

2009 HOUSE APPROPRIATIONS

HB 1011

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1011

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 1/12/09

Recorder Job Number: 6783

Committee Clerk Signature

Tonya Voegeli

Minutes:

Chairman Delzer opened the hearing on House Bill 1011. Roll call was taken in the previous hearing with all members present.

Security Commissioner Karen Tyler presented her written testimony. See Attachment 1011.1.12.09a.

Ms. Tyler introduced her staff. She then continued with her testimony.

Chairman Delzer: Is the revenue that you collect all license fees?

Karen Tyler, Securities Commissioner: It is licensing fees and security registration fees as well.

Chairman Delzer: The registration fees, are they a percentage of what they sell or are they a flat fee?

Karen Tyler, Securities Commissioner: It is a flat fee.

Ms Tyler continued her testimony on page two with the Capital Formation and Franchise Registration.

Chairman Delzer: How long does the franchise companies register for? Is it a lifetime or an annual renewal?

Karen Tyler, Securities Commissioner: If they are going to continue to offer they have to reregister annually.

Chairman Delzer: Do you know where your revenue shows up in the revenue stream?

Tammy Dolan, OMB: I believe they are part of the agency collections line item.

Ms Tyler continued with the Registration of Securities Firms and Professionals section of her testimony.

Chairman Delzer: Are all of your fees and licenses set legislatively or are they set by your agency?

Karen Tyler, Securities Commissioner: They are set in statute legislatively. We will make recommendations as to whether or not there should be adjustments but that is something that has to be approved.

Ms Tyler continued with the Investor Education and Financial Literacy section of her testimony .

Ms Tyler explained some of the Investment fraud cases that the commission handles.

Karen Tyler, Securities Commissioner: The Auction Rate Securities are variable rate debt instruments that are primarily issued by municipalities and student loan issuers. They behave like short term debt but they actually have long maturities. So they might still have a fifteen, twenty or thirty year maturity but because there is an auction function on a weekly or monthly basis, an auction will take place and these securities will reprice through the action of the

buyers and sellers. For the municipality let's say the City of Grand Forks, it's a cheaper way to issue debt. They can issue long term paper but it reprices every week so it behaves like a short term debt and they pay less interest on it. So the issuers like it. For the investors, these things were sold as essentially the equivalent of a money market account. Because there is a weekly auction you have that liquidity function. So for investors, it was a money market or cash alternative equivalent with a slightly better interest rate. So the investors liked it. So this market exploded from about 1995 to about 2007. We saw tremendous growth in this market. At its peak it was about a \$300billion market. With all of that growth what began to happen was that it was not a true auction anymore. You didn't have enough buyers coming in to support this. So the investment banks came in to support it. So Morgan Stanley and Merrill Lynch and Nathan Morgan etcetera were all supporting these auctions by coming in and bidding on this stuff, taking it on to their balance sheets but investors did not know this. So what happened was that the credit crisis started to escalate, the financial condition of these firms became more and more impaired they did not want to commit capital anymore. In February of last year, they all walked away from these auctions. That left our investors trapped. They had no way to get out of these instruments. What you had here, if you think about what you put into a money market account, your money that you are going to use for a down payment on a home, we had a farmer that invested his spring planting money in this instrument, retirees just as general living expenses positioned here, and our small businesses with their operating capital and their payroll. It is a very serious situation for thousands of investors. What ended up happening is that we got the firms to the table and at the time I was President of our national organization, State's Securities Regulators, so I had the opportunity to along with the New York Attorney General and some representatives from the FCC, negotiate with eleven firms and we got them to provide buy backs through this process. So we ended up settling with eleven firms and

about \$50billion worth of retainment. So it was a positive outcome for the people in North Dakota. We had numerous complaints from individuals, businesses and even government entities. I can't give you a total number of North Dakota residents and total exposure but I can give you an example just from one firm. From one firm we had over 300 North Dakota residents with over \$30million lost. So this was a tremendous relief to them, to get their assets unlocked and get that money back to them again

Representative Kempenich: Is that \$350million what Congress used to backfill?

Karen Tyler, Securities Commissioner: We don't know. When the tarp was essentially presented there was some discussion on whether or not those funds would be available for ARS repayment. At the outset it did not appear that that was how these funds would be used. But now that firms have been able to take the tarp fund on to their balance sheet and not really have to disclose too much about what they are doing with those funds, we are not sure how the tarp funds are being used.

Chairman Delzer: What kind of percentage of buyback did you receive?

Karen Tyler, Securities Commissioner: We received 100% buyback. It was buybacks at par. There were other provisions of the settlement too. If someone actually had to sell their ARS at a secondary market at a loss, the firms had to make that up.

Chairman Delzer: What is the situation on them now? There still must be markets out there on those?

Karen Tyler, Securities Commissioner: Some auctions are still functioning. What we are going to see happening over time, is that it will be a move away from this alternative. What happened with the municipalities, the investors could not get their money out but what happened when these auctions failed and the dollars locked, is that the municipalities were reset, these bonds were reset at a much higher rate. So municipalities had a great interest in

refinancing into some other type of instrument. Some municipalities were paying 15% or more on their bonds once the auctions failed. So by refinancing and just over time, these instruments are probably just going to go away but at the moment there are still some functioning auctions and investors are just being bought out.

Representative Berg: You were talking about schemes, the Made off schemes, are there very many people involved in that? Also there was a scheme in Minnesota that took a bunch of people down. I am not sure the details on that.

Karen Tyler, Securities Commissioner: We don't have a ponzi to discuss of the Made off Scheme. There is another ponzi I am going to discuss. As to the Made off Scheme, I have not been aware that there are any North Dakota investors that are a factor. It is important to understand too that the investors in the Made Off Scheme primarily very high net worth individuals, institutional investors and other money managers. So you could have a pension fund in there, university endowments and that kind of investor as well. We have not heard of any North Dakota investors in there at this time.

Chairman Delzer: Wouldn't they have to have reported that somewhere by now?

Karen Tyler, Securities Commissioner: I am not sure if there is a list of victims published yet. In an investigative process, and this includes our agency as well, although we have open record requirements during the investigative process, we have the ability to hold those records closed.

Representative Kempenich: There was something written the other day regarding class action suits going on. How does your agency get involved?

Karen Tyler, Securities Commissioner: On occasion we will see a plaintiff's attorney sort of look to our agency and see what cases we have and make a determination if there is class action potential. You don't need to have a regulatory body taking an action in order for a

plaintiff's attorney to move forward. If they have investors who have been harmed and are willing to be a part of it, certainly they can bring those cases

Ms Tyler continued her description of Ponzi cases. She referred to Exhibit B in her testimony.

Vice Chairman Thoreson: Was the firm in question ISI?

Karen Tyler, Securities Commissioner: Yes but it has not been released to the public yet. However the victims have been repaid.

Representative Kaldor: I wanted to ask about the circumstance in which a complaint a filed. What are the measures that you take prior to this in other words what kinds of things do you do I am assuming in licensing in oversight of practice and agents?

Karen Tyler, Securities Commissioner: We have a routine exam function that we carry out. There are routine checks that the Commission does where we go in and examine their books and how they do their business. That would be a method that is preventive. The vast majority of the professionals doing business in the state are honest and ethical individuals but they know they could be examined at any time. Not only by us but also by the FCC potentially and another entity called FINRA which stands for the Financial Industry of Regulator Authority. So an entity could be examined by any one of these agency bodies and that is a deterrent factor.

Representative Kempenich: Usually these start out as legitimate businesses don't they?

Karen Tyler, Securities Commissioner: Usually they do start out as legitimate businesses. You have somebody who is doing securities say, for a real estate project and it doesn't work out but they think that if they can raise a little more capital maybe introduce another deal then things will work out. What they end up doing is taking money from that second round and using

it to pay a return to the first round of investors to keep them happy. So we have seen where they have started out with legitimate intentions.

Representative Kempenich: Do you think that is why we are seeing them now because of the tightening of capital?

Karen Tyler, Securities Commissioner: I am not sure we are seeing more but it is certainly capturing attention.

Chairman Delzer: Can you briefly explain how these are getting caught?

Karen Tyler, Securities Commissioner: Usually what triggers it is that they cannot pull in the money. These schemes can only survive if they can pull in the money. I will say that they are very difficult to deal with at the inception because you don't always have willing victims. It is not always easy for us to get the victims to cooperate because they have been enjoying a very nice rate of return.

Representative Glassheim: Do we have any regulations regarding bundling of mortgages and selling them out of state?

Karen Tyler, Securities Commissioner: I would defer that question to the Banking Commissioner.

Ms Tyler continued her testimony with her budget request.

Chairman Delzer: Where do your special funds come from?

Karen Tyler, Securities Commissioner: The special funds are from mostly large settlements.

Chairman Delzer: Are you also attempting to get a grant for \$100,000?

Karen Tyler, Securities Commissioner: Yes. A few years ago, there was a very large settlement called the Research Analyst Conflict of Interest Cases. This came out of the dot

com boom where the investment banks were hyping up stocks that they really didn't think were any good and they were publishing tainted research. Global settlement was a little over \$1 billion I think. North Dakota got a small piece of that. It was set up in a separate trust that we have to apply for it. So we have applied to that trust and they have approved a \$100,000 grant for us. So when we take that into our special fund we have to get it appropriated.

Chairman Delzer: And the other \$217,000 that you have in there?

Karen Tyler, Securities Commissioner: The balance in that fund is around \$700,000 right now. So that has been the appropriation for us for the last two or three biennia.

Chairman Delzer: Does that particular fund get that much in every biennium too so that stays steady or is it going down?

Karen Tyler, Securities Commissioner: It is pretty inconsistent. I wish we had a consistent funding source. At one time we actually went out to the industry and said if we raised your registration fees by \$10 per year and we were able to use that for education would you be ok with that? They said ok but unfortunately once that happened we actually didn't get the money. It still went to the General Fund. That was maybe ten years ago.

Chairman Delzer: Are you using general fund money for education?

Karen Tyler, Securities Commissioner: No.

Chairman Delzer: Are the salaries for the people doing the training paid by General Fund money?

Karen Tyler, Securities Commissioner: All salaries are paid by General Fund.

Chairman Delzer: The education piece would be done by people paid by the General Fund. Is that an internal fund or an external fund and do we have a listing of this particular fund somewhere else?

Tammy Dolan, OMB: The investor fund is a special fund designated to the Securities Department. I will check on that.

Ms. Tyler continued with her testimony discussion regarding revenue projections.

Karen Tyler, Securities Commissioner: One thing that is hard to budget for is litigation. That is where most of our turn back would come from.

Vice Chairman Thoreson: Didn't we have a case one or two biennia ago that we had to put money in for litigation?

Karen Tyler, Securities Commissioner: A couple of years ago we had a very complex case involving auctions trading strategies. If we had to litigate a case like that we would need to bring in extra witnesses and get special training.

Chairman Delzer: One thing that we are going to want is your current spend down level from PeopleSoft.

Ms. Tyler continued her testimony regarding revenues with exhibit C.

Chairman Delzer: Who handles the fund?

Karen Tyler, Securities Commissioner: We as the agency handle the money in and out.

Representative Kempenich: On the majority of these, do you do follow ups or how do you know if these victims are being paid?

Karen Tyler, Securities Commissioner: Yes, we follow up.

Testimony continued.

Representative Berg: Question on the revenue. I know in the past we have looked at the registration and licenses compared to surrounding states. Have we looked at that? Is North Dakota high or low?

Karen Tyler, Securities Commissioner: We basically fall in the middle of the road. We are very cautious about altering those fees. Right now is a time where we are more cautious than others. Regulatory reform is what we are hearing out of Washington DC. The 111th Congress and the new president's administration, this is what they are talking about. This is an ongoing debate. Securities regulations have been debated for 75 years since the first law was written, whether we have too much or too little. In the wake of the credit crisis and all that we have seen, certainly this is on the top of the minds of many of our members of Congress. Just two years ago the debate was that we have too much regulation and its driving business overseas. Now we are hearing that we have too little regulation and it has driven our economy into the ditch and something has to be done. I want to bring this to your attention because what came out of that first debate about having too much regulation, the Treasury Department put out their blueprint for regulatory reform. This was published in March of last year. So the \$17million in revenue projections we would no longer be collecting that revenue. We might be able to collect a little bit of securities registration but not registering the agents and firms. More importantly our enforcement authority would be wiped out. We could do no more than gather some data and send it to Washington. We would not be able to deal with the David Skjervens of the world or these ARS matters that I talked about. I bring that to your attention because it is one of the biggest concerns that we have going forward. What comes out of this debate over regulatory reform. I know it is hard to get people excited about regulation but if you think of it in terms of

protecting our investor constituents and what it means for you as legislators and investors if the state level authority is eliminated.

Chairman Delzer: I believe that has been an issue at NCSL and CSG already.

Representative Berg: I think that one of the things that I think is critical is that North Dakota remain and become one of the best places to form capital. Is there any way to streamline to make it more efficient? I know there are certain things we have done for flexibility. I think now there is an opportunity, I agree we are going to see a lot more federal regulations coming down. Would there be any innovative way to make North Dakota the best place to form capital?

Chairman Delzer: House Bill 1100 looks like it is coming out of IBL. Did you get any kind of fiscal note on that?

Karen Tyler, Securities Commissioner: There will be a fiscal note on it. The reason there will be a fiscal note on that is because we are changing what our filing fee is.

Chairman Delzer: This was at your request?

Karen Tyler, Securities Commissioner: Yes. It makes it look a lot more expensive to do this type of filing in North Dakota. The practical application of the filing fee because an issuer isn't going to file their entire offering.

