

**2017 HOUSE APPROPRIATIONS**

**HB 1011**

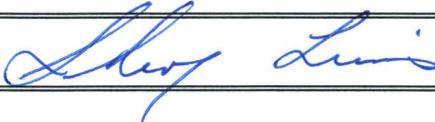
# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division  
Medora Room, State Capitol

HB1011  
1/4/2017  
Recording Job# 26581

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

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

## Minutes:

Attachments A, B, C

**Chairman Brandenburg:** Opened the hearing on HB1011 and HB1071.

**Karen Tyler, Commissioner, ND Securities Department:** See attachments A and B.

**Chairman Brandenburg:** If I'm understanding, you are taking the same amount of dollars that are special funds instead of general funds; because that money goes back to the general fund.

**Karen Tyler:** That's correct. You would appropriate our budget; as our revenue came in we would retain what was necessary to fund the agency; and once we hit that point, approximately \$2 million, everything over and above that is transferred to the general fund on a schedule that is set by OMB.

**Chairman Brandenburg:** I'm just thinking of the other special fund budgets that we deal with that way also.

**Vice Chairman Boehning:** One of the concerns I have with that is with the budget cuts that we've had with the allotments; did any of the special funded agencies get a cut?

**Karen Tyler:** The special funded agencies were asked to cut their budget; but, because they were special funded, they didn't fall under the legislative mandate that everyone had to participate in the allotment. Every general funded agency has to participate in those allotments.

**Vice Chairman Boehning:** Along those lines, I'm really not in favor of creating another special funded agency; because of those reasons.

**Representative Kempenich:** There's one way of working around this. If it's contributing to the general fund, you could play with the language one way or the other. The game and fish department is another one who doesn't have to because they're collecting it under the State of North Dakota Seal.

**Karen Tyler:** The reason this is so critically important to us is we operate and have operated historically, in a very fiscally conservative manner.

Karen Tyler continued with her testimony. See attachment B.

**Representative Delmore:** Do these same security and advisor funds also register with the Secretary of State or do they just register with your department?

**Karen Tyler:** I assume that they have to register with the Secretary of State to be able to business in North Dakota. Our registration is different; they are registering as financial professionals that can legally provide investment advice and offer themselves securities.

**Representative Delmore:** You mentioned a fee range to register varied. Do you have what those fees are? Do they vary quite a bit by individual versus an agency?

**Karen Tyler:** Are you speaking of the securities registration or the industry registration?

**Representative Delmore:** The fees for both.

**Karen Tyler:** On the securities side, the fees will vary based on type of fund. If it's a full blown registration, that fee maxes out at \$2,500.00. If it's a filing for an exemption, that's typically around \$150.00. If it's a notice filing, that's \$100.00.

Karen Tyler continued with her testimony.

**Vice Chairman Boehning:** You collect a fee from the securities person. Is that called a fee, a find?

**Karen Tyler:** We have the authority to all of those things. We do a "for cause" examine. If we find wrong doing, we can take clear enforcement action; which may involve ordering a penalty to be paid. We revoke the individual's registration so they can no longer do business in the state and ordering restitution back to the victim.

**Vice Chairman Boehning:** How much would you say in the last biennium you collected in fees?

**Karen Tyler:** Most of the revenues are from the up-front fees for registration. When we do take enforcement action, there may be several penalties assessed.

Karen Tyler referenced her testimony.

**Representative Delmore:** Do you work with the Attorney General's office on some of these things?

**Karen Tyler:** On occasion we will work with the Attorney General's office; it really depends on facts and circumstances of the matter. If we determine that there's criminal activity and we secure a search warrant, to execute that search warrant BCI will go in with us. If we're going to make a criminal case, we would give the case to a state's attorney. If a state's attorney didn't want the case, we would look at referring to the Attorney General's Office or we might refer to the US Attorney's Office instead. The Attorney General's Office would also work with the consumer protection division.

**Chairman Brandenburg:** You have your own attorney.

**Karen Tyler:** That's correct.

Karen Tyler continued with her testimony.

**Representative Brabandt:** How long did this Ponzi scheme go on?

**Karen Tyler:** We believe it went on for at least ten years. But not all of the victims had all of their records. We weren't able to tell precisely how long it had been going on.

**Representative Brabandt:** So he got away with it for quite a while.

**Karen Tyler:** Yes.

**Representative Brabandt:** How was he able to get away with it for so long?

**Karen Tyler:** Our ability to do routine examinations on firms is critical for us to be able to walk in the door and have them show us their books and records at any time. We have the authority to do it; we just don't have the resources to do it.

**Vice Chairman Boehning:** So now that the IRS is into this now, who has first dibs on the funds? If you're going to settle for the \$3.5 million, will they go beyond that? Will they settle first?

**Karen Tyler:** Their case will be against Mr. Wanner personally. He didn't pay his taxes on what he stole. Our case, in terms of restitution, is against the firm; so there shouldn't be any issue there. The firm didn't supervise their employee and will have a financial obligation to make things right for their clients.

**Vice Chairman Boehning:** It's just the US Attorney that's going after criminal charges; not restitution or anything in that order?

**Karen Tyler:** Correct.

**Vice Chairman Boehning:** Do all states have a stand alone securities commission?

**Karen Tyler:** Yes. Some securities regulators are positioned within the Attorney General's Office, some securities commissioners are in the Governor's cabinet, some are part of the

department of commerce or financial institutions. There is an agency that has the authority to administer securities law. There's a state securities act in every state and then there's the complimentary federal body of securities law. There's also an SRO; Self-Regulatory Organization, that's another body of rules governing the industry.

**Vice Chairman Boehning:** There's a combination. Some of these other states; do they work together more or they're still a stand alone agency and just within their agency?

**Karen Tyler:** Still a stand alone agency; just partnered with other agencies. Minnesota has a massive department of commerce; but within the department of commerce they have 19 different regulated industries. The Secretary of State is another one; it's an independent authority for administering the securities act.

**Representative Delmore:** How many special fund status entities do we have in the state? Are there other agencies that have gone to this?

**Karen Tyler:** I think there were at least a dozen.

**Representative Kempenich:** Are you in a different location now? Are you remodeling something?

**Karen Tyler:** No. If you are a general fund agency in the capitol building, you don't pay rent. If you are a special funded agency you pay rent no matter where you are.

**Chris Kadrmas, ND Legislative Council:** Special funded agencies have to pay rent. If they are in the capitol they end up paying somehow through OMB. They pay rent; but they may also pay the statewide cost allocation plan. The rent is estimated at about \$40,000.00. The statewide cost allocation plan is about \$24,000.00. They did not increase their budget to account for that. That doesn't account for if they do utilize the Attorney General's office, currently as a general funded agency they don't have to pay that; the Attorney General's office covers those costs. If they become special funded they end up having to cover costs in order to pay back the Attorney General for costs occurred through them.

**Representative Nathe:** I see revenues are \$21 million. Do you see that trend continuing as we go along?

**Karen Tyler:** A lot of that has been the industry.

**Representative Nathe:** Have you made a request before for special fund status or is this the first time?

**Karen Tyler:** It's a comment I make every time I testify.

**Chairman Brandenburg:** You've talked about it.

**Karen Tyler:** Looking back over the last 15 years since I've been commissioner, we've never been in a position like this before.

**Representative Nathe:** You're operating on a budget that you had roughly 12 years ago?

**Karen Tyler:** That's correct.

**Representative Kempenich:** What happened to your long term employee?

**Karen Tyler:** Harold Kocher was with our department for 51 years and he retired in May.

**Representative Brabandt:** Governor Bergum supports this, correct?

**Karen Tyler:** That's correct.

**Representative Brabandt:** What were his comments? Was he pretty excited about it?

**Karen Tyler:** With his background he can appreciate the impact that we have. Our operating expense ratio is 9.5%. He absolutely supports it.

**Chairman Brandenburg:** We need to take a look at your spend down.

**Karen Tyler:** As far as what our turn back might be?

**Chairman Brandenburg:** Possibly, yes.

**Representative Kempenich:** What do you have left?

**Karen Tyler:** I can get that for you.

**Chairman Brandenburg:** On your adjustments and enhancements, can you break that down? What is that?

**Karen Tyler:** I believe the \$57,000.00 is the 1% salaries and wages in the second half of the biennium. For operating expenses we do have to include monies for potential payment of rent. These numbers reflect special fund status.

**Representative Kempenich:** What is this other handout?

**Karen Tyler:** See attachment C.

**Representative Vigesaa:** What tipped the securities department off that there was an issue?

**Karen Tyler:** With this case, it was referred to us by the insurance department. The insurance department has a gentleman working in that agency that has law enforcement status. With his law enforcement status, he has access to a suspicious activity report that banks have to do. If you routinely pull out \$9,999.00 from the bank, that would be suspicious activity. If you are daily withdrawing small amounts of cash, eventually that's going to be flagged as suspicious activity and that's what happened with this person. He was withdrawing his gambling money almost every day from his business account.

**Vice Chairman Boehning:** You mentioned that he gave 1099 forms. So now they're going to have to reconcile that and then reimburse these people that have paid the tax on it. Correct? It could take years to get this resolved.

**Karen Tyler:** We've dealt with this before in another case. The IRS has a letter they issue when there is a fraud. They can opine that those assets should be treated in a special manner so that they would not be taxed on them.

**Vice Chairman Boehning:** How do special funds come out to the agencies? How does that work?

**Stefanie Gullickson, OMB:** In this particular case they would continue to collect until they reached their appropriation. Once they reach that appropriation, that will go to the general fund. So OMB would take that monthly, quarterly, annually; whatever we decide that would be, and it would go back into the general fund. Other special fund agencies, like department of financial institutions, they don't collect and give to the general fund. They collect what they need to operate their agency and that's how they base their fees.

**Karen Tyler:** We looked at language that established a lot of special funds to try to understand the process better. We patterned the language that you find in HB1071 after the insurance department. As far as frequency of transfer of revenue, you could decide or it would be up to OMB, depending on budget conditions, how often you wanted that money transferred.

**Vice Chairman Boehning:** Looking at around \$20 million, will there be interest being collected on this money?

**Stefanie Gullickson:** Right now the money just goes in the general fund as cash and we use it as it comes in. So there wouldn't be any kind of interest on that. In their situation it would be the same, we would just allow them to keep \$2.221 million in their fund before it's transferred.

**Vice Chairman Boehning:** If they transfer once a year, we'd have \$10 million without collecting interest being turned over then?

**Stefanie Gullickson:** That's true.

**Karen Tyler:** We estimated that in the first six months of the biennium, we would have collected enough to cover our budget.

**Chairman Brandenburg:** Since we're going to talk about this more, we'll need to research this some more.

**Karen Tyler:** We can give you the exact time frame that it would take us to collect what our budget is.

**Chairman Brandenburg:** Closed the hearing.

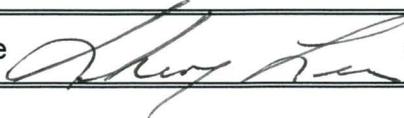
# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division  
Medora Room, State Capitol

HB1011  
2/2/2017  
Recording Job# 27836

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

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

## Minutes:

Attachments A and B

**Chairman Brandenburg:** Opened the hearing on HB1011 and HB1071.

**Chairman Brandenburg:** Went through attachments A and B.

**Karen Tyler, Commissioner, Securities Department:** So it does take the 5% out for the health insurance contribution. Correct?

