	40 - 362	28	27	3 - 63
August 1, 2020 - January 31, 2021	56	167	153	40 - 362	29	27	3 - 63
September 1, 2020 - February 28, 2021	56	171	157	92 - 362	29	27	3 - 63
October 1, 2020 - March 31, 2021	51	173	167	40 - 362	30	27	3 - 63
November 1, 2020 - April 30, 2021	53	171	167	40 - 362	30	27	3 - 63
December 1, 2020 - May 31, 2021	47	174	168	40 - 362	30	28	3 - 98
January 1, 2021 - June 30, 2021	48	172	155	85 - 379	29	28	2 - 98

OFFICE OF ADMINISTRATIVE HEARINGS

Average Days to ALJ Decision

Decisions Issued from 10/01/2018 - 12/31/2022

	Number of Matters	Request for ALJ to ALJ Decision Issued			Hearing Held to ALJ Decision Issued		
		Average	Median	Range	Average	Median	Range
February 1, 2021 - July 31, 2021	47	174	161	74 - 379	28	27	2 - 98
March 1, 2021 - August 31, 2021	48	166	142	38 - 379	28	28	2 - 98
April 1, 2021 - September 30, 2021	50	161	143	38 - 379	25	27	2 - 98
May 1, 2021 - October 31, 2021	50	161	144	38 - 379	24	23	2 - 98
June 1, 2021 - November 30, 2021	49	165	144	74 - 462	21	21	2 - 48
July 1, 2021 - December 31, 2021	48	160	146	67 - 462	22	22	2 - 46
August 1, 2021 - January 31, 2022	50	165	150	67 - 462	25	25	6 - 82
September 1, 2021 - February 28, 2022	52	170	154	67 - 462	26	26	6 - 82
October 1, 2021 - March 31, 2022	46	176	159	67 - 472	27	26	7 - 82
November 1, 2021 - April 30, 2022	47	179	164	67 - 462	31	27	7 - 82
December 1, 2021 - May 31, 2022	49	172	162	67 - 392	32	28	7 - 82
January 1, 2022 - June 30, 2022	44	175	160	82 - 392	32	26	7 - 82
February 1, 2022 - July 31, 2022	43	185	157	82 - 428	29	24	7 - 70
March 1, 2022 - August 31, 2022	37	178	155	82 - 428	27	23	7 - 70
April 1, 2022 - September 30, 2022	39	169	151	82 - 428	27	23	7 - 70
May 1, 2022 - October 31, 2022	38	166	145	80 - 428	25	24	7 - 65
June 1, 2022 - November 30, 2022	35	166	143	59 - 428	26	24	8 - 63
July 1, 2022 - December 31, 2022	35	158	139	59 - 428	27	27	8 - 63

*Includes initial decisions for workers benefits only; does not include reconsiderations, settlements, dismissals, stipulations.
Consolidated files are counted as one unit, not separate units.*

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 Increase (Decrease) - Executive Budget			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2023-25 Biennium Base Level	5.00	\$0	\$2,881,529	\$2,881,529	5.00	\$0	\$2,881,529	\$2,881,529	0.00	\$0	\$0	\$0
2023-25 Ongoing Funding Changes												
Base payroll and budget changes			\$10,983	\$10,983			\$10,983	\$10,983				\$0
Salary increase			92,633	92,633			69,354	69,354			(23,279)	(23,279)
Health insurance increase			25,720	25,720			26,312	26,312			592	592
Information technology expenses			2,962	2,962			2,962	2,962				0
Office rent increase			6,640	6,640			6,640	6,640				0
Removes Salary Funding for Funding Pool				0				0				0
Total ongoing funding changes	0.00	\$0	\$138,938	\$138,938	0.00	\$0	\$116,251	\$116,251	0.00	\$0	(\$22,687)	(\$22,687)
One-Time Funding Items												
No one-time funding items				\$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	\$138,938	\$138,938	0.00	\$0	\$116,251	\$116,251	0.00	\$0	(\$22,687)	(\$22,687)
2023-25 Total Funding	5.00	\$0	\$3,020,467	\$3,020,467	5.00	\$0	\$2,997,780	\$2,997,780	0.00	\$0	(\$22,687)	(\$22,687)
<i>Federal funds included in other funds</i>			\$0				\$0				\$0	
<i>Total ongoing changes as a percentage of base level</i>	0.0%		4.8%	4.8%	0.0%		4.0%	4.0%				
<i>Total changes as a percentage of base level</i>	0.0%		4.8%	4.8%	0.0%		4.0%	4.0%				

Other Sections in Office of Administrative Hearings - Budget No. 140

Executive Budget Recommendation	House Version
There are no sections recommended to be added in the executive budget.	The House did not include any other sections.



