

2019 SENATE APPROPRIATIONS

SB 2011

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2011
1/4/2019
Job # 30432

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Rose Laning

Explanation or reason for introduction of bill/resolution:

An act to provide an appropriation for defraying the expenses of the securities department.

Minutes:

Attachments 1-2

Legislative Council: Chris Kadrmas
OMB: Stephanie Gullickson

Chairman Holmberg called the committee to order and opened the hearing on SB 2011. All members were present.

Karen Tyler, ND Securities Commissioner: Testimony Attached # 1
Introduced her staff, Mike Daley, Deputy Commissioner/Attorney; Diane Lillis, Franchise Registration Examiner/Budget Manager; Bailey Doll, a new employ from the Bismarck Public School system.

Reading from testimony –

(15:41) **Senator Grabinger:** Going back to the 10% that you plan to utilize, have you had to use the emergency commission in the past for funding? And explain when that happens.

Karen Tyler: We have not had to go to the emergency commission in my time as securities commissioner and this is my seventeenth year. Prior to that, I understand that there were occasions where it was necessary. We have operated very very conservatively, but we have always managed to provide some turnback at the end of the budget cycle so we really haven't been in a position to need to do that. This is unique for us, due to the allotment – putting our operating budget in the position that its in today.

Senator Grabinger: But the emergency commission is still available if it doesn't pan out for you, so it's a way to avoid going to that step, correct?

Karen Tyler: That is correct. My understanding is that this is an option to give us some flexibility. It was always for "up to that 10%" and after that point the emergency commission would still be the necessary step.

(17:05) **Chairman Holmberg:** Obviously, this was a broad look at the utilization of the emergency commission in doing the 10% and I understand it's going to be in a number of budgets. (to Chris Kadrmas) If you look back at the last 2 biennia, how many times did the emergency commission get asked to allow transfers between budget items like this is requesting – and what was the batting average of the agency? It might be close to 100, but I don't remember for sure. If you could have that, because it would impact our discussion as we look at our other budgets that have that same item in it.

Senator Mathern: Is this request something you came up with, or does OMB want you to put this in the bill?

Karen Tyler: This request was part of the Governor's Executive Budget Request and felt beneficial toward the cabinet level agencies.

Senator Mathern: Did you ask the Governor to put this in the bill?

Karen Tyler: I did not. (Continuing on page 7)

(25:26) While on page 9, she handed out a list of enforcement actions that shows what activities the securities regulators have been engaged in the last year trying to deal with initial coin offering, token offering, cryptocurrency related fraud, etc. Testimony Attached # 2

Karen Tyler: Because asset recovery is highly unlikely, it makes it that much more important that we're able to stop these types of frauds on the front end before the investor makes the investment and the damage is done. And that's why we're asking for the Fintech analyst and investigator to help with these efforts. We need the resources to keep pace with these innovations – to understand these new technologies and financial instruments and to improve the visibility around this type of fraud.

She closed her testimony.

Chairman Holmberg: asked if anyone else had any comments.

(30:57) **Senator Mathern:** This question of the 10% ability to transfer monies, in the Wanner Ponzi scheme, how would this 10% ability actually help you to do this kind of work. Or is it more like a simple way to deal with practical problems, like the copy machine didn't cost as much as it was supposed to. How does it impact your day to day significant work?

Karen Tyler: For us, being such a small agency, we have two line items. We have salaries and operating and as with most small agencies, salaries is a very substantial component of the budget. Line item is about 85% of our budget. If we did find ourselves in a situation where we simply didn't have the operating budget to cover expenses, and we don't really have a lot of turnover in our agency. We don't have roll-up dollars on a salary line item. If we could find some savings somewhere in that part of our budget, and be able to turn to it to cover operating.

We're in a really constrained position with our operating budget because of that allotment, and because we didn't ask for anything in the good years, but we had to participate in the cuts in the bad years, so we happen to be in a very constrained position with our operating

budget. That's the example I could give you – that it would help us to cover our operating expenses potentially. As to how it would specifically contribute to an investigation, it could potentially contribute to the ability to cover costs in a protracted securities litigation if we had a run-up of costs related to a particular case. Most of our cases settle and we don't end up litigating. But it can happen, certainly, and then we really don't know what the cost associated with that litigation would be.

(33:56) **Senator Robinson:** Maybe OMB could respond to this – This is a new proposal, so for the benefit of the committee, how would we track this activity? Would there be a report when we come back in two years of the amount of transfers and what agencies... Could you explain that.

Stephanie Gullickson: Section two talks about a report to OMB and also to the Legislative Council. It would be tracked. So if any agency does and would have the discretion to get this in their bill, and then need to do a transfer, they would notify OMB and Legislative Council. The language talks about that and it would be tracked by both OMB and Council.

Senator Robinson: Would we hear, for example, of these transfers in budget section, or would it be just during the legislative session every two years?

Stephanie Gullickson: No, it doesn't talk about budget section. It just talks about report back. And if the agency would need to exceed that 10%, then of course, you'd have to go to the emergency commission which would follow that practice, but no, there's no language in there that says that. This again, clarifies only in cabinet agency bills. It's not in every single agency and it was a proposal of the governor's office. They did not ask for it. It was put in for them.

(35:24) **Senator Mathern:** Would this ability to permit an agency to change a function? Let's say the commissioner decides that she's going to do more on Fintech problems instead of Ponzi scheme problems and moved staff or resources from one program to another. Could a program actually end and one begin by a transfer?

Stephanie Gullickson: I don't think so. In the securities case, that is what they do, that kind of regulatory work. So if whether she works on this particular fraudulent event or this other one, I don't really see how she would do that. They have the core function and they have the things they need to do. What this does is give them discretion on how they can spend their fund to accomplish their tasks that they are supposed to do. I don't see it as changing out programs, or forgetting this program or doing this one, it is more of a discretionary thing to the agency head to actually be able to do their job better – and this agency only has two lines. There are agencies that have 10 lines. They would have a lot more transfer ability available to them to do their core function. That's the intent.

Chairman Holmberg: An example of this same nature would be Human Services. The entire bill is section 1 which was \$2.1M last time. It's a policy request from the governor for us to change the policy. Right now all of those things have to go thru the emergency commission. The Council will give us a track record of the last biennium how many times it has happened and has it ever been turned down - what has happened with those requests. We'll have that information and we certainly won't be passing this bill out today, so we'll have

the information and you'll have an idea if this is a good idea or a bad idea. Is it different for an agency of 10 people vs. an agency of 1450 people?

Karen Tyler: If I could follow up on Senator Mathern's question, I would like to clarify that the Fintech analyst in the best day we could ask for resides within our enforcement division. It is a new type of investment fraud. It looks different because of the manner in which these types of frauds are committed, but it's still investment fraud. It is still part of our enforcement division. There wouldn't be a termination of some functions in order to focus on this. This is innovation. It's the latest way that fraud is being committed and investors are being victimized.

Chairman Holmberg: This committee has not had a track record where every new FTE is evil. Some folks think that way. I don't think this committee has ever taken a position like that. We'll see what happens.

Karen Tyler: Thank you very much.

Chairman Holmberg requested the Senate Summary Sheets for Monday and then closed the hearing on SB 2011.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2011
1/22/2019
Job # 31232

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Rose Laning / Marne Johnson
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Explanation or reason for introduction of bill/resolution:

AN ACT to provide an appropriation for defraying the expenses of the securities department; and to amend and reenact subsection 5 of section 10-04-03 of the North Dakota Century Code, relating to collection of fees, civil penalties, and other moneys collected under the Securities Act.

Minutes:

No Attachments

Legislative Council: Alex Cronquist
OMB: Larry Martin

The Senate Appropriations Committee met to discuss the agency bills and others that have been presented thus far and wanted to get input from the whole committee on what should be the focus of each sub-committee.

Chairman Holmberg said that we're not going thru salaries at this time.

SB 2001 – Governor (sub-committee: Hogue, Lee, Mathern)

- The 10% movement of moving money between line items. Have a standard response for them.
- Discuss the governor's salary - this reduces salary just short of \$200,000 & what happens to the rest of it. They took their 5% cut. (Language needs to be revisited)
- Council said by putting it in a line item, then it couldn't get spent in other areas.
- Transfer language - limited it to 10% before going to emergency commission

SB 2002 – Secretary of State (sub-committee: Hogue, Oehlke, Grabinger)

- Voting equipment – replacing voting machines (matching requirement by state)
- Emergency clause should be there.
- 10% line item transfers

SB 2003 – Attorney General (sub-committee: Sorvaag, Bekkedahl, Mathern)

- Litigation authority

- Amount of money for Litigation
- Joining in with other states suing the federal government
- New line in OMB to tap into litigation pool
- Human trafficking grants added to AG bill

SB 2004 – State Auditor (sub-committee: Oehlke, Dever, Mathern)

- Looking at number of FTE requests
- FTEs between University system and Auditor's office
- ITD FTEs.

SB 2005 – State Treasurer (sub-committee: Bekkedahl, Dever, Robinson)

- Investments of the Veterans Post War Trust Fund (low interest)
- Treasurer's salary

SB 2006 – Tax Commissioner (sub-committee: Wanzek, Bekkedahl, Mathern)

- Discovery of compliance of businesses with no physical sales tax.
- Concern about staffing – many retirees and loss of senior staff.
- Authority for line item transfers between the Homestead Tax Credit and Disabled Veteran's Credit programs.
- Litigation funds – or funds in litigation pool.

SB 2007 – Labor & Human Rights (sub-committee: Poolman, Sorvaag, Robinson)

- Salary of Commissioner as she will be in charge of Dept of Labor and Human Rights as well as the Dept. of Commerce.

SB 2008 – Public Service Commissioner (sub-committee: Lee, Wanzek, Grabinger)

- Wanting additional staff for indemnity issues
- Additional staff
- \$100,000 increase in budget

JOB # 31232 -

SB 2009 – Agriculture Commissioner (sub-committee: Wanzek, Erbele, Grabinger)

- Want to move APUC and Trade Office to his office.
- 2 less FTEs
- Ag bio-science program – an appropriation bill. Should it be added to the budget or let it a stand-alone bill.

SB 2010 – Insurance Commissioner (sub-committee: Oehlke, Erbele, Grabinger)

- Moving the Fire & Tornado fund over to the ND Insurance Reserve Fund
- Boiler inspection program
- Fire Departments & Sheriff's tax on insurance

SB 2011 – Securities Commission (sub-committee: Krebsbach)

- Money for a FINTECH position
- Section 3 appropriation of any income from federal funds (14:17)

Larry Martin: Like the transfer language, we added a lot of the language to spend additional federal or other funds to the cabinet agencies. Again, some of them receive money from outside sources, so we wanted them to have the ability to pay out. Job Service has similar language currently because they do get additional federal money so they have to be able to spend it out. We added that language to all the cabinet bills.

SB 2012 – Human Services (sub-committee: Dever, Erbele, Mathern)

- Provider rates. Governor 1-1. They want 3-3-3.
- Medicaid – reauthorization of the expansion. Do we reimburse?
- Behavioral Health
- State Hospital – support the move from New England for the women? Justification for the state hospital – a study?
- Policy and how its structured – for whole department. \$182M
- Nursing Homes
- Study the 36 Critical Access Hospitals - Commercial rates vs. traditional rates
- Study resolution of medical care in the future for the state
- 1915(i) needs support.
- Commercial vs. traditional rates

SB 2013 – Public Instruction; Library, Blind & Deaf (sub-committee: Holmberg, Poolman, Robinson)

- Will have some meetings but need to wait for Education Committee to complete policy. Governor's school information is confusing.
- 1 FTE reinstated.
- Adult education.
- FTEs at school at Devils' Lake
- Governor moved pre-school money from Commerce to DPI (where is the money?)
- Transportation grants

SB 2014 – Protection & Advocacy (sub-committee: Sorvaag, Krebsbach, Grabinger)

- Adding of one employee
- Additional operating expenses
- Transferring guardianship programs to P & A.

SB 2015 – Office of Management & Budget (sub-committee: Holmberg, Bekkedahl, Robinson)

- Transferring money – \$1B of oil revenue to general funds.
If we put \$1B in and oil prices go down and we have less money in the general fund, we might have a risk with allotments.
Do we want to expose ourselves more in the general fund by putting \$1B in the general fund from direct oil revenue?
- Fees or dues for several organizations. Last session we reduced dues by 10%.
- WICHE (Western Interstate Commission for Higher Ed) dues were in OMB and Commission was placed under Higher Ed. Did the \$15,000 get transferred?

SB 2016 – Office of Adjutant General (sub-committee: Hogue, Holmberg, Grabinger)

- Land Acquisition - Proposed 6,000 acres of land in south Camp Grafton. Want to ask the adjutant, you have \$15M set aside to acquire 6000 continuous acres and will not exercise the power of eminent domain. How much will they pay an acre?
How did they come up with \$15M?
- \$15M set aside to gain land - long term leases. Be wary of setting precedent for cost/acre.
- Locals are not on board?

SB 2017 – Game & Fish (sub-committee: Oehlke, Wanzek, Grabinger)

- Section 5 on green sheet – additional amounts appropriated to Game & Fish Dept. There is appropriated additional income from the feds from other funds to that agency. Would the federal funds go to their agency first?
- If they're receiving monies from federal, they can spend them out.
- Section 6 - Require them to hang onto \$15M unless we have a budget section meeting and have an exception for some emergency. They have to invest it and its not making money where its being invested. They'd like it to be invested by the state investment board.
- Sportsman's clubs – raise the fishing licenses; boat tax/gas tax.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2011
2/7/2019
JOB # 32343

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Alice Delzer
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Explanation or reason for introduction of bill/resolution:

A BILL for the Securities Commission: Do Pass as Amended.

Minutes:

1. Proposed Amendment # 19.0224.01001

Chairman Holmberg: called the Committee to order on SB 2011. All committee members were present except Senator Gary Lee. Becky Deichert, OMB and Adam Mathiak, Legislative Council were also present.

V. Chairman Krebsbach: Moved Proposed Amendment # 19.0224.01001 and explained the amendment. 2nd by Senator Poolman.

Chairman Holmberg: any discussion? All in favor say aye. It carried.

