

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1011

2005 HOUSE APPROPRIATIONS

HB 1011

NB/091

✓ **State Securities - testifying was Karen Tyler** (meter #32.3)

**Ms Tyler** read through the attached testimony (handout 4-7, attached). **Rep. Ken Svedjan, Chairman** asked if the \$92.8 turnback funds would be going into Special Funds. **Ms Tyler** answered yes. **Rep. Jeff Delzer** asked why they spent the general fund dollars first instead of the special funds. **Ms Tyler** answered that the special funds were restricted to financial educational costs only. **Rep. Ken Svedjan, Chairman** and **Rep. Eliot Glassheim** noted that it seemed as though general funds were being requested to pick up for the loss of special funds. Special funds will be replaced by other monies that cannot be projected or budgeted and additional recoveries would benefit the general fund. The variance only represents that there will be no funds granted for financial education this year. **Rep. Ken Svedjan, Chairman** asked how much money does the recovery efforts give to the general fund. **Ms Tyler** answered that \$11 million was added to the general fund in the current biennium and they anticipate it growing to \$17 million before July 2005., and explained that these revenues are budgeted or projected in the Departmental Collections line. **Rep. Bob Skarphol** asked if there was a regular revenue stream for special funds. **Ms Tyler** answered that there was no consistent stream and explained that most revenues came in by way of private donations for financial education. **Ms Tyler** explained that if the federal grants for these programs were ever depleted, they would still be responsible for fulfilling federal regulations of the program. **Ms Tyler** noted that the chart on the last page of the handout represented "total Revenues" and finished her review by discussing their need for enhanced legal services and explained that the Attorney General's office was

*Security end*  
assisting, but that the expertise of the enforcement actions may cause their agency to seek counsel outside of the Attorney General's office. *AB 1009*

**Agriculture - testifying was Roger Johnson** (meter Tape #2, # 4.4)

**Mr Johnson** reviewed handout #4-8 (attached) highlighting the significant issues listed on pages 1-2 of handout. **Rep. Mike Timm, Vice Chairman** asked if they were asking for a fully funded SafeSend project or only to restore what was cut from appropriations last biennium. **Mr Johnson** answered that they were requesting \$680,000 to restore what was cut because they have had to use their special funds to cover the loss and the program has run badly because of the loss. **Rep. Tom Brusegaard** asked if ND had applied for any Section 18 labels. **Mr Johnson** responded yes and said that most requests have been approved. **Rep. Al Carlson** asked if the federal grants were coming from the Homeland Security project. **Mr Johnson** answered that all grants are federal funds coming from USDA and most are Homeland dollars while a couple are from Disease Control. **Rep. Al Carlson** asked what authority they were given to spend these funds. **Mr Johnson** said he did not have specific figures available.

**Rep. Al Carlson** asked if the FTE's realize their jobs may end if these funds end. **Mr Johnson** answered that they were all aware. (meter Tape #2, #11.1)

**Mr Jeff Weispfenning** reviewed the Analysis of the variances within the handout (#4-8 page 3) and mentioned that the crop harmonization appropriation was a duplicate and is unnecessary appropriation because the Minor Use Fund has a continuing appropriation. **Rep. Ken Svedjan, Chairman** asked that the performance measurement section should be read by the representatives and any questions on these could be

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1011

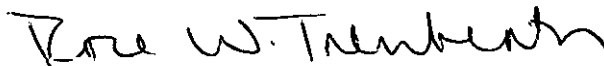
House Appropriations Committee  
Government Operations Division

☐ Conference Committee

Hearing Date Monday, January 10, 2005

Tape Number	Side A	Side B	Meter #
Two	X		00-5132

Committee Clerk Signature



Minutes:

**Chairman Carlisle** opened the Hearing on House Bill #1011 regarding the budget of the North Dakota Securities Department.

**Ms. Karen Tyler, Securities Commissioner**, read her testimony into the record (See attached Handout #1) On page 4 with regard to the section on outside legal counsel, **Chairman Carlisle** asked why the Dept. chose not to use the Attorney General's Office. Ms Tyler explained that the Dept. has just started using the A.G's Office in the past few months. In the past the Dept. has used outside counsel due to unique circumstances relating to securities cases, one being the "document intensive nature" of the cases.

**Rep. Kempenich** in reference to "\$154,00 for contracting outside professional services" asked why in the last biennium that out of the \$68,000 that was budgeted only \$16,000 was spent.

**Ms. Tyler** explained that budget amount had to do with their special fund and was for the development of a financial education program that was not executed.

**Rep. Timm** in reference to paragraph two, page 5, of the testimony which discusses "a consistent program of routine broker-dealer and investment advisor examinations" asked how the additional FTE would affect the current estimate of visiting each business once every 23 years.

**Ms. Tyler** predicted the additional position would cut the rate in half.

**Rep. Timm** in reference to paragraph two, page 6, regarding "contracting legal services" asked the rate for billable hours.

**Ms. Tyler** estimated between \$120-200 or higher per hour up to 650 hours.

**Chairman Carlisle** asked if the \$4 million goes to the General Fund.

**Ms. Tyler** responded that the majority goes to the General Fund. So, far the Dept. has collected \$122,000, out of about \$3.8 million, that went to the Investor Education Fund. (Meter #2206)

**Rep. Timm** in reference to the top of page 3 and the language about the shift away from "transaction based business" to "fee based business" asked for an example of each type of business.

**Ms. Tyler** pointed out that the key distinction is whether or not the firm is charging a fee for their advice. In exchange for consultation, an investment advisor representative may charge so much per hour or a percentage of the client's assets under management, as a fee. On the other hand, a broker at a Merrill Lynch office will charge a commission. Commission based business are more likely to turn a client's account because they only make money when trading is involved. An investment advisor representative charges a fee based on management, so they are more likely to act in the best interests of the client. She confirmed that all these businesses have

to be licensed through the Securities Commission and that all clients should contact the Dept. and find out if agents have a record, if they're properly licensed and who they're affiliated with.

**Chairman Carlisle** asked for confirmation as whether or not the \$4 million settlement was a one-time shot and that most of it would go into the general fund.

**Ms. Tyler** explained that the settlement is coming in in pieces because the Dept. had to settle with 11 different firms. The Dept. expects to be finished with the process by the end of this biennium. The majority of the amount did go to the General Fund. Three percent of each firm's penalty amount went to the special fund for investor education.

**Rep. Timm** asked about any merit or equity raises before the biennium ends.

**Ms. Tyler** said there were none.

**Ms. Tyler** submitted Handout 2 (See attached.) and explained that the blue section on the pie chart on Exhibit A which represents civil penalties collected was not normal, but that the pie chart on Exhibit A-1 which shows the previous year is more normal.

**Rep. Timm** with regard to fees in Exhibit B wanted to know who has control over setting fees.

**Ms. Tyler** explained that the Dept. makes recommendations, but ultimately the Legislature has the final authority. The last fee increase of \$10 was in 1999.

**Rep. Timm** asked whether or not getting the additional FTE would impact anticipated revenues for 05-07 and if that position would focus on routine visits or investigating complaints.

**Ms. Tyler** stated the revenues should be higher if the Dept. hires another investigator and that the Dept. prefers the former option, but that depends on the number of complaints filed.

**Ms. Tyler** submitted Handout #3 for general information.

Meeting adjourned.

**Re: HB 1007, Labor Commissioner**

Members discussed why the budget seemed to bounce around so much and Sandy Paulson explained that HUD changed the reporting requirements to a per case format. The budget is adapting to those changes; this is the transition. Members discussed the Memo dated 1/11/05 which clarified the request for salary increase. Rep. Timm agreed to carry HB 1007 to the floor.

**Re: HB 1011, Securities Department**

Members discussed the FTE request and generally agreed that this position pays for itself. The estimates for outside counsel seemed within reason. Rep. Kempenich agreed to carry HB 1011 to the floor (Meter #1955)

**Re: HB 1005, Treasurer's Department**

Members discussed the IT costs. Sandy Paulson estimates that the Treasurer has enough now in the budget to work on a study and do a quick fix. Rep. Thoreson pointed out that it's the application software that's costly. IT can help find that and adjust it to our state laws. Members also discussed the CO2 pipeline. Sandy Paulson will get more information regarding which counties are involved.

**Re: HB 1001, Governor's Office**

Discussed briefly that the office is authorized for 18 people and that adding one person still funds to 17.3. Noted that Governor & Lt. Governor did not take salary increases for the past two sessions. (Meter #3597)

**Re: HB 1010, Insurance Commission**

**Chairman Carlisle** Members discussed the amendment and generally agreed a flat amount would be most efficient and each session it could be re-evaluated. Members asked Roxanne



**Re: HB 1008, Public Service Commission**

**Chairman Carlisle** said he would follow up today on the meeting with the State Metrologist, which is to take place today.

**Re: HB 1011, Securities Commission**

**Rep. Thoreson** visited with the Commission. The Committee agrees the new FTE will pay for itself.

**Re: Future bills**

**Chairman Carlisle** said the Committee will get HB 1189 and another, but they haven't come up yet. The Committee's bills have to be down to Full Appropriations by Thursday, Feb. 3.

(Meter #36)

Discussion adjourned.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1011

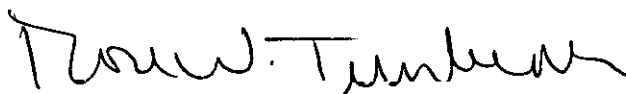
House Appropriations Committee  
Government Operations Division

☐ Conference Committee

Hearing Date Monday, 2/7/05

Tape Number	Side A	Side B	Meter #
1	X		740-end
1		X	starts/cuts off
2	X		00-4.7
2	X		9.8-12.1

Committee Clerk Signature



Minutes:

**Chairman Carlisle** opened discussion on HB 1011 regarding the Securities Commission. **Ms.**

**Karen Tyler, Securities Commissioner** and **Diane Lillis**, also from the N.D. Securities

Department were present to assist the Committee. **Chairman Carlisle** opened discussion with the term "sustainability." He brought up the extra FTE requested and the \$154,000 funding for outside legal expenses.

**Rep. Kempenich** asked if the added FTE will cover the costs. **Comm. Tyler** gave the Committee a worksheet "2005-07 Fiscal Impact on General Fund." (See Handout #1) Using the worksheet, **Comm. Tyler** demonstrated the impact of hiring the first two examiners in June 2000. Their work impacts the enforcement revenues like civil penalties the most; little impact on registration. Having the examiners allows the Agency to dig deeper and find more problems and that has an impact on the bottom line with regard to enforcement revenue.

**Rep. Kempenich** asked what the Agency really needs out of the \$154,000 designated for legal services. **Comm. Tyler** said it's difficult to pin point what will be needed. An experienced litigator costs \$120/125 per hour. Some cases are very complex and very paper intensive. Outcomes are sometimes fantastic, as with HD Vest case in Bismarck, which required outside legal counsel; this case put \$3.5 million back in the pockets of the investors. Whether or not the Agency will see another case like that is hard to predict. The expertise of outside counsel helps the Agency build a criminal case as well, although some judgments are disappointing, such as assigning 40 hours of community service work.