North Dakota Legislative Council

Prepared for Representative Vigesaa and Senator Bekkedahl
LC# 23.9512.02000
March 2023

BUDGET STATUS - MOTION FOR PROPOSED MARCH 2023 FORECAST

GENERAL FUND REVENUE FORECASTS

The schedules below provide information on the 2021-23 biennium revised general fund revenue forecast and the 2023-25 biennium general fund revenue forecast based on the January 2023 revenue forecast adopted by the Appropriations Committees and a proposed March 2023 revenue forecast.

2021-23 Biennium Revised Forecast			
	January 2023 Revenue Forecast	March 2023 Proposed Forecast ¹	Proposed Adjustments
Tax and fee revenues			
Sales and use tax	\$2,074,400,000	\$2,080,000,000	\$5,600,000
Motor vehicle excise tax	297,300,000	301,000,000	3,700,000
Individual income tax	911,900,000	926,000,000	14,100,000
Corporate income tax	436,600,000	440,000,000	3,400,000
Oil and gas tax collections	400,000,000	400,000,000	0
Cigarette and tobacco tax	46,241,044	45,681,635	(559,409)
Wholesale liquor tax	19,812,374	19,891,278	78,904
Gaming tax	36,801,316	36,801,316	0
Insurance premium tax	126,799,744	130,725,520	3,925,776
Departmental collections	76,750,124	76,676,665	(73,459)
Interest income	13,992,750	15,292,750	1,300,000
Mineral leasing fees	84,432,749	85,621,149	1,188,400
Total tax and fee revenues	\$4,525,030,101	\$4,557,690,313	\$32,660,212
Transfers and other sources			
Bank of North Dakota profits	\$140,000,000	\$140,000,000	\$0
Mill and Elevator Association profits	14,721,950	14,721,950	0
Lottery	12,400,000	12,400,000	0
Gas tax administration	1,873,744	1,873,744	0
Budget stabilization fund (interest)	0	0	0
Strategic investment and improvements fund	410,000,000	410,000,000	0
Other miscellaneous transfers	13,143,419	13,884,266	740,847
Total transfers and other sources	\$592,139,113	\$592,879,960	\$740,847
Total general fund revenues	\$5,117,169,214	\$5,150,570,273	\$33,401,059

NOTE: The shaded rows reflect the four major tax types for general fund revenue, which are based on economic forecasting data provided by consultants (Moody's Analytics and S&P Global).

¹The amounts shown for the sales and use tax, motor vehicle excise tax, individual income tax, and corporate income tax under the March 2023 proposed forecast reflect the average of the March 2023 revised executive forecast and the March 2023 S&P Global baseline forecast. All other amounts shown under the proposed forecast reflect the amounts included in the March 2023 revised executive forecast.