V. Chairman Krebsbach: Moved a Do Pass as Amended. 2nd by Senator Erbele.

Chairman Holmberg: Discussion. There was none. Call the roll on a Do Pass as Amended on SB 2011. A Roll Call vote was taken. Yea: 13; Nay: 0; Absent:1. V. Chairman Krebsbach will carry the bill. The hearing was closed on SB 2011.

Senator Dever: Regarding the deficiency bill I received some language regarding that bill and the DAPL money so we will continue with that. Also, Senator Robinson asked about school safety. We passed SB 2052 on Jan 18th regarding that matter. It was Senator Schaible's bill.

There was further discussion on this job regarding other bills that may be heard at a later time.

8/10/2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2011

Page 1, line 2, after "department" insert "; and to amend and reenact subsection 5 of section 10-04-03 of the North Dakota Century Code, relating to collection of fees, civil penalties, and other moneys collected under the Securities Act"

Page 1, replace lines 9 through 16 with:

"

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,848,667	\$315,896	\$2,164,563
Operating expenses	506,047	23,514	529,561
Total all funds	\$2,354,714	\$339,410	\$2,694,124
Less estimated income	170,000	2,524,124	2,694,124
Total general fund	\$2,184,714	(\$2,184,714)	\$0
Full-time equivalent positions	9.00	1.00	10.00

SECTION 2. AMENDMENT. Subsection 5 of section 10-04-03 of the North Dakota Century Code is amended and reenacted as follows:

5. A special fund is established in the state treasury and designated as the securities department special fund. All fees, civil penalties, or other moneys collected under this chapter must be deposited in the general fund of the state treasury securities department special fund, except funds permitted to be deposited into the investor education and technology fund under subsection 4 or civil penalties collected from enforcement actions for the purpose of distribution to aggrieved investors, which may be deposited in the investor restitution fund. Funds in the investor restitution fund are appropriated to the securities commissioner on a continuing basis for distribution to aggrieved investors.
 - a. The moneys deposited in the securities department special fund are reserved for use by the securities department to defray the expenses of the department in the discharge of administrative and regulatory powers and duties of the department as prescribed by law. Deposits under this subdivision are subject to the applicable laws relating to the appropriations of state funds and to the deposit and expenditure of state moneys. The securities commissioner is responsible for the proper expenditure of these moneys as provided by law.
 - b. The office of management and budget shall transfer any balance in the securities department special fund in excess of the amounts necessary for department expenditures pursuant to the department's biennial appropriation to the general fund."

Renumber accordingly

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

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$1,848,667	\$315,896	\$2,164,563
Operating expenses	506,047	23,514	529,561
Total all funds	\$2,354,714	\$339,410	\$2,694,124
Less estimated income	170,000	2,524,124	2,694,124
General fund	\$2,184,714	(\$2,184,714)	\$0
FTE	9.00	1.00	10.00

Department 414 - Securities Department - Detail of Senate Changes

	Adds Funding for Salary and Benefit Increases ¹	Adds Financial Technology Research and Investigation Position ²	Adds Funding for Microsoft Office 365 ³	Changes Agency from General Fund to Special Funds ⁴	Total Senate Changes
Salaries and wages	\$106,602	\$209,294			\$315,896
Operating expenses		23,000	\$514		23,514
Total all funds	\$106,602	\$232,294	\$514	\$0	\$339,410
Less estimated income	0	0	0	2,524,124	2,524,124
General fund	\$106,602	\$232,294	\$514	(\$2,524,124)	(\$2,184,714)
FTE	0.00	1.00	0.00	0.00	1.00

¹ The following funding is added for 2019-21 biennium salary adjustments of 2 percent on July 1, 2019, and 3 percent on July 1, 2020, and increases in health insurance premiums from \$1,241 to \$1,427 per month:

	<u>General Fund</u>
Salary increase	\$61,982
Health insurance increase	44,620
Total	\$106,602

² Funding for 1 FTE financial technology research and investigation position (\$209,294) and related operating expenses (\$23,000) is added.

³ Adds funding for Microsoft Office 365 licensing.

⁴ Changes the agency to a special fund agency.

Adds a section amending subsection 5 of Section 10-04-03 of North Dakota Century Code, relating to collection of fees, civil penalties, and other moneys collected under the Securities Act to facilitate the change from being a general fund agency to a special fund agency, resulting in a decrease of \$2,184,714 of departmental collections deposited in the general fund.

Date: 2-7-2019
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2011

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 19.0224.01001

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

Motion Made By Krebsbach Seconded By Sen. Fastman

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach			Senator Grabinger		
Senator Wanzek			Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee					
Senator Dever					
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice Vote
Carried*

Date: 2-7-2019
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2011

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

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

Motion Made By Krebsbach Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
Senator Holmberg	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator Grabinger	✓	
Senator Wanzek	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Poolman	✓				
Senator Bekkedahl	✓				
Senator G. Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Sen Krebsbach

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

REPORT OF STANDING COMMITTEE

SB 2011: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2011 was placed on the Sixth order on the calendar.

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 - a. The moneys deposited in the securities department special fund are reserved for use by the securities department to defray the expenses of the department in the discharge of administrative and regulatory powers and duties of the department as prescribed by law. Deposits under this subdivision are subject to the applicable laws relating to the appropriations of state funds and to the deposit and expenditure of state moneys. The securities commissioner is responsible for the proper expenditure of these moneys as provided by law.
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Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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General fund	\$106,602	\$232,294	\$514	(\$2,524,124)	(\$2,184,714)
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2019 HOUSE APPROPRIATIONS

SB 2011

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division Medora Room, State Capitol

SB2011
2/27/2019
Recording Job# 32943

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the securities department.

Minutes:

Attachment A

Chairman Vigesaa: Opened the hearing on HB2011.

Karen Tyler, Commissioner, ND Securities Department: See testimony attachment A.

Representative Bellew: I see you are a general funded agency; shouldn't you be special funded?

Karen Tyler: The way the budget came out of the Senate is as a special funded agency.

Karen Tyler continued with her testimony.

Representative Kempenich: When the insurance industry and securities bleed in to each other, how does that work?

Karen Tyler: We intersect in one very small spot and that is when you have an insurance agent that wants to be able to sell variable annuities; variable annuities are securities. That insurance agent would have to have a securities license. The product is created and produced by insurance companies; but it's actually sold by somebody that has to have a securities license and is sold through a broker/dealer.

Karen Tyler continued with her testimony.

Representative Mock: What is the regulatory difference between the securities department for North Dakota and the federal FCC?

Karen Tyler: The regulatory structure consists of state securities regulators; there's one in every state, the securities and exchange commission at the federal level, and a self-

regulatory organization called FENRA. FENRA is not a government agency. Much of our authority overlaps; but the FCC would have exclusive jurisdiction over exchanges.

Representative Mock: With a company that the FCC has jurisdiction over most of the activities; but, they're operating in North Dakota and there is an accusation of misconduct in North Dakota, does North Dakota securities have primacy over that? Does their authority exceed or supersede North Dakota's authority to regulate?

Karen Tyler: It depends on the facts and circumstances of the case. Generally speaking, we take the smaller local cases that involve North Dakota victims and the FCC takes broader fraud on the market types of cases. If we had an individual employed by Goldman Sachs, for example; they don't actually have a place of business in North Dakota. However, if their conduct harmed a North Dakota resident and we receive the complaint, we would take the case.

Representative Mock: How does the revenue of your department work? If a company does business in North Dakota, do they pay fees to the department and how does that fee structure break down between businesses that are regulated primarily by the state securities department versus larger companies?

Karen Tyler continued with her testimony.

Representative Kempenich: (Unintelligible question).

Karen Tyler: There are between 630,000 and 640,000 agents in the country.

Karen Tyler continued with her testimony.

Representative Mock: That central registration depository; that's all states and FCC payments?

Karen Tyler: That's correct. The central registration depository operated by FENRA; they operate it and we own the data that's in it.

Representative Mock: The \$5.6 million is that annual or biannual?

Karen Tyler: That's annual.

Representative Mock: Is that calendar year or fiscal year?

Karen Tyler: It's calendar year.

Representative Mock: How are the dues allocated? Is it based on category or brokerage size? What is the price and how is that determined?

Karen Tyler: It's a set fee set by the legislature. There are four categories of fees; broker/dealer, investment advisor, agent and investment advisor representative. Broker/dealers are \$100.00, investment advisors are \$200.00, agents are \$60.00 and reps

are \$50.00. Those fees haven't changed since 1999 and we would be in no hurry to adjust them; because the industry is already paying substantially more than it costs to run our agency.

Representative Kempenich: You don't mess with any of the GASB standards?

Karen Tyler: No.

Representative Kempenich: Any place that charges a sanctioned fee is regulated to a point of what they can charge; but you're outside of that because you're dealing more with the public arena than you are the governmental arena.

Karen Tyler: That issue has never come up; perhaps because we are an enforcement agency.

Chairman Vigesaa: Thinking about raising fees wouldn't be looked upon by industry very favorably because it's getting very competitive.

Karen Tyler continued with her testimony.

Representative Mock: Your budget is \$2.6 million; where does that revenue go? Is that just going into the general fund? How is that being used and what is it being used for?

Karen Tyler: All of our revenue currently goes into the general fund. We are hoping to secure with this budget that we will be able to use our revenues to fund the department. Our revenues in months 1 through 6 would fully fund the department and then all revenues from month 7 to 24 would go into the general fund.

Representative Mock: Where is that revenue reflected on the budget status reports?

Brady Larson, Fiscal Analyst, ND Legislative Council: It would be departmental collections.

Representative Kempenich: Are they classified employees? If you did go to special fund, you would still fall under the HR part of this? Would that change how you operate?

Karen Tyler: Nothing else would change; just the funding source. We would be funded by our own revenues until we were fully funded and then it would drop to the general fund.

Representative Kempenich: This does create a level of independence that a person has to be aware of.

Chairman Vigesaa: Do the penalties and fines go into the department or the common schools trust fund? Are they collected by the attorney general when you assess penalties on firms or individuals?

Karen Tyler: As far as I know, everything we bring in goes to the general fund.

Representative Kempenich: If it goes to court, I think it ends up with the attorney general.

Karen Tyler: Our cases are referred to the state's attorney or to the US attorney. If the state's attorney didn't want the case, then we'll look to the attorney general to see if they'll take it.

Karen Tyler continued with her testimony.

Representative Kempenich: Trust becomes the biggest question in that. Is that kind of what you're looking for this employee to get into?

Karen Tyler: That is one area. Something that I need to emphasize is that that is a legitimate financial innovation. We've seen market bubbles before involving other types of investment opportunities. What we deal with is when financial criminals take the idea that's making headlines and they'll wrap it around a fraud.

Representative Kempenich: It comes down to the level invested.

Karen Tyler: We have these new innovations that we have to investigate and regulate.

Karen Tyler continued with her testimony.

Representative Kempenich: That investor restitution fund where does that reside?

Karen Tyler: I don't know exactly where it resides. If we have money that we order returned to investors, in certain circumstances, we don't want the perpetrator or respondent in our case interacting with the victim. We will have them pay us and it goes into the restitution fund.

Representative Kempenich: So you don't carry a balance?

Karen Tyler: In the victim restitution fund there shouldn't be a balance of any significance.

Representative Beadle: A week or two ago there was an article in the New York Times about crypto currency. What does your office envision to be able to prevent someone from losing everything in crypto currency?

Karen Tyler: We don't regulate crypto currency. Where we get involved is when crypto currency is used for a transaction.

Representative Kempenich: There are a number of states that are changing their laws to entice these crypto currency firms to come in. Are there any laws effecting them?

Representative Mock: I've noticed that your office has taken some enforcement action against some companies that have issued ICO's. Has that been managed by your current staff? How have you been supplementing the expertise in to order to pursue those enforcement claims?

Karen Tyler: We've had to shift resources. There is a tremendous amount of fraud in that space. We can't continue to do that because it's putting other cases on hold. Given the extent of the fraud, securities regulators in the United States and Canada formed a team and Operation Crypto Sweep was launched. We've taken 8 enforcement actions so far against fraudulent ICO's.

Representative Mock: Is there a means for legitimate companies to offer ICO's in North Dakota? Do we have the right definitions in language and code to give you the authority and to distinguish between legitimate ICO's that offer actual securities versus illegitimate and fraudulent ICO's?

Karen Tyler: We have everything we need in statute for the legitimate and fraudulent.

Chairman Vigesaa: There's \$170,000.00 other funds that shows up on the executive budget and the Senate version. Do you know what that would be?

Karen Tyler: That is the appropriation out of our investor education special fund. That fund is what we use to fund education and financial literacy initiatives.

Chairman Vigesaa: What was the title of that fund?

Karen Tyler: Special fund for investor education and technology.

Representative Kempenich: How do you come up with that number?

Karen Tyler: It's an estimate of the program. We haven't in the last few years spent that much.

Representative Kempenich: That \$755,000.00 on tab 4; that's where that money comes out of?

Karen Tyler: There's specific language in statute that says if the misconduct or fraud had these certain characteristics about it, the penalty assessed can go into the investor education fund; but not all our penalties go to the investor education fund.

Representative Kempenich: Was the program ended just because of lack of interest?

Karen Tyler: It was around the time that the legislature required that financial literacy be taught in schools. There was a commission that was put together that decided which resources would be approved for that purpose.

Chairman Vigesaa: Closed the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division Medora Room, State Capitol

SB2011
3/4/2019
Recording Job# 33160

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the securities department.

Minutes:

Chairman Vigesaa: Opened the discussion on SB2011.

Representative Bellew: Where did she get her money before from the general fund?

Chairman Vigesaa: The revenue she would take in above and beyond her operating expenses would go the general fund. So isn't the net going to be the same?

Representative Bellew: Yes.

Chairman Vigesaa: When you are a special fund agency are you less apt to be cognizant of how frugal you are? When you're a general fund, everyone is really watching that and with special funds don't you have a little bit more freedom to spend what you want?

Representative Kempenich: It all depends on the committee. As long as they have to come in and ask for an appropriation it still gets examined. It depends on who the administrator or commissioner is also. Maybe it should be set up on a monthly or quarterly basis where they get their funding as money comes in; because they want to take the full amount up front and then the rest would go into the general fund.

Chairman Vigesaa: They generate \$22 million in revenue so it would be fill up pretty quickly.

