

**2011 HOUSE APPROPRIATIONS**

**HB 1008**

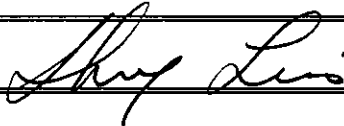
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1008  
January 11, 2011  
Recording Job # 12774

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the department of financial institutions.

## Minutes:

Chairman Thoreson: We will open the session to hear HB1008.

Robert Entringer, Commissioner, Department of Financial Institutions: See attached testimony 1008.1.11.11A.

Representative Klein: I'm looking at that figure of \$438,000.00 for travel. Would kind of explain a little bit. Do you go out to every financial institution? What's the jist of that \$438,000.00?

Robert Entringer: Yes, we do go out to each bank. So it's the cost for the state fleet vehicles, lodging, and meals. So it's all of the financial institutions, as well as, training.

Representative Kempenich: Why such a high turnover?

Robert Entringer: Of the three top positions; one person died, one retired and the other one left to go to the private sector. The examiner three's; two went to federal regulatory agencies, one passed away and one went to the private sector, and one went back to school.

Representative Kempenich: How many do you have on your staff and what kind of experience level do you have?

Robert Entringer: Currently, if you look to page 8, the department has 3 supervisory examiners. The least tenured is about 11 years experience; the other two are 20+ years of experience. We have 3 employees that are classified as examiner 3's, 6 are classified as examiner 2's, and 6 are examiner 1's. That entry level. The examiner 2's have between 2 and 4 years experience, the examiner 1's less than 2 years experience.

Representative Kempenich: Mostly college graduates?

Robert Entringer: That's correct, mostly college graduates.

Representative Klein: Do you have any CPA's on staff or are those accounting background people?

Robert Entringer: I don't think we have any CPA's on staff. Generally, we can't get those people; they're in pretty high demand from the accounting profession. We have a combination of accounting majors, business majors, banking/finance majors that we generally hire.

Testimony continued.

Representative Klein: Going back a little bit to these payday lenders. I understand, in some states, there's a lot of problems. Do you have to go to all of these and have you had any particular problems?

Robert Entringer: We do examine each one of them. We have an internal policy of every 2 years they get examined. As far as our payday lenders in North Dakota, we don't find a lot of problems. Our biggest problem, is trying to track down the unlicensed internet payday lenders.

Representative Klein: In some of the national areas there have been problems in some states. I was just wondering whether you had that problem here?

Robert Entringer: We've got some statistics as far as how many times our borrower's are using the payday lending service. I believe, most of our borrowers use it up to 6 times a year. Which is, in my opinion, is too much. It's a source of lending that they aren't afforded elsewhere.

Testimony continued.

Chairman Thoreson: How many federally chartered banks are there in the state?

Robert Entringer: I believe there are about 24.

Representative Klein: State chartered credit unions; you don't do the federal but you do the state charter. Is that correct?

Robert Entringer: That's correct.

Representative Klein: How many state chartered credit unions?

Robert Entringer: Twenty-eight.

Testimony continued.

Chairman Thoreson: Explain to me how it works if the state owned over a state chartered institution expands across the state line. Are you still responsible for regulation in the other state or do you hand that off to the corresponding state where it takes place?

Robert Entringer: We are responsible. We are, what is referred to, as the home state supervisors; so, if they branch into Minnesota we're still responsible for examining that branch. We can enter into a sharing agreement with the host state; which we have done in most cases. With the exception of Arizona, I don't believe we've used the host state examiners.

Chairman Thoreson: What about, for example, if a bank chartered in another state were to come to North Dakota. Same situation there also?

Robert Entringer : That's correct.

Chairman Thoreson: Are such institutions operating in the state at this time?

Robert Entringer: There are at least 3 that I can think of.

Representative Dahl: Just a quick question. Going back to your testimony on page 4, you said banks, trust companies and credit unions pay annual assessment that cover all direct examination costs and allocated overhead. Can you give us a break down of what that looks like? What kind of costs they're paying, on average how that is?

Robert Entringer: I don't have the average. But, what we've used, is a graduated declining scale. We use a formula that, as the asset size increases; the percentage that we charge declines. I can get you a copy of that formula and probably get back to you with some average numbers.

Chairman Thoreson: If you get that information for the committee, we'd appreciate it.

Robert Entringer: Just to clarify, you wanted that for banks and credit unions?

Representative Dahl: Just a general idea of what kind of fees and costs are being paid.

Testimony continued.

Representative Klein: Would you give me a quick summary of a trust company? Number one, name those 3 trust companies and just how they differ or what they do?

Robert Entringer: The trust companies are Heartland Trust Company, in Fargo; Frontier Trust Company, in Fargo; and American Trust Center, in Bismarck and Dickinson. Those trust companies manage people's trust accounts.

Testimony continued.

Chairman Thoreson: Those 60 deferred providers are they all located within North Dakota or are there out of state companies doing business online or via other means being licensed by the state also?

Robert Entringer: We have, I believe, 3 internet payday lenders that are licensed.

Testimony continued.

Chairman Thoreson: What is the federal S.A.F.E. Act?

Robert Entringer: The S.A.F.E Act is the Secure And Fair Enforcement Act.

Testimony continued.

Representative Kempenich: Where's, usually, your destination on these training seminars?

Robert Entringer: It's pretty much nationwide.

Representative Kempenich: You can't send one person and come back train the rest of the staff?

Robert Entringer: The bank examiners primarily go to Washington, DC. We utilize the FDIC training. To have one of them come; it's primarily on the job training. We still send them to schools; because, they always pick up something that they aren't being provided in the on the job training. Once they get past that initial training, we send our bank examiners to 4 schools; it's pretty much regimented. Beyond that, they then chose if they want to specialize in an area, like trust or IT, for example.

Representative Kempenich: It's more Washington?

Robert Entringer: Yes, that is correct.

Testimony continued.

Chairman Thoreson: Most of these are laptops or computers they take with them when they're out examining? Is that correct?

Robert Entringer: Of that 26, at least 20 of them are laptops.

Chairman Thoreson: Is there specialty software that you need to package in with that when you replace or can that be transferred from what you have currently?

Robert Entringer: The bank examination software is free; that's not included in that cost. We're upgrading the operating system. We originally budgeted for the 64 bit operating system for Windows 7; because it allows us to encrypt the hard drive and decrypt external media. ITD is working on a program that will allow us to encrypt without going outside. In other words, without buying that enhanced version of the operating system; so, if we are

able to get that by the time we buy these computers, then we would not upgrade the operating system. In addition to that, we're looking at the office suite of 2010.

Chairman Thoreson: Where do you get the software for free? Who provides that?

Robert Entringer: The FDIC.

Testimony continued.

Chairman Thoreson: The examination fees; who sets those?

Robert Entringer: For the banks and the credit unions?

Chairman Thoreson: Yes, correct.

Robert Entringer: They are set by the state banking board for the banks and state credit union board for credit unions.

Chairman Thoreson: Do you know what those currently are?

Robert Entringer: Yes, I can get you.

Representative Klein: Would you provide us a copy of what those fees are?

Robert Entringer: Yes.

Representative Klein: Then I have a question in regard to the previous session, you got some software for \$117,000.00; for the mortgage licensing. Is that in place and everything working?

Robert Entringer: Yes, it is. Mr. Chairman, my director of administration gave me average assessments, if you'd like that information. In 2009 for banks it was \$23,900.00 roughly; in 2010 it's \$25,400.00. For credit unions, the average assessment in 2009 was \$12,400.00; in 2010 it \$14,700.00.

Representative Dahl: And why the disparity between what banks pay and credit unions? Is it just because there's a lot more regulations with banks?

Robert Entringer: It's based on asset size of the institution.

Rick Clayburg, President CEO, North Dakota Bankers Association: We're in support of HB 1008. From the standpoint, I'm only speaking on behalf of the member banks in North Dakota. We want to insure that the department has well trained staff that comes out and works with our banks. We do pay the assessment; 2 years ago, we were up in front of this committee suggesting that we would support increased fees to insure that we would not have the turnover. We're in a very difficult regulatory environment right now, especially with what's coming out of Washing, DC; and with the federal reserve, FDIC to be able to

insure that we have well trained field staff that works with our banks here in North Dakota. We support the appropriations request.

Representative Kempenich: What's an average range of salaries for examiners and bank controllers?

Rick Clayburg: At this moment, I couldn't answer that without pulling a salary surveys and information. Overall, we're much the same way; in fact, many of our bankers are former examiners that worked in the industry and left the examining side of the industry to go to work for a bank and to move into management or ownership of the banks in the state. From the standpoint of the fees, as well, the state banking board; which is made up of bankers helps establish that.

Representative Klein: As this moves along, do you see more rules coming out of the federal system that are going to complicate this operation and probably end up costing more people to get involved and more money?

Rick Clayburg: We're very concerned with what has happened in Washington; with regulatory reform, the consumer financial protection bureau, the shadow banking industry did a lot to cause the problems that our nation is facing; and has faced over the last couple of years. Our regulated banks, commercial institutions in this country, according to President Obama, 96% of them had nothing to do with the subprime lending debacle that occurred. Yet most of the regulatory reform that occurred hit banks because that is a known entity and commodity. Both with credit card issues with interchange fees to consumer financial protection bureau adding layers on to our banks, the commissioner talked about the number state chartered banks has dropped a little bit. We're going to be seeing over the next couple of years more mergers and consolidations of banks in the state. That is to the detriment of the consumers, I believe.

Representative Brandenburg: Are you helping with federal side to give input; so these regulations don't end up become reality?

Rick Clayburg: From my industry and what I do at the North Dakota Bankers Association, we represent our members both here in North Dakota and also with our congressional delegation. We write, this year alone, we've probably written 30 comments letters to regulators about proposed federal regulations that are being considered and proposed and adopted. Over the past year and a half, we've had about 154 regulations promulgated on our banks in the state.

Representative Brandenburg: Just as an example, the amount of capability for a bank to loan out for a farm operation.; the needs are more and more. The larger the farms get, the more need there is for operating. It really puts a strain between you and your banker to be able to put together that package.

Rick Clayburg: From the stand point of our banks in North Dakota, they are safe, sound and secure. They have the capital they need to be able to address the credit needs of credit worthy borrowers. The problem we're facing is because of the regulatory changes and burdens. It's becoming far more onerous for a bank to be able to loan out dollars. It's

more difficult now to provider the credit needs of all customers that are coming to our banks. One of the things that occurred over the last couple of years, North Dakota has about 80% of their loan portfolios agricultural. We had federal examiners coming over the past few years saying you're too high in credit concentration in ag lending. You need to diversify out and get into commercial real estate market; and some of our banks said we don't know anything about marinas in Florida or hotels in Arizona, we're going to continue to do what we know how to do. Those banks are doing very well and are very healthy in North Dakota. We had a number of banks, though, that followed that, did diversify there loan portfolio; and they've had to take significant reductions. They are struggling little more. At this point, we haven't had a failure in North Dakota; and we hope that we won't see one in 2011 or beyond.

Chairman Thoreson: You said you send 30 some letters to the feds. Do you get a timely response on those or do they just get filed somewhere and we don't hear anything back from them?

Robert Entringer: When we send comment letters, we'll explain what a provision will mean to a North Dakota bank; pros or cons. It is not intended for us to receive a response back.

Chairman Thoreson: Do you get to see comments from other states also?

Robert Entringer: The comment is an open document in our federal. That information is available.

Chairman Thoreson: And the rules that are going to be coming down from Washington. Is that going to force changes in our administrative rule structure here in the State of North Dakota? Are we going to be seeing a whole bunch of new rules before us in the next year or two that we change what we're doing?

Rick Clayburg: I'm not anticipating having to draft administrative rules. Those laws will apply to the banks, to the extent that we're able to, we'll enforce them.

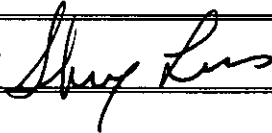
Chairman Thoreson closed the hearing.



2011 HOUSE STANDING COMMITTEE MINUTES  
House Appropriations Government Operations Division  
Medora Room, State Capitol  
HB1008  
January 24, 2011  
Recorder Job# 13283

☐ Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

A Bill for an Act to provide an appropriation for defraying the expenses of the department of financial institutions.

**Minutes:**

Vice Chairman Klein: Opened the hearing on HB1008.

Recorder malfunctioned.

Vice Chairman Klein: We're getting word from IT that their increases in data processing costs are rising?

Robert Entringer, Commission, Department of Financial Institutions: Correct. There was an upgrade that was required in order download information into our records management system from the nationwide mortgage licensing system.

Vice Chairman Klein: So your data processing increase, actually it decreased because of that change, other than that there was no major increase in the data processing area?

Robert Entringer: We based it on the fees that we were given when we met with ITD; the schedule of proposed fees for the next biennium.

Vice Chairman Klein: Did they give you a percentage?

Robert Entringer: No, they actually gave us a schedule of the fees and that's what we based it on.

Representative Brandenburg: Filled in for representative Kempenich

Representative Brandenburg: We're trying to understand why the costs for ITD are going up so much. We're just wondering if that's normal or excessive?

Vice Chairman Klein: The raises are in line with what OMB is doing? Is it the three and three?