**Rep. Timm** asked if the Agency in fact generated over \$5 million for the general fund. **Comm. Tyler** confirmed. **Rep. Timm** asked if the Bismarck case generated \$4 million in June of 2004. **Comm. Tyler** said that was the Global Settlement with the Wall Street firms. The HD Vest case had a significant civil penalty, too. There was \$750,000, but the \$3.5 million went to the investors. **Rep. Timm** asked if there are any more cases like this in the near future and whether or not hiring additional examiners will generate more income. **Comm. Tyler** said it's difficult to predict which cases will come in. At present there's nothing on the horizon; having examiners certainly helps the Agency search for compliance, which drives civil penalties. **Rep. Timm** asked if the Agency's objective is to raise money or protect citizens from fraud. **Comm. Tyler** stated emphatically that the Agency's primary mission is to protect the integrity of the capital market and N.D. investors from wrong doing. The penalties are are result of this work.

(Turned tape over...realized I should have put in a new tape...Testimony continues on Tape 2, Side A)

**Rep. Kempenich** asked if the Agency could go to the Emergency Commission. **Comm. Tyler** stated that the last time the Agency went to the Emergency Commission was for the Investor Restitution Fund. She pointed out that with regard to the "professional services" line is the impact of the reduction of professional services funded by the Agency's special funds. She also pointed out there were some education programs budgeted for that were not carried out.

**Rep. Kempenich** asked about special funds and **Comm. Tyler** said the special funds are strictly for financial education and some technology needs of the department. **Chairman Carlisle** asked if the Legislature reduced the funds for legal services and if a need did arise, the Agency could go to the Emergency Commission. **Comm. Tyler** assumed that would be so.

**Rep. Kempenich** asked about the "operating funds adjustments" for \$48,000. **Ms. Lillis** said that was an OMB adjustment for salary, ITD, and Connect ND; they put it in on the bottom in one lump

**Rep. Thoreson** asked if OMB was doing this in other budgets as well. No definitive answer was given. He requested more details.

**Chairman Carlisle** closed discussion on HB 1011.

(Meter #4.7)

(Meter #9.8)

**Chairman Carlisle** reopened discussion on HB 1011.

**Rep. Kempenich** because the Securities Department spends less than a \$100,000 last biennium on professional services, there must be some room to maneuver on the \$154,000. If they did get a case that took more time, they could go to the Emergency Commission. Included with that, the Department has \$48,000 in their operating budget.

Page 4

Government Operations Division

Bill/Resolution Number HB 1011

Hearing Date Monday, February 7, 2005

The Committee decided to think on this until more information came in regarding salaries.

**Chairman Carlisle** closed discussion on HB 1011.

(Meter #12.1)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1011

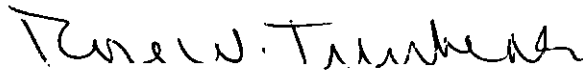
House Appropriations Committee  
Government Operations Division

☐ Conference Committee

Hearing Date Thursday, February 10, 2005

Tape Number	Side A	Side B	Meter #
1	A		35.8-39.8

Committee Clerk Signature



Minutes:

**Chairman Carlisle** opened discussion on HB 1011 regarding the Securities Commission.

**Rep. Timm** said the Securities Commission asked for \$154,000 for outside legal services, which is higher than needed. He moved that HB 1011 be amended to remove \$75,000 from the outside legal services line; **Rep. Thoreson** seconded.

**Chairman Carlisle** called for discussion. **Rep. Kroeber** stated he understood that the Securities Department generates revenues through these services. **Ms. Paulson, OMB**, confirmed this.

Hearing no further discussion, **Chairman Carlisle** called for a roll call vote. Motion carried 5-0-1.

**Chairman Carlisle** ended discussion on HB 1011.

(Meter #39.8)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1011

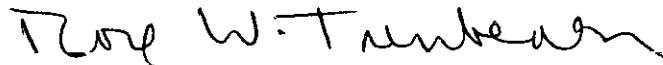
House Appropriations Committee  
Government Operations Division

☐ Conference Committee

Hearing Date Friday, February 11, 2005

Tape Number	Side A	Side B	Meter #
1		X	5.3-7.8

Committee Clerk Signature



Minutes:

**Chairman Carlisle** opened discussion on HB 1011 and Amendment .0101 concerning the Securities Department.

**Mr. Donald Wolf, Legislative Council**, reviewed the changes:

- reduces the \$154,000 for outside legal counsel to \$75,000
- adjusts for compensation changes

**Rep. Thoreson** moved to approve Amendment .0101; **Rep. Timm** seconded.

Hearing no further discussion, **Chairman Carlisle** called for a roll call vote (#1). Motion passed 3-2-1.

**Rep. Thoreson** moved DO PASS for HB 1011 as amended; **Rep. Timm** seconded. Hearing no further discussion, **Chairman Carlisle** called for a roll call vote (#2). Motion passed, 5-0-1.

**Chairman Carlisle** ended discussion on HB 1011. (Meter #7.8)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1011  
Securities Commissioner

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 15, 2005

Tape Number  
5

Side A

Side B  
X

Meter #  
#4.1 - #6.8

Committee Clerk Signature

*Chris Alexander*

Minutes:

**Rep. Ken Svedjan, Chairman** opened the discussion on HB1011.

**Rep. Keith Kempenich** explained that adjustments were made for the compensation package and we removed \$75,000 from the legal side of this and an additional FTE was added for security transactions in the east side of the state.

**Rep. Keith Kempenich** moved to adopt amendment #0101 to HB1011.

**Rep. Blair Thoreson** seconded.

**Rep. Ken Svedjan, Chairman** called for a voice vote on the motion to adopt amendment #0101 to HB1011. Motion carried.

**Rep. Keith Kempenich** moved a Do Pass As Amended motion for HB1011.

**Rep. Ron Carlisle** seconded.



Page 2

House Appropriations Committee

Bill/Resolution Number HB1011

Hearing Date February 15, 2005

**Rep. Ken Svedjan, Chairman** called for a roll call vote on the Do Pass As Amended motion for HB1011. Motion carried with a vote of 23 yeas, 0 neas, and 0 absences. Rep Kempenich will carry the bill to the house floor.

**Rep. Ken Svedjan, Chairman** closed discussion on HB1011.

Date: 2/10/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1011

House House Appropriations Government Operations

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amend HB 1011 to remove \$75,000 requested  
from the \$154,000 of general fund money for  
Motion Made By Rep. Timm Seconded By Rep. Thoreson outside legal counsel

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlisle	✓		Rep. Kroeber	✓	
Rep. Timm	✓		Rep. Williams	✓	
Rep. Kempenich					
Rep. Thoreson	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment

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

February 10, 2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1011

Page 1, line 16, replace "176,384" with "171,758"

Page 1, line 17, replace "104,633" with "29,633"

Page 1, line 18, replace "281,017" with "201,391"

Page 1, line 20, replace "375,398" with "295,772"

Page 2, line 3, replace "1,101,907" with "1,097,281"

Page 2, line 4, replace "570,855" with "495,855"

Page 2, line 5, replace "1,672,762" with "1,593,136"

Page 2, line 7, replace "1,455,563" with "1,375,937"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1011 - Securities Department - House Action**

	EXECUTIVE BUDGET	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$1,101,907	(\$4,626)	\$1,097,281
Operating expenses	<u>570,855</u>	<u>(75,000)</u>	<u>495,855</u>
Total all funds	\$1,672,762	(\$79,626)	\$1,593,136
Less estimated income	<u>217,199</u>		<u>217,199</u>
General fund	\$1,455,563	(\$79,626)	\$1,375,937
FTE	9.00	0.00	9.00

**Dept. 414 - Securities Department - Detail of House Changes**

	DECREASES FUNDING FOR OUTSIDE LEGAL COUNSEL COSTS <sup>1</sup>	REDUCES COMPENSATION PACKAGE TO 3/4	TOTAL HOUSE CHANGES
Salaries and wages		(\$4,626)	(\$4,626)
Operating expenses	<u>(\$75,000)</u>		<u>(75,000)</u>
Total all funds	(\$75,000)	(\$4,626)	(\$79,626)
Less estimated income			
General fund	(\$75,000)	(\$4,626)	(\$79,626)
FTE	0.00	0.00	0.00

<sup>1</sup> This amendment decreases funding for the Securities Department to hire outside legal counsel specializing in securities law.

Date: 2/11/05  
Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1011**

House    House Appropriations Government Operations

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken    Approv. Amendment - 0101

Motion Made By    Rep. Thoreson    Seconded By    Rep. Timm

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlisle	✓		Rep. Kroeber		✓
Rep. Timm	✓		Rep. Williams		✓
Rep. Kempenich					
Rep. Thoreson	✓				

Total    (Yes)    3    No    2

Absent    1

Floor Assignment

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

Date: 2/11/05  
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1011

House House Appropriations Government Operations

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass HB 1011 As Amended

Motion Made By

Rep. Thoreson Seconded By Rep. Tim

Representatives	Yes	No	Representatives	Yes	No
Chairman Carlisle	✓		Rep. Kroeber	✓	
Rep. Timm	✓		Rep. Williams	✓	
Rep. Kempenich					
Rep. Thoreson	✓				

Total (Yes)

5

No

0

Absent

1

Floor Assignment

Rep. Kempenich

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

Date: **February 15, 2005**  
Roll Call Vote #: **1**

**2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB1011**

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number **58034.0101**

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Kempenich** Seconded By **Rep Carlisle**

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleeson	X		Rep. James Kerzman	X	
Rep. Ron Carlisle	X		Rep. Ralph Metcalf	X	
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **23** No **0**

Absent **0**

Floor Assignment **Rep Kempenich**

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

**REPORT OF STANDING COMMITTEE**

**HB 1011: Appropriations Committee (Rep. Svedjan, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (23 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1011 was placed on the Sixth order on the calendar.

Page 1, line 16, replace "176,384" with "171,758"

Page 1, line 17, replace "104,633" with "29,633"

Page 1, line 18, replace "281,017" with "201,391"

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Total all funds	(\$75,000)	(\$4,626)	(\$79,626)
Less estimated income			
General fund	(\$75,000)	(\$4,626)	(\$79,626)
FTE	0.00	0.00	0.00

<sup>1</sup> This amendment decreases funding for the Securities Department to hire outside legal counsel specializing in securities law.

2005 SENATE APPROPRIATIONS

HB 1011



2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1011

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 8, 2005

Tape Number

1

Side A

Side B

x

Meter #

Committee Clerk Signature



Minutes:

**Vice Chairman Bowman** opened the hearing on HB 1011.

**Karen Tyler, State Securities Commissioner**, distributed testimony and testified on HB 1011.

She discussed the purpose of the Security Commissioners four main function areas; capital formation process and franchise regulations, registration of securities industry firms and professionals, examinations, investigations and enforcement actions, Investor education and financial literacy initiatives. She discussed the executive budget recommendations and the breakdown of the funding variance as well as the agency outlook.

Several questions were raised regarding the \$75,000 reduction, if the money was not used, would it be available for payback, the number of agents registered and the amounts collected, to have further information on the legal fees, the technology and whether the computers and up to date, penny stock solicitations, variable annuities, the number of products available in the industry and

Page 2

Senate Appropriations Committee

Bill/Resolution Number 1011

Hearing Date March 8, 2005

the concept of rolling products over, the biggest concern. The response to the biggest concerns right now are replacing the House cut of \$75,000, and the pay increase being returned to 4/4.

