

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2011

2007 SENATE APPROPRIATIONS

SB 2011

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2011

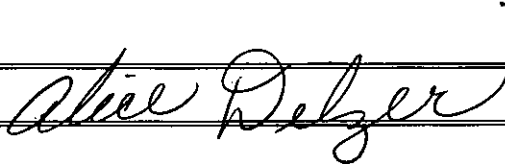
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 01-22-07

Recorder Job Number: 1508

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2011 at 9:00 am on January 22, 2007 in reference to North Dakota Securities Commissioner.

Karen Tyler, State Securities Commissioner presented written testimony (1) and gave oral testimony regarding the budget appropriation for the North Dakota Securities Department. Diane Lillis and Kelly Mathias did not testify but signed the registration in support of the bill. The primary mission of the Securities Department is to protect the North Dakota Investor through the administration of the North Dakota Securities Act (NDSA). We support this mission through our efforts in four functional areas:

1. Regulation of the Capital Formation Process and Franchise Registration.
2. Registration of Securities Industry Firms and Professionals.
3. Examinations, Investigations and Enforcement Actions.
4. Investor Education and Financial Literacy Initiatives.

This Department also administers laws pertaining to Franchise Investment, Commodities Transactions, and Pre-Need Funeral Services. We have 9 FTE's. We are a profitable agency, spending only 12 cents of every revenue dollar generated. In regard to revenue projections, please turn to the exhibits attached to my written testimony. Some of the challenges in the future are protecting the investments of the baby boomer generation, liability of Social Security,

benefit plans, continued health and education costs, and complaints filed or investigations done for consumers. We encourage investors to use great care when investing and use extreme caution when investing on the internet. The delivery of financial education (such as the Invest North Dakota Teacher Training Academy (INDTTA) held at the University of Mary, now in its 11th year) remains the hallmark of our various education programs. Over 13200 North Dakota teachers have participated in this event since its inception and we estimate that this biennium over 90,000 North Dakota students will benefit from the various financial education programs delivered by our agency.

Senator Krauter requested information regarding time share development in our state and if the Securities Commissioner monitors any activity in that area.

Senator Kilzer inquired about control their office has regarding the Internet and any fraudulent action there may be over the internet.

Karen Tyler informed this committee that indeed there is fraudulent action happening over the internet and gave an example of online accounting coming out of Asia, grabbing your password, which is "pinging", selling securities using the consumer's password and transferring funds from their portfolio. The challenge is how to block the technology that allows this to happen.

Senator Christmann asked if her office regulates real estate transactions.

Senator Holmberg asked for a vote on the bill. **Senator Robinson** made motion do pass,

Senator Krauter seconded the motion, motion carried. Bill was passed by 12 yeas, 0 nays, and 1 absent. **Senator Robinson** will carry SB 2011 to the floor. Hearing closed.

Date: 1-22-07
Roll Call Vote #: 2011

2011

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2011

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Robinson Seconded By Krauter

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

Total (Yes) 12 No 0

Absent 2

Floor Assignment Sen Robinson

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

REPORT OF STANDING COMMITTEE (410)
January 22, 2007 12:17 p.m.

Module No: SR-13-0947
Carrier: Robinson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2011: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2011 was placed on the
Eleventh order on the calendar.

2007 HOUSE APPROPRIATIONS

SB 2011

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2011

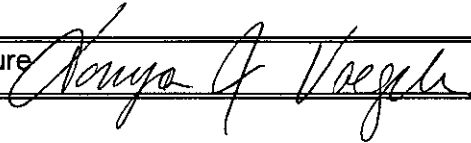
House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 2/22/07

Recorder Job Number: 3709

Committee Clerk Signature



Minutes:

Chairman Carlson opened the hearing on Senate Bill 2011.

Karen Tyler, Securities Commissioner, spoke in support of the bill. See testimony

2011.2.22.02 A.

Representative Thoreson: Out of the 51,635 agents licensed in North Dakota, how many of them are actually here?

Karen Tyler: About 1,300.

Chairman Carlson: If you are an insurance agent who also sells securities you would have to be licensed with the Securities Commission and the Insurance Department correct?

Karen Tyler: Yes.

Chairman Carlson: What about estate planning?

Karen Tyler: You would need an attorney. The securities license does not permit estate planning.

Representative Kempenich: Do you have any oversight on the fee based investors?

Karen Tyler: We do. There are rules, regulations and laws that apply to the level of fees that can be assessed to a client. All of that must be disclosed to a client.

Chairman Carlson: How many of your staff is involved in enforcement?

Karen Tyler: We have three investigators and one attorney.

Representative Kroeber: Last session when we worked on your budget, you had had a very low (bad audio) and you did not think that you would have that amount of income in the next biennium.

Karen Tyler: The number of cases that we have open right now is at 24.

Representative Kroeber: Oh, it's the number of cases not dollars.

Karen Tyler: Not dollars.

Representative Williams: What was the ninth FTE from last session?

Karen Tyler: That person is an Investigator/Examiner in Fargo.

Representative Williams: Your budget is flat from last session. The only increases I see is the 4 and 4 and a \$4,000 increase in operating. Am I correct?

Karen Tyler: That is Correct.

Vice Chairman Carlisle: Where does the money collected in settlements go? What kind of numbers are we looking at?

Karen Tyler: Yes it goes to the General Fund. It varies so much. It is hard to predict what kind of numbers we are going to be seeing. Those two investigators were added prior to my term and from what I recall what we have been able to achieve there is a structure of routine exams that simply were not taking place before. That way we can go in and find the conduct and prevent it from happening. As far as revenues are concerned on the chart that you would see in the back of my written testimony there is a break down of the revenues. I think historically we have averaged about a half million dollars without enforcement related. Our biggest revenues come in from the registration that we do.

Representative Williams: It says you get twelve cents for every dollar you bring in. How do you use that?

Karen Tyler: We use it for our investor education.

Chairman Carlson: Why would you want more than twelve cents?

Karen Tyler: We have a situation that just came up with the attorney leaving. We have posted the position and we have five responses to the posting but it is very tough to get a qualified attorney. Securities Law is very complex and we certainly don't have a lot of practitioners in the state of ND who specialize in securities law. We are going up against Wall Street firms who have very deep pockets and they use inside counsel and outside counsel and it is tough.

Chairman Carlson: Could you contract that work?

Karen Tyler: Yes.

Representative Williams: Is the twelve cents just a figure that it works out to or is it a fixed amount?

Karen Tyler: It is revenues vs. expenses.

Representative Thoreson: What will the salary be for the new attorney?

Karen Tyler: \$50,000 plus benefits.

Representative Thoreson: What is the applicants' level of experience?

Karen Tyler: They have been fresh out of law school.

Chairman Carlson: Do you have the ability for line item transfer?

Karen Tyler: Yes with approval of the Emergency Commission.

Chairman Carlson: Are you looking to fill the position quickly?

Karen Tyler: Yes.

Chairman Carlson: At this time you are using the attorney in the Attorney General's office?