Robert Entringer: Yes, that my understanding. That was added by OMB, that's what my understanding was.

Vice Chairman Klein: The only question that hasn't been resolved is the intent on what the raises are going to be.

Representative Kroeber: I do have a question on SB2096. Is there a bill that will have some effect on you?

Robert Entringer: I believe that SB2096 is our agency bill. There is another bill HB1038 which is the debt settlement service provider; that was introduced by the judiciary committee and that's where the fiscal note comes in to play. That would place another entity under our regulatory authority licensing; and so we did provide a fiscal note as requested. We revised that fiscal note, we had a FTE in there and we took that FTE out; and then the fiscal note includes the expenditures. The largest expenditure is ITD records management programming and online application programming. So these entities can go to our website and apply online. That's about \$115,000.00 of the fiscal note.

Representative Dahl: I was just wondering about the computers; there's about \$52,800.00 requested for that process. How often do you change out your computers and how many computers are you looking at replacing with that amount of money?

Robert Entringer: We're replacing 20 laptops and 6 desktops. We do that every 4 years.

Representative Dahl: Is everyone on the same schedule so that they all go at once or is there a rotation to that?

Robert Entringer: We're replacing every computer in the department.

Robert Entringer: You'll notice we have 26 computers and 29 FTE's. Three of those computers are leased to us for \$1.00. We get those from the national credit union administration and those are assigned to our credit union examiners. They're not on the state network or anything like that. That's why there's a 3 computer discrepancy.

Robert Entringer: See attached testimony 1008.1.24.11A.

Vice Chairman Klein closed the hearing.

## 2011 General Discussion

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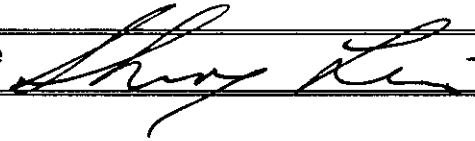
- ☐ Committee on Committees
- ☐ Rules Committee
- ☐ Confirmation Hearings
- ☐ Delayed Bills Committee
- ☒ House Appropriations
- ☐ Senate Appropriations
- ☐ Other

Date of meeting/discussion: January 24, 2011

House Appropriations – Government Operations

Recorder Job Number: 13283

Committee Clerk Signature



Minutes:

Vice Chairman Klein: Their computer replacement seems to be a proper time. Their funding for operating expenses is just about all in the pay increases, is it not?

Representative Kroeber: Yes.

Representative Brandenburg: Looking at \$475,000.00 increase in spending. I'm trying to figure where that \$475,000.00 is at. Is it all salaries? Is it because of the 2 more FTE's; because they were at 29 and they're going to be staying at 29. Would they have to spread this out over the 29 people; the \$475,000.00 increase? Where's this going?

Representative Kroeber: If you turn to his testimony on page 2, he has it all broken down. For the current biennium roughly 79% is for salaries and benefits; the remainder of the appropriation operating expenses 22%, ITD professional development. He has it broken down on rent, ITD professional development services, travel, etc.

Representative Dahl: This is all paid for by the fees from the banks and the credit unions; so this isn't general fund increases.

Vice Chairman Klein: Representative Dahl if you recall, the banks and the credit unions were here; and didn't have a problem with it. They supported the bill.

Government Operations

January 24, 2011

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Representative Kroeber: It's simply their audit costs and they have to be audited. This is the group that comes in and takes care of that for them. When they have more people, it's basically to take and perform more audits; some of which are required and some requested. They're located in 3 different areas of the state in Grand Forks, Fargo and Bismarck; 3 field office locations. We just opened one in Fargo a couple of years ago. It helps with your travel expenses and a large number of the financial institutions are in those different areas.

Vice Chairman Klein: Looking at their budget, 32% of their budget is travel. With the increases in fuel costs, I can understand that.

Representative Kroeber: Most or all of their work would be done on those computers, right? Everything they do would have to do with their computers and programs.

Representative Dahl: I assume that is right. It was more of a question of curiosity as to how they replace that.

Vice Chairman Klein: The only thing I need to square away with the leadership is how we're going to handle the raises. The 3 and 3; whether they want to do like they did 2 years ago, or whether they want to leave it in the budget. In some states there were a large number of banks on the list of possible closures. One of the things I was going over was the fees they're charging to these banks when they start falling into a category of an endangered list. I don't know of any North Dakota banks that are in trouble. So, let me get that pay raise resolved and the rest of that; I don't have any problem.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1008  
February 10, 2011  
Recorder Job# 14300

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the department of financial institutions.

## Minutes:

Chairman Thoreson opened the hearing on HB1008.

Representative Kroeber: HB1008 provides appropriation for financial institutions. The department is a self supported special funded agency with no general fund dollars. They have 29 total FTE's; which is the same last biennium. They supervise state charter banks, credit unions, trust companies, payday lenders; and they license collection agencies, payday lenders, money brokers, money transmitters and mortgage loan originators. Their total budget is \$6,662,411.00. This includes \$5,356,855.00 in salaries and wages or about 80% of their total budget. It also includes \$1,285,556.00 in operating expenses. This is a 9.4% increase over last biennium. If you look at your green sheet their operating expenses increased by \$47,680.00; this was due to travel increases, IT increases, office rent and professional development fee increases that they had. If you look at #2 on your green sheet, you have funding for department wide computer replacement. This includes 20 laptops and 6 desktops for a total of \$52,816.00; and they're replaced on a 4 year schedule. Number 3 removed funding of \$117,351.00 of one time funding for a record management system which interfaced with the national mortgage licensing system. The department has field offices that they rent in Bismarck, Fargo and Grand Forks. All testimony was in favor of HB1008. I move passage of 1008.

Representative Klein seconded the motion.

Representative Kempenich: Is that the fund they use to operate out of; there's a financial institution regulatory fund?

Tad Torgerson, Office of Management and Budget: That's their operating fund.

Representative Kempenich: It's up 7.7% from last biennium.

Tad Torgerson: I don't know if they've raised their fees.

Representative Kroeber: The fee structure, for example, on credit unions; it just depends on your asset level. If you're between \$100,000.00 to \$250,000.00, then your fee is \$221.79 for audit plus a little in excess of that \$1,000.00; and then \$5 million gets \$2,735.000 for their audits. We have the fee schedule for all of the different rates.

Representative Kempenich: Do they usually have to come in front of the legislature for fee increases?

Representative Kroeber: They're a self funded agency; so, what they do is they set their fee schedule to cover their expenses. We have 80 payday lenders in the state. They operate on a 20% interest level; and that's in 14 days. What it amounts to is if you come in and if you get \$100.00, they give you \$100.00, you give them a check for \$120.00 and it's post dated. As long as that check clears after 14 days, you're paid off. There was some talk about trying that fee; but, they said they really don't make a lot of money because of the small volume that they have.

Chairman Thoreson: I recall working with that when we went ahead with the regulation of them. I've received text messages before from out of state companies offering the service and have forwarded them to the Attorney General's office to see if they can find out where they're coming from. These are ones like on the internet that are operating in our state; but not licensed and regulated.

Representative Brandenburg: I'm curious because some of those checks can't be good so how do they collect on them?

Representative Kroeber: I did not get into that; but, that's one of the reasons they don't really make a lot of money. I'm sure they have to turn a number of those over to collection agencies and the collection agencies have a difficult time getting the money from them also.

A roll call vote was taken 7 Yes 0 No 0 Absent

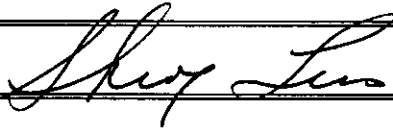
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Government Operations Division  
Medora Room, State Capitol

HB1008  
February 11, 2011  
Recorder Job# 14407

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the department of financial institutions.

## Minutes:

Chairman Thoreson opened the hearing on 1008.

Chairman Thoreson: We've had a bit of an issue arise between HB1008 and HB1038. HB1038 was sent to the full appropriations committee and we have taken action on it there. I believe the issue that regards it can be handled in the budget which we have passed in this section but have not brought to the full appropriations committee.

Robert Entringer Commissioner, Department of Financial Institutions: As you know I was notified that the fiscal note was removed from HB1038. I don't know if that causes a huge problem; because, there is no appropriation in that bill.

Representative Kempenich: There was no money attached to the fiscal note and I guess I never paid attention to budget. It was just a fiscal note.

Robert Entringer: See attached testimony 1008.2.11.11A.

Representative Klein: That \$85,000.00 of revenue; shouldn't that be dumped from the \$173,000.00 for net?

Robert Entringer: We don't account for the revenue in the appropriation we just budget for the expenditures. That's what funds the costs; so it's a net loss for the first biennium. That should be absorbed in the next biennium.

Chairman Thoreson: I'm going to defer to Legislative Council. Is this kind of what we're looking at or is there anything else we need to do?

Brady Larson, Legislative Council: Is this exactly what I was thinking.

Representative Kroeber: Do I have an old fiscal note? Is that still when we had dollars in for the FTE?

Robert Entringer: No, the FTE would have increased the total expenditures to \$310,000.00.

Robert Entringer: I think the confusion is the revenue. The revenue is never considered in the budget; that's just what funds the department. We just budget for the expenditures; then hope that we get the revenue to fund those expenditures. That's how we have to budget because we are a special fund agency.

Representative Kroeber: I still come back to my original point. On the expenditures, I have \$173,907.00 and I don't see that on the amendment at all.

Chairman Thoreson: In the bill it has -\$18,707.00; so you take that off the \$173,907.00 and you come up with \$155,200.00 is that correct?

Robert Entringer: If you look at the 3<sup>rd</sup> column, I increased the \$173,907.00. The middle column is the difference between the first column and the 3<sup>rd</sup> column.

Chairman Thoreson: We do have a proposed amendment, we have taken action on this bill in section.

Representative Klein made a motion to reconsider the action to pass out HB1008.

Representative Kroeber seconded the motion.

A voice vote was called to reconsider the action on HB1008.

Representative Kroeber made a motion to accept the amendment.

Representative Klein seconded the motion.

A voice vote was called to accept the amendment.

Representative Kroeber made a motion for a "Do Pass" on HB1008 as amended.

Representative Klein seconded the motion.

A roll call vote was taken 6 Yea's 0 Nay's 1 Absent.



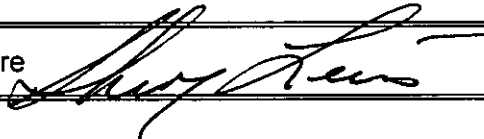
# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1008  
2/16/11  
Recorder Job# 14632

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the department of financial institutions.

### Minutes:

Chairman Delzer: This came out of Government Operations for financial institutions.

Representative Kroeber: I move we amend HB1008 with .01001.

Chairman Delzer: I would like to have a small discussion on this because this deals with HB1038.

Representative Kroeber: That's correct. This amendment is need to provide spending authority for HB1030 which passed this committee by a vote of 21-0 on 02-10-11. It's relating to the regulation of debt settlement providers. See attached 1008.2.16.11A.

Chairman Delzer: The question I have is when we dealt with HB1038, the discussion was had and my understanding of that discussion was that there would not be expenses to the financial institution.

Vice Chairman Kempenich: There was no money in the bill.

Representative Kroeber: I raised that question to the committee when that occurred, but if you look at the bottom of the Fiscal Note, it clearly states that if this bill is passed that the spending authority will have to be taken and added to HB1008; if you want to look back at the Fiscal Note on that bill.

Chairman Delzer: I understand that's what it said, but the discussion we had here seemed to indicate that the Fiscal Note was not true. We have certain times when we disregard a Fiscal Note and that's my recollection of that. I just want to make sure that we understand and everybody is on the same page from what we did with HB1038.

Vice Chairman Kempenich: In a way, during testimony on HB1038 when it was down in front of our committee, the commissioner made a statement that there was no money in that bill; because he pulled the FTE out and I think it was construed that there was not

impact to the institution. Then he came back in and explained what was actually happening with their agency.

Chairman Delzer: Representative Kroeber if you have the Fiscal Note before you from HB1038, does that include money for an FTE?

Representative Kroeber: No, it does not. It just includes the operating expenses. They said they would take and use one of the FTE's that they now have within the department that would take and do the work. But, they needed the operating expenses because IT has to set up the computer system to take and do this regulation.

Chairman Delzer: I need to ask the committee is there anyone here that wishes to have HB1038 reconsidered? It's been turned in at the floor; but, if that's the desire, we could bring it back. Otherwise we'll go forward with our discussion on this.

Vice Chairman Kempenich: It's special funds and they are projecting some revenue of \$85,000.00 on that also.

Chairman Delzer: Do the special funds revert into general funds if they're not used?

Vice Chairman Kempenich: No.

Chairman Delzer: Seeing no desire to bring HB1038 back, Representative Kroeber moves amendment .01001. Do we have a second?

Representative Thoreson seconded the motion.

Representative Bellew: If HB1038 is passed and we pass this amendment, how does that work?

Chairman Delzer: If HB1038 passes and we pass this amendment, it adds \$173,000.00 of spending authority for special funds to the department of financial institutions.

Vice Chairman Kempenich: HB1038 was strictly policy.