There being no further testimony or questions

**Vice Chairman Bowman** closed the hearing.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1011

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 24, 2005

Tape Number	Side A	Side B	Meter #
2	X		5,062-END
2		X	1-407

Committee Clerk Signature



Minutes: **Chairman Holmberg** opened the meeting to discuss HB 1011. All Senators were present with the exception of Senators Kringstad and Christmann.

**Senator Bowman** moved a Do Pass recommendation for the amendments (58034.0201).

**Seconded by Senator Fischer.**

**Senator Bowman-** The amendments replace the funding that the House took out. The increase was \$75,000 for the budget to add another staff member who would work as a legal counsel.

**Senator Fischer-** Out of the 9 employees there, how many are investigators?

**Senator Bowman-** 5 out of the 9.

**Senator Tallackson-** The extra investigator is needed for the eastern part of the state.

**Senator Krauter-** If we restore the \$75,000, what is the total in that line item for the contracting?

**Senator Bowman-** \$575,850.

Page 2

Senate Appropriations Committee

Bill/Resolution Number HB 1011

Hearing Date March 24, 2005

**Allan from OMB-** The Executive budget originally had \$171,000 for professional services, and the House cut that amount down.

**Senator Bowman-** The number of agents registered to do business has increased by 16%.

**Senator Krauter-** This is an issue that is separate from the number of FTE's. When individuals get licensed, they do business in every state. We're adding another investigator and another service.

**Senator Bowman-** Having the legal counsel would be cheaper than having another FTE.

**Senator Fischer-** Investigators are educators as well, its a dual purpose role.

Action taken:

**The amendments passed with a voice vote.**

**Senator Mathern presented a set of amendments for the committee and moved a Do Pass recommendation. Seconded by Senator Krauter. The vote was 5-8-2, with the amendments failing.**

**Senator Bowman made a Do Pass as Amended recommendation on the bill. Seconded by Senator Andrist. The vote was 12-1-2. Senator Bowman is the carrier of the bill.**

**Chairman Holmberg closed the meeting on HB 1011.**

Date 3-24-05  
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 206

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Mather

Seconded By

Krauter

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG		X	SENATOR KRAUTER	X	
VICE CHAIRMAN BOWMAN		X	SENATOR LINDAAS	X	
VICE CHAIRMAN GRINDBERG		X	SENATOR MATHERN	X	
SENATOR ANDRIST		X	SENATOR ROBINSON	X	
SENATOR CHRISTMANN		X	SEN. TALLACKSON	X	
SENATOR FISCHER		X			
SENATOR KILZER		X			
SENATOR KRINGSTAD		X			
SENATOR SCHOBINGER		X			
SENATOR THANE		X			

Total (Yes)

5

No

8

Absent

2

Floor Assignment

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

3-24-05  
Date

Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~SB~~ HB 1061

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken DPAM

Motion Made By Bowman

Seconded By Andrist

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	X		SENATOR KRAUTER		X
VICE CHAIRMAN BOWMAN	X		SENATOR LINDAAS	X	
VICE CHAIRMAN GRINDBERG	X		SENATOR MATHERN	X	
SENATOR ANDRIST	X		SENATOR ROBINSON	X	
SENATOR CHRISTMANN			SEN. TALLACKSON	X	
SENATOR FISCHER	X				
SENATOR KILZER	X				
SENATOR KRINGSTAD	X				
SENATOR SCHOBINGER	X				
SENATOR THANE	X				

Total (Yes)

12

No

1

Absent

2

Floor Assignment

Bowman

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

**REPORT OF STANDING COMMITTEE**

**HB 1011, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (12 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). Engrossed HB 1011  
was placed on the Sixth order on the calendar.

Page 1, line 16, replace "171,758" with "170,635"

Page 1, line 17, replace "29,633" with "104,633"

Page 1, line 18, replace "201,391" with "275,268"

Page 1, line 20, replace "295,772" with "369,649"

Page 2, line 3, replace "1,097,281" with "1,096,158"

Page 2, line 4, replace "495,855" with "570,855"

Page 2, line 5, replace "1,593,136" with "1,667,013"

Page 2, line 7, replace "1,375,937" with "1,449,814"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1011 - Securities Department - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$1,101,907	\$1,097,281	(\$1,123)	\$1,096,158
Operating expenses	<u>570,855</u>	<u>495,855</u>	<u>75,000</u>	<u>570,855</u>
Total all funds	\$1,672,762	\$1,593,136	\$73,877	\$1,667,013
Less estimated income	<u>217,199</u>	<u>217,199</u>		<u>217,199</u>
General fund	\$1,455,563	\$1,375,937	\$73,877	\$1,449,814
FTE	9.00	9.00	0.00	9.00

**Dept. 414 - Securities Department - Detail of Senate Changes**

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE <sup>1</sup>	RESTORES FUNDING FOR OUTSIDE LEGAL COUNSEL COSTS <sup>2</sup>	TOTAL SENATE CHANGES
Salaries and wages	(\$1,123)		(\$1,123)
Operating expenses		<u>\$75,000</u>	<u>75,000</u>
Total all funds	(\$1,123)	\$75,000	\$73,877
Less estimated income			
General fund	(\$1,123)	\$75,000	\$73,877
FTE	0.00	0.00	0.00

<sup>1</sup> This amendment reduces funding for state employee health insurance premiums from \$559.15 to \$553.95 per month.

<sup>2</sup> The Senate restored funding for the Securities Department to hire outside legal counsel specializing in securities law.

2005 HOUSE APPROPRIATIONS

CONFERENCE COMMITTEE

HB 1011



2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1011

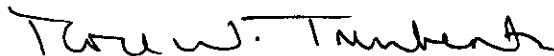
House Appropriations Committee  
Government Operations Division

☒ Conference Committee

Hearing Date Thursday, April 7, 2005

Tape Number	Side A	Side B	Meter #
1	X		16.7-25.4

Committee Clerk Signature



Minutes:

**Chairman Kempenich** opened the Conference Committee Hearing on HB 1011 concerning the budget for the Securities Commission. He said the only issue is the \$73,877 for the outside legal counsel fees. He said the House wanted to keep the budget level and see if the increases come.

**Rep. Thoreson** confirmed the position and pointed out that the Commissioner was present, should there be any additional information to consider. **Chairman Kempenich** asked **Ms. Karen Tyler, Securities Commission**, if she would like to speak. **Comm. Tyler** said a question that crops up often is how the agency estimates dollar amounts for outside counsel. She said that's difficult because cases differ dramatically. An example would be the 18-month investigation of a Fargo Company, which is still an active case. There's an administrative component that the agency has dealt with, but at the conclusion of the investigation, they determined that it's appropriate to make a criminal referral to the State's Attorney in Cass County. Often state's

attorneys don't have much experience with securities cases, so the agency has to provide extensive support in these cases. The Agency hopes to avoid setting other cases aside or slowing down turn around time.

**Comm. Tyler** cited another example. A complaint came from an investor who worked with a firm here in Bismarck. There was one broker and one investor. Red flags popped up at the frequency of the phrase "unsolicited." That means the investor is driving the trading. This is an older woman with very little investment knowledge. Upon further investigation, it has expanded to a point, now, where there's three firms. It will go on to corporate headquarters, which makes it a regional, if not national case. This will be a huge drain on the agency's legal resources. She reiterated that it's difficult to estimate, so they put \$154,000 out there. The money will be turned back if it's not used.

**Sen. Schobinger** asked how quickly this type of case is resolved and he noted the \$75,000 or \$154,000 can get used up quickly even in a small case. He asked if that were a concern. **Comm. Tyler** said the agency has legal counsel on staff. The number is an estimate that provides about 600 hours of legal counsel a year. It's estimated at \$250 per hour. She's comfortable with the estimate. **Sen. Bowman** noted that this is an investment where the State actually gets something back. When they recoup damages, it not only helps those who've been victimized by fraud, but it also enhances the general fund. He gave an example of one case where there was \$750,000 paid in fines and \$3.5 million returned to harmed investors. The State is spending money to bring money back.

**Rep. Thoreson** moved that the House accede to the Senate amendments on HB 1011; **Rep. Kroeber** seconded.

Page 3

Government Operations Division

Bill/Resolution Number HB 1011

Hearing Date Thursday, April 7, 2005

Under discussion, **Rep. Kroeber** noted that these are general fund dollars, not special funds.

Hearing no further discussion, **Chairman Kempenich** called for a roll call vote. Motion passed

6-0-0.

**Chairman Kempenich** adjourned.

(Meter #25.4)

REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)

Bill Number 1011. (, as (re)engrossed):

Date: 4/7/05

Your Conference Committee H. App. G.O.

For the Senate:

YES / NO

For the House:

YES / NO

Sen. B. Bowman ✓	(chairman) Rep. K. Kempenich ✓
Sen. R. Schubinger ✓	Rep. B. Thoreson ✓
Sen. E. Lindas ✓	Rep. J. Kroeber ✓

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

the (Senate/House) amendments on (SJ/HJ) page(s) 1389 --

\_\_\_\_\_, and place 1011 on the Seventh order.

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

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

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

DATE: 4/7/05

CARRIER: Rep. K. Kempenich

LC NO. \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ of engrossment

Emergency clause added or deleted  
Statement of purpose of amendment

MOTION MADE BY: Rep. Thoreson

SECONDED BY: Rep. Kroeber

VOTE COUNT 6 YES 0 NO \_\_\_\_\_ ABSENT

Revised 4/1/05

Insert LC: .

**REPORT OF CONFERENCE COMMITTEE**

**HB 1011, as engrossed:** Your conference committee (Sens. Bowman, Schobinger, Lindaas and Reps. Kempenich, Thoreson, Kroeber) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1389 and place HB 1011 on the Seventh order.

Engrossed HB 1011 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HB 1011

Full House Apps  
Handout 4-7  
Karen Tyler  
State Securities  
1-7-05

**NORTH DAKOTA SECURITIES DEPARTMENT**

HB 1011

Overview Presentation to the House Appropriations Committee  
Friday, January 7, 2005

(1)

Funding	2003-05			(1)		2005-07		(2)	
	Legislative Appropriation	Estimated Expenditures or Currently Filed FTE Positions		Variance	Recommendation	Executive Recommendation	Change (Variance) to 2003-05 Legislative Appropriations		
Salaries and wages	\$ 925,523	\$ 925,523	\$	-	\$ 1,101,907	\$	176,384		
Operating Expenses	\$ 466,222	\$ 466,222	\$	-	\$ 570,855	\$	104,633		
Equipment	\$ -	\$ -	\$	-					
Capital Assets	\$ -	\$ -	\$	-					
Grants	\$ -	\$ -	\$	-					
<b>Total</b>	\$ 1,391,745	\$ 1,391,745	\$	-	\$ 1,672,762	\$	281,017		
<b>General fund</b>	\$ 1,080,165	\$ 1,080,165	\$	-	\$ 1,455,563	\$	375,398		
<b>Federal funds</b>	\$ 311,580	\$ 218,780	\$	(92,800)	\$ 217,199	\$	(94,381)		
<b>Special funds</b>	\$ 1,391,745	\$ 1,298,945	\$	(92,800)	\$ 1,672,762	\$	281,017		
<b>Total</b>	8	8		0	9		1		
<b>FTE</b>									

(1) Explanation of Major Funding and FTE Variances for the 2003-05 Legislative Appropriation to 2003-05 Current Estimates

FTE	General Fund	Federal and Special Funds	Total
0	0	(92,800)	(92,800)

(2) Explanation of Major Funding and FTE Changes (Variances) for the 2005-07 Recommendation to 2003-05 Legislative Appropriations.

