

2021 HOUSE APPROPRIATIONS

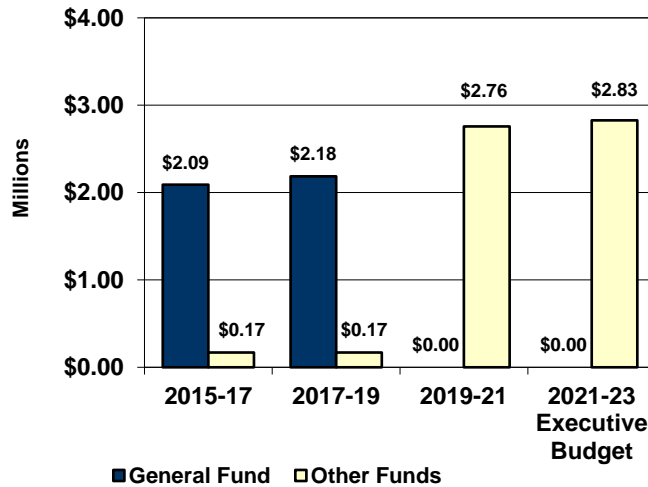
HB 1011

Department 414 - Securities Department
House Bill No. 1011

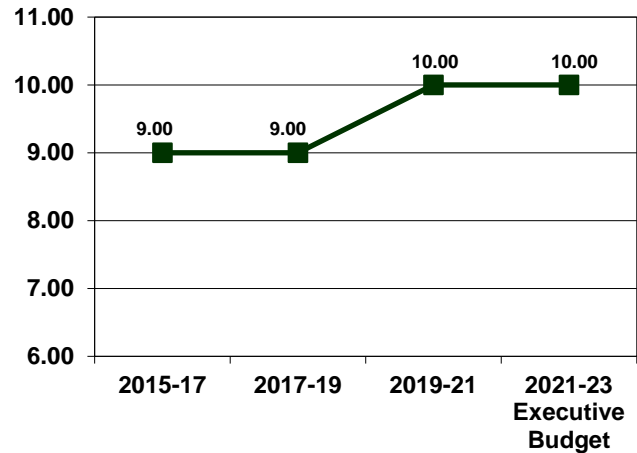
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2021-23 Executive Budget	10.00	\$0	\$2,825,725	\$2,825,725
2019-21 Legislative Appropriations	10.00	0	2,757,119	2,757,119
Increase (Decrease)	0.00	\$0	\$68,606	\$68,606

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2021-23 Executive Budget	\$0	\$2,825,725	\$2,825,725
2021-23 Base Level	0	2,757,119	2,757,119
Increase (Decrease)	\$0	\$68,606	\$68,606

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 \$55,213 is for salary increases, \$487 is for health insurance increases, and \$11,364 is for retirement contribution increases	\$0	\$67,064	\$67,064
2. Adds funding for Microsoft Office 365 license expenses	\$0	\$1,542	\$1,542

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

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

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

There is no major related legislation for this agency at this time.

Securities Department - Budget No. 414
House Bill No. 1011
Base Level Funding Changes

	Executive Budget Recommendation			
	FTE Positions	General Fund	Other Funds	Total
2021-23 Biennium Base Level	10.00	\$0	\$2,757,119	\$2,757,119
2021-23 Ongoing Funding Changes				
Base payroll changes				\$0
Salary increase			\$55,213	55,213
Health insurance increase			487	487
Retirement contribution increase			11,364	11,364
Adds funding for Microsoft Office 365 license expenses			1,542	1,542
Total ongoing funding changes	0.00	\$0	\$68,606	\$68,606
One-time funding items				
No one-time funding items				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$68,606	\$68,606
2021-23 Total Funding	10.00	\$0	\$2,825,725	\$2,825,725
<i>Total ongoing changes as a percentage of base level</i>	0.0%		2.5%	2.5%
<i>Total changes as a percentage of base level</i>	0.0%		2.5%	2.5%

Other Sections in Securities Department - Budget No. 414

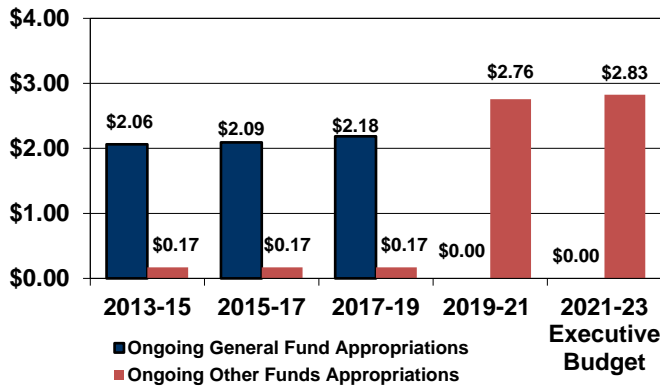
Executive Budget Recommendation
There are no other sections recommended to be added in the executive budget.

Department 414 - Securities Department

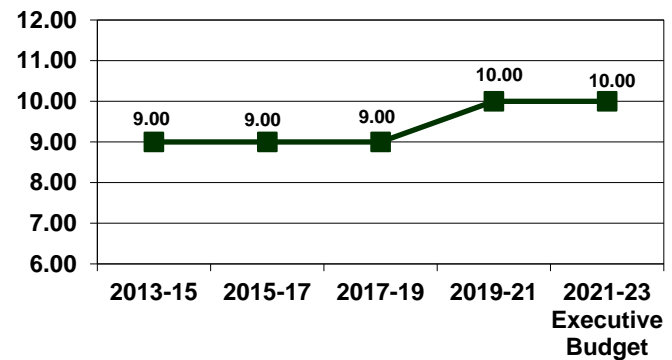
Historical Appropriations Information

Ongoing Agency Appropriations Since 2013-15

Agency Funding (in Millions)



FTE Positions



Ongoing Agency Appropriations					
	2013-15	2015-17	2017-19	2019-21 ¹	2021-23 Executive Budget
Ongoing appropriations	\$2,233,005	\$2,260,781	\$2,354,714	\$2,757,119	\$2,825,725
Increase (decrease) from previous biennium	N/A	\$27,776	\$93,933	\$402,405	\$68,606
Percentage increase (decrease) from previous biennium	N/A	1.2%	4.2%	17.1%	2.5%
Cumulative percentage increase (decrease) from 2013-15 biennium	N/A	1.2%	5.5%	23.5%	26.5%

¹The 2019 Legislative Assembly amended Section 10-04-03 to provide for the Securities Department to be a special funded agency by creating the Securities Department special fund and by directing all fees, civil penalties, or other money collected by the agency into the fund; and to transfer all revenues in excess of the agency's appropriation to the general fund.