Chairman Delzer: There's no money in it; I misinterpreted what was said; but I would not have supported HB1038 if I'd known that. But I don't want to bring it back; we got it and that's fine.

Chairman Delzer called a voice vote .... Voice vote carries.

Representative Kroeber: Explained HB1008.

Representative Kroeber made a motion for a "do pass".

Representative Thoreson seconded the motion.

Chairman Delzer: Representative Kroeber did the section ask anything about a couple years ago we did the payday loan and I think we added some FTE's and they thought it was going to be fairly extensive on the personnel side at that time. Was there any discussion about whether that calmed down to the point where there is some room for looking at the FTE's on that side?

Representative Kroeber: I think if you'll notice the FTE's did not increase at all over this particular one. The number of payday lenders that they take and have are about 60. There are 60 differed payday lenders in the state.

A roll call vote was taken for a "do pass as amended". 21 Yea's 0 Nay's 0 Absent

Date: 2-10-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1008

House Appropriations Government Operations Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep Kroeber Seconded By Rep Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Thoreson	X		Representative Glassheim	X	
Vice Chairman Klein	X		Representative Kroeber	X	
Representative Brandenburg	X				
Representative Dahl	X				
Representative Kempenich	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Rep Kroeber

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

Date: 2.11.11  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1008

House Appropriations Government Operations Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Representative Kroeber Seconded By Representative Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Thoreson	X		Representative Glassheim		
Vice Chairman Klein	X		Representative Kroeber	X	
Representative Brandenburg	X				
Representative Dahl	X				
Representative Kempenich	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Representative Kroeber

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

V 7  
2/17/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1008

Page 1, replace line 12 with:

"Operating expenses 1,304,263 155,200 1,459,463"

Page 1, replace line 14 with:

"Total special funds \$6,086,488 \$749,830 \$6,836,318"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1008 - Department of Financial Institutions - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$5,356,855		\$5,356,855
Operating expenses	1,285,556	173,907	1,459,463
Contingency	20,000		20,000
Total all funds	\$6,662,411	\$173,907	\$6,836,318
Less estimated income	6,662,411	173,907	6,836,318
General fund	\$0	\$0	\$0
FTE	29.00	0.00	29.00

**Department No. 413 - Department of Financial Institutions - Detail of House Changes**

	Adds Funding for Operating Expenses <sup>1</sup>	Total House Changes
Salaries and wages		
Operating expenses	173,907	173,907
Contingency		
Total all funds	\$173,907	\$173,907
Less estimated income	173,907	173,907
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> This amendment adds \$173,907 of special funds for additional operating expenses associated with the estimated cost of implementing provisions of House Bill No. 1038 relating to regulation of debt-settlement providers.

Date: 2/16  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1008

House Appropriations Committee

Legislative Council Amendment Number 01001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Kroeber Seconded By Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Nelson		
Vice Chairman Kempenich			Representative Wieland		
Representative Pollert					
Representative Skarphol					
Representative Thoreson			Representative Glassheim		
Representative Bellew			Representative Kaldor		
Representative Brandenburg			Representative Kroeber		
Representative Dahl			Representative Metcalf		
Representative Dosch			Representative Williams		
Representative Hawken					
Representative Klein					
Representative Kreidt					
Representative Martinson					
Representative Monson					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

voice vote carries

Date: 2/16  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1008

House Appropriations Committee

Legislative Council Amendment Number 01001

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Kroeber Seconded By Thoreson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Nelson	X	
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol	X				
Representative Thoreson	X		Representative Glassheim	X	
Representative Bellew	X		Representative Kaldor	X	
Representative Brandenburg	X		Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch	X		Representative Williams	X	
Representative Hawken	X				
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson	X				

Total (Yes) 21 No 0

Absent \_\_\_\_\_

Floor Assignment Kroeber

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



**REPORT OF STANDING COMMITTEE**

**HB 1008: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1008 was placed on the Sixth order on the calendar.

Page 1, replace line 12 with:

"Operating expenses      1,304,263      155,200      1,459,463"

Page 1, replace line 14 with:

"Total special funds      \$6,086,488      \$749,830      \$6,836,318"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1008 - Department of Financial Institutions - House Action**

	<b>Executive Budget</b>	<b>House Changes</b>	<b>House Version</b>
Salaries and wages	\$5,356,855		\$5,356,855
Operating expenses	1,285,556	173,907	1,459,463
Contingency	20,000		20,000
	\$6,662,411	\$173,907	\$6,836,318
Total all funds			
Less estimated income	6,662,411	173,907	6,836,318
	\$0	\$0	\$0
General fund			
	29.00	0.00	29.00
FTE			

**Department No. 413 - Department of Financial Institutions - Detail of House Changes**

	<b>Adds Funding for Operating Expenses<sup>1</sup></b>	<b>Total House Changes</b>
Salaries and wages		
Operating expenses	173,907	173,907
Contingency		
	\$173,907	\$173,907
Total all funds		
Less estimated income	173,907	173,907
	\$0	\$0
General fund		
	0.00	0.00
FTE		

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<sup>1</sup> This amendment adds \$173,907 of special funds for additional operating expenses associated with the estimated cost of implementing provisions of House Bill No. 1038 relating to regulation of debt-settlement providers.

2011 SENATE APPROPRIATIONS

HB 1008

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1008  
March 3, 2011  
Job # 14905

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A bill to provide an appropriation for defraying the expenses of the department of financial institutions.

### Minutes:

See attached testimony # 1.

**Chairman Holmberg** called the committee hearing to order on HB 1008.

**Brady Larson** - Legislative Council; **Tad H. Torgerson** - OMB.

### **Robert J. Entringer, Commissioner, Department of Financial Institutions**

Testified in favor of HB 1008. Testimony attached - # 1

**Chairman Holmberg** informed committee members that HB 1038 is in Senate Industry, Business and Labor and we will not do anything nor have a subcommittee on this bill. We will just hold it for 1038 when that is disposed of one way or another. Then we can react on this budget.

### **Rick Clayburgh, President and CEO, North Dakota Bankers Association**

Testified in favor of HB 1008. No written testimony.

This is a special fund agency and their source of funding comes from our banks and the credit unions in the state. From the standpoint of our banks, we support the appropriation request. We want to ensure that the department has well trained auditors and examiners that go out and work with our banks. Our banks deal with a lot of very technical issues. There are a lot of changes that have occurred on the federal level that impacts our institutions. We understand and appreciate that the consumers of the state need to ensure that the banks in ND are safe, sound and secure, which they are. We just believe very strongly the Department of Financial Institutions should have the tools and resources necessary to ensure they have well trained examiners as they deal with our banks in the state.

### **Jack McDonald, Independent Community Banks of ND (Lobbyist #266)**

Testified in support of HB 1008. No written testimony.

We also support the appropriation request from the Department of Financial Institutions. They are a well run organization and we work with them a lot. We'd certainly appreciate a do pass on their appropriation.

**Chairman Holmberg** closed the hearing on HB 1008.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1008 committee vote  
March 24, 2011  
Job # 15924

☐ Conference Committee

Committee Clerk Signature

*Rose Tanning*

### Explanation or reason for introduction of bill/resolution:

A bill to provide an appropriation for defraying the expenses of the department of financial institutions.

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee hearing to order on HB 1008.

**Senator Wardner** moved Do Pass on HB 1008.  
**Senator Robinson** seconded.

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

**Senator Robinson** will carry the bill.

**Chairman Holmberg** closed the hearing on HB 1008.

Date: 3-24-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1008

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Wardner Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Robinson

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

**REPORT OF STANDING COMMITTEE**

**HB 1008, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
Engrossed HB 1008 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

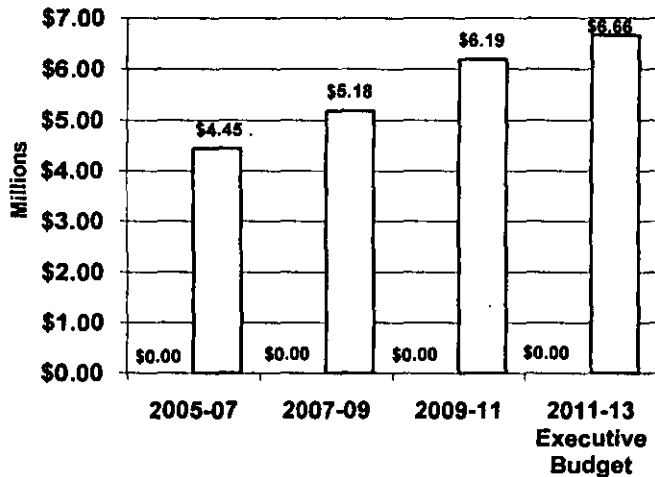
HB 1008

**Department 413 - Department of Financial Institutions**  
**House Bill No. 1008**

	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	29.00	\$0	\$6,662,411	\$6,662,411
2009-11 Legislative Appropriations	29.00	0	6,186,488	6,186,488 <sup>1</sup>
Increase (Decrease)	0.00	\$0	\$475,923	\$475,923

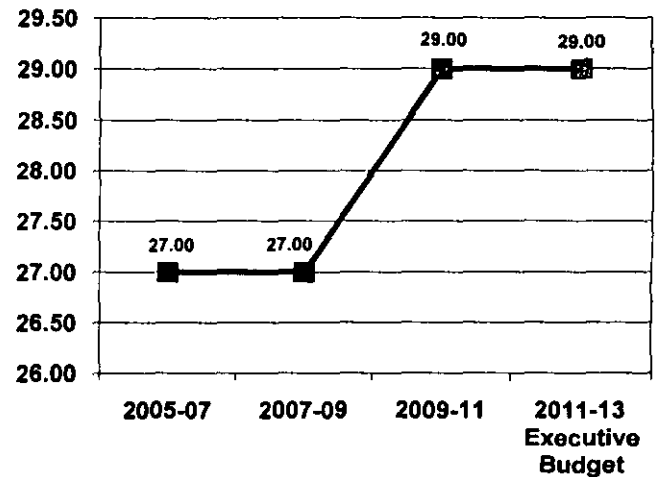
<sup>1</sup>The 2009-11 appropriation amounts include \$100,000 of other funds for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees.

**Agency Funding**



■ General Fund □ Other Funds

**FTE Positions**



**Executive Budget Highlights**

1. Adjusts funding for operating expenses
2. Adds funding for computer replacement
3. Removes one-time funding provided in the 2009-11 biennium for the development of a software interface with the National Mortgage Licensing System

General Fund	Other Funds	Total
	\$47,680	\$47,680
	\$52,816	\$52,816
	(\$117,351)	(\$117,351)

**Continuing Appropriations**

No continuing appropriations for this agency.

**Major Related Legislation**

**House Bill No. 1038** requires the Department of Financial Institutions to regulate debt-settlement providers. The estimated 2011-13 biennium special funds fiscal impact of the bill includes revenues of \$85,950 generated through licensing and examination fees and expenditures of \$173,907 related to licensing costs, examination costs, and information technology programming costs.



1-11-2011

## TESTIMONY FOR HOUSE BILL NO. 1008

House Appropriations Committee-Government Operations Division

Testimony of Robert J. Entringer, Commissioner, Department of Financial Institutions in support of House Bill No. 1008

Chairman Thoreson and members of the Committee, I am Bob Entringer, Commissioner for the Department of Financial Institutions. I am here today to testify in support of the Department of Financial Institutions 2011-2013 appropriation of \$6,662,411.

***FINANCIAL AUDIT FINDINGS***

Mr. Chairman, the Department's most recent audit was for the two-year period ended June 30, 2008. One finding was included in the audit related to the cash balance in the financial institutions regulatory fund at the end of the 2005-2007 biennium exceeding the amount allowed per North Dakota Century Code (NDCC) section 6-01-01.1(3). The auditors found that the fund's cash balance at the end of the biennium was \$1,406,281; according to the audit report we could not exceed a cash carryover of \$1,036, 372 and therefore we exceeded the amount allowed by \$369,909. No recommendation was made as SB 2160 in the 2009 Legislative Session amended Section 6-01-01.1, of the North Dakota Century Code to clarify that fees collected for use in the next succeeding biennium were excluded.

The audit also included a finding from the prior audit which was only partially implemented; the finding was also in relation to exceeding the biennial cash balance limit from the previous audit.

***APPROPRIATION 2009-2011 VERSUS 2011-2013 REQUEST***

The 2009-2011 Appropriation is \$6,186,488; the majority of the Department's appropriation has always been in the salary line item. For the current biennium, roughly 79% or \$4,862,225 of our appropriation is for salaries and benefits. The remainder of the appropriation was operating expenses of which 32% is travel, 22% was IT Data Processing, 13% is office rent and nearly 10% is professional development. A large portion of the IT Data Processing was related to a new licensing authority granted in the 2009 Legislative Session and the need to update our Records Management system to keep track of that information.

Based on current projections we are estimating ending the biennium with total spending of approximately \$5,900,000. The estimated spending is broken down between salaries of \$4,681,000 and operating expenses of \$1,219,000.