FTE	General Fund	Federal and Special Funds	Total
1	375,398	(94,381)	281,017

Summary of Major Goals and Objectives and Related Performance Measurement data for the 2005-07 Biennium (to the extent available).

In addition to the ongoing support of our mission as set forth in the commissioner's testimony, the delivery of financial education to our constituents and the execution of routine broker dealer and investment adviser examinations are priority objectives for this agency. Such preventative mechanisms are a critical component of a regulatory structure designed to protect investors. Financial education is the first and best defense against investment fraud and exploitation. Routine examinations of securities industry firms and professionals will detect weaknesses in compliance systems and deter misconduct.

Submitted by: Karen Tyler - Securities Commissioner

## **House Bill 1011**

### **Overview Presentation to the House Appropriations Committee**

**By North Dakota Securities Commissioner Karen Tyler**

**January 7, 2005**

Mr. Chairman and Members of the Committee, Good Morning. I am Karen Tyler, the State Securities Commissioner. I appreciate the opportunity to provide you with this budget overview presentation for the North Dakota Securities Department, and to answer any questions you may have regarding our agency budget request as set forth in House Bill 1011.

The primary mission of the Securities Department is to protect the North Dakota Investor through the administration of the North Dakota Securities Act. We support this mission through our efforts in four functional areas:

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

The North Dakota Securities Department is a small agency, with 8 full time employees. We are a profitable agency, generating over \$13 million dollars in revenue in each of the last 3 biennium periods. And we are an efficient and fiscally prudent agency, spending only 12 cents of every revenue dollar we generate.



In regard to Major Funding and FTE Variances for the 03-05 Legislative Appropriation:

We anticipate the agency will experience a funding variance in our special fund appropriation, and will turn back an estimated \$92,800 to the agency's special fund at the end of this biennium. The agency provided a 3.5% turn back of our general fund appropriation at the end of the 01-03 biennium, and cut operating expenses to comply with the 95% budget set forth by Governor Hoeven for the 03-05 biennium.

In regard to Major Funding and FTE Variances for the 05-07 Legislative Appropriation:

We do have a variance of approximately \$280,000 from the current biennium to the next. This is the result of an increase in general fund expenditures of \$375,398 and a decrease in special fund expenditures of \$94,381.

The executive budget recommendation for 05-07 includes funding for one additional FTE and funding for the establishment of a satellite location in the Eastern region of the state.

The executive budget recommendation also includes funding to enable this agency to retain, when necessary, the services of outside legal counsel, skilled and experienced in litigation, with focused expertise in securities law.

The breakdown of the general fund variance is as follows:

\$108,542 for FTE salary and benefits

\$48,150 for satellite office establishment and operation

\$154,000 for contracting outside professional services

In regard to the additional FTE, this position will be a securities examiner, primarily tasked with conducting routine examinations of broker-dealer and investment advisor firm operations in the eastern region. This additional FTE will have a direct and immediate impact on one of our priority objectives for the upcoming biennium and that priority objective is to significantly increase the number of routine examinations conducted by our agency.

Due to a persistently heavy caseload of for-cause investigations and examinations, and subsequent enforcement actions, we have been unable to implement a consistent program of routine broker-dealer and investment advisor examinations with our current enforcement staff. To provide you with a better understanding of our level of enforcement activity, biennium to date we have opened 104 new enforcement actions and closed 140 enforcement actions, and have averaged 35 to 40 open cases on an ongoing basis. Contemplating the continuance of enforcement activity at current levels, without adding to our enforcement staff, this agency would be able to conduct a routine exam of every broker-dealer and investment advisor doing business in North Dakota just once every 23 years.

Recognizing the impact and effectiveness of prevention - versus enforcement actions taken after the fact - clearly this exam cycle is egregiously inadequate. The prevention of fraud and misconduct is a critical component of our protectionary mission. Routine exams are a preventative mechanism. Routine exams of broker dealer and investment advisor firms serve as an early warning system, and can uncover regulatory compliance

deficiencies and deter securities agent misconduct before the North Dakota investor is harmed.

Given the distribution and location of broker dealer and investment advisor firms and professionals in the state, the positioning of an examiner in the eastern region is a strategically sound approach. 45% of broker-dealer firms, 78% of investment advisor firms, 41% of securities agents and 63% of investment advisor representatives in the state are located in the eastern region, as measured from Pembina county down to Richland county, and west to include the cities of Devils Lake and Valley City.

The number of enforcement actions dealt with by this agency has also created a need for enhanced legal services. In regard to funding for outside legal counsel, with expertise in securities law and litigation, we have determined that contracting these services on an "as needed" basis is a more fiscally prudent approach to meeting the agency's requirements, versus hiring a second attorney in house. Hiring a second attorney would require the addition of an FTE and generate estimated expenses of \$165,000 per biennium, indefinitely. Alternatively, contracting legal services requires no additional FTE, generates estimated expenses \$154,000 for the 05-07 biennium, with the possibility of turn back if the appropriation is not fully utilized, and also provides the flexibility for on-going needs assessment and budget adjustments each budget cycle.

In regard to the decrease in special fund expenditures:

For the 03-05 biennium, the agency special fund appropriation included the funding of a variety of financial education programs and initiatives. The agency successfully delivered the Invest North Dakota Teacher Training Academy again in 2003 and 2004, bringing to 1200 the total number of teacher participants in this valuable and innovative training program. We continue to sponsor the Stock Market Game program and deliver the Wall Street Journal classroom edition to teachers and classrooms across the state, and in this biennium launched a fraud awareness program specifically designed to reach our Senior constituents. Unfortunately, staffing issues have prevented the agency from executing certain new financial education related programs that had been planned for the biennium, thus resulting in the turn back to the special fund and adjustment in the upcoming biennium.

Despite this decrease in the special fund appropriation for 05-07, the delivery of financial education, with a special emphasis on outreach to our young people and our seniors, will remain a priority objective of the North Dakota Securities Department in the upcoming biennium. Financial education is also a preventative mechanism critical to our Investor Protection mandate. Financial Education is the first and best defense against investment fraud and exploitation. Financial education helps our constituents build the knowledge they need to make good personal financial decisions. And the ability to make good personal financial decisions can mean the difference between our citizens becoming and remaining productive economic contributors, or becoming and remaining dependent on government provided services. There is a direct correlation between the financial

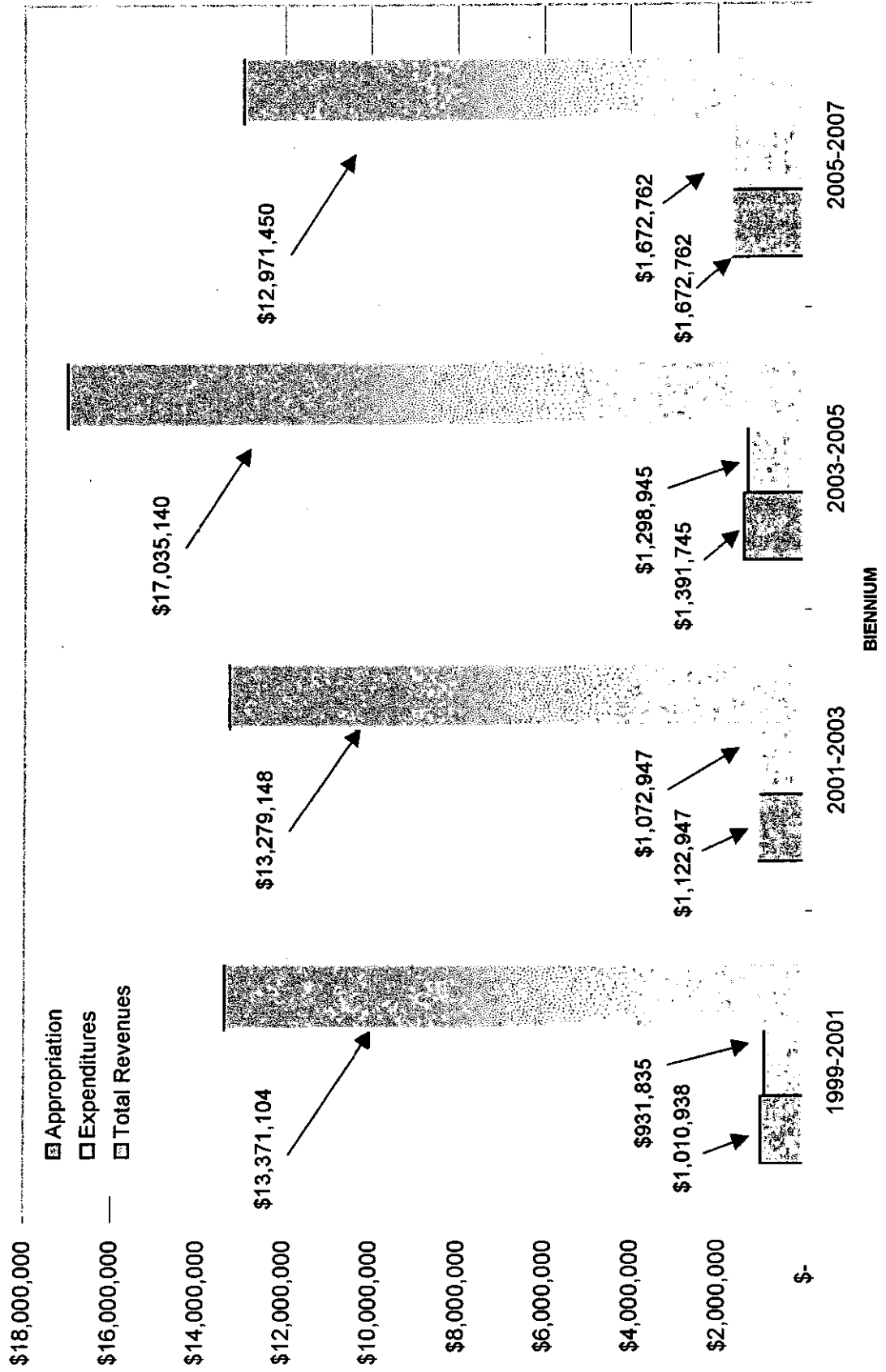
decision-making aptitude of our constituents and the economic health of our families, our communities and the state overall.

In closing, a word about revenues. The 03-05 biennium saw the conclusion of the Wall Street Research Analyst Conflict of Interest investigations and settlement. This unprecedented global settlement involved 11 Wall Street Investment Banking firms, the Securities and Exchange Commission, the New York Stock Exchange, the NASD, and state securities regulators. For North Dakota, the Global Settlement resulted in the collection of approximately \$4 million dollars in penalties over and above our forecast, pushing total estimated revenues collected by this agency to approximately \$17 million for the biennium. We characterize this settlement as an extraordinary event, and estimate that our revenue collections will return to approximately the \$13 million dollar level for the 05-07 biennium. A comparison of appropriations to revenues, both historical and projected, can be found on the chart labeled Attachment A at the back of my written testimony.