Major Increases (Decreases) in Ongoing Agency Appropriations

2015-17 Biennium

- Added funding from the general fund for desktop support services and hardware \$46,805

2017-19 Biennium

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

2019-21 Biennium

- Added from the general fund 1 FTE financial technology research and investigation position (\$209,294) and related operating expenses (\$23,000) \$232,294
- Added funding from other funds for rent and for the statewide cost allocation plan \$64,000
- Changed the source of funding for the agency by reducing funding from the general fund by \$2,524,124 and increasing funding from other funds by \$2,524,124 \$0

2021-23 Biennium (Executive Budget Recommendation)

- No major changes included in the executive budget recommendation \$0

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, 2021 and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and Wages	\$2,163,558	\$67,064	\$2,230,622
Operating Expenses	<u>593,561</u>	<u>1,542</u>	<u>595,103</u>
Total All Funds	\$2,757,119	\$68,606	\$2,825,725
Less Estimated Income	<u>2,757,119</u>	<u>68,606</u>	<u>2,825,725</u>
Total General Fund	\$ 0	\$ 0	\$ 0
Full-time Equivalent Positions	10.00	0.00	10.00

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Government Operations Division Brynhild Haugland Room, State Capitol

HB1011
1/8/2021

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

10:00 Chairman Vigesaa called the meeting back to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich, Representative Howe, Representative Meier, Representative Bellew and Representative Mock.

Discussion Topics:

- Appropriation request for the 2021-2023 biennium budget.

Karen Tyler, Commissioner, ND Securities Department. Testimony #338.

10:56 Chairman Vigesaa adjourned the meeting.

Sheri Lewis, Committee Clerk

House Bill 1011

Testimony of North Dakota Securities Commissioner Karen Tyler

Before the House Appropriations Government Operations Division

January 8, 2021

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 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.

STATUTORY RESPONSIBILITIES

The Securities Department is a regulatory agency that serves the citizens of North Dakota through the administration and enforcement of the North Dakota Securities Act (10-04), the North Dakota Commodities Act (51-23), the Franchise Investment Law (51-19) and Pre-Need Funeral Services Law (43-10.1).

REGULATORY POLICY OBJECTIVES AND FUNCTIONS

The primary regulatory policy objectives of the Securities Department are investor protection and the support of legitimate capital formation. We execute on those objectives through our work in following 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) We produce and deliver investor education and financial literacy programs.

The North Dakota Securities Department is a small agency, with 10 full time employees. No additional FTEs are requested in our 21-23 budget. The Department's Organizational Chart is included in your copies of this testimony.

BUDGET REQUEST

The Securities Department is a revenue generating, special fund agency. The Department's total budget request for the 2021-2023 biennium is \$2,825,725. This breaks down as \$2,230,622 for the Salaries and Wages line item, and \$595,103 for the Operating line item.

The only changes requested from the Base Level budget are the enhancements set forth in the Governor's executive budget for salary and benefit adjustments, and a small increase in IT related costs. For our Department, those adjustments are \$67,064 for salaries and benefits, and \$1,542 for IT costs.

There is no one-time funding in our current budget, and no one-time funding in the request you have before you for the 21-23 biennium.

DEPARTMENT REVENUE

We are 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 5 budget cycles, the Department has spent approximately 8 to 10 cents for every revenue dollar generated. Attached to my testimony is a 10 year look back for total revenues, total expenditures, and net total collected for the general fund.

Because our budget is funded by the revenue we generate, I'd like to take a minute to review our revenue sources, the impact of the virus disruption on our revenue sources, and our projections for the upcoming biennium.

REVENUE SOURCES

The majority of the Department's revenue is generated from securities registrations and filings, and the registration of industry firms and professionals.

A small percentage of our revenue is derived from franchise registrations, and we may also generate revenue from civil penalties assessed by the Commissioner.

Approximately 98% of the Department's revenue comes from out of state.

Securities Filings

Examples of types of securities registrations and filings that generate revenue for the Department would be Mutual Fund notice filings, Unit Investment Trust notice filings, Non-traded Real Estate Investment Trust registrations, and small

business capital formation filings to either register securities or qualify for an exemption from registration.

Industry Registration

Investment industry registrations include broker-dealer and investment adviser firms, and their registered professionals – defined in the Securities Act as securities agents and investment adviser representatives.

To give you an idea of the number of investment industry firms and professionals doing business in the state of North Dakota, an industry registration snapshot as of the end of December shows:

1,119	Broker-Dealers
94,935	Broker-Dealer Agents
791	Investment Advisers
1,665	Investment Adviser Reps

The annual renewal of these industry registrations took place December 31. A new record total of 98,510 registration renewals were completed in an entirely automated process, through our registration system called the Central

Registration Depository, and a payment of \$6,082,350 was deposited to the Bank of North Dakota earlier this week. This renewal process occurs at no cost to the state.

Virus Impact

In regard to virus impact on revenues, at this point in the biennium, we have seen a small decrease in the securities filings revenue category, attributable primarily to a decline in new filings by non-traded Real Estate Investment Trusts.

In the industry firms and professionals category, we did see a decrease from our projections in the summer months but those revenues have since recovered. The decrease was attributable to the closing of testing centers. Professionals working in this industry must first pass qualifying examinations before they can be registered by regulators and work with clients. With testing centers closed for a time, a testing and subsequent registration backlog built up which has since been rectified.

2021-2023 Revenue Projections

We are holding our revenue projections for the upcoming biennium at \$22 million, the same level for the current biennium.

MISC ITEMS FROM LEGISLATIVE COUNCIL OUTLINE

There are no other sections included in our budget bill.

At this time, I am not aware of any other bills being considered by the Legislative Assembly that would have a potential budgetary impact on the Securities Department.

We are not asking the committee to consider any changes to the executive recommendation, and we are submitting no optional adjustment requests.

The Department did not seek or spend any COVID-19 related funding.

There were no financial audit findings in the Department's last audit, for which the audit period was July 1, 2016 - June 30, 2018.

ACCOMPLISHMENTS, CHALLENGES, GOALS AND PLANS

Launch of Electronic Securities Filings

The Department has been successfully migrating to an electronic securities filing system over the last 18 months. This approach to securities filings is supported by a technology system called the Electronic Filing Depository (EFD). When the system is operating at full capacity, it is anticipated that 95% of our securities

filings, numbering approximately 25,000/year, will be made through the system.