The 2011-2013 appropriation request is for \$6,662,412 and includes \$5,356,856 for salaries and benefits or 80% of the appropriation request. The remainder of the appropriation request is operating of \$1,285,556; major

items in the operating line item include travel of \$438,400, IT equipment of \$63,416, office rent of \$174,200, IT data processing of \$171,200, professional development of \$137,600, and professional services of \$85,700. As you can see 34% of operating is travel, 5% is IT equipment, 14% is office rent, 13% is IT data processing, 11% is professional development and 7% is professional services.

Major variances are primarily in the salary line; the reason for the variance is the departure of 3 of the top 4 positions in the department during the biennium as well as examiner turnover including 5 Examiner III's resigned, 4 of which were replaced by entry level examiner's. Another major variance is the purchase of IT equipment during the next biennium; however, that is offset by the decline in IT data processing due to the upgrade of our internal records management system.

One time spending needs are included in a revised fiscal note to HB 1038 which includes necessary upgrades to our internal records management system and online licensing, assuming the bill is passed.

#### ***DEPARTMENT SUPERVISORY AUTHORITY***

The Department of Financial Institutions supervises state-chartered banks, credit unions, trust companies, and other financial corporations which include collection agencies, money brokers, deferred presentment service

providers (payday lenders), money transmitters, and mortgage loan originators. The Department also has examination responsibilities for the Bank of North Dakota.

The Department is a special fund, self-supporting agency, with no general fund dollars. The Department's budget consists of three cost centers: (1) banks and trust companies, (2) credit unions, and (3) consumer licensees. Banks, trust companies, and credit unions pay annual assessments that cover all direct examination costs and allocated overhead for the respective cost centers. Trust Companies also pay examination fees for their safety and soundness examinations. The State Banking Board and State Credit Union Board set the assessment formula to cover the examination and allocated overhead costs for the respective industry. Additionally, consumer licensees pay the following fees for the processing and supervisory responsibilities related to the consumer cost center: investigation fees upon initial licensing, annual license fees, and examination fees when an examination is performed.

### **State-Chartered Banks**

Currently there are 77 state-chartered banks, plus the Bank of North Dakota, which compares with 81 state-chartered banks two years ago. The number of banks has remained relatively stable over the past several years

although we continue to see merger and consolidation activity. While we have seen a reduction in the total number of banks over the past decade, assets continue to grow from \$11.077 billion on September 30, 2008 to \$12.308 on September 30, 2010, an 11% increase; the continued increase in the asset base correspondingly increases the Department's responsibilities and time needed to conduct examinations. Many of our institutions continue to branch, some across state lines, which also increases the Department's responsibilities, examination time and other resources to conduct these examinations. The overall loan volume continues to grow and puts additional time constraints on examiners, as this is one of the main areas of emphasis during an examination. Not only has loan volume grown, but the complexity of many of the commercial loans we review has also increased. Currently the Department has 16 field bank examiners who conduct examinations throughout the State of North Dakota. The Department has 3 field office locations: Grand Forks, Fargo, and Bismarck.

#### **State-Chartered Credit Unions**

Currently there are 28 state-chartered credit unions, which is three less than two years ago. Credit unions also continue to show growth, with total assets increasing from \$1.586 billion on September 30, 2008, to \$1.893 billion as of September 30, 2010. This represents a 19.4% increase in total

assets. The credit union division has three examiners to conduct the examinations of state-chartered credit unions.

### **State-Chartered Trust Companies**

Currently there are three state-chartered trust companies for which the Department has oversight responsibility. The independent trust company examinations are conducted by bank examiners who have acquired specialized trust examination training. The total combined fiduciary assets as of September 30, 2010 of the three independent trust companies was \$12.907 billion which compares to \$9.265 billion as of September 30, 2008; this represents a 39% increase and is due primarily to our largest independent trust company. Currently the Department has 3 examiners trained or being trained in the area of trust company/trust department examinations.

### **Consumer Licenses**

The consumer division licenses a combined 1,578 entities including collection agencies, money brokers, mortgage loan originators, deferred presentment service providers (payday lenders), and money transmitters. The breakdown of the licensees includes 818 mortgage loan originators, for which we are responsible to track the pre-licensing and continuing education requirements; the remaining 760 consumer licensees represent 440

collection agencies, 60 deferred presentment service providers (payday lenders), 229 money brokers, and 31 money transmitters. Our consumer division conducts examinations of the collection agencies, deferred presentment service providers (payday lenders), money transmitters and money brokers. As a result of the federal S.A.F.E. Act legislation the Department has now begun routine examinations of mortgage companies; we added an FTE who specializes in mortgage lender examinations. I would note that we did originally include an FTE in a fiscal note (copy attached) to HB 1038; however, the fiscal note was revised to eliminate the FTE due to the low volume of projected new licenses. We will likely ask to increase our appropriation to cover the operating and one-time expenses for the IT Data processing and online licensing application if House Bill No. 1038 passes.

### ***OVERVIEW***

As indicated, the Department has asked for a total budget of \$6,662,411. This amount represents \$5,356,855 in salaries and wages, or approximately 80% of the total budget. The Department has requested \$1,285,556 in operating expenses; and \$20,000 contingency expense. This is approximately a 9.4% increase over our prior budget; the increase in the prior budget is accounted for by the increase in salaries and benefits. The

Department's travel expenses continue to rise with the increased costs of traveling to the banks and credit unions, and for training which is outside the state. Registration fees and airline costs continue to escalate; however, this training is needed to keep the examiners updated on the most recent laws and examination issues.

It should be noted that the Department has not replaced its computers since 2007 and has budgeted for all computers (26) to be replaced in this biennium; we have budgeted approximately \$53,000 for hardware and related software expense of approximately \$20,000.

The Department currently has 3 bank Supervisory Examiners as well as 3 employees who are classified as Examiner III's, 6 classified as an Examiner II, and 6 classified as Examiner I's for the examination of banks and credit unions. It is anticipated the Examiner II positions would be promoted to Examiner III's by the end of the next biennium. The Department continues to struggle with turnover, but hopes to remain competitive with the banking and credit union industries as well as the other regulatory agencies. The Department turnover is still impacted by the large amount of travel the examiners encounter and also competitive salary pressure from both the private and federal government sector.



### ***FISCAL NOTE***

I referred to the fiscal note to HB 1038 earlier; I have included a copy of the revised fiscal note for your reference. We removed the FTE and any associated expenses (desk, computer etc) due to the anticipated volume of licenses. We will need the operating expenses which includes travel and IT Data Processing as the major ongoing expenses. The one-time expenses of IT Record Management programming and the Online Application programming are to update our website to allow applicants to apply electronically and of course transfer that data into our database. I would note the most of the travel would be recovered through examination fees; however, some of the expense would be associated with training one of our staff members in examination techniques of these entities.

Mr. Chairman and members of the Committee thank you for your time and I would be happy to answer any questions you may have.

# FISCAL NOTE

Requested by Legislative Council  
12/15/2010

Bill/Resolution No.: HB 1038

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>		\$0		\$85,950		\$151,530
<b>Expenditures</b>		\$0		\$173,907		\$93,099
<b>Appropriations</b>		\$0		\$0		\$0

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This House Bill will require Debt-Settlement Providers to be licensed and regulated. This will have no fiscal impact to the general fund however will have a negative impact to the special regulatory fund.

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

The Department of Financial Institutions is a self-funded regulatory agency and the revenue from the licensing will be deposited into the regulatory fund. The expenditure will include operating expense and programing cost for implementation of online licensing.

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

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

License 35 per year @ \$400 \$28,000  
Investigation fee 35 @ \$400 \$14,000  
Exam Fees 6 to be completed \$43,950  
(includes motel, air fare,  
Meals and salaried hours)

Total Revenue 2011-2013 \$85,950

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

Office Supplies 308  
Travel 24,750  
IT Telephone 893  
Printing 2,224  
IT Data Processing 17,160  
Postage 667  
Professional Dev (Schools) 3,174  
Professional Services (Legal) 7,674  
Operating Fees & Ser 1,407  
  
IT Record Mgmt programming 85,650  
On Line Application programming 30,000  
  
Total Expenditures \$173,907

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

This bill does not include any appropriation in the executive budget. The Department of Financial Institutions will ask to increase appropriation House Bill 1008 for the operating line item if this bill passes.

**Name:** Joan Becker  
**Phone Number:** 701-328-9958

**Agency:** Department of Financial Institutions  
**Date Prepared:** 01/06/2011

1008.1.24.11A

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# North Dakota Trends In Deferred Presentment

North Dakota 2010 Annual Trends Report  
January 19, 2010

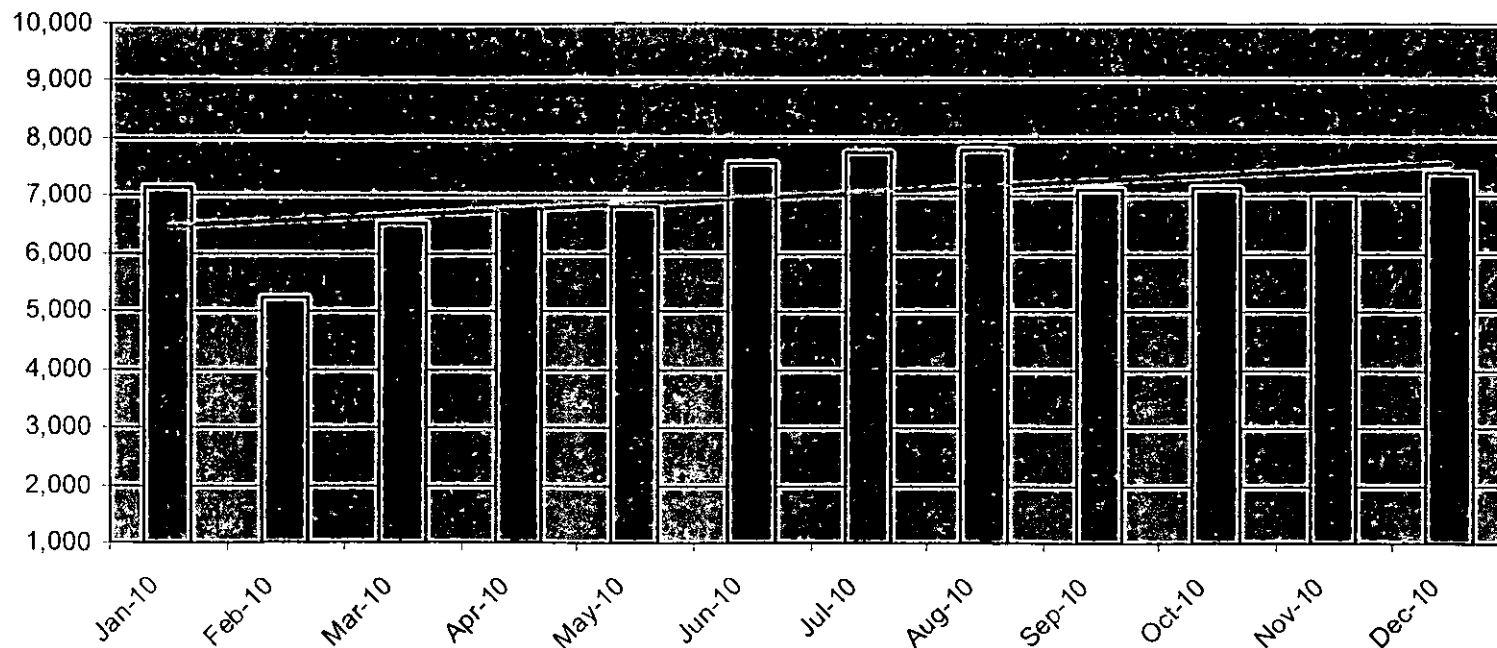
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## Transaction Volume

*Approximately 84,260 transactions were conducted for the period from January 2010 – December 2010 representing a total advance amount of \$25.9 million and total advance fees of \$5.1 million.*