Chairman Delzer: What kind of affect do you see 1100 having on your budget?

Karen Tyler, Securities Commissioner: Very minimal.

Chairman Delzer: The technology and equipment replacement what are you hoping to do there?

Karen Tyler, Securities Commissioner: We replace our computers every four years.

The \$30,000 is just an estimate based on the replacement cycle. It came from a combination of IT and other places.

Chairman Delzer: I would like a list of the bids for IT.

Karen Tyler, Securities Commissioner: It is computer replacement as well as technology for our investigative work such as the ability to record conversations and so on.

Chairman Delzer: Please get that as well as an organizational chart with any vacancies.

Karen Tyler, Securities Commissioner: Yes.

Chairman Delzer: Your document storage retrieval, has everything worked out the way you wanted with that?

Karen Tyler, Securities Commissioner: That project has been put on hold. We had a one time funding of about \$16,000 primarily for the purpose of purchasing scanning equipment. We have talked with other agencies and with IT and I think there are a number of agencies that are trying to go toward more electronic data storage. We are just holding off right now to see if there are some economies of scale that we can enjoy if IT is helping other agencies.

Chairman Delzer: Is that part of the turn back?

Karen Tyler, Securities Commissioner: Yes.

Chairman Delzer: Any other questions?

Representative Berg: I just wanted to comment. I think you guys have done an outstanding job and I want to thank you for your leadership on the national level. Certainly that was a huge success and good for North Dakota representing us. It has been good for our citizens because if we don't hear anything it is a good sign that the department has been doing a good job and the citizens are being treated fairly.

Chairman Delzer: Was there a time when the Securities Commission was special funded?

Karen Tyler, Securities Commissioner: Not that I know of.

Chairman Delzer closed the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1011

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 2/6/09

Recorder Job Number: 8927

Committee Clerk Signature

Tonya Vaesel

Minutes:

Chairman Delzer opened the amendment discussion on House Bill 1011. Roll was taken at a previous meeting this morning.

Chairman Delzer: Who was on this subcommittee?

Vice Chairman Thoreson: It was myself, Representative Dosch and Representative Kaldor.

Chairman Delzer: We have it looks like and increase on the operating expenses of \$148,000, total FTEs of nine, equipment replacement of \$30,870.

Representative Dosch: According to my notes, it looks like they are anticipating an \$80,000 turnback.

Chairman Delzer: Is most of that from salaries and wages or is most of that from operating?

Representative Dosch: According to my notes here, the \$80,000 turnback comes out of the fees under professional services.

Chairman Delzer: Roxanne, I guess I would request a reduction in their operating line of \$25,000.

Representative Kempenich: If most of the turnback was in that line then they requested a \$100,000 increase from the biennium before didn't they.

Chairman Delzer: Did you want to have another option?

Representative Kempenich: I guess it just goes back into the General Fund if they don't use it. I think it is for attorneys and stuff if they have cases.

Chairman Delzer: It seems to me is that is the one where we had given them, a couple sessions ago, they didn't have much and we gave them \$80,000 or whatever and they only used \$16,000 this time. Let's do one for \$50,000 also, Roxanne. So we will have the options of \$50,000 or \$25,000.

Representative Dosch: If you look at the green sheet, item number two, the \$100,000 comes out of the investors protection trust. I am just trying to figure out if that is the \$100,000 under the fees and professional services line.

Chairman Delzer: No I don't think it was because that fees and professional services line was the money for their lawyers if they got caught in a case. From what it looks like here that is grant money.

Representative Dosch: You are correct.

Chairman Delzer: I don't know that I would have anything else on Securities.

No action was taken on any amendments.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1011

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 2/9/09

Recorder Job Number: 8966

Committee Clerk Signature

Tonya Vaegle

Minutes:

Chairman Delzer opened the discussion of amendments House Bill 1011.

Chairman Delzer: We have two proposed amendments with the Securities Commission bill. It looks like they are both adjustments on operating expenses. Both General Funds. I believe the comment was made that Securities creates a lot of money for the General Fund. I believe all of their fees and everything go directly to the General Fund and then their operating is listed as General Fund expenses. Are there any comments on any one of the proposals?

Representative Berg: I think the other point is that we are in an environment now where certainly securities overall is changing. We are not sure how the whole federal if not global securities are going to change. One of my thoughts is that it might be an appropriate time this interim to look at the fee structure within the securities realm for North Dakota. And try to strike that balance that we are not a barrier for businesses and at the same time we are not leaving a lot of money on the table where we shouldn't be. I guess my thought was maybe to propose an amendment that would actually not mandate a study but offer a study through the interim on the fee structure for the securities in North Dakota. With that I don't know if you are looking for a motion but I would move that we reduce the operating expense \$50,000 and if I could add the study on that motion.

Vice Chairman Thoreson: Second.

Chairman Delzer: Discussion?

Representative Kaldor: I need some clarification. The General Fund operating expenses line item, the budget request change, am I reading this correctly, it was only \$258 that they had asked for an increase over last biennium. I am concerned about what the meaning of a \$50,000 reduction to that particular line item will be given what Representative Berg described, there is probably going to be more demand for their services than less demand. I guess I would like to hear a little bit more reason why that is the area that we want to go after, in light of the fact that they only asked for a \$258 increase.

Representative Berg: I didn't request the amendment.

Representative Kaldor: I realize that.

Representative Dosch: They are anticipating an \$80,000 turnback this year from the Department which I think is in part that \$50,000 suggestion has originated from.

Representative Glassheim: How much is their total operating and is all of the turnback from their operating?

Representative Dosch: Are you looking at the bill itself?

Representative Glassheim: I see it now. So there is a \$148,000 increase in operating?

Chairman Delzer: Yes in operating. Representative Kaldor's figure must be a certain line.

Representative Kaldor: It is because of General Funds isn't it?

Chairman Delzer: It looks like it is all General Fund. The only estimated income is the increase of \$100,000 on the bill.

Tammy Dolan, OMB: The base request for operating expenses was \$258 that was General Fund authority. They also had an optional request to replace IT equipment, various laptops and monitors that was \$30,872 so that is part of the increase that you are seeing. There is a

\$100,000 increase due to a grant from the Investor Protection Trust that they will be receiving but that is special funds.

Chairman Delzer: But that is going into their operating.

Tammy Dolan, OMB: It is also hitting their operating. So \$100,000 of the increase that you are seeing is special fund authority for the personal finance education grant they are receiving.

Chairman Delzer: Are they pass through grants or operating grants?

Tammy Dolan, OMB: It is built into their operating expense line and it will allow them to do more personal finance education throughout the state.

Chairman Delzer: Roxanne do you have any questions on the part of the proposed amendment which is the language for the offer of the study?

Roxanne Woeste, Legislative Council: No, I am confident that we can come up with something there for the study.

Chairman Delzer: Further discussion.

Representative Glassheim: I would move to amend the \$50,000 reduction to \$25,000 and keep the other part.

Chairman Delzer: We have a motion for a substitute motion is there a second?

Representative Meyer: Second.

Chairman Delzer: Discussion by the committee?

Representative Dosch: I think would be reasonable in light of the \$100,000 coming from a pass through of special funds.

A motion was made by Representative Glassheim, seconded by Representative Meyer to adopt an amendment which reduced the operating line for the Securities Commission

by \$25,000 and include a study of the fee scale for the Commission. The amendment was adopted by voice vote.

Chairman Delzer closed the discussion.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1011

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 2/13/09

Recorder Job Number: 9438- starts at 11:55

Committee Clerk Signature

Tonya Vaegle

Minutes:

Chairman Delzer opened the discussion of amendments on House Bill 1011.

Chairman Delzer reviewed the amendment.

A motion was made by Representative Glassheim, seconded by Representative Kaldor to adopt amendment 98012.0101 to House Bill 1011. The amendment was adopted by voice vote.

A motion was made by Vice Chairman Thoreson, seconded by Representative Glassheim for a DO PASS AS AMENDED recommendation for House Bill 1011 to the House Appropriations Full Committee. The vote was 7 yeas, 0 nays and 1 absent and not voting. The carrier will be Representative Kaldor.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1011

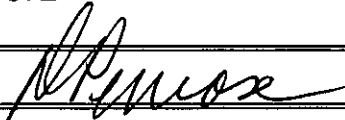
House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 16, 2009

Recorder Job Number: 9572

Committee Clerk Signature



Minutes:

Chm. Svedjan: Let's take a look at HB 1011. Turn your attention to the two handouts we just received. Keep those beside you when you take up HB 1011. There is no roll up of salary dollars.

Rep. Kaldor spoke on HB 1011 and turned the committee's attention to amendment .0101

(Attachment A). The Securities Department's proposal as Rep. Svedjan states, the FTE positions are 9 for this coming biennium based on the Executive Budget. That is the reason that they have the 0% reduction. The amendment makes two changes to the Executive Recommendation. The first change is a reduction of \$25,000 in the operating expense line item. That affects lines 12, 13 and 15. Each of those is reduced by \$25,000. The Securities Department expects a turn back of about \$80,000 at the end of the biennium. They have a recommended budget of \$2.12 million dollars; of course that will be reduced by \$25,000. The second change is the addition of Section 3 which is a legislative council study on Security Commissioner Fees. It is expected that during the 09-10 interim the LC shall consider studying the structure and appropriateness of the level of fees charged by the Security Commissioner. We did get information on current fee structure. Of course, with what is going on at the national level, there is a lot of uncertainty as to what will go on. There are a lot of concerns as to what the federal government will do in terms of regulation. The Securities

Department is looking at all of this as they wade through this. One of the things that they do as part of their budget is an educational program to provide citizens an opportunity to understand how the investment process works and identification of potential fraud, etc. As you take a look at the green sheet for HB 1011 which is at the back of the bill, this is the LC prepared green sheet. You will notice that funding, at the bottom, executive budget highlights you will notice that equity funding of \$14,933, so I am assuming by what we just did a few minutes ago, that will be removed from the budget. They have special fund authority for personal finance education. I was just talking about that, that's \$100,000. They are continuously updating Information Technology Department infrastructure and equipment, so they are purchasing some laptops and equipment. Also increasing funding for storage needs, communications, and staff training, \$17,134. It also removes the 07-09 one-time funding provided for document storage and retrieval system of \$16,876. I would move the amendment.

Rep. Berg: Second.

Ch. Svedjan: Further discussion.

Rep. Delzer: I would like to add that in GO when we looked at all of these, you will see adjustments to the operating expenses in a number of these. We looked at the spend down, the different lines, the travel, IT data and all those different lines. We felt we had some room in some of those or additions to some of those whatever. In the end it all goes on the one line in the bill under operating expenses, so that they have the ability to use the whole operating line as they so see fit.

Ch. Svedjan: Further discussion. Voice vote on the amendment .0101 on HB 1011. Motion carried. We now have the bill before us as amended. What are the committee's wishes.

Rep. Kaldor: I move a Do Pass as amended.

Rep. Meyer: Second.

23 YES 0 NO 2 ABSENT

DO PASS AS AMENDED

CARRIER: Rep. Kaldor

98012.0101
Title.
Fiscal No. 1

Attachment A
2/16/09
Prepared by the Legislative Council staff for
House Appropriations - Government
Operations

February 9, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1011

Page 1, line 2, after "commissioner" insert "; and to provide for a legislative council study"

Page 1, line 12, replace "148,006" with "123,006" and replace "706,441" with "681,441"

Page 1, line 13, replace "296,816" with "271,816" and replace "2,120,494" with "2,095,494"

Page 1, line 15, replace "196,816" with "171,816" and replace "1,803,295" with "1,778,295"

Page 2, after line 4, insert:

**"SECTION 3. LEGISLATIVE COUNCIL STUDY - SECURITIES
COMMISSIONER FEES.** During the 2009-10 interim, the legislative council shall
consider studying the structure and appropriateness of the level of fees charged by the
securities commissioner. The legislative council shall report its findings and
recommendations, together with any legislation required to implement the
recommendations, to the sixty-second legislative assembly."

Renumber accordingly

A copy of the statement of purpose of amendment is attached.

Amend
2-13
7-0
Kaldun

STATEMENT OF PURPOSE OF AMENDMENT:**House Bill No. 1011 - Securities Department - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$1,414,053		\$1,414,053
Operating expenses	706,441	(25,000)	681,441
Total all funds	\$2,120,494	(\$25,000)	\$2,095,494
Less estimated income	317,199	0	317,199
General fund	\$1,803,295	(\$25,000)	\$1,778,295
FTE	9.00	0.00	9.00

Department No. 414 - Securities Department - Detail of House Changes

	Reduces Funding for Operating Expenses	Total House Changes
Salaries and wages		
Operating expenses	(25,000)	(25,000)
Total all funds	(\$25,000)	(\$25,000)
Less estimated income	0	0
General fund	(\$25,000)	(\$25,000)
FTE	0.00	0.00

Funding for operating expenses is reduced by \$25,000.

A section is added providing for a Legislative Council study of the fees charged by the Securities Commissioner.