This concludes our budget overview presentation. Thank you for your time and attention this morning.

HOUSE APPROPRIATIONS COMMITTEE  
HB 1011  
JANUARY 7, 2005

Revenues and Expenditures  
North Dakota Securities Department  
For Periods Ending 2001, 2003, 2005, and 2007



#1 12/05  
H.B. 131  
H.App. 6.0,

# ND SECURITIES DEPARTMENT

House Appropriations HB1011  
2005-07 Fiscal Impact on General Fund

January 19, 2005

Biennium Year	Fines & Forfeitures		Total Revenue	Salaries Expense	Operating Expense	Total Expense	Revenue Less Expenses
	General Fund Revenue	Special Fund Revenue					
6/30/1997	\$ 45,180.00		\$ 45,180.00				\$ 45,180.00
6/30/1998	\$ 13,500.00		\$ 13,500.00				\$ 13,500.00
6/30/1999	\$ 42,456.00		\$ 42,456.00				\$ 42,456.00
6/30/2000	\$ 14,976.70		\$ 14,976.70				\$ 14,976.70
6/30/2001	\$ 145,000.00		\$ 145,000.00	\$ 93,500.00	\$ 49,300.00	\$ 142,800.00	\$ 2,200.00
6/30/2002	\$ 39,500.00	\$ 700,000.00	\$ 739,500.00	\$ 96,350.00	\$ 33,400.00	\$ 129,750.00	\$ 609,750.00
6/30/2003	\$ 567,805.00	\$ 129,850.00	\$ 697,655.00	\$ 99,600.00	\$ 37,700.00	\$ 137,300.00	\$ 560,355.00
*6/30/2004	\$ 3,886,303.27	\$ 11,310.00	\$ 3,897,613.27	\$ 58,100.00	\$ 29,800.00	\$ 87,900.00	\$ 3,809,713.27
	\$ 4,754,720.97	\$ 841,160.00	\$ 5,595,880.97	\$ 254,050.00	\$ 150,200.00	\$ 497,750.00	\$ 5,098,130.97

Before 2 FTE 116,112.70  
After 2 FTE 4,982,018.27

June 2000 Hired 2 FTE Investigator/Examiners  
\* \$ 3,757,500.00 Analyst settlement

## 2005-07 Budget Request

FTE Investigator	Salaries
Eastern Office	Operating
Legal Services	Operating
	\$ 108,542.00
	\$ 48,150.00
	\$ 154,000.00
Total General Fund Request	202,150.00
	310,692.00

**House Bill 1011**

**Testimony of North Dakota Securities Commissioner Karen Tyler**

**Before the House Appropriations Committee**

**Government Operations**

**January 10, 2005**

The primary mission of the Securities Department is to protect the North Dakota Investor through the administration of the North Dakota Securities Act (10-04). We support this mission through our efforts in four functional areas:

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

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

The North Dakota Securities Department is a small agency, with 8 full time employees. We are a profitable agency, generating over \$13 million dollars in revenue in each of the last 3 biennium periods, and spending only 12 cents of every revenue dollar we generate.



## **CAPITAL FORMATION AND FRANCHISE REGISTRATION**

It is a goal of this agency to help foster the formation of capital for business growth and economic development. Biennium to date this agency has assisted 85 North Dakota companies with the process of capital formation. The original offering amounts for North Dakota securities offerings total approximately \$94,478,036. The number of businesses seeking assistance in the capital formation process is tracking lower than the previous biennium, and the offering amounts have declined by about 10%. In the franchise area, there are currently 567 franchises registered in the state of North Dakota, and this represents an 8.5% increase from the previous biennium. Both the registration of securities offerings and franchises generate revenue for the state.

## **REGISTRATION OF SECURITIES FIRMS AND PROFESSIONALS**

All securities industry firms and professionals seeking to transact securities business in the state of North Dakota must register with this agency. This registration requirement generates revenue for the state. The protectionary examination process conducted by this agency allows for the screening of applicants with disciplinary histories or other public disclosures, by whom North Dakota Investors would not be well-served. Currently, registration records show:

1260 Broker Dealer Firms

45,500 Agents

480 Investment Advisor Firms

650 Investment Advisor Representatives

The number of BD firms doing business in the state has declined by 3%, but the number of agents registered to do business in the state has increased by 16%, as the brokerage firms continue to hire and the industry continues its recovery in the wake of the technology bubble and the protracted bear market we experienced at the start of the millennium. We continue to experience an increase in the number of registrations for Investment Advisors, up 17%, and Investment Advisor Representatives, up 3%, attributable to a continued shift in the brokerage industry away from transaction based business to fee based business.

#### **INVESTIGATION, EXAMINATIONS, AND ENFORCEMENT**

Investigations of fraud and misrepresentation result in monies returned to North Dakota Investors through rescission, recovery and restitution. Enforcement actions protect the integrity of our capital markets and also generate state revenue through civil penalties.

Biennium to date we have opened 104 enforcement actions and averaged 35-40 open cases on an ongoing basis. The agency has closed 140 enforcement actions biennium to date and this activity is tracking 23% higher than last biennium. Just briefly to give you an idea of the nature of the violations we are dealing with, in a shift from the previous biennium, the majority of our cases involve registered professionals versus unregistered individuals. Many of our cases against registered firms and agents involve product suitability. There has been an increase in cases involving abusive sales practices in the area of variable annuity products – this is an area of great concern for our agency and

regulators across the country, as very often our seniors are the victims of these abusive variable annuity sales practices.

As I indicated in my overview presentation to the full appropriations committee on Friday, we do have a variance of approximately \$280,000 from the current biennium to the next. This is the result of an increase in general fund expenditures of \$375,398 and a decrease in special fund expenditures of \$94,381. We have included the variance form that was provided to the full committee and added the breakdown for the variance in response to the questions we received last week.

The increase in general fund expenditures relates primarily to this area of investigations, examinations and enforcement. The executive budget recommendation for 05-07 includes funding for one additional FTE and funding for the establishment of a satellite location in the Eastern region of the state. The executive budget recommendation also includes funding to enable this agency to retain, when necessary, the services of outside legal counsel, skilled and experienced in litigation, with focused expertise in securities law.

The breakdown of the general fund variance is as follows:

\$108,542 for FTE salary and benefits

\$48,150 for satellite office establishment and operation

\$154,000 for contracting outside professional services

and this number also includes the \$66,642 for salary increase based on the Governor's recommendation and a decrease of \$3,136 attributable to impact of ITD functional consolidation and Connect ND.

In regard to the additional FTE, this position will be a securities examiner, primarily tasked with conducting routine examinations of broker-dealer and investment advisor firm operations in the eastern region. This additional FTE will have a direct and immediate impact on one of our priority objectives for the upcoming biennium and that priority objective is to significantly increase the number of routine examinations conducted by our agency.

Due to the persistently heavy caseload of for-cause investigations and examinations, and subsequent enforcement actions mentioned earlier, we have been unable to implement a consistent program of routine broker-dealer and investment advisor examinations with our current enforcement staff. As I emphasized the other day, contemplating the continuance of enforcement activity at current levels, without adding to our enforcement staff, this agency would be able to conduct a routine exam of every broker-dealer and investment advisor doing business in North Dakota just once every 23 years.

Recognizing the impact and effectiveness of prevention - versus enforcement actions taken after the fact - clearly this exam cycle is egregiously inadequate. The prevention of fraud and misconduct is a critical component of our protectionary mission. Routine exams are a preventative mechanism. Routine exams of broker dealer and investment

advisor firms serve as an early warning system, and can uncover regulatory compliance deficiencies and deter securities agent misconduct before the North Dakota investor is harmed.

Given the distribution and location of broker dealer and investment advisor firms and professionals in the state, the positioning of an examiner in the eastern region is a strategically sound approach. 45% of broker-dealer firms, 78% of investment advisor firms, 41% of securities agents and 63% of investment advisor representatives in the state are located in the eastern region, as measured from Pembina county down to Richland county, and west to include the cities of Devils Lake and Valley City.

The number of enforcement actions dealt with by this agency has also created a need for enhanced legal services. In regard to funding for outside legal counsel, with expertise in securities law and litigation, we have determined that contracting these services on an "as needed" basis is a more fiscally prudent approach to meeting the agency's requirements, versus hiring a second attorney in house. Hiring a second attorney would require the addition of an FTE and generate estimated expenses of \$165,000 per biennium, indefinitely. Alternatively, contracting legal services requires no additional FTE, generates estimated expenses \$154,000 for the 05-07 biennium, with the possibility of turn back if the appropriation is not fully utilized, and also provides the flexibility for on-going needs assessment and budget adjustments each budget cycle.

## INVESTOR EDUCATION AND FINANCIAL LITERACY

As I mentioned earlier, we estimate we will have a turn back of our special fund appropriation of \$92,800 and a decrease in our special fund appropriation for 05-07 of \$94,000. The turn back is due primarily to staffing issues and the inability to execute certain new financial education programs that had been planned for the current biennium. Given one of the questions raised last Friday, I want to emphasize that this does not result in the transfer of expenses to the general fund. It is strictly a reduction in our special fund appropriation.

Despite this decrease in the special fund appropriation for 05-07, the delivery of financial education, with an emphasis on outreach to our young people and our seniors, will remain a priority objective of the North Dakota Securities Department in the upcoming biennium. Earlier I discussed the preventative nature of routine broker-dealer and investment advisor examinations; financial education is also a preventative mechanism critical to our Investor Protection mandate. Financial Education is the first and best defense against investment fraud and exploitation and it helps our constituents build the knowledge they need to make good personal financial decisions. The ability to make good personal financial decisions can mean the difference between our citizens becoming and remaining productive economic contributors, or becoming and remaining dependent on government provided services. There is a direct correlation between the financial decision-making aptitude of our constituents and the economic health of our families, our communities and the state overall.

Many of our financial education initiatives focus on North Dakota teachers and their students, providing them with curriculum tools and resources that allow them to integrate financial education into the classroom. The Hallmark of our various education programs is the Invest North Dakota Teacher Training Academy held every summer at the University of Mary. Over 1200 North Dakota teachers have participated in this event since its inception and we estimate that this biennium over 40,000 North Dakota students will benefit from the financial education programs delivered by our agency. The training academy costs \$50,000 - \$60,000 to deliver and has been budgeted for in our special fund appropriation for 05-07.

Our agency continues to sponsor the Stock Market Game program, a cross-curriculum resource that teaches economic and personal finance concepts to students as they engage in the process of building and managing investment portfolios. Last fall 101 schools participated in the program with 908 teams and 2765 students. Since we began sponsoring the program 32,400 students from 155 schools in 50 ND counties have participated in the program.

There is one other program I would like to mention to you. We just began sponsoring it at the start of this school year and it is designed for the youngest of our student constituents. It is Money Savvy Kids and their little friend, the Money Savvy Pig, developed by a company called the Money Savvy Generation. Developed for use with Kindergarten through 3<sup>rd</sup> grade students, this sophisticated little pig introduces kids to the money choices of saving, spending, donating, and investing. It is a very easy learning

tool for teachers or other volunteers to use with kids, and comes with a completely scripted curriculum that teaches 8 different money lessons.