Representative Kempenich: It would.

Chairman Vigesaa: They were also requesting an additional FTE.

Representative Kempenich: Two sessions ago, they had one long term employee; I wonder who they filled that one with. I don't have a problem with the FTE. I don't have a

problem with doing an appropriation for special funds either, just don't do a continuing appropriation.

Chairman Vigesaa: Was that part of her request as well?

Representative Kempenich: I can't remember. That won't fly in full committee.

Chairman Vigesaa: Was being a part of a continuing appropriation part of it?

Adam Mathiak, Fiscal Analyst, ND Legislative Council: No.

Representative Bellew: I don't think the employee is needed and if it is, they should be able to fund it within their own budget.

Representative Kempenich: I think they had one FTE that needed to be filled yet.

Representative Mock: I think that was a result of a promotion. I don't have any immediate reasons to oppose going from general funds to special funds; but, if that agency becomes special funded does that change or affect how that agency could be affected with budget allotments or other changes?

Adam Mathiak: As far as budget allotments, if there were insufficient revenues that go into their specific fund, they would need to adjust their spending accordingly. If it was a general fund allotment, they would be insulated from that because they would be a special fund agency.

Representative Kempenich: One of the things it would affect would be the budget stabilization fund.

Representative Mock: I don't think that would cause me too great of a concern because it is a special funded agency; we just don't call it that. It would be insulated if there were any general fund allotments.

Representative Kempenich: I don't see that happening. It is a fee driven agency, in other states I think the brokers are very sensitive to that. I think this has been a request for a few sessions.

Chairman Vigesaa: Closed the discussion.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division
Medora Room, State Capitol

SB2011
3/13/2019
Recording Job# 33678

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the securities department.

Minutes:

Chairman Vigesaa: Opened the discussion on SB2011.

Chairman Vigesaa: Discussed the green sheet.

Chairman Vigesaa: When does that take place?

Alex Cronquist, Fiscal Analyst, ND Legislative Council: Once they've made \$2.7 million in revenue, any additional revenue would be transferred and deposited into the general fund.

Chairman Vigesaa: They have to abide by what we appropriate whether it's all special funds?

Alex Cronquist: Right.

Representative Bellew: Why do they want to do special funds instead of general funds?

Chairman Vigesaa: They exist off of the fees they collect.

Representative Bellew: Does it give them other flexibility or freedoms?

Representative Howe: Didn't they say they wouldn't be subject to allotments?

Alex Cronquist: If there is a general fund allotment they would not be subject to any reductions.

Chairman Vigesaa continued with the green sheet.

Vice Chairman Brandenburg: Last session didn't we take those two away?

Chairman Vigesaa: They've been level since 2013-2015.

Chairman Vigesaa continued with the green sheet.

Representative Howe: Financial institutions are a special fund.

Representative Bellew: I don't like that fact that if there is an allotment, they don't have to abide by it.

Chairman Vigesaa: Should we change game and fish to general fund?

Representative Bellew: Sure.

Chairman Vigesaa continued with the green sheet.

Chairman Vigesaa: Closed the discussion.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division Medora Room, State Capitol

SB2011
3/20/2019
Recording Job# 34032

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the securities department.

Minutes:

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Chairman Vigesaa: Opened the discussion on SB2011.

Representative Mock: Discussed the green sheet.

Chairman Vigesaa: How do the mechanics work on the special fund? We appropriate a certain level for them for their budget; how does it mechanically work when the revenue comes in? How is it flagged when it hits that number and from that point everything goes to the general fund?

Levi Kinnischtzke, Fiscal Analyst, ND Legislative Council: They would be limited to the appropriations that the legislative assembly sets. Once that appropriation level has been met, typically it would be their accounting staff would make sure that those thresholds are not overstepped.

Chairman Vigesaa: What part of your office would look at that occasionally to see where they're at and how it's working?

Renae Bloms, Budget Analyst, ND Office of Management and Budget: That would be Jeff Larshus and his division will monitor that and make sure that once they reach that threshold, the rest of the revenue will go into the general fund.

Representative Mock: Are there other agencies that function in that manner?

Renae Bloms: I can't think of any. This would be different or new.

Chairman Vigesaa: How would RIO be funded any differently?

Representative Mock: They don't have excess revenues that come back to the general fund. Theirs assessed based on the total appropriation.

Chairman Vigesaa: They don't generate revenue.

Representative Mock: Exactly.

Representative Mock continued with the green sheet.

Representative Kempenich: In the past we didn't do it because they're a regulatory agency. It all comes down to how much you trust the agency to do the right thing.

Chairman Vigesaa: The Senate did make the change to special funded; but the FTE remained in the general fund line.

Chris Kadrmas, Fiscal Analyst, ND Legislative Council: Explained attachment A.

Representative Mock: If we estimated what their biennial rent would amount to?

Chairman Vigesaa: For this particular biennium could it be that the commissioner didn't consider that?

Representative Kempenich: I would say not.

Representative Mock: Anything that's not appropriated to the agency, goes to the general fund.

Renae Bloms: We estimate an increase of \$64,000.00 for rent.

Vice Chairman Brandenburg: It's \$2.5 million; but in the Senate version they have \$2.694 million. Where's that reduction happening?

Chris Kadrmas: The reduction is a reduction between the salary packages of the governor and Senate; and the retirement contribution was removed. Those are the changes from the executive budget outside of the source fund.

Chairman Vigesaa: The \$170,000.00 is listed as other funds under the base level. That was some other funds or federal funds that they received in the base previous?

Chris Kadrmas: The agency historically has retained a little bit of special funds in their budget. Historically it's been about \$170,000.00.

Chairman Vigesaa: I think if they are going to be special funded, they should pay rent.

Representative Mock: What was the purpose of the \$170,000.00 special fund appropriation?

Chris Kadrmas: It's in the investor education and technology fund.

Representative Mock: Does that \$170,000.00 continue on in the 2019-2021 biennium?

Chris Kadrmas: Correct.

Representative Mock: That's from a different source than the other special funds. Correct?

Chris Kadrmas: Correct. It's from fines and forfeitures.

Representative Mock: The other special funds are through fees paid? How much do we collect per biennium in fines and forfeitures?

Chris Kadrmas: They anticipate \$170,000.00 in revenue and expenditures of \$170,000.00. They had a beginning balance of \$823,366.00 in that funds and they would end up with a \$823,366.00 ending balance.

Representative Mock: Anything above \$170,000.00 does not come to the general fund at all; it's deposited in their fines and forfeitures fund?

Chris Kadrmas: Correct.

Representative Mock: It's restricted how the dollars in that fund can be used?

Chris Kadrmas: Yes.

Representative Mock: They can't spend more than \$170,000.00?

Chris Kadrmas: I'll have to research that because they do have a continuing appropriation out of the same fund.

Chairman Vigesaa: We're giving them some direction of what that \$170,000.00 can be used for?

Chris Kadrmas: I need to ensure that they're both tied together because they do utilize the same funds.

Chairman Vigesaa: Closed the discussion.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division
Medora Room, State Capitol

SB2011
3/21/2019
Recording Job# 34109

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the securities department.

Minutes:

Chairman Vigesaa: Opened the discussion on SB2011.

Representative Mock: Discussed the green sheet.

Representative Mock: Did you hear how often the revenue would be transferred to the general fund without any additional language?

Stephanie Gullickson, Budget Analyst, ND Office of Management and Budget: I spoke with Joe and he figures that at the end of this fiscal year OMB could transfer the excess into the general fund.

Representative Mock continued with his explanation.

Chairman Vigesaa: We would need to have an amendment to add that \$64,000.00 to operating. Correct?

Representative Mock: Correct.

Representative Mock: Made a motion to add \$64,000.00 into the operating expense line for rent and expenses.

Representative Howe: Seconded the motion.

Voice Vote made.

Motion Carried.

Chairman Vigesaa: Closed the discussion

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division Medora Room, State Capitol

SB2011
3/25/2019
Recording Job# 34210

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the securities department.

Minutes:

Attachment A

Chairman Vigesaa: Opened the discussion on SB2011.

Alex Cronquist, Fiscal Analyst, ND Legislative Council: See attachment A.

Representative Bellew: It says the insurance commissioner is an executive branch person under the governor.

Alex Cronquist: The insurance commissioner is elected.

Chairman Vigesaa: That financial analyst, that \$25,992.00 would be considered a base payroll change because the new analyst has that much higher salary than the previous. That's an example of how it works?

Alex Cronquist: That's correct.

Representative Bellew: They have the authority to give higher salaries even if it's not in their budget?

Alex Cronquist: As long as in the current biennium they have enough funding to pay it out, they can hire someone at a higher rate and then they have to come and request the appropriation authority from OMB.

Representative Bellew: How do they find the funding?

Alex Cronquist: They would have to reduce positions or leave positions open.

Chairman Vigesaa: Closed the discussion.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division
Medora Room, State Capitol

SB2011
4/1/2019
Recording Job# 34397

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the securities department.

Minutes:

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Chairman Vigesaa: Opened the discussion on SB2011.

Representative Mock: Discussed the green sheet.

Chairman Vigesaa: That's per biennium?

Representative Mock: Yes, per biennium.

Representative Mock continued with his explanation.

Representative Mock: Made a motion to adopt the changes.

Representative Beadle: Seconded the motion.

Voice Vote made.

Motion Carried.

Representative Beadle: Made for a "Do Pass as Amended".

Representative Howe: Seconded the motion.

Roll Call Vote made.

5 Yeas 0 Nays 2 Absent.

Motion Carried.

Chairman Vigesaa: Closed the discussion.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2011
4/2/2019
34462

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Risa Bergquist

Explanation or reason for introduction of bill/resolution:

Relating to collection of fees, civil penalties, and other moneys collected under the Securities Act.

Minutes:

Chairman Delzer: Called the meeting to order for SB 2011.

Representative Mock: This is the budget for securities, it is a small budget. The agency returns about a 10 to 1 return of revenue for their fees. Roughly 22 million or so gets returned to the general fund. The senate did convert the agency into a special fund agency, if we pass out this budget as its proposed it would be the first 2.7 million or so would be used to pay those cost for the agency and everything else would come into the general fund. We felt comfortable with the senate's recommendation to make this change, the only other change they made was they did add 1 FTE. They have 9 FTEs, 5 are part of the investigation team, including the deputy. They preform investigations and examinations of a various securities. Most of their investigator have had to shift their focuses to online operations. Their new normalized time is about a quarter of it being spent using these services so they are not able to do nearly as much of the traditional investigations. So that is what the extra FTE is for. The only other change was because they are a special funded they will have to pay rent to the state. Those costs were absorbed, we didn't add them, all of them fees are deposited in general fund anyways so it doesn't have a net effect on the general fund balance.

4:15 Chairman Delzer: Senate increased the FTEs by 1?

Representative Mock: Yes, that's a financial tech investigator.

Chairman Delzer: Questions by the committee?

Representative Mock: I would **Move the amendment 19.0224.02001** for SB 2011

Representative Schobinger: **Second**

Chairman Delzer: Motion to amend SB 2011 with 02001, any further discussion? Seeing none, **Voice vote, All in Favor, Motion Carries**

Representative Mock: I will move for a Do Pass as Amended

Representative Beadle: Second

Chairman Delzer: Any further discussion on the motion for a Do Pass as Amended?

Representative Vigesaa: Part of our discussion in committee was that department of financial institutions, which is a very similar agency is also special funded, there was even a study on whether or not to merge those tow departments. Finding were that should remain separate but they are so similar we felt it was appropriate to have them both special funds.

Chairman Delzer: Any further discussion? Seeing none we will call the roll.

A Roll Call vote was taken. Yea: 16 Nay: 2 Absent: 3

Representative Mock will carry the bill.

Chairman Delzer: We will close this meeting.

DP 4/3/19

19.0224.02001
Title.03000

Prepared by the Legislative Council staff for
the House Appropriations - Government
Operations Division Committee
April 1, 2019

Fiscal No. 1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2011

Page 1, replace lines 13 through 18 with:

"Salaries and wages	\$1,848,667	\$314,891	\$2,163,558
Operating expenses	<u>506,047</u>	<u>87,514</u>	<u>593,561</u>
Total all funds	\$2,354,714	\$402,405	\$2,757,119
Less estimated income	<u>170,000</u>	<u>2,587,119</u>	<u>2,757,119</u>
Total general fund	\$2,184,714	(\$2,184,714)	\$0
Full-time equivalent positions	9.00	1.00	10.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2011 - Securities Department - House Action

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$1,848,667	\$2,164,563	(\$1,005)	\$2,163,558
Operating expenses	<u>506,047</u>	<u>529,561</u>	<u>64,000</u>	<u>593,561</u>
Total all funds	\$2,354,714	\$2,694,124	\$62,995	\$2,757,119
Less estimated income	<u>170,000</u>	<u>2,694,124</u>	<u>62,995</u>	<u>2,757,119</u>
General fund	\$2,184,714	\$0	\$0	\$0
FTE	9.00	10.00	0.00	10.00

Department 414 - Securities Department - Detail of House Changes

	Adjusts Funding for Salary Increases ¹	Increases Funding for Operating Expenses ²	Total House Changes
Salaries and wages	(\$1,005)		(\$1,005)
Operating expenses		\$64,000	64,000
Total all funds	(\$1,005)	\$64,000	\$62,995
Less estimated income	<u>(1,005)</u>	<u>64,000</u>	<u>62,995</u>
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

¹ Funding is added to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

² Funding for operating expenses is increased \$64,000 for rent and statewide capital allocation plan expenditures.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2011**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

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

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Mock Seconded By Representative Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigesaa			Representative Mock		
Vice Chairman Brandenburg					
Representative Beadle					
Representative Bellew					
Representative Howe					
Representative Kempenich					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
To adopt changes.
Motion Carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2011**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

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

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Beadle Seconded By Representative Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigesaa	X		Representative Mock	X	
Vice Chairman Brandenburg	X				
Representative Beadle	X				
Representative Bellew					
Representative Howe	X				
Representative Kempenich					

Total (Yes) 5 No 0

Absent 2

Floor Assignment Representative Mock

If the vote is on an amendment, briefly indicate intent:
To adopt changes.
Motion Carried.