2009 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 98012.0101

Action Taken Adopt Final Amendment

☒ Voice Vote

☒ Roll Call Vote

Motion Made By Representative Glassheim: Seconded By Representative Kaldor:

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Glassheim		
Vice Chairman Thoreson			Representative Meyer		
Representative Kempenich			Representative Kaldor		
Representative Berg					
Representative Dosch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Amendment Attached

ADOPTED

2009 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 98012.0101

Action Taken Do Pass As Amended

☐ Voice Vote

☒ Roll Call Vote

Motion Made By Vice Chairman Thoreson: Seconded By Representative Glassheim:

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Glassheim	X	
Vice Chairman Thoreson	X		Representative Meyer	X	
Representative Kempenich	X		Representative Kaldor	X	
Representative Berg	A				
Representative Dosch	X				

Total (Yes) 7 No 0

Absent 1

Floor Assignment Representative Kaldor:

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

Date: 2/14/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1011

Page 30

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 98012.0101

Action Taken Adopt Amendment .0101

Motion Made By Kaldor Seconded By Berg

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Vote - carries

VK
2/18/09
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1011

Page 1, line 2, after "commissioner" insert "; and to provide for a legislative council study"

Page 1, line 11, replace "148,810" with "133,877" and replace "1,414,053" with "1,399,120"

Page 1, line 12, replace "148,006" with "123,006" and replace "706,441" with "681,441"

Page 1, line 13, replace "296,816" with "256,883" and replace "2,120,494" with "2,080,561"

Page 1, line 15, replace "196,816" with "156,883" and replace "1,803,295" with "1,763,362"

Page 2, after line 4, insert:

**"SECTION 3. LEGISLATIVE COUNCIL STUDY - SECURITIES
COMMISSIONER FEES.** During the 2009-10 interim, the legislative council shall consider studying the structure and appropriateness of the level of fees charged by the securities commissioner. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98012.0102 FN 2

A copy of the statement of purpose of amendment is attached.

STATEMENT OF PURPOSE OF AMENDMENT:**House Bill No. 1011 - Securities Department - House Action**

	Executive Budget	House Changes	House Version
Salaries and wages	\$1,414,053	(\$14,933)	\$1,399,120
Operating expenses	706,441	(25,000)	681,441
Total all funds	\$2,120,494	(\$39,933)	\$2,080,561
Less estimated income	317,199	0	317,199
General fund	\$1,803,295	(\$39,933)	\$1,763,362
FTE	9.00	0.00	9.00

Department No. 414 - Securities Department - Detail of House Changes

	Reduces Funding for Operating Expenses¹	Removes Salary Equity Funding²	Total House Changes
Salaries and wages		(\$14,933)	(\$14,933)
Operating expenses	(25,000)		(25,000)
Total all funds	(\$25,000)	(\$14,933)	(\$39,933)
Less estimated income	0	0	0
General fund	(\$25,000)	(\$14,933)	(\$39,933)
FTE	0.00	0.00	0.00

¹ Funding for operating expenses is reduced by \$25,000.

² This amendment removes funding added in the executive budget for state employee salary equity adjustments.

A section is added providing for a Legislative Council study of the fees charged by the Securities Commissioner.

Date: 2/16/09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1011

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass as Amended. 0101

Motion Made By Kaldor Seconded By Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 23 No 0

Absent 2

Floor Assignment Rep. Kaldor

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, 2 ABSENT AND NOT VOTING). HB 1011 was placed on the Sixth order on the calendar.

Page 1, line 2, after "commissioner" insert "; and to provide for a legislative council study"

Page 1, line 11, replace "148,810" with "133,877" and replace "1,414,053" with "1,399,120"

Page 1, line 12, replace "148,006" with "123,006" and replace "706,441" with "681,441"

Page 1, line 13, replace "296,816" with "256,883" and replace "2,120,494" with "2,080,561"

Page 1, line 15, replace "196,816" with "156,883" and replace "1,803,295" with "1,763,362"

Page 2, after line 4, insert:

"SECTION 3. LEGISLATIVE COUNCIL STUDY - SECURITIES COMMISSIONER FEES. During the 2009-10 interim, the legislative council shall consider studying the structure and appropriateness of the level of fees charged by the securities commissioner. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98012.0102 FN 2

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

2009 SENATE APPROPRIATIONS

HB 1011

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1011

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 2, 2009

Recorder Job Number: 9935

Committee Clerk Signature

Rose Lanning

Minutes:

Chairman Holmberg called the committee hearing to order on HB 1011 to defray the expenses of the securities commissioner.

Chairman Holmberg reminded everyone that they are well aware of the issue of salaries and equity, and they will be handling those issues separately so we don't need to talk about them.

Karen Tyler, State Securities Commissioner

Written attached testimony # 1 & 2.

Karen Tyler gave an overview of the workings of her agency: registrations, examinations, investigations, enforcement, investor education, and financial literacy.

Senator Seymour asked if their registration forms are online and **Karen Tyler** said that most can be facilitated manually, but it's mostly electronic.

Senator Warner: Last session, there was legislation that changed the way the secretary of state registers corporations, does that have any effect on your department, workload or budget?

Karen Tyler: I don't expect any change.

Senator Seymour. Say you had another Ponzi scheme and you wanted to look at their computer. Do you have a BCI (Bureau of Criminal Investigations) go in and do that – or who does that?

Karen Tyler: We do. When we activate a search warrant, the Bureau of Criminal Investigation goes in with us. The electronic records are also secured. We do have the BCI take possession of the computers from a protocol standpoint so that we make sure the evidence remains secure and it can't be charged with tampering of evidence.

V. Chair Grindberg closed the hearing on HB 1011.

98012.0301
Title. *0400*
Fiscal No. 1

Prepared by the Legislative Council staff for
Senator Bowman
March 13, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1011

Page 1, line 11, replace "133,877" with "148,810" and replace "1,399,120" with "1,414,053"

Page 1, line 12, replace "123,006" with "148,006" and replace "681,441" with "706,441"

Page 1, line 13, replace "256,883" with "296,816" and replace "2,080,561" with "2,120,494"

Page 1, line 15, replace "156,883" with "196,816" and replace "1,763,362" with "1,803,295"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98012.0301 FN 1

A copy of the statement of purpose of amendment is attached.

STATEMENT OF PURPOSE OF AMENDMENT:**House Bill No. 1011 - Securities Department - Senate Action**

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$1,414,053	\$1,399,120	\$14,933	\$1,414,053
Operating expenses	706,441	681,441	25,000	706,441
Total all funds	\$2,120,494	\$2,080,561	\$39,933	\$2,120,494
Less estimated income	317,199	317,199	0	317,199
General fund	\$1,803,295	\$1,763,362	\$39,933	\$1,803,295
FTE	9.00	9.00	0.00	9.00

Department No. 414 - Securities Department - Detail of Senate Changes

	Restores Salary Equity Funding¹	Restores Operating Expenses Funding²	Total Senate Changes
Salaries and wages	\$14,933		\$14,933
Operating expenses		25,000	25,000
Total all funds	\$14,933	\$25,000	\$39,933
Less estimated income	0	0	0
General fund	\$14,933	\$25,000	\$39,933
FTE	0.00	0.00	0.00

¹ This amendment restores salary equity funding removed by the House.

² This amendment restores funding for operating expenses removed by the House.

Date: 3-13-09Roll Call Vote # 1**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**
BILL/RESOLUTION NO. 1011Senate Senate Appropriations Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ AmendedMotion Made By Robinson Seconded By Bowman

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Ch	✓		Sen. Tim Mathern	✓	
Sen. Tony S. Grindberg, VCh	✓		Sen. Aaron Krauter	✓	
Sen. Bill Bowman, VCh	✓		Sen. Larry J. Robinson	✓	
Sen. Randel Christmann	✓		Sen. John Warner	✓	
Sen. Rich Wardner	✓		Sen. Elroy N. Lindaas	A	
Sen. Ralph L. Kilzer	✓		Sen. Tom Seymour	✓	
Sen. Tom Fischer	✓				
Sen. Karen K. Krebsbach	✓				

Total Yes 13 No 0Absent 1Floor 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 (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1011
was placed on the Sixth order on the calendar.

Page 1, line 11, replace "133,877" with "148,810" and replace "1,399,120" with "1,414,053"

Page 1, line 12, replace "123,006" with "148,006" and replace "681,441" with "706,441"

Page 1, line 13, replace "256,883" with "296,816" and replace "2,080,561" with "2,120,494"

Page 1, line 15, replace "156,883" with "196,816" and replace "1,763,362" with "1,803,295"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98012.0301 FN 1

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

2009 HOUSE APPROPRIATIONS

CONFERENCE COMMITTEE

HB 1011

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1011

House Appropriations Committee
Government Operations Division

☒ Check here for Conference Committee

Hearing Date: 4/20/09

Recorder Job Number: #11987

Committee Clerk Signature

Marlyp Kienle

Minutes:

Representative Dosch opened the conference committee. All conferees are present.

Senator Bowman: I had a very lengthy discussion with Securities Commissioner before we did anything with this budget. When you look at the type of operation they have and the type of witness they need, along with the people that are involved in these cases you can't afford to retrain new employees numerous times. When you are taking on these huge companies you have to have the very best witnesses needed. That is only if they are needed. The results of what I have heard are that the turn back. If it is not needed it is not spent and you can't get a better deal than that. I thought by restoring the equity pool to be able to use them when they are need is better than retaining a rookie that does not have the qualification to take on the big jobs. That was basically what I talked to our people on and they agreed that this did sound like a good move. I thought it had legitimacy and in the testimony.

Representative Dosch: I think the equity portion is something that the leadership is going to work out. Are there any comments about restoring operating expenses of 25,000?

Senator Bowman: That was them money that helped pay the witnesses. They have to find the very best they can get because the complexities of these issues. I know that when you are taking on huge firms that defrauded people you have to have people that are capable. This

was part of the pool of money to take care of that. It is only used when it is need to be use. It is not money they are going to spend but invest in people that help bring money back to people that are defrauded.

Representative Dosch: I believe this last biennium they had anticipating about 80,000 of turn back. We felt we needed to reduce that amount.

Senator Mathern: It is interesting, the \$80,000 turn back indicates what Sen Bowman has said that they actually turn the money if they don't need it. That to us supported the request.

Senator Krebsbach: I would further say that it perhaps was indicative that there wasn't a demand for those cases this period of time and we never know. What they are basically requesting is the same as they previously were getting.

Representative Berg: I think the other issues are that these budgets were built on \$4 gas. I think some of the operating expenses are going to be reduced. I think the budget is going up 200,000, from 1.6 to 1.8 over last biennium. Is that correct? I think it is hold even in FTEs. The small reduction in operating was for travel expense and also for 150,000 more and the 80,000 turn back.

Senator Mathern: I just wonder if they could have the agency could tell us how many miles they are going to be putting on and let us figure out how much it would be.

Karen Tyler, Securities Commissioner: I don't know that our travel expenses really changed. We have examinations and investigators here in Bismarck and than in the eastern region also. The issue for us is that a few years ago the Legislature gave to us 154,000 dollars to allow us to deal with litigation related issues. We never know from one biennium or year what our litigation case load is going to be but we do want to be prepared to deal with it. Also we may find ourselves in a situation where we have to bring in outside legal counsel to deepen the

bench when we have to go up against Wall Street Firms. That is really where we feel that \$25,000 would come into play.

Senator Bowman: I have one other point that I would like her to discuss because I brought up is keeping the trained personal rather than the amount of time it takes to train personal to do become expertise.

Karen Tyler, Securities Commissioner: Just before I came down here this morning my lead investigator was on the phone with a gentleman from Grafton. For the investigating team to work efficiently the training in Security matters have to be intense and take years.

Representative Kaldor: I don't recall from our discussion, how far were you from the midpoint after the governor's budget was prepared relative to the equity increase.

Karen Tyler, Securities Commissioner: The plan is to allocate the equity strictly to the three investigators. It would bring them all to the midpoint or slightly over.

Tammy Dolan, OMB: In regards to the operating expense increase there was about \$150,000 increase for this biennium but 100,000 of that is increase in special fund authority due to the receipt for personal financial Education that the agency receives. About 31,000 was due to there 4 year plan for the IT replacement cycle. So that would be in this biennium but would go away for the next biennium.

Senator Krebsbach: So it is basically the same except the salary enhancement and the 30,000 approximately for the computer equipment.

Representative Berg: I just wanted to get to the bottom of that as I miss spoke too. If I look it is going to 1.8 to 2.12 about 300,000 dollar increase.

Tammy Dolan, OMB: That would be correct. The only part of that was in the operating expense line was in the 100,000 for the grant funds for personal grant funds. The rest is compensation packages. They did not have any new FTE's.

Representative Berg: I really do think there are a lot of these issues that are overlapping from Insurance, Financing, Securities and Banking and I would like to see in long term to have the best enforcement and protection the citizens at the State level.

Representative Dosch: We will need one more meeting.

Representative Dosch closed the discussion on House Bill 1011.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1011

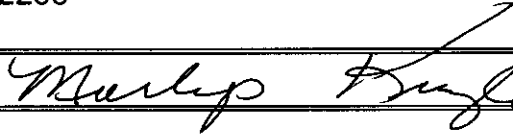
House Appropriations Committee
Government Operations Division

☒ Check here for Conference Committee

Hearing Date: 4/25/09

Recorder Job Number: #12258

Committee Clerk Signature



Minutes:

Representative Dosch called the conference committee on House Bill 1011 to order. All conferees were present.

Representative Dosch: The equity issue has been resolved and the other is the one where the Senate restored the \$25,000 worth of operating expenses. I guess just to give a little bit of background on that as to why we removed the \$25,000 is that they are anticipated that they were going to turn back about \$80,000 out of their professional fees line that they did not utilize. That is our reasoning for the removal.

Representative Berg: I noticed that we also added the section on for Legislative study on the fees that were being charged. Was that taken out by the Senate?

Senator Bowman: On page 31 on the Red Book

Senator Mathern: We left it in there.