Franchise filings will also be made through the EFD. All fees associated with these filings, which make up approximately half of the Departments annual/biennial revenue, will be collected through this system. Our national organization (NASAA) funds the development and support of the EFD, and it is utilized at no cost to the state. The shift to electronic filing included a go-paperless project component in which 479,630 records were scanned and stored.

Fintech Focus

The Department now has a team member in place responsible for conducting research, examination and investigation functions related to emerging regulatory issues driven by continuously evolving financial technology innovations, including but not limited to Robo-Advisors, Crowdfunding, Crypto Assets, Initial Coin Offerings and Regulatory Sandbox initiatives.

Enforcement

The Department anticipates continued growth in Social Media driven investment fraud. Social media platforms and dating websites and applications are proving exceptionally fertile ground for financial criminals to exploit victims and steal money. Two areas of heightened concern: 1) Social platforms are commonly

used to perpetrate investment fraud related to digital financial instruments such as securities tokens and cryptocurrency. 2) The ease of establishing fake profiles, connecting through common interests, and extracting personal information is leading to an increase in “romance scams”, and as seniors become more comfortable with these social sites and services, they also become more easily targeted.

Industry Outreach

In the 2017 Legislative Session, the legislature passed a law to strengthen protections for seniors and vulnerable adults who may be targeted for financial exploitation. Section 10-04-08.5 of the Securities Act requires brokerage firms and investment adviser firms to report to the Securities Department and Adult Protective Services if they believe a client is being financially exploited, and provides the firms the ability, with indemnity, to withhold distribution of funds. The Department will be engaging in an outreach and education initiative to improve industry awareness regarding the law and their obligations under it.

Launch of New Examination Matrix

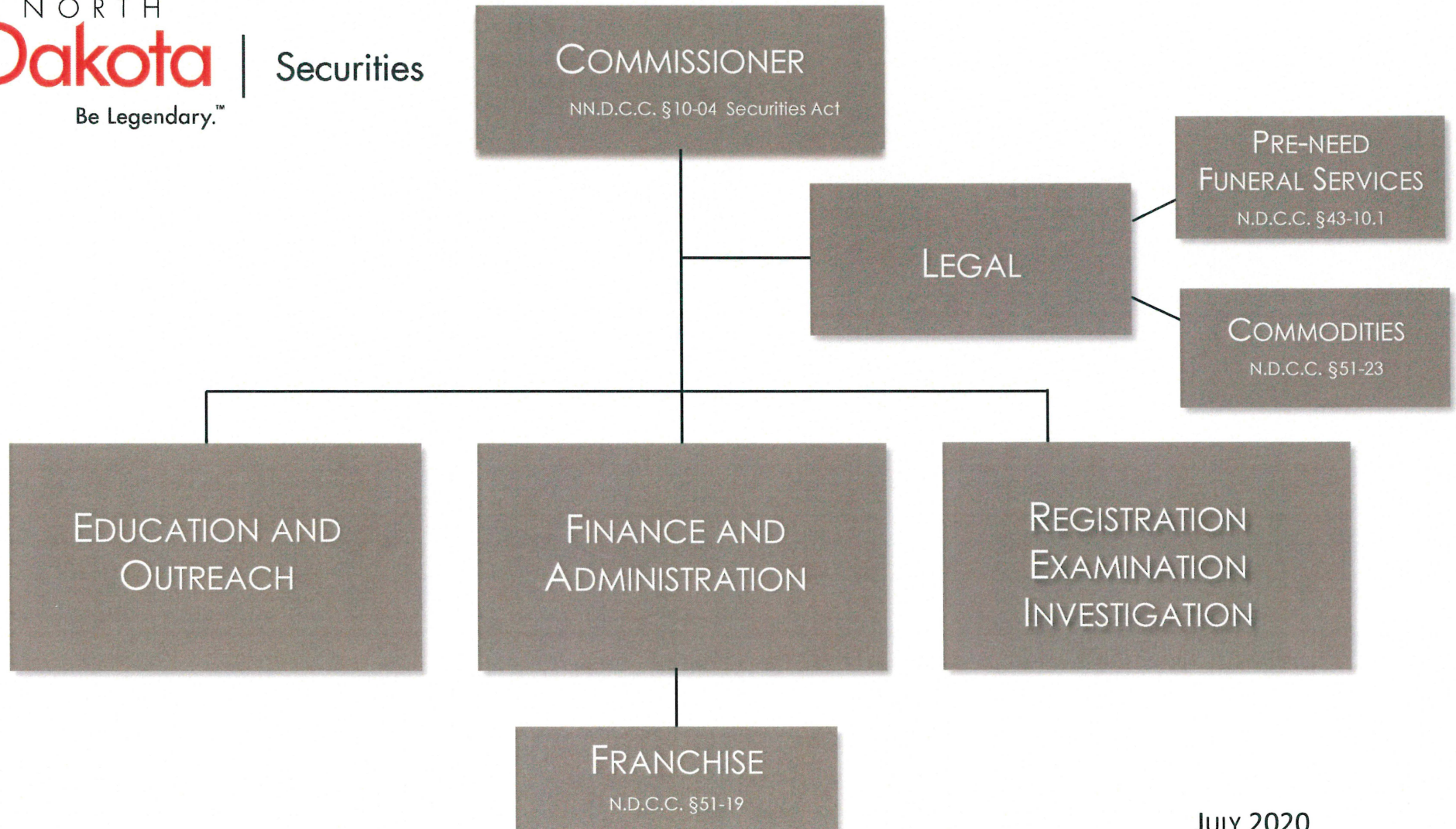
In 2021 the Department will launch a new Industry Examination Matrix to facilitate planning and execution of broker-dealer and investment adviser examinations for all exam type categories across an annual exam cycle.

Fargo Location Established – NDSU Research and Technology Park

Transitions Navigated – New Workplace, Retirements

Current and Upcoming Technology Projects – Website, Case Management System, Registration and Data Management System




ORGANIZATIONAL CHART



JULY 2020

TOTAL REVENUE VS. EXPENSE

Ten Year Totals 2009 - 2019

<i>10 Year Total Revenue</i>		<i>\$ 101,888,650</i>
<i>10 Year Total Expense</i>		<i>\$ 9,227,246</i>
<i>Net for General Fund</i>		<i>\$ 92,661,404</i>

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Government Operations Division

Brynhild Haugland Room, State Capitol

HB1011
1/25/2021

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

2:37 **Chairman Vigesaa** brought the meeting to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Howe, Representative Bellew, Representative Mock. Members absent: Representative Kempenich, Representative Meier.