### **INDUSTRY CONSIDERATIONS/AGENCY OUTLOOK**

The functionality and revenue generating ability of this agency are affected by circumstances and events on a national level. As I mentioned earlier, 2003 and 2004 were years of recovery and expansion by the brokerage industry, which had been hit hard by a protracted bear market that ran from March of 2000 to March of 2002, the September 11 terrorist attacks, an economic recession, and numerous corporate scandals. Stock market performance has been a driving force behind the industry's recovery and expansion. As measured by the S & P 500, the stock market was up 26 % in 2003 and 9% in 2004. And as brokerage firms add to their sales force and the industry expands, generally our revenues increase.

Also in regard to revenue, the 03-05 biennium saw the conclusion of the Wall Street Research Analyst Conflict of Interest investigations and settlement. This unprecedented global settlement involved 11 Wall Street Investment Banking firms, the Securities and Exchange Commission, the New York Stock Exchange, the NASD, and state securities regulators. For North Dakota, the Global Settlement resulted in the collection of approximately \$4 million dollars in penalties over and above our forecast, pushing total estimated revenues collected by this agency to approximately \$17 million for the biennium. We characterize this settlement as an extraordinary event, and estimate that



our revenue collections will return to approximately the \$13 million dollar level for the 05-07 biennium.

## EXHIBITS

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

Attached as exhibit A-1 is a comparison of enforcement related collections and distributions, this biennium to last.

Attached as exhibit B is a chart showing breakdown of registration revenues

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

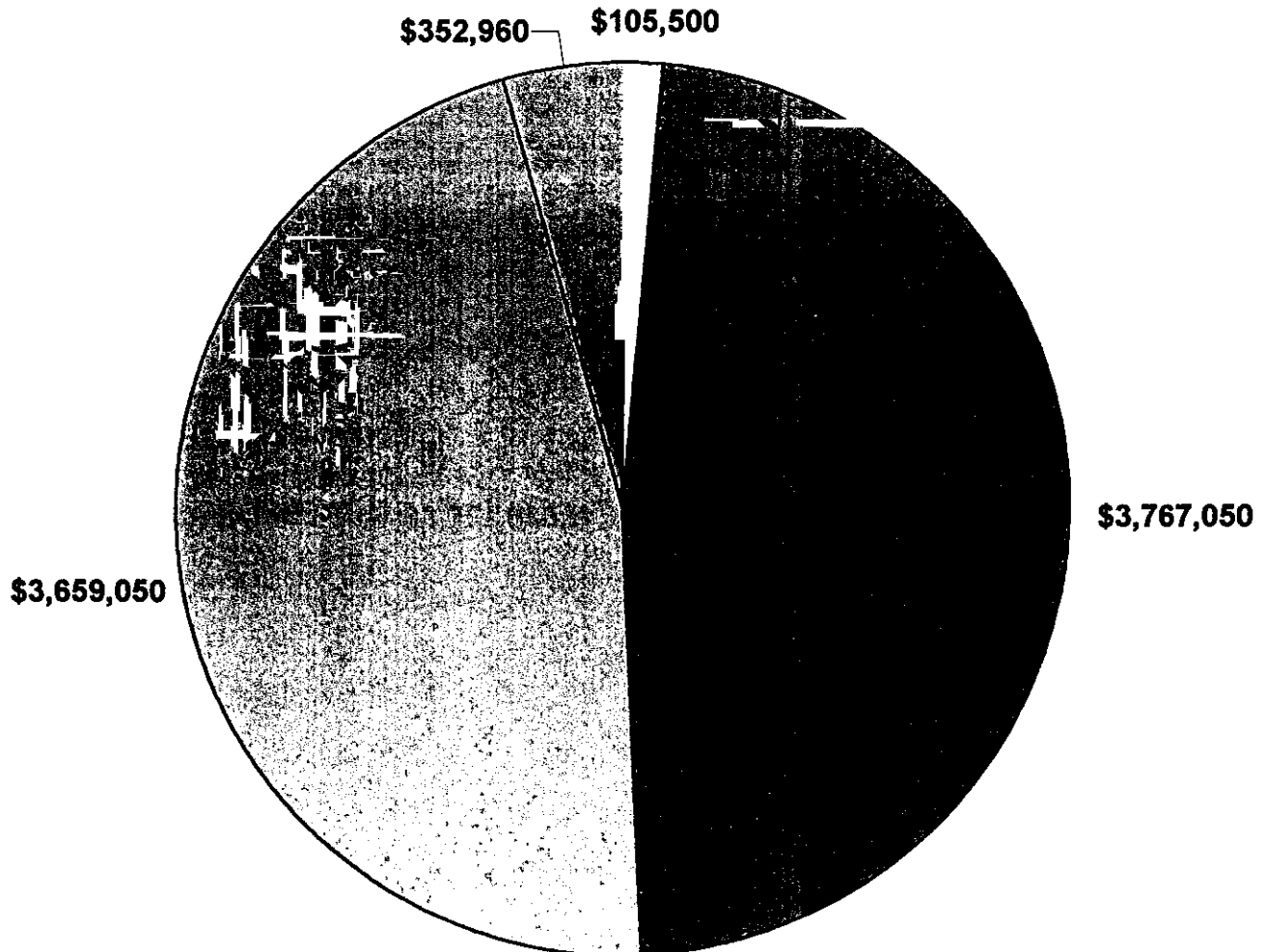
*See  
attachments  
to  
Senate testimony from  
the Commissioner for A  
They are the same  
as given to the  
House with exception  
of Exhibit B that  
follows*

HOUSE APPROPRIATIONS COMMITTEE  
GOVERNMENT OPERATIONS DIVISION

HB 1011

JANUARY 10, 2005

Registration Collections  
North Dakota Securities Department  
July 1, 2003 Through November 30, 2004



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

# 3 of 3  
11/01/05 HB1011  
Karen Tyler  
Securities  
Commissioner  
H. App. G.O.

**SECURITIES OFFERINGS BY NORTH DAKOTA ENTITIES**  
**JULY 1, 2003 THROUGH JUNE 30, 2004**

**Registration by Description**

**Registration by Qualification**

07-07-2003	Dakota Renewable Fuels, LLC - Fargo	\$24,000,000
	Membership Units	
	Build and operate an ethanol production facility.	
03-30-2004	Red Trail Energy, LLC - Richardton	\$25,000,000
	Membership Units	
	Build and operate an ethanol production facility.	
05-07-2004	Dakota Real Estate Investment Trust - Fargo	\$2,500,001
	Units of Beneficial Interest	
	Own and manage real estate properties.	
	<b>TOTAL</b>	<b>\$51,500,001</b>

**Section 10-04-05(5) - Non-Profit Organization Exemption**

02-17-2004	The Devils Lake Lodge Number 1216 Benevolent and Protection Order of the Elks	\$250,000
	Bonds	
	<b>TOTAL</b>	<b>\$250,000</b>

**Section 10-04-06(9)(a) - Limited Offeree Exemption**

07-16-2003	Northwestern Dairy, LLLP - Parshall	\$90,000
	Limited Partnership Interests	
	Dairy facility.	
08-28-2003	Haut Funeral Homes, Ltd. - Jamestown	\$146,000
	Exchange Offer of Debentures	
	Funeral services provider.	
09-09-2003	Grizella Corporation - Hebron	\$1,000,000
	Preferred and Common Stock	
	Software development	
09-24-2003	Red Trail Energy, LLC - Richardton	\$1,200,000
	Membership Units	
	Research & develop an ethanol plant.	
10-08-2003	Save Red Mike, L.L.C. - Williston	\$700,000
	Membership Interests	

Operate a golf course.

10-09-2003	Westport Beach, LLC Membership Interests Real estate development.	- Fargo	\$3,600,000
11-26-2003	Providential Investments, LLC Membership Interests Attract Manufacturing facility.	- Kulm	\$50,000
12-09-2003	Streeter Bar & Grill, LLC Membership Units Develop, construct and operate restaurant and bar.	- Streeter	\$250,000
01-09-2004	Snobear Industries, LLC Membership Units Manufacture icehouses.	- Harwood	\$1,000,000
02-06-2004	Vision Bank Holdings, Inc. Common Stock Bank Holding Company	- Fargo	\$3,100,000
02-06-2004	International Tool Corporation Common Stock Manufacture Electric Jackhammers	- Valley City	\$75,000
03-31-2004	Orion Holdings, LLC Membership Units Purchase and lease two buildings	- Fargo	\$1,000,000
05-06-2004	Dakota Community Banshares Common Stock Bank Holding Company	- Hebron	\$442,525
05-20-2004	Agvise Laboratories, Inc. Agricultural plant and soil testing Common Stock.	- Northwood	\$114,810
06-24-2004	Dakota Pride, LLC Develop pedigree seed growing business Membership Units	- West Fargo	\$840,000

TOTAL \$13,608,335

**Section 10-04-06(9)(b) - Limited Offering Exemption**

09-17-2003	Maple River Development LLC Membership Units Construct and operate motel.	- Enderlin	\$300,000
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**Section 10-04-06 - Test the Waters**

04-12-2004	Walter William Lutkat	-	Ashley
05-03-2004	Bismarck-Mandan Development Association on behalf of an entity to be formed	-	Bismarck

**Regulation D, Rule 506 Notice Filings**

07-28-2003	Rugby Manufacturing Company - Notes, Common & Preferred Stock Design, manufacture and sale of truck equipment.	-	Rugby	\$13,885,350
11-24-2003	Earth Harvest Mills, Inc. Common Stock Milling organic flour.	-	Jamestown	\$524,100
01-16-2004	Lewis & Clark Stock Fund, LP Partnership Interests Private investment partnership	-	Fargo	\$Unlimited
04-15-2004	123 ID, Inc. Common Stock Develop, market and support biometric security software products.	-	Grand Forks	\$2,000,000
04-15-2004	123 ID, Inc. Debt	-	Grand Forks	\$300,000
05-28-2004	Summer's Harvest Flour Milling, LLC - Membership Interests Milling grain to produce edible flour products.	-	Hope	\$1,405,000
05-28-2004	Colgate Identity Preserved Growers Cooperative - Common Stock Market identity preserved grains.	-	Page	\$10,000
TOTAL				\$18,124,450

**Accredited Investor Exemption**

05-20-2004	McDonough Concepts LLC Membership Units Design, development, manufacture and sales of various inventions	-	Fargo	\$100,000
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TOTAL OF ALL FILINGS - \$83,882,786.00

# SECURITIES OFFERINGS BY NORTH DAKOTA ENTITIES

## JULY 1, 2004 THROUGH DECEMBER 31, 2004

### Registration by Description:

### Registration by Qualification:

07-06-04	LAS International, Ltd. Convertible, Redeemable Debentures Manufacture water and wastewater treatment systems.	Bismarck	\$2,100,000
		Subtotal	\$2,100,000
Section 10-04-06(9)(a) - Limited Offeree Exemption:			
07-20-04	Bosox, Inc. Common Stock Restaurant & Bar.	Minot	\$600,000
07-28-04	Providential Investments, LLC Membership Units Facilitate development of a waste-to-energy demonstration facility.	Kulm	\$250,000
08-09-04	Sheyenne Valley Marketing, LLC Membership Interests Marketing beef products processed by Central Dakota Beef, LLC, Harvey	Maddock	\$100,000
09-07-04	Vtrenz, Inc. Common Shares Software and website developer.	Fargo	\$25,000
09-15-04	Antelope Homes & Building Supply, Inc. Preferred Stock Manufacture homes.	Hebron	\$100,000
12-28-2004	Clinical Supplies Management, Inc. Common Stock Provide services related to clinical trials	Fargo	\$100,000
		Subtotal	\$1,175,000
Section 10-04-06(9)(b) - Limited Offering Exemption:			
10-06-04	Lake Convention Center, LLC Units of Membership Purchase property for a convention center.	Devils Lake	\$400,000
		Subtotal	\$400,000