Representative Berg: The only purpose of that is we should be what these fees are in related to the National Securities Market because securities have become much more than an isolated deal. It should have a fair balance in there.

Senator Krebsbach: Was it questioned at the time of the hearing as to what they were charging and what their fees are?

Representative Berg: I think we didn't really want to get in to it then. It is more long term. Really the only issue is that \$25,000 reduction in operating. Having said that, this is kind of a small issue in the scheme of things. I think we are very impressed with the Securities Commissioner and the job that they have done over the last two years. I do think there are going to be more scams out there and problems and that is why we left the budget intact.

Senator Bowman: We are talking about \$25,000 and that isn't a lot of money but as costs go up and we continue to have this success that tells me there is good management practicing being used. They requested this money and if they don't use it they won't be spend it. It will be turn back in the budget. She is winning that for the people.

Senator Mathern: On the equity issue, I don't support the change in the equity for two reasons. One is I have no idea of what the formula is going to be for the replacement into this agency. I am concerned that a small agency could fall out of the process if equity is not properly funded. We haven't passed the equity bill. I am in support of adding \$25,000 to the amount of this budget.

Representative Berg: I just have a quick question are all of your employees classified?

Karen Tyler, Securities Commissioner: The planned that I purposed to the Appropriations was for the investigating staff. Allocating the equity specifically to three investigators on our staff and they would all qualify. If I am answering your question?

Representative Berg: Are they all classified employees?

Karen Tyler, Securities Commissioner: Yes.

Representative Berg: It seems to me your office is not affected at all for eligibility. There may not be enough equity but there is not a gap. Since the employees are classified they will not have any problem with eligibility.

Representative Kaldor: Your agency would be eligible to go to the pool for equity but I don't think there would be a guarantee that you would get your proportionate share because of the study and how far away from the midpoint you are from other agencies in the state. Do you think I am reading that appropriately.

Karen Tyler, Securities Commissioner: I am not at all confident that I will have an equity funding for the three staff members I need if it is not specifically in our budget.

Representative Berg: I think everyone views this different. I feel if they set the equity pool at a 2/3 that means everyone gets 2/3. Inequities are if you use horizontal lines and vertical lines in state government.

Representative Kaldor: Representative Berg is exactly right. That is one of the issues that would be of concern in a budget like this. There is a great likelihood that some agencies need equity support not because they don't have disparities with their employees that we can compare to but because there are going to be other agencies where equity need to a higher level. I agree with you I think we need to recognize that and understand its affect. The agencies don't know themselves where they fall and that alone is also troublesome as we try for the budget.

Representative Dosch: We trusted OMB to come up with the initial equity listing and we have given to them to appropriate this as they feel deemed as well. If we trusted them with the first numbers we have to trust them with the second set that they do.

Senator Mathern: I have heard wording about the amendment that will be adopted on the OMB bill that suggests salaries are going to be compared to South Dakota and not to

Minneapolis/St. Paul or to Denver. The young people to the other cities they don't go to Pierre South Dakota. I am not sure that there will be any equity money coming into this agency.

Representative Dosch: I understand that it is going to be a four state look at.

Representative Berg: I make a motion that the Senate recede from the Senate amendments and adopt the amendment where we remove the equity and add the \$25,000.

Sen Krebsbach: Seconded the motion.

Vote Taken: The motion passed and committee hearing closed.

98012.0302
Title.0500
Fiscal No. 1

Prepared by the Legislative Council staff for
Conference Committee
April 25, 2009

VR
4/25/09
1082

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1011

That the Senate recede from its amendments as printed on page 1004 of the House Journal and pages 773 and 774 of the Senate Journal and that Engrossed House Bill No. 1011 be amended as follows:

Page 1, line 12, replace "123,006" with "148,006" and replace "681,441" with "706,441"

Page 1, line 13, replace "256,883" with "281,883" and replace "2,080,561" with "2,105,561"

Page 1, line 15, replace "156,883" with "181,883" and replace "1,763,362" with "1,788,362"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98012.0302 FN 1

A copy of the statement of purpose of amendment is attached.

STATEMENT OF PURPOSE OF AMENDMENT:**House Bill No. 1011 - Securities Department - Conference Committee Action**

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$1,414,053	\$1,399,120		\$1,399,120	\$1,414,053	(\$14,933)
Operating expenses	706,441	681,441	25,000	706,441	706,441	
Total all funds	\$2,120,494	\$2,080,561	\$25,000	\$2,105,561	\$2,120,494	(\$14,933)
Less estimated income	317,199	317,199	0	317,199	317,199	0
General fund	\$1,803,295	\$1,763,362	\$25,000	\$1,788,362	\$1,803,295	(\$14,933)
FTE	9.00	9.00	0.00	9.00	9.00	0.00

Department No. 414 - Securities Department - Detail of Conference Committee Changes

	Restores Funding for Operating Expenses¹	Total Conference Committee Changes
Salaries and wages		
Operating expenses	25,000	25,000
Total all funds	\$25,000	\$25,000
Less estimated income	0	0
General fund	\$25,000	\$25,000
FTE	0.00	0.00

¹ This amendment restores \$25,000 from the general fund for operating expenses removed by the House. This is the same amount that was restored in the Senate version.

All present

Action

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

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

Date: 4/25/09

Your Conference Committee Gov Ops

For the Senate:

For the House:

	YES / NO			YES / NO	
Bowman	✓		Dosch	✓	
^{2nd} Krebsbach	✓		✓ Berg	✓	
Mathern		✓	Kaldor		✓

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

the (Senate/House) amendments on (SJ/HJ) page(s) 1004 - _____

_____, and place _____ on the Seventh order.

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

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

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

DATE: _____

CARRIER: Rep. Dosch / Sen. Bowman

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

MOTION MADE BY: Berg

SECONDED BY: Krebsbach

VOTE COUNT 4 YES 2 NO _____ ABSENT

Revised 4/1/05

restore the \$ 25,000.

REPORT OF CONFERENCE COMMITTEE

HB 1011, as engrossed: Your conference committee (Sens. Bowman, Krebsbach, Mathern and Reps. Dosch, Berg, Kaldor) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1004, adopt amendments as follows, and place HB 1011 on the Seventh order:

That the Senate recede from its amendments as printed on page 1004 of the House Journal and pages 773 and 774 of the Senate Journal and that Engrossed House Bill No. 1011 be amended as follows:

Page 1, line 12, replace "123,006" with "148,006" and replace "681,441" with "706,441"

Page 1, line 13, replace "256,883" with "281,883" and replace "2,080,561" with "2,105,561"

Page 1, line 15, replace "156,883" with "181,883" and replace "1,763,362" with "1,788,362"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98012.0302 FN 1

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

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

2009 TESTIMONY

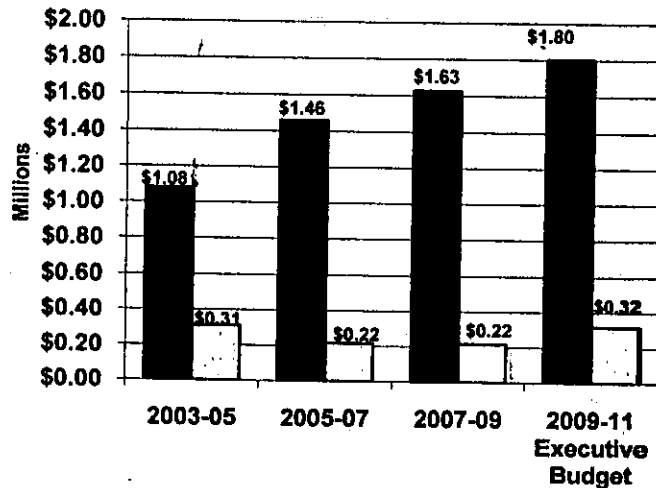
HB 1011

Department 414 - Securities Department
House Bill No. 1011

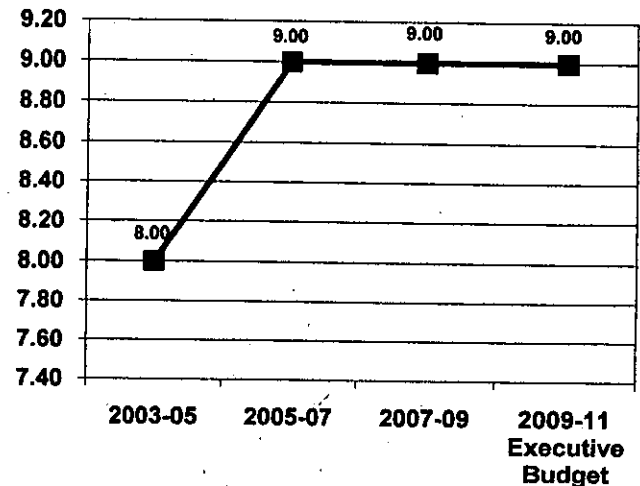
	FTE Positions	General Fund	Other Funds	Total
2009-11 Executive Budget	9.00	\$1,803,295	\$317,199	\$2,120,494
2007-09 Legislative Appropriations	9.00	1,628,395	217,199	1,845,594 ¹
Increase (Decrease)	0.00	\$174,900	\$100,000	\$274,900

¹The 2007-09 appropriation amounts include \$5,040 from the general fund for the agency's share of the \$10 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for classified employees.

Agency Funding



FTE Positions



■ General Fund □ Other Funds

Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2009-11 Executive Budget	\$1,803,295	\$0	\$1,803,295
2007-09 Legislative Appropriations	1,611,519	16,876	1,628,395
Increase (Decrease)	\$191,776	(\$16,876)	\$174,900

Executive Budget Highlights

	General Fund	Other Funds	Total
1. Provides funding of \$14,933 to address salary equity issues, including funding of \$1,200 for the related second-year salary increase	\$14,933		\$14,933
2. Provides special funds spending authority for personal finance education to be conducted in accordance with a grant received by the department		\$100,000	\$100,000
3. Provides funding for information technology equipment replacement	\$30,872		\$30,872
4. Increases funding for storage needs (\$4,363), communications (\$8,575), and staff training (\$4,196)	\$17,134		\$17,134
5. Removes 2007-09 one-time funding provided for a document storage and retrieval system	(\$16,876)		(\$16,876)

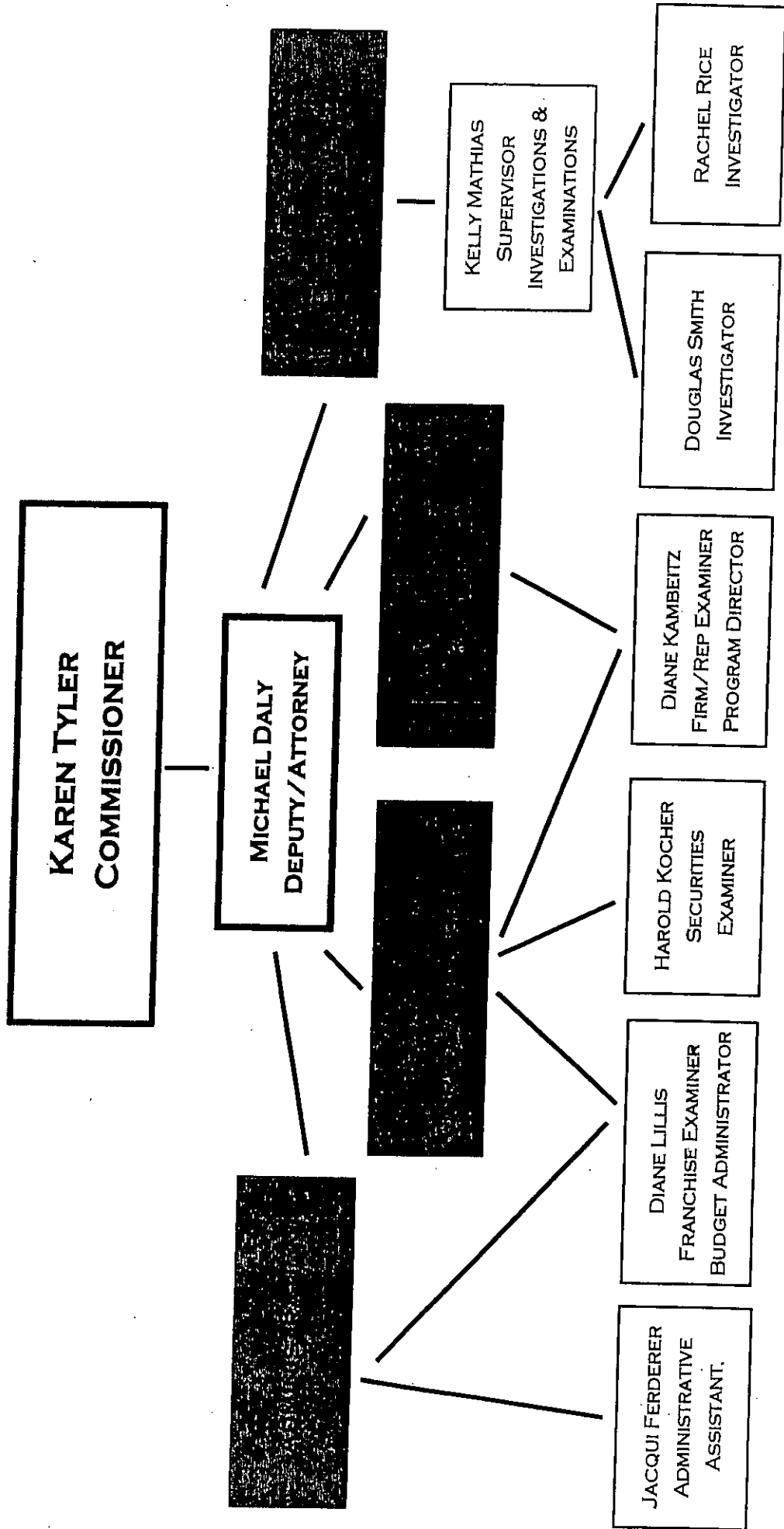
Continuing Appropriations

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

Major Related Legislation

House Bill No. 1100 - This bill amends the definition of an institutional investor, amends the types of securities transactions exempt from registration, and amends securities registration filing fees.

