

1999 SENATE APPROPRIATIONS
SB 2011

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2011

Senate Appropriations Committee

Conference Committee

Hearing Date 1/22/99

Tape Number	Side A	Side B	Meter #
1	x		3-1390
2/3/99 1	x		
Committee Clerk Signature <i>Geaudia Anderson</i>			

Minutes:

SENATOR NETHING: Opened the hearing on SB 2011; a BILL for an Act to provide an appropriation for defraying the expenses of the office of the securities commissioner.

SYVER VINJE: Director of Securities Commissioner (Interim Commissioner). Budget has large percentage increase from prior biennium. We are asking to have 2 investigative positions restored (3 exhibits). Vinje took office in January, and in March office initiated investigation and rescued \$2.6 million of investor funds from South Dakota which was fraudulently collected. Other major change: put \$70,000 into general fund to replace money that was spent out of Securities and Protection Fund; \$500,000 received in settlement from Prudential Securities for providing enhancements and technology and investor protection and education; \$45,000 went to new computers and other funds towards investment funding education. (tape 665)

SENATOR NETHING: These two investigators, are these two more other than those that are authorized or are these the same two?

SYVER VINJE: These are same two, they would replace the positions that were given away in 1993. Just returning staff to the level that it was a 1993.

SENATOR BOWMAN: Does the FBI and other organizations work on these when money is being transferred from one state to another, and does other law enforcement also help you because this seems like more of a law enforcement problem than your office problem? (tape 727)

SYVER VINJE: We are a law enforcement agency, we enforce the securities fraud. Criminal prosecution is referred to state's attorneys in the various counties and work in cooperation with them to development of those criminal cases. Expertise to do investigation is within the office.

SENATOR TALLACKSON: I noticed that you have fees that are charged but it doesn't show any income in your budget, do they go directly into general fund? (tape 865)

SYVER VINJE: Our income goes directly into the general fund. Revenues to be about \$8.4 million and in HB 1144 we have asked for some fee increases to bring us up to the averages in the region and also to provide for any additional money that we might spend through this budget.

SENATOR LINDAAS: What comprises that income?

SYVER VINJE: Fee for registration of small securities offerings, every mutual fund company in the country that sells mutual funds in North Dakota pays fees to the state for the privilege of doing business here in lieu of other taxes, we also license broker dealers (\$50 each) to do business in North Dakota, and charge fees for those people who sell franchises in North Dakota. Fines and forfeitures as well, although that is a reasonably small part of the budget.

SENATOR LINDAAS: Do the fines and forfeitures also go into the income portion of your budget?

SYVER VINJE: They are also general fund revenues of the state.

SENATOR NETHING: Closed the hearing on SB 2011. (tape 1380)

2/3/99

tape 1

SENATOR NETHING: Reopened the hearing on SB 2011, and called for the amendment.

SENATOR LINDAAS: Moved do pass on the amendment to SB 2011.

SENATOR NAADEN: Seconded the motion.

ROLL CALL: 12 YEAS; 2 ABSENT & NOT VOTING

MOTION CARRIED ON THE AMENDMENT TO SB 2011

Yeas: Nething; Naaden; Solberg; Lindaas; Tomac; Robinson; Krauter; St. Aubyn; Grindberg; Holmberg; Kringstad; Bowman

Absent & Not Voting: Tallackson; Andrist

SENATOR NETHING: Called for the motion on SB 2011 as amended

SENATOR NAADEN: Moved do pass SB 2011 as amended.

SENATOR ROBINSON: Seconded the motion.

ROLL CALL: 12 YEAS; 2 Absent

MOTION CARRIED ON SB 2011 AS AMENDED

Yeas: Nething; Naaden; Solberg; Lindaas; Tomac; Robinson; Krauter; St. Aubyn; Grindberg; Holmberg; Kringstad; Bowman

Absent & Not Voting: Tallackson; Andrist

CARRIER: SENATOR TOMAC

SENATOR NETHING: Closed the hearing on SB 2011

Date: 2/3/99
 Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2011

Senate APPROPRIATIONS Committee

- Subcommittee on _____
 or
 Conference Committee

✓ Legislative Council Amendment Number 98033.0101

Action Taken DO PASS

Motion Made By SENATOR LINDAAS Seconded By SENATOR NAADEN

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas	✓				
Senator Tallackson					
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist					