2023-25 Biennium Forecast			
	January 2023 Revenue Forecast ¹	March 2023 Proposed Forecast ²	Proposed Adjustments
Tax and fee revenues			
Sales and use tax	\$2,203,500,000	\$2,210,000,000	\$6,500,000
Motor vehicle excise tax	338,500,000	343,000,000	4,500,000
Individual income tax	1,189,500,000	1,236,000,000	46,500,000
Corporate income tax	392,900,000	389,000,000	(3,900,000)
Oil and gas tax collections	400,000,000	400,000,000	0
Cigarette and tobacco tax	44,846,545	42,575,517	(2,271,028)
Wholesale liquor tax	20,268,633	19,919,584	(349,049)
Gaming tax	37,300,000	37,300,000	0
Insurance premium tax	132,499,378	139,052,009	6,552,631
Departmental collections	75,447,690	75,447,690	0
Interest income	1,639,872	1,639,872	0
Mineral leasing fees	60,000,000	60,000,000	0
Total tax and fee revenues	\$4,896,402,118	\$4,953,934,672	\$57,532,554
Transfers and other sources			
Bank of North Dakota profits	\$140,000,000	\$140,000,000	\$0
Mill and Elevator Association profits	14,700,000	14,700,000	0
Lottery	12,600,000	12,600,000	0
Gas tax administration	1,844,424	1,844,424	0
Budget stabilization fund (interest)	28,360,128	28,360,128	0
Total transfers and other sources	\$197,504,552	\$197,504,552	\$0
Total general fund revenues	\$5,093,906,670	\$5,151,439,224	\$57,532,554

NOTE: The shaded rows reflect the four major tax types for general fund revenue, which are based on economic forecasting data provided by consultants (Moody's Analytics and S&P Global).

¹The amount shown for interest income does not include interest transferred from the budget stabilization fund, which is shown separately under transfers.

²The shaded amounts shown under the March 2023 proposed forecast reflect the average of the March 2023 revised executive forecast and the March 2023 S&P Global baseline forecast. Excluding the shaded amounts, all other amounts shown under the March 2023 proposed forecast reflect the amounts included in the March 2023 revised executive forecast.

OIL PRICE AND PRODUCTION FORECASTS

The schedules below provide information on the oil price and oil production forecasts for the remainder of the 2021-23 biennium and for the 2023-25 biennium based on the January 2023 revenue forecast adopted by the Appropriations Committees and a proposed March 2023 revenue forecast. Estimated oil and gas tax revenue allocations for the 2021-23 and 2023-25 bienniums based on current law are attached as [Appendix A](#). Estimated oil and gas tax revenue allocations for the 2023-25 biennium based on proposed changes reflecting legislative action through crossover are attached as [Appendix B](#).

2021-23 Biennium		
	January 2023 Revenue Forecast	March 2023 Proposed Forecast
Average oil price	Decreasing from \$80 to \$75 per barrel (North Dakota price)	Remaining at \$75 per barrel (North Dakota price)
Average daily oil production	Remaining at 1.1 million barrels	Remaining at 1.1 million barrels

NOTE: The amounts shown for the average oil price and production reflect the forecasts for the remainder of the biennium.

2023-25 Biennium		
	January 2023 Revenue Forecast	March 2023 Proposed Forecast
Average oil price	Decreasing from \$70 to \$65 per barrel (North Dakota price)	Decreasing from \$70 to \$62 per barrel (North Dakota price)
Average daily oil production	Remaining at 1.1 million barrels	Remaining at 1.1 million barrels

ESTIMATED UNSPENT GENERAL FUND APPROPRIATIONS

The schedule below provides information on the estimated unspent 2021-23 biennium general fund appropriation authority ("turnback") and currently authorized exemptions for unspent 2021-23 biennium general fund appropriation authority ("carryover").

	January 2023 Revenue Forecast	March 2023 Agency Survey	Increase (Decrease)
Unspent 2021-23 general fund appropriations	\$169,654,150	\$214,068,515	\$44,414,365
Exemptions for unspent 2021-23 appropriations	0	(27,308,164)	(27,308,164)
Remaining unspent general fund appropriations	\$169,654,150	\$186,760,351	\$17,106,201

APPROPRIATIONS COMMITTEES MOTION - BUDGET STATUS ADJUSTMENTS

The following is a motion for consideration by the Appropriations Committees related to the 2023-25 biennium estimated revenues reflecting a March 2023 revenue forecast:

It was moved by _____ and seconded by _____ that the House (Senate) Appropriations Committees of the 68th Legislative Assembly adopt, for Legislative Council budget status reporting purposes, the following estimated revenue adjustments (as shown for the proposed adjustments in the schedules above):

- Adjustment to estimated unspent 2021-23 biennium general fund appropriations - \$17,106,201.
- Adjustment to 2021-23 biennium estimated total general fund revenues - \$33,401,059.
- Adjustment to 2023-25 biennium estimated total general fund revenues - \$57,532,554.
- Estimated oil price and daily oil production for the remainder of the 2021-23 biennium - Oil prices remaining at \$75 per barrel and oil production remaining at 1.1 million barrels per day.
- Estimated oil price and daily oil production for the 2023-25 biennium - Oil prices decreasing from \$70 per barrel in the 1st year of the biennium to \$62 per barrel in the 2nd year of the biennium and oil production remaining at 1.1 million barrels per day.