North Dakota Securities Department Organizational Chart



House Bill 1011

Testimony of North Dakota Securities Commissioner Karen Tyler

Before the House Appropriations Committee

Government Operations Division

January 12, 2009

Mr. Chairman and Members of the Committee, Good Morning. I am Karen Tyler, the State Securities Commissioner. It is a pleasure to share some time with you this morning to discuss the budget appropriation for the North Dakota Securities Department, and to answer any questions you may have regarding our agency budget request as set forth in 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 (10-04). We support this mission through our efforts in four functional areas:

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

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

The North Dakota Securities Department is a small agency, with 9 full time employees. We are a profitable agency, generating over \$14 million dollars in revenue in each of the last 3 biennium periods, and we estimate approximately \$17 million dollars this biennium. The agency spends only 10 cents of every revenue dollar generated.

CAPITAL FORMATION AND FRANCHISE REGISTRATION

The Securities Department assists businesses with the process of issuing securities for the purpose of raising capital. Biennium to date, 53 North Dakota companies have issued securities, with the aggregate original amount of the securities offerings totaling over \$116 million dollars. (116,842,016) Should you have interest in learning more about these offerings, a report has been included with my written testimony which identifies the North Dakota companies that have engaged in securities offerings and the initial dollar amount of the offering. We also keep a current listing of this information on our website. I would add that in addition to the North Dakota offerings I have just mentioned, there are over 20,000 active securities filings in North Dakota, the majority of which are mutual funds and unit investment trusts. In the franchise area, there are currently 739 franchises registered in the state of North Dakota, and this represents a 12% increase from the previous biennium. Both the registration of securities offerings and franchises generate revenue for the state.

REGISTRATION OF SECURITIES FIRMS AND PROFESSIONALS

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examination process conducted by this agency allows for the screening of applicants with disciplinary histories or other public disclosures, by whom our citizen investors would not be well-served. In such cases, as necessary, registration applications will be denied or conditionally approved. Currently, registration records show:

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53,052 Agents

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The primary objective of the Department's enforcement mandate is the return of money to harmed investors. Investigations of fraud and misconduct and subsequent enforcement actions result in monies returned to North Dakota Investors through rescission, recovery and restitution. In some cases, enforcement actions generate revenue as a result of the assessment of civil

penalties against wrongdoers. Biennium to date our enforcement actions have resulted in over \$3.1 million dollars returned to North Dakota investors.

Since July 2007, we have opened 122 enforcement cases and averaged 50-55 individual open cases on an ongoing basis. Several of these cases have multiple victims so with a victims-based measurement we have averaged 100 open cases. Our caseload is tracking 10% higher than the previous biennium. The agency has closed 81 enforcement cases biennium to date. The sale of securities by unregistered individuals, ponzi schemes, unsuitable product recommendations, and the lock-up of the Auction Rate Securities market represent the types of cases we have been dealing with this biennium.

Financial crime can have devastating consequences for our residents – economically, socially, and emotionally. I cannot over-emphasize the importance of the Department's investor protection mandate, and I must say I am exceedingly proud of the dedication and diligence of the department's enforcement professionals.

BUDGET REQUEST

The total budget request for the North Dakota Securities Department is \$2,120,494. The general fund request is 100% of the funding level from the 07-09 biennium plus enhancements for compensation package and equity adjustments applied by the Office of Management and Budget, computer replacement, and other operating expenses. The budget request breaks down as an appropriation of \$1,803,295 from the general fund and \$317,000 from the agency's special fund, which is restricted to funding financial education expenses of the Department.

Turn back estimated from 07-09 budget appropriation: approximately \$80,000.00

Revenue Information/Projections – see exhibits

EXHIBITS

Attached as exhibit C 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 D is a chart showing breakdown of the various registration revenues collected by the Department. This chart reflects collections through December 31, 2008. We estimate that total registration revenues for this biennium will be approximately \$17 million dollars.

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

INDUSTRY CONSIDERATIONS/AGENCY OUTLOOK

I would like to conclude by taking just a moment to talk about the challenges that lie ahead for both investors and securities regulators.

I'm certain that all of you are aware that "Regulatory Reform" will take center stage for the 111th Congress and the new President's administration. The debate over regulatory reform for the

securities industry has been a perpetual exercise for the last 75 years, with adjustments in volume and intensity driven most often by economic conditions, market performance and the varied agendas of interested parties. Two years ago, it was vigorously argued by some that regulatory reform was needed because we had **too much** regulation and it was driving business overseas. Today, it is vigorously argued that regulatory reform is needed because we have **too little** regulation and it has driven us into the ditch.

One comprehensive plan for reform was published in March of last year: The US Treasury Department's Blueprint for a Modernized Financial Regulatory Structure. I bring this to your attention because under this plan the authority of state securities regulators is eviscerated. From a fiscal standpoint, the revenue we just discussed would no longer be collected. More importantly, from an investor protection standpoint, we would lose the authority to take action when our citizens are victimized by investment fraud.

While it is unlikely that the Treasury's plan would be adopted, certain concepts presented are likely to survive and evolve in the next round of debate. Protection of the Main Street investor should be the centerpiece of the securities regulatory structure, and the primary focus of this current reform debate. But if state securities regulation is impaired or eliminated, we will be left with only the illusion of reform and the reality of a severely compromised system of protection for our investor constituents.

The extraordinary events of the last 18 months lead Securities regulators across the country, and North Dakota is no exception, to fully expect the number of investor complaints, examinations,

investigations and enforcement actions to continue to trend upward. The integrity and strength of the laws, rules and regulations governing our capital markets must be maintained, and it is imperative that securities regulators are equipped with sufficient resources to carry out our investor protection mandate.

This concludes my testimony on HB 1011. I respectfully request your approval of the Securities Department budget as submitted, I thank you for your time and your consideration, and I would be happy to answer any questions you may have.

HOUSE APPROPRIATIONS COMMITTEE
HB 1011
JANUARY 12, 2009

SECURITIES OFFERINGS BY NORTH DAKOTA ENTITIES
JULY 1, 2007 THROUGH December 31, 2008

Date	Company	Type of Security & Purpose	Registration by Qualification	City	Amount
11/5/2007	M-Power, LLC	Membership Units Develop wind projects		Finley	\$689,985
1/28/2008	INREIT Real Estate Investment Trust	Shares of Beneficial Interest Real Estate ownership and management		Fargo	\$28,000,000
2/27/2008	Ag Plus Cooperative	Membership Stock Construction and operation of a soybean processing facility		Kindred	\$500,000
9/8/2008	Chiropractic Association of North Dakota	Membership Units Develop a network of member chiropractic physicians		Fargo	\$98,000
10/15/2008	Dakota Real Estate Investment Trust	Units of Beneficial Interest Manage real estate		Fargo	\$1,250,000
		Category Total			\$30,537,985
Section 10-04-06(9)(a) Limited Offeree Exemption					
7/5/2007	DC Holdings, Inc.	Common Stock Business services franchise		Fargo	\$52,000
7/25/2007	Tublinks, LLC	Membership Units Manufacture livestock nutritional products		Walcott	\$200,000
10/29/2007	Northwest Tire, Inc.	Common Stock Sale of tires		Bismarck	\$78,090
10/30/2007	Grizella Corporation	Common Stock Software development		Hebron	\$999,996
11/30/2007	Summit Group Software, Inc.	Common Shares Technology services		Fargo	\$300,000

Date	Company	Type of Security & Purpose	City	Amount
12/3/2007	KFE Harvest Limited Partnership	Partnership Interests Grain storage facility	Kensal	\$600,000
12/11/2007	Psychiatry Networks, Inc.	Common Stock Telephonic mental health services	Fargo	\$60,000
3/7/2008	Dakota Community Bankshares, Inc.	Common Stock Bank holding company	Hebron	\$629,894
4/9/2008	Obermiller Nelson Engineering, Inc.	Commons Stock Professional engineering services	Fargo	\$ 88,947
6/19/2008	Quality Bankshares, Inc.	Common Stock Bank holding company	Fingal	\$ 748,800
6/28/2008	Dakota Pride, LLC	Ordinary Membership Units Develop pedigree seed growing business	Douglas	\$ 192,000
6/30/2008	KBCS Limited Partnership	Partnership Interests Grain storage	Eldridge	\$ 524,700
8/6/2008	Peak Wind Development, LLC	Membership Units Develop wind farm in Barnes County	Tower City	\$ 680,000
9/15/2008	Deceleration Technologies, LLC	Membership Units Invent, develop module to illuminate brake lights	Reynolds	\$ 1,500,000
10/1/2008	M-Power, LLC	Membership Units Wind power development	Finley	\$ 375,000
		Category Total		\$7,029,427
		Section 10-04-06(9)(b) Limited Offeree Exemption		
8/13/2007	Lidgerwood Farmers Elevator Condo Limited Partnership	Partnership Interests Grain storage	Lidgerwood	\$450,000
5/5/2008	The Community Club Corp.	Common Stock Operate restaurant and lounge	Mohall	\$20,000
8/27/2008	Ray Community Housing, Inc.	Common Stock Build housing units	Ray	\$160,000
		Category Total		\$630,000

Date	Company	Type of Security & Purpose <i>Federal Covered Security - Investment Company</i>	City	Amount
10/1/2007	The Integrity Fund Integrity Total Return Income Fund	Class A and Class Shares	Minot	Unlimited
		<i>Regulation D, Rule 506 Notice Filings</i>		
8/21/2007	Gruby Technologies, Inc.	Commons Stock Develop imaging communication system	Bismarck	\$ 1,100,000
9/1/2007	123 ID, Inc.	Common Stock Software Development	Grand Forks	\$ 2,000,000
9/19/2007	Northern Prairie EnviroFuels, LLC	Member Interests Canola processing	Munich	\$ 102,000
9/19/2007	Northern Prairie Investment, LLC	Member Interests Invest in operating company	Munich	\$ 90,000
9/19/2007	North Dakota Sow Center, LLLP	Partnership Interests Swine production facility	Forest River	\$ 6,750,000
10/8/2007	Northern Prairie EnviroFuels, LLC	Member Interests Canola processing	Munich	\$ 13,000,000
11/1/2007	Titan Machinery, Inc.	Preferred Stock Agricultural equipment stores	Fargo	\$ 2,000,000
11/5/2007	The Leikas Group	Equity Internet retailer	Grand Forks	\$ 250,000
12/7/2007	Composite America, LLC	Preferred Mold natural fiber composites	Fargo	\$ 761,698
12/21/2007	Ramsey Financial Corporation	Devils Lake Bank Holding Company	Devils Lake	\$ 2,248,651
1/3/2008	Woodward Company, LLC	Membership Units Oil and gas production	Mandan	\$ 300,000
1/20/2008	Trimlife, Inc	Common Stock Sale of nutritional supplements	Bismarck	\$ 500,000
2/19/2008	Pond Filtration, LLC	Preferred Stock Develop, manufacture and sell outdoor pond filters	Fargo	\$ 150,000

Date	Company	Type of Security & Purpose	City	Amount
2/19/2008	Glacial Holdings, LLC	Debt Own and lease commercial real estate	Minot	\$ 5,000,000
3/26/2008	Avenue Right, LLC	Membership Interests	Fargo	\$ 2,450,000
5/12/2008	Northern Prairie EnviroFuels, LLC	Membership Interests Canola Processing	Munich	\$ 300,000
7/15/2008	Lewis & Clark Capital Fund, LLLP	Partnership Interests Private investment partnership	Fargo	Unlimited
7/18/2008	Northern Prairie Specialty Oils, LLC	Membership Interests Oilseed processing	Munich	\$ 13,202,309
10/17/2008	Northern Plains Capital Corporation	Equity	Bismarck	\$ 150,000
10/23/2008	Arthur Ventures Growth Fund, LLC	Equity Private equity fund	Fargo	\$ 15,000,000
11/17/2008	Dakota UPREIT Limited Partnership	Equity Real Estate financing	Fargo	\$ 5,000,000
11/25/2008	Blackridge Financial, Inc.	Common Stock Acquire and operate community banks	Fargo	\$ 1,400,000
12/9/2008	Packet Digital, LLC	Equity	Fargo	\$ 3,500,000
		Category Total		\$ 75,254,658
		Incorporation Stage Exemption-Section 10-04-06(16)		
4/22/2008	Square Butte Venture Partners, LLC		Mandan	
5/23/2008	Angel Medical Investment, LLC		Fargo	

Date	Company	Type of Security & Purpose	City	Amount
Accredited Investor Exemption Filings				
7/17/2007	Raceday, Inc	Common Stock Automobile services	Bismarck	\$ 3,000
8/27/2007	Workforce ScheduleSoft Corp.	Preferred A Stock Develop and sell software	Fargo	\$ 1,000,000
9/21/2007	M-Power, LLC	Membership Interests Wind project	Finley	\$ 350,100
10/29/2007	National Medical Resources, Inc.	Common Stock Medical consulting services	Bismarck	\$ -
12/13/2007	Rocks and Blocks, Inc.	Common Stock Landscape products	Bismarck	\$ 105,000
1/16/2008	JAJ Ventures, Inc.	Common Stock Operation of businesses	Bismarck	\$ 500,000
3/28/2008	Prairie Auto Parts Incorporated	Common Stock Sales of auto parts	Dickinson	\$ 114,846
8/27/2008	NDSU Research Park Ventures, LLC	Partnership Interests Renaissance fund organization	Fargo	\$ 4,817,000
		Category Total		\$ 6,889,946
TOTAL SECURITIES OFFERINGS BY NORTH DAKOTA ENTITIES JULY 1, 2007 THROUGH DECEMBER 31, 2008				\$ 120,342,016



HB1011 Appropriations - GO
2009-2011 Equity funding

Class	Grade	7/1/09 Yrs Svc	C-Ratio	Salary Monthly	Cost	with benefits	2nd year	
							Increase	Total
CL0415	12	3.6	0.83	3,404	142	172	3,576	
CL0415	12	9.1	0.96	3,958	142	172	4,130	
CL0417	13	18.6	0.97	4,400	189	229	4,629	
				Grade	Midpoint	13733	1200	14933
				12	4,109			
				13	4,517			

The members of the Securities Department's investigative team possess a highly specialized skill set necessary for the effective investigation of securities fraud activity and the effective execution of broker-dealer and investment adviser firm examinations. Unless a new hire had previously worked for another securities regulator (state, federal or SRO), developing this expertise would be a multi-year process, achieved through specialized training and practical application in the field.