Karen Tyler: That is correct. We do not have to pay him because we are a General Fund agency.

Representative Thoreson: Why did the person leave the position?

Karen Tyler: They moved out of state for family reasons.

Representative Skarphol: What was the experience of that person?

Karen Tyler: They were hired fresh out of law school ten years ago.

Chairman Carlson: Sandy, how much do they get from the equity pool?

Sandy Paulson: They have \$9,000.

Chairman Carlson: If you had to make a recommendation for a salary for the new FTE what would it be?

Karen Tyler: I would say \$70,000 to \$75,000 to try to get someone with experience.

Representative Kroeber: Do you currently have any other attorneys on staff?

Karen Tyler: No.

Vice Chairman Carlisle: What type of title would you ask for in the new attorney?

Karen Tyler: It would be an Attorney II with securities experience.

Chairman Carlson: Is your investor education working well?

Karen Tyler: Yes.

Chairman Carlson: Do they have to pay to attend the classes?

Karen Tyler: There is a \$50.00 registration fee.

Chairman Carlson: You are seeing a cost benefit to the classes?

Karen Tyler: Yes.

Chairman Carlson: Are there any optional requests that were not funded?

Karen Tyler: \$14,000 for a forty year employee's sick and annual leave.

Chairman Carlson: Sandy why was that left out?

Sandy Paulson: I will find that out.

Representative Skarphol: On the education issue you said there is 1300 teachers that have taken this class. Do you get any repeats?

Karen Tyler: We do have some teachers that come back.

Representative Kroeber: What grade level of teachers attend?

Karen Tyler: K-12

Representative Kroeber: How long is the program?

Karen Tyler: It is one week.

Representative Kroeber: Do they get any college credits?

Karen Tyler: They receive two college credits.

Representative Kroeber: How do they find out about the classes?

Karen Tyler: Through advertising.

Chairman Carlson: How many of the North American Securities Administrators Association are elected vs. appointed?

Karen Tyler: All members are appointed.

Representative Williams: Are the revenues deposited into the General fund?

Karen Tyler: Yes.

Representative Kempenich: Do you have someone who checks the internet for problems?

Karen Tyler: It depends on the nature of the complaint.

Representative Williams: if you get an attorney on staff would the operating line go down?

Karen Tyler: Not that I know of.

Chairman Carlson closed the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2011

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 3/12/07

Recorder Job Number: 4918

Committee Clerk Signature

Amya Voegel

Minutes:

Representative Thoreson distributed amendment 78035.0101.

Securities Commissioner Karen Tyler explained the memo she handed out today. See

Attachment 2011.3. 12.07A.

Vice Chairman Carlisle: The \$61,000, is that base salary plus benefits?

Karen Tyler: This is an increase in the already established salaries. This is reflecting a salary increase of \$25000 per year plus the necessary adjustments in benefits.

Chairman Carlson: What does this do to equity when we have looking at all of these attorneys through out everything talking about the Attorney General bringing his people up in equity? Does it create inequity by creating equity?

Tammy Dolan: I would have to check what it would do to all of them, but by paying a person more I guess you could be.

Representative Glassheim: So this would put them in as far as mid range.

Karen Tyler: That is correct.

A motion was made to adopt amendment 78035.0101 to Senate Bill 2011. Motion carried by voice vote.

Representative Thoreson: Karen, you said last week when we met that you had a person interested in the position. Is that person still interested?

Karen Tyler: There is interest if the salary was higher than we had hoped for this position. This person fits the position perfectly. As far as I know there is still interest.

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

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2011

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 14, 2007

Recorder Job Number: 5092

Committee Clerk Signature

Holly N. Anderson

Minutes:

Chm. Svedjan opened the hearing on SB 2011.

Rep. Williams distributed amendment .0101 (Attachment A).

Rep. Williams: You all heard this body addressed. This is one of our smaller Departments. As far as the budget is concerned you know if you look at the green sheet that the Senate made no changes to this budget. In our overview of the budget we met with Karen Tyler and a problem exists in the budget. The securities exchange investigates wrong doing on the part of the various securities. In this particular case she lost her attorney that she had on staff on February 7 after the budget was made and after the Senate hearing. The problem is that the attorney that she needs can't be an entry level attorney. The entry level attorney goes anywhere from \$46,000-\$52,000 a year. She needs someone with experience and someone who knows securities because that person is basically up against wall street lawyers. She came in to our Government Ops committee and told us of the problem. Three of us went up and met with her twice. The amendment is very clear. It's the only change in the budget. The amendment to the Department's budget is for the biennium. It calls for \$61,831. That will reflect that. It is a 4% raise and the fringe benefits. This department earns in anywhere from \$14 million a biennium. This last biennium was \$14 million. Your Government Ops committee felt that even though we were enhancing the line item for the attorney, it was money well

spent. She assured us that there would be a return on that investment. That is the one change as you can see to this budget from what was given to the executive branch and to the Senate.

Rep. Williams motioned to adopt amendment .0101. **Rep. Carlson** seconded the motion.

Chm. Svedjan: Any discussion?

Rep. Kempenich: Basically she went from an attorney 2 to an attorney 3. That is the pay grade. Again, she has someone that she can hire but not at that salary. That is very up on the securities end of the law. It seemed like a very logical way to go.

Chm. Svedjan: I hear it rumored that someone has presented themselves for this position that is highly qualified.

Rep. Williams: Yes.

Rep. Wald: How much did you say with the figure of \$14 million. Is that fines and stuff that end up in the general fund. I misunderstood that.

Rep. Williams: The primary purpose of the labor department is to supervise and investigate. Every once in awhile there are fines for licenses and other things of that nature. They turned in to the general fund those sums of money at the end of the biennium.

Chm. Svedjan: It's settlements on security fraud and such?

Rep. Klein: Just so I understand this correctly, this \$61,000 is a difference between a category 2 and category 3 attorney?

Rep. Williams: Exactly. For the biennium.

The motion to adopt amendment .0101 carried by voice vote and the amendment was adopted.

Rep. Williams motioned for a Do Pass as Amended. Rep. Carlson seconded the motion.