ATTACH:2

ESTIMATED OIL AND GAS TAX REVENUE ALLOCATIONS - BASED ON CURRENT LAW

The schedule below provides information on the estimated oil and gas tax revenue collections and allocations for the 2021-23 and 2023-25 bienniums based on the proposed forecast for oil price and production. The allocations reflect the formulas in current law.

Estimated Oil and Gas Tax Revenue Collections and Allocations			
	2021-23 Biennium	2023-25 Biennium	Increase (Decrease)
Collections			
Gross production tax	\$3,128,130,000	\$2,596,910,000	(\$531,220,000)
Oil extraction tax	2,897,320,000	2,543,900,000	(353,420,000)
Total oil tax collections	\$6,025,450,000	\$5,140,810,000	(\$884,640,000)
Allocations			
Three Affiliated Tribes	\$760,440,000	\$670,450,000	(\$89,990,000)
Legacy fund	1,582,530,000	1,343,220,000	(239,310,000)
North Dakota outdoor heritage fund	17,090,000	31,000,000	13,910,000
Abandoned well reclamation fund	15,640,000	14,490,000	(1,150,000)
Political subdivisions	801,160,000	682,390,000	(118,770,000)
Common schools trust fund	251,570,000	219,440,000	(32,130,000)
Foundation aid stabilization fund	251,570,000	219,440,000	(32,130,000)
Resources trust fund	515,720,000	449,860,000	(65,860,000)
Oil and gas research fund	14,500,000	10,000,000	(4,500,000)
State energy research center fund	5,000,000	5,000,000	0
State share ("buckets") ¹	1,810,230,000	1,495,520,000	(314,710,000)
Total oil and gas tax allocations	\$6,025,450,000	\$5,140,810,000	(\$884,640,000)
¹ The allocations under the state share ("buckets") include:			
	2021-23 Biennium	2023-25 Biennium	Increase (Decrease)
General fund (\$200 million limit)	\$200,000,000	\$200,000,000	\$0
Tax relief fund (\$200 million limit)	200,000,000	200,000,000	0
Budget stabilization fund (limit varies - up to \$75 million)	9,650,000	0	(9,650,000)
General fund (\$200 million limit)	200,000,000	200,000,000	0
Lignite research fund (\$10 million limit)	10,000,000	10,000,000	0
State disaster relief fund (limit varies - up to \$20 million)	15,510,000	0	(15,510,000)
Strategic investment and improvements fund (\$400 million limit)	400,000,000	400,000,000	0
Municipal infrastructure fund (\$115 million limit)	115,000,000	115,000,000	0
County and township infrastructure fund (\$115 million limit)	115,000,000	115,000,000	0
Airport infrastructure fund (\$20 million limit)	20,000,000	20,000,000	0
Strategic investment and improvements fund (no limit)	525,070,000	235,520,000	(289,550,000)
Total state share	\$1,810,230,000	\$1,495,520,000	(\$314,710,000)

ESTIMATED OIL AND GAS TAX REVENUE ALLOCATIONS - BASED ON PROPOSED CHANGES

The schedule below compares the estimated oil and gas tax revenue collections and allocations for the 2023-25 biennium based on the January 2023 revenue forecast and the March 2023 proposed revenue forecast with legislative action through crossover.