The Securities Department has three investigators. One of our investigators is the Supervisor for our investigative team, while also managing a dedicated investigations/examinations case load. Another of our investigators operates our East Region office and holds managerial and administrative responsibilities in addition to a dedicated investigations/examinations case load.

The Securities Department investigative team has two objectives: Deter investment fraud and misconduct from occurring through the execution of routine exams, and, when investment fraud does occur, restore financial security to victimized investors. Financial crime can have devastating consequences for our residents – economically, socially, and emotionally. It is through the work of our investigators that the Department is able to secure repayment to victimized investors, in some cases returning to them a lifetime of savings. In doing so, our investigators restore much more than financial security – they restore to investors emotional well-being, independence, and dignity. This is difficult to measure, but certainly must be valued and recognized.

HB1011 SECURITIES DEPARTMENT
Computer Pricing 2009-2011

Item	Part #	# Units	Unit Price	Cost Per FTE	Sub Total	Sub	Discounts	Total
Hardware								
Laptops	Thinkpad T61 15 Widescreen	6	2,283.84		13,703.04			
	Thinkpad 4 yr warranty	6	229.00		1,374.00			
Workstations	Thinkpad Advanced Dock	6	303.20	2816.04	1,819.20	16,896.24	2534.436	14,361.80
	HP dc7800 Desktop	3	784.00		2,352.00			
	HP memory upgrade 4 gb	3	147.00		441.00			
	HP floppy drive	3	7.00		21.00			
	HP chipset upgrade	3	15.00	953.00	45.00	2,859.00	428.85	2,430.15
	Replace HP printer/envelop feeder	9	4,200.00		4,200.00			
	Lenovo 22 in. monitor	9	450.00	449.99	4,050.00	8,250.00	1237.5	7,012.50
	Hardware Total					28,005.24	4200.786	23,804.45
Miscellaneous								
	Laptop bags	6	125.00	750.00				
	Radial arm	1	300.00	300.00				
	Software					1,050.00	0	1,050.00
	Office 2007	9	229.00	2,061.00				
	Time Matters - upgrade	5	149.90	749.50				
	Adobe Acrobat 9 - upgrade	5	129.00	645.00				
	Adobe Acrobat 9 - Initial	4	199.00	796.00				
	Software Total					4,251.50		4,251.50
	IT - Data Processing - support					1,767.00		1,767.00
	Grand Total					35,073.74	4200.79	30,872.95

We will again request a waiver to replace IBM laptops for administrative and investigative staff due to the need of high levels of processing speed to enable access to several software applications in conjunction with enforcement database.

Software applications that are already in place include voice recording software, (surveillance, exam and interview related) voice recognitions software, file extracting software, video and picture recording software (surveillance, exam and interview related), and evidence analysis software like P2p that allows the computers to mount and view electronic evidence from seized computers without tainting the evidence.

These computers are often used in the field and are needed to be fully functional while away from the office, therefore the processing speed, ram, hard drive space, monitor resolution, and the ability to ad peripherals is of the utmost importance.

Complaint
Initial complaint received alleging illegal activity. Reviewed and verified registration status.



Search Warrant
Information indicated potential illegal scam. Obtained and executed a Search Warrant with assistance of BCI.



Cease & Desist Order
Based on the seized records and additional records obtained from the Broker/Dealer, Skjerven was issued a Cease & Desist Order.



Subpoena Bank Records
Additional victim complaints were received and Skjerven's bank accounts identified. With the assistance of the Cass County State's Attorney subpoenas were issued for the bank records.



**Analyze Evidence/
Reconstruct Transactions**
Extensive time was spent reviewing and preparing evidence, including bank record analysis and transaction reconstruction. A large PONZI SCHEME involving over 20 victims had been unearthed.



**Settlement Reached
Restitution to Victims**
Broker/Dealer provided restitution to victims in excess of \$2.8 million. Broker/Dealer will also pay a monetary fine.



**Guilty Plea/Conviction
Sentencing**
Skjerven pled guilty and is currently serving 2 years.



Settlement Demand
A settlement demand letter was sent to the Broker/Dealer addressing failed supervision and seeking restitution for victim's.



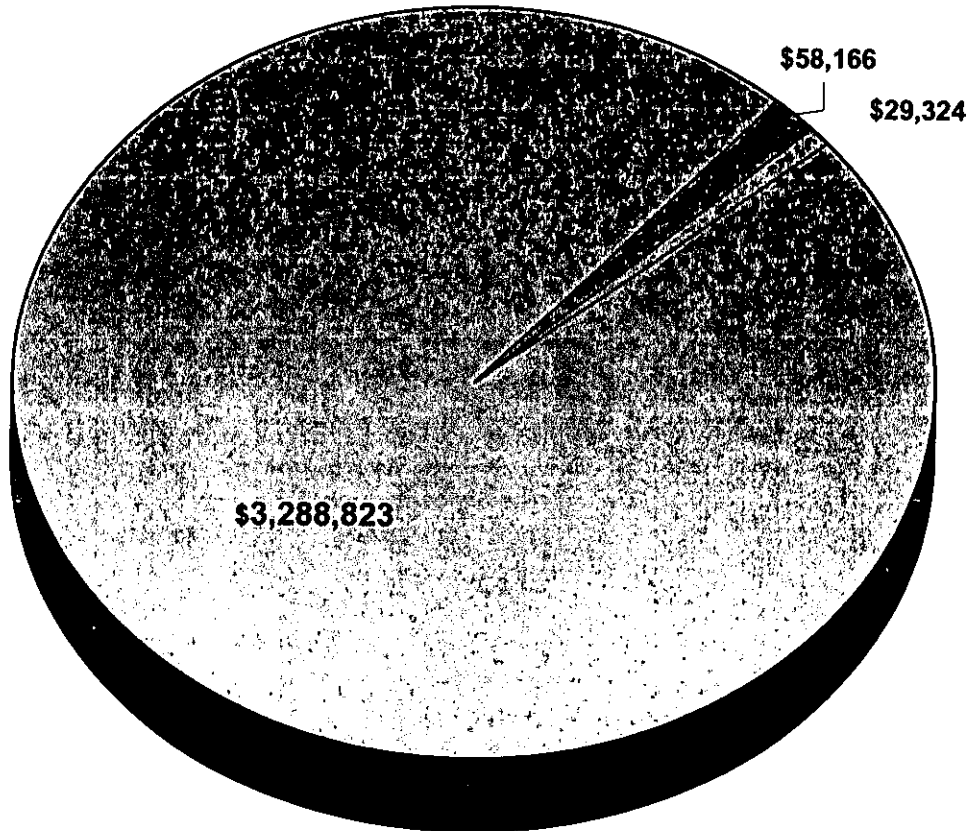
Arrest Warrant Issued
Cass County issued an Arrest Warrant for Skjerven. He was later arrested in MN. Skjerven charged with 38 felony counts including theft and fraud.



Criminal Referral
The Criminal Referral Report was forwarded along with exhibits to Cass County for prosecution. This office maintained a working relationship with Cass County and provided assistance with the prosecution of the case.

HOUSE APPROPRIATIONS COMMITTEE
HB 1011
JANUARY 12, 2009

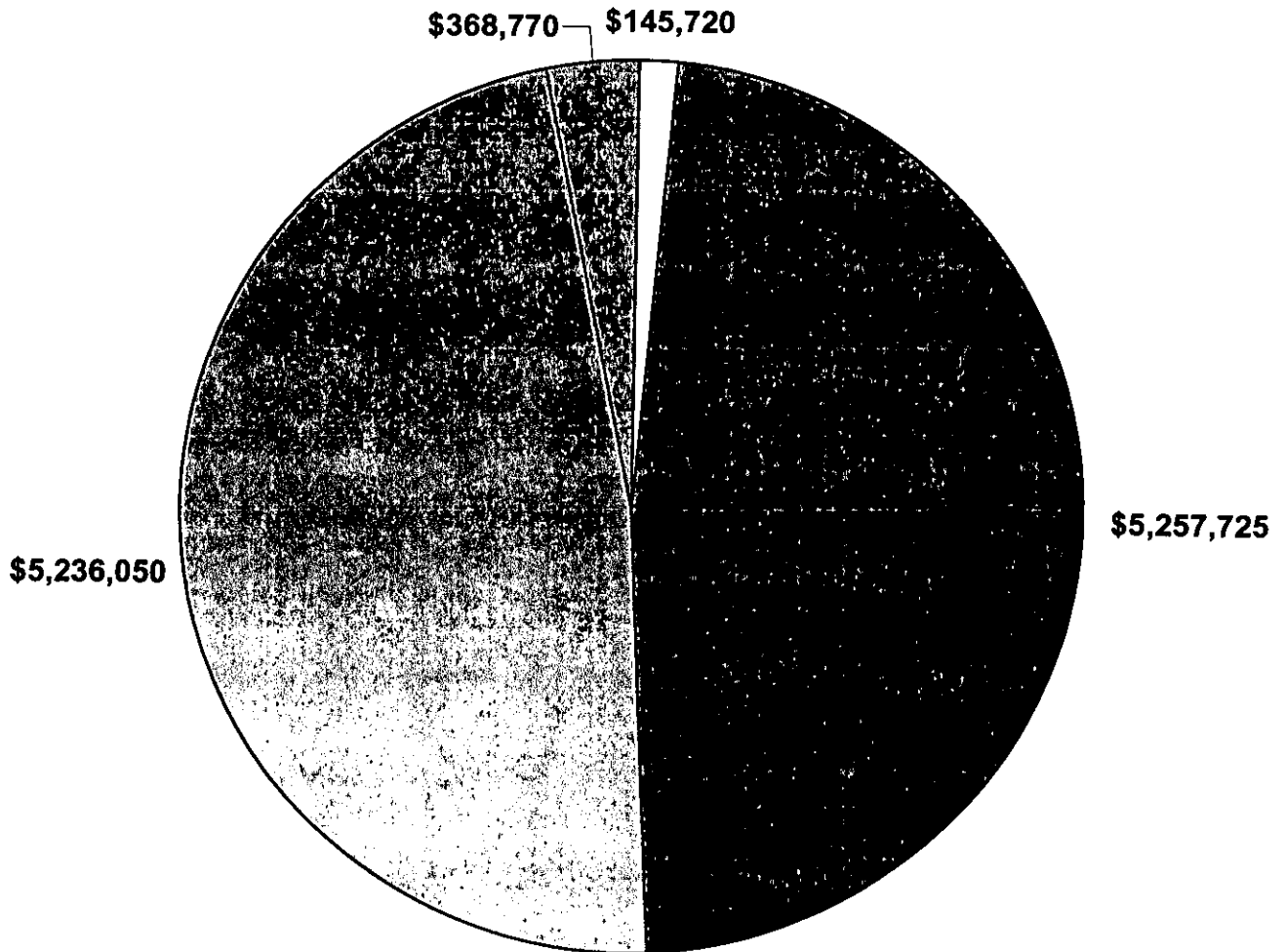
Fines and Forfeitures
North Dakota Securities Department
July 1, 2007 Through December 31, 2008



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

HOUSE APPROPRIATIONS COMMITTEE
HB 1011
JANUARY 12, 2009

Registration Revenues
North Dakota Securities Department
July 1, 2007 Through December 31, 2008



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

Engrossed House Bill 1011

Testimony of North Dakota Securities Commissioner Karen Tyler

Before the Senate Appropriations Committee

March 2, 2009

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against wrongdoers. Biennium to date our enforcement actions have resulted in over \$8.6 million dollars returned to North Dakota investors.

Since July 2007, we have opened 141 enforcement cases and averaged 50-55 individual open cases on an ongoing basis. Several of these cases have multiple victims so with a victims-based measurement we have averaged 100 open cases. Our caseload is tracking 14% higher than the previous biennium. The agency has closed 82 enforcement cases biennium to date. The sale of securities by unregistered individuals, ponzi schemes, unsuitable product recommendations, and the lock-up of the Auction Rate Securities market represent the types of cases we have been dealing with this biennium.