The motion for a Do Pass as Amended carried by a roll call vote of 21 ayes, 0 nays and 3 absent and not voting. Rep. Williams was designated to carry the bill.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2011

Page 1, line 16, replace "99,102" with "160,933"

Page 1, line 18, replace "103,558" with "165,389"

Page 2, line 1, replace "1,204,690" with "1,266,521"

Page 2, line 3, replace "1,780,001" with "1,841,832"

Page 2, line 5, replace "1,562,802" with "1,624,633"

Page 2, after line 5, insert:

"SECTION 4. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The total general fund appropriation line item in section 3 of this Act includes \$16,876 for the one-time funding identified in this section. This amount is not a part of the agency's base budget to be used in preparing the 2009-11 executive budget. The securities department shall report to the appropriations committees of the sixty-first legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

Document storage and retrieval system

\$16,876"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:**Senate Bill No. 2011 - Securities Department - House Action**

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$1,204,690	\$1,204,690	\$61,831	\$1,266,521
Operating expenses	<u>575,311</u>	<u>575,311</u>		<u>575,311</u>
Total all funds	\$1,780,001	\$1,780,001	\$61,831	\$1,841,832
Less estimated income	<u>217,199</u>	<u>217,199</u>		<u>217,199</u>
General fund	\$1,562,802	\$1,562,802	\$61,831	\$1,624,633
FTE	9.00	9.00	0.00	9.00

Dept. 414 - Securities Department - Detail of House Changes

	ADDS EQUITY FUNDING FOR ATTORNEY POSITION ¹	TOTAL HOUSE CHANGES
Salaries and wages	\$61,831	\$61,831
Operating expenses		
Total all funds	\$61,831	\$61,831
Less estimated income		
General fund	\$61,831	\$61,831
FTE	0.00	0.00

¹ The House added equity funding for the vacant attorney position.

The House added a section identifying one-time funding included in the budget and providing for a report to the 61st Legislative Assembly on the agency's use of the one-time funding.

Date: 3/12/07

Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2011House Appropriations- Government Operations Committee☐ Check here for Conference CommitteeLegislative Council Amendment Number 78035.0101Action Taken Do PASS As AmendedMotion Made By Thoreson Seconded By SKARPHOL

Representatives	Yes	No	Representatives	Yes	No
Chairman Al Carlson	✓		Vice Chairman Ron Carlisle	✓	
Rep Keith Kempenich	✓		Rep Bob Skarphol	✓	
Rep Blair Thoreson	✓		Rep Eliot Glassheim	✓	
Rep Joe Kroeber	✓		Rep Clark Williams	✓	

Total Yes 8 No 0Absent 0Floor Assignment Williams

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

Date: 3/14/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2011

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 78035.0101

Action Taken Adopt Amendment, 0101

Motion Made By Williams Seconded By Culver

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

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Roll Vote - Carries

PROPOSED AMENDMENTS TO SENATE BILL NO. 2011

Page 1, line 2, after "commissioner" insert "; and to provide for a report to the legislative assembly"

Page 1, line 16, replace "99,102" with "160,933"

Page 1, line 18, replace "103,558" with "165,389"

Page 2, line 1, replace "1,204,690" with "1,266,521"

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Page 2, after line 5, insert:

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Document storage and retrieval system \$16,876"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2011 - Securities Department - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$1,204,690	\$1,204,690	\$61,831	\$1,266,521
Operating expenses	<u>575,311</u>	<u>575,311</u>		<u>575,311</u>
Total all funds	\$1,780,001	\$1,780,001	\$61,831	\$1,841,832
Less estimated income	<u>217,199</u>	<u>217,199</u>		<u>217,199</u>
General fund	\$1,562,802	\$1,562,802	\$61,831	\$1,624,633
FTE	9.00	9.00	0.00	9.00

Dept. 414 - Securities Department - Detail of House Changes

	ADDS EQUITY FUNDING FOR ATTORNEY POSITION ¹	TOTAL HOUSE CHANGES
Salaries and wages	\$61,831	\$61,831
Operating expenses		
Total all funds	\$61,831	\$61,831
Less estimated income		
General fund	\$61,831	\$61,831

FTE

0.00

0.00

† The House added equity funding for the vacant attorney position.

The House added a section identifying one-time funding included in the budget and providing for a report to the 61st Legislative Assembly on the agency's use of the one-time funding.

Date: 3/14/07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2011

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 78035.0101

Action Taken No Pass as amendment

Motion Made By Williams Seconded By Carlson

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

Total (Yes) 21 No 0

Absent 3

Floor Assignment Williams

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

REPORT OF STANDING COMMITTEE

SB 2011: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2011 was placed on the Sixth order on the calendar.

Page 1, line 2, after "commissioner" insert "; and to provide for a report to the legislative assembly"

Page 1, line 16, replace "99,102" with "160,933"

Page 1, line 18, replace "103,558" with "165,389"

Page 2, line 1, replace "1,204,690" with "1,266,521"

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Document storage and retrieval system \$16,876"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2011 - Securities Department - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
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Operating expenses	<u>575,311</u>	<u>575,311</u>		<u>575,311</u>
Total all funds	\$1,780,001	\$1,780,001	\$61,831	\$1,841,832
Less estimated income	<u>217,199</u>	<u>217,199</u>		<u>217,199</u>
General fund	\$1,562,802	\$1,562,802	\$61,831	\$1,624,633
FTE	9.00	9.00	0.00	9.00

Dept. 414 - Securities Department - Detail of House Changes

	ADDS EQUITY FUNDING FOR ATTORNEY POSITION 1	TOTAL HOUSE CHANGES
Salaries and wages	\$61,831	\$61,831
Operating expenses		

REPORT OF STANDING COMMITTEE (410)
March 15, 2007 2:51 p.m.

Module No: HR-48-5478
Carrier: Williams
Insert LC: 78035.0102 Title: .0200

Total all funds	\$61,831	\$61,831
Less estimated income	<hr/>	<hr/>
General fund	\$61,831	\$61,831
FTE	0.00	0.00

¹ The House added equity funding for the vacant attorney position.

The House added a section identifying one-time funding included in the budget and providing for a report to the 61st Legislative Assembly on the agency's use of the one-time funding.

2007 SENATE APPROPRIATIONS

CONFERENCE COMMITTEE

SB 2011

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2011

Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: 04-09-07

Recorder Job Number: 5826

Committee Clerk Signature



Minutes:

Chairman Bowman opened the Conference Committee Hearing on SB 2011 regarding the Securities Commissioner at 9:00 am on April 9, 2007. Roll call was taken. All conferees present. They are Senators Holmberg, Lindaas; Representatives Thoreson, Kempenich, and Williams. Don Wolf, Leg. Council and Tammy Dolan, OMB were present. He asked for someone to explain the difference in the bill.

Representative Williams stated that when Senate Bill 2011 came across the security department came down to our committee and they had a situation that occurred after 11 years with the same attorney. They lost their attorney in a very invested area of securities the House appropriations committee felt that it is a good investment to add on the second sheet \$61,831 to the general fund. He discussed the salary increase and the fringe benefits. You might wonder why this department generally for the last several bienniums has turned back \$13 million. This year they're projected to turn back this biennium about \$14 million, Relative to their appropriation they send about 12 ½ cents out of a dollar It is extremely important they have someone who is capable not a person coming out of their first year of college. We made that change and we think it is a positive change. The second change is in section 4, which does not add money, just separates out a portion of the budget for a one time expenditure for a computerized retrieval system. There were questions about the breakdown of the money and it

was explained it was \$61,831 and that is all that is requested in the numerical changes. It is all general funds.

Representative Kimpenich stated it is generated money.

Senator Lindaas asked if this was in governor's budget. He was told no.