Total (Yes) 12 No 0

Absent 2

Floor Assignment _____

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

Date: 2/3/99
 Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2011

Senate APPROPRIATIONS Committee

- Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By SENATOR NAADEN Seconded By SENATOR ROBINSON

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas	✓				
Senator Tallackson					
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist					

Total (Yes) 12 No 0

Absent 2

Floor Assignment SENATOR TOMAC

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

REPORT OF STANDING COMMITTEE

SB 2011: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2011 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "824,909" with "810,067"

Page 1, line 12, replace "1,104,883" with "1,090,041"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 414 - SECURITIES COMMISSIONER

SENATE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$824,909	(\$14,842)	\$810,067
Operating expenses	259,174		259,174
Equipment	<u>20,800</u>		<u>20,800</u>
Total all funds	\$1,104,883	(\$14,842)	\$1,090,041
Less special funds			
General fund	\$1,104,883	(\$14,842)	\$1,090,041
FTE	8.00	0.00	8.00

Detail of Senate changes to the executive budget include:

	REDUCE COMPENSATION PACKAGE TO 2/2	ADJUST HEALTH INSURANCE COST	DELAY MARKET SALARY ADJUSTMENT TO JANUARY 1, 2001	TOTAL SENATE CHANGES
Salaries and wages	(\$11,042)	\$2,280	(\$6,080)	(\$14,842)
Operating expenses				
Equipment				
Total all funds	(\$11,042)	\$2,280	(\$6,080)	(\$14,842)
Less special funds				
General fund	(\$11,042)	\$2,280	(\$6,080)	(\$14,842)

Senate changes narrative:

In addition to the two percent annual salary increases, funding is included to provide the commissioner with a market equity salary increase of \$278.08 per month for the final six months of the biennium.

1999 HOUSE APPROPRIATIONS

SB 2011

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2011

House Appropriations Government Operations Committee

Conference Committee

Hearing Date March 1, 1999

Tape Number	Side A	Side B	Meter #
1		x	7.1-18.9
Committee Clerk Signature <i>Roxanne Kone</i>			

Minutes:

A Bill for an Act to provide an appropriation for defraying the expenses of the office of the securities commissioner.

1B: 7.1 Syver Vinje, Securities Commissioner Testified in favor of the bill. Asking for two Examiner/Investigator positions. There is a fee charged for being a registered securities dealer of North Dakota that goes to the general fund. Total revenue from last biennium \$8.4 million. Presented a spread sheet comparison to other states regarding staff differences (See attached testimony).

Chairman Byerly closed the hearing on Senate Bill 2011. There was no opposition to the bill.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date March 5, 1999			
Tape Number	Side A	B Side	Meter #
1	x		9.3-20.3
Committee Clerk Signature		<i>Roxanne Kone</i>	

Minutes:

1A: 9.3 Byerly Chairman opened the discussion on Senate Bill 2011.

Discussion of fee increases regarding House Bill 1144. Fees collected by Securities Commission: \$8 million.

1A: 14.0 Rep. Poolman asked for the rationale of 2 more FTEs. Legislative Council replied at one time the commission had these positions and they were cut. Trying to now get them back into the office to help with enforcement that is needed. Discussion continued on possibly bringing in more money to the general fund by having 2 more FTEs to help with enforcement.

1A: 17.3 Rep. Poolman responded that he would vote no because he voted against the fee increase bill to fund the position. Rep. Gulleon responded with that she would also vote no for the same reasons. Rep. Poolman continued that he did not feel it was worthwhile to amend out two positions because the full committee would vote differently.

Rep. Carlisle moved for a DO PASS. Rep. Huether 2nd the motion. On a Roll Call Vote the motion carried.

3 voting Yes

General Discussion

Page 2

Government Operations

March 5, 1999

2 voting No

1 voting Absent

Rep. Carlisle will carry the bill to the full committee.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date March 18, 1999			
Tape Number	Side A	B Side	Meter #
1	x		5.8-9.0
Committee Clerk Signature <i>Casey Davis</i>			

Minutes:

SB 2011

CHAIRMAN DALRYMPLE opened discussion on SB 2011.

1A: 5.8 REP. CARLISLE presented the GO subcommittee's recommendation for the bill as a Do Pass. He made the motion for a Do Pass. The motion was seconded by Rep. Byerly. A roll call vote was taken and the motion carried with 18 yeas and 2 nays. Rep. Carlisle will carry the bill to the floor.