Section 10-04-06 - Test the Waters Exemption:

07-13-04	Sheyenne Valley Marketing, LLC	Maddock	
12-29-04	St. Alexius Same Day Surgery Center, L.L.C.	Bismarck	

Regulation D, Rule 506 Notice Filings:

07-19-04	Northern States Indoor Tan, LLC Membership Interests Own and operate indoor tanning stores.	Grand Forks	\$2,000,000
07-26-04	Dakota UPREIT Limited Partnership Partnership Interests Umbrella real estate investment trust.	Fargo	\$3,000,000
10-04-04	Identity Ag processing, LLC Membership Interests Agricultural processing.	Casselton	\$950,000
12-07-2004	Harvest Fuel, Inc. Common Stock Feed supplements	Walhalla	\$30,000

Subtotal	\$5,980,000
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Accredited Investor Exemption Filings:

07-29-04	Composite America LLC Class B Membership Units Produce & supply air ducts, dash boards.	Fargo	\$ 69,750
09-13-04	Senior Advisors & Associates, Inc. Common Stock Sale of insurance products.	Bismarck	500
09-22-04	ND Research, LLC Ordinary Membership Units Add value to products & processes of businesses in the NDSU Technology Park.	Fargo	1,000,000

Subtotal	\$1,070,250
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TOTAL OF ALL FILINGS -	\$10,325,250
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**Engrossed House Bill 1011**

**Testimony of North Dakota Securities Commissioner Karen Tyler**

**Before the Senate Appropriations Committee**

**March 8, 2005**

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 this afternoon to discuss the budget appropriation for the North Dakota Securities Department, and to answer any questions you may have regarding our agency budget request.

As a brief overview, the primary mission of the Securities Department is to protect the North Dakota Investor through the administration of the North Dakota Securities Act found in chapter 10-04 of the North Dakota Century Code. We support this mission through our efforts in four functional areas:

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

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



The North Dakota Securities Department is a small agency, with 8 full time employees. We are a profitable agency, generating over \$13 million dollars in revenue in each of the last 3 biennium periods, and spending only 12 cents of every revenue dollar we generate.

### **CAPITAL FORMATION AND FRANCHISE REGISTRATION**

It is a goal of this agency to help foster the formation of capital for business growth and economic development. Biennium to date this agency has assisted 85 North Dakota companies with the process of capital formation. The original offering amounts for North Dakota securities offerings total approximately \$94,478,036. In the franchise area, there are currently 567 franchises registered in the state of North Dakota. Both the registration of securities offerings and franchises generate revenue for the state.

### **REGISTRATION OF SECURITIES FIRMS AND PROFESSIONALS**

All securities industry firms and professionals seeking to transact securities business in the state of North Dakota must register with this agency. This registration requirement generates revenue for the state. The protectionary examination process conducted by this agency allows for the screening of applicants with disciplinary histories or other public disclosures, by whom North Dakota Investors would not be well-served. Currently, registration records show:

1260 Broker Dealer Firms

45,500 Agents

480 Investment Advisor Firms

## 650 Investment Advisor Representatives

The number of BD firms doing business in the state has declined by 3%, but the number of agents registered to do business in the state has increased by 16%, as the brokerage firms continue to hire and the industry continues its recovery in the wake of the technology bubble and the protracted bear market we experienced at the start of the millennium. We continue to experience an increase in the number of registrations for Investment Advisors, up 17%, and Investment Advisor Representatives, up 3%, attributable to a continued shift in the brokerage industry away from transaction based business to fee based business.

## INVESTIGATION, EXAMINATIONS, AND ENFORCEMENT

Investigations of fraud and misrepresentation result in monies returned to North Dakota Investors through rescission, recovery and restitution. Enforcement actions protect the integrity of our capital markets and also generate state revenue through civil penalties.

Biennium to date we have opened 104 enforcement actions and averaged 35-40 open cases on an ongoing basis. Just briefly to give you an idea of the nature of the violations we are dealing with, in a shift from the previous biennium, the majority of our cases involve registered professionals versus unregistered individuals. Many of our cases against registered firms and agents involve product suitability. There has been an increase in cases involving abusive sales practices in the area of variable annuity products

– this is an area of great concern for our agency and regulators across the country, as very often our seniors are the victims of these abusive variable annuity sales practices.

The executive budget recommendation for our agency includes an increase of approximately \$280,000 from the current biennium to the next. This results from an increase in general fund expenditures of \$375,398 and a decrease in special fund expenditures of \$94,381. After modifications by the House, this funding variance sits at approximately \$200,000.

The increase in general fund expenditures relates primarily to this area of investigations, examinations and enforcement. The executive budget recommendation for 05-07 includes funding for one additional FTE and funding for the establishment of a satellite location in the Eastern region of the state. The executive budget recommendation also includes funding to enable this agency to retain, when necessary, the services of outside legal counsel, skilled and experienced in litigation, with focused expertise in securities law.

The breakdown of the general fund variance in the executive budget recommendation is as follows:

\$108,542 for FTE salary and benefits

\$48,150 for satellite office establishment and operation

\$154,000 for contracting outside professional services

and this number also includes the \$66,642 for salary increase based on the Governor's recommendation and a decrease of \$3,136 attributable to impact of ITD functional consolidation and Connect ND.

The engrossed bill reflects a reduction made by the House in the area of outside legal services, from \$154,000 to \$79,000, and the engrossed bill also reflects an adjustment to salaries for the 3/2 and 2 increase.

In regard to the additional FTE, this position will be a securities examiner, primarily tasked with conducting routine examinations of broker-dealer and investment advisor firm operations in the eastern region. This additional FTE will have a direct and immediate impact on one of our priority objectives for the upcoming biennium and that priority objective is to significantly increase the number of routine examinations conducted by our agency.

Due to a persistently heavy caseload of for-cause investigations and examinations, and subsequent enforcement actions, we have been unable to implement a consistent program of routine broker-dealer and investment advisor examinations with our current enforcement staff.

I cannot emphasize enough the impact and effectiveness of **prevention** - versus enforcement actions taken after the fact. The prevention of fraud and misconduct is a critical component of our protectionary mission. Routine exams are a preventative

mechanism. Routine exams of broker dealer and investment advisor firms serve as an early warning system, and can uncover regulatory compliance deficiencies and deter securities agent misconduct before the North Dakota investor is harmed.

Given the distribution and location of broker dealer and investment advisor firms and professionals in the state, the positioning of an examiner in the eastern region is a strategically sound approach. 45% of broker-dealer firms, 78% of investment advisor firms, 41% of securities agents and 63% of investment advisor representatives in the state are located in the eastern region, as measured from Pembina county down to Richland county, and west to include the cities of Devils Lake and Valley City.

#### **INVESTOR EDUCATION AND FINANCIAL LITERACY**

The agency estimates we will have a turn back of our special fund appropriation of \$92,800 and a we will have a decrease in our special fund appropriation for 05-07 of \$94,000. The turn back is due primarily to staffing issues and the inability to execute certain new financial education programs that had been planned for the current biennium. Also, I want to emphasize that the \$94,000 reduction in the special fund appropriation for the upcoming biennium does not result in the transfer of expenses to the general fund appropriation. It is strictly a reduction in our special fund appropriation based on program adjustments.

Despite this decrease in the special fund appropriation for 05-07, the delivery of financial education, with an emphasis on outreach to our young people and our seniors, will remain

a priority objective of the North Dakota Securities Department in the upcoming biennium. Earlier I discussed the preventative nature of routine broker-dealer and investment advisor examinations; financial education is also a preventative mechanism critical to our Investor Protection mandate. Financial Education is the first and best defense against investment fraud and exploitation and it helps our constituents build the knowledge they need to make good personal financial decisions. The ability to make good personal financial decisions can mean the difference between our citizens becoming and remaining productive economic contributors, or becoming and remaining dependent on government provided services. There is a direct correlation between the financial decision-making aptitude of our constituents and the economic health of our families, our communities and the state overall.

#### **INDUSTRY CONSIDERATIONS/AGENCY OUTLOOK**

The functionality and revenue generating ability of this agency are affected by circumstances and events on a national level. The 03-05 biennium saw the conclusion of the Wall Street Research Analyst Conflict of Interest investigations and settlement. This unprecedented global settlement involved 11 Wall Street Investment Banking firms, the Securities and Exchange Commission, the New York Stock Exchange, the NASD, and state securities regulators. For North Dakota, the Global Settlement resulted in the collection of approximately \$4 million dollars in penalties over and above our forecast, pushing total estimated revenues collected by this agency to approximately \$17 million for the biennium. We characterize this settlement as an extraordinary event, and

estimate that our revenue collections will return to approximately the \$13 million dollar level for the 05-07 biennium.

## **EXHIBITS**

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

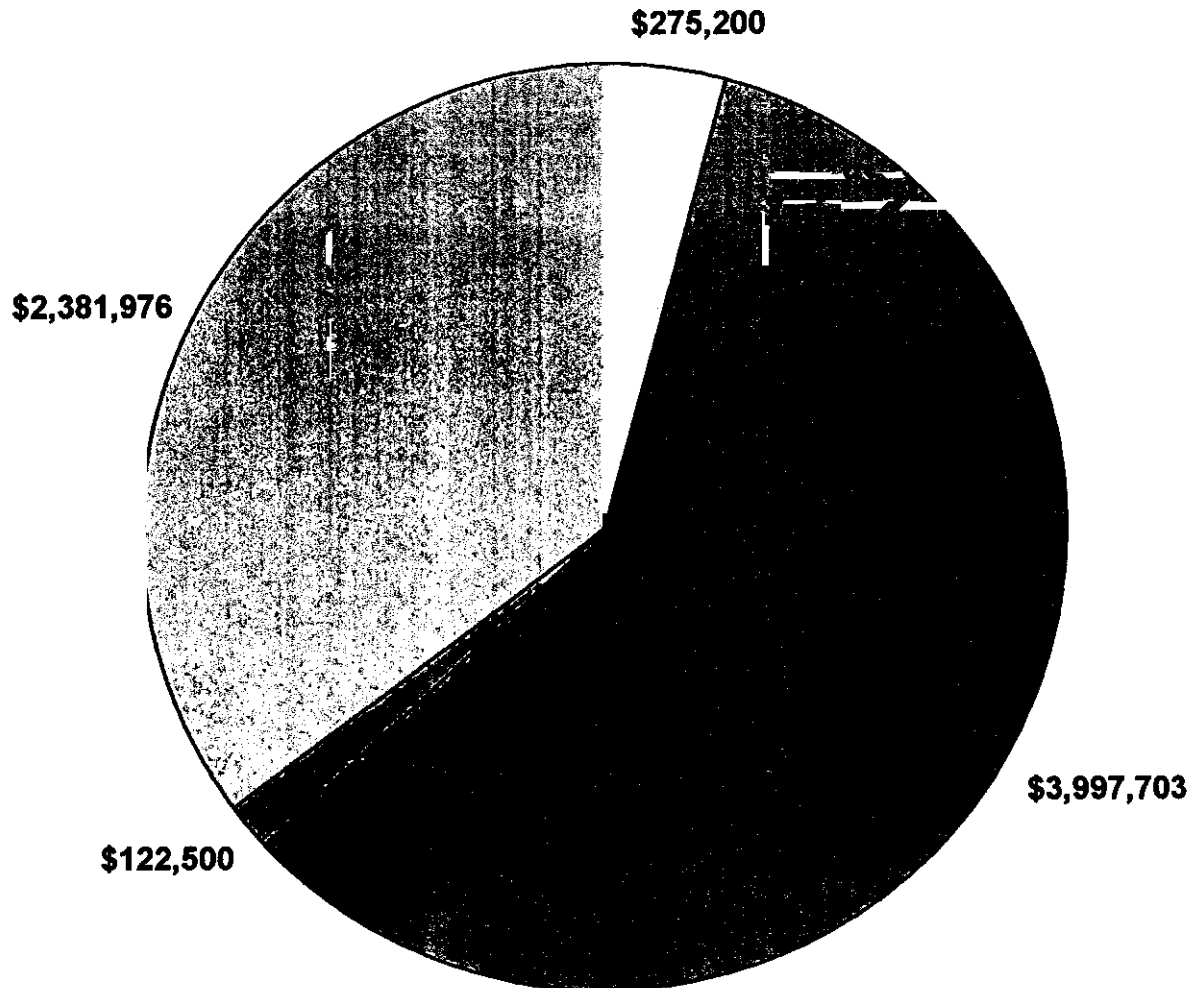
Attached as exhibit A-1 is a comparison of enforcement related collections and distributions, this biennium to last.