**Chairman Brandenburg:** We're not going to do that.

**Alex Cronquist, Fiscal Analyst, ND Legislative Council:** These sheets do recognize the 5% employee share. The committee would just have to not agree with that change and then it will not get put in.

**Chairman Brandenburg:** The only thing that needs to be changed is the 5% for health insurance. Is that correct?

**Alex Cronquist:** That is correct. That is the only thing that would not be brought over to the House version.

**Chairman Brandenburg:** So the change would be another \$13,000.00 difference.

**Karen Tyler:** We have the fund for investor education. Other funds show \$170,000.00, that is the appropriation from that investor education fund to fund our finance education and literacy programs. I'm not seeing that recognized. Is that something we would need to amend or request to amend?

**Alex Cronquist:** The \$170,000.00 is included in your base budget. That's why you don't see it on the proposed amendments changes; because it's already in your budget. We wouldn't have to increase or decrease your budget for it.

**Representative Delmore:** What is the name of the fund?

**Karen Tyler:** It's the Investor Education and Technology Fund.

**Chairman Brandenburg:** You had some discussion about making your budget special funded. I think there's a bill over in the Senate that's talking about some of that stuff and we're just going to leave it as it is and see where that ends up.

**Karen Tyler:** The hearing on that was yesterday. The language in all the bill has been replaced through amendments that calls for a study between the securities department and the department of financial institutions to look at an operational partnership. That is no longer an issue. Right now the sheets have all of our numbers under the special funds category; is it correct to interpret that the budget is going to be put in as a special fund budget?

**Alex Cronquist:** Both governors had recommended it to be transferred to a special funded agency. The committee would need to look at what the effect is if we do not do the transfer of special funds. The entire sheet would need to be redone.

**Karen Tyler:** We had requested the special fund status because we are the only revenue generating agency that doesn't have that and the only financial regulator that doesn't have that. The math wouldn't change; it doesn't allow us to keep any extra money. It just allows us to self-fund until our budget is complete. Which takes place within 5 or 6 months of the biennium; after that everything goes into the general fund. The most important thing is to know what the bottom line number is for us and whether that's a general fund number or special fund number in the end.

**Representative Kempenich:** Where is that bill at in the Senate?

**Karen Tyler:** Yesterday the hearing was on that bill and all the language of the bill has been replaced with a study to combine banking and securities.

**Representative Kempenich:** What were the complications? Were they looking at the structure of the organizations if they combine? You have similar functions but the organizational structure would change on it because you wouldn't need two commissioners if you were going to do that. Is that where the conversations went?

**Karen Tyler:** The study will contemplate an operational combination between banking; the department of financial institutions and the securities department. It doesn't alter regulatory function; the regulatory function would be carried out by division. You would eliminate an agency head and there would be some other cost savings.

**Representative Kempenich:** It does and your accounting departments can gain efficiencies.

**Karen Tyler:** We don't have any administrative staff. They don't have a lawyer, financial education director. Our regulatory functions are very different.

**Chairman Brandenburg:** We're going to have this discussion because we have that proposed change of whether this should become a special fund or stay as a general fund agency.

**Representative Kempenich:** I think we should leave it and have the commissioner make her case on the Senate side. If we do change it, it will probably stay that way and I'd like the Senate to have a look at it also.

**Representative Kempenich:** Made a motion to change the budget funding from special to general funds.

**Representative Delmore:** Seconded the motion.

**Representative Delmore:** There were no budget cuts that you took out of your budget; because you kept the 9 employees, etc. Can you walk us through any savings? A lot of things were enhanced rather than reduced.

**Karen Tyler:** The allotment process where we took all of that funding out came out of our professional services line item; which is what rely on for support in our investigations and litigation. Given the fact that we have not added an employee in 10 years, we have not had any increases, any recurring operating budget increases; that was a big hit to our budget. We are now at pre-2005 levels in our operating. Given the financial picture for this agency and the importance of that litigation funding we felt it was appropriate to restore that funding. I would point out that for us to reduce our budget by 6.5%; in one case we can assess a penalty that would more than cover that.

**Representative Delmore:** So you are complete. What was taken was put back; but you haven't had any other increases since 2005?

**Karen Tyler:** Correct.

**Representative Brabandt:** So you feel that you are rock bottom?

**Karen Tyler:** We have not increased our budget in 10 years. We have to adequately funded to do our job.

**Representative Kempenich:** So the \$146,000.00 is your operating?

**Karen Tyler:** Correct.

**Representative Kempenich:** Have you put together any type of flow chart of what it would look like?

**Karen Tyler:** We have.

**Representative Kempenich:** On the surface it does look like something that should happen.

**Representative Brabandt:** Are all of your people salaried or are some of them hourly?

**Karen Tyler:** We are all salaried. We don't have any administrative type employees.

**Representative Brabandt:** Do you have much overtime?

**Karen Tyler:** We don't have overtime expense because we're all salaried.

**Representative Brabandt:** Do you have a human resource person?

**Karen Tyler:** We don't have a dedicated HR person. Diane Lillis is our franchised registration examiner and handles our human resources issues as well as being our budget manager.

**Chairman Brandenburg:** We've been working with all these agencies and I know yours is a little different; but there are reductions happening in every agency. I know it's hard for them also. There is some thought that this might change a little bit; but we'll deal with this next Tuesday.

**Karen Tyler:** Ok.

Chairman Brandenburg closed the hearing.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Government Operations Division  
Medora Room, State Capitol

HB1011  
2/7/2017  
Recording Job# 27973

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

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

## Minutes:

Attachment A

**Chairman Brandenburg:** Opened the hearing on HB1011 and HB1071.

**Representative Delmore:** Explained attachment A.

**Vice Chairman Boehning:** Made a motion to remove \$100,000.00 from operating expenses.

**Representative Vigesaa:** Seconded the motion.

**Representative Kempenich:** So we're talking another \$54,000.00? How would that work?

**Chris Kadrmas, Fiscal Analyst, ND Legislative Council:** The base level for operating is \$606,047.00. So if you were to remove \$100,000.00 from it, it would be at the \$506,047.00.

**Representative Nathe:** So Vice Chairman Boehning's motion would then bring it back to the House version?

**Chairman Brandenburg:** Correct.

**Representative Vigesaa:** The base budget was \$459,505.00. On all of the other budgets that we've dealt with received some sort of reduction off of that level. In Governor Dalrymple's budget that did not happen with this budget; so there's actually going to be an increase instead of reduction. There's an increase of \$46,545.00; which takes it to the \$506,000.00. It's still an increase, it's just less than Governor Dalrymple had proposed in his budget.

**Voice Vote made.**

**Motion carried.**

**Representative Delmore:** Made a motion for a "Do Pass as Amended".

**Representative Kempenich:** Seconded the motion.

**Roll Call Vote:** 7 Yeas 0 Nays 0 Absent

**Motion Carried.**

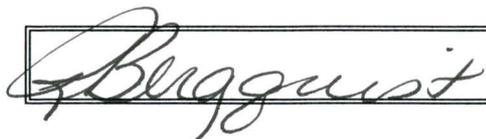
**Chairman Brandenburg:** Closed the hearing.

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

HB 1011  
2/14/2017  
28367

- Subcommittee  
 Conference Committee



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

**Minutes:**

**Chairman Delzer:** Opened the meeting on HB 1011. Does everyone have 17 0.496.1001?

**Representative Delmore:** The securities budget is unique the fact that it is small and that is one of those budget that was enhanced instead of cut, in particular Governor Dalrymple's budget. They only have 9 FTEs and that had been steady since 2011 but we decided that because it is a general funded agency there should still have a few cuts for this agency as well. If you look on page 1 under salaries, wages, operating expenses, we restored \$46,545.00 that cut 100 thousand dollars we took out of funding for the biennium.

**Chairman Delzer:** For the operating? I appreciated that you kept that

**Representative Delmore:** Instead of 146,545 we restored 46,545 dollars so that took away 100,00 dollars in operating expenses.

**Chairman Delzer:** Governor Dalrymple had suggested this move to be a special funded agency.

**Representative Delmore:** There was bill in the senate about the same time that was to combine this agency with another and so we decided we would see how that would play out. Perhaps in the second period we can go through that and do special funds.

**Chairman Delzer:** You say there is a bill in the senate do you know where it stands?

**Representative Boehning:** I believe that was turned into a study.

**Representative Delmore:** I would move to amend HB 1011.

**Representative Brandenburg:** Seconded that motion.

**Chairman Delzer:** We have a motion made to adopt amendment 17 .0496.01001 to HB1011. Discussion? Voice vote taken, motion carried.

**Representative Delmore:** I would move to do pass as amended to HB 1011

**Representative Boehning:** Second the motion.

**Chairman Delzer:** We have a motion for a do pass as amended to HB 1011, discussion.

**Yes 16 No 2 Absent 3 Floor Assignment** Rep. Delmore

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1011

Page 1, replace lines 11 through 15 with:

"Salaries and wages	\$1,801,279	\$49,254	\$1,850,533
Operating expenses	<u>459,502</u>	<u>46,545</u>	<u>506,047</u>
Total all funds	\$2,260,781	\$95,799	\$2,356,580
Less estimated income	<u>170,000</u>	<u>0</u>	<u>170,000</u>
Total general fund	\$2,090,781	\$95,799	\$2,186,580"

Page 1, after line 16, insert:

**"SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in section 1 of this Act includes the sum of \$25,758 from the general fund for increases in employee health insurance premiums from \$1,130 to \$1,249 per month."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	House Changes	House Version
Salaries and wages	\$1,801,279	\$49,254	\$1,850,533
Operating expenses	<u>459,502</u>	<u>46,545</u>	<u>506,047</u>
Total all funds	\$2,260,781	\$95,799	\$2,356,580
Less estimated income	<u>170,000</u>	<u>0</u>	<u>170,000</u>
General fund	\$2,090,781	\$95,799	\$2,186,580
FTE	9.00	0.00	9.00

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

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Health Insurance Increase <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total House Changes
Salaries and wages	\$23,496	\$25,758		\$49,254
Operating expenses			<u>46,545</u>	<u>46,545</u>
Total all funds	\$23,496	\$25,758	\$46,545	\$95,799
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$23,496	\$25,758	\$46,545	\$95,799
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Funding is added for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.

<sup>2</sup> Funding is added for increases in health insurance premiums from \$1,130 to \$1,249 per month.

<sup>3</sup> Funding is added for operating expenses to restore \$46,545 of the \$146,545 in funding reduced during the 2015-17 biennium as a result of general fund budget reductions.

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A section is added identifying the cost of the health insurance premium increase.