Discussion Topics:

- Base level funding changes

2:38 **Chris Kadrmas, Fiscal Analyst, ND Legislative Council.** Testimony # 3106.

2:50 **Chairman Vigesaa** adjourned the meeting.

Sheri Lewis, Committee Clerk

Securities Department - Budget No. 414
House Bill No. 1011
Base Level Funding Changes

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2021-23 Biennium Base Level	10.00	\$0	\$2,757,119	\$2,757,119	10.00	\$0	\$2,757,119	\$2,757,119
2021-23 Ongoing Funding Changes								
Base payroll changes				\$0				\$0
Salary increase			\$55,213	55,213				0
Health insurance increase			487	487				0
Retirement contribution increase			11,364	11,364				0
Adds funding for Microsoft Office 365 license expenses			1,542	1,542				0
Total ongoing funding changes	0.00	\$0	\$68,606	\$68,606	0.00	\$0	\$0	\$0
One-time funding items								
No one-time funding items				\$0				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$68,606	\$68,606	0.00	\$0	\$0	\$0
2021-23 Total Funding	10.00	\$0	\$2,825,725	\$2,825,725	10.00	\$0	\$2,757,119	\$2,757,119
<i>Total ongoing changes as a percentage of base level</i>	0.0%		2.5%	2.5%	0.0%		0.0%	0.0%
<i>Total changes as a percentage of base level</i>	0.0%		2.5%	2.5%	0.0%		0.0%	0.0%

Other Sections in Securities Department - Budget No. 414

	Executive Budget Recommendation	House Version
	There are no other sections recommended to be added in the executive budget.	

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Government Operations Division

Brynhild Haugland Room, State Capitol

HB1011

2/1/2021

A BILL for an Act to provide an appropriation for defraying the expenses of the securities department.
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10:55 **Chairman Vigesaa** brought the committee to order. Members present: Chairman Vigesaa, Vice Chairman Brandenburg, Representative Kempenich, Representative Howe, Representative Meier, Representative Mock, Representative Bellew.

Discussion Topics:

- Appropriation request for the 2021-2023 biennium budget.
- Green sheet.

11:14 **Chairman Vigesaa** adjourned the meeting.

Sheri Lewis, Committee Clerk

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Government Operations Division

Brynhild Haugland Room, State Capitol

HB1011

2/8/2021

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

09:19 **Chairman Vigesaa** brought the committee to order. Members present: Chairman Vigesaa, Representative Kempenich, Representative Howe, Representative Meier, Representative Bellew, Representative Mock. Members absent: Vice Chairman Brandenburg.

Discussion Topics:

- Amendments

09:19 **Representative Mock** discussed the changes to the agency's bill. Testimony #3106.

09:28 **Representative Bellew** made a motion to accept the amendment. LC 21.0270.01001.

09:28 **Representative Meier** seconded the motion.

09:28 **Voice Vote**

09:28 **Motion carried**

09:29 **Representative Mock** made a motion for a "Do Pass as Amended."

09:29 **Representative Howe** seconded the motion.

Roll call vote: 6 Yeas 0 Nays 1 Absent

Motion Carried.

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

09:30 **Chairman Vigesaa** closed the meeting.

Sheri Lewis, Committee Clerk

21.0270.01001
Title.

Fiscal No. 1

Prepared by the Legislative Council staff for
the House Appropriations - Government
Operations Division Committee
February 9, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1011

Page 1, replace lines 8 through 13 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$2,163,558	\$47,602	\$2,211,160
Operating expenses	<u>593,561</u>	<u>1,542</u>	<u>595,103</u>
Total special funds	\$2,757,119	\$49,144	\$2,806,263
Full-time equivalent positions	10.00	0.00	10.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1011 - Securities Department - House Action

	<u>Base Budget</u>	<u>House Changes</u>	<u>House Version</u>
Salaries and wages	\$2,163,558	\$47,602	\$2,211,160
Operating expenses	<u>593,561</u>	<u>1,542</u>	<u>595,103</u>
Total all funds	\$2,757,119	\$49,144	\$2,806,263
Less estimated income	<u>2,757,119</u>	<u>49,144</u>	<u>2,806,263</u>
General fund	\$0	\$0	\$0
FTE	10.00	0.00	10.00

Department 414 - Securities Department - Detail of House Changes

	<u>Adds Funding for Salary and Benefit Increases¹</u>	<u>Adds Funding for Microsoft Office 365 License Expenses²</u>	<u>Total House Changes</u>
Salaries and wages	\$47,602		\$47,602
Operating expenses		\$1,542	1,542
Total all funds	\$47,602	\$1,542	\$49,144
Less estimated income	<u>47,602</u>	<u>1,542</u>	<u>49,144</u>
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

¹ The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250, and increases in health insurance premiums from \$1,427 to \$1,429 per month:

<u>Other Funds</u>	
Salary increase	\$47,115
Health insurance increase	<u>487</u>
Total	\$47,602

² Funding is added for Microsoft Office 365 license expenses.

Securities Department - Budget No. 414
House Bill No. 1011
Base Level Funding Changes

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2021-23 Biennium Base Level	10.00	\$0	\$2,757,119	\$2,757,119	10.00	\$0	\$2,757,119	\$2,757,119
2021-23 Ongoing Funding Changes								
Base payroll changes				\$0				\$0
Salary increase			\$55,213	55,213				0
Health insurance increase			487	487				0
Retirement contribution increase			11,364	11,364				0
Adds funding for Microsoft Office 365 license expenses			1,542	1,542				0
Total ongoing funding changes	0.00	\$0	\$68,606	\$68,606	0.00	\$0	\$0	\$0
One-time funding items								
No one-time funding items				\$0				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$68,606	\$68,606	0.00	\$0	\$0	\$0
2021-23 Total Funding	10.00	\$0	\$2,825,725	\$2,825,725	10.00	\$0	\$2,757,119	\$2,757,119
<i>Total ongoing changes as a percentage of base level</i>	0.0%		2.5%	2.5%	0.0%		0.0%	0.0%
<i>Total changes as a percentage of base level</i>	0.0%		2.5%	2.5%	0.0%		0.0%	0.0%

Other Sections in Securities Department - Budget No. 414

	Executive Budget Recommendation	House Version
	There are no other sections recommended to be added in the executive budget.	