Financial crime can have devastating consequences for our residents – economically, socially, and emotionally. I cannot over-emphasize the importance of the Department's investor protection mandate, and I must say I am exceedingly proud of the dedication and diligence of the department's enforcement professionals.

BUDGET REQUEST

The total budget request for the North Dakota Securities Department is \$2,120,494. The general fund request is 100% of the funding level from the 07-09 biennium plus enhancements for compensation package and equity adjustments applied by the Office of Management and Budget, and computer replacement on a 4 year cycle. The budget request breaks down as an appropriation of \$1,803,295 from the general fund and \$317,000 from the agency's special fund, which is restricted to funding financial education expenses of the Department.

Revenue Information/Projections – see exhibits

EXHIBITS

Attached as exhibit C 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 D is a chart showing breakdown of the various registration revenues collected by the Department. This chart reflects collections through December 31, 2008. We estimate that total registration revenues for this biennium will be approximately \$17 million dollars.

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

INDUSTRY CONSIDERATIONS/AGENCY OUTLOOK

I would like to conclude by taking just a moment to talk about the challenges that lie ahead for both investors and securities regulators.

I'm certain that all of you are aware that along with economic stimulus and recovery, "Regulatory Reform" will be taking center stage for the 111th Congress and the President Obama's administration. The debate over regulatory reform for the securities industry has been a perpetual exercise for the last 75 years, with adjustments in volume and intensity driven most often by economic conditions, market performance and the varied agendas of interested parties.

Two years ago, it was vigorously argued by some that regulatory reform was needed because we had **too much** regulation and it was driving business overseas. Today, it is vigorously argued that regulatory reform is needed because we have **too little** regulation and it has driven us into the ditch.

One comprehensive plan for reform was published in March of last year: The US Treasury Department's Blueprint for a Modernized Financial Regulatory Structure. I bring this to your attention because under this plan the authority of state securities regulators is eviscerated. From a fiscal standpoint, the revenue we just discussed would no longer be collected. More importantly, from an investor protection standpoint, we would lose the authority to take action when our citizens are victimized by investment fraud.

While it is unlikely that the Treasury's plan would be adopted, certain concepts presented are likely to survive and evolve in the next round of debate. Protection of the Main Street investor should be the centerpiece of the securities regulatory structure, and the primary focus of this current reform debate. But if state securities regulation is impaired or eliminated, we will be left with only the illusion of reform and the reality of a severely compromised system of protection for our investor constituents.

The extraordinary events of the last 18 months lead Securities regulators across the country, and North Dakota is no exception, to fully expect the number of investor complaints, examinations, investigations and enforcement actions to continue to trend upward. The integrity and strength of the laws, rules and regulations governing our capital markets must be maintained, and it is

imperative that securities regulators are equipped with sufficient resources to carry out our investor protection mandate. As, such I would ask you to restore the \$25,000 that has been removed from the Departments operating budget. I would also ask, Mr. Chairman and members of the committee, that you restore to the Departments budget the equity funding removed by House Appropriations.

This concludes my testimony and I respectfully request your approval of the Securities Department budget as originally submitted in HB 1011. I thank you for your time and your consideration, and I would be happy to answer any questions you may have.

SENATE APPROPRIATIONS COMMITTEE
ENGROSSED HB 1011
MARCH 2, 2009

SECURITIES OFFERINGS BY NORTH DAKOTA ENTITIES
JULY 1, 2007 THROUGH MARCH 2, 2009

Date	Company	Type of Security & Purpose	Registration by Qualification	City	Amount
11/5/2007	M-Power, LLC	Membership Units Develop wind projects		Finley	\$689,985
1/28/2008	INREIT Real Estate Investment Trust	Shares of Beneficial Interest Real Estate ownership and management		Fargo	\$28,000,000
2/27/2008	Ag Plus Cooperative	Membership Stock Construction and operation of a soybean processing facility		Kindred	\$500,000
9/8/2008	Chiropractic Association of North Dakota	Membership Units Develop a network of member chiropractic physicians		Fargo	\$98,000
10/15/2008	Dakota Real Estate Investment Trust	Units of Beneficial Interest Manage real estate		Fargo	\$1,250,000
		Category Total			\$30,537,985
Section 10-04-06(9)(a) Limited Offeror Exemption					
7/5/2007	DC Holdings, Inc.	Common Stock Business services franchise		Fargo	\$52,000
7/25/2007	Tublinks, LLC	Membership Units Manufacture livestock nutritional products		Walcott	\$200,000
10/29/2007	Northwest Tire, Inc.	Common Stock Sale of tires		Bismarck	\$78,090
10/30/2007	Grizella Corporation	Common Stock Software development		Hebron	\$999,996
11/30/2007	Summit Group Software, Inc.	Common Shares Technology services		Fargo	\$300,000

*Rest of exhibits
Same as House, March 12, 2009
Attached to House, March 12, 2009*

Date	Company	Type of Security & Purpose	City	Amount
12/3/2007	KFE Harvest Limited Partnership	Partnership Interests Grain storage facility	Kensal	\$600,000
12/11/2007	Psychiatry Networks, Inc.	Common Stock Telephonic mental health services	Fargo	\$60,000
3/7/2008	Dakota Community Bankshares, Inc.	Common Stock Bank holding company	Hebron	\$629,894
4/9/2008	Obermiller Nelson Engineering, Inc.	Commons Stock Professional engineering services	Fargo	\$ 88,947
6/19/2008	Quality Bankshares, Inc.	Common Stock Bank holding company	Fingal	\$ 748,800
6/28/2008	Dakota Pride, LLC	Ordinary Membership Units Develop pedigreed seed growing business	Douglas	\$ 192,000
6/30/2008	KBCS Limited Partnership	Partnership Interests Grain storage	Eldridge	\$ 524,700
8/6/2008	Peak Wind Development, LLC	Membership Units Develop wind farm in Barnes County	Tower City	\$ 680,000
9/15/2008	Deceleration Technologies, LLC	Membership Units Invent, develop module to illuminate brake lights	Reynolds	\$ 1,500,000
10/1/2008	M-Power, LLC	Membership Units Wind power development	Finley	\$ 375,000
1/22/2009	Summit Group Software, Inc.	Common Shares Provide technology services and solutions	Fargo	151,840
2/20/2009	Fox Hat Investments, LLC	Memberships Units Acquire, own and operate a resort property	Drayton	200,000
		Category Total		\$7,381,267

Date	Company	Type of Security & Purpose	City	Amount
Section 10-04-06(9)(b) Limited Offeree Exemption				
8/13/2007	Lidgerwood Farmers Elevator Condo Limited Partnership	Partnership Interests Grain storage	Lidgerwood	\$450,000
5/5/2008	The Community Club Corp.	Common Stock Operate restaurant and lounge	Mohall	\$20,000
8/27/2008	Ray Community Housing, Inc.	Common Stock Build housing units	Ray	\$160,000
		Category Total		\$630,000
Section 10-04-06 Test the Waters Exemption				
2/6/2009	Northwest Refining, Inc.	Common and preferred stock Energy Complex	Trenton	\$2,700,000,000
Federal Covered Security Investment Company				
10/1/2007	The Integrity Fund Integrity Total Return Income Fund	Class A and Class Shares	Minot	Unlimited
Regulation D, Rule 506 Notice Filings				
8/21/2007	Gruby Technologies, Inc.	Commons Stock Develop imaging communication system	Bismarck	\$ 1,100,000
9/11/2007	123 ID, Inc.	Common Stock Software Development	Grand Forks	\$ 2,000,000
9/19/2007	Northern Prairie EnviroFuels, LLC	Member Interests Canola processing	Munich	\$ 102,000
9/19/2007	Northern Prairie Investment, LLC	Member Interests Invest in operating company	Munich	\$ 90,000
9/19/2007	North Dakota Sow Center, LLLP	Partnership Interests Swine production facility	Forest River	\$ 6,750,000
10/8/2007	Northern Prairie EnviroFuels, LLC	Member Interests Canola processing	Munich	\$ 13,000,000
11/1/2007	Titan Machinery, Inc.	Preferred Stock Agricultural equipment stores	Fargo	\$ 2,000,000

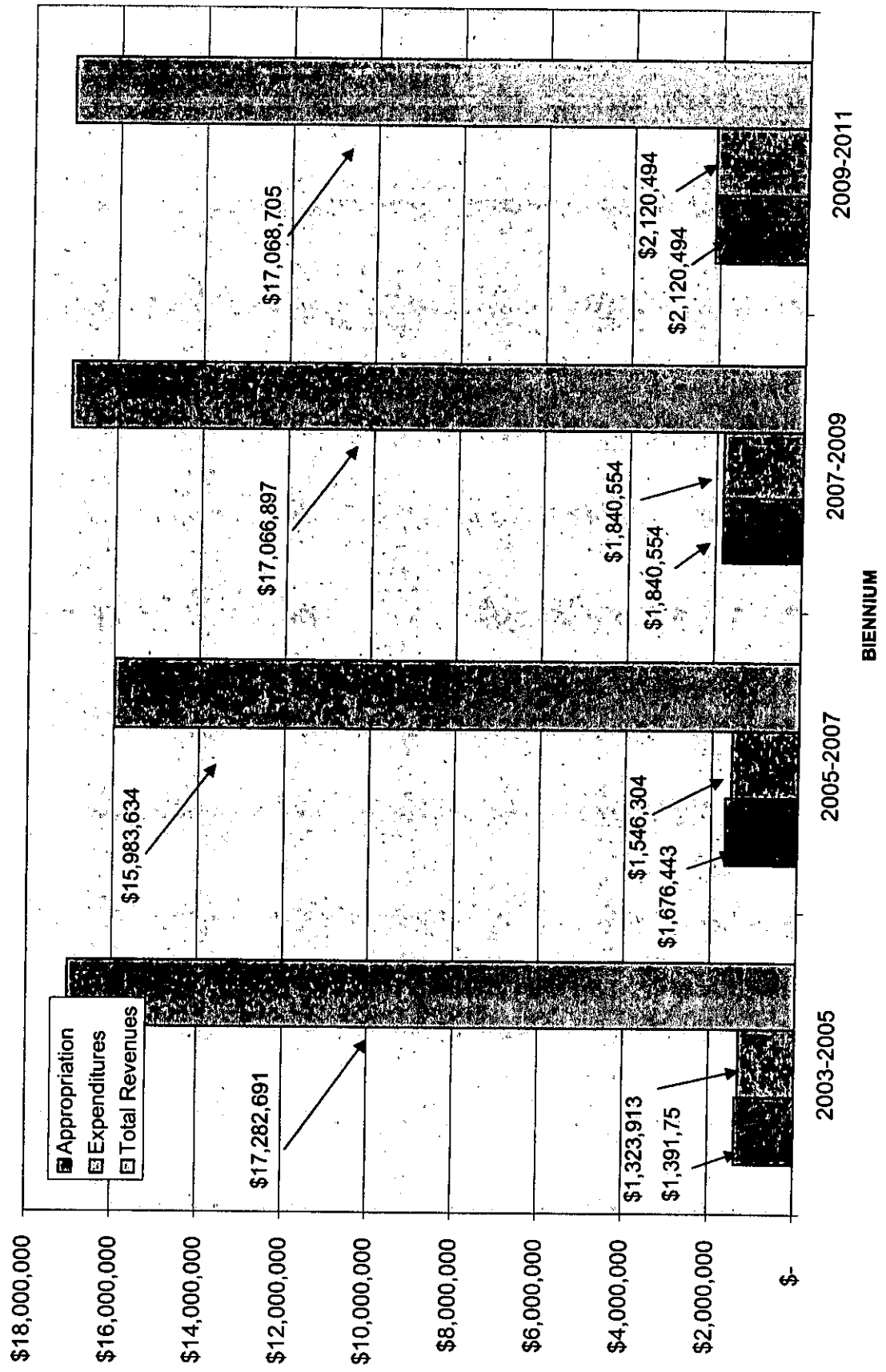
Date	Company	Type of Security & Purpose	City	Amount
11/5/2007	The Leikas Group	Equity Internet retailer	Grand Forks	\$ 250,000
12/7/2007	Composite America, LLC	Preferred Mold natural fiber composites	Fargo	\$ 761,698
12/21/2007	Ramsey Financial Corporation	Devis Lake Bank Holding Company	Devis Lake	\$ 2,248,651
1/3/2008	Woodward Company, LLC	Membership Units Oil and gas production	Mandan	\$ 300,000
1/20/2008	Trimlife, Inc	Common Stock Sale of nutritional supplements	Bismarck	\$ 500,000
2/19/2008	Pond Filtration, LLC	Preferred Stock Develop, manufacture and sell outdoor pond filters	Fargo	\$ 150,000
2/19/2008	Glacial Holdings, LLC	Debt Own and lease commercial real estate	Minot	\$ 5,000,000
3/26/2008	Avenue Right, LLC	Membership Interests	Fargo	\$ 2,450,000
5/12/2008	Northern Prairie EnviroFuels, LLC	Membership Interests Canola Processing	Munich	\$ 300,000
7/15/2008	Lewis & Clark Capital Fund, LLLP	Partnership Interests Private investment partnership	Fargo	Unlimited
7/18/2008	Northern Prairie Specialty Oils, LLC	Membership Interests Oilseed processing	Munich	\$ 13,202,309
10/17/2008	Northern Plains Capital Corporation	Equity	Bismarck	\$ 150,000
10/23/2008	Arthur Ventures Growth Fund, LLC	Equity Private equity fund	Fargo	\$ 15,000,000
11/17/2008	Dakota UPREIT Limited Partnership	Equity Real Estate financing	Fargo	\$ 5,000,000
11/25/2008	Blackridge Financial, Inc.	Common Stock Acquire and operate community banks	Fargo	\$ 1,400,000