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB 1011**

House Appropriations - Government Operations Division Committee

Subcommittee

Amendment LC# or Description: To remove \$100,000.<sup>00</sup> from operating

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

Motion Made By Vice Chairman Boehning    Seconded By Rep Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Brandenburg			Representative Delmore		
Vice Chairman Boehning					
Representative Brabandt					
Representative Nathe					
Representative Kempenich					
Representative Vigesaa					
<u>Vote</u>					

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

Absent \_\_\_\_\_

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

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

Motion carried

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB1011**

House Appropriations - Government Operations Division Committee

Subcommittee

Amendment LC# or Description: 17.0496.01001

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

Motion Made By Representative Delmore    Seconded By Representative Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Brandenburg	X		Representative Delmore	X	
Vice Chairman Boehning	X				
Representative Brabandt	X				
Representative Nathe	X				
Representative Kempenich	X				
Representative Vigesaa	X				

Total    (Yes) 7    No 0

Absent 0

Floor Assignment Representative Delmore

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

Date: 2/14/2017  
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1011**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: 17.0496.01001

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

Motion Made By Representative Delmore Seconded By Representative Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich			Representative Streyle		
Representative: Boehning			Representative Vigesaa		
Representative: Brabandt					
Representative Brandenburg					
Representative Kading			Representative Boe		
Representative Kreidt			Representative Delmore		
Representative Martinson			Representative Holman		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Pollert					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

*Vote Vote.*

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

Absent \_\_\_\_\_

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

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

**Motion Carries**

Date: 2/14/2017  
 Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1011**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

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

Motion Made By Representative Delmore Seconded By Representative Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X			
Representative Kempenich	X		Representative Streyle	A	
Representative: Boehning	X		Representative Vigesaa	X	
Representative: Brabandt	X				
Representative Brandenburg	X				
Representative Kading		X	Representative Boe	X	
Representative Kreidt	A		Representative Delmore	X	
Representative Martinson	X		Representative Holman	X	
Representative Meier	X				
Representative Monson	A				
Representative Nathe	X				
Representative J. Nelson	X				
Representative Pollert	X				
Representative Sanford	X				
Representative Schatz	X				
Representative Schmidt	X				

Total (Yes) 16 No 2

Absent 3

Floor Assignment Representative Delmore

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

**Motion Carries**

**REPORT OF STANDING COMMITTEE**

**HB 1011: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). HB 1011 was placed on the Sixth order on the calendar.

Page 1, replace lines 11 through 15 with:

"Salaries and wages	\$1,801,279	\$49,254	\$1,850,533
Operating expenses	<u>459,502</u>	<u>46,545</u>	<u>506,047</u>
Total all funds	\$2,260,781	\$95,799	\$2,356,580
Less estimated income	<u>170,000</u>	<u>0</u>	<u>170,000</u>
Total general fund	\$2,090,781	\$95,799	\$2,186,580"

Page 1, after line 16, insert:

**"SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in section 1 of this Act includes the sum of \$25,758 from the general fund for increases in employee health insurance premiums from \$1,130 to \$1,249 per month."

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	House Changes	House Version
Salaries and wages	\$1,801,279	\$49,254	\$1,850,533
Operating expenses	<u>459,502</u>	<u>46,545</u>	<u>506,047</u>
Total all funds	\$2,260,781	\$95,799	\$2,356,580
Less estimated income	<u>170,000</u>	<u>0</u>	<u>170,000</u>
General fund	\$2,090,781	\$95,799	\$2,186,580
FTE	9.00	0.00	9.00

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

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Health Insurance Increase <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total House Changes
Salaries and wages	\$23,496	\$25,758		\$49,254
Operating expenses			46,545	46,545
Total all funds	\$23,496	\$25,758	\$46,545	\$95,799
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$23,496	\$25,758	\$46,545	\$95,799
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Funding is added for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.

<sup>2</sup> Funding is added for increases in health insurance premiums from \$1,130 to \$1,249 per month.

<sup>3</sup> Funding is added for operating expenses to restore \$46,545 of the \$146,545 in funding reduced during the 2015-17 biennium as a result of general fund budget reductions.

---

A section is added identifying the cost of the health insurance premium increase.

**2017 SENATE APPROPRIATIONS**

**HB 1011**

# 2017 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Harvest Room, State Capitol

HB 1011  
3/2/2017  
Job # 28612

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

To provide an appropriation for defraying the expenses of the securities department.

## **Minutes:**

Testimony Attached # 1.

**Legislative Council: Adam Mathiak**

**OMB: Stephanie Gullickson**

**Chairman Holmberg** called the committee to order on HB 1011.

**Karen Tyler, Securities Commissioner, North Dakota Securities Department**

Testified in favor of HB 1011. Testimony Attached # 1.

(speaking from testimony)

(9:05) **Chairman Holmberg:** Were you part of the discussion as to why the House decided to eliminate the self-funding status or was that something that was delivered to you by messenger?

**Karen Tyler:** I was in the room, but the discussion was really amongst the committee. As to reasoning, I am not aware what the reasoning was – just that it wasn't going to happen.

**Senator Mathern:** The status change was recommended by the Governor. What is your opinion or what do you think is best?

**Karen Tyler:** I do agree and support the change. We are, like the other two financial regulators, a revenue generating agency with revenues that actually come from the industry that we regulate. I think it's the appropriate treatment. One other issue that we're looking at in regard to the self-funded or special funded status, we are in discussions with the Department of Financial Institutions looking at a potential for a combination of the agencies in terms of our operating and that would be another important piece of that process, so I do agree with both Gov. Dalrymple and Gov. Burgum on that change.

(11:57) **Senator Oehlke:** Right now, if a legislator comes to you and asks for information on something, are you obliged to give it, depending on what you can legally provide? If you become more of an autonomous agency, may legislators still expect to receive the same kind of response or would it be different?

**Karen Tyler:** Because we are an enforcement agency with enforcement authority, whether a legislator or any other person were to come to us seeking information about a particular matter, we do have the option to hold information confidential if it pertains to an ongoing investigation. That is the discretion of the commissioner. After a 6-month period of time, if the investigation has closed, the commissioner would have to give some sort of basis for still continuing to hold that information confidential. Otherwise, any information would be available to you. It would just be if it was something pertaining to an open investigation that we would have the option to hold it as confidential.

Changing us from a general fund to a special funded agency actually doesn't make us any more autonomous. We operate the same way. There are no authority changes. The relationship we have with the legislative branch doesn't change at all. The only thing that would be different is that funding status, going from general fund to special fund. The math doesn't change. All of our revenue goes into the general fund now. The only difference would be for the first 5-6 months of a biennium, our revenues would be funding us, and then once funded, OMB would start moving our revenues to the general fund. Operationally and in terms of information available to legislators, nothing would change.

**Chairman Holmberg:** Closed the hearing on HB 1011. We'll think about it and see if we need a sub-committee. Clearly, if we make any changes, we will have to have a conference committee.

# 2017 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee  
Harvest Room, State Capitol

HB 1011  
3/23/2017  
JOB # 29584

- Subcommittee  
 Conference Committee

Committee Clerk Signature



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

A DO PASS AS AMENDED on HB 1011 (Securities Commission)

## Minutes:



Chairman Holmberg: Opened the hearing on HB 1011. All committee members were present. Michael Johnson, Legislative Council and Lori Laschkewitsch, OMB were also present.

**Chairman Holmberg:** The only change is the premium amount for 1011. Could I have someone move the amendment?

**Senator Robinson:** moved the Amendment # 17.0496.02001. 2<sup>nd</sup> by Senator Mathern.

**Chairman Holmberg:** Would you call the roll on the amendment for 1011?

**A Roll Call vote was taken. Yea: 14; Nay: 0; Absent: 0.**

**Chairman Holmberg:** Could we have a motion on the bill?

**Senator Robinson:** Moved a Do Pass as Amended. 2<sup>nd</sup> by Senator Oehlke.

**Chairman Holmberg:** Would you call the roll on a Do Pass As Amended on 1011?

**A Roll Call vote was taken. Yea: 14; Nay: 0; Absent: 0. Senator Grabinger will carry the bill.**

The hearing was closed on HB 1011.

**Chairman Holmberg:** did a recap of future hearings and subcommittee hearings on several bills for the remaining of the week and next week.

CJ  
 3/23-2017  
 1 of 1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1011

Page 1, replace line 11 with:

"Salaries and wages \$1,801,279 \$47,388 \$1,848,667"

Page 1, replace line 13 with:

"Total all funds \$2,260,781 \$93,933 \$2,354,714"

Page 1, replace line 15 with:

"Total general fund \$2,090,781 \$93,933 \$2,184,714"

Page 1, line 18, replace "\$25,578" with "\$23,892"

Page 1, line 19, replace "\$1,249" with "\$1,241"

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$1,801,279	\$1,850,533	(\$1,866)	\$1,848,667
Operating expenses	459,502	506,047		506,047
Total all funds	\$2,260,781	\$2,356,580	(\$1,866)	\$2,354,714
Less estimated income	170,000	170,000	0	170,000
General fund	\$2,090,781	\$2,186,580	(\$1,866)	\$2,184,714
FTE	9.00	9.00	0.00	9.00

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

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Total Senate Changes
Salaries and wages	(\$1,866)	(\$1,866)
Operating expenses		
Total all funds	(\$1,866)	(\$1,866)
Less estimated income	0	0
General fund	(\$1,866)	(\$1,866)
FTE	0.00	0.00

<sup>1</sup>Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month.

Date: 3-23-17

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1011

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: 17, 0496, 02001

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

Motion Made By Robinson    Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Mathern	✓	
Vice Chair Krebsbach	✓		Senator Grabinger	✓	
Vice Chair Bowman	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Wanzek	✓				
Senator Kilzer	✓				
Senator Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 14    No 0

Absent 0

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

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

Date: 3-23-17

Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1011

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

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

Motion Made By Robinson Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Mathern	✓	
Vice Chair Krebsbach	✓		Senator Grabinger	✓	
Vice Chair Bowman	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Wanzek	✓				
Senator Kilzer	✓				
Senator Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Grabinger

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** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1011 was placed on the Sixth order on the calendar.

Page 1, replace line 11 with:

"Salaries and wages \$1,801,279 \$47,388 \$1,848,667"

Page 1, replace line 13 with:

"Total all funds \$2,260,781 \$93,933 \$2,354,714"

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Page 1, line 18, replace "\$25,578" with "\$23,892"

Page 1, line 19, replace "\$1,249" with "\$1,241"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$1,801,279	\$1,850,533	(\$1,866)	\$1,848,667
Operating expenses	459,502	506,047		506,047
Total all funds	\$2,260,781	\$2,356,580	(\$1,866)	\$2,354,714
Less estimated income	170,000	170,000	0	170,000
General fund	\$2,090,781	\$2,186,580	(\$1,866)	\$2,184,714
FTE	9.00	9.00	0.00	9.00

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

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Total Senate Changes
Salaries and wages	(\$1,866)	(\$1,866)
Operating expenses		
Total all funds	(\$1,866)	(\$1,866)
Less estimated income	0	0
General fund	(\$1,866)	(\$1,866)
FTE	0.00	0.00

<sup>1</sup>Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month.