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Brynhild Haugland Room, State Capitol

1011
2/12/2021

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

11:25 Chairman Delzer- Opened the meeting for HB 1011;

Representatives	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	A
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	A
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	A
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	P
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	P

Discussion Topics:

- Funding Securities Department
- Number of FTE's required
- Amendment

11:26 Representative Mock Introduces HB 1011 and explains the budget and amendment 21.0270.01001

11:32 Representative Mock Motion to adopt amendment 21.0270.01001

Representative Howe Second

Voice Vote Motion Carries

11:33 Representative Mock Do Pass as Amended

Representative Howe Second

Further discussion

11:34 Roll Call Vote was taken

Representatives	Vote
Representative Jeff Delzer	Y
Representative Keith Kempenich	A
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Tracy Boe	A
Representative Mike Brandenburg	Y
Representative Michael Howe	Y
Representative Gary Kreidt	A
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative Corey Mock	Y
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Mark Sanford	Y
Representative Mike Schatz	Y
Representative Jim Schmidt	Y
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y
Representative Don Vigasaa	Y

Motion Carries 18-0-3

Representative Mock will carry the bill

Additional written testimony: No written testimony

11:36 Chairman Delzer closes the meeting for HB 1011

Risa Berube, House Appropriations Committee Clerk

21.0270.01001
Title.02000

Fiscal No. 1

Prepared by the Legislative Council staff for
the House Appropriations - Government
Operations Division Committee
February 9, 2021

DE 2/12/21
1 of 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1011

Page 1, replace lines 8 through 13 with:

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Operating expenses	<u>593,561</u>	<u>1,542</u>	<u>595,103</u>
Total special funds	\$2,757,119	\$49,144	\$2,806,263
Full-time equivalent positions	10.00	0.00	10.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1011 - Securities Department - House Action

	<u>Base Budget</u>	<u>House Changes</u>	<u>House Version</u>
Salaries and wages	\$2,163,558	\$47,602	\$2,211,160
Operating expenses	<u>593,561</u>	<u>1,542</u>	<u>595,103</u>
Total all funds	\$2,757,119	\$49,144	\$2,806,263
Less estimated income	<u>2,757,119</u>	<u>49,144</u>	<u>2,806,263</u>
General fund	\$0	\$0	\$0
FTE	10.00	0.00	10.00

Department 414 - Securities Department - Detail of House Changes

	<u>Adds Funding for Salary and Benefit Increases¹</u>	<u>Adds Funding for Microsoft Office 365 License Expenses²</u>	<u>Total House Changes</u>
Salaries and wages	\$47,602		\$47,602
Operating expenses		\$1,542	1,542
Total all funds	\$47,602	\$1,542	\$49,144
Less estimated income	<u>47,602</u>	<u>1,542</u>	<u>49,144</u>
General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

¹ The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250, and increases in health insurance premiums from \$1,427 to \$1,429 per month:

	<u>Other Funds</u>
Salary increase	\$47,115
Health insurance increase	<u>487</u>
Total	\$47,602

² Funding is added for Microsoft Office 365 license expenses.

REPORT OF STANDING COMMITTEE

HB 1011: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (18 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1011 was placed on the Sixth order on the calendar.

Page 1, replace lines 8 through 13 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$2,163,558	\$47,602	\$2,211,160
Operating expenses	593,561	1,542	595,103
Total special funds	\$2,757,119	\$49,144	\$2,806,263
Full-time equivalent positions	10.00	0.00	10.00"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1011 - Securities Department - House Action

	<u>Base Budget</u>	<u>House Changes</u>	<u>House Version</u>
Salaries and wages	\$2,163,558	\$47,602	\$2,211,160
Operating expenses	593,561	1,542	595,103
Total all funds	\$2,757,119	\$49,144	\$2,806,263
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General fund	\$0	\$0	\$0
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General fund	\$0	\$0	\$0
FTE	0.00	0.00	0.00

¹ The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250, and increases in health insurance premiums from \$1,427 to \$1,429 per month:

	<u>Other Funds</u>
Salary increase	\$47,115
Health insurance increase	487
Total	\$47,602

² Funding is added for Microsoft Office 365 license expenses.

2021 SENATE APPROPRIATIONS

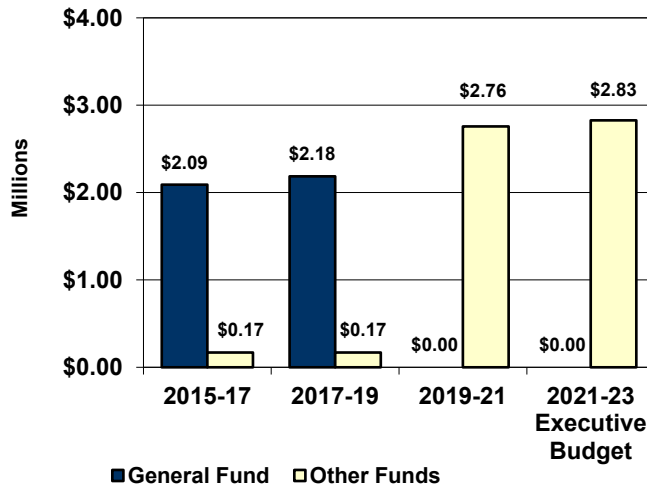
HB 1011

Department 414 - Securities Department
House Bill No. 1011

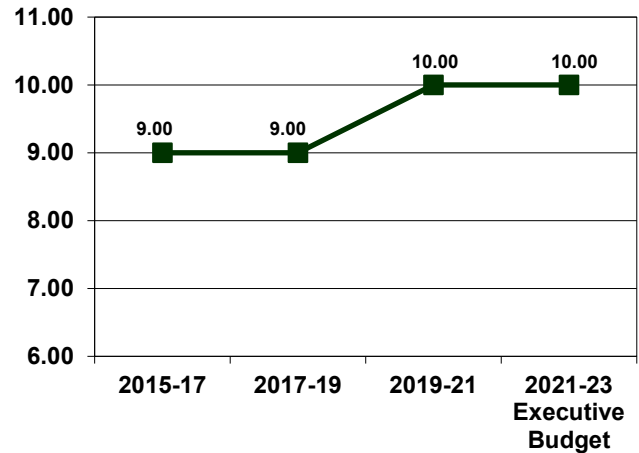
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2021-23 Executive Budget	10.00	\$0	\$2,825,725	\$2,825,725
2019-21 Legislative Appropriations	10.00	0	2,757,119	2,757,119
Increase (Decrease)	0.00	\$0	\$68,606	\$68,606

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2021-23 Executive Budget	\$0	\$2,825,725	\$2,825,725
2021-23 Base Level	0	2,757,119	2,757,119
Increase (Decrease)	\$0	\$68,606	\$68,606

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 \$55,213 is for salary increases, \$487 is for health insurance increases, and \$11,364 is for retirement contribution increases. The House added funding for salary adjustments of 1.5 percent per year with a \$100 minimum and \$250 maximum monthly increase and increases in health insurance premiums from \$1,427 to \$1,429 per month. The House did not add funding for retirement contribution increases.	\$0	\$67,064	\$67,064
2. Adds funding for Microsoft Office 365 license expenses	\$0	\$1,542	\$1,542

Other Sections in House Bill No. 1011

There are no other sections included in this bill.