Date	Company	Type of Security & Purpose	City	Amount
12/9/2008	Packet Digital, LLC	Equity	Fargo	\$ 3,500,000
1/8/2009	Quality Dairy Growers	Interests Purchase cattle for resale	Price	\$ 260,000
1/9/2009	High Plains Capital, Inc.	Preferred Capital Bank Holding Company	Fargo	\$ 351,650
2/11/2009	Northern Plains Capital Corporation	Equity Insurance	Bismarck	\$ 750,000
2/20/2009	Investment Centers of America, Inc.	Deferred Compensation Plan	Bismarck	Indefinite
		Category Total		\$ 76,616,308
Incorporation Stage Exemption Section 10-04-06(16)				
4/22/2008	Square Butte Venture Partners, LLC		Mandan	
5/23/2008	Angel Medical Investment, LLC		Fargo	
Accredited Investor Exemption Filings				
7/17/2007	Raceday, Inc	Common Stock Automobile services	Bismarck	\$ 3,000
8/27/2007	Workforce ScheduleSoft Corp.	Preferred A Stock Develop and sell software	Fargo	\$ 1,000,000
9/21/2007	M-Power, LLC	Membership Interests Wind project	Finley	\$ 350,100
10/29/2007	National Medical Resources, Inc.	Common Stock Medical consulting services	Bismarck	\$ -
12/13/2007	Rocks and Blocks, Inc.	Common Stock Landscape products	Bismarck	\$ 105,000
1/16/2008	JAJ Ventures, Inc.	Common Stock Operation of businesses	Bismarck	\$ 500,000

Date	Company	Type of Security & Particulars	City	Amount
3/28/2008	Prairie Auto Parts Incorporated	Common Stock Sales of auto parts	Dickinson	\$ 114,846
8/27/2008	NDSU Research Park Ventures, LLC	Partnership Interests Renaissance fund organization	Fargo	\$ 4,817,000
		Category Total		\$ 6,889,946
TOTAL SECURITIES OFFERINGS BY NORTH DAKOTA ENTITIES JULY 1, 2007 THROUGH FEBRUARY 28, 2009				\$ 2,822,055,506

HOUSE APPROPRIATIONS COMMITTEE
HB 1011
JANUARY 12, 2009

Revenues and Expenditures
North Dakota Securities Department
For Periods Ending 2005, 2007, 2009, and 2011




NORTH DAKOTA
SECURITIES DEPARTMENT

		2007-2009	12-2008	Remaining
		Appropriation	Expenditures	Balance
	Salaries Full Time	954,629.00	705,616.30	249,012.70
	Temporary, Overtime	1,200.00		1,200.00
	Benefits	309,414.00	214,077.18	95,336.82
	Total Salaries & Wages Exp	1,265,243.00	919,693.48	345,549.52
520000	Operating Expenses			
521000	Travel	81,557.00	61,452.14	20,104.86
531000	Supplies - IT Software	10,953.00	2,089.20	8,863.80
532000	Supply/Material-Professional	72,171.00	81,676.96	(9,505.96)
533000	Food/Clothing	164.00	179.34	(15.34)
534000	Bldg, Grounds, Vehicle Supply	719.00	-	719.00
535000	Miscellaneous Supplies	20,062.00	7,466.89	12,595.11
536000	Office Supplies	8,489.00	6,241.90	2,247.10
541000	Postage	9,998.00	5,724.51	4,273.49
542000	Printing	19,084.00	12,321.19	6,762.81
551000	IT Equip under \$5,000	11,270.00	49.95	11,220.05
552000	Other Equip under \$5000	1,875.00	771.88	1,103.12
553000	Equip & Furn-Under \$5,000	16,414.00	7,257.77	9,156.23
571000	Insurance	1,853.00	3,308.62	(1,455.62)
581000	Rentals/Leases-Equip & Other	8,975.00	6,433.78	2,541.22
582000	Rentals/Leases - Bldg/Land	11,966.00	8,719.50	3,246.50
591000	Repairs	1,951.00	956.15	994.85
601000	IT - Data Processing	40,374.00	16,894.01	23,479.99
602000	IT-Communications	18,191.00	18,130.09	60.91
603000	IT Contractual Services and Re	7,655.00	5,198.41	2,456.59
611000	Professional Development	45,639.00	39,815.45	5,823.55
621000	Operating Fees and Services	48,624.00	17,405.90	31,218.10
623000	Fees - Professional Services	137,327.00	21,558.42	115,768.58
520000	Total Operating Expenses	575,311.00	323,652.06	251,658.94
400000	Revenue			
420230	Preneed Funeral	16,500.00	1,175.00	15,325.00
420295	Registration Of Franchises	205,000.00	145,750.00	59,250.00
420300	Registration Securities	5,875,000.00	5,516,159.82	358,840.18
420325	Dealers/Investment Firms	680,000.00	359,800.00	320,200.00
420330	Agents/Representatives	7,050,000.00	5,264,280.00	1,785,720.00
441015	Fines-Forfeitures-Escheat	375,000.00	62,516.00	312,484.00
443010	Grant/Contrib--Non-Profit/Priv		95,000.00	(95,000.00)
463021	Misc. Sales and Service		2,251.46	(2,251.46)
473035	Other Reimb. - Jury Pay, Etc.		2,593.75	(2,593.75)
473120	Refund Of Prior Bienn Expense		92.68	(92.68)
474005	Conference Registration Fees		8,650.00	(8,650.00)
400000	Total Revenues	14,201,500.00	11,458,268.71	2,743,231.29

Investor Education & Tech Fund 6-30-2007 Balance forwarded

\$ 720,034.42



APPROXIMATELY \$2.9 MILLION REPAID TO NORTH DAKOTA INVESTORS

3/2/2009



Karen Tyler, North Dakota
Securities Department

Bismarck, ND - North Dakota Securities Commissioner Karen Tyler today announced the payment of nearly \$2.9 million dollars to investors victimized in a Ponzi scheme orchestrated by David Skjerven, a former securities and insurance agent in Fargo.

The repayment to Skjerven' victims is the result of a settlement reached between the North Dakota Securities Department and InterSecurities, Inc., a broker-dealer headquartered in St. Petersburg, Florida, with whom Skjerven had at one time been affiliated.

"Financial crime can have devastating consequences for investors, but as a result of this agreement between InterSecurities and the Securities Department, victims of David Skjerven's criminal conduct have been made whole," said Tyler.

In May of 2006, the Securities Department, with the assistance of the Bureau of Criminal Investigation, executed a search of Skjerven's business and began an investigation of alleged illegal securities sales activities. The Department determined Skjerven had been running a Ponzi scheme involving the sale of unregistered, fraudulent promissory notes in which over 20 investors had lost more than \$2.5 million dollars. The Securities Department made a criminal referral to the Cass County States Attorney and in February of 2008 Skjerven pled guilty to 38 felony counts of securities fraud and theft and was sentenced by District Court Judge Wade Webb to ten years imprisonment, with eight suspended, and ten years of supervised probation and restitution.

At the same time, the Securities Department also began investigating InterSecurities, Inc. to determine if the firm had violated regulations by failing to adequately supervise one of its agents. The Securities Commissioner found that ISI's failure to supervise Skjerven's activities according to NASD standards contributed to investor losses. Without admitting or denying these findings, ISI voluntarily paid Skjerven's victims \$2,893,075.52, representing their out of pocket losses plus 6% interest, as provided for by North Dakota law. ISI also agreed in the Consent Order with the Department to pay a civil penalty of \$90,000 and to implement more stringent policies and procedures in its field audits of its registered representatives and investment advisor representatives.

"ISI cooperated with the Securities Department throughout our investigation, and we appreciate their willingness to resolve this matter and provide relief to those harmed by Skjerven's egregious scheme" said Tyler.

For more information please contact Mike Daley, Enforcement Attorney, North Dakota Securities Department at (800) 297-5124 or 328-4701 (Bismarck local).

[ORD Signed Consent Order and Consent to Entry of Order - ISI.PDF](#)

www.ndsecurities.com

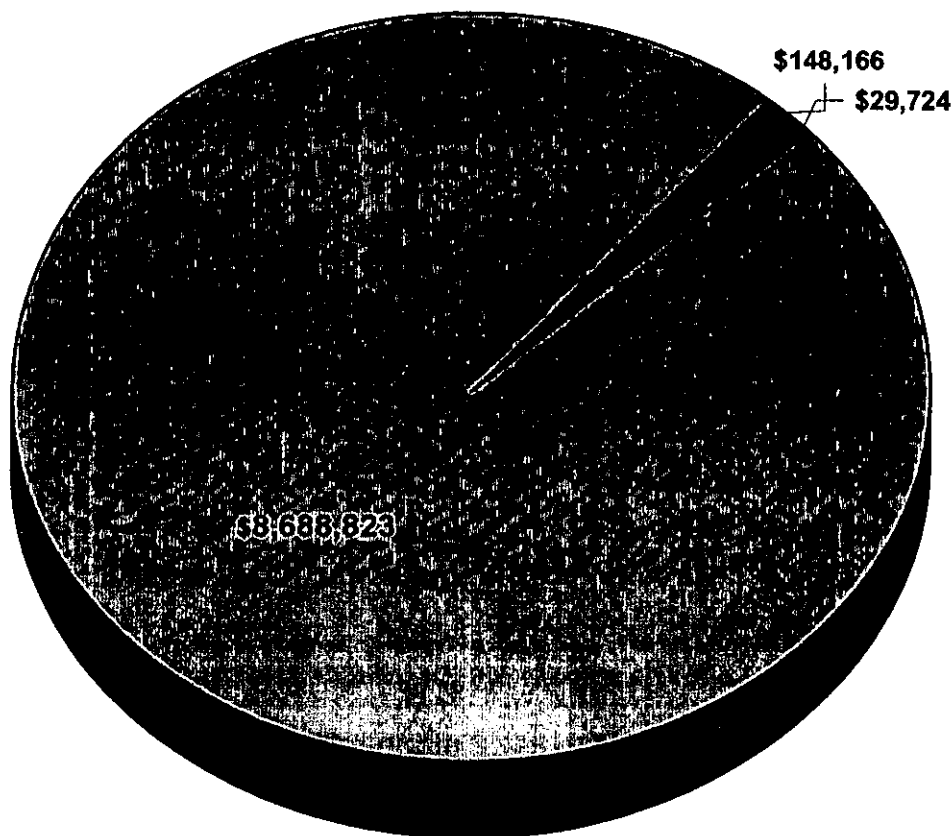
Additional Information

The North Dakota Securities Department regulates the offer and sale of securities and franchises in the State of North Dakota, and protects the investing public by enforcing compliance with our state's laws. The Department promotes public awareness of securities laws to prevent violations and to prevent investment fraud. The Department provides investor education programs for all ages to improve the level of financial literacy in our state.

Contact information:
North Dakota Securities Department
State Capitol, 5th Floor
600 East Boulevard Avenue
Bismarck, ND 58505-0510

**SENATE APPROPRIATIONS COMMITTEE
ENGROSSED HB 1011
MARCH 2, 2009**

**Fines and Forfeitures
North Dakota Securities Department
July 1, 2007 Through February 28, 2009**



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



John Hoeven
Governor

Karen Tyler
Securities Commissioner

Welcome to INVEST NORTH DAKOTA:

We thank you for taking the time to participate in our "Invest North Dakota Teachers Academy". This is an important step toward teaching our state's future leaders the value of personal financial planning, saving and wise investing.

Today's young people will face an array of personal financial decisions that will far surpass the decisions that their parents or grandparents had to make. Most students are ill equipped to make these decisions that will determine the quality of their lives, such as handling credit cards, paying taxes, or even saving and investing for the future. Studies have proven that just 10 hours of personal financial instruction will prompt most young people to start saving. Teachers who help students learn useful financial principles and investment facts certainly deserve our assistance, encouragement and thanks.

Working to improve the level of financial literacy in this country will result in educated consumers making good financial choices, which in turn strengthens our economy in fundamental ways. A strong and flexible economy means that resources are directed to the areas of greatest need, productivity and innovation are supported, and the ability to withstand inevitable economic shocks is greatly enhanced.

Approximately 20 business, education and professional leaders will present topics on business and investing during this 4-day seminar. In addition, you will be introduced to innovative curriculum tools that will assist you in your curriculum planning. Professional people who are donating their time as speakers and are willing to share their practical wisdom also deserve our special thanks and recognition.

We hope you enjoy the Invest North Dakota Teachers Academy program.

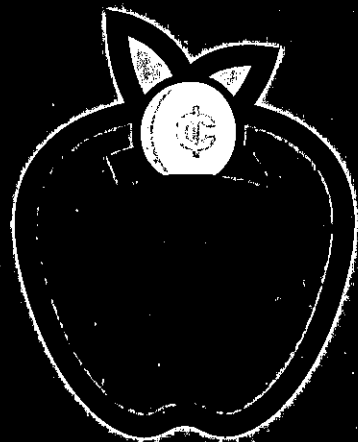
Karen Tyler
North Dakota Securities Commissioner

Diane Kambeitz
Investor Education Coordinator

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**INVEST NORTH DAKOTA
2008**



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Teachers
Academy**



*Contact Securities Commission
for a copy*



**NORTH DAKOTA
SECURITIES DEPARTMENT**