Estimated Oil and Gas Tax Revenue Collections and Allocations - 2023-25 Biennium			
	January 2023 Revenue Forecast	March 2023 Proposed Forecast	Increase (Decrease)
Collections			
Gross production tax	\$2,655,920,000	\$2,596,910,000	(\$59,010,000)
Oil extraction tax	2,601,720,000	2,543,900,000	(57,820,000)
Total oil tax collections	\$5,257,640,000	\$5,140,810,000	(\$116,830,000)
Allocations			
Three Affiliated Tribes	\$685,530,000	\$670,450,000	(\$15,080,000)
Legacy fund	1,373,750,000	1,343,220,000	(30,530,000)
North Dakota outdoor heritage fund	31,730,000	15,000,000	(16,730,000)
Abandoned well reclamation fund	14,820,000	14,490,000	(330,000)
Political subdivisions	695,590,000	682,390,000	(13,200,000)
Common schools trust fund	224,430,000	219,440,000	(4,990,000)
Foundation aid stabilization fund	224,430,000	219,440,000	(4,990,000)
Resources trust fund	460,080,000	449,860,000	(10,220,000)
Oil and gas research fund	10,000,000	14,500,000	4,500,000
State energy research center fund	5,000,000	10,000,000	5,000,000
State share ("buckets") ¹	1,532,280,000	1,502,020,000	(30,260,000)
Total oil and gas tax allocations	\$5,257,640,000	\$5,140,810,000	(\$116,830,000)
¹ The allocations under the state share ("buckets") include:			
	January 2023 Revenue Forecast	March 2023 Proposed Forecast	Increase (Decrease)
General fund (\$230 million limit)	\$200,000,000	\$230,000,000	\$30,000,000
Tax relief fund (\$250 million limit)	200,000,000	250,000,000	50,000,000
Budget stabilization fund (limit varies - up to \$75 million)	0	0	0
General fund (\$230 million limit)	200,000,000	230,000,000	30,000,000
Lignite research fund (\$10 million limit)	10,000,000	10,000,000	0
State disaster relief fund (limit varies - up to \$20 million)	0	10,250,000	10,250,000
Strategic investment and improvements fund (\$460 million limit)	400,000,000	460,000,000	60,000,000
Municipal infrastructure fund (\$115 million limit)	115,000,000	115,000,000	0
County and township infrastructure fund (\$115 million limit)	115,000,000	115,000,000	0
Airport infrastructure fund (\$20 million limit)	20,000,000	20,000,000	0
Strategic investment and improvements fund (no limit)	272,280,000	61,770,000	(210,510,000)
Total state share	\$1,532,280,000	\$1,502,020,000	(\$30,260,000)

23.0246.02001
Title.

Prepared by the Legislative Council staff for
the Senate Appropriations - Human Resources
Division Committee

Fiscal No. 1

March 27, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1017

Page 1, replace lines 8 through 13 with:

"		<u>Adjustments or</u>	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,298,644	\$119,373	\$1,418,017
Operating expenses	<u>1,582,885</u>	<u>(493)</u>	<u>1,582,392</u>
Total special funds	\$2,881,529	\$118,880	\$3,000,409
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 - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$1,298,644	\$1,415,388	\$2,629	\$1,418,017
Operating expenses	<u>1,582,885</u>	<u>1,582,392</u>		<u>1,582,392</u>
Total all funds	\$2,881,529	\$2,997,780	\$2,629	\$3,000,409
Less estimated income	<u>2,881,529</u>	<u>2,997,780</u>	2,629	<u>3,000,409</u>
General fund	\$0	\$0	\$0	\$0
FTE	5.00	5.00	0.00	5.00

Department 140 - Office of Administrative Hearings - Detail of Senate Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Removes Salary Funding for Funding Pool ²	Total Senate Changes
Salaries and wages	\$22,687	(\$20,058)	\$2,629
Operating expenses			
Total all funds	\$22,687	(\$20,058)	\$2,629
Less estimated income	<u>22,687</u>	<u>(20,058)</u>	2,629
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

¹ Salaries and wages funding is adjusted to provide for 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase	\$0	\$23,279	\$23,279
Health insurance adjustment	<u>0</u>	<u>(592)</u>	<u>(592)</u>
Total	\$0	\$22,687	\$22,687

The House provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

² Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	General Fund	Other Funds	Total
New FTE positions	\$0	\$0	\$0
Vacant FTE positions	<u>0</u>	<u>(20,058)</u>	<u>(20,058)</u>
Total	\$0	(\$20,058)	(\$20,058)