Date: 4/2/2019
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2011**

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 19.0224.02001

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

Motion Made By Representative Mock Seconded By Representative Schobinger

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich					
Representative Anderson			Representative Schobinger		
Representative Beadle			Representative Vigesaa		
Representative Bellew					
Representative Brandenburg					
Representative Howe			Representative Boe		
Representative Kreidt			Representative Holman		
Representative Martinson			Representative Mock		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

Voice Vote/Motion Carries

Date: 4/2/2019
Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2011**

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

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

Motion Made By Representative Mock Seconded By Representative Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X			
Representative Kempenich	A				
Representative Anderson	X		Representative Schobinger	X	
Representative Beadle	X		Representative Vigesaa	X	
Representative Bellew		X			
Representative Brandenburg	X				
Representative Howe	X		Representative Boe	A	
Representative Kreidt	X		Representative Holman	X	
Representative Martinson	X		Representative Mock	X	
Representative Meier	X				
Representative Monson	X				
Representative Nathe	X				
Representative J. Nelson	X				
Representative Sanford	X				
Representative Schatz	X				
Representative Schmidt	A				

Total (Yes) 16 No 2

Absent 3

Floor Assignment Representative Mock

Motion Carries

REPORT OF STANDING COMMITTEE

SB 2011, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2011 was placed on the Sixth order on the calendar.

Page 1, replace lines 13 through 18 with:

"Salaries and wages	\$1,848,667	\$314,891	\$2,163,558
Operating expenses	506,047	87,514	593,561
Total all funds	\$2,354,714	\$402,405	\$2,757,119
Less estimated income	170,000	2,587,119	2,757,119
Total general fund	\$2,184,714	(\$2,184,714)	\$0
Full-time equivalent positions	9.00	1.00	10.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2011 - Securities Department - House Action

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$1,848,667	\$2,164,563	(\$1,005)	\$2,163,558
Operating expenses	506,047	529,561	64,000	593,561
Total all funds	\$2,354,714	\$2,694,124	\$62,995	\$2,757,119
Less estimated income	170,000	2,694,124	62,995	2,757,119
General fund	\$2,184,714	\$0	\$0	\$0
FTE	9.00	10.00	0.00	10.00

Department 414 - Securities Department - Detail of House Changes

	Adjusts Funding for Salary Increases ¹	Increases Funding for Operating Expenses ²	Total House Changes
Salaries and wages	(\$1,005)		(\$1,005)
Operating expenses		\$64,000	64,000
Total all funds	(\$1,005)	\$64,000	\$62,995
Less estimated income	(1,005)	64,000	62,995
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

¹ Funding is added to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

² Funding for operating expenses is increased \$64,000 for rent and statewide capital allocation plan expenditures.

2019 TESTIMONY

SB 2011

Department 414 - Securities Department
Senate Bill No. 2011

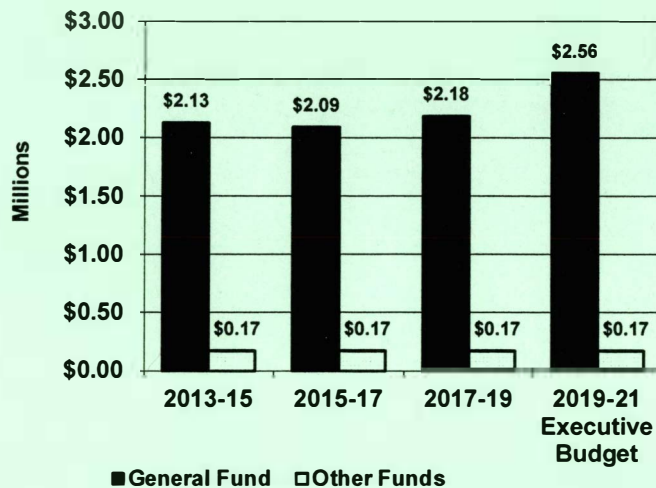
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2019-21 Executive Budget	10.00	\$2,555,343	\$170,000	\$2,725,343
2017-19 Legislative Appropriations	9.00	2,184,714	170,000	2,354,714
Increase (Decrease)	1.00	\$370,629	\$0	\$370,629

Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2019-21 Executive Budget	\$2,555,343	\$0	\$2,555,343
2017-19 Legislative Appropriations	2,184,714	0	2,184,714
Increase (Decrease)	\$370,629	\$0	\$370,629

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2019-21 Executive Budget	\$2,555,343	\$170,000	\$2,725,343
2019-21 Base Level	2,184,714	170,000	2,354,714
Increase (Decrease)	\$370,629	\$0	\$370,629

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

Executive Budget Highlights

	General Fund	Other Funds	Total
1. Adds funding for state employee salary and benefit increases, of which \$88,493 is for salary increases, \$37,792 is for health insurance increases, and \$11,536 is for retirement contribution increases	\$137,821	\$0	\$137,821
2. Adds 1 FTE financial technology research and investigation position (\$209,294) and related operating expenses (\$23,000)	\$232,294	\$0	\$232,294
3. Adds funding for Microsoft Office 365 license expenses	\$514	\$0	\$514

**Other Sections Recommended to be Added in the Executive Budget
(As Detailed in the Attached Appendix)**

Line item transfers - Section 2 would authorize the agency to transfer up to 10 percent of the agency's appropriation authority between line items in Section 1 of the bill.

Additional income - Section 3 would appropriate any additional federal or other funds available to the Securities Department during the 2019-21 biennium.

Continuing Appropriations

Investor education and technology fund - North Dakota Century Code Section 10-04-03 - This fund receives funding from tuition, grants, donations, and certain civil penalties assessed by the securities commissioner. The money in the fund can be used for public education services and for the technology needs of the Securities Department.

Investor restitution fund - Section 10-04-03 - This fund is used to deposit civil penalties collected from enforcement action to be distributed to aggrieved investors.

Deficiency Appropriation

There are no deficiency appropriations for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

Major Related Legislation

House Bill No. 1043 - Blockchain token and virtual currency - Creates a new section to Chapter 10-04 and amends various sections to provide definitions, to exempt developers or sellers and individuals who facilitate the exchange of open blockchain tokens from being defined as an issuer of a security, and to provide an exemption if certain criteria are met.

Senate Bill No. 2083 - Refund of filing registration fees - Amends Sections 10-04-08.4 and 10-04-10 to make certain fees submitted to the Securities Department refundable.

Securities Department - Budget No. 414
Senate Bill No. 2011
Base Level Funding Changes

	Executive Budget Recommendation			
	FTE Position	General Fund	Other Funds	Total
2019-21 Biennium Base Level	9.00	\$2,184,714	\$170,000	\$2,354,714
2019-21 Ongoing Funding Changes				
Salary increase		\$88,493		\$88,493
Health insurance increase		37,792		37,792
Retirement contribution increase		11,536		11,536
Adds 1 FTE financial technology research and investigation positon	1.00	232,294		232,294
Adds Microsoft Office 365 funding		514		514
Total ongoing funding changes	1.00	\$370,629	\$0	\$370,629
One-time funding items				
No one-time funding items				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	1.00	\$370,629	\$0	\$370,629
2019-21 Total Funding	10.00	\$2,555,343	\$170,000	\$2,725,343

Other Sections for Securities Department - Budget No. 414

Line item transfers

Executive Budget Recommendation
 Section 2 authorizes the Securities Department to transfer up to 10 percent of the agency's total appropriation between line items during the 2019–21 biennium.

Appropriation - Additional federal or other funds

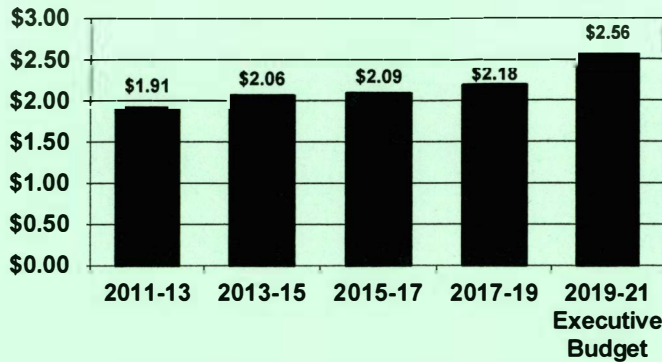
Section 3 appropriates any additional income from federal or other funds which may become available to the Securities Department for the 2019-21 biennium.

Department 414 - Securities Department

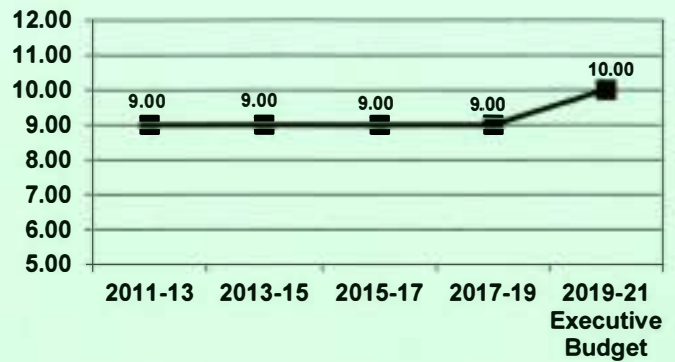
Historical Appropriations Information

Ongoing General Fund Appropriations Since 2011-13

Ongoing General Fund Appropriations (in Millions)



FTE Positions



Ongoing General Fund Appropriations					
	2011-13	2013-15	2015-17	2017-19	2019-21 Executive Budget
Ongoing general fund appropriations	\$1,909,220	\$2,063,005	\$2,090,781	\$2,184,714	\$2,555,343
Increase (decrease) from previous biennium	N/A	\$153,785	\$27,776	\$93,933	\$370,629
Percentage increase (decrease) from previous biennium	N/A	8.1%	1.3%	4.5%	17.0%
Cumulative percentage increase (decrease) from 2011-13 biennium	N/A	8.1%	9.5%	14.4%	33.8%

Major Increases (Decreases) in Ongoing General Fund Appropriations

2013-15 Biennium

- Added funding for information technology upgrades \$25,850

2015-17 Biennium

- Added funding for desktop support services and hardware \$46,805

2017-19 Biennium

- Restored a portion of funding for operating expenses that was removed as a result of the August 2016 general fund budget reductions \$46,545

2019-21 Biennium (Executive Budget Recommendation)

- Adds 1 FTE financial technology research and investigation position (\$209,294) and related operating expenses (\$23,000) \$232,294

**GOVERNOR'S RECOMMENDATION FOR THE
SECURITIES DEPARTMENT AS SUBMITTED
BY THE OFFICE OF MANAGEMENT AND BUDGET**

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the securities department special fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the securities department of the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2019, and ending June 30, 2021, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,848,667	\$347,115	\$2,195,782
Operating expenses	<u>506,047</u>	<u>23,514</u>	<u>529,561</u>
Total all funds	\$2,354,714	\$370,629	\$2,725,343
Less estimated income	<u>170,000</u>	<u>0</u>	<u>170,000</u>
Total general fund	\$2,184,714	\$370,629	\$2,555,343
Full-time equivalent positions	9.00	1.00	10.00

SECTION 2 LINE ITEM TRANSFER. Notwithstanding section 54-16-04, the securities department may transfer between line items within section 1 of this Act up to ten percent of the total appropriation contained in section 1 during the biennium beginning July 1, 2019, and ending June 30, 2021. The securities department shall notify the office of management and budget and the legislative council of any transfer made pursuant to this section.

SECTION 3. APPROPRIATION - In addition to the amounts appropriated to the securities department in section 1 of this Act, there is appropriated any additional income from federal or other funds which may become available to the agency for the biennium beginning July 1, 2019, and ending June 30, 2021.

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1-4-19
SB 2011

Senate Bill 2011

Testimony of North Dakota Securities Commissioner Karen Tyler

Before the Senate Appropriations Committee

January 4, 2019

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 the Department's budget request.

The regulatory policy objectives supported by a particular financial regulator are driven by the risk created by a given type of financial transaction. In a securities transaction, when a brokerage firm sells a security (stock, bonds, mutual fund, exchange traded fund, etc.), a variety of risks can be created depending on the security – market risk, interest rate risk, credit quality, maturity risk, liquidity risk – but in every case it is the investor, not the firm, who carries the risk of that securities transaction. Therefore, the primary

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#/ SB 2011
1-4-2019

policy objective supported by state securities regulation is Investor Protection.

This policy objective informs the structure of the securities regulatory system and the laws, rules and regulations within it, the nature and execution of the Securities Commissioner's authority, and the allocation of Department resources.

Notably, securities regulation is not a prudential system of regulation focused on the safety and soundness of a financial institution, it is instead an enforcement-based system of regulation focused on the protection of the investor who carries the risk of owning securities. The Department supports this Investor Protection policy objective through our work in the following functional areas:

- 1) We regulate the capital formation and franchise registration process.
- 2) We register, and regulate the conduct of, securities industry firms and professionals who want to do business in the state.
- 3) We perform conduct focused examinations of broker-dealer and investment adviser firms and professionals.
- 4) We investigate investment fraud and take enforcement actions as necessary and appropriate, and we also make criminal referrals and

/ SB 2011
1-4-2019

support criminal cases. The majority of our resources are dedicated to this enforcement function.

- 5) And we produce and deliver investor education and financial literacy programs.

Related to the subject of regulatory policy objectives of different financial regulators, last session language was included in the Banking regulator's budget requiring the Governor to study a possible merger between the Banking and Securities Departments. Both the Banking Commissioner and Securities Commissioner are appointed by the Governor and are part of the Governor's cabinet. The study was completed and the Governor's conclusion and recommendation Not To Merge the agencies can be found at Tab 1. The full study report was submitted to Legislative Council as required, and the Interim Government Administration Committee voted to concur with the Governor's recommendation of no merger.

The North Dakota Securities Department is a small agency, with 9 full time employees, and we are requesting 1 additional FTE in our 19-21 budget. We continue to operate as a revenue generating agency for the state, taking in over \$22 million dollars in revenue last biennium, and we estimate we will

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meet or exceed that revenue level in the current biennium. Over the last several budget cycles, the agency's spending has averaged approximately 10 cents per revenue dollar generated.

RETURN ON INVESTMENT GENERATED BY NDSD

Based on the budget investment the legislature made in the Department in the current cycle, the Department's return on investment for our citizens, calculated on amount of rescission ordered and assets recovered for harmed investors, is estimated to be 245%. The return on investment the Department will generate for the state, factoring in assets recovered, penalties collected and revenues collected this biennium, is estimated to be just shy of 1,200%.