Discussion followed revealing that the person who left the position resigned on short notice and left after the governor's budget had been prepared. There were no hard feelings when he left, it was a family situation that brought about the vacancy, to fill that vacancy now is going to take a higher salary. There is one person interested in the job and that person is highly qualified. We have many dedicated people with many years of experience and we certainly don't pay them what they should be getting when we look at their longevity and experience in their field. It was discussed that state agencies are having trouble holding their people because of wages being lower than the private sector. (meter 06.22)

Chairman Bowman asked do you all agree that this session we are trying to address that issue. I think there is a lot of dollars this year in the total budget to address some of these issues that we have never done in previous sessions.

Discussion followed regarding this issue. Notation was made that the Commissioner was unavailable at this time to come to the hearing as she may be in Washington DC. More discussion revolved around salaries, different agencies and the equity pool. Chairman Bowman stated for the 17 years he's been here it has always been a problem. A lot of people use the jobs here as stepping stones for their future and that is understandable if they can advance to another firm someplace for another 10,15, or 20 thousand, why wouldn't you that is just the way it is in government.

Senator Holmberg stated if memory serves him right these are not classified positions so they don't qualify for the equity money we have put into classified. We've always had a problem

with attorneys within state government that they go here and there but I can surely see in an office as small as this one that she wants to hire someone very qualified rather than spend a lot of time training them. It's up to the chairman if he wants motions.

Chairman Bowman stated he would accept any motion.

Senator Holmberg moved the Senate accede to the House amendments on SB 2011.

Seconded by Representative Kempenich.

Chairman Bowman asked for discussion.

Senator Holmberg I think she makes a point of the fact that the person left after we had done our work. We had our hearing on the 22nd of January, 2007 and we passed it out the same day so it was prior to this request because this came up in February so we would not have had that information and if we would have had it at that time I think we would have looked at it the same way the House did. So that's why it is nice to always have two hearings.

Chairman Bowman stated it is a matter of record they are turning back dollars. They're generating a lot of money coming back to North Dakota and I think it is imperative that we hire someone with experience in this field.

A roll call vote was taken resulting in 6 yeas, 0 nays. The motion carried.

Chairman Bowman dissolved the Conference Committee and closed the Conference committee hearing on SB 2011. .

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 2011 (, as (re)engrossed):

Date: 4/8/06

Your Conference Committee Sen Approp

For the Senate:

For the House:

<u>Ch. Bowman</u>	<u>4/9</u>	<u>yes</u>	<u>Thompson</u>	<u>4/9</u>	<u>yes</u>
<u>Holmberg</u>	<u>✓</u>	<u>yes</u>	<u>Kempnick</u>	<u>✓</u>	<u>yes</u>
<u>Lindaa</u>	<u>✓</u>	<u>yes</u>	<u>Williams</u>	<u>✓</u>	<u>yes</u>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

✓ and place ✓ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the
Seventh order:

having been unable to agree, recommends that the committee be discharged and a
new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

HOUSE CARRIER: _____ SENATE CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Holmberg
SECONDED BY: Kempnick
VOTE COUNT: _____ YES _____ NO _____ ABSENT

REPORT OF CONFERENCE COMMITTEE

SB 2011: Your conference committee (Sens. Bowman, Holmberg, Lindaas and Reps. Thoreson, Kempenich, Williams) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 1192-1193 and place SB 2011 on the Seventh order.

SB 2011 was placed on the Seventh order of business on the calendar.

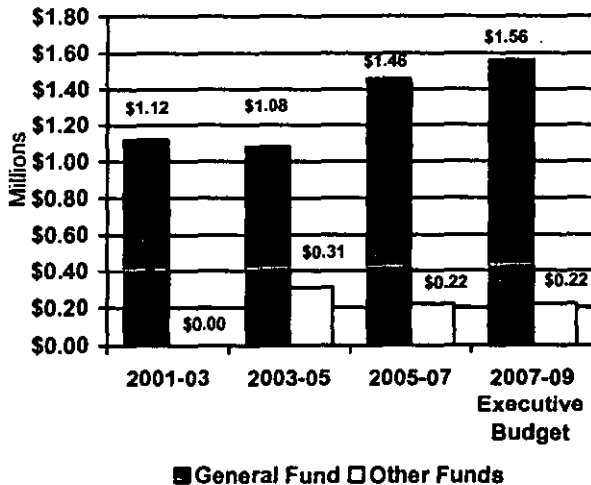
2007 TESTIMONY

SB 2011

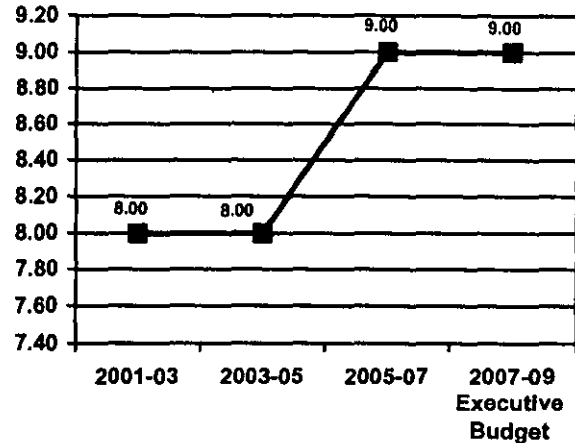
Department 414 - Securities Department
Senate Bill No. 2011

	FTE Positions	General Fund	Other Funds	Total
2007-09 Executive Budget	9.00	\$1,562,802	\$217,199	\$1,780,001
2005-07 Legislative Appropriations	9.00	1,459,244	217,199	1,676,443
Increase (Decrease)	0.00	\$103,558	\$0	\$103,558

Agency Funding



FTE Positions



Executive Budget Highlights

1. Increases funding for information technology data processing costs for a document storage and retrieval system for a total cost of \$29,984 (one-time funding)
2. Adds funding for information technology costs relating to storage, device connection, and other hosting charges
3. Removes funding for computers, which are on a four-year replacement cycle
4. Increases funding for travel costs for regional and national industry-specific training
5. Maintains funding authority from the investor education and technology fund at \$217,199 which may be used pursuant to North Dakota Century Code Section 10-04-03

	General Fund	Other Funds	Total
	\$13,330		\$13,330
	\$5,857		\$5,857
	(\$19,080)		(\$19,080)
	\$4,456		\$4,456
			\$0

Continuing Appropriations

Investor education and technology fund - NDCC Section 10-04-03 - This fund is primarily for investor education and funded with payments from tuition, grants, donations, and certain civil penalties assessed by the commissioner.