Date: 3-5-99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2011

House APPROPRIATIONS Committee _____

Subcommittee on Government Operations
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Carlisle Seconded By Huether

Representatives	Yes	No	Representatives	Yes	No
Rex R. Byerly	✓				
Ron Carlisle	✓				
Ben Tollefson					
Robert Huether	✓				
Pam Gulleason		✓			
Jim Poolman		✓			

Total (Yes) 3 No 2

Absent 1

Floor Assignment Rep. Carlisle

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

Date: 3-18-99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2011

House Appropriations Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Carlisle Seconded By Byerly

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	✓		Nichols	✓	
Vice-Chairman Byerly	✓		Poolman		✓
Aarsvold	✓		Svedjan	✓	
Bernstein	✓		Timm	✓	
Boehm	✓		Tollefson	✓	
Carlson	✓		Wentz	✓	
Carlisle	✓				
Delzer	✓				
Gulleson		✓			
Hoffner	✓				
Huether	✓				
Kerzman	✓				
Lloyd	✓				
Monson	✓				

Total (Yes) 18 No 2

Absent _____

Floor Assignment Carlisle

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

REPORT OF STANDING COMMITTEE (410)
March 18, 1999 1:01 p.m.

Module No: HR-49-5079
Carrier: Carlisle
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2011, as engrossed: Appropriations Committee (Rep. Dalrymple, Chairman)
recommends **DO PASS** (18 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2011 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2011

Department 414 - Securities Commissioner
 House Bill No. 2011

	FTE Positions	General Fund	Other Funds	Total
1999-2001 Executive Budget	8.00	\$1,104,883	\$0	\$1,104,883
1997-99 Legislative Appropriations	6.00	667,479	0	667,479
Increase (Decrease)	2.00	\$437,404	\$0	\$437,404

* This amount has been adjusted to \$787,479 as a result of adjustments relating to Emergency Commission approvals.

Major Items Affecting Securities Commissioner 1999-2001 Budget

	General Fund	Other Funds	Total
1. Increases equipment funding to replace laptop computers	\$3,800		\$3,800
2. Increases operating expenses related to increased workloads and the billing for services by the Office of Administrative Hearings	35,545		35,545
3. Provides increased salaries and wages funding based on the Central Personnel Division's salary market study for elected and appointed officials	7,791		7,791
4. Increases operating expenses line item for the investor education program	80,000		80,000
5. Provides for the following 2 new FTE positions:			
1 FTE securities examiner/investigator	96,421		96,421
1 FTE securities examiner/investigator	96,421		96,421
6. Provides increased operating expenses (\$75,155) and equipment funding (\$15,000) for the 2 new FTE positions	90,155		90,155

Major Legislation Affecting the Securities Commissioner

House Bill No. 1144 provides various fee changes for fees charged by the Securities Commissioner. The total revenue impact is \$724,300, of which \$660,000 is included in the executive budget revenue forecast.

SB 2011
1/22/99

Office of Securities Commissioner

**Projected Operating Expenses
Two Examiner/Investigator Positions
1999-2001 Biennium**

Supplies		\$9,600
Set-up \$1200/position	\$2,400	
Monthly Supplies-\$150/position	\$7,200	
Professional Development		\$16,000
1 week training/year/position		
Travel		\$52,980
17580 miles/year/position		
Telephone--ISD		\$1,920
\$40/month/position		
Telephone--Non-ISD (Cellular Service)		\$4,800
\$100/month/position		
Total Operating Expenses 1999-2001 Biennium		\$85,300

Office of the Securities Commissioner
 Enforcement Statistics Comparison--1996, 1997, 1998
 As of September, 30 1998

Date	Investigations Opened	Investigations Closed	Consent Orders	Cease and Desist Orders	Money Recovered for investors	Civil Penalties
Totals for 1996	105	112	10	29	\$ 225,000.00	\$ 39,300.00
Totals for 1997	72	103	10	7	\$ 296,041.00	\$ 24,750.00
January	7	6	1	2	\$ 18,800.00	\$ 1,000.00
February	12	3		2	\$ 22,250.00	
March	7	4		2	\$ 14,680.00	
April	9	5		5	\$ 2,616,530.00	
May	10	9	1	1	\$ 15,091.00	
June	20	13	1	2	\$ 10,326.00	\$ 4,000.00
July	16	12		3	\$ 83,000.00	
August	13	2		6		
September	1	5		1	\$ 150,000.00	
Total to date - 1998	95	59	3	24	\$ 2,930,677.00	\$ 5,000.00