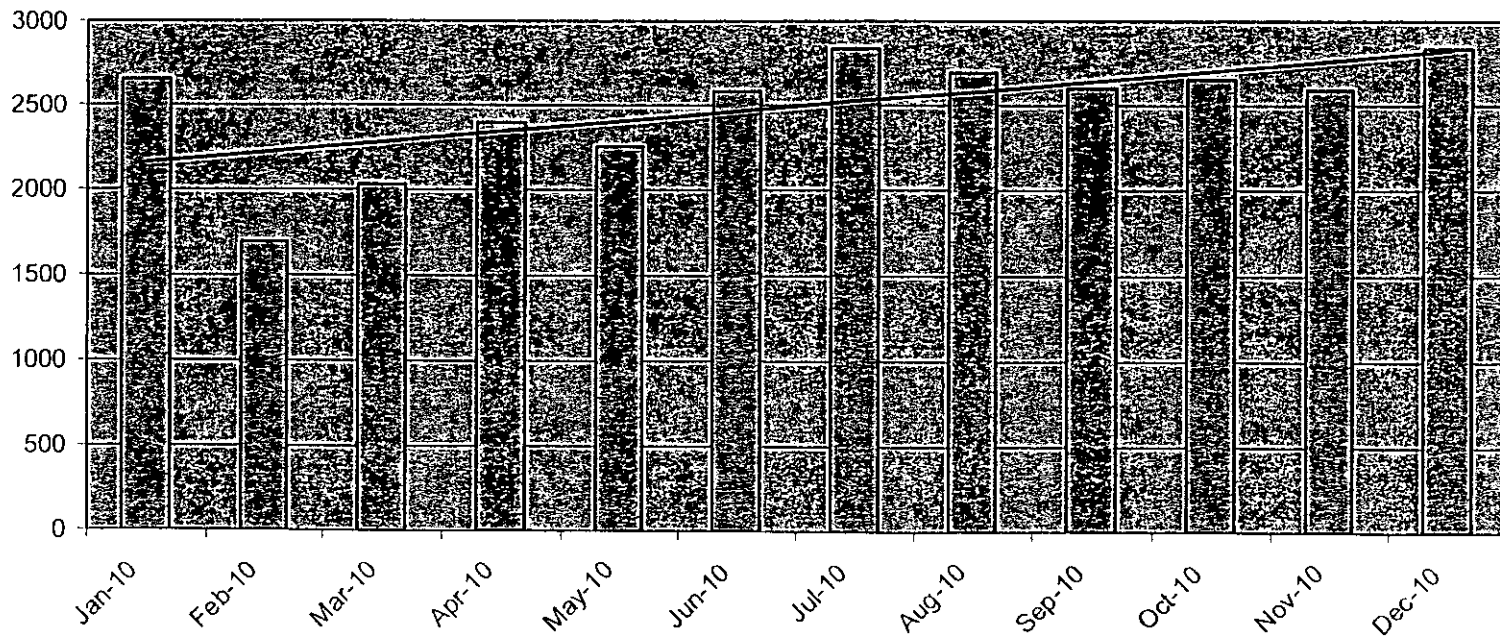
Transaction Volume by Month



## Renewal Volume

*Approximately 29,834 transactions were renewed during the period from January 2010 – December 2010 representing a total advance (i.e. renewal) amount of \$10.0 million and total advance fees of \$2.0 million.*

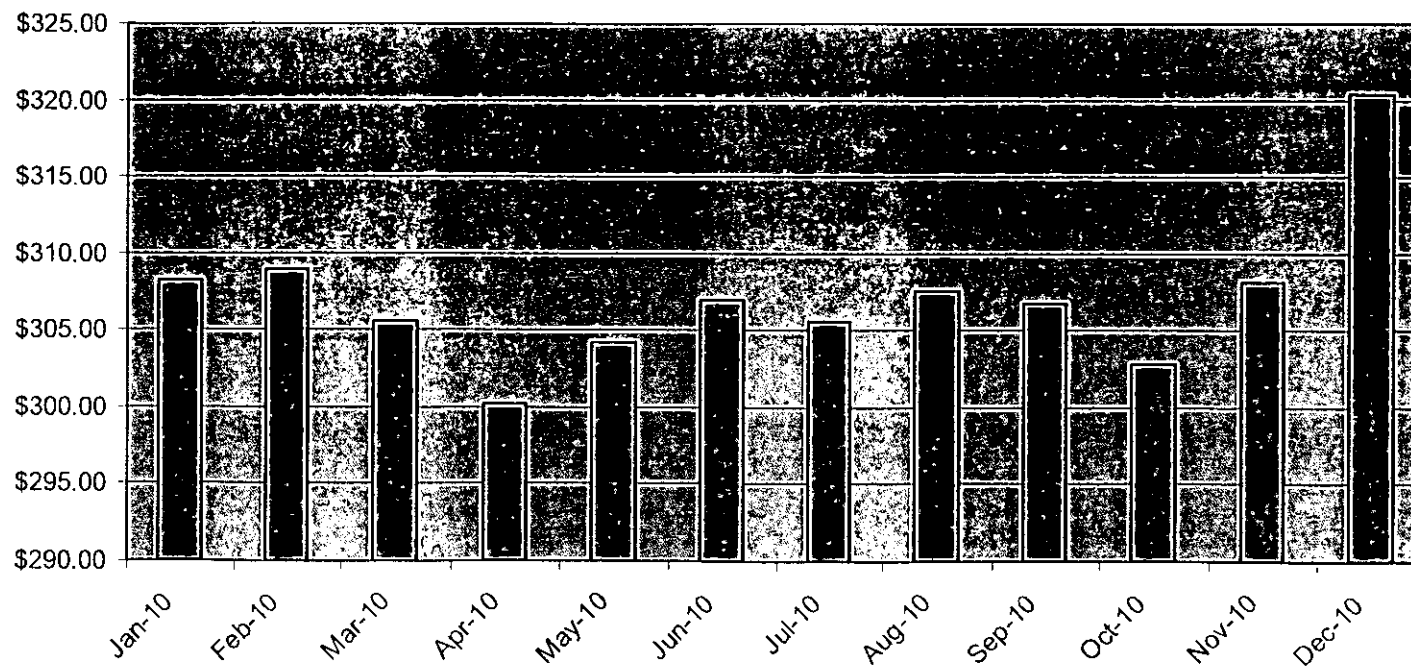
Transaction Renewal Volume by Month



## Average Finance Amount

*The average advance amount during the period from January 2010 – December 2010 was \$307.18. The average advance amount increased by approximately 4.0 percent during the period from January 2010 (\$308.22) – December 2010 (\$320.39).*

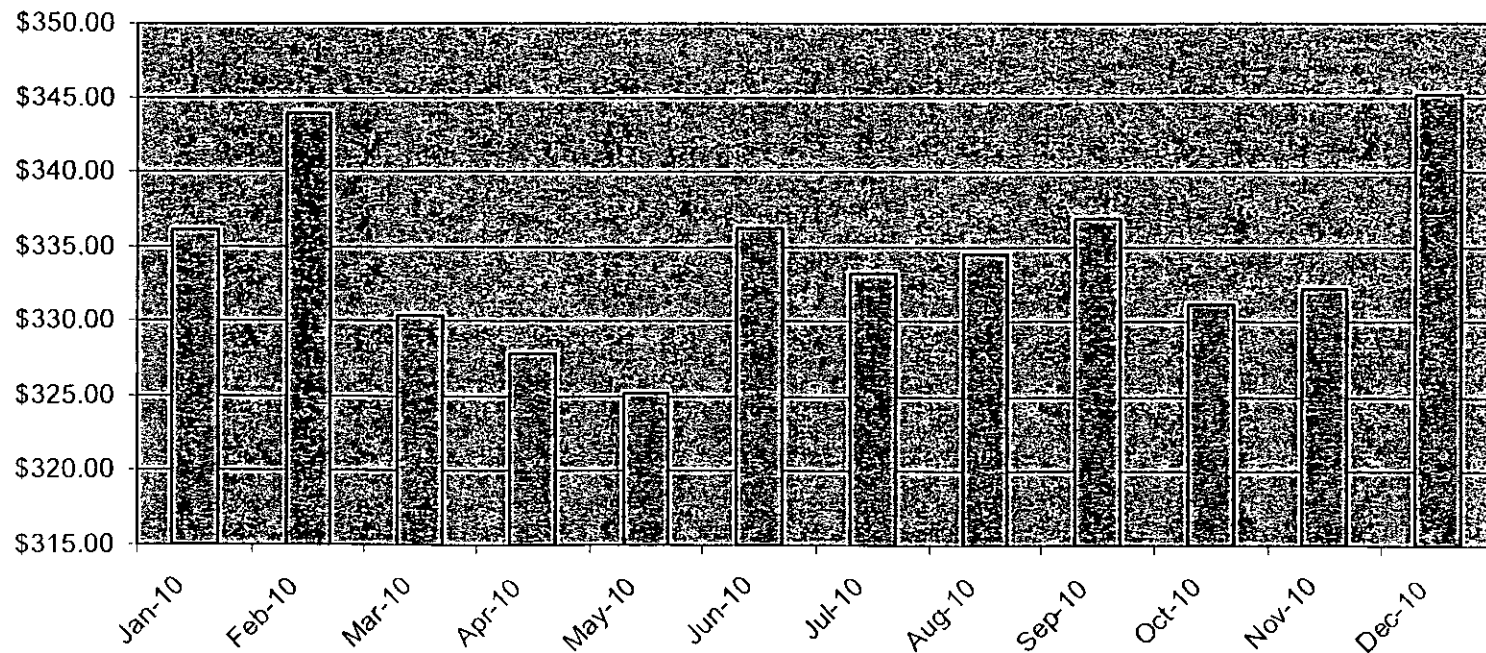
Average Advance Amount



## Average Renewal Amount

*The average renewal advance amount during the period from January 2010 – December 2010 was \$334.42. The average increased by approximately 2.7 percent during the period from January 2010 (\$336.08) – December 2010 (\$345.23).*

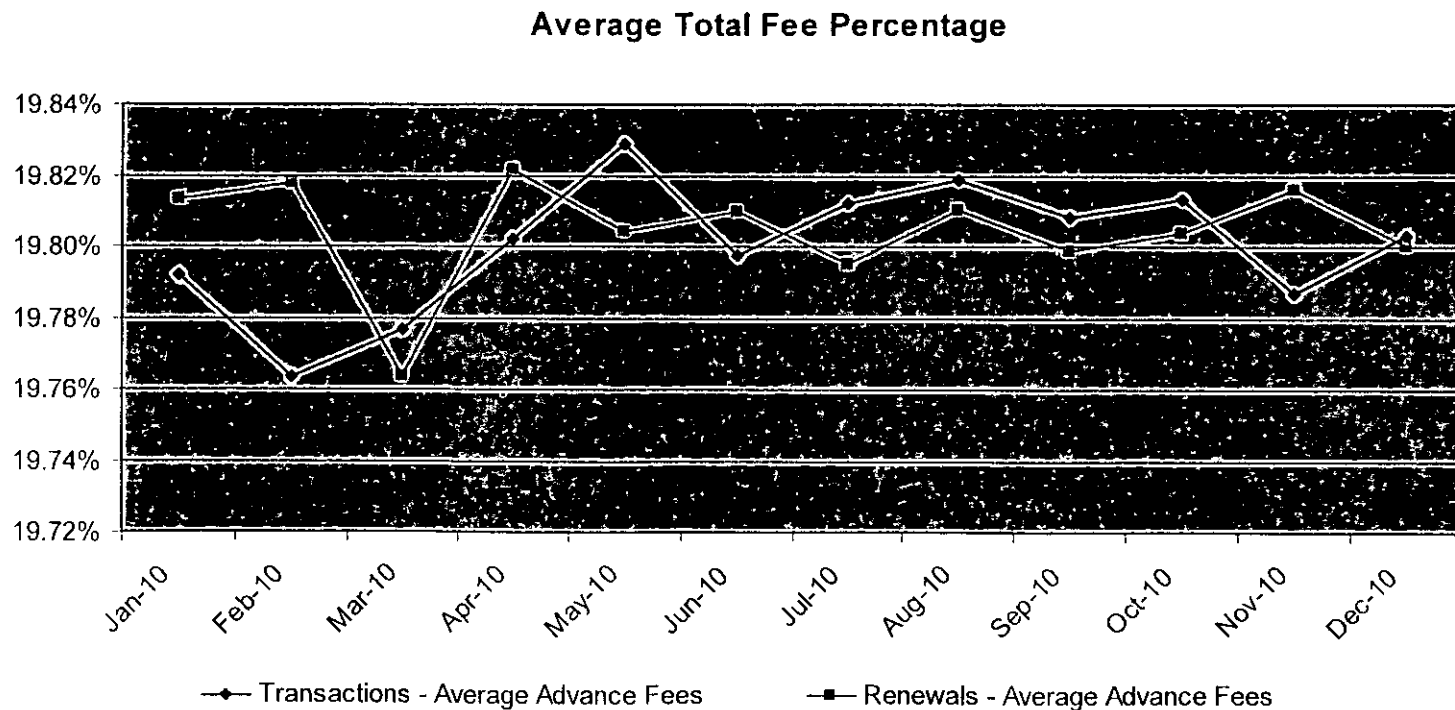
**Average Renewal Advance Amount**





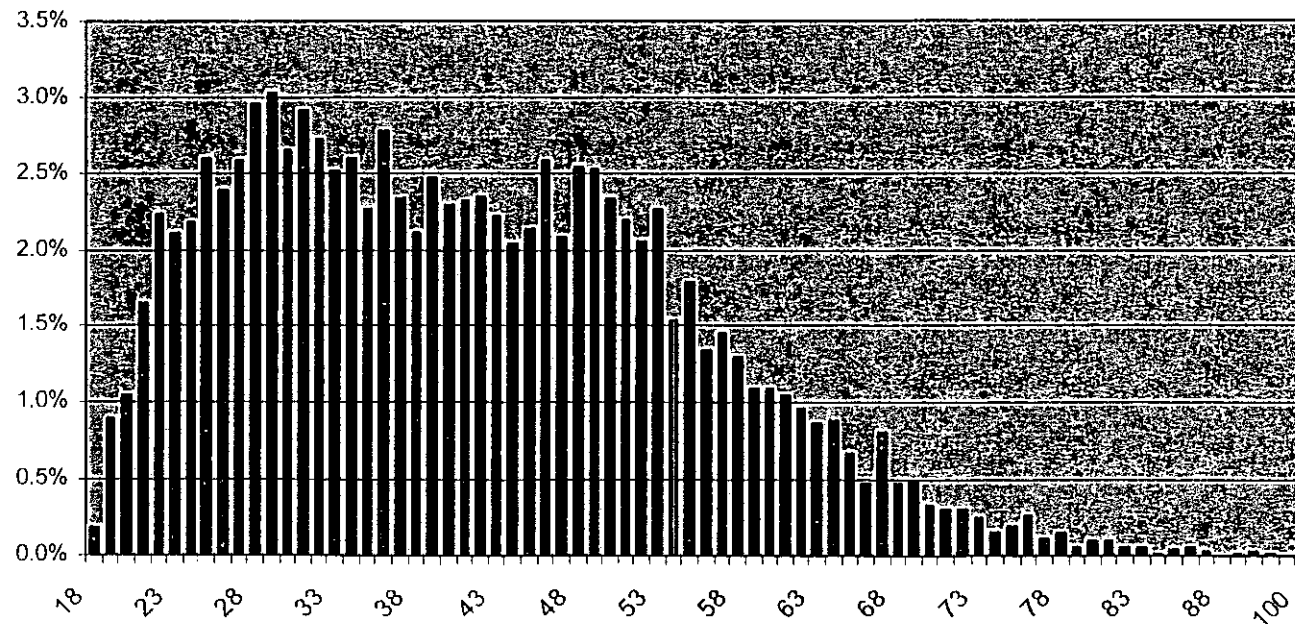
## Total Fees

*Average total fees increased during the period from January 2010 – December 2010 from 19.79 percent to 19.80 percent of the advance amount, while the average renewal fee decreased from 19.81 percent to 19.80 percent.*



*The figure below shows the % transactions conducted by customer age during the period from January 2010 – December 2010.\**

**% Transactions by Customer Age**



- Includes multiple transactions conducted by the same consumer. Only includes transactions with a valid customer date of birth.