A historical view of the Department's general fund appropriation versus revenue can be found at Tab 2. Cumulative data for revenues versus expenditures and net revenue for the General Fund over the last 10 years can be found at Tab 3.

The majority of the Department's revenue is generated from securities registrations and filings, as well as industry registrations. Examples of securities registrations and filings would be Mutual Funds, Unit Investment

Trusts, Non-traded Real Estate Investment Trusts, and small business capital formation filings. Investment industry registrations include broker-dealer and investment adviser firms, and their registered professionals – securities agents and investment adviser representatives. Current industry registration statistics can be found at Tab 4.

Earlier this week the annual renewal of these industry registrations took place. A total of 90,642 registration renewals were completed in an entirely automated process, through our registration system called the Central Registration Depository, and a payment of just over \$5.6 million was deposited to the Bank of North Dakota. This renewal process occurs at no cost to the state.

Also at Tab 4 you will find some key statistics from our various areas of functionality.

BUDGET REQUEST

The Department's total budget request for the 2019-2021 biennium is \$2,725,343. This request reflects the enhancements set forth in the Governor's executive budget for salary and benefit adjustments, and provides

new salary and operating funding for the cost of the Department adding 1 full time employee.

The new employee would be a Financial Technology Analyst and Investigator, and I will elaborate more on this position and the need for it later in my testimony.

Our budget request also includes limited line item transfer authority, similar to what currently exists for legislative and judicial branch budgets. The requested authority would give the Department the ability to transfer up to 10% of our total appropriation between line items. The Department's general fund operating budget is now below 2005-2007 levels as a result of the budget allotments that occurred in 15-17, so this flexibility would prove exceedingly beneficial, especially in the event of a protracted litigation matter.

Other information requested by Legislative Council on behalf of Chairman Holmberg:

The information requested by Chairman Holmberg can be found at Tab 5.

This includes detail on the 5% operating budget reduction that was originally

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requested and then subsequently restored by the Governor. The Department is not seeking any changes to the Governor's recommended budget.

SIGNIFICANT EVENTS/ISSUES IMPACTING RESOURCE ALLOCATION

Significant events and issues the Department has identified that have, and will continue to impact our constituents, reinforce the necessity of securing funding at the requested level, and drive the allocation of our resources, include but are not limited to: the size of the Department's investigations caseload, the victimization of seniors by financial criminals and dishonest financial professionals, and innovation in the Financial Technology sector.

Over the last 10-15 years there has been a tremendous level of innovation bringing together developments in financial products and services with new technology advancements. So much innovation has occurred in this area that a new economic sector has emerged – the Financial Technology sector, or Fintech sector.

Some of these innovations have contributed significantly to advancing economic inclusion and reaching previously underserved segments of our population with important financial resources. However, some of these

innovations have led to an extraordinary level of fraud and exploitation as financial criminals have been innovating just as aggressively as legitimate businesses in the Fintech sector. Regulators must be able to keep up.

In order to strike the right balance between supporting innovation and protecting investors, regulators must have the resources to attract talented employees, to access on-going training, to effectively contribute to policy decisions surrounding industry innovation, and to effectively apply regulatory, investigative and enforcement authority when abuse and exploitation of innovation leads to violations of law.

Currently, the most significant developments/innovations in the area of Fintech that are impacting investors, the investment industry, and securities regulators are: the creation of algorithm driven robo-advisers, the adoption of securities-based crowdfunding, and the growth of cryptocurrencies and a new type of capital formation by start-up companies called initial coin offerings or initial token offerings.

This is the type of industry innovation and change that is driving the need for the Financial Technology Analyst and Investigator requested in our budget.

To frame this further, a comparison of investigative approaches and

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challenges that help demonstrate the impact Fintech innovation is having on resource allocation and the nature of our investigative work is included at Tab 6. This comparison represents the investigative work typical in a conventional investment fraud investigation, such as a ponzi scheme fronted with promissory notes, versus a digital or virtual investment fraud investigation perpetrated through an initial coin or token offering.

FINTECH ANALYST AND INVESTIGATOR

Because asset recovery in a digital or virtually executed fraud is highly unlikely, regulators need the resources to combat this type of fraud on the front end, before the investor makes the investment and the damage is done.

We need the resources to keep pace, analyze and understand new technologies and financial instruments, and improve visibility, education about, and understanding of the risks presented to the public, with the goal of preventing victimization in the first place. A Financial Technology Analyst and Investigator would be dedicated to this role.

These are new challenges securities regulators face, but of course the conventional investigative work we do isn't slowing down. Financial criminals

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are always finding new ways to package a fraud. And in the registered industry, while most investment professionals are honest and ethical, there will always be those in the industry who engage in misconduct and harm their clients.

In that regard, I would like to close my formal testimony with information about the recent final outcome of a ponzi scheme investigation the Department has been working on for some time, and concluded earlier this biennium, that directly affected constituents in some of your jurisdictions.

Kevin Wanner was a stockbroker located here in Bismarck, who had worked in the industry for almost 25 years and for over 10 years was stealing money from his clients through a ponzi scheme fronted with fake bonds, fake brokered CDs and a fictitious managed stock trading program. He carried out the fraud while working for Questar Financial and Woodbury Financial. The fraud involved 41 victims and total losses of over \$3,000,000.00. The investigation was lengthy as most ponzi scheme investigations are, but we were able to build a strong Failure to Supervise case against the firms. We reached settlements with both firms and secured repayment to investors in

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August and December of 2017. To date, \$3,063,373 has been repaid through our action.

We also made a criminal referral of this matter to the U.S. Attorney's office, and supported the prosecution of the criminal case. In July of 2018 Wanner was sentenced to 11 years 3 months in federal prison, and an additional \$550,000 in restitution was ordered which included an interest factor for the victims.

A breakdown of number of victims and damages and repayment by legislative district can be found at Tab 7.

This concludes my prepared testimony. Thank you for your consideration and I'm happy to answer any questions.



State of North Dakota

Office of the Governor

Doug Burgum
Governor

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1-4-2019

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CONCLUSION AND RECOMMENDATION

Reinventing state government to create efficiencies and better serve North Dakotans is a top priority for the Burgum-Sanford administration. Significant progress has already been made on this priority initiative. Many reinvention opportunities have been identified and are progressing. Based upon the results of the study, a merger of the Department of Financial Institutions and the Securities Department would not result in meaningful operational or cost efficiencies. Moreover, merging these agencies would marginalize functional regulatory expertise and core mission execution and negatively impact service to citizens and businesses in our state.

In supporting distinct policy objectives and a unique core mission, each agency impacts and promotes consumer and investor confidence and protection, access to capital for small businesses, and financial health and vibrancy of North Dakota families, businesses, and communities.

Given the distinct regulatory policy objectives of these agencies, the lack of redundancy in staffing and function, the absence of meaningful cost reduction or operational efficiency opportunities, a revenue generating capability that is equal to or exceeds the cost of operations and a desire to avoid diluted regulatory expertise and compromised service, it is recommended that the Department of Financial Institutions and the Securities Department do not merge.

Doug Burgum, Governor
State of North Dakota

June 28, 2018

Date

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GENERAL FUND APPROPRIATION vs. REVENUE

BIENNIUM	09-11	11-13	13-15	15-17 <i>(adjusted)</i>	17-19
APPROPRIATION	\$ 1,798,362	\$ 1,909,220	\$ 2,127,782	\$ 2,090,781	\$ 2,184,714
REVENUE	\$17,768,220	\$18,882,606	\$20,843,731	\$22,140,733	\$22,140,733*

*Estimate

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TOTAL REVENUE vs. EXPENSE

10 Year Total Revenue  \$ 96,945,108

10 Year Total Expense  \$ 8,939,126

Net for General Fund  \$ 88,005,981

FTEs Added over the Past 10 Years:  - 0 -

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KEY DEPARTMENT STATISTICS

CAPITAL FORMATION AND FRANCHISE REGISTRATION

as of December 31, 2018

Number of Securities Offerings in Effect: 26,301

Current Franchise Registrations: 902

REGISTRATION OF SECURITIES FIRMS AND PROFESSIONALS

as of December 31, 2018

Broker-Dealer Firms: 1,157

Investment Adviser Firms: 729

Broker-Dealer Agents: 87,123

Investment Adviser Reps: 1,609

INVESTIGATIONS, EXAMINATIONS, AND ENFORCEMENT

from January 1, 2017 to December 31, 2018

New Enforcement Cases Opened: 131

Enforcement Cases Closed or Referred: 169

Exams Opened: 42

Exams Closed: 45

Rescission Ordered / Funds Recovered: \$ 5,820,992

Penalties Assessed: \$ 755,000

– Most prevalent violations investigated have involved Unregistered Individuals, Sale of Unregistered Securities, Private Placement Fraud, Ponzi Schemes, Initial Coin/Token Offering Fraud, Misrepresentations, Lack of Suitability.

– The Department has referred 9 cases to criminal authorities.

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2019-2021 Executive Budget Recommendation

	2017-2019 Appropriation	5% Reduction	Total	Return 5% Reduction	Crypto Cop	Executive Enhancements	Total Executive Changes	Total Adjustments
511000 Salaries Full Time (9 FTE)	1,314,243		1,314,243		149,328		149,328	1,463,571
516000 Fringe Benefits	534,424		534,424		59,966		59,966	594,390
Total Salaries & Wages Exp	1,848,667		1,848,667	-	209,294	137,821	347,114	2,195,781
521000 Travel	51,600		51,600		5,275		5,275	56,875
531000 Supplies - IT Software	9,500		9,500		400		400	9,900
532000 Supply/Material-Professional	62,732	(7,000)	55,732	7,000			7,000	62,732
534000 Bldg, Grounds, Vehicle Supply	1,100		1,100				-	1,100
535000 Miscellaneous Supplies	17,500	(6,648)	10,852	6,648			6,648	17,500
536000 Office Supplies	13,335		13,335				-	13,335
541000 Postage	7,500		7,500				-	7,500
542000 Printing	15,000		15,000				-	15,000
551000 IT Equip under \$5,000	3,490		3,490		1,200		1,200	4,690
552000 Other Equip under \$5000	4,200		4,200				-	4,200
553000 Equip & Furn-Under \$5,000	7,800		7,800				-	7,800
571000 Insurance	3,300		3,300				-	3,300
581000 Rentals/Leases-Equip & Other	8,600		8,600				-	8,600
582000 Rentals/Leases - Bldg/Land	12,500	(6,500)	6,000	6,500	3400		9,900	15,900
591000 Repairs	2,200		2,200				-	2,200
601000 IT - Data Processing	32,300		32,300		1525	514	2,039	34,339
602000 IT-Communications	24,300		24,300		2400		2,400	26,700
603000 IT Contractual Services and Re	56,408	(24,088)	32,320	24,088	5800		29,888	62,208
611000 Professional Development	30,432		30,432		3000		3,000	33,432
621000 Operating Fees and Services	51,750	(8,500)	43,250	8,500			8,500	51,750
623000 Fees - Professional Services	90,500	(65,000)	25,500	65,000			65,000	90,500
Total Operating Expenses	506,047	(117,736)	388,311	117,736	23,000	514	141,250	529,561
General Funds	2,184,714	(109,235)	2,075,479	109,235	232,294	138,849	480,377	2,555,856
Special Funds	170,000	(8,500)	161,500	8,500			8,500	170,000
Total All Funds	2,354,714	(117,735)	2,236,979	117,736	232,294	138,849	488,364	2,725,343

FTE Positions

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SENATE BILL NO. 2011
(Governor's Recommendation)

Introduced by

Appropriations Committee

(At the request of the Governor)

A bill for an act to provide an appropriation for defraying the expenses of the securities department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the securities department special fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the securities department of the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2019, and ending June 30, 2021, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,848,667	\$347,115	\$2,195,782
Operating expenses	<u>506,047</u>	<u>23,514</u>	<u>529,561</u>
Total all funds	\$2,354,714	\$370,629	\$2,725,343
Less estimated income	<u>170,000</u>	<u>0</u>	<u>170,000</u>
Total general fund	\$2,184,714	\$370,629	\$2,555,343
Full-time equivalent positions	9.00	1.00	10.00

SECTION 2 LINE ITEM TRANSFER. Notwithstanding section 54-16-04, the securities department may transfer between line items within section 1 of this Act up to ten percent of the total appropriation contained in section 1 during the biennium beginning July 1, 2019, and ending June 30, 2021. The securities department shall notify the office of management and budget and the legislative council of any transfer made pursuant to this section.

SECTION 3. APPROPRIATION - In addition to the amounts appropriated to the securities department in section 1 of this Act, there is appropriated any additional income from federal or other funds which may become available to the agency for the biennium beginning July 1, 2019, and ending June 30, 2021.