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

At this time, no major related legislation is under consideration for this agency.

Securities Department - Budget No. 414
House Bill No. 1011
Base Level Funding Changes

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2021-23 Biennium Base Level	10.00	\$0	\$2,757,119	\$2,757,119	10.00	\$0	\$2,757,119	\$2,757,119
2021-23 Ongoing Funding Changes								
Base payroll changes				\$0				\$0
Salary increase			\$55,213	55,213			\$47,115	47,115
Health insurance increase			487	487			487	487
Retirement contribution increase			11,364	11,364				0
Adds funding for Microsoft Office 365 license expenses			1,542	1,542			1,542	1,542
Total ongoing funding changes	0.00	\$0	\$68,606	\$68,606	0.00	\$0	\$49,144	\$49,144
One-time funding items								
No one-time funding items				\$0				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	0.00	\$0	\$68,606	\$68,606	0.00	\$0	\$49,144	\$49,144
2021-23 Total Funding	10.00	\$0	\$2,825,725	\$2,825,725	10.00	\$0	\$2,806,263	\$2,806,263
<i>Total ongoing changes as a percentage of base level</i>	0.0%		2.5%	2.5%	0.0%		1.8%	1.8%
<i>Total changes as a percentage of base level</i>	0.0%		2.5%	2.5%	0.0%		1.8%	1.8%

Other Sections in Securities Department - Budget No. 414

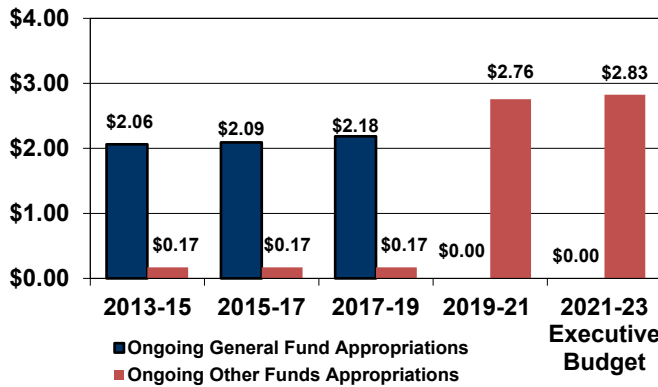
Executive Budget Recommendation	House Version
There are no other sections recommended to be added in the executive budget.	There are no other sections in the House version.

Department 414 - Securities Department

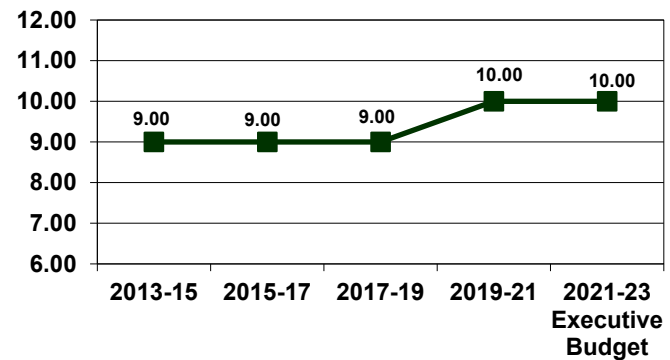
Historical Appropriations Information

Ongoing Agency Appropriations Since 2013-15

Agency Funding (in Millions)



FTE Positions



Ongoing Agency Appropriations					
	2013-15	2015-17	2017-19	2019-21 ¹	2021-23 Executive Budget
Ongoing appropriations	\$2,233,005	\$2,260,781	\$2,354,714	\$2,757,119	\$2,825,725
Increase (decrease) from previous biennium	N/A	\$27,776	\$93,933	\$402,405	\$68,606
Percentage increase (decrease) from previous biennium	N/A	1.2%	4.2%	17.1%	2.5%
Cumulative percentage increase (decrease) from 2013-15 biennium	N/A	1.2%	5.5%	23.5%	26.5%

¹The 2019 Legislative Assembly amended Section 10-04-03 to provide for the Securities Department to be a special funded agency by creating the Securities Department special fund and by directing all fees, civil penalties, or other money collected by the agency into the fund; and to transfer all revenues in excess of the agency's appropriation to the general fund.

Major Increases (Decreases) in Ongoing Agency Appropriations

2015-17 Biennium

- Added funding from the general fund for desktop support services and hardware \$46,805

2017-19 Biennium

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

2019-21 Biennium

- Added from the general fund 1 FTE financial technology research and investigation position (\$209,294) and related operating expenses (\$23,000) \$232,294
- Added funding from other funds for rent and for the statewide cost allocation plan \$64,000
- Changed the source of funding for the agency by reducing funding from the general fund by \$2,524,124 and increasing funding from other funds by \$2,524,124 \$0

2021-23 Biennium (Executive Budget Recommendation)

- No major changes included in the executive budget recommendation \$0

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, 2021 and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and Wages	\$2,163,558	\$67,064	\$2,230,622
Operating Expenses	<u>593,561</u>	<u>1,542</u>	<u>595,103</u>
Total All Funds	\$2,757,119	\$68,606	\$2,825,725
Less Estimated Income	<u>2,757,119</u>	<u>68,606</u>	<u>2,825,725</u>
Total General Fund	\$ 0	\$ 0	\$ 0
Full-time Equivalent Positions	10.00	0.00	10.00

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Roughrider Room, State Capitol

HB 1011
3/12/2021
Senate Appropriations Committee

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

Senator Holmberg opened the hearing at 11:15 a.m.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.**

Discussion Topics:

- Focus Initiatives
- Investment Firms
- Revenue Forecast

Karen Tyler, Securities Commissioner, North Dakota Securities Department, testified in favor and submitted testimony #8858.

Senator Holmberg closed the hearing at 11:49 a.m.

Skyler Strand, Committee Clerk

House Bill 1011**Testimony of North Dakota Securities Commissioner Karen Tyler****Before the Senate Appropriations Committee****March 12, 2021****STATUTORY RESPONSIBILITIES**

The Securities Department is a regulatory agency that serves the citizens of North Dakota through the administration and enforcement of the North Dakota Securities Act (10-04), the North Dakota Commodities Act (51-23), the Franchise Investment Law (51-19) and Pre-Need Funeral Services Law (43-10.1).