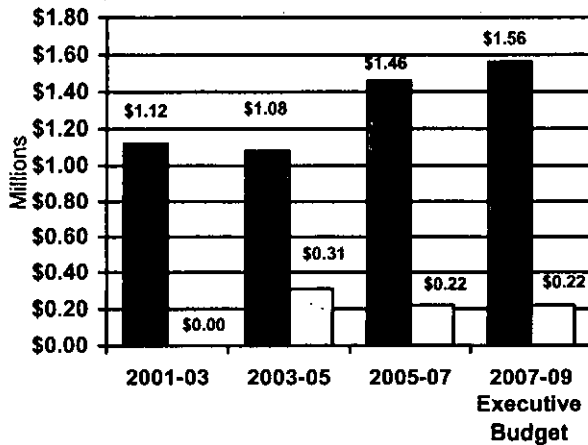
Major Related Legislation

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

Department 414 - Securities Department
Senate Bill No. 2011

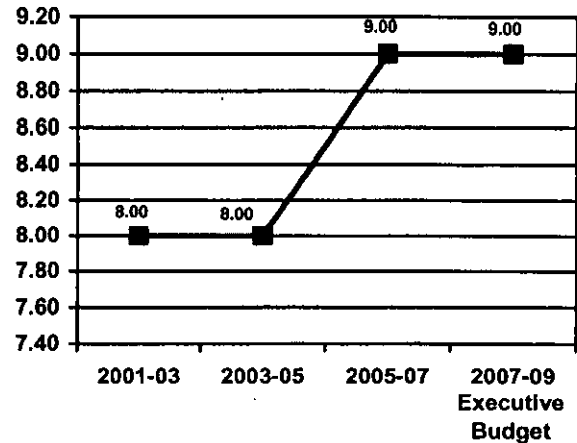
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Agency Funding



■ General Fund □ Other Funds

FTE Positions



First House Action

The Senate did not change the executive budget recommendation for the Securities Department.

Executive Budget Highlights

	General Fund	Other Funds	Total
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Continuing Appropriations

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Major Related Legislation

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(1)

Senate Bill 2011

Testimony of North Dakota Securities Commissioner Karen Tyler

Before the Senate Appropriations Committee

January 22, 2007

*State
Testimony
given to
the House*

Mr. Chairman and Members of the Committee, Good Morning. I am Karen Tyler, the State Securities Commissioner. It is a pleasure to share some time with you this morning to discuss the budget appropriation for the North Dakota Securities Department, and to answer any questions you may have regarding our agency budget request as set forth in Senate Bill 2011.

I know you are all familiar with the mission of the Securities Department so I will be brief in my description of our functionality. The primary mission of the Securities Department is to protect the North Dakota Investor through the administration of the North Dakota Securities Act (10-04).

We support this mission through our efforts in four functional areas:

- 1) Regulation of the Capital Formation Process and Franchise Registration
- 2) Registration of Securities Industry Firms and Professionals
- 3) Examinations, Investigations and Enforcement Actions
- 4) Investor Education and Financial Literacy Initiatives

This Department also administers laws pertaining to Franchise Investment (51-19), Commodities Transactions (51-23), and Pre-Need Funeral Services (43-10.1).

The North Dakota Securities Department is a small agency, with 9 full time employees. We are a profitable agency, generating over \$13 million dollars in revenue in each of the last 3 biennium periods, and we estimate approximately \$14 million dollars this biennium. The agency spends only 12 cents of every revenue dollar generated.

CAPITAL FORMATION AND FRANCHISE REGISTRATION

This agency assists businesses with the process of issuing securities for the purpose of raising capital. Biennium to date, 42 North Dakota companies have issued securities, with the aggregate original amount of the securities offerings totaling over \$80 million dollars. I have provided you with a report identifying which North Dakota companies have raised capital through securities offerings and the respective dollars amounts of each offering. We also keep a current listing of this information on our website. I would add that in addition to the North Dakota offerings I have just mentioned, there are over 18,000 active securities filings in North Dakota, the majority of which are mutual funds and unit investment trusts. In the franchise area, there are currently 662 franchises registered in the state of North Dakota, and this represents a 17% increase from the previous biennium. Both the registration of securities offerings and franchises generate revenue for the state.

REGISTRATION OF SECURITIES FIRMS AND PROFESSIONALS

All securities industry firms and professionals seeking to transact securities business in the state of North Dakota must register with this agency. This registration requirement also generates revenue for the state. The protectionary examination process conducted by this agency allows

for the screening of applicants with disciplinary histories or other public disclosures, by whom North Dakota Investors would not be well-served. Currently, registration records show:

1,263 Broker Dealer Firms

51,635 Agents

584 Investment Advisor Firms

931 Investment Advisor Representatives

The number of Broker Dealer firms doing business in the state has increased slightly, and the number of individual securities agents registered to do business in the state has increased by 13%, as brokerage firms continue to hire and the securities industry continues to see strong profit growth. We also continue to experience an increase in the number of registrations for Investment Advisors, up 22%, and Investment Advisor Representatives, up 43%, attributable to a continued shift in the brokerage industry away from transaction based business to fee based business.

INVESTIGATIONS, EXAMINATIONS, AND ENFORCEMENT

The primary objective of the Department's enforcement mandate is the return of money to harmed investors. Investigations of fraud and misconduct and subsequent enforcement actions result in monies returned to North Dakota Investors through rescission, recovery and restitution. Enforcement actions protect the integrity of our capital markets and investor confidence therein. In some cases, enforcement actions generate revenue as a result of the assessment of civil penalties against wrongdoers.

Biennium to date we have opened 130 enforcement cases and averaged 45-50 open cases on an ongoing basis. Our caseload is tracking 25% higher than the previous biennium. The agency has closed 99 enforcement cases biennium to date. The sale of securities by unregistered individuals, ponzi schemes, and unsuitable variable annuity sales represent the type of cases we are dealing with most frequently. Currently, our largest cases involve ponzi schemes fronted with real estate investments in which 46 North Dakotans invested over 5 million dollars. Unsuitable variable annuity sales, often facilitated through "free lunch" seminars, remain an area of great concern for our agency and regulators across the country, as very often our seniors are the targets of this type of activity. Biennium to date our enforcement actions have resulted in over \$1.2 million dollars returned to North Dakota investors.

INVESTOR EDUCATION AND FINANCIAL LITERACY

The delivery of financial education to our constituents of all ages will remain a priority objective of the North Dakota Securities Department in the upcoming biennium. Financial education is a preventative mechanism critical to our Investor Protection mandate and it is the first and best defense against investment fraud. Financial education helps our citizens build the knowledge they need to make good personal financial decisions. There is a direct correlation between the financial decision-making aptitude of our citizens and the economic health of our families, our communities and the state overall.

The Hallmark of our various education programs remains the Invest North Dakota Teacher Training Academy held every summer at the University of Mary. The Academy, now in its 11th year, provides our teachers with the training and resources they need to integrate financial education into the classroom curriculum. Over 1300 North Dakota teachers have participated in this event since its inception and we estimate that this biennium over 90,000 North Dakota students will benefit from the various financial education programs delivered by our agency.

BUDGET REQUEST

The total budget request for the North Dakota Securities Department is \$1,780,001. This request is 100% of the funding level from the 05-07 biennium plus \$103,558 in enhancements applied by the Office of Management and Budget. The enhancements reflect adjustments in salaries and benefits. The budget requests seeks an appropriation \$1,562,802 from the general fund and \$217,199 from the agency's special fund.