**2017 TESTIMONY**

**HB 1011**

**Department 414 - Securities Department  
House Bill Nos. 1011 and 1071**

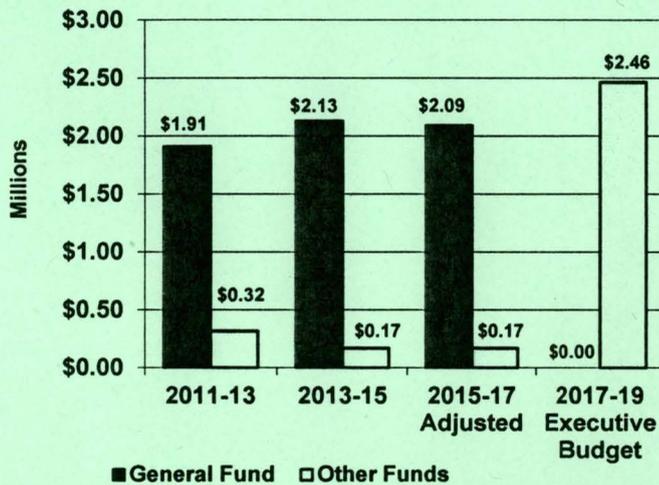
**Executive Budget Comparison to Prior Biennium Appropriations**

	FTE Positions	General Fund	Other Funds	Total
2017-19 Executive Budget	9.00	\$0	\$2,464,459	\$2,464,459
2015-17 Adjusted Legislative Appropriations	9.00	2,090,781	170,000	2,260,781
Increase (Decrease)	0.00	(\$2,090,781)	\$2,294,459	\$203,678

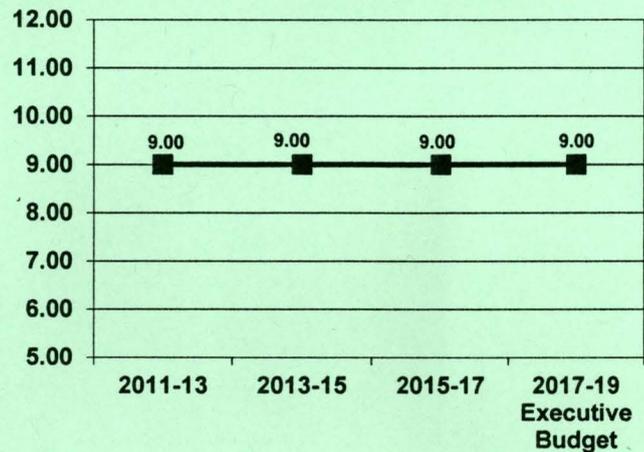
**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2017-19 Executive Budget	\$0	\$0	\$0
2015-17 Adjusted Legislative Appropriations	2,090,781	0	2,090,781
Increase (Decrease)	(\$2,090,781)	\$0	(\$2,090,781)

**Agency Funding**



**FTE Positions**



**Executive Budget Comparison to Base Level**

	General Fund	Other Funds	Total
2017-19 Executive Budget	\$0	\$2,464,459	\$2,464,459
2017-19 Base Level	2,090,781	170,000	2,260,781
Increase (Decrease)	(\$2,090,781)	\$2,294,459	\$203,678

**Executive Budget Highlights**

	General Fund	Other Funds	Total
1. Changes the agency's funding source from general fund to special funds	(\$2,090,781)	\$2,090,781	\$0
2. Adds funding for state employee salary and benefit increases, of which \$7,879 is for salary increases and \$25,758 is for health insurance increases		\$33,637	\$33,637
3. Restores funding for operating expenses		\$146,545	\$146,545

**Other Sections in Bill  
(As Detailed in House Bill No. 1071)**

**Securities Department special fund** - Section 2 amends Section 10-04-03(5) to deposit fees, civil penalties, or other moneys collected by the Securities Department in the department's special fund rather than the general fund. The amendment to Section 10-04-03 authorizes the Securities Department to reserve the revenues collected up to the amount appropriated by the Legislative Assembly and all revenues in excess of the agency's appropriated amount must be transferred to the general fund by the Office of Management and Budget.

### **Continuing Appropriations**

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

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

### **Significant Audit Findings**

The operational audit of the Securities Department conducted by the State Auditor's office for the period ended June 30, 2014, included a significant audit finding related to a lack of policies and procedures surrounding broker/dealer registration.

### **Major Related Legislation**

At this time, no major related legislation has been introduced affecting this agency.

**Securities Department - Budget No. 414**  
**House Bill Nos. 1011 and 1071**  
**Base Level Funding Changes**

	<u>Executive Budget Recommendation</u>			
	<u>FTE</u> <u>Position</u>	<u>General</u> <u>Fund</u>	<u>Other</u> <u>Funds</u>	<u>Total</u>
<b>2017-19 Biennium Base Level</b>	9.00	\$2,090,781	\$170,000	\$2,260,781
<b>2017-19 Ongoing Funding Changes</b>				
Base payroll changes			\$23,496	\$23,496
Salary increase - Performance			7,879	7,879
Health insurance increase			25,758	25,758
Funding source change		(2,090,781)	2,090,781	0
Restores operating expenses			146,545	146,545
Total ongoing funding changes	0.00	(\$2,090,781)	\$2,294,459	\$203,678
<b>One-time funding items</b>				
No one-time funding items				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	0.00	(\$2,090,781)	\$2,294,459	\$203,678
<b>2017-19 Total Funding</b>	9.00	\$0	\$2,464,459	\$2,464,459

**Other Sections in Securities Department - Budget No. 414**

Change of funding source

Executive Budget Recommendation

Section 2 amends Section 10-04-03 (5) relating to deposit fees, civil penalties, or other money collected by the Securities Department in the department's special fund rather than the general fund. The amendment to Section 10-04-03 authorizes the Securities Department to reserve the revenues collected up to the amount appropriated by the Legislative Assembly and all revenues in excess of the agency's appropriated amount must be transferred to the general fund by the Office of Management and Budget.

## Department 414 - Securities Department

## Appropriations Comparisons to the Original and Adjusted Base Budgets

### General Fund Appropriations Adjustments (As a result of the August 2016 General Fund Budget Reductions)

	Ongoing	One-Time	Total
2015-17 original general fund appropriations	\$2,237,326	\$0	\$2,237,326
General fund reductions	(146,545)	0	(146,545)
Adjusted 2015-17 appropriations	\$2,090,781	\$0	\$2,090,781
Executive Budget changes	(2,090,781)	0	(2,090,781)
2017-19 Executive Budget	\$0	\$0	\$0

### Summary of August 2016 General Fund Budget Reductions

	Ongoing	One-Time	Total
Reduced funding for operating expenses	(\$146,545)		(\$146,545)
Total reductions	(\$146,545)		(\$146,545)
Percentage reduction to ongoing and one-time general fund appropriations	6.55%		6.55%

### 2017-19 Executive Budget Changes to the Original and Adjusted Base Budgets

	Changes to Original Budget	Budget Reduction Adjustments	Changes to Adjusted Budget
Change to special-funded agency <sup>1</sup>	(\$2,237,326)	\$146,545	(\$2,090,781)
Total	(\$2,237,326)	\$146,545	(\$2,090,781)

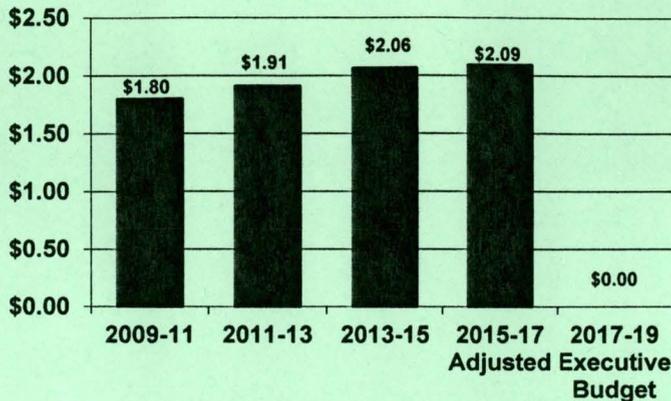
<sup>1</sup>The 2017-19 Executive Budget recommendation changes the funding source for the Securities Department from the general fund to special funds.

Department 414 - Securities Department

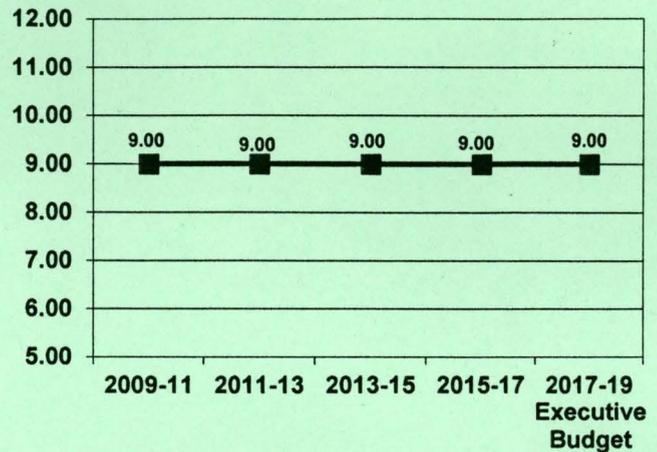
## Historical Appropriations Information

### Ongoing General Fund Appropriations Since 2009-11

Agency Funding (in Millions)



FTE Positions



■ Ongoing General Fund Appropriations

Ongoing General Fund Appropriations					
	2009-11	2011-13	2013-15	2015-17 Adjusted	2017-19 Executive Budget
Ongoing general fund appropriations	\$1,798,362	\$1,909,220	\$2,063,005	\$2,090,781	\$0
Increase (decrease) from previous biennium	N/A	\$110,858	\$153,785	\$27,776	(\$2,090,781)
Percentage increase (decrease) from previous biennium	N/A	6.2%	8.1%	1.3%	(100%)
Cumulative percentage increase (decrease) from 2009-11 biennium	N/A	6.2%	14.7%	16.3%	N/A

### Major Increases (Decreases) in Ongoing General Fund Appropriations

**2011-13 Biennium**

- No major increases or decreases

**2013-15 Biennium**

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

**2015-17 Biennium**

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

**2017-19 Biennium (Executive Budget Recommendation)**

- Changes the agency's funding source from general fund to special funds (\$2,090,781)



NORTH DAKOTA  
SECURITIES DEPARTMENT

... by the numbers

10 Year Total Revenue



10 Year Total Expense



10 Year Net for General Fund



FTE's Added over the Past 10 Years:



Firms & Professionals Now Registered:



Securities Offerings in Effect:



6/30/16

\$ Amount of Securities Offerings:



6/30/16

## BUDGET APPROPRIATION AND REVENUE HISTORY

BIENNIUM	07-09	09-11	11-13	13-15	15-17	15-17 <i>adjusted *</i>
TOTAL APPROPRIATION	1,623,355	1,798,362	1,909,220	2,166,709	2,237,326	2,090,781
SALARIES/BENEFITS	1,265,243	1,409,120	1,519,978	1,751,617	1,801,279	1,801,279
OPERATING	358,112	389,242	389,242	415,092	436,047	289,502
REVENUE	17,369,818	17,768,220	18,882,606	20,843,731	21,500,000	**
FTE's	9	9	9	9	9	

\* numbers reflect allotments of 4.05% and 2.5%

\*\*estimate based on current biennium revenue trend

②

January 4, 2017

HB 1011 / HB 1071

attachment B

**House Bill 1011/1071**

**Testimony of North Dakota Securities Commissioner Karen Tyler  
Before the Government Operations Appropriation Sub-Committee**

**January 4, 2017**

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

The Department's primary mandate is to protect the North Dakota Investor and facilitate legitimate capital formation through the administration of the North Dakota Securities Act, chapter 10-04 of the ND Century Code. We deliver on this mandate through our efforts in four functional areas:

- 1) We regulate the Capital Formation and Franchise registration process
- 2) We register Securities Industry Firms and Professionals who want to do business in the state

- 3) We conduct Examinations, Investigations and take Enforcement Actions as necessary and appropriate, and we also make criminal referrals and support criminal cases.
- 4) And we produce and deliver Investor Education and Financial Literacy programs

The North Dakota Securities Department is a small agency, with 9 full time employees, and we are not requesting additional FTEs in the 17-19 budget. We continue to operate as a revenue generating agency for the state, taking in over \$20 million dollars in revenue last biennium and we estimate approximately \$21 million dollars in the current biennium. Over the last several budget cycles, the agency's spending has averaged only 10 cents per revenue dollar generated.