## Consumer Age

*Customers between the ages of eighteen (18) and sixty-four (64) accounted for over 95 percent of the transactions conducted during the period from January 2010 – December 2010.\* The average age of consumers conducting transactions during the period was 39.2 years.*

January 2010 through December 2010			
Age Category	% Customers		% Transactions
under 18	0.1%	95.6% of Customers	0.1%
18 - 24	13.7%		10.3%
25 - 34	29.3%		26.9%
35 - 44	23.2%		23.1%
45 - 54	19.7%		22.2%
55 - 64	9.8%		11.8%
65 or over	4.3%	94.3% of Transactions	5.6%
Total	100.0%		100.0%

- Includes multiple transactions conducted by the same consumer. Only includes transactions with a valid customer date of birth.*

## Consumer Usage

The average number of DPTs per borrower during period from January 2010 – December 2010 was approximately 5.4 DPTs. Approximately 62.3 percent of consumers conducted 5 or less DPTs (i.e. less than the average) during this period.

During the period 89.5 percent of consumers using this product took out fewer than 12 DPTs during the period.

January 2010 through December 2010			
Number of DPTs	% Total Consumers		% of Total DPTs
1	22.3%	89.5% of customers	4.2%
2	13.6%		5.1%
3	10.6%		5.9%
4	8.4%		6.2%
5	7.4%		6.9%
6	6.9%		7.6%
7	5.7%		7.5%
8	4.5%		6.7%
9	4.0%		6.7%
10	3.1%		5.7%
11	3.0%		6.1%
12	2.7%	10.5% of customers	6.0%
13	1.5%		3.6%
14	1.2%		3.1%
15	1.0%		2.9%
16	0.8%		2.4%
17	0.5%		1.6%
18	0.5%		1.5%
19	0.4%		1.5%
20	0.2%		0.9%
21	0.3%		1.0%
22	0.3%		1.2%
23	0.1%		0.5%
24	0.2%		0.8%
25	0.1%		0.6%
26	0.1%		0.6%
27	0.1%		0.4%
28	0.1%		0.4%
29	0.1%		0.3%
30 or greater	0.3%		2.1%
			68.5% of transactions
			31.5% of transactions

## Usage of Providers

Over 95 percent of consumers took out advances with 2 or fewer licensee companies and over 87 percent of consumers took out advances with 2 or fewer store locations during the period.

### Company

#DPP Companies Used	% of Total Customers	
1	78.60%	95.9%
2	17.28%	
3	3.37%	4.1%
4	0.62%	
5 or more	0.13%	

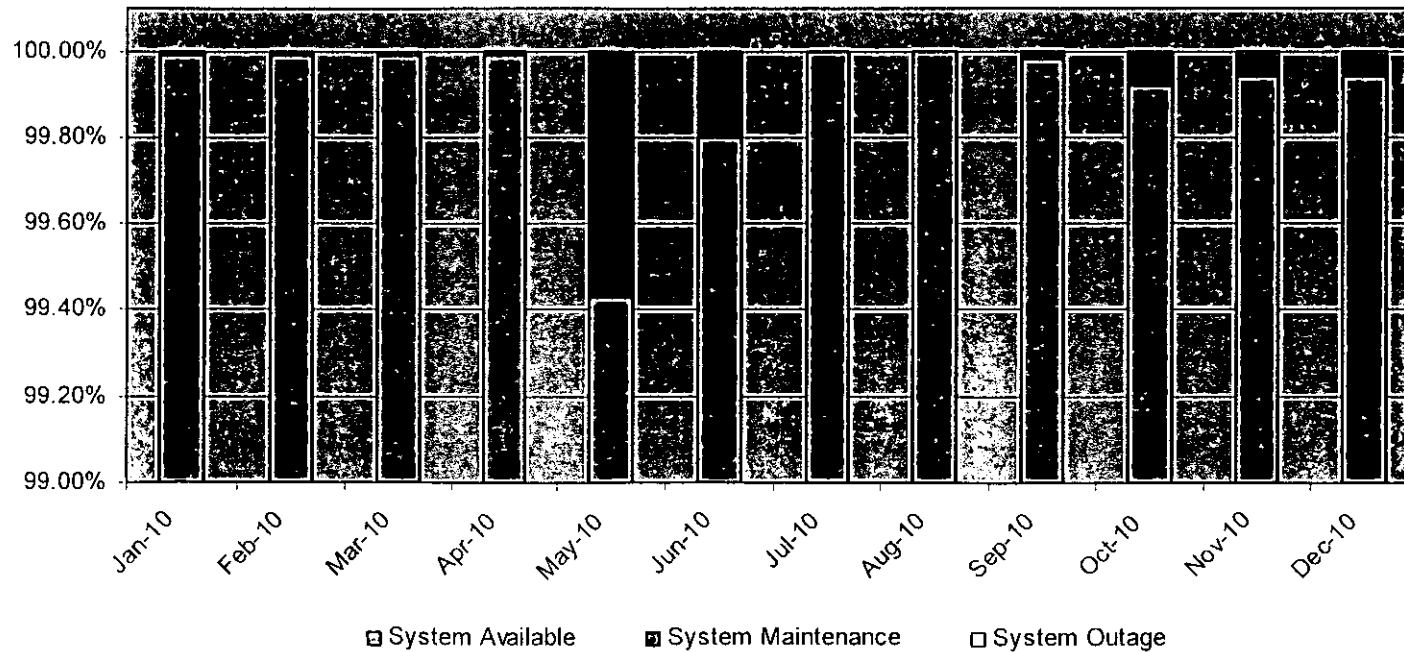
### Locations

#Store Locations Used	% of Total Customers	
1	60.4%	87.8%
2	27.5%	
3	8.3%	12.2%
4	2.7%	
5	0.8%	
6	0.3%	
7	0.1%	
8 or more	0.0%	

## System Availability

*Overall system availability averaged 99.91% between January 2010 and December 2010 including scheduled maintenance.*

**System Availability by Month**



1008.1.24.11A

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# North Dakota Trends In Deferred Presentment

North Dakota 2010 Annual Trends Report  
January 19, 2010

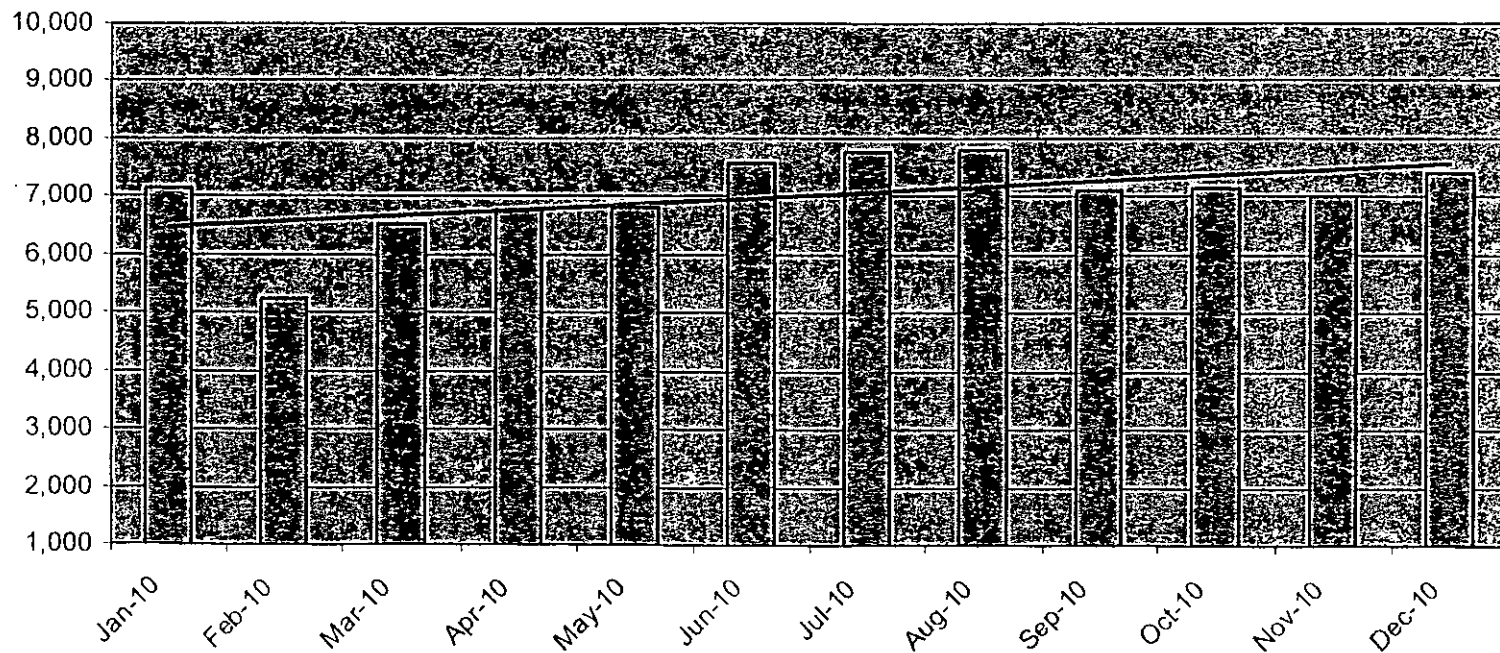
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## Transaction Volume

*Approximately 84,260 transactions were conducted for the period from January 2010 – December 2010 representing a total advance amount of \$25.9 million and total advance fees of \$5.1 million.*

**Transaction Volume by Month**

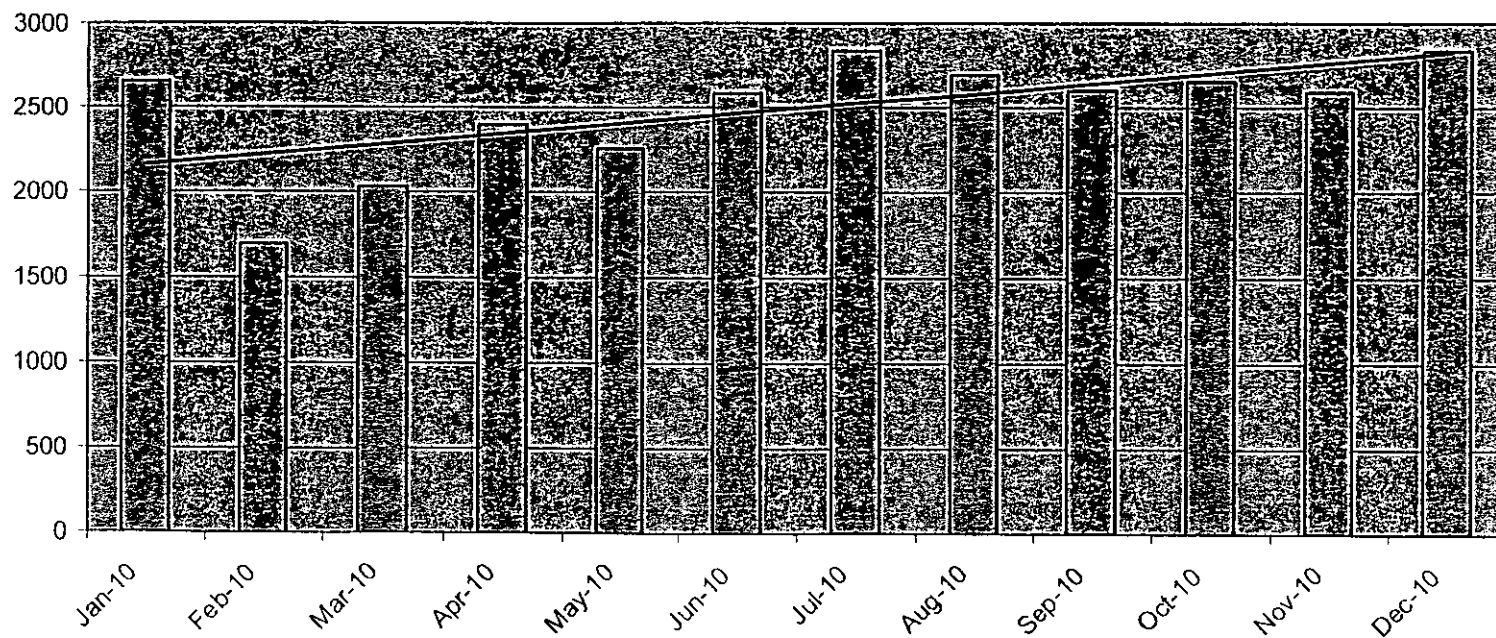




## Renewal Volume

*Approximately 29,834 transactions were renewed during the period from January 2010 – December 2010 representing a total advance (i.e. renewal) amount of \$10.0 million and total advance fees of \$2.0 million.*