In regard to revenue projections, I would ask you to turn to the exhibits attached to my written testimony.

EXHIBITS

Attached as exhibit A is a chart showing the classification of monies collected and distributed by this agency as a result of enforcement activity in the current biennium.

Attached as exhibit B is a chart showing breakdown of the various registration revenues collected by the Department. This chart reflects collections through December 31, 2006. We

estimate that total registration revenues for this biennium will be approximately \$13 million dollars.

Attached as exhibit C is a comparison of expenditures to revenues, both historical and projected.

This concludes my testimony on SB 2011. I respectfully request your approval of the Securities Department budget as submitted, and I thank you for your consideration.

HOUSE APPROPRIATIONS COMMITTEE

SB 2011

FEBRUARY 22, 2007

SECURITIES OFFERINGS BY NORTH DAKOTA ENTITIES

JULY 1, 2005 THROUGH December 31, 2006

Date	Company	Type of Security & Purpose	City	Amount
		Registration by Qualification		
7/19/2005	MAP Dakota L.P.	Units of Limited Partnership Interest Construct, develop and operate an assisted living center.	Minot	\$2,500,000
7/21/2005	INREIT Real Estate Investment Trust	Shares of Beneficial Interest Invest in properties for management.	Minot	\$11,000,000
8/1/2005	Providential Investments, LLC	Ordinary Membership Units Facilitate development of a waste-to-energy demonstration facility.	Kulm	\$380,000
9/28/2005	Dakota Real Estate Investment Trust	Units of Beneficial Interest Invest in properties for management	Fargo	\$2,000,000
11/14/2005	LAS International Ltd.	Common Stock Water and waster water treatment	Bismarck	\$1,050,000
12/27/2005	Agraria LLC	Membership Units Establish to own restaurant .	Jamestown	\$3,000,000
8/24/2006	INREIT Real Estate Investment Trust	Investment Certificates Invest in real estate	Minot	\$1,000,000
		Category Total		\$20,930,000
		Section 10-04-06(9)(a) Limited/Offeree Exemption		
1/31/2005	Toasted Frog, LLC	Member Interests Lounge and restaurant	Grand Forks	\$100,000
8/9/2005	BOSOX, Inc.	Common Stock Operate restaurant and bar	Minot	\$1,000,000
8/9/2005	Red River Animal Emergency Clinic, LLC	Membership Interests Operate emergency clinic for animals	Fargo	\$144,000

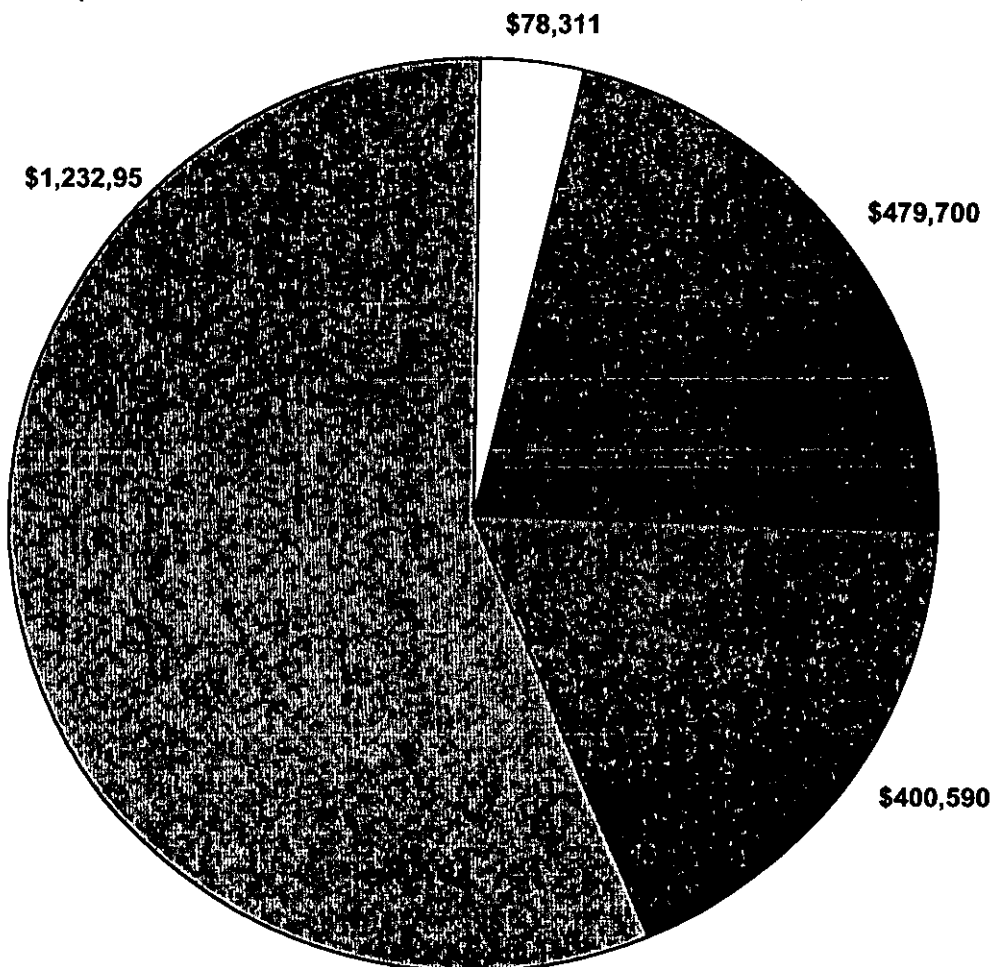
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5/23/2006	DC Holdings, Inc.	Common Stock Consulting to small businesses	Fargo	\$120,000
7/13/2006	Little Louie's, LLC	Membership Interests Potato wholesaler	Grafton	\$150,000
8/24/2006	Klose Condo Storage Limited Partnership	Limited Partnership Interests Grain storage	Eldridge	\$337,500
1/5/2007	McVile Financial Services, Inc. on behalf of Darrell Moon, a selling shareholder	Common Stock Bank holding company		\$510,000
		Category Total		\$2,461,500
Section 10-04-06 Test the Waters Exemption				
9/22/2006	M-Power One, LLC	Membership Interests Wind farm	Finley	\$250,000
11/8/2006	SEO Precision, Inc	Stock Design and manufacture mirrors and light engines	Fargo	\$250,000
		Category Total		\$500,000
Regulation D Rule 506 Notice Filings				
8/22/2005	Gold Energy, LLC	Limited Liability Company Units Develop and operate dry mill ethanol plant	Wahpeton	\$1,350,000
8/26/2005	Gruby Technologies, Inc.	Common Stock Develop & market data and imaging communication system	Bismarck	\$1,100,000
10/27/2005	Northwood Mills, LLC	Limited Liability Interests Build soybean processing plant	Grand Forks	\$3,000,000
11/7/2005	Glacial Holdings, Inc.	Debt Own and lease multi-family & commercial real estate	Minot	\$5,000,000
11/14/2005	Dakota UPREIT Limited Partnership	Partnership Interests Umbrella Real Estate Partnership	Fargo	\$3,000,000