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



## BUDGET REQUEST

The North Dakota Securities Department is seeking Special Fund status. Governor Dalrymple's executive budget recommendation for the Securities Department provided for the change to special fund status, and Governor Burgum also supports this treatment. The language creating the special fund status is included in HB 1071.

We are requesting this status because The North Dakota Securities Department is a net revenue generating agency. The revenue generated by the department is 10 times the size of our budget appropriation – as I stated earlier we are anticipating revenues of approximately 21 million in the current biennium.

Based on our research into the matter, it appears the Securities Department is the only net revenue generating agency that does not have self-funded or special-funded status. And we are the only financial regulator that does not have self-funded or special fund status, with both the Insurance Department and the Department of Financial Institutions treated as such.

Our request does not alter the revenue available to the General Fund. Our budget is still appropriated by the legislature, and all excess revenue over and above the legislature's appropriation is transferred to the General Fund.

The Department operates in a very fiscally conservative manner. Over the last 10 years, during a period of tremendous economic and revenue growth in the state,

the Department did not seek any additional FTE's. During this period of expansion, we did not seek to expand our operating budget. The only recurring operating increase we have had in the last 10 years was the ITD desk-top support requirement and funding added last session. And during this period while we held operating expenses steady and did not increase costs by the addition of employees, our revenues grew by over 30%. But because of the Department's current General Fund status, we of course were required to fully participate in the allotments that have occurred this biennium. As a result, our operating line funding is now lower than it was in 2005.

The Department's total budget request for the 2017-2019 biennium is \$2,464,459. This request reflects the enhancements set forth in the executive budget, restores our professional services funding (the line item from which the majority of the allotment was taken), and provides funding for the department to pay rent, which is required of a special fund agency.

**Other information requested by legislative council on behalf of Chairman**

**Delzer:**

4

There were no significant financial audit findings for the Department in our last audit for the two-year period ending June 30, 2014.

The Securities Department does not receive funding from any Federal source.

With the exception of the Department being included in the legislation that mandated ITD desktop support services, there were no major funding increases to the Department's budget in the last two legislative sessions. The Department did not submit any optional requests outside the executive budget recommendation.

As I mentioned earlier, the Department is not requesting any additional FTE positions.

## **INDUSTRY CONDITIONS AND DEPARTMENT REVENUE**

The revenue of the department is to a degree tied to the health of the investment industry. Over half of our revenue is derived from the registration of securities firms and their agents and investment advisor firms and their representatives.

Despite significant challenges in the financial services industry over the last several years, we have seen steady growth in the agent and IA representative

registration categories. Currently there are 1,144 broker dealers registered in the

state, 81,980 agents, 734 Investment Advisor firms, and 1,604 Investment Advisor representatives. Last week the renewal of these registrations – a total of 85,462 renewals - were processed in an entirely automated process, and a payment of just over \$5.3 million was deposited to the Bank of North Dakota. The cost to the state for the execution of the renewal process is zero.

### **CRITICAL ISSUES IMPACTING RESOURCE ALLOCATION**

Critical issues the Department has identified that we believe will impact our constituents, reinforce the necessity of maintaining our funding at the requested level, and drive the allocation of our resources, include but are not limited to:

- Victimization of seniors by financial criminals and dishonest financial advisors
  - 41% of victims of Department's open cases are seniors
  - By 2020 it is estimated that 1 in 6 people in US will be 65 and over
  - Silent Generation (71 and older) and Baby Boomers (52-70) control 83% of household wealth in this country
  - Cognitive decline /Diminished capacity increase vulnerability

- The Department will need to devote more enforcement and education resources in this area
- FINTECH - Financial product innovation and subsequent exploitation
  - Ex) Robo Advisors, Equity Crowdfunding, Block Chain Currency, P2P Lending
  - Resources dedicated to training
  - Regulation needs to keep up with financial innovation

While there can be great value and benefit to society by bringing together the delivery of financial services and the latest in technological advancements, the financial services industry does have a track record for, at times, exploiting profitable product and service innovations beyond the point of mutual benefit to client and firm, and on to the point of severe damage and collapse. Looking back over the last 20 years, examples of the result of such conduct, which then led to regulatory action and reform, would be the dot-com bubble, research analyst conflicts of interests, mutual fund market timing and late trading, the auction rate securities market collapse, and, more recently, sub-prime mortgage securitization and the exponential over-issuance of credit default swaps which lead to the financial crisis.

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

Thank you for your time today. I would be happy to answer any questions.

## KEY DEPARTMENT STATISTICS:

<i>CAPITAL FORMATION AND FRANCHISE REGISTRATION</i>	<i>As of June 30, 2016</i>
<i>Number of Securities Offerings in Effect:</i>	25
<i>Dollar Amount of Offerings in Effect:</i>	\$48,012,138,564
<i>Franchise Registrations:</i>	881
<i>Franchise Registrations Pending:</i>	24

<i>REGISTRATION OF SECURITIES FIRMS AND PROFESSIONALS</i>	<i>As of Dec 31, 2016</i>
<i>Broker-Dealer Firms:</i>	1,144
<i>Investment Adviser Firms:</i>	732
<i>Broker-Dealer Agents:</i>	81,980
<i>Investment Adviser Representatives:</i>	1,604

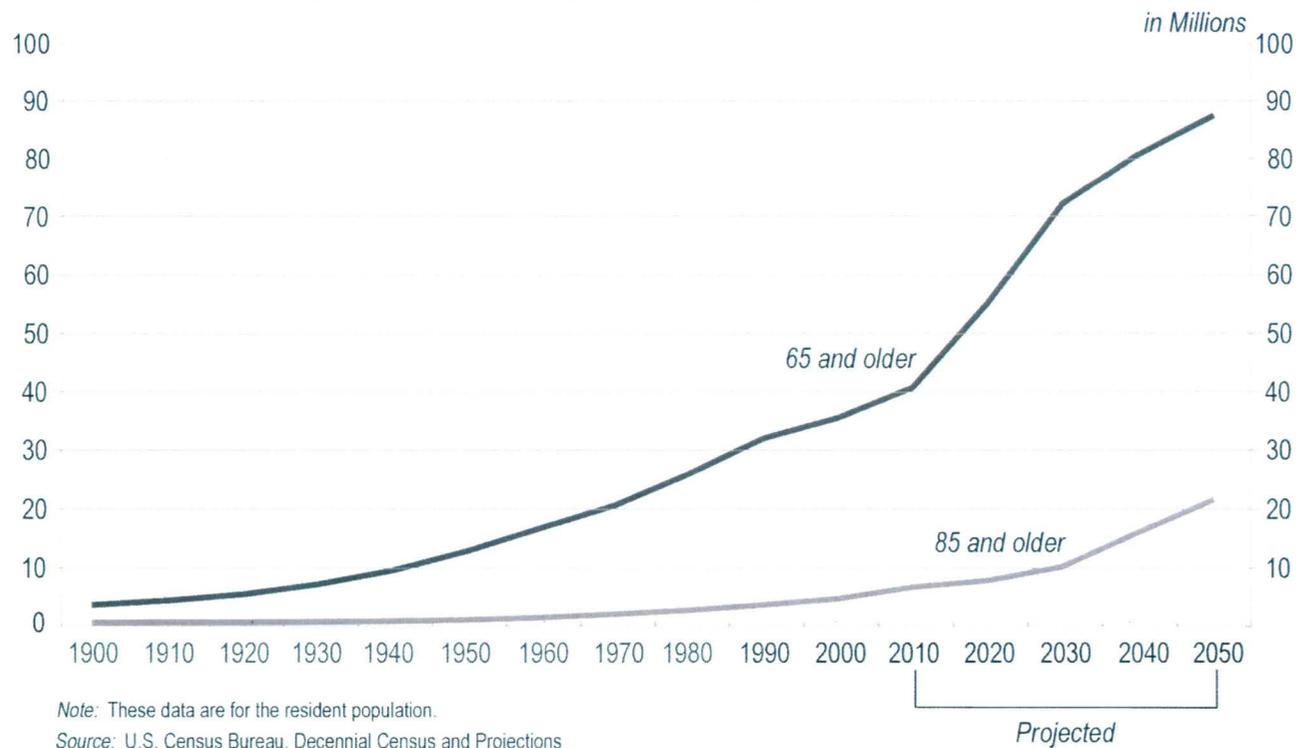
<i>INVESTIGATIONS, EXAMINATIONS, AND ENFORCEMENT</i>	<i>Jan 1, 2015 to Dec 31, 2016</i>
<i>New Enforcement Cases Opened:</i>	213
<i>Enforcement Cases Closed or Referred:</i>	166
<i>Exams Opened:</i>	17
<i>Exams Closed:</i>	10
<i>Funds Ordered Returned to Investors:</i>	\$449,562.25
<i>Penalties Assessed:</i>	\$65,512.50

*Most prevalent violations investigated have involved:*

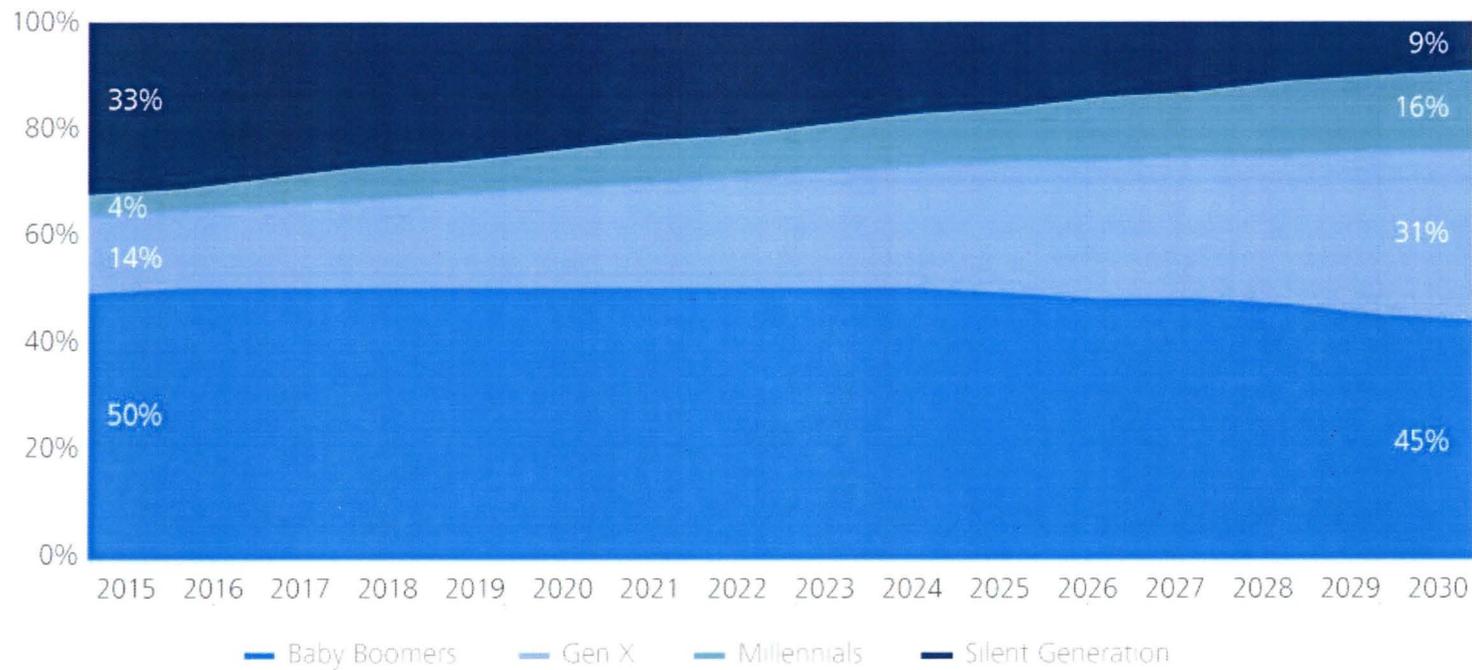
- Unregistered Individuals*
- Sale of Unregistered Securities*
- Private Placement Fraud*
- Ponzi Schemes*
- Misrepresentations*
- Lack of Suitability*

*The Department has referred 3 cases to criminal authorities.*

## Population Age 65 and Over and Age 85 and Over Selected Years 1900-2008 and Projected 2010-2050



# Generational Share of Net Household Wealth (Percent)



Source: Deloitte Center for Financial Services.