EVOLVING ELEMENTS OF INVESTMENT FRAUD INVESTIGATIONS

CONVENTIONAL (e.g., Promissory Note Ponzi Scheme)	VS.	DIGITAL and VIRTUAL (e.g., Initial Coin/Token Offering)
1. Execution of search warrant on physical location		No physical location, website and IP address only
2. Ability to verify identity of perpetrator		Identification verification difficult - fake executives, management, promoters
3. Bank records exist and are obtained through subpoena		No bank records, transactions are cryptocurrency moving through blockchain
4. Physical and electronic records exist and can be seized		Covert electronic surveillance of fraud promotion through social media platforms, e.g., Reddit, Medium, Telegram, Twitter, Facebook
5. More likely to be U.S based		High likelihood fraud is emanating from foreign jurisdiction
6. Cooperation with other U.S authorities and regulators, e.g., SEC, FBI, IRS		Limited or no cooperation with foreign authorities and regulators
7. Ability to seize assets for return to harmed investors		Asset recovery highly unlikely

WANNER PONZI SCHEME

Victim Funds Returned

Legislative District #	Legislators	Number of Victims	Questar Amount Returned 8/2017	Woodbury Amount Returned 12/2017	Total Amount By District
District 7:	Poolman Becker Dockter	7	\$ 115,000.00	\$ 47,500.00	\$ 162,500.00
District 8:	Anderson Delzer Laning	5	\$ 240,552.17		\$ 240,552.17
District 28:	Erbele Brandenburg Magrum	3	\$ 392,728.11	\$ 384,162.00	\$ 776,890.11
District 31:	Schaible Rohr Schmidt	2	\$ 40,000.00		\$ 40,000.00
District 34:	Cook Porter Toman	4	\$ 45,909.76		\$ 45,909.76
District 35:	Oban Karls Martinson	1	\$ 60,000.00		\$ 60,000.00
District 37:	Wardner Lefor Steiner	6	\$ 327,907.94	\$ 30,821.50	\$ 358,729.44
District 39:	Patten Kempenich Zubke	2	\$ 21,870.00		\$ 21,870.00
District 47:	Dwyer Keiser Klemin	6	\$ 616,706.65	\$ 75,890.00	\$ 692,596.65
Totals:		36	\$ 1,860,674.63	\$ 538,373.50	\$ 2,399,048.13
Out-of-State Victims:		5	\$ 467,153.54	\$ 58,000.00	\$ 525,153.54
Total Victim Funds Returned:		41	\$ 2,327,828.17	\$ 596,373.50	\$ 2,924,201.67

Note: A third payment from the Investor Restitution Fund of \$139,171.83 was distributed pro-rata to victims on September 27, 2018. **Total Funds Returned: \$ 3,063,373.50**

Criminal Case: On July 23, 2018 Kevin Wanner was sentenced to 11 years, 3 months in federal prison. On November 30, 2018 the sentence was amended to order repayment of \$551,016.51 as additional restitution for victims.

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SB 2011 #2
1-4-19

ICO Name	Agency	Action	Status Change
1pool LTD aka 1Broker	U.S. Securities and Exchange Commission	Charged with Registration Violations	pg1
Adosia LLC	North Carolina Secretary of State – Securities Division	Consent Order	
Advertiza Holdings (Pty) Ltd	North Dakota Securities Department	Cease & Desist Order	
Antivolatility Coin/ZZZ Coin	Autorité des marchés financiers (AMF) – QUEBEC (CANADA)	Cease & Desist Order	
AriseBank	U.S. Securities and Exchange Commission	Charged with Fraudulent ICO	
AWS Mining Pty Ltd.	Texas State Securities Board	Emergency Cease & Desist Order	
Baltic Fund	Office of Missouri Secretary of State Securities Division	Order to Cease & Desist and Order to Show Cause	
BC Holdings and Investments LLC	Texas State Securities Board	Cease & Desist Order	
Binance Limited	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
BIOK	Nova Scotia Securities Commission	Investor Alert	
Bionic	Indiana Office of the Secretary of State, Securities Division	Cease & Desist Order	
Bionic Coin	Colorado Division of Securities	Cease & Desist Order	
Bitcoin Trading & Cloud Mining Limited	Texas State Securities Board	Emergency Cease & Desist Order	
BitConnect	Texas State Securities Board	Emergency Cease & Desist Order	
BitConnect and BitConnectX	Office of the Georgia Secretary of State – Securities and Charities Division	Emergency Cease & Desist Order	
BitConnect LTD and BitConnect International PLC	North Dakota Securities Department	Cease & Desist Order	
bitFlyer USA, Inc.	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
Bitstamp USA Inc	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
Bittrex, Inc.	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
Blockvest LLC	U.S. Securities and Exchange Commission	Emergency Cease & Desist Order	
Blue Vase Mining	Massachusetts Securities Division	Consent Order	
Broad Investments, LLC	Colorado Division of Securities	Order to Cease & Desist and Order to Show Cause	
Browsers Lab, LLC	Maryland Office of the Attorney General, Securities Division	Summary Order to Cease & Desist and Order to Show Cause	
Bullcoin Foundation aka Bullcoin Gold	New Jersey Bureau of Securities, Office of the New Jersey Attorney General	Summary Cease & Desist Order	
CacheCoin	North Dakota Securities Department	Cease & Desist Order	
CarrierEQ, Inc., dba Airfox	U.S. Securities and Exchange Commission	Cease & Desist Order	Settled Charges
Centra Tech., Inc	U.S. Securities and Exchange Commission	Charged with Fraudulent ICO	
Chain Group Escrow Service	Alabama Securities Commission	Cease & Desist Order	
Circle Internet Financial Limited	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
CoinAlpha Advisors LLC	U.S. Securities and Exchange Commission	Cease & Desist Order	
Coinbase, Inc.	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
Coins Miner Investment Ltd Credits, LLC	Texas State Securities Board	Emergency Cease & Desist Order	
	Colorado Division of Securities	Cease & Desist Order	

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1-4-19

SB 2011

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ICO Name	Agency	Action	Status Change
Crowdshare Mining	Colorado Division of Securities	Cease & Desist Order	
Crypto Asset Management, LP	U.S. Securities and Exchange Commission	Charged with Registration Violations	
Cryptocashback c/o Kapsus Technologies Ltd.	British Columbia Securities Commission	Cease & Desist Letter	
Crystal Token	North Dakota Securities Department	Cease & Desist Order	
CyberSmart Coin Invest	Colorado Division of Securities	Cease & Desist Order	
DasCoin	British Columbia Securities Commission	Cease & Desist Letter	
DavorCoin	Texas State Securities Board	Cease & Desist Order	
Deedcoin	North Dakota Securities Department	Information Request Letter	
DGBK Ltd., aka DigitalBank	Texas State Securities Board	Emergency Cease & Desist Order	
Digitalticks	British Columbia Securities Commission	Cease & Desist Letter	
Disciplina	British Columbia Securities Commission	Cease & Desist Letter	Resolved
Doctailor	British Columbia Securities Commission	Cease & Desist Letter	
Elite Way Developments LLP	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
EstateX	Colorado Division of Securities	Cease & Desist Order	
Extrabit Ltd	Alabama Securities Commission	Cease & Desist Order	
EXY Crypto	Texas State Securities Board	Emergency Cease & Desist Order	
Foneex	North Dakota Securities Department	Cease & Desist Order	
Forex EA & Bitcoin Investment LLC	Texas State Securities Board	Emergency Cease & Desist Order	
Forex EA & Bitcoin Investment LLC	Office of the Georgia Secretary of State – Securities and Charities Division	Emergency Cease & Desist Order	
Gate Technology Incorporated	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
Gemini Trust Company	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
Global Pay Net, aka GLPN Coin, CPIN Token	Colorado Division of Securities	Cease & Desist Order	
Hashkon Inc.	Alabama Securities Commission	Cease & Desist Order	
Huobi Global Limited	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
iFinex Inc. (Bitfinex)	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
itBit Trust Company	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
Krios	British Columbia Securities Commission	Cease & Desist Letter	
LevelNet	Vermont Department of Financial Regulation	Cease & Desist Order	
Leverage	Alabama Securities Commission	Cease & Desist Order	
Life Cross Coin	North Dakota Securities Department	Cease & Desist Order	
Linda Healthcare Corporation Co.	Colorado Division of Securities	Cease & Desist Order and Order to Show Cause	
Magma Foundation, aka Magma Coin	North Dakota Securities Department	Cease & Desist Order	
Mintage Mining	Texas State Securities Board	Cease & Desist Order	
Munchee, Inc	U.S. Securities and Exchange Commission	Cease and Desist Order	
My Crypto Mine	Texas State Securities Board	Emergency Cease & Desist Order	
NUI Social	Texas State Securities Board	Cease & Desist Order	

SB2011

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1-4-19

pg 3

ICO Name	Agency	Action	Status Change
Okeocoin	North Dakota Securities Department	Cease & Desist Order	
Orca Alliance	Nova Scotia Securities Commission	Investor Alert	
Paragon Coin, Inc.	U.S. Securities and Exchange Commission	Cease & Desist Order	Settled Charges
Payward, Inc. (Kraken)	The Investor Protection Bureau of the Office of the New York State Attorney General	Information Demand Letter	
Pension Rewards Platform	North Dakota Securities Department	Cease & Desist Order	
Platinum Coin	Alabama Securities Commission	Cease & Desist Order	
Plexcoin	Autorité des marchés financiers (AMF) – QUEBEC (CANADA)	Cease & Desist Order	
Pooltrade	Alabama Securities Commission	Cease & Desist Order	
Power Mining Pool	North Carolina Secretary of State – Securities Division	Permanent Cease & Desist Order	
R2B Coin	Texas State Securities Board	Cease & Desist Order	
REcoin Group Foundation, LLC	U.S. Securities and Exchange Commission	Charged with Fraudulent ICO	
Roaring Investments	Pennsylvania Department of Banking and Securities	Cease & Desist Order	
ShipChain, Inc.	Office of the South Carolina Attorney General, Securities Division	Administrative Cease & Desist Order	Withdrawn
Sigil Platform	British Columbia Securities Commission	Cease & Desist Letter	Resolved
Social Membership Network Holding LLC	Texas State Securities Board	Cease & Desist Order	
Springcryptoinvest	New Jersey Bureau of Securities, Office of the New Jersey Attorney General	Summary Cease & Desist Order	
Sybrellabs Ltd. (aka CryptoARB)	Colorado Division of Securities	Cease & Desist Order	
Symatri LLC	Texas State Securities Board	Cease & Desist Order	
Taklimakan Network	British Columbia Securities Commission	Cease & Desist Letter	
ThinkCoin	British Columbia Securities Commission	Cease & Desist Letter	Resolved
Titanium Blockchain Infrastructure Services Inc.	U.S. Securities and Exchange Commission	Emergency Cease & Desist Order and Asset Freeze	
TokenLot LLC	U.S. Securities and Exchange Commission	Charged with Registration Violations	
Tomahawk Exploration LLC	U.S. Securities and Exchange Commission	Charged with Fraudulent ICO	
Trident d/b/a Trident Crypto Index Fund	New Jersey Bureau of Securities, Office of the New Jersey Attorney General	Summary Cease & Desist Order	
Tripbit	British Columbia Securities Commission	Cease & Desist Letter	Resolved
Ubcoin	British Columbia Securities Commission	Cease & Desist Letter	Resolved
Ultimate Assets LLC	Texas State Securities Board	Emergency Cease & Desist Order	
Union Bank Payment Coin	North Dakota Securities Department	Cease & Desist Order	
USI-Tech	Ohio Department of Commerce – Division of Securities	Administrative Cease & Desist Order	
Wind Wide Coin Inc. aka WWC Inc	Texas State Securities Board	Emergency Cease & Desist Order	
Zanfau Ltd.	Alabama Securities Commission	Cease & Desist Order	

PROPOSED AMENDMENTS TO SENATE BILL NO. 2011

Page 1, line 2, after "department" insert "; and to amend and reenact subsection 5 of section 10-04-03 of the North Dakota Century Code, relating to collection of fees, civil penalties, and other moneys collected under the Securities Act"

Page 1, replace lines 9 through 16 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,848,667	\$315,896	\$2,164,563
Operating expenses	<u>506,047</u>	<u>23,514</u>	<u>529,561</u>
Total all funds	\$2,354,714	\$339,410	\$2,694,124
Less estimated income	<u>170,000</u>	<u>2,524,124</u>	<u>2,694,124</u>
Total general fund	\$2,184,714	(\$2,184,714)	\$0
Full-time equivalent positions	9.00	1.00	10.00

SECTION 2. AMENDMENT. Subsection 5 of section 10-04-03 of the North Dakota Century Code is amended and reenacted as follows:

5. A special fund is established in the state treasury and designated as the securities department special fund. All fees, civil penalties, or other moneys collected under this chapter must be deposited in the general fund of the state treasury securities department special fund, except funds permitted to be deposited into the investor education and technology fund under subsection 4 or civil penalties collected from enforcement actions for the purpose of distribution to aggrieved investors, which may be deposited in the investor restitution fund. Funds in the investor restitution fund are appropriated to the securities commissioner on a continuing basis for distribution to aggrieved investors.
 - a. The moneys deposited in the securities department special fund are reserved for use by the securities department to defray the expenses of the department in the discharge of its administrative and regulatory powers and duties as prescribed by law subject to the applicable laws relating to the appropriations of state funds and to the deposit and expenditure of state moneys. The securities commissioner is responsible for the proper expenditure of these moneys as provided by law.
 - b. Any balance in the securities department special fund in excess of the amounts necessary for department expenditures pursuant to the department's biennial appropriation from the fund must be transferred by the office of management and budget to the general fund."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2011 - Securities Department - Senate Action

1 SB 2011
2-7-2019
Ag 2

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$1,848,667	\$315,896	\$2,164,563
Operating expenses	506,047	23,514	529,561
Total all funds	\$2,354,714	\$339,410	\$2,694,124
Less estimated income	170,000	2,524,124	2,694,124
General fund	\$2,184,714	(\$2,184,714)	\$0
FTE	9.00	1.00	10.00

Department 414 - Securities Department - Detail of Senate Changes

	Adds Funding for Salary and Benefit Increases ¹	Adds Financial Technology Research and Investigation Position ²	Adds Funding for Microsoft Office 365 ³	Changes Agency from General Fund to Special Funds ⁴	Total Senate Changes
Salaries and wages	\$106,602	\$209,294			\$315,896
Operating expenses		23,000	\$514		23,514
Total all funds	\$106,602	\$232,294	\$514	\$0	\$339,410
Less estimated income	0	0	0	2,524,124	2,524,124
General fund	\$106,602	\$232,294	\$514	(\$2,524,124)	(\$2,184,714)
FTE	0.00	1.00	0.00	0.00	1.00

¹ The following funding is added for 2019-21 biennium salary adjustments of 2 percent on July 1, 2019, and 3 percent on July 1, 2020, and increases in health insurance premiums from \$1,241 to \$1,427 per month:

	<u>General Fund</u>
Salary increase	\$61,982
Health insurance increase	44,620
Total	\$106,602

² Funding for 1 FTE financial technology research and investigation position (\$209,294) and related operating expenses (\$23,000) is added.

³ Adds funding for Microsoft Office 365 licensing.

⁴ Changes the agency to a special fund agency.

Adds a section amending subsection 5 of Section 10-04-03 of North Dakota Century Code, relating to collection of fees, civil penalties, and other moneys collected under the Securities Act to facilitate the change from being a general fund agency to a special fund agency, resulting in a decrease of \$2,184,714 of departmental collections deposited in the general fund.