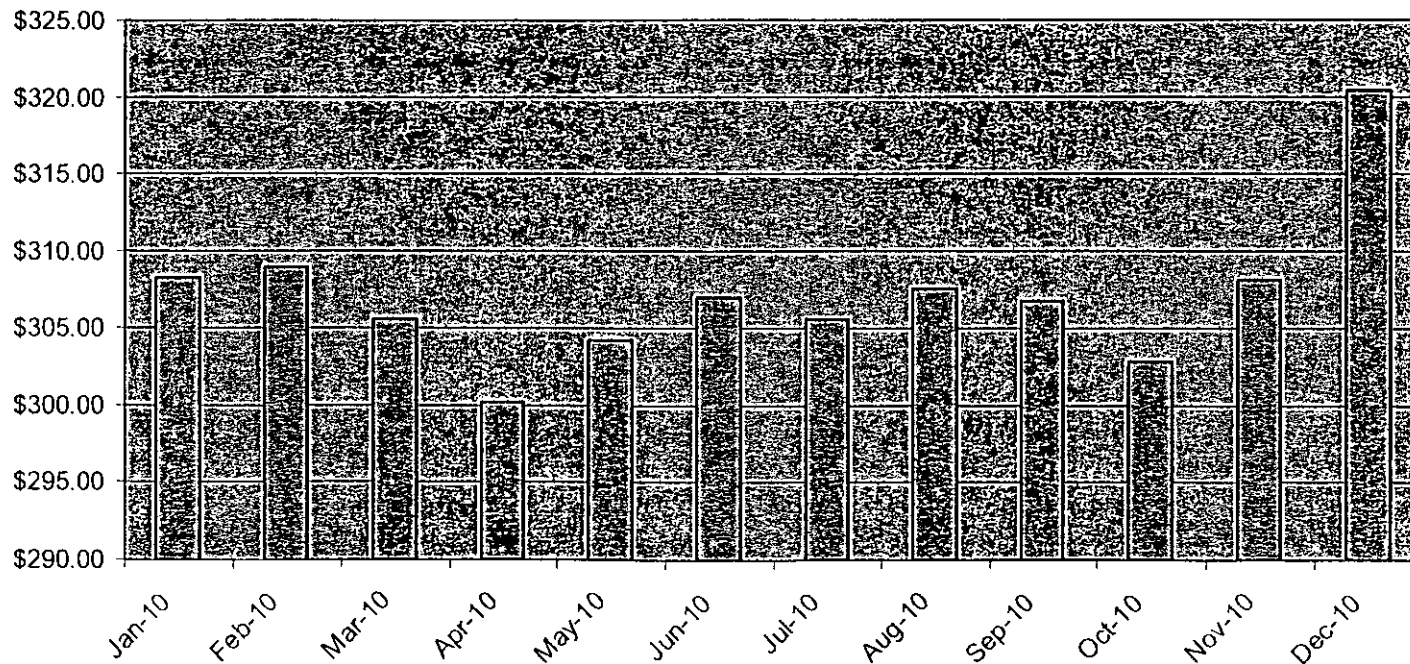
Transaction Renewal Volume by Month



## Average Finance Amount

*The average advance amount during the period from January 2010 – December 2010 was \$307.18. The average advance amount increased by approximately 4.0 percent during the period from January 2010 (\$308.22) – December 2010 (\$320.39).*

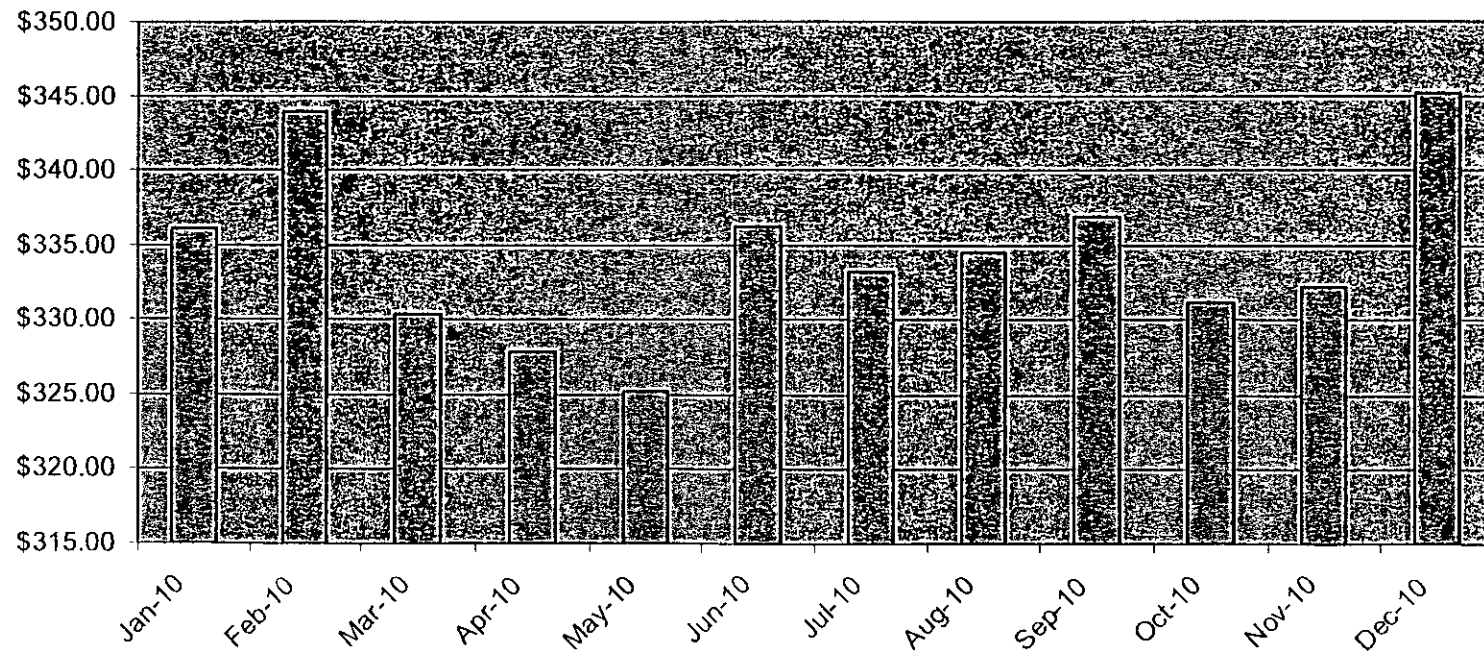
Average Advance Amount



## Average Renewal Amount

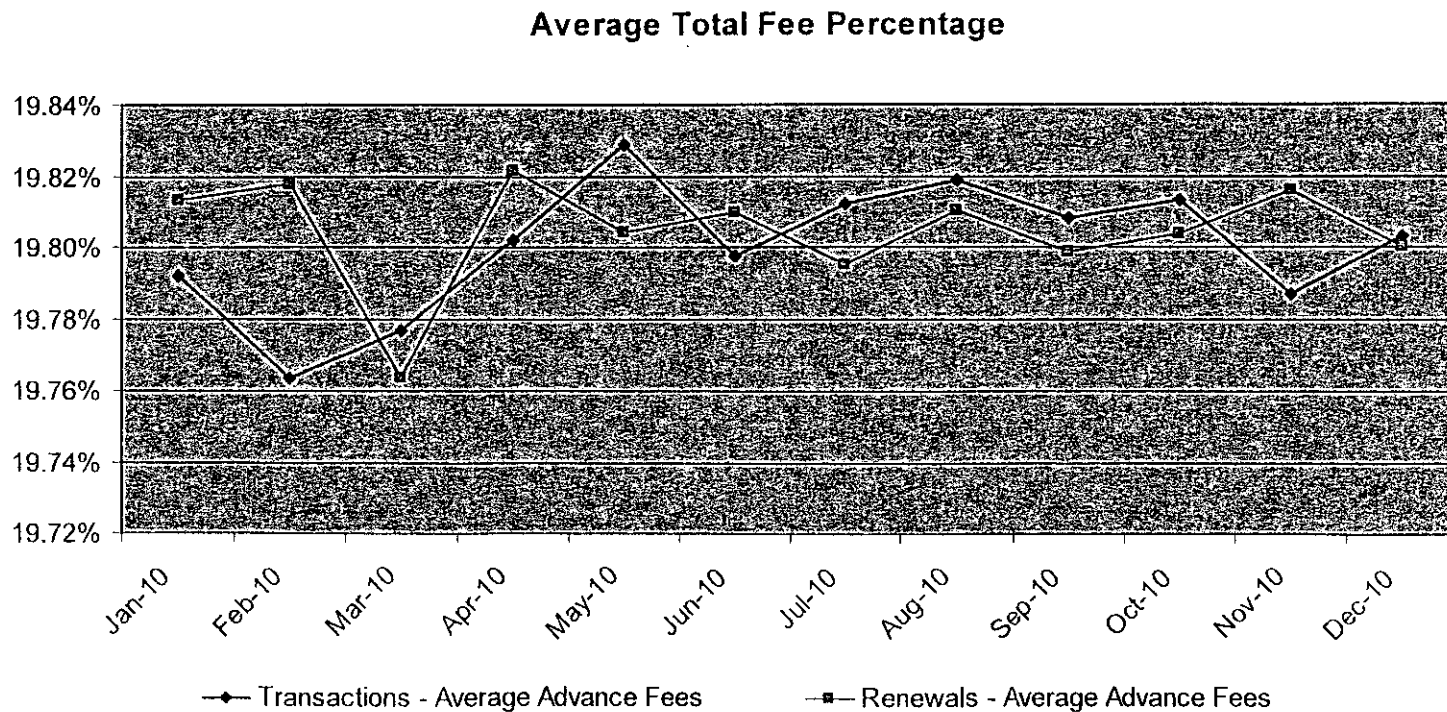
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**Average Renewal Advance Amount**



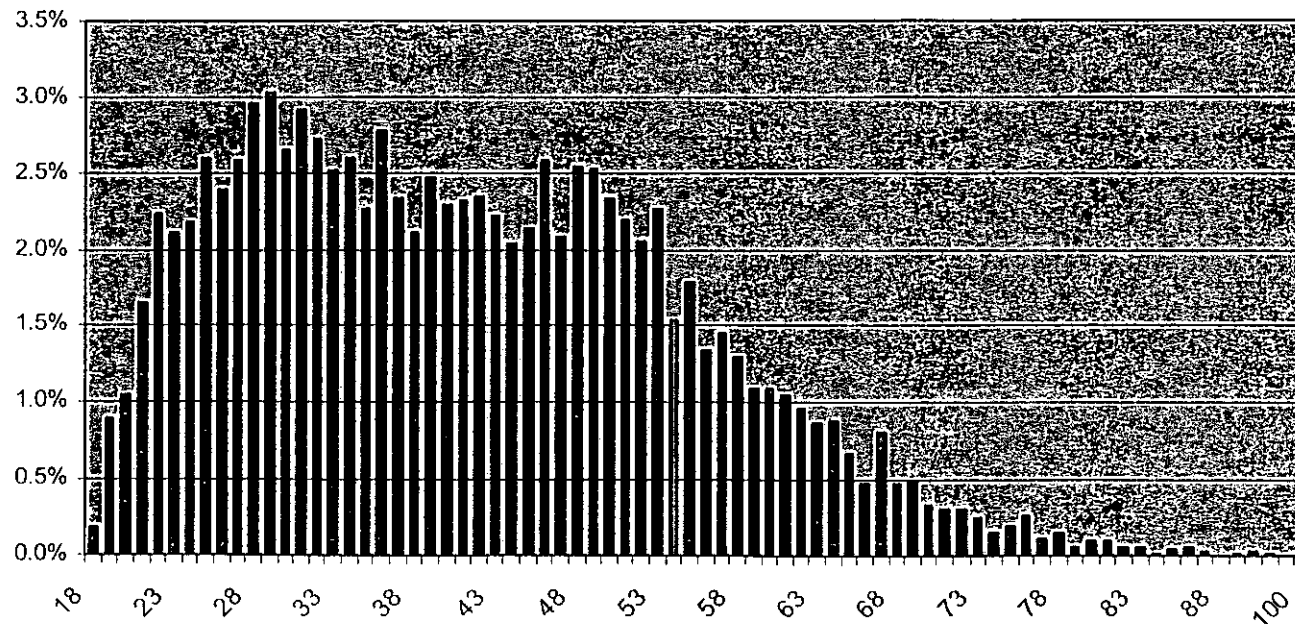
## Total Fees

*Average total fees increased during the period from January 2010 – December 2010 from 19.79 percent to 19.80 percent of the advance amount, while the average renewal fee decreased from 19.81 percent to 19.80 percent.*



*The figure below shows the % transactions conducted by customer age during the period from January 2010 – December 2010.\**

**% Transactions by Customer Age**



- Includes multiple transactions conducted by the same consumer. Only includes transactions with a valid customer date of birth.