Graphic: Deloitte University Press | DUPress.com

January 4, 2017

4/B1011 / HB1071

Attachment C

# Time Certificate of Deposit

Financial Institution: [REDACTED]

Account Name: [REDACTED] SSN/TIN: [REDACTED]  
OWNERSHIP TYPE: Individual - TOD

Account Number	Issue Date	Deposit Amount	Term	Maturity Date
[REDACTED]	12/26/2014	\$25,000.00	12 months	12/26/2015

**Rate Information:** This Account is an interest bearing account. The interest rate paid on the entire balance in the account will be 2.90% with an annual percentage yield of 2.90%

The interest rate and annual percentage yield will not change for the term of the account. The interest rate will be in effect until 12/26/15 interest begins to accrue on the business day you deposit noncash items (for example, checks). Interest will not be compounded on the account. Interest will be credited to the account at maturity. Interest on your account will be credited by adding the interest to the principal.

**Balance Information:** We use the daily balance method to calculate the interest on the account. This method applies a daily periodic rate to the principal in the account each day. We will use an interest accrual basis of 365 for each day in the year.

**Limitations:** You must deposit \$500.00 to open this account. You may not make additional deposits into this account. You may not make withdrawals from your account until the maturity date.

**Time Account Information:** Your account will mature on 12/26/15. If you withdraw any of the principal before the maturity date, we may impose a penalty of 3 months interest. This account will automatically renew. You will have 10 days after the maturity date to withdraw funds without penalty. If you do not withdraw the funds, each renewal term will be for an identical period of time as the original term.

NON TRANSFERABLE - NON NEGOTIABLE	Member FDIC	An Authorized Signature [REDACTED]
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## TIME DEPOSIT AGREEMENT -

We appreciate your decision to open a time deposit account with us. This Agreement sets forth certain conditions, rates, and rules that are specific to your Account. Each signer acknowledges that the Account Holder named has placed on deposit with the Financial Institution the Deposit Amount indicated, and has agreed to keep the funds on deposit until the Maturity Date. As used in this Agreement, the words "you", "your" or "yours" mean the Account Holder(s), the word "Account" means this Time Deposit Account and the word "Agreement" means this Time Deposit Agreement, and the words "we", "us" and "our" mean the Financial Institution. This Account is effective as of the Issue Date and is valid as of the date we receive credit for noncash items (such as checks drawn on other financial institutions) deposited to open the Account. Deposits of foreign currency will be converted to U.S. funds as of the date of deposit and will be reflected as such on our records.

**INTEREST RATE.** The interest rate is the annual rate of interest paid on the Account which does not reflect compounding ("Interest Rate"), and is based upon the interest accrual basis described above.

**AUTOMATIC RENEWAL POLICY.** If the Account will automatically renew as described above, the principal amount and all paid earned interest that has not been withdrawn will automatically renew on each Maturity Date for the term described above in the Time Account Information section. Interest on renewed accounts will be calculated at the interest rate then in effect for time deposits of that Deposit Amount and term. If you wish to withdraw funds from your Account, you must notify us during the grace period after the Maturity Date.

**EARLY WITHDRAWAL PENALTY.** You have agreed to keep the funds on deposit until the Maturity Date of your Account. Any withdrawal of all or part of the funds from your Account prior to maturity may result in an early withdrawal penalty. We will consider requests for early withdrawal and, if granted, the penalty as specified above will apply.

**Minimum Required Penalty.** If you withdraw money within six (6) days after the date of deposit, the Minimum Required penalty is seven (7) days' simple interest on the withdrawn funds. If partial early withdrawal(s) are permitted, we are required to impose the Minimum Required Penalty on the amount(s) withdrawn within six (6) days after each partial withdrawal. The early withdrawal penalty may be more than the Minimum Required Penalty. You pay the early withdrawal penalty by forfeiting part of the accrued interest on the Account. If your Account has not earned enough interest, or if the interest has been paid, we take the difference from the principal amount of your Account.

**Exceptions.** We may let you withdraw money from your Account before the Maturity Date without an early withdrawal penalty: (1) when one or more of you dies or is determined legally incompetent by a court or other administrative body of competent jurisdiction; or (2) when the Account is an Individual Retirement Account (IRA) established in accordance with 26 USC 408 and the money is paid within seven (7) days after the Account is opened; or (3) when the Account is a Keogh Plan (Keogh), if you forfeit at least the interest earned on the withdrawn funds; or (4) if the Account is an IRA or a Keogh Plan established pursuant to 26 USC 408 or 26 USC 401, when you reach age 59 1/2 or become disabled; or (5) within an applicable grace period (if any).

**RIGHT OF SETOFF.** Subject to applicable law, we may exercise our right of setoff or security interest against any and all of your Accounts (except IRA, HSA, Keogh plan and Trust Accounts) without notice, for any liability or debt of any of you, whether joint or individual, whether direct or contingent, whether now or hereafter existing, and whether arising from overdrafts, endorsements, guarantees, loans, attachments, garnishments, levies, attorneys' fees, or other obligations. If the Account is a joint or multiple-party account, each joint or multiple-party account holder authorizes us to exercise our right of setoff against any and all Accounts of each Account Holder.

**OTHER ACCOUNT RULES.** The following rules also apply to the Account.

**Surrender of Instrument.** We may require you to endorse and surrender this Agreement to us when you withdraw funds, transfer or close your Account. If you lose this Agreement, you agree to sign any affidavit of lost instrument, or other Agreement we may require, and agree to hold us harmless from liability, prior to our honoring your withdrawal or request.

**Death of Account Holder.** Each Account Holder agrees to notify us immediately upon the death of any other Account Holder. You agree that we may hold the funds in your Account until we have received all required documentation and instructions.

**Indemnity.** If you ask us to follow instructions that we believe might expose us to any claim, liability or damages, we may refuse to follow your instructions or may require a bond or other protection, including your agreement to indemnify us.

**Pledge.** You agree not to pledge your Account without our prior consent. You may not withdraw funds from your Account until all obligations secured by your Account are satisfied.

(1)

February 2, 2017

HB1011 / HB1071

Attachment A

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

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version				House Changes to Revised Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2017-19 Biennium Base Level</b>	9.00	\$2,090,781	\$170,000	\$2,260,781	9.00	\$2,090,781	\$170,000	\$2,260,781	0.00	\$0	\$0	\$0
<b>2017-19 Ongoing Funding Changes</b>												
Base payroll changes			\$23,496	\$23,496				\$0			(\$23,496)	(\$23,496)
<b>Salary increase</b>				<b>0</b>				0				0
Health insurance increase			25,758	25,758				0			(25,758)	(25,758)
<b>Employee portion of health insurance</b>			<b>(13,494)</b>	<b>(13,494)</b>				0			13,494	13,494
Funding source change		(2,090,781)	2,090,781	0				0		2,090,781	(2,090,781)	0
Restores operating expenses			146,545	146,545				0			(146,545)	(146,545)
<b>Total ongoing funding changes</b>	0.00	<b>(\$2,090,781)</b>	<b>\$2,273,086</b>	<b>\$182,305</b>	0.00	\$0	\$0	\$0	0.00	\$2,090,781	<b>(\$2,273,086)</b>	<b>(\$182,305)</b>
<b>One-time funding items</b>												
No one-time funding items				\$0				\$0				\$0
<b>Total one-time funding changes</b>	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	0.00	<b>(\$2,090,781)</b>	<b>\$2,273,086</b>	<b>\$182,305</b>	0.00	\$0	\$0	\$0	0.00	\$2,090,781	<b>(\$2,273,086)</b>	<b>(\$182,305)</b>
<b>2017-19 Total Funding</b>	9.00	\$0	\$2,443,086	\$2,443,086	9.00	\$2,090,781	\$170,000	\$2,260,781	0.00	\$2,090,781	<b>(\$2,273,086)</b>	<b>(\$182,305)</b>
										N/A	(93.0%)	(7.5%)

**Other Sections in Securities Department - Budget No. 414**

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)
Change of funding source	Section 2 amends Section 10-04-03 (5) relating to deposit fees, civil penalties, or other money collected by the Securities Department in the department's special fund rather than the general fund. The amendment to Section 10-04-03 authorizes the Securities Department to reserve the revenues collected up to the amount appropriated by the Legislative Assembly and all revenues in excess of the agency's appropriated amount must be transferred to the general fund by the Office of Management and Budget.

**House Version**

1.

February 2, 2017

HB1011 / HB1071

Attachment B

Prepared by the Legislative Council staff for  
for Government Operations Division  
January 26, 2017

**HOUSE BILL NO. 1011  
LISTING OF PROPOSED CHANGES TO BASE LEVEL**

**Department - Securities Department**

<b>Proposed funding changes:</b>	<b>FTE</b>	<b>General Fund</b>	<b>Special Funds</b>	<b>Total</b>
<b>Description</b>				
1 Add funding for base payroll changes, including cost to continue July 1, 2016 salary increase (Governor Dalrymple)			\$23,496	\$23,496
2 Add funding for July 1, 2018, 1 percent salary increase (Governor Dalrymple) - Governor Burgum recommends eliminating the salary increase and related funding			\$7,879	\$7,879
3 Add funding for health insurance increase (Governor Dalrymple)			\$25,758	\$25,758
4 Funding source change (Agency request)		(\$2,090,781)	\$2,090,781	\$0
5 Restores operating expenses (Agency request)			\$146,545	\$146,545
6 Reduce funding for 5 percent employee health insurance contribution (Governor Burgum)			(\$13,494)	(\$13,494)
<b>Total proposed funding changes</b>	<u>0.00</u>	<u>(\$2,090,781)</u>	<u>\$2,280,965</u>	<u>\$190,184</u>

**Other proposed changes:**

- 1 Add a section which amends Section 10-04-03 (5) relating to the deposit of fees, civil penalties, or other money collected by the Securities Department in the department's special fund rather than the general fund. The amendment to Section 10-04-03 authorizes the Securities Department to reserve the revenues collected up to the amount appropriated by the Legislative Assembly and all revenues in excess of the agency's appropriated amount must be transferred to the general fund by the Office of Management and Budget. (Agency request)

1

17.0496.01001  
Title.

Prepared by the Legislative Council staff for  
House Appropriations - Government  
Operations Division Committee  
February 6, 2017

Fiscal No. 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1011

Page 1, replace lines 11 through 15 with:

"Salaries and wages	\$1,801,279	\$49,254	\$1,850,533
Operating expenses	<u>459,502</u>	<u>46,545</u>	<u>506,047</u>
Total all funds	\$2,260,781	\$95,799	\$2,356,580
Less estimated income	<u>170,000</u>	<u>0</u>	<u>170,000</u>
Total general fund	\$2,090,781	\$95,799	\$2,186,580"

Page 1, after line 16, insert:

**"SECTION 2. HEALTH INSURANCE INCREASE.** The salaries and wages line item in section 1 of this Act includes the sum of \$25,758 from the general fund for increases in employee health insurance premiums from \$1,130 to \$1,249 per month."