Date	Company	Type of Security & Purpose	City	Amount
11/17/2005	Lewis & Clark Capital Fund, LLLP	Partnership Interests Investment Partnership	Fargo	\$Unlimited
11/25/2005	Redline, LLC	Membership Interests Manufacture snowmobiles	Fargo	\$540,000
1/13/2006	Lewis & Clark Stock Fund, LP	Partnership Interests Private investment partnership	Fargo	\$Unlimited
2/1/2006	Investment Centers of America, Inc.	Deferred Commission Plan Broker-dealer	Bismarck	\$Unlimited
3/23/2006	North Dakota Natural Beef, LLC	Preferred Membership Units Process, market and distribute natural beef	New Rockford	\$4,500,000
4/6/2006	Crop Circle Investments, LLC	Preferred Membership Units Purchase shares of another company	Fargo	\$5,000,000
5/3/2006	Certirestore, LLC	Membership Interests Furniture restoration	Fargo	\$1,000,000
8/2/2006	Northern Plains Investments, LLC	Membership Interests Invest in ND and MN companies	Bismarck	\$1,500,000
9/14/2006	North Dakota Sow Center LLLP	Partnership Interests	Forest River	\$12,500,000
10/11/2006	Vtrenz, Inc	Common Stock Market application solutions to manage marketing processes	Fargo	\$1,750,000
11/6/2006	MagTec Energy, LLC	Interests Engage in services involving product development	Fargo	\$6,600,000
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11/24/2006	Gruby Technologies, Inc.	Common Shares Develop and market digital imaging communication system for physicians	Bismarck	\$1,100,000
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6/27/2006	Cornerstone Holding Company, Inc.	Common Stock Bank holding company	Fargo	\$70,000
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9/25/2006	Sno-Bear Industries LLC	Membership Units Develop and sell recreational vehicles	West Fargo	\$299,200
10/30/2006	Ideal Energy Corporation	Common Stock Develop renewable fuels' projects	Bismarck	\$5,000
		Category Total		\$1,713,200
TOTAL SECURITIES OFFERINGS BY NORTH DAKOTA ENTITIES JULY 1, 2005 THROUGH DECEMBER 31, 2006				\$80,144,700

**Testimony of North Dakota Securities Commissioner Karen Tyler
Before the House Appropriations Committee
Government Operations
February 22, 2007**

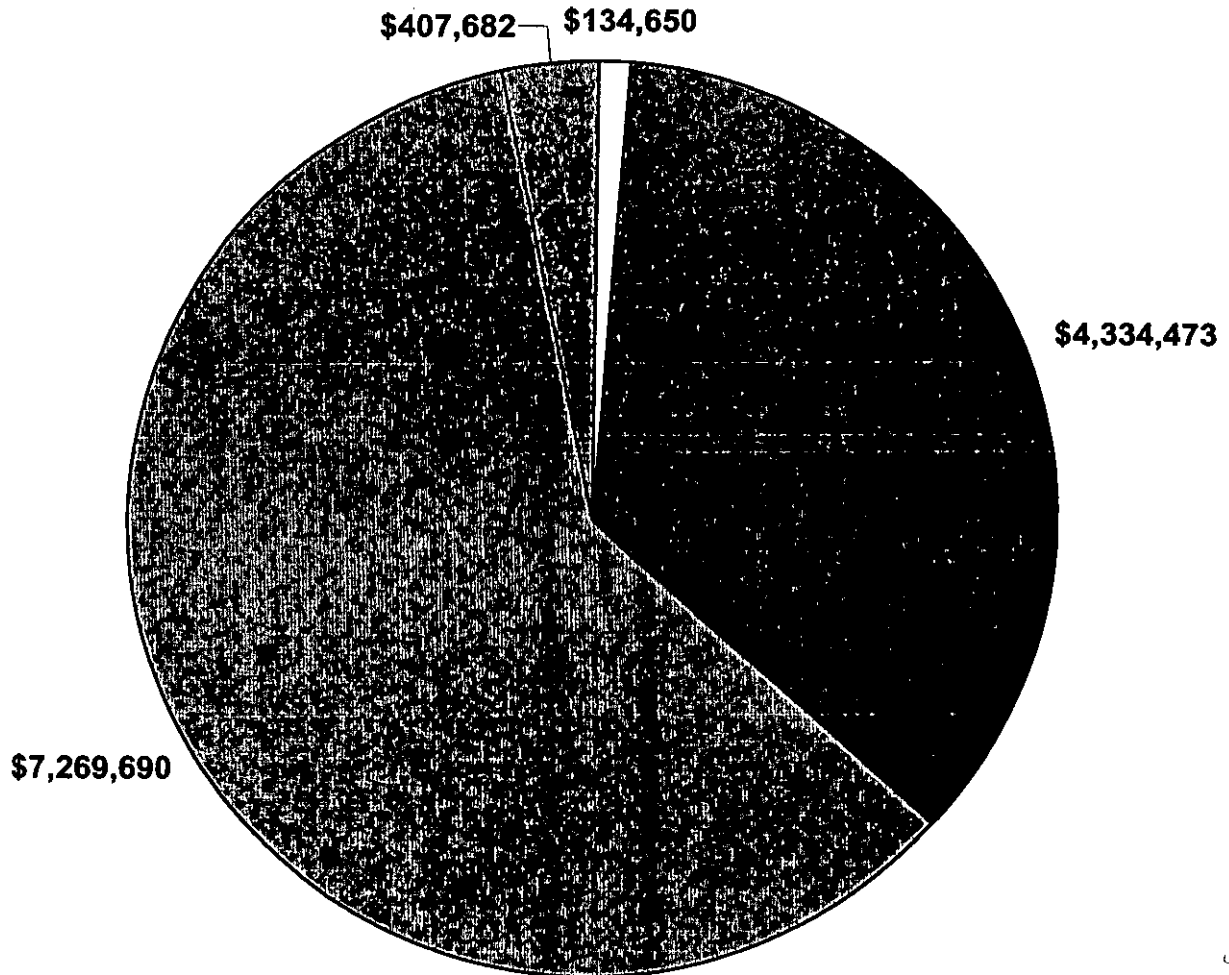
**Fines and Forfeitures
North Dakota Securities Department
July 1, 2005 Through December 31, 2006**



- ☐ Civil Penalties Collected- Paid to Investor Restitution Fund to be paid to defrauded investors.
- ☒ Civil Penalties Collected-General Fund.
- ☒ NDSD Investor Education and Technology Fund.
- ☒ Funds returned to Investors or offered to Investors as a result of Department investigation and enforcement actions. These funds do not come into possession of this office.