## Consumer Age

Customers between the ages of eighteen (18) and sixty-four (64) accounted for over 95 percent of the transactions conducted during the period from January 2010 – December 2010.\* The average age of consumers conducting transactions during the period was 39.2 years.

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Age Category	% Customers		% Transactions
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55-64	9.8%		11.8%
65 or over	4.3%		5.6%
Total	100.0%		100.0%

**94.3%  
of  
Transactions**

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20	0.2%		0.9%
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23	0.1%		0.5%
24	0.2%		0.8%
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26	0.1%		0.6%
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### Locations

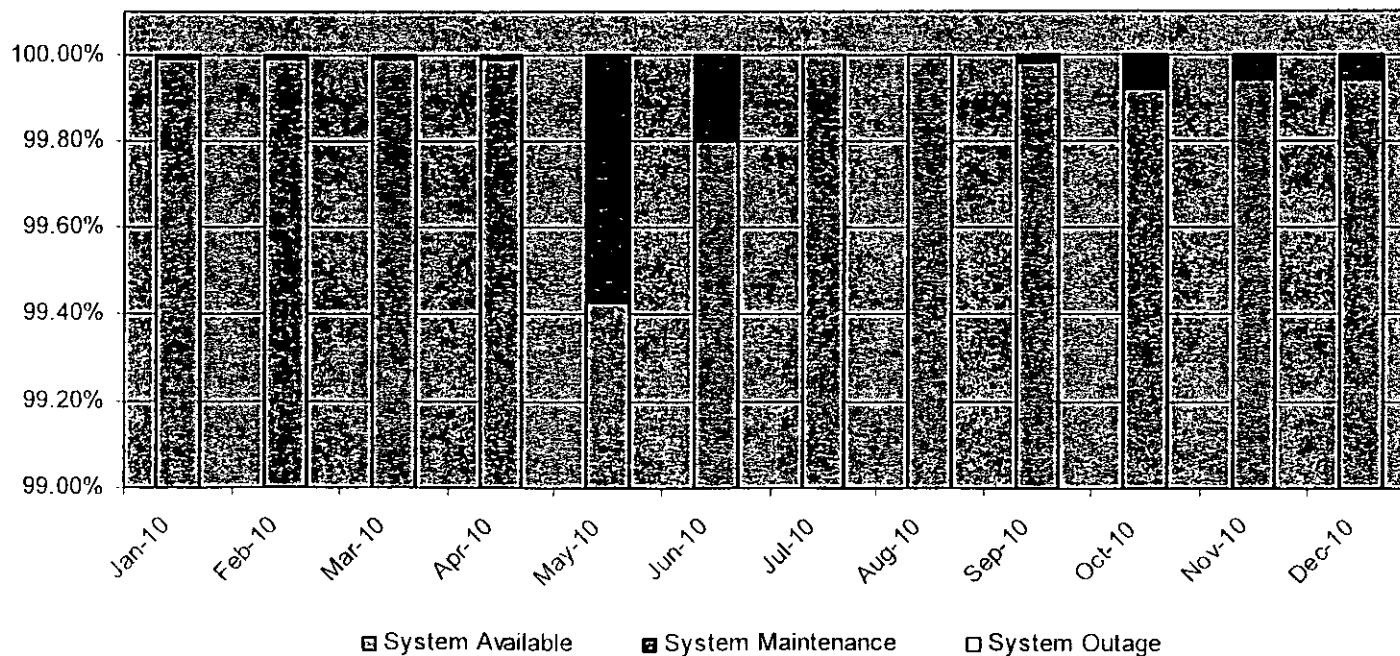
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6	0.3%	
7	0.1%	
8 or more	0.0%	



## System Availability

*Overall system availability averaged 99.91% between January 2010 and December 2010 including scheduled maintenance.*

**System Availability by Month**



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1008

Page 1, line 12, replace "(18,707)" with "155,200", and replace "1,285,556" with "1,459,463"

Page 1, line 14, replace "\$575,923" with "\$749,830", and replace "\$6,662,411" with "\$6,836,318"

Renumber accordingly

1  
March 3, 2011

TESTIMONY FOR ENGROSSED HOUSE BILL NO. 1008

Senate Appropriations Committee

Testimony of Robert J. Entringer, Commissioner, Department of Financial Institutions in support of Engrossed House Bill No. 1008

Chairman Holmberg and members of the Committee, I am Bob Entringer, Commissioner for the Department of Financial Institutions. I am here today to testify in support of the Department of Financial Institutions 2011-2013 amended appropriation of \$6,836,318.

***DEPARTMENT SUPERVISORY AUTHORITY***

The Department of Financial Institutions supervises state-chartered banks, credit unions, trust companies, and other financial corporations which include: collection agencies, money brokers, deferred presentment service providers (payday lenders), money transmitters, and mortgage loan originators. The Department also has examination responsibilities for the Bank of North Dakota.

The Department is a special fund, self-supporting agency, with no general fund dollars. The Department's budget consists of three cost centers: (1) banks and trust companies, (2) credit unions, and (3) consumer licensees. Banks, trust companies, and credit unions pay annual assessments that cover all direct examination costs and allocated overhead for the

respective cost centers. The State Banking Board and State Credit Union Board set the assessment formula to cover the examination and allocated overhead costs for the respective industry. In addition, trust companies pay examination fees for their safety and soundness examinations; by statute the commissioner shall set the examination fee at an amount sufficient to recover all costs including salaries and benefits, and travel costs (mileage, meals and hotel expenses). Consumer licensees pay the following fees for the processing and supervisory responsibilities related to the consumer cost center: investigation fees upon initial licensing, annual license fees, and examination fees when an examination is performed. Again the examination fee is set by the commissioner at an amount sufficient to recover all costs including salaries and benefits, and travel costs.

### **State-Chartered Banks**

Currently there are 77 state-chartered banks, plus the Bank of North Dakota, which compares with 81 state-chartered banks two years ago. The number of banks has remained relatively stable over the past several years although we continue to see merger and consolidation activity. While we have seen a reduction in the total number of banks over the past decade, assets continue to grow from \$11.077 billion on September 30, 2008 to \$12.308 billion on September 30, 2010, an 11% increase; the continued

increase in the asset base correspondingly increases the Department's responsibilities and time needed to conduct examinations. As the asset base increases, overall loan volume continues to grow and places additional time constraints on examiners; loan review and analysis is one of the primary areas of emphasis during a bank examination. Not only has loan volume grown, but many of the commercial loans we review have become increasingly complex. Currently the Department has 16 field bank examiners who conduct examinations throughout the State of North Dakota. The Department has 3 field office locations: Grand Forks, Fargo, and Bismarck.

#### **State-Chartered Credit Unions**

Currently there are 28 state-chartered credit unions, which is three less than two years ago. Credit unions also continue to show asset growth, with total assets increasing from \$1.586 billion on September 30, 2008, to \$1.893 billion as of September 30, 2010. This represents a 19.4% increase in total assets. The same scenario to asset growth applies to credit unions; asset growth translates into increased loan volume thereby putting time constraints on our credit union examiners. The credit union division has three examiners to conduct the examinations of state-chartered credit unions.

### **State-Chartered Trust Companies**

Currently there are three state-chartered trust companies for which the Department has oversight responsibility. The independent trust company examinations are conducted by bank examiners who have acquired specialized trust examination training. The total combined fiduciary assets as of September 30, 2010 of the three independent trust companies was \$12.907 billion which compares to \$9.265 billion as of September 30, 2008; this represents a 39% increase and is due primarily to our largest independent trust company. Currently the Department has 3 examiners trained or being trained in the area of trust company/trust department examinations.

### **Consumer Licenses**

The consumer division licenses a combined 1,578 entities including collection agencies, money brokers, mortgage loan originators, deferred presentment service providers (payday lenders), and money transmitters. The breakdown of the licensees includes 818 mortgage loan originators, for which we are responsible to track the pre-licensing and continuing education requirements. The remaining 760 consumer licensees represent: 440 collection agencies, 60 deferred presentment service providers (payday lenders), 229 money brokers, and 31 money transmitters. Our consumer

division also conducts examinations of the various entities we license. Further as a result of the federal S.A.F.E. Act legislation the Department began routine examinations of mortgage companies in 2010. In order to accomplish this we hired an individual who specializes in mortgage lender examinations and one of the existing staff is also now trained to conduct mortgage company examinations.

### ***OVERVIEW***

As indicated, the Department has asked for a total budget of \$6,836,318. This amount represents \$5,356,855 in salaries and wages, or approximately 80% of the total budget. The Department has requested \$1,459,463 in operating expenses; and \$20,000 contingency expense. This budget request is approximately a 12% increase over our prior budget; the increase from the prior budget is accounted for as follows: the increase in salaries and benefits represents nearly 10% of the increase; the increase in operating expenses represents the remainder or 2% of the increase in the budget. The Department's travel expenses continue to rise with the increased costs of traveling to the banks and credit unions, and for training, much of which is conducted outside the state. Registration fees and airline costs continue to escalate; however, this training is necessary in order to

keep examination staff updated with respect to the most recent laws and examination issues and techniques.

It should be noted that the Department has not replaced its computers since 2007 and has budgeted for all computers (20 laptops and 6 desktops) to be replaced in this biennium; we have budgeted approximately \$53,000 for hardware and related software expense of approximately \$20,000. Note: 3 of our staff have computers which are leased from the National Credit Union Administration (NCUA) for a nominal \$1 per year; the reason for this is the NCUA wants us to utilize their examination software.

The Department currently has 3 bank Supervisory Examiners as well as 3 employees who are classified as Examiner III's, 6 employees classified as Examiner II's, and 6 employees classified as Examiner I's for the examination of banks and credit unions. It is anticipated the Examiner II positions would be promoted to Examiner III's prior to the end of the 2011-2013 biennium. The Department continues to struggle with turnover, but hopes to remain competitive with the banking and credit union industries as well as the other regulatory agencies. The Department turnover is still impacted by the large amount of travel the examiners encounter and also competitive salary pressure from both the private and federal government sectors.



### ***FISCAL NOTE***

Our Department was asked to submit a fiscal note to HB 1038 which pertains to the licensing of debt settlement companies. We asked the House Appropriations Committee to amend our budget appropriation to include the amount of the fiscal note to HB 1038. Since Engrossed HB 1038 has passed the House, the additional funds are necessary to cover the anticipated operating expenses which includes travel and IT Data Processing as the major ongoing expenses. The one-time expenses of IT Record Management programming and the Online Application programming are to update our website to allow applicants to apply electronically and of course transfer that data into our database. I would note that most of the travel would be recovered through examination fees; however, some of the expense would be associated with training one of our staff members in examination techniques for these entities.

Mr. Chairman and members of the Committee thank you for your time and I would be happy to answer any questions you may have.

# FISCAL NOTE

Requested by Legislative Council

01/26/2011

Bill/Resolution No.: HB 1038  
Amendment to: HB 1038

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>		\$0		\$85,950		\$151,530
<b>Expenditures</b>		\$0		\$173,907		\$93,099
<b>Appropriations</b>		\$0		\$0		\$0

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This House Bill will require Debt-Settlement Providers to be licensed and regulated. This will have no fiscal impact to the general fund however will have a negative impact to the special regulatory fund.

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

The Department of Financial Institutions is a self-funded regulatory agency and the revenue from the licensing will be deposited into the regulatory fund. The expenditure will include operating expense and programing cost for implementation of online licensing.

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

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

License 35 per year @ \$400 \$28,000  
Investigation fee 35 @ \$400 \$14,000  
Exam Fees 6 to be completed \$43,950  
(includes motel, air fare,  
Meals and salaried hours)

Total Revenue 2011-2013 \$85,950

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

Office Supplies 308

Travel 24,750

IT Telephone 893

Printing 2,224

IT Data Processing 17,160

Postage 667

Professional Dev (Schools) 3,174

Professional Services (Legal) 7,674

Operating Fees & Ser 1,407

IT Record Mgmt programming 85,650

On Line Application programming 30,000

Total Expenditures \$173,907

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

This bill does not include any appropriation in the executive budget. The Department of Financial Institutions will ask to increase appropriation House Bill 1008 for the operating line item if this bill passes.

**Name:**

**Phone Number:**

**Agency:**

**Date Prepared:**