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1011 - Securities Department - House Action

	Base Budget	House Changes	House Version
Salaries and wages	\$1,801,279	\$49,254	\$1,850,533
Operating expenses	<u>459,502</u>	<u>46,545</u>	<u>506,047</u>
Total all funds	\$2,260,781	\$95,799	\$2,356,580
Less estimated income	<u>170,000</u>	<u>0</u>	<u>170,000</u>
General fund	\$2,090,781	\$95,799	\$2,186,580
FTE	9.00	0.00	9.00

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

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Health Insurance Increase <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total House Changes
Salaries and wages	\$23,496	\$25,758		\$49,254
Operating expenses			46,545	46,545
Total all funds	\$23,496	\$25,758	\$46,545	\$95,799
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$23,496	\$25,758	\$46,545	\$95,799
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Funding is added for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.

<sup>2</sup> Funding is added for increases in health insurance premiums from \$1,130 to \$1,249 per month.

<sup>3</sup> Funding is added for operating expenses to restore \$46,545 of the \$146,545 in funding reduced during the 2015-17 biennium as a result of general fund budget reductions.

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A section is added identifying the cost of the health insurance premium increase.

**Department 414 - Securities Department  
House Bill No. 1011**

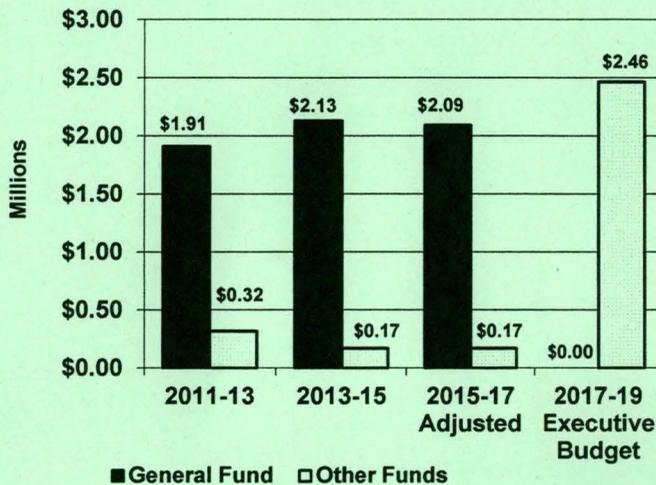
**Dalrymple Executive Budget Comparison to Prior Biennium Appropriations**

	FTE Positions	General Fund	Other Funds	Total
2017-19 Dalrymple Executive Budget	9.00	\$0	\$2,464,459	\$2,464,459
2015-17 Adjusted Legislative Appropriations	9.00	2,090,781	170,000	2,260,781
Increase (Decrease)	0.00	(\$2,090,781)	\$2,294,459	\$203,678

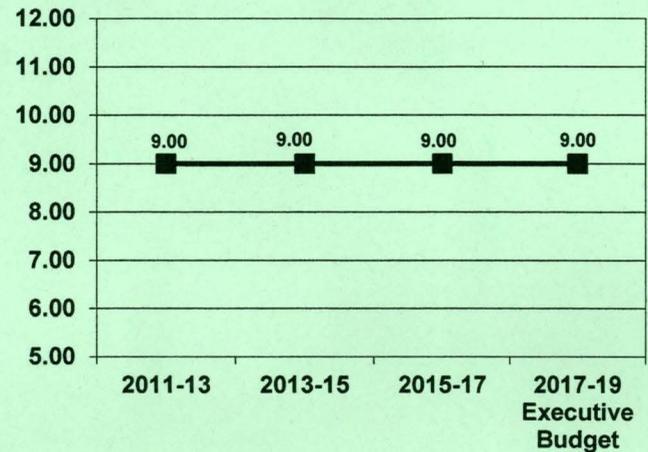
**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2017-19 Dalrymple Executive Budget	\$0	\$0	\$0
2015-17 Adjusted Legislative Appropriations	2,090,781	0	2,090,781
Increase (Decrease)	(\$2,090,781)	\$0	(\$2,090,781)

**Agency Funding**



**FTE Positions**



**Dalrymple Executive Budget Comparison to Base Level**

	General Fund	Other Funds	Total
2017-19 Dalrymple Executive Budget	\$0	\$2,464,459	\$2,464,459
2017-19 Base Level	2,090,781	170,000	2,260,781
Increase (Decrease)	(\$2,090,781)	\$2,294,459	\$203,678

**First House Action**

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

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

	General Fund	Other Funds	Total
1. Changes the agency's funding source from general fund to special funds. <b>The House did not approve the change in funding source; as a result, the changes shown in nos. 2 and 3 below will be from the general fund.</b>	(\$2,090,781)	\$2,090,781	\$0
2. Adds funding for state employee salary and benefit increases, of which \$7,879 is for salary increases and \$25,758 is for health insurance increases. (The Burgum budget removed funding for salary increases and provided for employees to pay for a portion of health insurance.) <b>The House removed funding for the salary increases.</b>		\$33,637	\$33,637

3. Restores funding for operating expenses. The House restored \$46,545 for operating expenses.	\$146,545	\$146,545
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### **Other Sections in House Bill No. 1011**

**Health insurance increase** - Section 2 identifies the amount included in the agency appropriations relating to increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

### **Continuing Appropriations**

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

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

### **Significant Audit Findings**

The operational audit of the Securities Department conducted by the State Auditor's office for the period ended June 30, 2014, included a significant audit finding related to a lack of policies and procedures surrounding broker/dealer registration.

### **Major Related Legislation**

**Senate Bill No. 2266** - Provides that the Legislative Management study the operations of the Department of Financial Institutions and the Securities Department to evaluate and determine whether cost-savings and increased efficiency may be achieved by combining the agencies into a single department.

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

	<b>Burgum Executive Budget Recommendation</b> <b>(Changes to Dalrymple Budget in Bold)</b>				<b>House Version</b>			
	<b>FTE Position</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>	<b>FTE Position</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
<b>2017-19 Biennium Base Level</b>	9.00	\$2,090,781	\$170,000	\$2,260,781	9.00	\$2,090,781	\$170,000	\$2,260,781
<b>2017-19 Ongoing Funding Changes</b>								
Base payroll changes			\$23,496	\$23,496		\$23,496		\$23,496
<b>Salary increase</b>				<b>0</b>				<b>0</b>
Health insurance increase			25,758	25,758		25,758		25,758
<b>Employee portion of health insurance</b>			<b>(13,494)</b>	<b>(13,494)</b>				<b>0</b>
Funding source change		(2,090,781)	2,090,781	0				0
Restores operating expenses			146,545	146,545		46,545		46,545
Total ongoing funding changes	0.00	(\$2,090,781)	\$2,273,086	\$182,305	0.00	\$95,799	\$0	\$95,799
<b>One-time funding items</b>								
No one-time funding items				\$0				\$0
Total one-time funding changes	0.00	\$0	\$0	\$0	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	0.00	(\$2,090,781)	\$2,273,086	\$182,305	0.00	\$95,799	\$0	\$95,799
<b>2017-19 Total Funding</b>	9.00	\$0	\$2,443,086	\$2,443,086	9.00	\$2,186,580	\$170,000	\$2,356,580

**Other Sections in Securities Department - Budget No. 414**

	<b>Burgum Executive Budget Recommendation</b> <b>(Changes to Dalrymple Budget in Bold)</b>				<b>House Version</b>			
	<b>FTE Position</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>	<b>FTE Position</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
Health insurance increase								

Section 2 identifies the funding increase for health insurance premium increases included in the agency's appropriation.

**Other Sections in Securities Department - Budget No. 414**

**Burgum Executive Budget Recommendation**

**(Changes to Dalrymple Budget in Bold)**

Change of funding source

Section 2 amends Section 10-04-03(5) relating to deposit fees, civil penalties, or other money collected by the Securities Department in the department's special fund rather than the general fund. The amendment to Section 10-04-03 authorizes the Securities Department to reserve the revenues collected up to the amount appropriated by the Legislative Assembly and all revenues in excess of the agency's appropriated amount must be transferred to the general fund by the Office of Management and Budget.

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House Version

## Department 414 - Securities Department

## Appropriations Comparisons to the Original and Adjusted Base Budgets

### General Fund Appropriations Adjustments (As a result of the August 2016 General Fund Budget Reductions)

	Ongoing	One-Time	Total
2015-17 original general fund appropriations	\$2,237,326	\$0	\$2,237,326
General fund reductions	(146,545)	0	(146,545)
Adjusted 2015-17 appropriations	\$2,090,781	\$0	\$2,090,781
Dalrymple Executive Budget changes	(2,090,781)	0	(2,090,781)
2017-19 Dalrymple Executive Budget	\$0	\$0	\$0

### Summary of August 2016 General Fund Budget Reductions

	Ongoing	One-Time	Total
Reduced funding for operating expenses	(\$146,545)		(\$146,545)
Total reductions	(\$146,545)		(\$146,545)
Percentage reduction to ongoing and one-time general fund appropriations	6.55%		6.55%

### 2017-19 Dalrymple Executive Budget Changes to the Original and Adjusted Base Budgets

	Changes to Original Budget	Budget Reduction Adjustments	Changes to Adjusted Budget
Change to special-funded agency <sup>1</sup>	(\$2,237,326)	\$146,545	(\$2,090,781)
Total	(\$2,237,326)	\$146,545	(\$2,090,781)

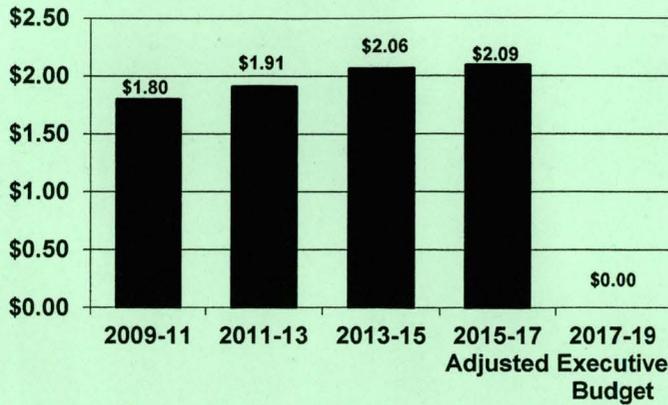
<sup>1</sup>The 2017-19 Executive Budget recommendation changes the funding source for the Securities Department from the general fund to special funds.