There are currently 45 open securities, commodities, and franchise investigations

There are an additional 30 open files regarding Multi Level Marketing companies that appear to have violated the ND Securities Law

We are currently declining to investigate approximately 2 cases per week, due to lack of available staff time

The Office of Securities Commissioner has not maintained historical data on number of consumer inquiries received, many of which would have led to open investigations had there been staff to investigate

Many of the investigations "closed" during 1996 and 1997 were not resolved, but simply "closed" due to lack of available staff time to investigate

There are \$175,000 in civil penalties that we expect to collect, pending final administrative proceedings

SB 2011
 1/22/99

Small Population States Securities Staff

Prepared 10/15/98

Of the States listed, only the ND Office of Securities Commissioner is an independent agency, responsible for its own administrative services

"c" denotes contracted FTE's

State	1995 Population	Comm	Dep	Atty	Reg	Exam	Invstgtr	Inv Ed	Supp Staff	Total	Inv Adv Exams	Frnch Regtr	Outside Hearings	Budgeted Staff Incr
Wyoming	476342	1		1 c	1	1 c	1	1 c	1	7	No	No		
District of Columbia	547507	1		1 c	2		2		1	7		No		1 Atty, 1 Exam, 1 Inv Ed
Alaska	583599		1	0.5 c		2			1.5	5	No	No	Yes	
Vermont	584685		1	1		1.5	1		1.5	6		No		
North Dakota	633018	1		1		2		0.5	1.5	6				
Delaware	712558	1		2.25		3	4	0.4	3	13.65		No		
South Dakota	724507	1		1		1.6	1	0.4	2	7			Yes	
Montana	865865	1		1		3	2		3	10				
Rhode Island	986121	1			2	1			3	7			Yes	
Hawaii	1136086	1		5	5	3	5		5	24				4 Exam, 1 Inv Ed
New Hampshire	1147627	1		1		1.7	0.8	0.5	4	9		No		
Idaho	1159355	1		1		3	3		4	12		No		
Maine	1237403	1		3		3			2	9		No		
Nevada	1521364	1		2	2		12		7	24				
Nebraska	1627790	1		1.5	1	1	3		5	12.5		No		
New Mexico	1670078	1	1	2		5	5		5	19		No		
West Virginia	1827565	1		1	1	2	3		4	12		No		
Utah	1946166	1		3.5		6	6		3	19.5		No		

SB 2011
1/22/99

SB 2011

**Office of the Securities Commissioner
Enforcement Statistics Comparison--1996, 1997, 1998
As of December 31, 1998**

Date	Investigations Opened	Investigations Closed	Consent Orders	Cease and Desist Orders	Money Recovered for Investors	Civil Penalties
Totals for 1996	105	112	10	29	\$ 225,000.00	\$ 39,300.00
Totals for 1997	72	103	10	7	\$ 296,041.00	\$ 24,750.00
January	7	6	1	2	\$ 18,800.00	\$ 1,000.00
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June	20	13	1	2	\$ 10,326.00	\$ 4,000.00
July	16	12		3	\$ 83,000.00	
August	13	2		6		
September	1	5		1	\$ 150,000.00	
October	3	8			\$ 6,240.00	\$ 5,000.00
November	4	4	2		\$ 3,166.00	\$ 3,500.00
December	6	5	4	1	\$ 17,254.00	\$ 13,120.00
Total to date - 19	108	76	9	25	\$ 2,957,337.00	\$ 26,620.00

There are currently 45 open securities, commodities, and franchise investigations

There are an additional 30 open files regarding Multi Level Marketing companies that appear to have violated North Dakota Securities Law

We are currently declining to investigate approximately 2 cases per week, due to lack of available staff time

The Office of Securities Commissioner has not maintained historical data on number of consumer inquiries received, many of which would have led to open investigations had there been staff to investigate

Many of the investigations "closed" during 1996 and 1997 were not resolved, but simply "closed" due to lack of available staff time to investigate

We have assessed nearly \$500,000 in uncollected civil penalties against various out-of-state entities.

The probability of collection varies significantly from case to case, from poor to fairly good.