**Testimony of North Dakota Securities Commissioner Karen Tyler
Before the House Appropriations Committee
Government Operations
February 22, 2007**

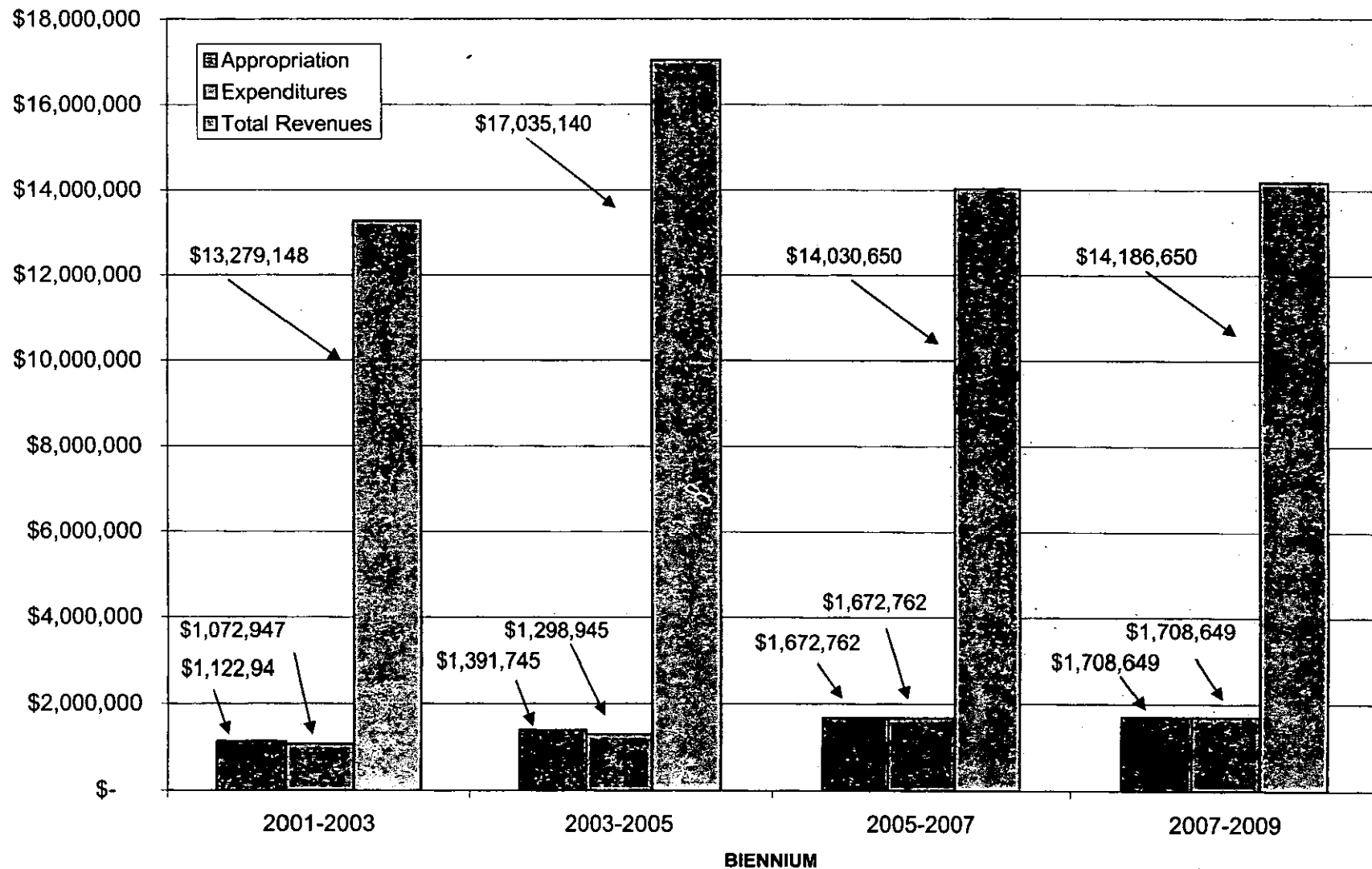
**Registration Revenues
North Dakota Securities Department
July 1, 2005 Through December 31, 2006**



- ☐ Registration of Franchise
- ☒ Securities Registration
- ☒ Securities Agents/IA Representatives
- ☒ Securities Dealers/Investment Advisor Firms

SENATE APPROPRIATIONS COMMITTEE
SB 2011
JANUARY 22, 2007

Revenues and Expenditures
North Dakota Securities Department
For Periods Ending 2003, 2005, 2007, and 2009



SENATE APPROPRIATIONS COMMITTEE
SB 2011
JANUARY 22, 2007

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MEMORANDUM

**TO: REP. KEITH KEMPENICH, REP. BLAIR THORESON,
REP. CLARK WILLIAMS**

FROM: KAREN TYLER, SECURITIES COMMISSIONER

**SUBJECT: DEPARTMENT ATTORNEY VACANCY/BUDGET
AMENDMENT**

DATE: 3/12/2007

CC:

The Securities Department Attorney vacancy occurred in early February 2007, after the Department budget had been submitted and heard by the Senate Appropriations Committee. There had been no turnover in this position for eleven years. The Department submits the following supporting rationale for increased funding for the Department Attorney position:

* The number of open investigations, examinations, and enforcement actions undertaken by the Department has been steadily increasing from one biennium to the next, and is currently consistently tracking approximately 25% higher than the previous biennium. The Department expects this trend to continue due primarily to the fact that more people are turning to the securities industry and our nations capital markets as the mechanism for building financial security. More investors = More complaints = More investigations, examinations, enforcement actions.

* Given the current and projected enforcement caseload of the Department, the complexity of securities cases generally, and the number of cases currently proceeding in litigation, the Securities Department requires an agency attorney experienced in administrative hearings, trials, and appeals. The Department must be able to attract and retain, expediently, an experienced attorney with a thorough knowledge of State and Federal Rules of Procedure, Rules of Evidence, Rules of Appellate Procedure and the Administrative Agencies Practice Act.

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* While it is understood that some training will likely be necessary for a successful candidate to build securities law expertise, it is critical that the Department secure an attorney who can deploy skill and experience to the benefit of the agency immediately.

* Many of the Department's cases involve Wall Street defendants that possess, by comparison, limitless defense counsel budgets and the ability to utilize highly specialized, highly skilled and highly compensated inside and outside defense counsel.

* The primary objective of the Department's enforcement actions is the return of money to the harmed investor. However, successful enforcement actions also normally result in the collection of general fund revenue through the assessment of civil penalties. The skill of the Department's attorney has a significant impact on the outcome of enforcement actions for both the investor-victim and the Department.

* The amendment to the Department's budget of \$61,831 reflects a salary line item increase of \$25,000 per year, plus the 4% raise for the second half of the biennium, plus the necessary adjustment in benefits.

* The Department is a revenue generating agency for the State. For every 1 dollar of revenue generated, the requested budget as amended results in expenditures of approximately 12.5 cents.

I respectfully request approval of the submitted amendment, and thank the Committee Members for their consideration.

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