REGULATORY POLICY OBJECTIVES AND FUNCTIONS

The primary regulatory policy objectives of the Securities Department are investor protection and the support of legitimate capital formation. We execute on those objectives through our work in following 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) We produce and deliver investor education and financial literacy programs.

The North Dakota Securities Department is a small agency, with 10 full time employees. No additional FTEs are requested in our 21-23 budget. The Department's Organizational Chart is included in your copies of this testimony.

BUDGET REQUEST

The Securities Department is a revenue generating, special fund agency. The Department's total budget request for the 2021-2023 biennium is \$2,825,725. This breaks down as \$2,230,622 for the Salaries and Wages line item, and \$595,103 for the Operating line item.

The only changes requested from the Base Level budget are the enhancements set forth in the Governor's executive budget for salary and benefit adjustments, and a small increase in IT related costs. For our Department, those adjustments are \$67,064 for salaries and benefits, and \$1,542 for IT costs.

There is no one-time funding in our current budget, and no one-time funding in the Department's request for the 21-23 biennium.

DEPARTMENT REVENUE

We are 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 5 budget cycles, the Department has spent approximately 8 to 10 cents for every revenue dollar generated. Attached to my testimony is a 10 year look back for total revenues, total expenditures, and net total collected for the general fund.

REVENUE SOURCES

The majority of the Department's revenue is generated from securities registrations and filings, and the registration of industry firms and professionals. A small percentage of our revenue is derived from franchise registrations, and we may also generate revenue from civil penalties assessed by the Commissioner. Approximately 98% of the Department's revenue comes from out of state.

Securities Filings

Examples of types of securities registrations and filings that generate revenue for the Department would be Mutual Fund notice filings, Unit Investment Trust notice filings, Non-traded Real Estate Investment Trust registrations, and small business capital formation filings to either register securities or qualify for an exemption from registration.

Investment Industry Registration

Investment industry registrations include broker-dealer and investment adviser firms, and their registered professionals – defined in the Securities Act as securities agents and investment adviser representatives.

Data for the number of investment industry firms and professionals doing business in the state of North Dakota as of the end of January 2021 shows:

1,126	Broker-Dealers
97,519	Broker-Dealer Agents
810	Investment Advisers
1,683	Investment Adviser Reps

Industry firms and professionals must make an initial registration filing and then renew each year. The annual renewal of these industry registrations takes place December 31. For 2020, a new record total of 98,510 registration renewals were completed in an entirely automated process, through our registration system called the Central Registration Depository, and a payment of just over \$6 million was collected for the 2020 renewal cycle. This renewal process occurs at no cost to the state.

Virus Impact

In regard to virus impact on revenues, while midway through 2020 we had seen a decrease from projected collections, our revenues have since recovered and are tracking with original projections.

2021-2023 Revenue Projections

We are holding our revenue projections for the upcoming biennium at \$22 million, the same level for the current biennium.

MISC ITEMS

There are no other sections included in our budget bill.

At this time, I am not aware of any other bills being considered by the Legislative Assembly that would have a potential budgetary impact on the Securities Department.

We are not asking the committee to consider any changes to the executive recommendation, and we are submitting no optional adjustment requests.

The Department did not seek or spend any COVID-19 related funding.

There were no financial audit findings in the Department's last audit, for which the audit period was July 1, 2016 - June 30, 2018.

FOCUS INITIATIVES

Launch of Electronic Securities Filings

The Department has been successfully migrating to an electronic securities filing system over the last 18 months. This approach to securities filings is supported by a technology system called the Electronic Filing Depository (EFD). When the system is operating at full capacity, it is anticipated that 95% of our securities filings, numbering approximately 25,000/year, will be made through the system. Franchise filings will also be made through the EFD. All fees associated with these filings, which make up approximately half of the Departments annual/biennial revenue, will be collected through this system. Our national organization (NASAA) funds the development and support of the EFD, and it is utilized at no cost to the state. The shift to electronic filing included a go-paperless project component in which 479,630 records were scanned and stored.

Fintech Focus

The Department now has a team member in place responsible for conducting research, examination and investigation functions related to emerging regulatory issues driven by continuously evolving financial technology innovations, including

but not limited to Robo-Advisors, Crowdfunding, Cryptocurrency and Digital Assets, and Initial Coin Offerings and Securities Token Offerings.

Enforcement

The Department anticipates continued growth in Social Media driven investment fraud. Social media platforms and dating websites and applications are proving exceptionally fertile ground for financial criminals to exploit victims and steal money. Two areas of heightened concern: 1) Social platforms are commonly used to perpetrate investment fraud related to digital financial instruments such as securities tokens and cryptocurrency. 2) The ease of establishing fake profiles, connecting through common interests, and extracting personal information is leading to an increase in “romance scams”, and as seniors become more comfortable with these social sites and services, they also become more easily targeted.

Industry Outreach

In the 2017 Legislative Session, the legislature passed a law to strengthen protections for seniors and vulnerable adults who may be targeted for financial exploitation. Section 10-04-08.5 of the Securities Act requires brokerage firms and investment adviser firms to report to the Securities Department and Adult

Protective Services if they believe a client is being financially exploited, and provides the firms the ability, with indemnity, to withhold distribution of funds. The Department will be engaging in an outreach and education initiative to improve industry awareness regarding the law and their obligations under it.