Department 414 - Securities Department
Senate Bill No. 2011

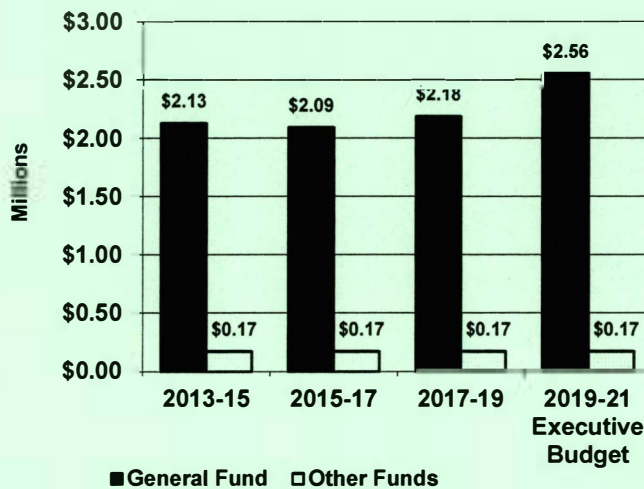
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2019-21 Executive Budget	10.00	\$2,555,343	\$170,000	\$2,725,343
2017-19 Legislative Appropriations	9.00	2,184,714	170,000	2,354,714
Increase (Decrease)	1.00	\$370,629	\$0	\$370,629

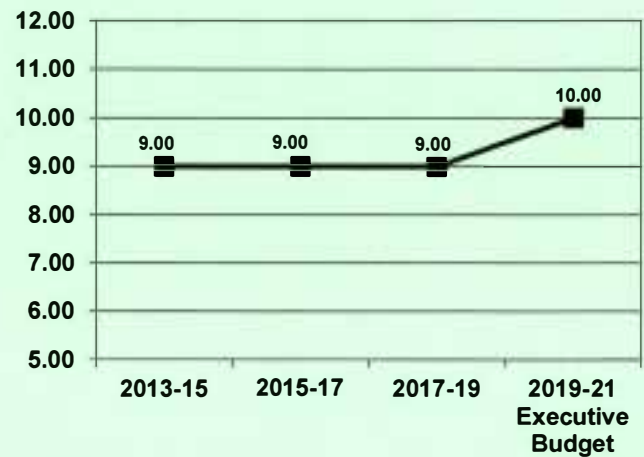
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2019-21 Executive Budget	\$2,555,343	\$0	\$2,555,343
2017-19 Legislative Appropriations	2,184,714	0	2,184,714
Increase (Decrease)	\$370,629	\$0	\$370,629

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2019-21 Executive Budget	\$2,555,343	\$170,000	\$2,725,343
2019-21 Base Level	2,184,714	170,000	2,354,714
Increase (Decrease)	\$370,629	\$0	\$370,629

First House Action

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

**Executive Budget Highlights
 (With First House Changes in Bold)**

	General Fund	Other Funds	Total
1. Adds funding for state employee salary and benefit increases, of which \$88,493 is for salary increases, \$37,792 is for health insurance increases, and \$11,536 is for retirement contribution increases. The Senate added funding for salary adjustments of 2 percent for the 1st year and 3 percent in the 2nd year of the biennium and increases in health insurance premiums from \$1,241 to \$1,427 per month. The Senate did not add funding for retirement contribution increases.	\$137,821	\$0	\$137,821
2. Adds 1 FTE financial technology research and investigation position (\$209,294) and related operating expenses (\$23,000).	\$232,294	\$0	\$232,294
3. Adds funding for Microsoft Office 365 license expenses.	\$514	\$0	\$514

February 27, 2019

NOTE: The Senate made changes to provide for the deposit of certain fees into a new Securities Department special fund and changed the agency's appropriation funding source from the general fund to the new Securities Department special fund.

Other Sections in Senate Bill No. 2011

Securities Department fund - Section 2 amends North Dakota Century Code Section 10-04-03(5) to provide for the Securities Department to become a special funded agency by creating the Securities Department special fund, directing all fees, civil penalties, or other moneys collected by the agency into the fund and provides all revenues in excess of the agency's appropriation are to be transferred to the general fund.

Continuing Appropriations

Investor education and technology fund - Section 10-04-03 - This fund receives funding from tuition, grants, donations, and certain civil penalties assessed by the securities commissioner. The money in the fund can be used for public education services and for the technology needs of the Securities Department.

Investor restitution fund - Section 10-04-03 - This fund is used to deposit civil penalties collected from enforcement action to be distributed to aggrieved investors.

Deficiency Appropriation

There are no deficiency appropriations for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

Major Related Legislation

Senate Bill No. 2083 - Refund of filing registration fees - Amends Sections 10-04-08.4 and 10-04-10 to make certain fees submitted to the Securities Department refundable.

Securities Department - Budget No. 414
Senate Bill No. 2011
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total
2019-21 Biennium Base Level	9.00	\$2,184,714	\$170,000	\$2,354,714	9.00	\$2,184,714	\$170,000	\$2,354,714
2019-21 Ongoing Funding Changes								
Salary increase		\$88,493		\$88,493		\$61,982		\$61,982
Health insurance increase		37,792		37,792		44,620		44,620
Retirement contribution increase		11,536		11,536				0
Adds 1 FTE financial technology research and investigation positon	1.00	232,294		232,294	1.00	232,294		232,294
Adds Microsoft Office 365 funding		514		514		514		514
Change from general fund to special funded agency				0		(2,524,124)	\$2,524,124	0
Total ongoing funding changes	1.00	\$370,629	\$0	\$370,629	1.00	(\$2,184,714)	\$2,524,124	\$339,410
One-time funding items								
No one-time funding items				\$0				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	1.00	\$370,629	\$0	\$370,629	1.00	(\$2,184,714)	\$2,524,124	\$339,410
2019-21 Total Funding	10.00	\$2,555,343	\$170,000	\$2,725,343	10.00	\$0	\$2,694,124	\$2,694,124

Other Sections for Securities Department - Budget No. 414

Line item transfers

Executive Budget Recommendation
 Section 2 authorizes the Securities Department to transfer up to 10 percent of the agency's total appropriation between line items during the 2019–21 biennium.

Appropriation - Additonal federal or other funds

Senate Version
 Section 3 appropriates any additional income from federal or other funds which may become available to the Securities Department for the 2019-21 biennium.

Change to special funded agency

Section 2 amends North Dakota Century Code Section 10-04-03(5) to provide for the Securities Department to become a special funded agency by creating the Securities Department special fund, directing all fees, civil penalties, or other moneys collected by the agency into the fund and provides all revenues in excess of the agency's appropriation are to be transferred to the general fund.

Department 414 - Securities Department

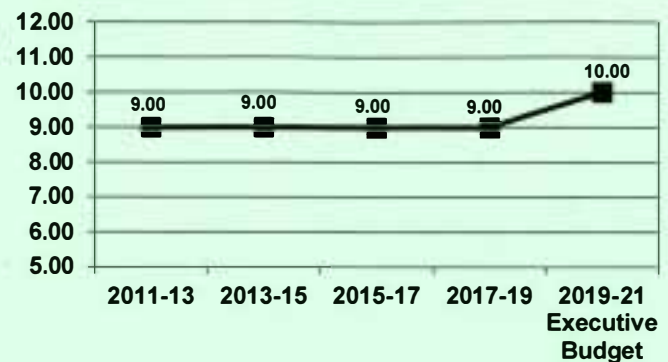
Historical Appropriations Information

Ongoing General Fund Appropriations Since 2011-13

Ongoing General Fund Appropriations (in Millions)



FTE Positions



Ongoing General Fund Appropriations					
	2011-13	2013-15	2015-17	2017-19	2019-21 Executive Budget
Ongoing general fund appropriations	\$1,909,220	\$2,063,005	\$2,090,781	\$2,184,714	\$2,555,343
Increase (decrease) from previous biennium	N/A	\$153,785	\$27,776	\$93,933	\$370,629
Percentage increase (decrease) from previous biennium	N/A	8.1%	1.3%	4.5%	17.0%
Cumulative percentage increase (decrease) from 2011-13 biennium	N/A	8.1%	9.5%	14.4%	33.8%

Major Increases (Decreases) in Ongoing General Fund Appropriations

2013-15 Biennium

- Added funding for information technology upgrades \$25,850

2015-17 Biennium

- Added funding for desktop support services and hardware \$46,805

2017-19 Biennium

- Restored a portion of funding for operating expenses that was removed as a result of the August 2016 general fund budget reductions \$46,545

2019-21 Biennium (Executive Budget Recommendation)

- Adds 1 FTE financial technology research and investigation position (\$209,294) and related operating expenses (\$23,000). The Senate included this item but changed the agency from a general fund agency to a special fund agency. \$232,294

GOVERNOR'S RECOMMENDATION FOR THE SECURITIES DEPARTMENT AS SUBMITTED BY THE OFFICE OF MANAGEMENT AND BUDGET

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the securities department special fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the securities department of the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2019, and ending June 30, 2021, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,848,667	\$347,115	\$2,195,782
Operating expenses	<u>506,047</u>	<u>23,514</u>	<u>529,561</u>
Total all funds	\$2,354,714	\$370,629	\$2,725,343
Less estimated income	<u>170,000</u>	<u>0</u>	<u>170,000</u>
Total general fund	\$2,184,714	\$370,629	\$2,555,343
Full-time equivalent positions	9.00	1.00	10.00

SECTION 2 LINE ITEM TRANSFER. Notwithstanding section 54-16-04, the securities department may transfer between line items within section 1 of this Act up to ten percent of the total appropriation contained in section 1 during the biennium beginning July 1, 2019, and ending June 30, 2021. The securities department shall notify the office of management and budget and the legislative council of any transfer made pursuant to this section.

SECTION 3. APPROPRIATION - In addition to the amounts appropriated to the securities department in section 1 of this Act, there is appropriated any additional income from federal or other funds which may become available to the agency for the biennium beginning July 1, 2019, and ending June 30, 2021.

Senate Bill 2011**Testimony of North Dakota Securities Commissioner Karen Tyler****Before the House Appropriations Government Operations Sub-Committee****February 27, 2019**

Mr. Chairman and Members of the Committee, good afternoon. I am Karen Tyler, the State Securities Commissioner. It is a pleasure to share some time with you today to discuss the budget appropriation for the North Dakota Securities Department, and to answer any questions you may have regarding the Department's budget request.

REGULATORY POLICY OBJECTIVES

The regulatory policy objectives supported by a particular financial regulator are driven by the risk created by a given type of financial transaction. For example, when a bank makes a loan, the bank carries the risk, which is why the primary policy objective of bank regulation is supporting the safety and soundness of the institution. When an insurance company sells an insurance policy, the insurance company carries the risk, which is why a primary policy objective of insurance regulation is safety and soundness. But in a securities transaction, when a brokerage firm sells a security (stock, bonds, mutual funds, exchange traded

funds, etc.), a variety of risks can be created depending on the security – market risk, interest rate risk, credit quality, maturity, liquidity, currency, - but in every case it is the investor, not the firm, who carries the risk of that transaction.

Therefore, the primary policy objective supported by state securities regulation is Investor Protection. This policy objective informs the structure of the securities regulatory system and the laws, rules and regulations within it – and while it is a very comprehensive and prescriptive system, it is based on 3 threshold investor protection principles: suitability, disclosure, and anti-fraud.

The investor protection policy objective and principles also inform the nature and execution of the Securities Commissioner's authority, and the allocation of Department resources. Notably, securities regulation is not a prudential system of regulation focused on the safety and soundness of a financial institution, it is instead an enforcement-based system of regulation focused on the protection of the investor who carries the risk of owning securities, with clear prohibitions on bad conduct, clear ramifications for violations, and extensive investigative and enforcement powers.

FUNCTIONAL REGULATION

The department supports the investor protection policy objective and principles through our work in the following functional areas:

- 1) We regulate the capital formation and franchise registration process
- 2) We register, and regulate the conduct of, securities industry firms and professionals who want to do business in the state
- 3) We perform conduct focused examinations of broker-dealer and investment adviser firms and professionals.
- 4) We investigate investment fraud and take enforcement actions as necessary and appropriate, and we also make criminal referrals and support criminal cases. The majority of our resources are dedicated to this enforcement function.
- 5) And we produce and deliver investor education and financial literacy programs

MERGER STUDY

Related to the subject of regulatory policy objectives of different financial regulators, last session language was included in the Banking regulators budget

requiring the Governor to study a possible merger between Banking and Securities Departments. Both the Banking Commissioner and Securities Commissioner are appointed by the Governor and are part of the Governor's cabinet. The study was completed and the Governor's conclusion and recommendation Not To Merge the agencies can be found at Tab 1. The full study report was submitted to Legislative Council as required, and the Interim Government Administration Committee voted to concur with the Governor's recommendation of no merger.

DEPARTMENT SIZE/REVENUE

The North Dakota Securities Department is a small agency, with 9 full time employees, and we are requesting 1 additional FTE in our 19-21 budget. We continue to operate as a revenue generating agency for the state, taking in over \$22 million dollars in revenue last biennium, and we estimate we will meet or exceed that revenue level in the current biennium. Over the last several budget cycles, the agency's spending has averaged approximately 10 cents per revenue dollar generated.

RETURN ON INVESTMENT GENERATED BY NDSD

Based on the budget investment the legislature made in the Department in the current cycle, the Department's return on investment for our citizens, calculated on amount of rescission ordered and assets recovered for harmed investors, is estimated to be 245%. The return on investment the Department will generate for the state, factoring in assets recovered, penalties collected and revenues collected this biennium, is estimated to be just shy of 1,200%.

A historical view of the Department's budget appropriation versus revenue can be found at Tab 2. Cumulative data for revenues versus actual expenditures and net revenue for the General Fund over the last 10 years can be found at Tab 3.

99% of the Department's revenue comes from out of state. The majority of the Department's revenue is generated from securities registrations and filings, as well as industry registrations. Examples of securities registrations and filings would be Mutual Funds, Unit Investment Trusts, Non-traded Real Estate Investment Trusts, and small business capital formation filings. Investment industry registrations include broker-dealer and investment adviser firms, and their registered professionals – securities agents and investment adviser representatives. Current industry registration statistics can be found at Tab 4.