Department 414 - Securities Department

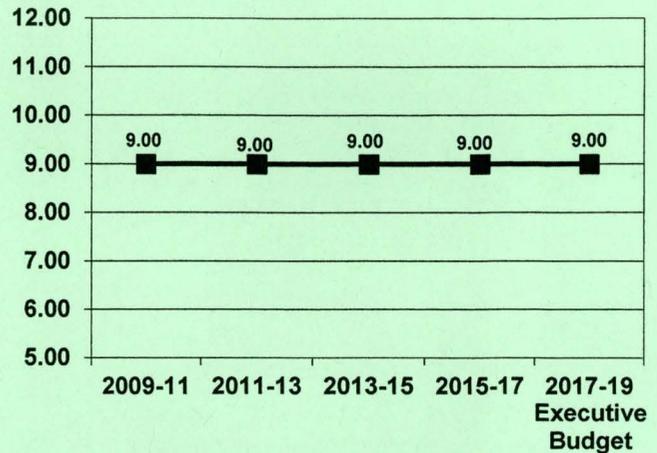
## Historical Appropriations Information

### Ongoing General Fund Appropriations Since 2009-11

Agency Funding (in Millions)



FTE Positions



■ Ongoing General Fund Appropriations

Ongoing General Fund Appropriations					
	2009-11	2011-13	2013-15	2015-17 Adjusted	2017-19 Dalrymple Executive Budget
Ongoing general fund appropriations	\$1,798,362	\$1,909,220	\$2,063,005	\$2,090,781	\$0
Increase (decrease) from previous biennium	N/A	\$110,858	\$153,785	\$27,776	(\$2,090,781)
Percentage increase (decrease) from previous biennium	N/A	6.2%	8.1%	1.3%	(100%)
Cumulative percentage increase (decrease) from 2009-11 biennium	N/A	6.2%	14.7%	16.3%	N/A

### Major Increases (Decreases) in Ongoing General Fund Appropriations

**2011-13 Biennium**

1. No major increases or decreases

**2013-15 Biennium**

1. Added funding for information technology upgrades \$25,850

**2015-17 Biennium**

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

**2017-19 Biennium (Dalrymple and Burgum Executive Budget Recommendations)**

1. Changes the agency's funding source from general fund to special funds. **The House did not approve the change in funding source.** (\$2,090,781)

## BUDGET APPROPRIATION AND REVENUE HISTORY

BIENNIUM	07-09	09-11	11-13	13-15	15-17	15-17 <i>adjusted *</i>
TOTAL APPROPRIATION	1,623,355	1,798,362	1,909,220	2,166,709	2,237,326	2,090,781
SALARIES/BENEFITS	1,265,243	1,409,120	1,519,978	1,751,617	1,801,279	1,801,279
OPERATING	358,112	389,242	389,242	415,092	436,047	289,502
REVENUE	17,369,818	17,768,220	18,882,606	20,843,731	21,500,000	**
FTE's	9	9	9	9	9	

*\* numbers reflect allotments of 4.05% and 2.5%*

*\*\*estimate based on current biennium revenue trend*



NORTH DAKOTA  
SECURITIES DEPARTMENT

[www.nd.gov/securities](http://www.nd.gov/securities) 701.328.2910

3-2-17 #1  
 AB 1011

**Securities Department Budget, House Bill 1011**

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

**Before the Senate Appropriations Committee**

**March 2, 2017**

Mr. Chairman and Members of the Committee, Good Morning. I am Karen Tyler, the State Securities Commissioner. I am here to provide testimony on HB 1011, pertaining to the appropriation for defraying the expenses of the Securities Department.

Detailed information about the functionality of the Securities Department is included in my written testimony, however my comments this morning will focus on the information requested by legislative council on behalf of Chairman Holmberg. I will, of course, be happy to answer any questions you have about the work of the Department.

## **2015-2107 BUDGET, IMPACT OF ALLOTMENTS**

The Department's original general fund budget for the current biennium was \$2,237,326.00. The reductions required of the Department through the allotment process totaled \$146,545.00, resulting in a total adjusted general fund budget of \$2,090,781.00. The allotment reductions were made from our operating budget and primarily our Professional Services line item. As a result, our operating budget is now below what it was in 2007.

Since 2007, the Department has not sought any additional employees. Since 2009, the Department has not sought to increase our operating budget in a recurring manner. While we have had some one-time funding needs, the only recurring operating increase we have had in the last 8 years was the ITD desk-top support requirement and funding added by the legislature last session – funding over which we have no control from a “source of cost savings” standpoint. During this period while we held operating expenses steady and did not increase costs by the addition of employees, the Department's revenue grew by over 30%.

## REVENUE ESTIMATE

For the 2015-2017 biennium, we expect Department revenues will hit an all-time high with revenue collections estimated to come in \$1,000,000.00 ahead of original projections at \$21,500,000.00, which is around ten times the size of the Department's budget.

## EXECUTIVE BUDGET RECOMMENDATION

Governor Dalrymple's executive budget recommendation did not include a 90 percent budget requirement for the Securities Department. Governor

Dalrymple's executive budget recommendation for the Securities Department converted the funding source for the department's budget from general fund to self-funded. Like the Insurance Department and the Department of Financial Institutions, the Securities Department derives its revenue from fees assessed on the industry and activity it regulates. Governor Dalrymple's recommendation brings the Securities Department in line with the funding approach of the other two financial regulators in the state. The recommendation to change the Department from a General Fund to Self-funded agency does not alter the revenue available to the General Fund. Under this approach, the Department's budget is still appropriated by the legislature, and all excess revenue over and

above the legislature's appropriation would be transferred to the General Fund. Based on historic revenue collection data, the Department would cover its appropriation by month 5 or 6 of a biennium.

With a conversion to a self-funded budget comes the requirement to pay rent. Working with estimates from the Office of Management and Budget, the Department cut \$64,000 from operating in order to off-set what would be a new rent expense for the Department. While the effect of this is the appearance of no reduction to our budget, please consider that the Department did cut operating by \$64,000 (14% of our original 15-17 operating appropriation) in order to absorb the rent expense, and although appropriated funding is necessary to cover the rent expense, it is paid directly back to the General Fund.

#### **2017-2019 BUDGET REQUEST V. ADJUSTED 2015-2017 APPROPRIATION**

The Executive Budget Request for the Department for the 2017-2019 biennium is \$2,464,459. This request reflects the conversion to a self-funded agency, the 1%

salary adjustment set forth in the original executive budget, restores \$82,545 of the allotment, and includes the \$64,000 for rent expense.

#### **OPTIONAL BUDGET REQUESTS AND FEDERAL FUNDING**

The Department made no optional budget requests for the 2017-2019 biennium, and the Department receives no federal funding.

#### **GOVERNOR BURGUM'S BUDGET RECOMMENDATION**

Governor Burgum also recommended a conversion from a general fund to self-funded budget for the Securities Department, and aside from the participation in health insurance premium expense and removal of the 1% salary increase, Governor Burgum did not recommend any other cuts to the Department's budget as originally set forth by Governor Dalrymple.

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### **CHANGES MADE BY THE HOUSE**

The House amended HB 1011 to eliminate the self-funded status recommended by Governor Dalrymple and Governor Burgum, and cut the Department's operating appropriation by \$100,000.00 or 23% from the original 2015-2017 appropriation level.

### **CHANGES REQUESTED BY THE DEPARTMENT**

The Department respectfully requests that the Committee restore the language creating the self-funded status recommended by both Governor Dalrymple and Governor Burgum, bringing the Department funding approach in line with the other financial regulators in the state. The Department also respectfully requests that the Committee restore the operating budget to the level set forth in the original executive budget recommendation.

## **DEPARTMENT FUNCTIONS:**

The Department's primary mandate is to protect the North Dakota Investor and facilitate legitimate capital formation through the administration of the North Dakota Securities Act, chapter 10-04 of the ND Century Code. We deliver on this mandate through our efforts in four functional areas:

### **1) We regulate the Capital Formation and Franchise registration process**

The Department is responsible for the registration of securities offerings, the review of applications to qualify for exemptions from the registration of securities offerings, and the processing of Notice Filings on federal covered securities such as mutual funds, unit investment trusts and Reg D Rule 506 offerings.

### **2) We register Securities Industry Firms and Professionals who want to do business in the state**

All firms and financial professionals, regardless of location, who want to offer and sell investment securities and advice in the state of North Dakota must be properly licensed and registered with the Department.

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**3) We conduct Examinations, Investigations and take Enforcement Actions as necessary and appropriate, and we also make criminal referrals and support criminal cases.**

The Department conducts routine and for-cause examinations on broker-dealer and investment advisor firms, conducts investigations into misconduct and fraud, and has the authority to take enforcement actions that may include the issuance of orders such as cease and desist, rescission, suspension and revocation of registration, and orders assessing penalties.

**4) We produce and deliver Investor Education and Financial Literacy programs**

An informed investor is the best defense against financial misconduct and fraud.

At the end of this written testimony are key statistics from the department's various areas of functionality.

The North Dakota Securities Department is a small agency, with 9 full time employees, and we are not requesting additional FTEs in the 17-19 budget. We

continue to operate as a revenue generating agency for the state, taking in over \$20 million dollars in revenue last biennium and we estimate approximately \$21.5 million dollars in the current biennium. Over the last several budget cycles, the agency's spending has averaged only 10 cents per revenue dollar generated.

### **INDUSTRY CONDITIONS AND DEPARTMENT REVENUE**

The majority of the Department's revenue comes from Securities registrations and filings, and Industry registrations, and is roughly equally split between these two broad registration categories. Breaking down industry registrations, currently there are 1,147 broker dealers registered in the state, 84,348 agents, 749 Investment Advisor firms, and 1,632 Investment Advisor representatives. At the end of December, the annual renewal of these registration categories – a total of 85,462 renewals - was processed in an entirely automated process, and a payment of just over \$5.3 million was deposited to the Bank of North Dakota. The cost to the state for the execution of the renewal process is zero.

**KEY DEPARTMENT STATISTICS:**

**CAPITAL FORMATION AND FRANCHISE REGISTRATION**

As of December 31, 2016:

Number of securities offerings in effect:	25,206
Dollar amount of offerings in effect:	\$48,012,138,564
Franchise Registrations	881
Franchise Registrations Pending	24

**REGISTRATION OF SECURITIES FIRMS AND PROFESSIONALS**

As of December 31, 2016:

Broker-Dealer Firms	1,144
Investment Adviser Firms	732
Broker-Dealer Agents	81,980
Investment Adviser Reps	1,604

**INVESTIGATIONS, EXAMINATIONS, AND ENFORCEMENT**

From Jan 1, 2015 to December 31, 2016:

New Enforcement Cases Opened	213
Enforcement Cases Closed or referred	166
Exams Opened	17
Exams Closed	10
Funds Ordered Returned to Investors	\$449,562.25
Penalties Assessed	\$65,512.50

Most prevalent violations investigated have involved Unregistered Individuals, Sale of Unregistered Securities, Private Placement Fraud, Ponzi Schemes, Misrepresentations, Lack of Suitability.

The Department has referred 3 cases to criminal authorities biennium to date.

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