Launch of New Examination Matrix

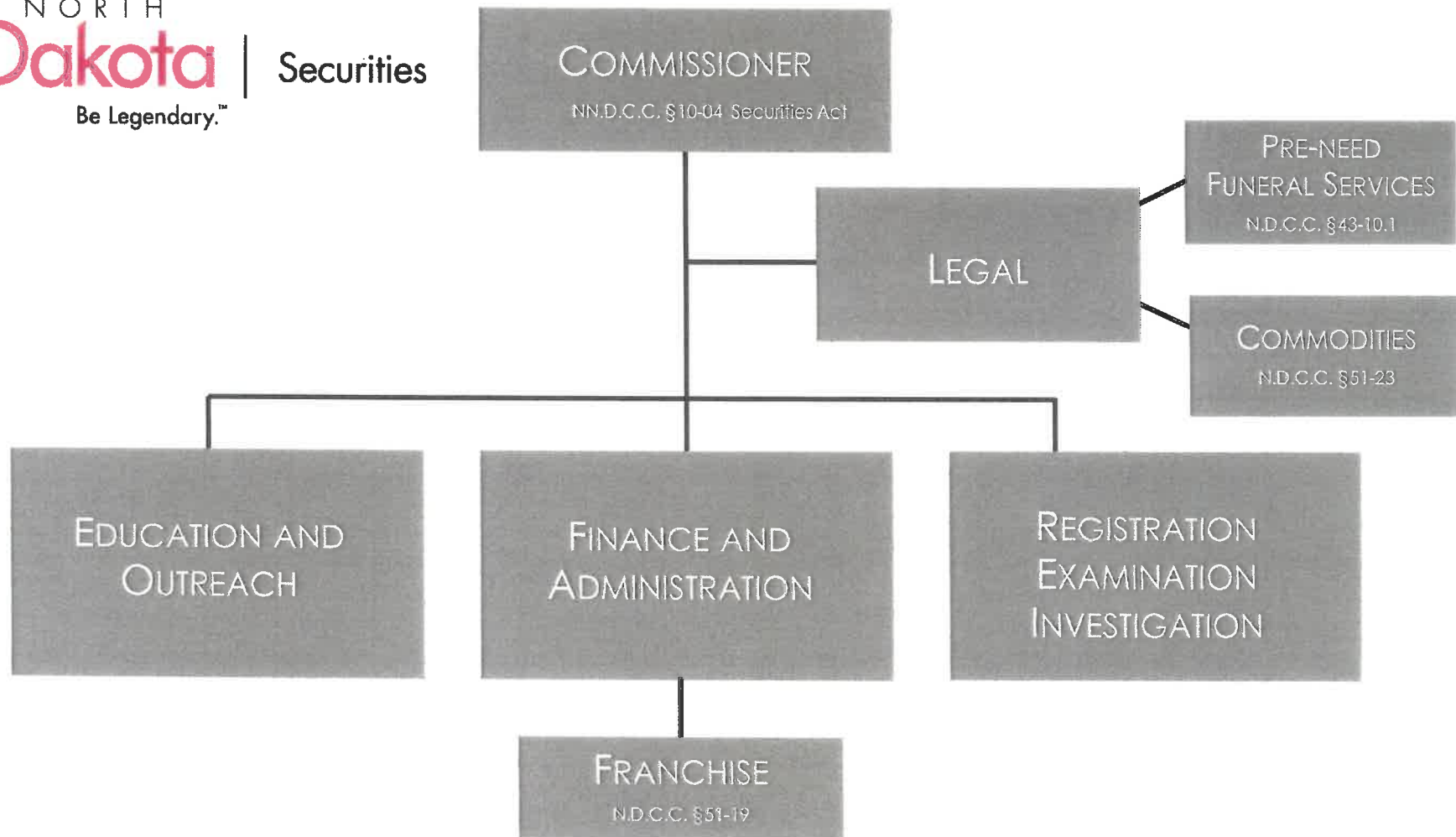
Early this year the Department launched a new Industry Examination Matrix to facilitate planning and execution of broker-dealer and investment adviser examinations for all exam type categories across an annual exam cycle.

Fargo Location Established – NDSU Research and Technology Park

Transitions Navigated – New Workplace, Retirements

Current and Upcoming Technology Projects – Website, Case Management System, Registration and Data Management System

ORGANIZATIONAL CHART



TOTAL REVENUE VS. EXPENSE

Ten Year Totals 2009 - 2019



2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1011
3/23/2021
Senate Appropriations Committee

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

Senator Holmberg opened the hearing on 8:47 AM.

Senators present: **Holmberg, Krebsbach, Wanzek, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.** **Senator Bekkedahl** was absent.

Senator Krebsbach moved adoption of amendment [LC 21.0270.02001]; testimony #10488.
Senator Wanzek second.

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	A	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Roll Call vote 13-0-1
Motion passed.

Senator Krebsbach moved Do Pass as Amended on HB 1011.
Senator Wanzek second.

<i>Senators</i>		<i>Senators</i>	
<i>Senator Holmberg</i>	Y	<i>Senator Hogue</i>	Y
<i>Senator Krebsbach</i>	Y	<i>Senator Oehlke</i>	Y
<i>Senator Wanzek</i>	Y	<i>Senator Poolman</i>	Y
<i>Senator Bekkedahl</i>	A	<i>Senator Rust</i>	Y
<i>Senator Davison</i>	Y	<i>Senator Sorvaag</i>	Y
<i>Senator Dever</i>	Y	<i>Senator Heckaman</i>	Y
<i>Senator Erbele</i>	Y	<i>Senator Mathern</i>	Y

Roll Call vote 13-0-1
Motion passed. **Senator Krebsbach** will carry the bill.

Senator Holmberg closed the hearing at 8:50 AM.

Rose Laning, Committee Clerk

03/23/21
1041

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1011

Page 1, replace line 10 with:

"Salaries and wages	\$2,163,558	\$50,323	\$2,213,881"
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Page 1, replace line 12 with:

"Total special funds	\$2,757,119	\$51,865	\$2,808,984"
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Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1011 - Securities Department - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$2,163,558	\$2,211,160	\$2,721	\$2,213,881
Operating expenses	593,561	595,103		595,103
Total all funds	\$2,757,119	\$2,806,263	\$2,721	\$2,808,984
Less estimated income	2,757,119	2,806,263	2,721	2,808,984
General fund	\$0	\$0	\$0	\$0
FTE	10.00	10.00	0.00	10.00

Department 414 - Securities Department - Detail of Senate Changes

	Adds Funding for Salary and Benefit Increases ¹	Total Senate Changes
Salaries and wages	\$2,721	\$2,721
Operating expenses		
Total all funds	\$2,721	\$2,721
Less estimated income	2,721	2,721
General fund	\$0	\$0
FTE	0.00	0.00

¹ Funding is adjusted to provide salary adjustments of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100, and 2 percent on July 1, 2022. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250.

REPORT OF STANDING COMMITTEE

HB 1011, as engrossed: 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). Engrossed HB 1011
was placed on the Sixth order on the calendar.

Page 1, replace line 10 with:

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Operating expenses		
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General fund	\$0	\$0
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21.0270.02001
Title.
Fiscal No. 1

Prepared by the Legislative Council staff for
Senate Appropriations Committee
March 22, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1011

Page 1, replace line 10 with:

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Department 414 - Securities Department - Detail of Senate Changes

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Total all funds	\$2,721	\$2,721
Less estimated income	2,721	2,721
General fund	\$0	\$0
FTE	0.00	0.00

¹ Funding is adjusted to provide salary adjustments of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100, and 2 percent on July 1, 2022. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250.