The annual renewal of these industry registrations took place during the first week of January. A total of 90,642 registration renewals were completed in an entirely automated process, through our registration system called the Central Registration Depository, and a payment of just over \$5.6 million was deposited to the Bank of North Dakota. This renewal process occurs at no cost to the state.

Also at Tab 4 you will find some key statistics from our various areas of functionality in which I thought you might take interest. I won't comment further this data now, but if you have any questions I of course will be happy to answer them or get you additional information.

BUDGET REQUEST

The Department's total budget request for the 2019-2021 biennium is \$2,725,343. This request reflects the enhancements set forth in the Governor's executive budget for salary and benefit adjustments, and provides new salary and operating funding for the cost of the department adding 1 full time employee.

The new employee would be a Financial Technology analyst and investigator, and I will elaborate more on this position and the need for it later in my testimony.

The Department's budget appropriation would be funded by the revenue collections of the Department. All revenue collections over the appropriated budget amount would be deposited to the general fund.

SIGNIFICANT EVENTS/ISSUES IMPACTING RESOURCE ALLOCATION

Significant events and issues the Department has identified that have, and will continue to impact our constituents, reinforce the necessity of securing funding at the requested level, and drive the allocation of our resources, include but are not limited to: the size of the department's investigations caseload, the victimization of seniors by financial criminals and dishonest financial professionals, and innovation in the Financial Technology sector.

Over the last 10-15 years there has been a tremendous level of innovation bringing together developments in financial products and services with new technology advancements. So much innovation has occurred in this area that a new economic sector has emerged – the Financial Technology sector, or FINTECH sector.

Some of these innovations have contributed significantly to advancing economic inclusion and reaching previously underserved segments of our population with

important financial resources. However, financial criminals tend to innovate just as rapidly as legitimate businesses, and are always finding new ways to exploit legitimate opportunities and defraud investors. Regulators must be able to keep up.

In order to strike the right balance between supporting innovation and protecting investors, regulators must have the resources to attract talented employees, to access on-going training, to effectively contribute to policy decisions surrounding industry innovation, and to effectively apply regulatory, investigative and enforcement authority when abuse and exploitation of innovation leads to violations of law.

Currently, the most significant developments/innovations in the area of fintech that are impacting investors, the investment industry, and securities regulators are: the creation of algorithm driven robo-advisers, the adoption of securities-based crowdfunding, the legitimate deployment of blockchain or other distributed ledger technologies by the investment industry, and the growth of cryptocurrencies and a new type of capital formation by start-up companies called initial coin offerings or initial token offerings.

This is the type of industry innovation and change that is driving the need for the Financial Technology analyst and investigator requested in our budget. To frame this further, I'd like to walk you through a comparison of investigative approaches and challenges that help demonstrate the impact fintech innovation is having on resource allocation and the nature of our investigative work. (Tab 5). This comparison represents the investigative work typical in a conventional investment fraud investigation, such as a ponzi scheme fronted with promissory notes, versus a digital or virtual investment fraud investigation perpetrated through an initial coin or token offering.

FINTECH ANALYST AND INVESTIGATOR

Because asset recovery in a digital or virtually executed fraud is highly unlikely, regulators need the resources to combat this type of fraud on the front end, before the investor makes the investment and the damage is done.

We need the resources to keep pace, analyze and understand new technologies and financial instruments, and improve visibility, education about, and understanding of the risks presented to the public, with the goal of preventing victimization in the first place. A Financial Technology Analyst and Investigator would be dedicated to this role.

These are new challenges securities regulators face, but of course the conventional investigative work we do isn't slowing down. Financial criminals are always finding new ways to package a fraud. And while most industry professionals are honest and ethical, there will always be those in the industry who engage in misconduct and harm their clients.

In that regard, I would like to close my formal testimony with information about the recent final outcome of a ponzi scheme investigation the Department has been working on for some time, and concluded earlier this biennium, that directly affected constituents in some of your jurisdictions.

Kevin Wanner was a stockbroker located here in Bismarck, who had worked in the industry for almost 25 years and for over 10 years was stealing money from his clients through a ponzi scheme fronted with fake bonds, brokered CDs and a fictitious managed stock trading program. He carried out the fraud while working for Questar Financial and Woodbury Financial. The fraud involved 41 victims and total losses of over \$3,000,000.00. The investigation was lengthy as most ponzi scheme investigations are, but we were able to build a strong Failure to Supervise case against the firms. We reached settlements with both and secured repayment

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to investors in August and December of 2017. To date, \$3,063,373 has been repaid through our action.

We also made a criminal referral of this matter to the U.S. Attorney's office, and supported the prosecution of the criminal case. In July of 2018 Wanner was sentenced to 11 years 3 months in federal prison, and an additional \$550,000 in restitution was ordered which included an interest factor for the victims.

A breakdown of number of victims and damages and repayment by legislative district can be found at Tab 6.



State of
North Dakota
Office of the Governor

Doug Burgum
Governor

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CONCLUSION AND RECOMMENDATION

Reinventing state government to create efficiencies and better serve North Dakotans is a top priority for the Burgum-Sanford administration. Significant progress has already been made on this priority initiative. Many reinvention opportunities have been identified and are progressing. Based upon the results of the study, a merger of the Department of Financial Institutions and the Securities Department would not result in meaningful operational or cost efficiencies. Moreover, merging these agencies would marginalize functional regulatory expertise and core mission execution and negatively impact service to citizens and businesses in our state.

In supporting distinct policy objectives and a unique core mission, each agency impacts and promotes consumer and investor confidence and protection, access to capital for small businesses, and financial health and vibrancy of North Dakota families, businesses, and communities.

Given the distinct regulatory policy objectives of these agencies, the lack of redundancy in staffing and function, the absence of meaningful cost reduction or operational efficiency opportunities, a revenue generating capability that is equal to or exceeds the cost of operations and a desire to avoid diluted regulatory expertise and compromised service, it is recommended that the Department of Financial Institutions and the Securities Department do not merge.

Doug Burgum, Governor
State of North Dakota

June 28, 2018

Date

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BUDGET APPROPRIATION vs. REVENUE

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BIENNIUM	09-11	11-13	13-15	15-17 (adjusted)	17-19
APPROPRIATION	\$ 1,798,362	\$ 1,909,220	\$ 2,127,782	\$ 2,090,781	\$ 2,184,714
REVENUE	\$17,768,220	\$18,882,606	\$20,843,731	\$22,140,733	\$22,140,733*
*Estimate					



TOTAL REVENUE vs. EXPENSE



FTEs Added over the Past 10 Years: - 0 -



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4

KEY DEPARTMENT STATISTICS

CAPITAL FORMATION AND FRANCHISE REGISTRATION *as of December 31, 2018*

Number of Securities Offerings in Effect: 26,301
Current Franchise Registrations: 902

REGISTRATION OF SECURITIES FIRMS AND PROFESSIONALS *as of December 31, 2018*

Broker-Dealer Firms: 1,157
Investment Adviser Firms: 729
Broker-Dealer Agents: 87,123
Investment Adviser Reps: 1,609

INVESTIGATIONS, EXAMINATIONS, AND ENFORCEMENT *from January 1, 2017 to December 31, 2018*

New Enforcement Cases Opened: 131
Enforcement Cases Closed or Referred: 169
Exams Opened: 42
Exams Closed: 45
Rescission Ordered / Funds Recovered: \$ 5,820,992
Penalties Assessed: \$ 755,000

– *Most prevalent violations investigated have involved Unregistered Individuals, Sale of Unregistered Securities, Private Placement Fraud, Ponzi Schemes, Initial Coin/Token Offering Fraud, Misrepresentations, Lack of Suitability.*

– *The Department has referred 9 cases to criminal authorities.*

EVOLVING ELEMENTS OF INVESTMENT FRAUD INVESTIGATIONS

5

CONVENTIONAL <i>(e.g., Promissory Note Ponzi Scheme)</i>	VS.	DIGITAL and VIRTUAL <i>(e.g., Initial Coin/Token Offering)</i>
1. Execution of search warrant on physical location		No physical location, website and IP address only
2. Ability to verify identity of perpetrator		Identification verification difficult - fake executives, management, promoters
3. Bank records exist and are obtained through subpoena		No bank records, transactions are cryptocurrency moving through blockchain
4. Physical and electronic records exist and can be seized		Covert electronic surveillance of fraud promotion through social media platforms, e.g., Reddit, Medium, Telegram, Twitter, Facebook
5. More likely to be U.S based		High likelihood fraud is emanating from foreign jurisdiction
6. Cooperation with other U.S authorities and regulators, e.g., SEC, FBI, IRS		Limited or no cooperation with foreign authorities and regulators
7. Ability to seize assets for return to harmed investors		Asset recovery highly unlikely

WANNER PONZI SCHEME

Victim Funds Returned

Legislative District #	Legislators	Number of Victims	Questar Amount Returned 8/2017	Woodbury Amount Returned 12/2017	Total Amount By District
District 7:	Poolman Becker Dockter	7	\$ 115,000.00	\$ 47,500.00	\$ 162,500.00
District 8:	Anderson Delzer Laning	5	\$ 240,552.17		\$ 240,552.17
District 28:	Erbele Brandenburg Magrum	3	\$ 392,728.11	\$ 384,162.00	\$ 776,890.11
District 31:	Schaible Rohr Schmidt	2	\$ 40,000.00		\$ 40,000.00
District 34:	Cook Porter Toman	4	\$ 45,909.76		\$ 45,909.76
District 35:	Oban Karls Martinson	1	\$ 60,000.00		\$ 60,000.00
District 37:	Wardner Lefor Steiner	6	\$ 327,907.94	\$ 30,821.50	\$ 358,729.44
District 39:	Patten Kempenich Zubke	2	\$ 21,870.00		\$ 21,870.00
District 47:	Dwyer Keiser Klemin	6	\$ 616,706.65	\$ 75,890.00	\$ 692,596.65
Totals:		36	\$ 1,860,674.63	\$ 538,373.50	\$ 2,399,048.13
Out-of-State Victims:		5	\$ 467,153.54	\$ 58,000.00	\$ 525,153.54
Total Victim Funds Returned:		41	\$ 2,327,828.17	\$ 596,373.50	\$ 2,924,201.67

Note: A third payment from the Investor Restitution Fund of \$139,171.83 was distributed pro-rata to victims on September 27, 2018. **Total Funds Returned: \$ 3,063,373.50**

Criminal Case: On July 23, 2018 Kevin Wanner was sentenced to 11 years, 3 months in federal prison. On November 30, 2018 the sentence was amended to order repayment of \$551,016.51 as additional restitution for victims.

March 25, 2019

SB 2011

Attachment A

Insurance Commissioner - 401

Senate Bill No. 2010

Position	Position Description	2017-19 Base Salary	2019-21 Base Salary	Difference	Lump Sum	Notes
00004870-1	Commissioner	211,536	211,540	4		
00004871-1	Deputy	255,145	212,000	(43,145)		Hired at lower rate
00004872-1	Exec Assistant	92,123	100,000	7,877		Hired at higher rate
00004873-1	Chief Ins. Co. Examiner	220,769	180,000	(40,769)		Title change
00004874-1	Other - Not classified	184,241	184,241			
00004875-1	Claims investigator II	121,886	121,886			
00004876-1	Division Director	161,056	161,056			
00004877-1	Sr. Rate Analyst	155,378	155,378		12,400.00	
00004879-1	Sr. Ins. Co. Examiner	132,000	144,864	12,864		Title change
00004880-1	Licensing Specialist II	65,948	84,000	18,052		Unknown
00004881-1	Pending classification	32,830	141,600	108,770		Job reclassification
00004882-1	Licensing Specialist I	64,428	64,428			
00004883-1	Admin Assistant I	59,417	66,560	7,143		Job reclassification
00004884-1	Ins. Co. Examiner I	93,194	93,194			
00004885-1	Other - Not classified	147,441	159,120	11,679		Unknown
00004886-1	Data process coord III	140,281	147,295	7,014	12,500.00	Title change
00004887-1	Public info specialist III	113,542	113,712	170		Hired at a higher rate
00004888-1	Legal assistant I	103,944	93,672	(10,272)		Hired at lower rate
00004889-1	Ins. Fraud Investigator	139,536	140,125	589		Equity increase
00004890-1	Division Director	165,619	165,619			
00004891-1	Other - Not classified	155,245	155,245			
00004892-1	Claims investigator I	88,464	93,590	5,126		Unknown
00004893-1	Ins. Underwriter	129,399	124,752	(4,647)		Unknown
00004894-1	Deputy boiler inspector	138,909	138,909			
00004895-1	Office assistant II	56,580	64,341	7,761		Hired at a higher rate
00004896-1	Admin Staff Officer III	98,152	127,008	28,856		Job reclassification
00004897-1	Budget Specialist III	128,544	137,542	8,998		Responsibility change
00004898-1	Rate analyst II	137,162	137,162			
00004899-1	Division Director	199,183	199,183			
00004901-1	Licensing specialist II	89,313	93,779	4,466		Responsibility change
00004902-1	Other - Not classified	145,859	144,000	(1,859)		Hired at a lower rate
00004903-1	Other - Not classified	226,563	226,563			
00004904-1	Financial analyst	128,910	144,000	15,090		Responsibility change
00004905-1	Claims investigator II	107,474	95,541	(11,933)		Unknown
00004907-1	Claims examiner	109,525	109,525			
00004908-1	Ins. Fraud Investigator	114,408	132,838	18,430		Equity increase
00004909-1	Rate analyst II	103,816	124,580	20,763		Title change
00004910-1	Chief boiler inspector	149,919	149,919			
00004912-1	Deputy boiler inspector	124,589	124,589			
00004913-1	Claims investigator I	87,264	87,264			
00004915-1	Rate analyst I	98,501	96,696	(1,805)		Hired at a lower rate
00012604-1	Claims investigator I	90,864	102,000	11,136		Unknown
00028563-1	Other - Not classified	217,377	130,000	(87,377)		Hired at a lower rate
00028631-1	Division Director	158,251	158,251			
00028644-1	Financial analyst	112,008	138,000	25,992		Hired at a higher rate
00028645-1	Deputy boiler inspector	114,000	114,000			
	2017 Salary reduction	(1,862)		1,862		
		5,968,732	6,089,568	120,836	24,900.00	