Attached as exhibit B is a chart showing breakdown of registration revenues

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

SENATE APPROPRIATIONS COMMITTEE  
ENGROSSED HOUSE BILL 1011  
MARCH 8, 2005

Fines and Forfeitures  
North Dakota Securities Department  
July 1, 2003 Through December 31, 2004



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

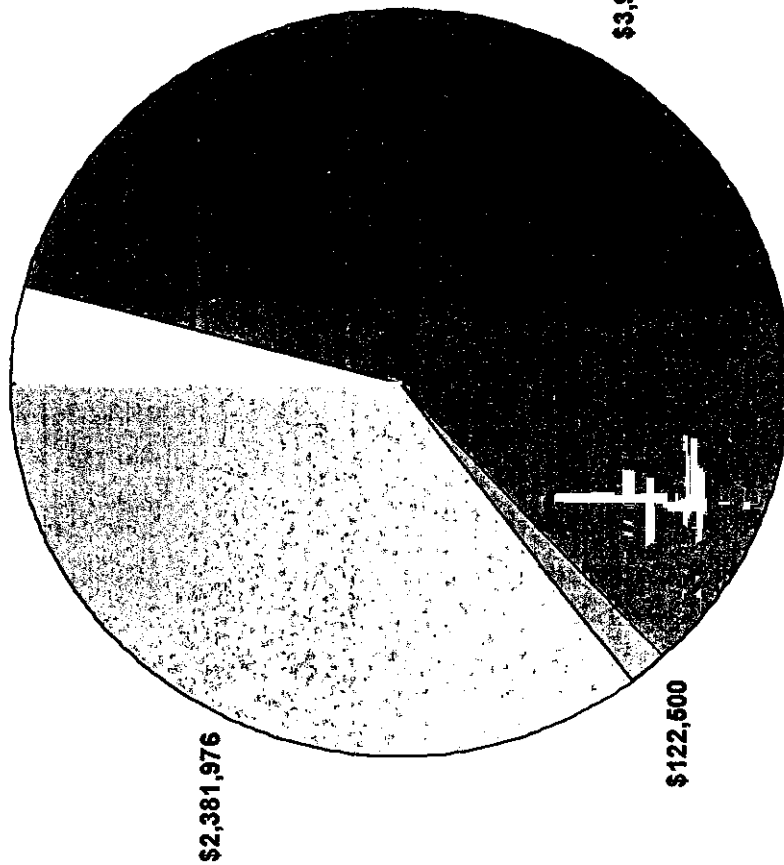


**SENATE APPROPRIATIONS COMMITTEE  
ENGROSSED HOUSE BILL 1011  
MARCH 8, 2005**

**Fines and Forfeitures  
North Dakota Securities Department**

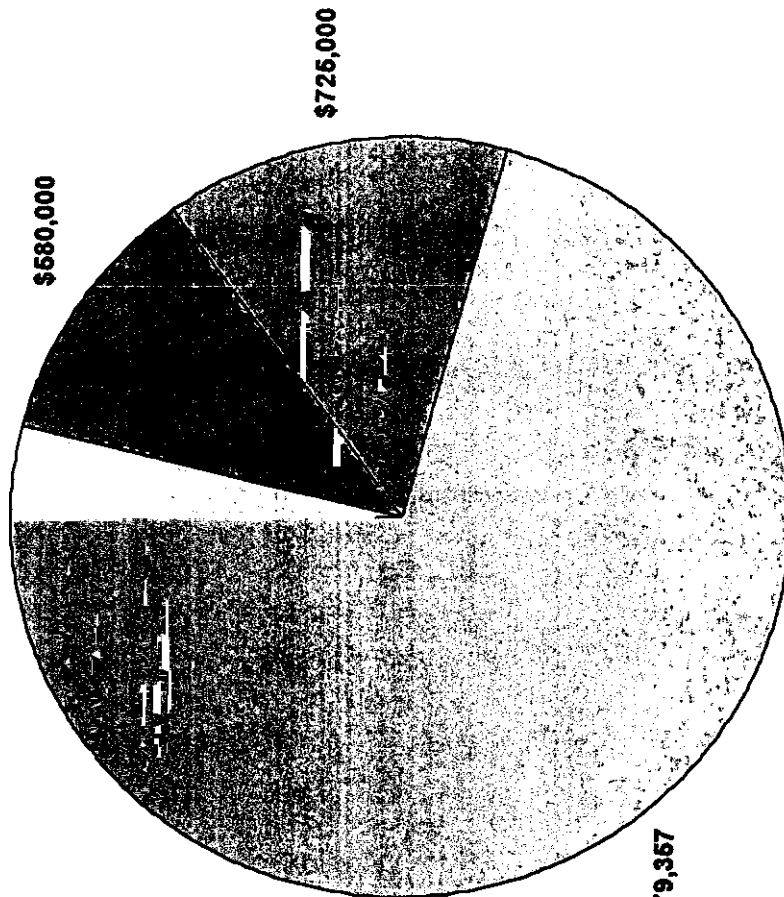
**July 1, 2003 Through December 31, 2004**

**\$276,200**



**July 1, 2001 Through December 30, 2002**

**\$200,000**



☐ Civil Penalties Collected-Paid to Investor Restitution Fund to be paid to defrauded investors.

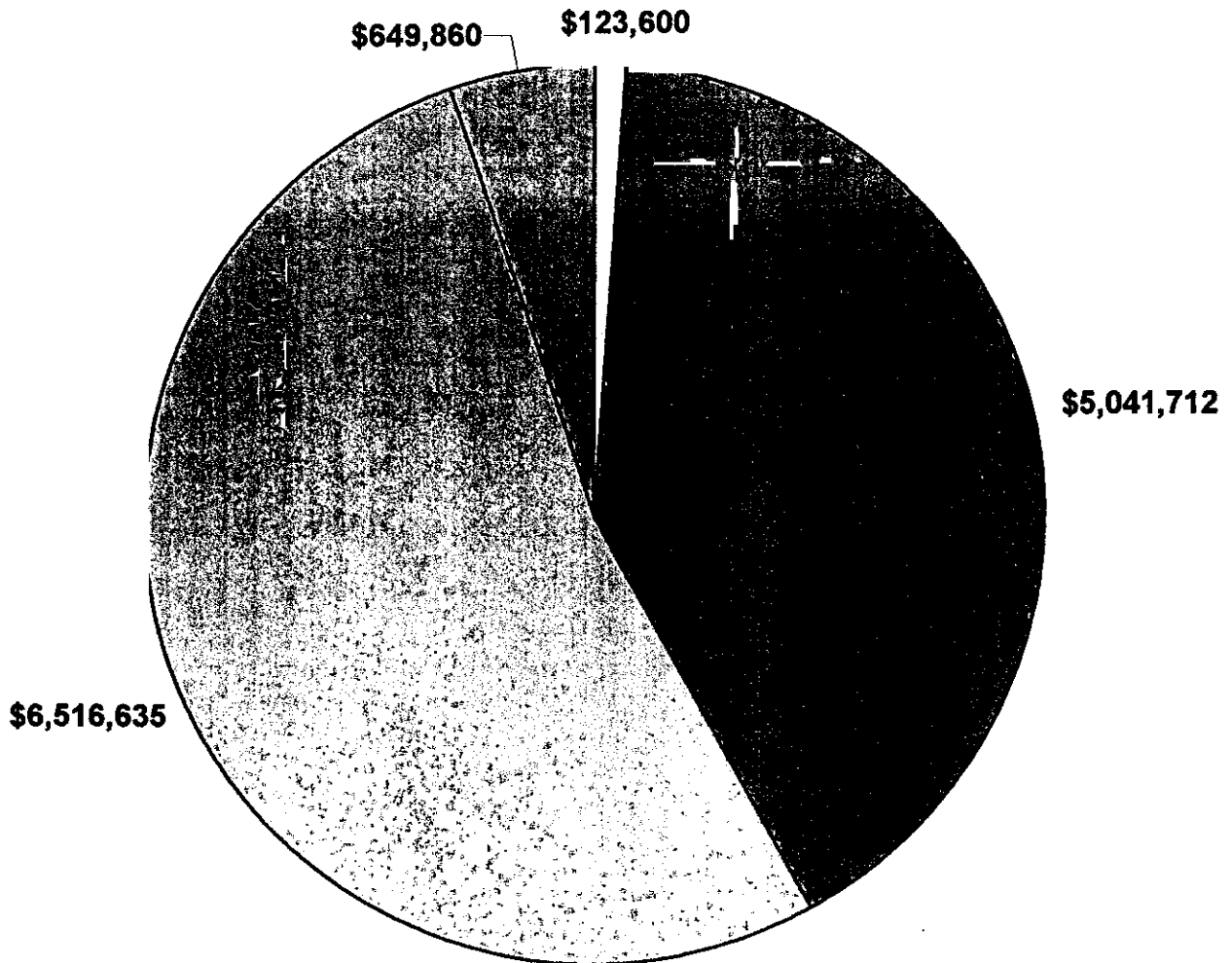
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SENATE APPROPRIATIONS COMMITTEE  
ENGROSSED HOUSE BILL 1011  
MARCH 8, 2005

Registration Collections  
North Dakota Securities Department  
July 1, 2003 Through March 4, 2005



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

SENATE APPROPRIATIONS COMMITTEE  
ENGROSSED HOUSE BILL 1011  
MARCH 8, 2005

Revenues and Expenditures  
North Dakota Securities Department  
For Periods Ending 2001, 2003, 2005, and 2007

